

**FIRST RESTATED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR
VERDERA**

The Declaration of Covenants, Conditions and Restrictions for Verdera executed by B&Z TB, LLC, a California limited liability company and Catta Verdera Village 13, LLC, a California limited liability company (collectively the "**Master Developers**"), and Recorded on November 17, 2003, as Document No. 2003-0193328 (the "**Original Declaration**"), which affects all of the real property described and commonly known as Verdera, is hereby amended and restated in its entirety to read as follows:

RECITALS

A. The Master Developers were the original owners of real property located in the City of Lincoln, Placer County, California that were more particularly described in Exhibit "A" (the "**Initial Covered Property**") and Exhibit "B" (the "**Subsequent Phase Property**") of the Original Declaration. The Master Developers developed the real property described in those Exhibits to the Original Declaration over a period of several years in Phases. The Overall Development, as defined in the Original Declaration, is commonly known as **Verdera** and is also referred to herein simply as the "**Development**". The real property comprising Verdera as of the recordation date of this First Restated Declaration is more particularly described in Exhibit "A", attached hereto and incorporated herein by reference. Also as of the recordation date of this First Restated Declaration there is no longer any Subsequent Phase Property that remains un-annexed. As Phases (commonly known within the Verdera community as "**Villages**") were annexed to the Development, certain Declarations of Annexation and Supplemental Declarations were recorded against the Villages thereby subjecting them to additional restrictions applicable only within the annexed Village, as further described and referenced in Exhibit "B", attached hereto.

B. Not included as a part of the Development is an 18-hole privately-owned golf course with a ~~30,000 square foot~~ clubhouse, various out-buildings and related facilities and improvements (collectively referred to herein as the "**Golf Course**"). The Golf Course is constructed within the physical perimeter boundaries of the Development. It was not the intention of the Master Developers to annex the Golf Course to the Verdera common interest development or to subject the Golf Course property to the Original Declaration (or to this Restated Declaration), or to convey any of the improvements or lands constituting the Golf Course to the Association. Nevertheless, various provisions of the Original Declaration, as amended and restated by this First Restated Declaration are for the benefit of the **Golf Course Owner**, and to the extent such provisions benefit the Golf Course, the Golf Course is the dominant tenement and the lands comprising the Development are the servient tenement.

C. The Master Developers conveyed the real property and improvements constructed thereon which comprise the Development, subject to certain easements, protective covenants, conditions, restrictions, reservations, liens and charges as set forth in the Original Declaration referred to above, all of which are for the purpose of enhancing and protecting the value,

desirability and attractiveness of the Development and all of which shall run with the Development and be binding on all parties having or acquiring any right, title or interest in the Development, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

D. It was the further intention of the ~~Declarant~~ Master Developers to sell and convey residential Lots to the Owners and to Merchant Builders, subject to the protective covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes between ~~Declarant~~ the Master Developers and such Owners (including Merchant Builders) which are set forth in this Declaration and which are intended to be in furtherance of a general plan for the subdivision, development, sale and use of the Development as a "planned development" as that term is defined in Civil Code section 4175. Finally, it was the intention of the ~~Declarant~~ Master Developers that the "Common Areas" and "Common Facilities" of the Development were to be owned and maintained by the Association, but reserved exclusively for the use and enjoyment of the Association's Members, their tenants, lessees, guests and invitees, all subject to the terms and conditions set forth in the Original Declaration and now in this First Restated Declaration and the other Governing Documents of the Development.

E. On _____, 2021, the Owners of Lots representing fifty-one percent (51%) of the Voting Power of the Members voted by mailed secret ballot in accordance with Civil Code sections 5100 through 5145 to amend and restate the Original Declaration, all in accordance with Section 19.02 of the Original Declaration. It was the intention of the Owners to replace the Original Declaration, in its entirety, with the Recordation of this Declaration, without, however, affecting or changing the priority of the Declaration in the chain of title to Lots within the Development. The Owners' action to amend and restate the Original Declaration as set forth herein and the fact that the requisite percentage of affirmative votes required in the Original Declaration was achieved, is attested by the execution of this Declaration by duly authorized officers of the Association, as required by section 4270(a)(2) of the California Civil Code. As so amended and restated, the easements, covenants, restrictions and conditions set forth herein shall run with the Development and shall be binding upon all parties having or acquiring any right, title or interest in the Development or any portion thereof, and shall inure to the benefit of each Owner thereof.

ARTICLE I DEFINITIONS

Section 1.01. "ADU" shall mean an Accessory Dwelling Unit or Junior Accessory Dwelling Unit ("JADU") as defined in Civil Code section 4751 and Sections 65852.2 and 65852.22 of the California Government Code, respectively, and which ~~meets~~ meet the requirements of those Civil and Government Code sections and other applicable ~~County ordinances.~~ City ordinances. Generally, the City of Lincoln follows the standards prescribed for ADUs and JADUs in the Government Code and requires the Lot Owner to reside on the property. Under the current City ordinances, the increased floor area of an attached ADU cannot exceed 30 percent of the existing living area and the total area of floor space for a detached ADU cannot exceed 640 square feet. Government Code Section 65852.22, providing a unique option for

Junior ADUs. JADUs cannot exceed 500 square feet and are typically bedrooms in a single-family home that have an entrance into the unit from the main home and an entrance to the outside from the JADU. The JADU must have cooking facilities, including a sink, but is not required to have a private bathroom.

Section 1.02. **"Annual Budget Report"** means and refers to the compilation of documents that the Association must provide to its Members on an annual basis (thirty (30) to ninety (90) days prior to the end of the fiscal year) pursuant to Civil Code section 5300. See also Section 12.05 of the Bylaws.

Section 1.03. **"Annual Policy Statement"** means and refers to the information, statements and notices that the Association must provide to its Members on an annual basis (thirty (30) to ninety (90) days prior to the end of the fiscal year) pursuant to Civil Code section 5310 and Section 13.01 of the Bylaws.

Section 1.04. **"Articles"** means the Articles of Incorporation of the Association, which are filed in the Office of the California Secretary of State, as such Articles may be amended from time to time.

Section 1.05. **"Assessment"** means any Regular, Special, Special Individual, or Emergency Assessment made or assessed by the Association with respect to Owners and their Lots in accordance with the provisions of Article IV, below.

Section 1.06. **"Association"** means the Verdera Community Association, a California nonprofit mutual benefit corporation, its successors and assigns. The Association is an "association" as defined in Civil Code section 4080, whose Members are Owners of Lots in the Development.

Section 1.07. **"Association Rules"** means the rules, regulations and policies adopted by the Board of Directors, pursuant to Section 3.07, below, as the same may be in effect from time to time.

Section 1.08. **"Board of Directors" or "Board"** means the Board of Directors of the Association.

Section 1.09. **"Bylaws"** means the Bylaws of the Association; as such Bylaws may be amended from time to time.

Section 1.10. **"City"** means the incorporated municipal City of Lincoln, in Placer County, California, and its various departments, divisions, employees and representatives.

Section 1.11. **"Common Area" and "Common Area" means Areas** mean and refer to all real property within the Development owned, controlled, or maintained by the Association for the common use and enjoyment of the Owners. The Common Area ~~owned by the Association within Phase 1 of the Development as of the Recordation date of this Declaration~~ is described in attached Exhibit "C". Unless the context clearly indicates a contrary intent, any reference herein to the "Common Area" shall also include any Common Facilities located

thereon. As noted in Section 1.22, below, the Golf Course Property is not part of the Common Area.

Section 1.12. **"Common Expense"** means any use of Association funds authorized by Article IV, below, and Article IX of the Bylaws and includes, without limitation: (a) all expenses or charges incurred by or on behalf of the Association for the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common ~~Area~~Areas, Common Facilities and any portions of the Lots that the Association is obligated to maintain or repair; (b) all expenses or charges reasonably incurred to procure insurance for the protection of the Association and its Board of Directors and insurance of Residences constructed or to be constructed on Lots to the extent required by Article X, below; (c) any amounts reasonably necessary for Reserves for maintenance, repair and replacement of the Common Areas and Common Facilities and any portions of the Lots that the Association is obligated to maintain or replace, and for nonpayment of any Assessments; and (d) the use of such funds to defray the costs and expenses incurred by the Association in the performance of its functions or in the proper discharge of the responsibilities of the Board of Directors as provided in this Declaration, the Bylaws, and the other Governing Documents of the Development.

Section 1.13. **"Common Facilities"** "Common Facilities" means the entry features, gates, gate attendant Improvements, and signage at the entrances to the Development, lakes, the trees, hedges, plantings, lawns, shrubs, landscaping, fences, utilities, berms, pipes, lines, lighting fixtures, trails, buildings, structures and other facilities and Improvements constructed or installed, or to be constructed or installed, or currently located within the Common ~~Area~~Areas and owned by the Association.

Section 1.14. **"Cost Center"** means and refers to a designation that had been assigned by a Master Developer or the Association to a discrete portion of the Development (and to the Owners of Lots located ~~therein~~within the designated Cost Center) for the purpose of expense accounting and Assessment, all as more particularly provided in Sections 4.01(e) and 4.02(b), below. A Cost Center is likely to be created when the Association is maintaining property or Common Facilities located within the designated Cost Center area which fully or partially benefit principally ~~those~~ Owners of the Lots and residents within the Cost Center.

Section 1.15. **"County"** means the County of Placer, State of California, and its various departments, divisions, employees and representatives.

Section 1.16. **"Declaration"** means this instrument, as it may be amended from time to time. The **"Original Declaration"** means and refers to the document referenced in the Preamble to this Declaration, together with all amendments and annexations thereto adopted prior to adoption of this Declaration.

Section 1.17. **"Design Guidelines"** means the design guidelines ~~and~~and procedural rules of the Design Review Committee as adopted, from time to time, in accordance with Section 5.05, below.

Section 1.18. **"Design Review Committee"** and **"Committee"** means and refers to the committee by that name which was created in accordance with Article V, below.

Section 1.19. **"Development"** means the common interest development that was created pursuant to the Original Declaration (as amended and restated herein) and the other Governing Documents for Verdera. At times herein, the terms **"Development"** and **"Verdera"** are used interchangeably.

Section 1.20. **"Emergency Assessment"** means an Assessment that the Association is authorized and empowered to impose under the limited circumstances defined in California Civil Code section 5610 and Section 4.05, below.

Section 1.21. **"General Notice"** and **"General Delivery"** are used in this Declaration when notice can be provided to the Members by any of the following methods:

- (a) any method of delivery that constitutes "Individual Notice" (if a particular Member requests to receive General Notices in that manner, then Individual Notice must be used);
- (b) inclusion of the notice in a newsletter, or similar Association document;
- (c) posting a copy of the printed document in a prominent location that is accessible to all Members, so long as the location has been designated for the posting of General Notices by the Association in its Annual Policy Statement; and
- (d) if the Association has a broadcast television program site for the purpose of distributing information on Association business, that site can be used for General Notices.

Section 1.22. **"Golf Course"** means any portion of the 18-hole privately-owned golf course with various buildings and related facilities and improvements constructed within the physical perimeter boundaries of the ~~Overall~~ Development. The Golf Course is intended to be used from time to time for golf course purposes, including, but not limited to, the hitting of golf balls with clubs from tees, roughs, fairways and greens, and hazards. The term **"Golf Course"** shall also include any property added to the Golf Course, as defined herein, by lot line adjustment, parcel map, final map, and record of survey or otherwise. [The Golf Course and its improvements are not Common Areas or Common Facilities of the Association](#)

Section 1.23. **"Golf Course Lots"** means any Lot that fronts or abuts the Golf Course and any Lot that does not front or abut on the Golf Course but which is designated as a "Golf Course Lot" in any Declaration of Annexation or Supplemental Declaration. As so defined, the Golf Course Lots within Verdera as of the recordation date of this First Restated Declaration are described in attached Exhibit " D".

Section 1.24. **"Golf Course Owner"** means and refers to the entity that owns the Golf Course. Currently the Golf Course Owner is Catta Verdera ~~—Golf Course~~[Country Club](#), LLC, a California limited liability company.

Section 1.25. **"Good Standing"** is a term that is used in the Bylaws and in this Declaration to determine those Members who constitute part of the Voting Power of the Association and are therefore eligible to vote in the election of directors or with respect to any other matter or action that requires the consent or approval of the Members. In order to be in Good Standing, a Member must be current in the payment of all Assessments levied against the Member's Lot and not be subject to any suspension of voting privileges as a result of any disciplinary proceeding conducted in accordance with the due process and disciplinary hearing procedures of the Declaration and Civil Code sections 5900 et seq. Good Standing shall also be a prerequisite for being a candidate for election to the Board of Directors and for continued service on the Board, once elected to office. Finally, Good Standing shall also be a prerequisite for being appointed to the Design Review Committee (See Section 5.02, below).

Section 1.26. **"Governing Documents"** is a collective term that means and refers to this Declaration and to the Articles ~~,~~[of Incorporation and](#) the Bylaws [of the Association](#) and [to](#) the Association Rules.

Section 1.27. **"Improvement"** is a term that is used in this Declaration to refer to those ~~construction~~[constructions](#), landscaping, and other exterior improvement projects that Owners may wish to pursue on their Lots and which are subject to the prior review and approval of the Design Review Committee. As so defined, the term **"Improvement"** includes, without limitation, any improvement or project undertaken or contemplated by an Owner ~~(other than a Master Developer)~~ within any portion of the Development involving the construction, installation, alteration or remodeling of any structures, garages, out buildings, walls, fences, swimming pools, landscaping, landscape structures, pillars, patio awnings, solar heating equipment, spas, antennas, television satellite reception equipment, utility lines or any other structure or improvement of any kind.

Section 1.28. **"Individual Notice"** or **"Individual Delivery"** means a document must be delivered to the Members by one of the following methods:

(a) First-class mail, postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service carrier (addressed to the Member at his or her address appearing on the Association's records);

(b) E-mail, ~~faecsimile~~ or other electronic means so long as the recipient has consented to receiving notice in that fashion. That consent may be revoked in writing sent or delivered to the Association;

(c) If a Member has identified a secondary address for delivery of documents included in the Annual Budget Report (Civil Code section 5300), Annual Policy Statement (Civil Code section 5310) or notices pertaining to Assessments or Assessment collections (Civil Code sections 5650 et seq.), the Association must deliver an additional copy of those notices to the secondary address that the Member has identified (Civil Code section 4040(b)).

In accordance with Civil Code section 4055, if the Association or a Member has consented to receive information by electronic delivery, and a provision of the Davis-Stirling Act requires that the information be in writing, that requirement is satisfied if the information is provided in an electronic record that is capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

Section 1.29. **"Lot"** means any parcel of real property designated by a number on the Subdivision Map, excluding the Common ~~Area~~Areas. When appropriate within the context of this Declaration, the term **"Lot"** shall also include the Residence and other Improvements constructed or to be constructed on a Lot.

Section 1.30. **"Majority of a Quorum"** means the vote of a majority of the votes cast at a meeting or by secret or written ballot when the number of Members attending the meeting in person or by proxy or casting secret or written ballots equals or exceeds the minimum quorum requirement for valid Member action, as specified in the Bylaws, this Declaration, or by statute.

Section 1.31. **"Master ~~Developer~~Developers"** means and refers to the two entities that were the initial owners and developers of Verdera, namely of B&Z TB, LLC, a California limited liability company ("B&Z") and Catta Verdera - Village 13, LLC, a California limited liability company ("CV-V13").

Section 1.32. **"Member"** means every person or entity who holds a membership in the Association and whose rights as a Member are not suspended pursuant to Section 13.06, below.

Section 1.33. **"Mortgage"** means any security device encumbering all or any portion of the Development, including any deed of trust. **"Mortgagee"** shall refer to a beneficiary under a deed of trust as well as to a mortgagee in the conventional sense.

Section 1.34. **"Owner"** means any person, firm, corporation or other entity which owns a fee simple interest in any Lot. If a Lot is transferred or conveyed to a trust, the Owner is the trustee or the co-trustees of such trust. Except where the context otherwise requires, the term **"Owner"** shall include the family, guests, ~~tenants~~lessees and invitees of an Owner.

Section 1.35. **"Owner of Record"** includes an Owner and means any person, firm, corporation or other entity in which title to a Lot is vested as shown by the Official Records of the Office of the County Recorder.

Section 1.36. **"Property"** means all parcels of real property (Common ~~Area~~Areas and Lots) described in Exhibit **"A"**, together with all buildings, structures, utilities, Common Facilities, and other Improvements located thereon, and all appurtenances thereto.

Section 1.37. **"Record"** means, with respect to any document, the recordation or filing of such document in the Office of the County Recorder.

Section 1.38. **"Regular Assessment"** means an Assessment levied against an Owner and his or her Lot in accordance with Section 4.02, below.

Section 1.39. **"Reserves"** means those funds that the Board of Directors of the Association has identified for use to defray the future repair or replacement of, or additions to, those major components of the Development that the Association is obligated to maintain in one or more **Reserve Accounts**. Funds that are accumulated in Reserve Accounts pursuant to Section 4.09 of this Declaration and California Civil Code sections 5550 through 5570 shall be a Common Expense of the Association. The amounts required to properly fund Reserves shall be determined annually by the Board in accordance with the standards prescribed by maintenance cost guidelines prepared in accordance with California Civil Code sections 5550 and 5560 and prudent property management practices generally applied in "common interest developments" in the geographic region in which the Development is located. Among other elements, the Reserve planning process set forth in Civil Code section 5550 requires the Board to commission a study of the Association's Reserve Account requirements at least every three years (each a **"Reserve Study"**). That Reserve Study must then be reviewed by the Board on an annual basis and, if necessary, the Board shall consider adjustments to the Board's analysis of those Reserve Account requirements as a result of that annual review. The Reserve Study must include a **"Reserve Funding Plan"** that indicates how the Association intends to fund the contributions to Reserve Accounts required to meet the Association's maintenance, repair and replacement obligations.

Section 1.40. **"Residence"** means a private, single-family dwelling or approved ADU constructed or to be constructed on any Lot. A Residence shall include any attached garage, patio, porch, or any detached building or structure.

Section 1.41. **"Single Family Residential Use"** means occupancy and use of a Residence for single family dwelling purposes in conformity with this Declaration and the requirements imposed by applicable zoning or other applicable laws or governmental regulations limiting the number of persons who may occupy single family residential dwellings. Adding an ADU or a JADU that complies with all local laws and governmental regulations and which has been approved by the Design Review Committee is considered a permissible Single Family Residential Use.

Section 1.42. **"Special Assessment"** means an Assessment levied against an Owner and his or her Lot in accordance with Section 4.03, below.

Section 1.43. **"Special Individual Assessment"** means an Assessment levied against an Owner and his or her Lot in accordance with Section 4.04, below.

Section 1.44. **"Subdivision Map"** means the final subdivision map for any portion of the Development.

Section 1.45. **"Visible From Neighboring Property"** or **"Visible From the Golf Course"** means, with respect to any given object, that the object is visible to a six-foot tall person standing at the finished floor elevation (or in the case of streets or open space the

finished grade thereof) of the neighboring property, whether a Lot, private street or other Common AreaAreas, or the Golf Course, as applicable

Section 1.46. *"Voting Power"* means those Members who are eligible to vote for the election of directors or with respect to any other matter, issue or proposal properly presented to the Members for approval at any time a determination of voting rights is made. To be part of the Voting Power, a Member must be in Good Standing, as defined in Section ~~1.23~~,1.25, above.

ARTICLE II PROPERTY RIGHTS AND OBLIGATIONS OF OWNERS

Section 2.01. Declaration Regarding the Property Comprising the Development.

(a) The Property Subject to this Declaration. In subjecting the Property comprising the Development to the Original Declaration, as amended and restated herein, it was the intent of the ~~Declarant~~Master Developers, as interpreted and subsequently modified by action of the Association and its Members, that the real property comprising the Development should and will be held, conveyed, divided, encumbered, hypothecated, leased, rented, used, occupied and improved only upon compliance with and subject to the provisions of this Declaration, which is hereby declared to: (i) be in furtherance of a plan for the subdivision of the Development and the sale of residential Lots within the Development; (ii) be for the benefit and protection of the Development and to enhance the desirability, value and attractiveness of the property and improvements comprising the Development; (iii) be for the benefit of the Owners; (iv) run with the land and be binding upon all parties having or acquiring any right, title or interest in the Development or any portion thereof; (v) inure to the benefit of every portion of the Development and any interest therein; and (vi) inure to the benefit of and be binding upon each Owner, or any successor in interest to an Owner who should subsequently obtain or hold an interest in any portion of the real property comprising the Development.

(b) Binding Effect on Successors In Interest. Each conveyance, transfer, sale, assignment, lease or sublease made by any Owner of a Lot in the Development shall be deemed to incorporate by reference all of the provisions of this Declaration. All present and future Owners, tenants and occupants within the Development shall be subject to, and shall comply with, each and every provision of the Governing Documents, as the same shall be amended from time to time unless a particular provision of the Governing Documents is specifically restricted to one or more classes of persons (i.e., Owners, tenants, invitees, etc.). The acceptance of a deed to any Lot, the execution of a lease, sublease or contract of sale with respect to any Lot and Residence, or the entering into occupancy of any Residence shall make the provisions of this Declaration binding upon said persons and they shall thereafter be obligated to observe and comply with all Governing Documents.

Section 2.02.

Property Rights in the Common ~~Area~~Areas.

(a) Fee Title in Association. Prior to the approval of this Declaration, the ~~Declarant~~Master Developers conveyed fee simple title to the Common ~~Area~~Areas located in each phase of the Development to the Association.

(b) Rights of Owners in Common Areas. The interest of each Lot Owner in and to the use and enjoyment of the Common ~~Area~~Areas and the Common Facilities shall be appurtenant to the Lot owned by the Owner and shall not be sold, conveyed or otherwise transferred by the Owner separately from the ownership interest in the Lot. Any sale, transfer or conveyance of such Lot shall transfer the appurtenant right to use and enjoy the Common ~~Area~~Areas and Common Facilities. There shall be no judicial partition of the Common ~~Area~~Areas or any part thereof, and each Owner, whether by deed, gift, devise, or operation of law for his or her own benefit and for the benefit of all other Owners specifically waives and abandons all rights, interest and causes of action for a judicial partition of any ownership interest in the Common ~~Area~~Areas and does further covenant that no action for judicial partition shall be instituted, prosecuted or reduced to judgment. The rights of all Owners in the Common Areas of the Development shall be further subject to the requirements and restrictions set forth in Section 2.03, below.

Section 2.03.

Owners' Nonexclusive Easements of Enjoyment. Every

Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Areas within the Development, including ingress and egress to and from his or her Lot, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to regulate the use of the Common ~~Area~~Areas and Common Facilities (including but not limited to prohibiting access to or use of Common ~~Area~~Areas) located within or adjacent to the Golf Course, provided that no Members shall be denied ingress and egress over Common Area roadways to such Member's Lot. See also Section 7.04(d), below.

(b) The right of the Association to adopt Association Rules as provided in Section 3.07, below, regulating the use and enjoyment of the real property and improvements comprising the Development for the benefit and well-being of the Owners in common, and, in the event of the breach of such rules or any provision of any Governing Document by any Owner or tenant, to initiate disciplinary action against the violating Owner or tenant in accordance with Section 13.06, below. Such action may include the levying of fines and/or the temporary suspension of the voting rights and/or right to use the Common Facilities, other than roads.

(c) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common ~~Area~~Areas and Common Facilities;

(d) The right of the Association to dedicate or transfer portions of the Common ~~Area~~Areas to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed by the Owners; provided, however, that no such dedication or transfer shall be effective unless an instrument, approved by at least two-thirds (2/3) of the Voting Power of the Members, and their first Mortgagees consenting to such dedication or

transfer has been Recorded. Furthermore, no dedication shall be permitted that impairs the ingress and egress to any Lot. The instrument approving the dedication may be executed in counterparts so long as each counterpart is in recordable form.

(e) All easements affecting the Common ~~Area~~Areas which are described in Article IX, below.

Section 2.04. No Right to Use the Golf Course. Ownership of a Lot within the Development shall not confer any property rights or rights of access, use or enjoyment in and to the Golf Course. There is no guarantee that the Golf Course will be operated as such indefinitely. Accordingly, neither being an Owner of a Lot within the Development nor being a Member of the Association shall confer any property rights, ownership interest, or rights of access, use or enjoyment in and to the Golf Course. Rights to use and enjoy the Golf Course are within the exclusive control of the Golf Course ~~owner~~Owner and will be given by such owner to such persons, including without limitation, members of the general public, and on such terms and conditions as the Golf Course ~~owner~~Owner may determine from time to time. The Golf Course ~~owner~~Owner may amend or waive its determinations and policies with respect to use of the Golf Course property at any time. See also Sections 3.07(b)(ii)(E) and Article XVII, below, which also pertain to access to the Golf Course and other golf facilities.-

Section 2.05. Delegation of Use.

(a) Delegation of Use and Leasing of Residences. Any Owner may delegate his or her rights to use and enjoy the Common ~~Area~~Areas and Common Facilities to his or her family members or tenants, lessees or contract purchasers who reside in the Owner Residence~~upon such Owner's Lot.~~

(b) Requirements That Must Be Observed In All Residential Leases. The following specific limitations shall apply to all leases or tenancies of a Residence within the Development: (i) no Residence may be leased or rented for a period of less than ~~four~~six (46) months; and (ii) any rental shall be evidenced by a written lease or rental agreement which shall provide that the ~~tenancy~~lease is subject to the terms of the Governing Documents and that any failure of the ~~tenant~~lessee to comply with the terms of any Governing Document relating to residential leases, property use restrictions or the use and enjoyment of any portion of the Common Areas and Common Facilities shall constitute a default under the lease or rental agreement and shall entitle the Owner to terminate the tenancy as soon as permitted by law. The Owner-lessor's right to terminate a lease or rental agreement on account of the tenant's violation of the Governing Documents shall in no way restrict the right of the Association,~~a Master Developer,~~ or any Owner to enforce the Governing Documents in accordance with Article XIII, below, when the Owner's ~~tenant~~lessee is violating the Governing Documents.

(c) Discipline of Lessees. Subject to compliance with the notice and due process requirements set forth in subparagraph (d) below, in the event that any ~~tenant or~~ lessee fails to honor the provisions of any Governing Document, the Association shall be entitled to take such corrective action as it deems necessary or appropriate under the circumstances in order to preserve the quiet enjoyment of other Owners and residents within the Project. Without limiting, the foregoing, the Association's actions in response to a ~~tenant~~lessee's violation of the

Governing Documents may include: (i) suspension of the ~~tenant~~lessee's privileges to use the Common ~~Area~~Areas and/or Common Facilities, or (ii) the imposition of fines and penalties against the Owner-lessor of the Residence.

(d) Due Process Requirements for Disciplinary Action. Except for circumstances in which immediate corrective action is necessary to prevent damage or destruction to any portion of the Development or to preserve the rights of quiet enjoyment of other Owners, the Association shall have no right to initiate disciplinary action against an Owner-lessor (or the Owner's lessee ~~or tenant~~) on account of the misconduct of the Owner's lessee ~~or tenant~~ unless and until the following conditions have been satisfied: (i) the Owner has received written notice from the Board, the Association's property manager or an authorized committee of the Board detailing the nature of the lessee's/~~tenant's~~ alleged infraction or misconduct and advising the Owner of his or her right to a hearing on the matter in the event the Owner believes that remedial or disciplinary action is unwarranted or unnecessary; (ii) the Owner has been given a reasonable opportunity to ~~take contact the lessee or to take other appropriate~~ corrective action on a voluntary basis or to appear at a hearing, if one is requested by the Owner, and (iii) the Owner has failed to prevent or correct the lessee's/~~tenant's~~ objectionable actions or misconduct. Any hearing requested hereunder shall be conducted in accordance with Section 13.06, below

Section 2.06. Obligations of Owners. Owners of Lots within the Development shall be subject to the following duties and obligations:

(a) Owner's Duty to Notify Association of ~~Tenants~~Lessees and Contract Purchasers. Each Owner shall notify the secretary of the Association or the Association's property manager, if any, of the names of any contract purchaser, ~~tenant~~, or lessee residing on the Owner's Lot. Each Owner, contract purchaser or ~~tenant~~lessee shall also notify the secretary of the Association of the names of all persons to whom such Owner, contract purchaser or ~~tenant~~lessee has delegated any rights to use and enjoy the Development and the relationship that each such person bears to the Owner, contract purchaser or ~~tenant~~lessee.

(b) Contract Purchasers. A contract seller of a Lot (i.e., an Owner who contracts to sell his or her Lot pursuant to an Agreement where title transfers to the buyer only upon payment in full) must delegate his or her voting rights as a Member and his or her right to use and enjoy the Common ~~Area~~Areas and Common Facilities to any contract purchaser in possession of the property subject to the contract of sale. Notwithstanding the foregoing, the contract seller shall remain liable for any default in the payment of Assessments by the contract purchaser until title to the property sold has been transferred to the purchaser.

(c) Notification to Prospective Purchasers Regarding Governing Documents (Civil Code section 4525). As more particularly provided in California Civil Code section 4525, as soon as practicable before transfer of title or the execution of a real property sales contract with respect to any Lot, and upon receipt of a request from an Owner (see subparagraph (ii), below) who is considering, or who is in the process of selling a Lot and Residence, the Owner thereof must give the prospective purchaser:

(i) Documents that Must be Provided to Prospective Purchasers. As more particularly provided in California Civil Code section 4525, as soon as practicable before transfer of title or the execution of a real property sales contract with respect to any Lot, the Owner thereof must give the prospective purchaser:

(A) a copy of the Governing Documents of the Association, including any Association Rules;

(B) a copy of the most recent documents distributed by the Association pursuant to California Civil Code sections: 5300 (Annual Budget Report), 5305 (a year-end review of the Association's financial statement); 5310 (Annual Policy Statement) (see Article XII of the Bylaws). The documents required by Civil Code sections 5300 and 5300 can be summary or full reports unless a Member has requested a copy of the full report in all instances. The full or summary reports required by Civil Code sections 5300 and 5310 must be delivered to the Members by Individual Delivery and if a summary report is provided it must include a general description of the content of the report and instructions (in at least 10-point boldface type on the first page of the summary) on how to request a complete copy of the report at no cost to the Member (Civil Code section 5320);

(C) a true statement ("*delinquency statement*") in writing from an authorized representative of the Association as to: (1) the amount of the Association's current Regular and Special assessments and fees; (2) the amount of any Assessments levied upon the Owner's Lot that remain unpaid as of the date of the delinquency statement and any monetary fines or penalties levied upon the Owner's Lot and unpaid as of the date of the delinquency statement. The delinquency statement shall also include true information on late charges, interest, and costs of collection that, as of the date of the delinquency statement, are or may become a lien against the Owner's Lot pursuant to Civil Code section 5650 et seq.

(D) a copy or a summary of any notice previously sent to the Owner pursuant to Civil Code section 5855, that sets forth any alleged violations of the Governing Documents that remain unresolved at the time of the ~~request~~[Owner's request for information or documents pursuant to this Section 2.06\(c\)](#);

(E) a statement disclosing any change in the Association's current Regular and Special Assessments and fees which have been approved by the Board but have not become due and payable as of the date the information is provided to the prospective purchaser;

(F) if requested by the prospective purchaser, a copy of the minutes of the meetings of the Association's Board of Directors (other than executive session minutes) that were conducted over the previous twelve (12) months and approved by the Board.

(ii) When Must the Requested Documents Be Provided and in What Format. In accordance with Civil Code section 4530, within ten (10) days of the mailing or delivery of a request for the information described in subparagraph (c)(i), above, the Association shall provide the Owner (or any other recipient authorized by the Owner) with copies of the requested items. The items required to be made available pursuant to this subparagraph (c) may

be maintained in electronic form and the requesting parties shall have the option of receiving them by electronic transmission or in machine readable storage media if the Association maintains the requested items in electronic form and may be posted on the Association's Internet Website. The Association may charge a reasonable fee for this service based upon the Association's actual cost to procure, prepare, and reproduce the requested items. Upon receipt of a written request, the Association shall provide, on the form prescribed by Civil Code section 4528, a written or electronic estimate of the fees that will be assessed for providing the requested information. No additional fees may be charged by the Association for the electronic delivery of requested documents.

(iii) Fees and Disclosures Associated With the Furnishing of Documents Pursuant to Civil Code section 4525. Fees for documents required to be provided by Civil Code section 4525 and subparagraph (c), above, shall be distinguished from other fees, fines, or assessments billed as part of the transfer or sales transaction. Delivery of the documents required by this subparagraph (~~dc~~) shall not be withheld for any reason nor subject to any condition except the payment of the fees allowed pursuant to Civil Code section 4530(b)(1).

The Association shall provide a recipient authorized by the Owner of a Lot with a copy of the completed form specified in Civil Code section 4528 (listing charges for providing Association documents) at the time the required documents are delivered.

(d) Payment of Assessments and Discharge of Assessment Liens. Each Owner shall pay, when due, each Regular, Special, Emergency and Special Individual Assessment levied against the Owner and his or her Lot and shall promptly discharge any Assessment lien that may hereafter become a charge against his or her Lot.

(e) Compliance With Rules. Owners and tenants and shall observe, comply with and abide by any and all rules and regulations set forth in, or promulgated by the Association pursuant to, any Governing Document for the purpose of protecting the interests of all residents or protecting the Common ~~Area~~Areas and Common Facilities.

(f) Joint Ownership of Lots. In the event of joint ownership of any Lot, the obligations and liabilities of the multiple Owners under the Governing Documents shall be joint and several. Without limiting the foregoing, this subparagraph (f) shall apply to all obligations, duties and responsibilities of Owners as set forth in this Declaration, including the payment of all Assessments.

(g) Prohibition on Avoidance of Obligations. No Owner, by non-use of the Common Areas or Common Facilities, abandonment of the Owner's Lot or otherwise may avoid the burdens and obligations imposed on such Owner by the Governing Documents, including, without limitation, the payment of Assessments levied against the Owner and his or her Lot pursuant to Article IV of this Declaration.

(h) Termination of Obligations. Upon the conveyance, sale, assignment or other transfer of a Lot to a new Owner, the transferor-Owner shall not be liable for any Assessments levied with respect to such Lot which become due after the date of Recording of the

deed evidencing the transfer and, upon such Recording, all Association membership rights possessed by the transferor by virtue of the ownership of the Lot shall automatically cease.

ARTICLE III **VERDERA COMMUNITY-~~HOMEOWNERS~~ ASSOCIATION**

Section 3.01. Association Membership. The Verdera Community Association, is a California nonprofit mutual benefit corporation, that was formed by the Master ~~Developer~~Developers at the Inception of the Verdera Development to own, manage and maintain the Common Areas and Common Facilities within the ~~Verdera~~ Development and to perform the other duties and obligations set forth in this Declaration and the other Governing Documents. Every Owner of a Lot in the Development is a Member of the Association and the membership is appurtenant to, and may not be separated from, ownership interest of the Lot or Lots. Sole or joint ownership of a Lot shall be the sole qualification for membership in the Association. Each Owner shall remain a Member until his or her ownership in all Lots in the Development ceases, at which time his or her membership in the Association shall automatically cease. Persons or entities who hold an interest in a Lot merely as security for performance of an obligation are not Members until such time as the security holder comes into title to the Lot through foreclosure or receipt of a deed in lieu ~~thereof~~of foreclosure.

Section 3.02. One Class of Membership. The Association has a single class of membership comprised of Lot Owners and the rights, duties, obligations and privileges of the Members shall be as set forth in the Governing Documents.

Section 3.03. Voting Rights of Members. As more particularly set forth in Article IV of the Bylaws, each Member shall be entitled to one vote for each Lot owned by that Member. When more than one person holds an interest in any Lot, all such persons shall be Members, although in no event shall more than one vote be cast with respect to any Lot. Voting rights may be temporarily suspended under those circumstances described in Section 13.06, below. If a membership is held by a trust, corporation, partnership, limited partnership, or limited liability company, the voting rights shall be exercised by a principal of the entity-Owner (trustee, officer, general partner, or manager).

Section 3.04. Assessments. The Association shall have the power to establish, fix and levy Assessments against the Owners of Lots within the Development and to enforce payment of such Assessments in accordance with Civil Code sections 5600 et seq., and Article IV, below. Any Assessments levied by the Association against its Members shall be levied in accordance with and pursuant to the provisions of this Declaration.

Section 3.05. Transfer of Memberships. Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale of the Lot to which it is appurtenant, and then only to the purchaser. In the case of a sale, the membership appurtenant to the transferred Lot shall pass automatically to the purchaser upon Recordation of a deed evidencing the transfer of title. A Mortgagee does not have membership rights until he or she becomes an Owner by foreclosure or deed in lieu thereof. ~~Tenants~~Lessees who are delegated rights of use pursuant to Section 2.04, above, do not thereby become

Members, although the [tenant/lessee](#) and Members of the [tenant/lessee's](#) family shall, at all times, be subject to the provisions of all Governing Documents. Any attempt to make a prohibited transfer of a membership is void. In the event the Owner of any Lot should fail or refuse to transfer the membership registered in the Owner's name to the purchaser of his or her Lot, the Association shall have the right to record the transfer upon its books and thereupon any other membership outstanding in the name of the seller shall be null and void.

Section 3.06.

Powers and Authority of the Association.

(a) Powers, Generally. The Association shall have the responsibility of owning, managing and maintaining the Common Areas and Common Facilities of the Development and discharging the other duties and responsibilities imposed on the Association by [this Declaration and the other](#) Governing Documents. In the discharge of such responsibilities and duties, the Association shall have all of the powers of a nonprofit mutual benefit corporation organized under the laws of the State of California in the ownership and management of its properties and the discharge of its responsibilities hereunder for the benefit of its Members, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Governing Documents. With the exception of those matters requiring approval of the Members under the Governing Documents or California law, the affairs of the Association shall be conducted and all corporate powers shall be exercised by the Board of Directors and such officers and agents as the Board may elect, hire or appoint. [See Corporations Code section 7231.](#)

The Association and its Board of Directors shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of the Governing Documents, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of the Owners. The specific powers of the Association and the limitations thereon shall be as set forth in Article IX of the Bylaws.

(b) Association's Limited Right of Entry.

(i) Right of Entry, Generally. Without limiting the foregoing description of the Association's powers, but in addition thereto, the Association and its agents shall have the right and power to enter any Lot to perform the Association's obligations under this Declaration, including:

- (A) The rights and obligations to enforce the design review and approval requirements, minimum construction standards and/or land use restrictions of Articles V, VI and VIII, below;
- (B) Any rights and obligations with respect to construction, maintenance and repair of adjacent Common Facilities; or
- (C) To make necessary repairs that an Owner has failed to perform which, if left undone, will pose a threat to, or cause an unreasonable interference with, any portion of the Development or the Owners or residents in common or the Golf Course.

(ii) Limitations on Exercise of Right. The Association's right of entry pursuant to this subparagraph (b) shall be subject to the following:

(A) The right of entry may be exercised immediately and without prior notice to the Owner or resident in case of an emergency originating in or threatening the Lot and Residence where entry is required or any adjoining Lots, Residences or Common ~~Area~~Areas. The Association's work may be performed under such circumstances whether or not the Owner or resident is present.

(B) In all non-emergency situations involving routine repair and/or maintenance activities, the Association, or its agents, shall furnish the Owner or his or her lessee with at least twenty-four (24) hours prior written notice of its intent to enter the Lot, specifying the purpose and scheduled time of such entry, and shall make every reasonable effort to perform its work and schedule its entry in a manner that respects the privacy of the persons residing on the Lot.

(C) In all non-emergency situations involving access by the Association for purposes of enforcing the Governing Documents against an Owner in default, the Association's entry shall be subject to observance of the notice and hearing requirements imposed by Section 13.06, below.

(D) In no event shall the Association's right of entry hereunder be construed to permit the Association or its agents to enter any Residence without the ~~Owner's~~ express permission of the Residence Owner or other person who is residing in the Residence.

(E) Neither the Association nor any Owner shall have any right of entry onto the Golf Course without the prior consent of the Golf Course ~~owner~~Owner, unless an Owner's right of entry results from an Owner's status as a golfer who is playing the course pursuant to the rules established by the Golf Course ~~owner~~Owner.

Section 3.07.

Association Rules.

(a) Rule-Making Power. The Board may, from time to time and subject to the provisions of this Declaration, propose, enact and amend rules and regulations of general application to the Owners ("**Association Rules**"). The Association Rules may concern, but need not be limited to: (i) matters pertaining to use of the Common ~~Area~~Areas and Common Facilities; (ii) architectural control and the rules and guidelines of the Architectural Committee adopted pursuant to Section 5.05, below (iii) regulation of pet ownership, parking, signs, collection and disposal of refuse and other matters subject to regulation and restriction under Article VIII, below; (iv) collection of delinquent Assessments; (v) minimum standards of maintenance of landscaping or other Improvements on any Lot; (vi) the conduct of disciplinary proceedings in accordance with Section 13.06, below, (vii) and any other subject or matter within the jurisdiction of the Association as provided in the Governing Documents.

Notwithstanding the foregoing grant of authority, the Association Rules shall not be inconsistent with or materially alter any provision of the Governing Documents or the rights, preferences and privileges of the Owners thereunder. In the event of any material conflict

between any Association Rule and the provisions of any other Governing Document, the conflicting provisions contained in the other Governing Document shall prevail. All Association Rules shall be adopted, amended and repealed (as the case may be) in good faith and in substantial compliance with this Declaration and California Civil Code sections 4340 through 4370.

(b) Distribution of Rules. A copy of the Association Rules, as they may from time to time be adopted, amended or repealed, shall be delivered to each Owner by General Notice (Civil Code section 4045): (i) within fifteen (15) days after a new Association Rule is adopted or an existing Association Rule is amended (in which case only the new Rule or amendment need be distributed); or (ii) within ten (10) days following receipt of a written request from an Owner for a copy of the Rules.

(c) Adoption and Amendment of Rules.

(i) Requirement of Prior Notice to the Members of Certain Operating Rules or Amendments Thereto. California Civil Code sections 4340(a) and 4355(a) define an "**Operating Rule**" as an Association Rule or regulation that applies generally to the management and operation of the Development or to the conduct of the business and affairs of the Association. Civil Code section 4340(b) further defines a "**Rule Change**" as any adoption, amendment, or repeal of an Operating Rule by the Board of Directors. Civil Code section 4355(a) identifies seven types of Operating Rules (and Rule Changes involving such Operating Rules) that must first be provided to the Members by General Notice at least thirty (30) days prior to the Board taking action to implement the Rule Change. The notice must include the text of the proposed Rule Change and a description of the purpose and effect of the proposed Rule Change. This requirement of prior notice to the Members applies only to Operating Rules that relate to one or more of the following subjects:

- (A) Use of the Common Areas within the ~~Verdera-~~
~~development~~Development;
- (B) Use of any Residence or Lot in the Development (including Design Guidelines);
- (C) Member discipline, including any schedule of monetary penalties for violation of the Governing Documents and any procedure for the imposition of penalties;
- (D) Any standards for delinquent Assessment payment plans;
- (E) Any procedures adopted by the Association for resolution of disputes;
- (F) Any procedures for reviewing and approving or disapproving a proposed physical change to an Owner's Residence or Lot, from and after the time when the Association is solely responsible for appointing all members of the Architectural Committee; and

(G) Any procedures for the conduct of elections.

Specifically excluded by Civil Code section 4355(b) from the requirement of prior notice to Members are the following actions of the Board, regardless of whether those actions may be construed as being Association Rules or Operating Rules, as defined in the Civil Code: (i) any Rule Change that the Board adopts to address an imminent threat to public health or safety or imminent risk of substantial economic loss to the Association (such ~~“emergency rules”~~ can be adopted by the Board and remain in effect for up to one hundred and twenty (120) days); (ii) decisions regarding maintenance of the Common Areas or Common Facilities; (iii) a decision on a specific matter that is not intended to apply to all Members, generally; (iv) a decision establishing the amount of a Regular or Special Assessment; (v) adoption of a Rule Change that is required by law (if the Board of Directors has no discretion regarding the substantive effect of the Rule Change); and (vi) issuance of a document that merely repeats existing law or the Governing Documents.

With respect solely to Operating Rules and/or Rule Changes listed in subparagraphs (A) through (G), ~~of subparagraph (c)(i) above,~~ Civil Code section 4365 gives Members owning five percent (5%) or more of the Lots in the Development the right to demand a special vote of the Members to reverse a proposed Rule Change, so long as the request for the special vote is delivered to the Association not more than thirty (30) days after the Members are given notice of the Rule Change. If a proper and timely demand for a special vote to rescind an Operating Rule or Rule Change is tendered to the Association, the Board shall conduct a special vote on whether to reverse the Rule Change pursuant to the rules for conducting a secret ballot vote of the Members pursuant to Civil Code sections 5100 through 5130.

So long as a quorum of the Members cast ballots, the proposed Operating Rule or Rule Change can be reversed on the affirmative vote of a Majority of a Quorum of the Members, with each Member having one vote on the matter for each Lot ~~owned~~that the voting Member owns. If the Members vote to reverse an Operating Rule or a Rule Change, the Board may not take action to readopt the Operating Rule or Rule Change for a period of one year after the date of the vote reversing the Rule Change; provided, however, that this provision is not intended to preclude the Board from adopting a different Operating Rule or Rule Change on the same subject as the Rule Change that was successfully reversed.

As soon as possible following the close of voting on any proposal to reverse an Operating Rule or Rule Change, but not more than fifteen (15) days after the close of voting, the Board shall provide ~~notice~~General Notice to each Member by General Notice of the results of the Member vote challenging the Operating Rule or Rule Change. See Civil Code section 4365.

(ii) Minimum Content for Election Rules. Civil Code section 5105 requires associations to adopt Operating Rules regarding the conduct of elections that do all of the following:

(A) Access to the Media. Ensure that any candidate or Member advocating a point of view is provided access to Association media, newsletters, or internet websites during a campaign so long as the access is reasonably related to that election, equal access shall be provided to all candidates and ~~members~~Members advocating a point of view

(whether or not endorsed by the Board). The Association may not edit or redact any content from these campaign communications, but may include a statement specifying that the candidate or Member, and not the Association, is responsible for that content.

(B) Access to Common Facilities. Ensure access to the Common Area meeting space, if any exists, during a campaign, at no cost, to all candidates, including those who are not incumbents, and to all Members advocating a point of view (whether or not endorsed by the Board) so long as use of the space is for a purpose that is reasonably related to the election. Within the Verdera development there are no Common Facility meeting areas and the Association is under no obligation to contract with the Golf Club or other facility outside of the Development to provide meeting space.

(C) Candidate Qualifications. Specify the qualifications for candidates for election to the Board of Directors and any other elected position, subject to Civil Code section 5105(b), and procedures for the nomination of candidates. A nomination or election procedure shall not be deemed reasonable if it ~~disallows~~prohibits any Member of the Association from nominating themselves for election to the Board.

(D) Voter Qualifications. Specify the Voting Power of each membership, the authenticity, validity, and effect of proxies, and the voting period for elections, including the times at which polls will open and close.

(E) Selection of Inspectors of Election. Specify a method of selecting one or three Inspector(s) of Election (as defined in Section 1.04(m) of the Bylaws) by the Board of Directors.

(F) Appointment of Assistants to the Inspector of Elections. Allow the Inspector(s), to appoint and oversee additional persons to verify signatures and to count and tabulate votes as the Inspector(s) deem appropriate, provided that the persons are independent third parties (as defined in Section 7.06(d) of the Bylaws).

(G) Retention. Require retention of, as association election materials, both a candidate registration list and a voter list. See Civil Code section 5015(a)(7) for additional requirements.

(iii) Adoption of Other Association Rules. Except as provided in subparagraph (c)(i), above, with respect to certain Operating Rules and Rule Changes that must first be distributed to the Members, any other Association Rules may be adopted or amended from time to time by majority vote of the Board; provided, however, that no Association Rule or amendment thereto shall be adopted by the Board until at least thirty (30) days after the proposed rule or rule amendment has been distributed in writing to each Member, along with a description of the purpose and effect of the proposed Association Rule or amendment thereto. The notice describing the proposed rule or amendment shall also set forth the date, time and location of the Board meeting at which action on the proposal is scheduled to be taken. Any duly adopted rule or amendment to the Association Rules shall become effective immediately following the date of adoption thereof by the Board, or at such later date as the Board may deem appropriate. Any

duly adopted rule or rule amendment shall be distributed to the Owners by mail or personal delivery.

(iv) Prohibition on Adoption of Certain Rules. In accordance with Civil Code section 4730, any rule or regulation of an association that arbitrarily or unreasonably restricts an Owner's ability to market his or her Residence and Lot is void. In addition, no Association Rule or other Governing Document can prohibit, or impose conditions that have the effect of prohibiting the use of low water-using plants as a group or restricting compliance with any water-efficient landscape ordinance adopted pursuant to Government Code section 65595(c) or any regulation or restriction on the use of water that is adopted pursuant to California Water Code section 353 or 375.

(d) Breach of Rules or Restrictions. Any breach of the Association Rules or of any other Governing Document provision shall give rise to the rights and remedies set forth in Article XIII, below.

Section 3.08. Limitation on Liability of the Association's Directors and Officers.

(a) Claims Regarding Breach of Duty. In accordance with Corporations Code section 7231, no director or officer of the Association (collectively and individually referred to as the "Released Party") shall be personally liable to any of the Members or to any other person, for any error or omission in the discharge of his or her duties and responsibilities or for his or her failure to provide any service required under the Governing Documents; provided that such Released Party has, upon the basis of such information as he or she possessed, acted in good faith, in a manner that such person believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

Without limiting the generality of the foregoing, this standard of care and limitation of liability shall extend to such matters as the establishment of the Association's annual financial budget, the funding of Association capital replacement and reserve accounts, repair and maintenance of Common Areas and Common Facilities and enforcement of the Governing Documents.

(b) Other Claims Involving Tortious Acts and Property Damage. In accordance with Civil Code section 5800, no person who suffers bodily injury (including, without limitation, emotional distress or wrongful death) as a result of the tortious act or omission of a volunteer member of the Board or volunteer officer of the Association shall recover damages from such Board member or officer if all of the following conditions are satisfied:

- (i) The Board member or officer owns no more than two (2) Lots;
- (ii) The act or omission was performed within the scope of the volunteer Board member's or officer's Association duties;
- (iii) The act or omission was performed in good faith;

- (iv) The act or omission was not willful, wanton, or grossly negligent; and
- (v) The Association maintained and had in effect at the time the act or omission occurred and at the time a claim is made general liability insurance with coverage of at least Two Million Dollars (\$2,000,000).

The payment of actual expenses incurred by a Board member or officer in the execution of such person's Association duties shall not affect such person's status as a volunteer Board member or officer for the purposes of this Section 3.08. The provisions of this subparagraph (b) are intended to reflect the protections accorded to volunteer directors and officers of community associations pursuant to California Civil Code section 5800 and should not be construed to expand or limit the fiduciary duties owed by a Board member or officer. In the event ~~said~~ Civil Code section 5800 is amended or superseded by another, similar provision of the California statutes, this subparagraph (b) shall be deemed amended, without the necessity of further Member approval, to correspond to the amended or successor Civil Code provision.

ARTICLE IV ASSESSMENTS

Section 4.01. Assessments Generally.

(a) Covenant to Pay Assessments. Each Owner of a Lot, by acceptance of a deed therefore (whether or not it shall be so expressed in such deed) covenants and agrees to pay to the Association any (i) Regular Assessments, (ii) Special Assessments (iii) Emergency Assessments, and (iv) Special Individual Assessments duly levied by the Association in accordance with this Article IV.

(b) Extent of Owner's Personal Obligation for Assessments. In accordance with Civil Code section 5650(a), all Assessments, together with late charges, interest, and reasonable costs (including reasonable attorneys' fees) for the collection thereof, shall be a debt and a personal obligation of the person who is the Owner of the Lot at the time the Assessment is levied. Each Owner who acquires title to a Lot (whether by conventional conveyance or at judicial sale, trustee's sale or otherwise) shall be personally liable only for Assessments attributable to the Lot which become due and payable after the date that the person acquires title. Accordingly, when a person acquires title to a Lot, the new Owner shall not be personally liable for delinquent Assessments of prior Owners of the same Lot unless the new Owner expressly assumes the personal liability of a prior Owner. However, if the acquired Lot is conveyed subject to a valid lien for delinquent Assessments and related costs of collection (i.e. the lien is not removed from the Lot's chain of title prior to close of escrow in the sale of the Lot), the Association may continue to exercise its foreclosure remedies against the Lot, regardless of the change of ownership, and/or the Association may pursue its collection remedies against the prior Owner, individually.

(c) Creation of Assessment Lien. All Assessments and fees, together with late charges, interest, and reasonable costs for the collection thereof (including reasonable attorneys' fees), shall be a personal obligation of the assessed Owner as of the date that the Assessment is

levied. In addition, the amount of the Assessment, plus any costs of collection, late charges, and interest assessed in accordance with Civil Code section 5650(b), shall be a lien on the Owner's Lot from and after the date that the Association causes to be Recorded in the Office of the County Recorder a Notice of Delinquent Assessment pursuant to Civil Code section 5675(a) and Section 4.10(b)(v), below. Any lien for unpaid Assessments (other than certain Special Individual Assessments) created pursuant to the provisions of this Article IV may be subject to foreclosure to the extent and as provided in Section 4.10(b), below. As provided in Section 4.10(b)(x), below, and Civil Code section 5725(b), certain Special Individual Assessments are prohibited by law from being recovered through the use of non-judicial foreclosure remedies.

(d) No Avoidance of Assessment Obligations. No Owner may exempt himself/herself from personal liability for Assessments duly levied by the Association, nor release the Owner's Lot from the liens and charges hereof by waiver of the use and enjoyment of the Common Areas or any facilities thereon or by abandonment or non-use of his/her Lot or any other portion of the Development.

(e) Designation of Cost Centers. ~~A Master Developer and/or the~~ The Association shall have the power and authority to designate Lots and Common Areas within the Development as *Cost Centers* for purposes of expense accounting and the equitable allocation of Regular Assessments, in accordance with Section 4.02(~~bc~~)(ii)(A), below. A Cost Center is likely to be designated when one of the following occurs: (i) the maintenance or use of a particular Improvement or maintenance area within the designated Cost Center is fully or partially restricted to Owners of Lots located within the area designated as a "Cost Center," or (ii) when certain Owners of Lots within a designated Cost Center are receiving services from the Association that are in addition to, or significantly greater than, the services provided to other Owners or residents. Ordinarily, a Cost Center is established by ~~a Master Developer or~~ the Association whenever it is reasonable to anticipate that any Owner or group of Owners will derive as much as ten percent (10%) more than other Owners in general in the value of a common service(s) supplied by the Association. The Association may establish a Cost Center upon the consent of a majority of the Voting Power of the Lots being designated as a Cost Center.

It is contemplated that one or more Phases of the Development may have a "*Front Yard Landscaping Cost Center*" which is more particularly described in Section 4.02 (b)(ii), below. As Subsequent Phase Property is subjected to this Declaration, new Cost Centers within the annexed Phase may be designated in the Supplemental Declaration with respect to the annexed Phase which shall (i) identify the Lots comprising the Cost Center; (ii) identify the Common Facilities, maintenance areas or other services that will exclusively or disproportionately benefit the Owners of Lots within the Phase; and (iii) provide for the allocation of Common Expenses attributable to the identified Common Facilities or services to Owners within the Cost Center as a Cost Center Assessment Component of their Regular Assessment.

(f) Limitation on Amount of Assessments and Fees. In accordance with Civil Code section 5600(b), the Association shall not impose or collect an Assessment or fee that exceeds the amount necessary to defray the costs for which the Assessment or fee is levied.

(g) Golf Course Exempt From Assessments. Under no circumstances shall the provisions of this Article IV be construed to permit the Association to levy Assessments against the Golf Course or the Golf Course Owner.

Section 4.02.

Regular Assessments.

(a) Preparation of Annual Budget and Annual Budget Report. In accordance with Civil Code section 5300(a), not less than thirty (30) days nor more than ninety (90) days before the end of the Association's fiscal year, the Board shall distribute an Annual Budget Report to the Members which presents a pro forma operating budget, showing the estimated revenue and expenses of the Association on an accrual basis, a summary of the Association's reserves (prepared in accordance with Civil Code section 5565) and the other financial information and disclosures required by Civil Code section 5300(b). The Annual Budget Report must also be accompanied by the Assessment and Reserve Funding Disclosure Summary form that is set forth at Civil Code section 5570. The pro forma operating budget and other information in the Annual Budget Report form the basis for determining the **Regular Assessment** for the next succeeding fiscal year and if the information and analysis that is presented in the Annual Budget Report indicates that there will be a need for an increase in the amount of the Regular Assessment or the levy of a Special Assessment, the Association shall advise its Members, by Individual Notice, of the increase in the Regular Assessment or need for a Special Assessment not less than thirty (30) nor more than sixty (60) days prior to the increased Assessment becoming due (Civil Code section 5615).

(b) Establishment of Regular Assessment; Board/Membership Approval Requirements. The total Common Expenses estimated in the Association's budget (less projected income from sources other than Assessments) shall become the aggregate Regular Assessment for the next succeeding fiscal year; provided, however, that the Board's authority to increase the Regular Assessment in any particular fiscal year shall be subject to the following two limitations:

(i) Annual increases in Regular Assessments for any fiscal year may not be imposed by the Board unless: (i) the Board has made a timely distribution of an Annual Budget Report that includes the information required by subparagraphs (2), (4), (5), (6), (7) and (8) of Civil Code section 5300(b); or (ii) the Board has obtained the approval of a Majority of a Quorum of the Members for the Assessment increase in accordance with Section 4.08, below (Civil Code section 5605(a)); and

(ii) Except as provided in Section 4.05, below (relating to Emergency Assessments), the Board of Directors may not impose a Regular Assessment that is more than twenty percent (20%) greater than the Regular Assessment for the Association's immediately preceding fiscal year without the prior approval of a Majority of a Quorum of the Members for the Assessment increase in accordance with Section 4.08, below. (Civil Code section 5605(b)).

(c) Components of the Regular Assessment; Cost Centers.

(i) General Assessment Component. The Common Expenses of the Association exclusive of Common Expenses budgeted to any Cost Center (the "**General Assessment Component**") shall be allocated among and charged to all the Owners of Lots

according to the allocation formula set forth in subparagraphs (b)(i) and (ii) of this Section.

(ii) Cost Center Assessment Component.

(A) Front Yard Landscaping Cost Center Component. It is contemplated that certain Lots within the Subsequent Phase Property, if annexed to Phase 1, shall be subject to a Cost Center (the "**Front Yard Landscaping Cost Center**"), consisting of ~~all~~ expenses associated with the Association's maintenance, ~~repairs,~~ and replacement (but not the initial installation) ~~of the landscaping located within the front yard of the Lot~~ relating to sub-items (i) through (iv), below. If a Front Yard Landscaping Cost Center is established for any portion of the Subsequent Phase Property, for purposes of this section, the "**Front Yard**" shall mean that portion of each Lot which is located outside of fences or enclosed portions of a Residence, and would commonly be referred to as a front yard or side yard. The term Front Yard shall not include those portions of a Lot which are covered by structural Improvements and hardscapes (including sidewalks and driveways) or which are enclosed for the private use of a Resident. In the event of a dispute, the precise area of each Lot which constitutes the Front Yard shall be determined by the Board. The Front Yard Landscaping Cost Center components shall include all costs for (i) mowing, edging, and trimming all Front Yard lawns; (ii) all trimming and pruning of all shrubs, bushes, and trees located within the Front Yard of a Lot; (iii) irrigation systems; and ~~(iii)~~(iv) any additional management expenses, insurance premiums and deductibles, accounting, and legal expenses related to the maintenance of Front Yards of Lots. The Association's Front Yard landscape obligations shall not extend to fencing or bender-boards, unless such elements are damaged by the work of the Association and its contractors.

(B) Additional Cost Centers. In addition to the Front Yard Landscaping Cost Center, whenever it is determined by ~~a Master Developer or~~ the Association that a Cost Center should be designated to fairly allocate the expenses incurred or to be incurred by the Association to operate, maintain, repair and replace a particular Common Facility(s) or maintenance areas, the Supplemental Declaration applicable to a Lot that is subject to the Cost Center Component shall (A) identify the Cost Center, if existing, or describe the Cost Center, if proposed; (B) identify the Lots which are entitled to use the facilities of or receive the benefit from the Cost Center or which are obligated to bear the exclusive or disproportionate maintenance of such Cost Center improvements and which shall be obligated to pay the estimated expenses attributable to the activity or improvement designated as a Cost Center (the "**Cost Center Assessment Component**"). Unless otherwise provided, each Lot within a designated Cost Center shall be allocated an equal share of the Cost Center Assessment Component of the Association's Common Expenses chargeable to the Cost Center.

(d) Allocation of Regular Assessment Assessments. The total estimated Common Expenses, determined in accordance with subparagraph (a), above, shall be allocated among, assessed against, and charged to each Owner according to the ratio of the number of Lots within the Development owned by the assessed Owner to the total number of Lots subject to Assessment so that each Lot bears an equal share of the total Regular Assessment; provided, however, that Cost Center Assessments shall only be allocated to Lots within the area that is designated as a Cost Center.

(e) Assessment Roll. That portion of the estimated Common Expenses assessed against and charged to each Owner shall be set forth and recorded in an Assessment roll which shall be maintained and available with the records of the Association and shall be open for inspection at all reasonable times by each Owner or his or her authorized representative for any purpose reasonably related to the Owner's interest as a property Owner or as a Member of the Association. The Assessment roll shall show, for each Lot, the name and address of the Owner of Record, all Regular, Special, Emergency, and Special Individual Assessments levied against each Owner and his or her Lot, and the amount of such Assessments which have been paid or remain unpaid. The delinquency statement required by ~~(iii)~~Section 2.06 (c)(i)(C), above, shall be conclusive upon the Association and the Owner of such Lot as to the amount of such indebtedness appearing on the Association's Assessment roll as of the date of ~~such~~issuance of the delinquency statement in favor of all persons who rely thereon in good faith.

(f) Mailing Notices of Assessments and Related Financial Disclosures. Not less than thirty (30) nor more than sixty (60) days prior to the beginning of the Association's fiscal year the Board of Directors shall provide its Members, by Individual Delivery notice of the amount of the Regular Assessment for the next succeeding fiscal year. This notice is in addition to the following notices which must also be distributed to the Members: (i) the written notice required by Civil Code section 5730 which provides Members with general information regarding Assessments, foreclosure rights, payment of Assessments and payment plans; (ii) the form required by Civil Code section 5570 that provides summarized information regarding the amount of the current Regular Assessment, additional Assessments that have already been scheduled to be imposed or charged, and the calculation of capital replacement reserve replacement needs and Reserve Account funding requirements; and (iii) the statement that is required by Civil Code section 5310(a)(7)) ~~which describes~~describing the Association's policies and practices in enforcing lien rights or other legal remedies for the collection of delinquent Assessment obligations. These budgets and disclosure documents shall be delivered to the Members by one of the methods authorized by Civil Code section 4040 (i.e., by a form of notice that constitutes "*Individual Delivery*").

(g) Installment Payment. The Regular Assessment ~~made~~levied against each Owner and the Owner's Lot shall be due and payable in advance to the Association in equal monthly installments on the first day of each month or on such other date or dates as may be established from time to time by the Association's Board of Directors and disclosed to the Members in accordance with sub-paragraph (f), above. Installments of Regular Assessments shall be delinquent if not paid within fifteen (15) days of the due date as established by the Board.

Section 4.03.

Special Assessments.

(a) Purposes for Which Special Assessments May Be Levied. Subject to the ~~membership~~Member approval requirements set forth in subparagraph (b) below, the Board of Directors shall have the authority to levy *Special Assessments* against the Owners and their Lots for the following purposes:

(i) Regular Assessment Insufficient in Amount. If, at any time, the Regular Assessment for any fiscal year is insufficient in amount due to extraordinary expenses

not contemplated in the budget prepared for any fiscal year, then, except as prohibited by Section 4.02(a), above, the Board of Directors shall levy and collect a Special Assessment, applicable to the remainder of such year only, for the purpose of defraying, in whole or in part, any deficit which the Association may incur in the performance of its duties and the discharge of its obligations hereunder.

(ii) Additional Capital Improvements or Other Extraordinary

Non-Recurring Expenditures. The Board may also levy Special Assessments for additional capital improvements within the Common Areas (i.e., improvements not in existence on the date of this Declaration that are unrelated to repairs for damage to, or destruction of, the existing Common Facilities) or to defray the costs of any other extraordinary, non-recurring action or undertaking which the Board, in its discretion, determines to be to the advantage and in the best interests of the Members as a whole. The Special Assessment power conferred hereunder is not intended to diminish the Board's obligation to plan and budget for normal maintenance, replacement and repair of the Common Areas or the existing Common Facilities through Regular Assessments (including the funding of reasonable capital repair and replacement reserves) and to maintain adequate insurance on the Common Areas and its existing Common Facilities in accordance with Article X, below. Pursuant to Civil Code sections 5550 through 5570, Special Assessments can be used as one source of funding for reserve contributions; however it is not the policy of the Association to rely on that source of funding as part of a responsible reserve funding plan.

(iii) Requirements for Special Assessments Levied to Fund Multi-Year

Projects. Typically Special Assessments shall only be imposed to fund a specific capital improvement project during a particular fiscal year. However, if the Board determines that a Special Assessment should be levied to fund a portion of a capital project which will, or is likely to, entail work and/or funding in more than one fiscal year, this fact and a detailed disclosure of the intended scope and estimated costs of the project shall also be included in the Association's annual budget disclosures for the year in which the Special Assessment is imposed. If Member approval of a Special Assessment is required pursuant to subparagraph (b), below, this information shall also be included with the ballot solicitation information seeking approval of the Special Assessment.

(iv) Major Capital Repair and Reconstruction Projects. As more

particularly provided in Section 10.03, below, the Board shall be entitled to levy a Special Assessment to fund uninsured major repairs or reconstruction of Common Areas, subject to the membership approval requirements ~~of said~~set forth in Section 10.03.

(b) Special Assessments Requiring Membership Approval. The following

Special Assessments require prior approval of the Members in accordance with Section 4.08, below: (i) any Special Assessments which, in the aggregate, exceed five (5%) percent of the Association's budgeted gross expenses for the fiscal year in which the Special Assessment(s) is/are levied (Civil Code section 5605(b)); and (ii) any Special Assessments imposed pursuant to subparagraph (a)(i) of this Section when the Board has failed to distribute a budget to the Members within the time specified in Section 4.02(a), above. The foregoing Member approval requirements shall not apply, however, to any Special Assessment imposed to address any "Emergency Situation" as defined in Section 4.05, below.

(c) Allocation and Payment of Special Assessments.

(i) Allocation of Special Assessments. When levied by the Board or approved by the Members as provided above, Special Assessments shall be divided among, assessed against and charged to each Owner and his or her Lot in the same manner prescribed for the allocation of Regular Assessments pursuant to Section 4.02(c), above. The Special Assessment so levied shall be recorded on the Association's Assessment roll and notice thereof shall be provided to each Owner, by Individual Delivery, not less than thirty (30) nor more than sixty (60) days prior to the Special Assessment becoming due. Civil Code section 5615.

(ii) Payment Due Dates and Notice of the Special Assessment. Special Assessments for purposes described in subparagraph (a)(i) of this Section shall be due as a separate debt of the Owner and a lien against his or her Lot, and shall be payable to the Association in the same manner as the payment of Regular Assessments during the remainder of the then current fiscal year. Special Assessments for purposes described in subparagraph (a)(ii) shall be due as a separate debt of the Owner and a lien against his or her Lot, and shall be payable in full to the Association within thirty (30) days after the mailing of such notice or within such extended period as the Board shall determine to be appropriate under the circumstances giving rise to the Special Assessment. Special Assessments levied pursuant to subparagraph (a)(iii), above, shall be payable in such reasonable installments as shall be established at the time the Special Assessment is levied. Special Assessments levied pursuant to subparagraph (a)(iv) and Section 10.03, below, shall be due as a separate debt of each Owner and a lien against the Owners' Lots at such time as required by the repair or reconstruction project. The Association must provide Individual Notice to the Members of any Special Assessment not less than thirty (30) nor more than sixty (60) days prior to the due date for payment of the Special Assessment.

Section 4.04.

Special Individual Assessments.

(a) Circumstances Giving Rise to [the Imposition of Special Individual Assessments](#). In addition to the Special Assessments levied against all Owners in accordance with Section 4.03, above, the Board of Directors may impose ***Special Individual Assessments*** against an Owner in any of the circumstances described in subparagraphs (i) through (iii) below; provided, however, that no Special Individual Assessments may be imposed against an Owner pursuant to this Section until the Owner has been afforded the notice and hearing rights to which the Owner is entitled pursuant to Section 13.06, below, and, if appropriate, has been given a reasonable opportunity to comply voluntarily with the Governing Documents. Subject to the foregoing, the acts and circumstances giving rise to liability for Special Individual Assessments include the following:

(i) Damage to Common Areas or Common Facilities. In the event that any damage to, or destruction of, any portion of the Common Areas or the Common Facilities is caused by the willful misconduct or negligent act or omission of any Owner, any member of his or her family, or any of his or tenants, guests, servants, employees, licensees or invitees, the Board shall cause the same to be repaired or replaced, and all costs and expenses incurred by the Association in connection therewith (to the extent not compensated by insurance proceeds) shall be assessed and charged solely to and against such Owner as a Special Individual Assessment. If the Association's insurance provides coverage for the damage, the Owner who

caused the damage shall remain responsible for the payment of any applicable insurance deductible.

(ii) Expenses Incurred in Gaining Member Compliance. In the event that the Association incurs any costs or expenses to: (A) accomplish the payment of delinquent Assessments; (B) perform any repair, maintenance or replacement to any portion of the Development that the Owner is responsible to maintain under the Governing Documents but has failed to undertake or complete in a timely fashion, or (C) to otherwise bring the Owner, his or her tenants, and/or his or her Lot into compliance with any provision of the Governing Documents, the amount incurred by the Association (including reasonable fines and penalties duly imposed hereunder, title company fees, accounting fees, court costs and reasonable attorney's fees) shall be assessed and charged solely to and against such Owner as a Special Individual Assessment. The Association's Special Individual Assessment authority hereunder shall extend to the collection of any reasonable fines or penalties imposed against an Owner pursuant to Article XIII, below.

(iii) Required Maintenance of Lots. If any Lot is maintained so as to become a nuisance, structural, fire or safety hazard for any reason, including without limitation, the accumulation of trash, the Association shall have the right to enter said Lot, correct the condition and recover the cost of such action through the imposition of a Special Individual Assessment against the offending Owner. Any entry on to a Lot by the Association or its agents shall be undertaken in strict compliance with Section 3.06(b), above.

(b) Levy of Special Individual Assessment and Payment. Once a Special Individual Assessment has been levied against an Owner for any reason described, and subject to the conditions imposed, in subparagraph (a) of this Section 4.04, such Special Individual Assessment shall be recorded on the Association's Assessment roll and notice thereof shall be mailed to the affected Owner. The Special Individual Assessment shall thereafter be due as a separate debt of the Owner payable in full to the Association within thirty (30) days after the mailing of notice of the Special Individual Assessment.

(c) Limitation on Right to Lien Lots For Special Individual Assessments. The right of the Association to collect delinquent Special Individual Assessments through the use of lien and foreclosure remedies is subject to the limitations set forth in Section 4.10(b)(x), below, and Civil Code section 5725. However Special Individual Assessments may be collected by the Association through the use of other legal processes, including, without limitation, an action in small claims court.

Section 4.05.

Assessments to Address Emergency Situations.

(a) Authority of Board to Impose Emergency Assessments. In accordance with Civil Code section 5610, the requirement of a membership vote to approve: (i) Regular Assessment increases in excess of twenty percent (20%) of the previous year's Regular Assessment; or (ii) Special Assessments which, in the aggregate, exceed five percent (5%) of the Association's budgeted gross expenses for the fiscal year in which the Special Assessment(s) is/are levied, shall not apply to Assessments necessary to address Emergency Situations

("Emergency Assessments"). For purposes of this Section, an emergency situation is any of the following:

- (i) An extraordinary expense required by an order of a court;
- (ii) An extraordinary expense necessary to repair or maintain the Common Areas or Common Facilities where a threat to personal safety is discovered; or
- (iii) An extraordinary expense necessary to repair or maintain the Common Areas or Common Facilities that could not have been reasonably foreseen by the Board in preparing and distributing the budget pursuant to Section 4.02(a), above; provided, however, that prior to the imposition or collection of an Assessment under this subparagraph (iii), the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. The Board's resolution shall be distributed to the Members together with the notice of Assessment.

(b) Payment of Emergency Assessments. When levied by the Board the Emergency Assessment shall be divided among, assessed against and charged to each Owner and his or her Lot in the same manner prescribed for the allocation of Regular Assessments pursuant to Section 4.02(c), above. The Emergency Assessment so levied shall be recorded on the Association's Assessment roll and notice thereof shall be mailed to each Owner. An Emergency Assessment shall be due as a separate debt of the Owner and shall be payable in full to the Association within thirty (30) days after the mailing of the notice of the Emergency Assessment or within such extended period as the Board shall determine to be appropriate under the circumstances giving rise to the Emergency Assessment. If an Emergency Assessment is not paid on or before the due date, the Assessment may be enforced in the manner provided in Section 4.10, below.

Section 4.06. Purpose and Reasonableness of Assessments. Each Assessment made in accordance with the provisions of this Declaration is hereby declared and agreed to be for use exclusively: (a) to promote the recreation, health, safety and welfare of individuals residing within the Development; (b) to promote the enjoyment and use of the Development by the Owners and their tenants, guests and invitees; and (c) to provide for the repair, maintenance, replacement and protection of the Common Areas and Common Facilities. Each and every Assessment levied hereunder is further declared and agreed to be a reasonable Assessment, and to constitute a separate, distinct and personal obligation (with respect to which a separate lien may be created hereby), except as limited by subparagraph (c), above) of the Owner of the Lot against which the Assessment is imposed that shall be binding on the Owner's heirs, successors and assigns; provided however, that the personal obligation of each Owner for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 4.07. Exemption of Certain Portions of the Development From Assessments. The following real property subject to this Declaration shall, unless devoted to the use as a residential dwelling, be exempt from the Assessments and the lien thereof provided herein:

- (a) Any portion of the Development that is dedicated and accepted by a local public authority;
- (b) The Common Areas and Common Facilities; and
- (c) Any Lot that is owned by the Association.

Section 4.08. Notice and Procedure for Member Approval Pursuant to Sections 4.02 and 4.03. In the event that Member approval is required in connection with any increase or imposition of Assessments pursuant to Sections 4.02 and 4.03, above, the affirmative vote required to approve the increase shall be a Majority of a Quorum of the Members. The quorum required for such membership action shall be a majority of the Members (Civil Code section 5605). Any vote on an increase in the Regular Assessment or on the imposition of a Special Assessment that requires approval of the Members must be conducted by use of a secret ballot and that balloting process shall be conducted using the procedures described in Section 7.05 of the Bylaws and Civil Code sections 5115 through 5125.

Section 4.09. Maintenance and Expenditure of Assessment Funds.

(a) Establishment and Maintenance of Association Bank Accounts. All sums received or collected by the Association from Assessments, together with any interest or late charges thereon, shall be promptly deposited in one or more insured checking, savings or money market accounts in a bank or savings and loan association selected by the Board of Directors. In addition, the Board shall be entitled to make prudent investment of reserve funds in FDIC insured certificates of deposit, money market funds or similar investments consistent with the investment standards normally observed by trustees. The Board and such officers or agents of the Association as the Board shall designate shall have exclusive control of said account(s) and investments and shall be responsible to the Owners for the maintenance at all times of accurate records thereof. The withdrawal of funds from Association accounts shall be subject to the minimum signature requirements imposed by California Civil Code section 5510(a) and Section 12.02 of the Bylaws. Any interest received on deposits shall be credited proportionately to the balances of the various Assessment fund accounts maintained on the books of the Association as provided in subparagraph (b), below.

(b) Expenditure of Assessment Funds. Except as provided below, the proceeds of each Assessment shall be used only for the purpose for which such Assessment was made, and such funds shall be received and held in trust by the Association for such purpose. Notwithstanding the foregoing, the Board, in its discretion, may make appropriate adjustments among the various line items in the Board's approved general operating budget if the Board determines that it is prudent and in the best interest of the Association and its Members to make such adjustments. If the proceeds of any Special Assessment exceed the requirement of which such Assessment was levied, such surplus may, in the Board's discretion, be: (i) returned proportionately to the contributors thereof; (ii) reallocated among the Association's reserve accounts if any such account is, in the Board's opinion, underfunded; or (iii) credited proportionately on account of the Owners' future Regular Assessment obligations. In accordance with Civil Code section 5510(b), except for temporary transfers of monies from reserve funds

that are permitted pursuant to subparagraph (d)(iii), below, the Board of Directors shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components of the Development that the Association is obligated to repair, restore, replace or maintain and for which the reserve fund was established.

(c) Separate Accounts; Commingling of Funds. Except as otherwise provided in subparagraph (d), below, to preclude a multiplicity of bank accounts, the proceeds of all Assessments may be commingled in one or more accounts and need not be deposited in separate accounts so long as the separate accounting records described herein are maintained. For purposes of accounting, but without requiring any physical segregation of assets, the Association shall keep a separate accounting of all funds received by the Association in payment of each Assessment and of all disbursements made therefrom; provided, however, that receipts and disbursements of Special Assessments made pursuant to Section 4.03(a)(i), above, shall be accounted for together with the receipts and disbursements of Regular Assessments, and a separate accounting shall be maintained for each capital improvement for which reserve funds for replacement are allocated.

Unless the Association is exempt from federal or state taxes, all sums allocated to capital replacement funds shall be accounted for as contributions to the capital of the Association and as trust funds segregated from the regular income of the Association or in any other manner authorized by law or regulations of the Internal Revenue Service and the California Franchise Tax Board that will prevent such funds from being taxed as income of the Association.

(d) Maintenance of Reserve Funds; and Restrictions on the Use of Reserve Funds.

(i) Required Study of Reserve Account Requirements. As more particularly provided in Section 12.06 of the Association Bylaws, at least once every three (3) years, the Association Board is required by Civil Code section 5550(a) to cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the Major Capital Improvements within the Development that the Association is obligated to repair, replace, restore, or maintain as part of a study of the Association's Reserve Account requirements (a "**Reserve Study**"). This three (3) year rolling Reserve Study must also be reviewed annually by the Board and adjusted as appropriate. As used herein, the phrase "**Major Capital Improvements**" shall be as defined to include those Major Capital Improvements within the Development that are maintained by the Association. If a particular Major Capital Improvement has a remaining useful life of less than thirty (30) years it shall be included in the Association's Reserve Study. Civil Code section 5550(b) requires that the Reserve Study include all of the following:

(A) an identification of the Major Capital Improvements that the Association is obligated to repair, replace, restore, or maintain which, as of the date of the Reserve Study, have a remaining useful life of less than thirty (30) years;

(B) an identification of the probable remaining useful life of those Major Capital Improvements of the Development;

(C) an estimate of the cost of repair, replacement, restoration, or maintenance of the Major Capital Improvements;

(D) an estimate of the total annual contribution to the Association's Reserve Account(s) that is necessary to defray the cost to repair, replace, restore, or maintain the Major Capital Improvements for which the Association is responsible during and at the end of their useful life, after subtracting total Reserve Funds as of the date of the Reserve Study; and

(E) a **Reserve Funding Plan** that will disclose to the Members how the Association intends to raise the money that the Reserve Study indicates the Association will need (subparagraph (D)) to meet the Association's obligations for the repair and replacement of all Major Capital Improvements of the Development for which the Association is responsible that have an expected remaining life of thirty (30) years or less, not including those Major Capital Improvements that the Board has determined will not be repaired or replaced.

The Reserve Funding Plan required by Civil Code section 5550 shall include a schedule of the date and amount of any change in the Association's Regular Assessments or levy of a Special Assessment that would be needed to sufficiently fund the Association's Reserve Account(s), consistent with the Reserve Funding Plan.

(ii) Adoption of the Reserve Funding Plan. The Reserve Funding Plan that is required pursuant to subparagraph (i) shall be adopted by the Board of Directors at a meeting of the Board that is open to attendance by the Members (Civil Code section 5560(b)) and shall include a schedule of the date and amount of any change in the Association's Regular or Special Assessments that would be needed to sufficiently fund the Reserve Funding Plan. If the Plan includes an increase in Assessments to properly fund the Reserve Accounts, approval of that increase shall be done as a separate action of the Board, with Member approval for the action if required by Civil Code section 5605(b) and Sections 4.02(b) and 4.03(b), above. The Association shall be obligated to provide its Members with a summary of the Reserve Funding Plan adopted by the Board of Directors in accordance with Civil Code section 5570(a). This summary shall include notice to the Members that the full Reserve Funding Plan is available upon request by a Member and will be provided with a complete copy of the Reserve Funding Plan.

(iii) Permitted Temporary Transfers of Reserve Funds. Notwithstanding the restrictions on the use of Reserve Funds set forth in subparagraph (b), above, Civil Code section 5515 permits the Board to authorize the temporary transfer of money from a Reserve Account to the Association's general operating fund to meet short term cash flow requirements or other expenses of the Association if the Board has provided notice of the intent to consider the transfer in a notice of an open meeting of the Board, which shall be provided to the Members as specified in Civil Code section 4920). The notice shall include the reasons why the transfer of funds from the Reserve Account(s) is needed, some of the options for repayment, and whether a Special Assessment may be considered. If the Board authorizes the transfer, the Board shall issue a written finding, recorded in the Board's minutes, explaining the reasons why the transfer is needed, and describing when and how the monies will be repaid to the Reserve Account(s).

The transferred funds shall be restored to the Reserve Account(s) within one year of the date of the initial transfer, except that the Board may, after giving the same notice required for considering a transfer, and upon making a finding supported by documentation that a temporary delay would be in the best interests of the Development, temporarily delay the restoration. The Board shall exercise prudent fiscal management in delaying restoration of the withdrawn Reserve Funds and in restoring the expended funds to the Reserve Account, and shall, if necessary, levy a Special Assessment to recover the full amount of the expended funds within the time limits required by this subparagraph (d). This Special Assessment is subject to the Member approval requirements of California Civil Code section 5605 and Section 4.03(b), above, if the aggregate amount of the Special Assessment that is required to replenish the Reserve Account(s) exceeds five percent (5%) of the budgeted gross expenses of the Association for the year in which the Special Assessment is imposed. The Board may, at its discretion, extend the date the payment on the Special Assessment is due. Any extension shall not prevent the Board from pursuing any legal remedy to enforce the collection of an unpaid Special Assessment.

When the decision is made to use Reserve Funds or to temporarily transfer money from the Association's Reserve Accounts to pay for litigation, the Association shall provide General Notice to the Members (Civil Code section 4045) of the Board's decision and of the availability of [Owners to request](#) an accounting of those expenses. The Association shall make an accounting of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by Members at the Association's principal office. Civil Code section 5520(b).

(e) Limitations on Association's Authority to Assign or Pledge Assessment Obligations. In accordance with Civil Code section 5735, the Association may not voluntarily assign or pledge its right to collect payments or Assessments, or to enforce or foreclosure a lien to a third party, except when the assignment or pledge is made to a financial institution or lender chartered or licensed under federal or state law, when acting within the scope of that charter or license, as security for a loan obtained by the Association. However, the restrictions imposed by this subparagraph (e) shall not restrict the right or ability of the Association to assign any unpaid obligations to a former Member to a third party for purposes of collection.

Section 4.10. Collection of Assessments; Enforcement of Liens. In accordance with Civil Code section 5650(b), installments of Regular Assessments shall be delinquent if not paid within fifteen (15) days of the due date as established by the Board. Special Assessments, Special Individual Assessments and Emergency Assessments shall be delinquent if not paid within the times prescribed in Sections 4.03(c), 4.04(b) and 4.05(b), respectively. When an Assessment becomes delinquent, the amount thereof may, at the Board's election, bear interest at the maximum rate allowed by law commencing thirty (30) days after the due date until the same is paid. In addition to the accrual of interest, the Board of Directors is authorized and empowered to promulgate a schedule of reasonable late charges for any delinquent Assessments, subject to the limitations imposed by California Civil Code section 5650(b) or comparable successor statute. Once an Assessment becomes delinquent, the Association may elect to apply one or both of the following remedies:

(a) Enforcement of An Owner's Personal Obligation to Pay Assessments. In accordance with Civil Code section 5700, the Association may bring a legal action directly

against the Owner for breach of the Owner's personal obligation to pay the Assessment and in such action the Association shall be entitled to recover the delinquent Assessment or Assessments, accompanying late charges, interest, costs and reasonable attorneys' fees. Commencement of a legal action shall not constitute a waiver of any lien rights as described in subparagraph (b), below.

(b) Imposition and Enforcement of Assessment Lien and Limitations Thereon. In accordance with Civil Code sections 5675 and 5705 through 5720, and except as otherwise provided in Civil Code section 5725 and subparagraph (b)(x), below (which imposes limitations on the right of the Association to utilize non-judicial foreclosure remedies to collect certain Special Individual Assessments), the Association may impose a lien against the Owner's Lot for the amount of the delinquent Assessment or Assessments, plus any reasonable costs of collection (including reasonable attorney's fees), late charges and interest by taking the following steps:

(i) Issuance of Pre-Lien Notice; Contents. In accordance with Civil Code section 5660, at least thirty (30) days prior to recording a lien upon the Owner's Lot to collect a delinquent Assessment, the Association shall notify the Owner in writing by certified mail of the following (the "Pre-Lien Notice"):

(A) A general description of the collection and lien enforcement procedures of the Association and the method of calculation of the amount, a statement that the Owner of the Lot has the right to inspect the Association records, pursuant to Civil Code section 5205, and the following statement in 14-point boldface type, if printed, or in capital letters, if typed: "IMPORTANT NOTICE: IF YOUR LOT IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION."

(B) An itemized statement of the charges owed by the Owner, including items on the statement which indicate the amount of any delinquent Assessments, the fees and reasonable costs of collection, reasonable attorneys' fees, any late charges, and interest, if any.

(C) A statement that the Owner shall not be liable to pay the charges, interest, and costs of collection previously levied by the Association if it is subsequently determined that the Assessment was paid on time.

(D) The right of the notified Owner to request a meeting with the Board as provided in subparagraph (iv), below, and Civil Code section 5665 in order to discuss entering into a payment plan to retire the delinquency.

(E) The right to dispute the Assessment debt by submitting a written request for dispute resolution to the Association pursuant to the Association's "meet and confer" program pursuant to Civil Code sections 5900 through 5915;

(F) The right of the noticed Member to request alternative dispute resolution (ADR) with a neutral third party pursuant to Civil Code sections 5925 through 5945 before the Association may initiate foreclosure against the Owner's Lot, except that

binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure, rather than a non-judicial foreclosure.

(ii) Application of Payments. Civil Code section 5655 sets forth the following requirements that must be observed when an Owner tenders payment on account of delinquent Assessments: (A) Any payments made by a delinquent Owner toward the delinquent Assessments that are in arrears shall first be applied to the Assessments that are owed at the time the payment is made; (B) only after the Assessments owed are paid in full shall the payments be applied to the fees and the costs of collection, attorneys' fees, late charges or interest; (C) when an Owner makes a payment, the Owner may request a receipt and the Association shall provide it. The receipt shall indicate the date of payment and the person who received the payment on behalf of the Association; and (D) the Association shall provide its Members with a mailing address for overnight payment of Assessments.

(iii) Pre-Lien Offer to Meet and Confer with the Owner or to Participate in ADR. In accordance with Civil Code section 5670, prior to recording a lien for delinquent Assessments, the Association shall offer the Owner and, if so requested by the Owner, participate in dispute resolution pursuant to the Association's meet and confer program that is required by Civil Code sections 5900 through 5910.

(iv) Rights of Owners to Propose Payment Plans. In accordance with Civil Code section 5665, an Owner may also submit a written request to meet with the Board to discuss a payment plan for the delinquent Assessment. This request must also be made within fifteen (15) days of the postmark of the Pre-Lien Notice. The Association shall provide the Owners with the standards for payment plans, if such standards have been adopted. So long as a timely request for a meeting has been tendered, the Board shall meet with the Owner in executive session within forty-five (45) days of the postmark of the request for a meeting, unless there is no regularly-scheduled Board meeting within that period, in which case the Board may designate a committee of one or more Members to meet with the Owner. Payment plans may incorporate any assessments that accrue during the payment plan period. Payment plans shall not impede an Association's ability to record a lien on the Owner's Lot to secure payment of delinquent assessments. Additional late fees shall not accrue during the payment plan period if the Owner is in compliance with the terms of the payment plan. In the event of a default on any payment plan, the Association may resume its efforts to collect the delinquent assessments from the time prior to entering into the payment plan.

(v) Association Assessment Lien Rights.

(A) Creation of Association's Assessment Lien; Contents of Notice of Delinquent Assessment. Except as provided in subparagraph (x), below (relating to limitations on the right of the Association to use foreclosure remedies to collect Special Individual Assessments), the amount of the Assessment, plus any costs of collection, late charges, and interest assessed in accordance with Civil Code section 5650 shall be a lien on the Owner's Lot from and after the time the Association causes to be recorded in the Office of the County Recorder a **Notice of Delinquent Assessment** pursuant to Civil Code section 5675. The Notice of Delinquent Assessment shall state the amount of the Assessment and other sums imposed in accordance with Civil Code section 5650(b), a legal description of the Owner's Lot

against which the Assessment and other sums are levied, and the name of the record owner of the Owner's Lot against which the lien is imposed. In order for the lien to be imposed by non-judicial foreclosure as provided in subparagraphs (vii) and (viii), below, the Notice of Delinquent Assessment shall state the name and address of the trustee authorized by the Association to enforce the lien by sale. The itemized statement of the charges owed by the Owner that is required by subparagraph (b)(i)(B), of this Section 4.10 and Civil Code section 5660(b) shall be recorded together with the Notice of Delinquent Assessment. The Notice of Delinquent Assessment shall be signed by any officer of the Association or by the person designated by the Association for that purpose or if no one is designated, by the president of the Association.

(B) Board Decision to Record a Lien; Open Meeting. In accordance with Civil Code section 5673, the decision to record a lien for delinquent assessments shall be made only by the Board of Directors of the Association and may not be delegated to an agent of the Association. The Board shall approve the decision by a majority vote of the Board in an open meeting and the vote shall be recorded in the minutes of the meeting (Civil Code section 5673). If the Association fails to abide by the Pre-Lien Notice and other procedures set forth above, the Association must recommence the required notice process, with any resulting additional costs being borne solely by the Association (Civil Code section 5690).

(C) Requirements for Tendering Copy of the Lien to Affected Owners. A copy of the recorded Notice of Delinquent Assessment shall be mailed by certified mail to every person whose name is shown as an Owner of the Lot in the Association's records, and the notice shall be mailed no later than ten (10) calendar days after its Recordation (Civil Code section 5675(e)). Upon receipt of a written request by an Owner identifying a secondary address for purposes of collection notices, the Association shall send additional copies of any notices, including Notices of Delinquent Assessments and Notices of Default, required by Civil Code sections 4040(b) and 5260(b) to the secondary address that is specified.

(vi) Priority of Assessment Liens. A lien created pursuant to subparagraph (v)(A), above, or subparagraph (x), below, shall be prior to all other liens recorded against the Owner's Lot subsequent to the Notice of Delinquent Assessment, except as described in Section 4.12, below. Civil Code section 5680.

(vii) Enforcement of Assessment Liens. Subject to the limitations set forth in this Section 4.10(b) and in particular this subparagraph (vii), after the expiration of thirty (30) days following the recording of a Notice of Delinquent Assessment, the Association's lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the Notice of Delinquent Assessment, or sale by a trustee substituted pursuant to Civil Code section 2934(a). Prior to initiating a foreclosure on an Owner's Lot, the Association shall offer the Owner ~~and~~, if so requested by the Owner, participate in dispute resolution pursuant to the Association's "meet and confer" program (Civil Code section 5900 et seq.) or alternative dispute resolution in accordance with Civil Code section 5925 et seq. The decision to pursue dispute resolution or a particular type of alternative dispute resolution shall be the choice of the Owner, except that binding arbitration shall not be available if the Association intends to initiate a judicial, rather than a non-judicial, foreclosure (Civil Code section 5705(b)). The

decision to initiate foreclosure of a lien for delinquent Assessments shall be made only by the Board of Directors and may not be delegated to an agent of the Association.

The Board's decision to initiate foreclosure shall require the affirmative vote of a majority of the directors and the vote shall be conducted in an executive session. That vote shall be recorded in the minutes of the next open meeting of the Board, however, in order to protect the confidentiality of the Owner or Owners whose/who's Lot and Residence is being foreclosed, the minutes shall only identify the action by reference to the parcel number of the property, rather than identifying the Owner(s) by name. The vote must be conducted at least thirty (30) days prior to any public sale (Civil Code section 5705(b)).

If the Board votes to commence foreclosure proceedings to collect delinquent assessments pursuant to this subparagraph (vii) and (viii), below, the Board shall provide notice of that decision by personal service (in the manner required for service of a summons pursuant to Code of Civil Procedure sections 415.10 et seq. to an Owner of the Lot who occupies the Residence on the Lot or to the Owner's legal representative. If the Owner does not occupy the Residence that is the subject of the foreclosure proceeding, the Board shall provide written notice to the Owner by first-class mail, postage prepaid, at the most current address for the Owner that is shown on the books of the Association. In the absence of written notification by the Owner to the Association, the address of the Owner's Residence may be treated as the Owner's mailing address. Civil Code section 5705(d).

Any sale by the trustee shall be conducted in accordance with Civil Code sections 2924, 2924(b) and 2924(c) applicable to the exercise of powers of sale in mortgages and deeds of trusts. The fees of a trustee may not exceed the amounts prescribed in Civil Code sections 2924(c) and 2924(d). In addition to the requirements of Civil Code section 2924, a notice of default shall be served by the Association on the Owner's legal representative in accordance with Code of Civil Procedure section 415.10. As used herein, the Owner's legal representative shall be the person whose name is shown as the Owner of the liened Lot and Residence on the records of the Association unless another person has been previously designated by the Owner as his or her legal representative in writing and mailed to the Association in a manner that indicates that the Association has received the designation.

(viii) Minimum Thresholds For Use Exercise of Foreclosure Remedies.

In accordance with Civil Code section 5720, debts for Assessments may not be collected through the use of judicial or non-judicial foreclosure remedies until the delinquent Assessment amount, exclusive of any accelerated Assessments, late charges, fees, costs of collection, attorney's fees, and interest, equals or exceeds \$1,800.00 or the Assessments are more than twelve (12) months delinquent. Delinquent Assessments in a smaller amount may not be collected through the use of foreclosure remedies, but may be collected through the use of any of the following other means: (aa) a civil action in small claims court; (bb) by recording a lien on the Owner's Lot (subject to the restrictions on foreclosure of that lien); or (cc) any other manner provided by law, other than judicial or non-judicial foreclosure.

(ix) Foreclosed Owner's Rights of Redemption.

A non-judicial foreclosure by the Association of an Owner's interest in his or her Lot and Residence to collect a debt for delinquent Assessments shall be subject to a right of redemption. The redemption period

within which the Lot may be redeemed from a foreclosure sale under this subparagraph (ix) (which reflects Civil Code section 5715(b)) ends ninety (90) days after the sale. In addition to the requirements of Civil Code section 2924f, a notice of sale in connection with the Association's foreclosure of a Lot in the Development shall include a statement that the property is being sold subject to the right of redemption created by Civil Code section 5715(b).

(x) Limitation on Authority to Use Lien and Foreclosure Remedies to Collect Special Individual Assessments. Civil Code section 5725 provides that the following categories of Special Individual Assessments may be collected through the use of lien and foreclosure remedies in accordance with subparagraphs (v) through (viii), above: (A) Special Individual Assessments or other monetary charges imposed by the Association as a means of reimbursing the Association for costs incurred in the repair of damage to Common Areas and Common Facilities for which the Member or the Member's guests or tenants were responsible; and (B) Special Individual Assessments imposed to recover late charges, reasonable costs of collection and interest assessed in accordance with Civil Code section 5650(b).

(xi) Obligation to Record Lien Releases. If it is determined that a lien previously recorded against a Lot was recorded in error, the party who recorded the lien, within twenty-one (21) calendar days, shall record or cause to be recorded in the Office of the County Recorder a lien release or notice of rescission and provide the Lot Owner with a declaration that the lien filing or recording was in error and a copy of the lien release or notice of rescission (Civil Code section 5685(b)). If the determination that the lien was recorded in error is the result of dispute resolution meet and confer proceedings conducted pursuant to Civil Code section 5900 et seq. or alternative dispute resolution with a neutral third-party pursuant to Civil Code section 5925 et seq., the Association shall also be obligated to promptly reverse all late charges, fees, interest, attorney's fees, costs of collection, costs imposed for the issuance of the notices prescribed by Civil Code section 5660 and costs of recording the lien release that are authorized under Civil Code section 5720(b), and all costs incurred in the mediation or alternative dispute resolution process. Civil Code section 5685(c).

In addition, within twenty-one (21) days of the payment of the sums specified in the Notice of Delinquent Assessment, the Association shall record or cause to be recorded in the Office of the County Recorder a lien release or notice of rescission and provide the Lot Owner with a copy of the lien release or notice that the delinquent Assessment has been satisfied (Civil Code section 5685(a)).

(xii) Effect of Failure to Adhere to Statutory Lien and Foreclosure Procedures. If the Association fails to comply with the notice and other pre-lien procedures set forth in this Section 4.10(b) and California Civil Code sections 5650 through 5685 prior to recording a lien, the Association shall recommence the required notice process prior to recording a lien. Any costs associated with recommencing the notice process shall be borne by the Association and not by the Lot Owner. Civil Code section 5690.

The provisions of this Section 4.10(b) are intended to comply with the requirements of Civil Code sections 5650 through 5690, as in effect on the date that this Declaration is recorded in the Official Records of Placer County, California. If these sections of the Civil Code are amended or modified in the future in a way that is binding on the Association and causes this

Section to be in conflict with applicable law, the provisions of this Section 4.10(b) automatically shall be amended or modified in the same manner by action of the Board of Directors without necessity of approval of the amendment by the Members so long as all Members are given a copy of the recorded amendment and the decision to approve the amendment is made at a duly noticed open meeting of the Board of Directors.

Section 4.11. Transfer of Lots by Sale or Foreclosure. The following rules shall govern the right of the Association to enforce its Assessment collection remedies following the sale or foreclosure of a Lot:

(a) Except as provided in subparagraph (b), below, the sale or transfer of any Lot shall not affect any Assessment lien which has been duly Recorded against the Lot prior to the sale or transfer, and the Association can continue to foreclose its lien in spite of the change in ownership.

(b) The Association's Assessment lien shall be extinguished as to all delinquent sums, late charges, interest and costs of collection incurred prior to the sale or transfer of a Lot pursuant to a foreclosure or exercise of a power of sale by the holder of a prior encumbrance (but not pursuant to a deed-in-lieu of foreclosure). A “prior encumbrance” means any first Mortgagee or other Mortgage or lien Recorded against the Lot at any time prior to Recordation of the Association's Assessment lien (see Section 4.12, below).

(c) No sale or transfer of a Lot as the result of foreclosure, exercise of a power of sale or otherwise shall relieve the new Owner of the Lot (whether it be the former beneficiary of the first Mortgage or other prior encumbrance or a third party acquiring the Lot) from liability for any Assessments which thereafter become due with respect to the Lot or from the lien thereof.

(d) Any Assessments, late charges, interest and associated costs of collection which are lost as a result of a sale or transfer of a Lot covered by subparagraph (b), above, shall be deemed to be a Common Expense collectible from the Owners of all Lots in the Development, including the person who acquires the Lot that is the subject of the foreclosure and his or her successors and assigns.

(e) No sale or transfer of a Lot as the result of foreclosure, exercise of a power of sale or otherwise shall affect the Association's right to maintain an action against the foreclosed previous Owner personally to collect the delinquent Assessments, late charges, interests, and associated costs of collection incurred prior to and/or in connection with the sale or transfer.

Section 4.12. Priorities. When a Notice of Delinquent Assessment has been Recorded, such notice shall constitute a lien on the Lot prior and superior to all other liens except: (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto (under current law association assessment liens are subordinate to other liens and encumbrances recorded prior to recordation of the Association's Notice of Delinquent Assessment); and (b) the lien or charge of any first Mortgage of record (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value; provided, however, that such subordination shall apply only to the Assessments which have become due

and payable prior to the transfer of the such property pursuant to the exercise of a power of sale or a judicial foreclosure involving a default under such first Mortgage or other prior encumbrance. Civil Code section 5680.

Section 4.13. Waiver of Exemptions. Each Owner, to the extent permitted by law, waives, to the extent of any liens created pursuant to this Article, the benefit of any homestead or exemption law of California in effect at the time any Assessment or installment thereof becomes delinquent or any lien is imposed.

ARTICLE V DESIGN REVIEW AND APPROVAL OF IMPROVEMENT PROJECTS

Section 5.01. Design Review Committee Approval of Improvements.

(a) Approval Generally. Prior to commencement of construction or installation of any Improvement within the Development (as defined in Section 1.27, above), the Owner planning such Improvement must submit to the Design Review Committee a written request for approval. The Owner's request shall include structural plans, specifications, tree survey, and plot plans satisfying the minimum requirements set forth in the Design Guidelines adopted pursuant to Section 5.05, below. Unless the Design Review Committee's approval of the proposal is first obtained, no work on the Improvement shall be undertaken. The Design Review Committee shall base its decision on the criteria described in Section 5.06, below.

~~(b) Approval By the Golf Course Owner. For Golf Course Lots, once the Association has the right to appoint a majority of the members of the Design Review Committee, all proposed Improvements to Golf Course Lots must also be approved by the Golf Course owner's appointee who serves on the Design Review Committee~~

(b) ~~(e)~~ Modifications to Approved Plans Must Also Be Approved. Once a proposed work of Improvement has been duly approved by the Design Review Committee, ~~and, if appropriate, by the Golf Course owner,~~ no modifications shall be made in the approved plans and specifications therefor and no subsequent alteration, relocation, addition or modification shall be made to the work of Improvement, as approved, without a separate submittal to, and review and approval by, the Design Review Committee, ~~and with respect to Golf Course Lots, the Golf Course owner.~~ If the proposed modification will have, or is likely to have, a material ~~effect~~ effect on other aspects or components of the work, the Design Review Committee ~~or Golf Course owner,~~ in their discretion, may order the Owner and his or her contractors and agents to cease working not only on the modified component of the Improvement, but also on any other affected component.

(d) Enforcement Rights. In the event that it comes to the knowledge and attention of the Association, the Design Review Committee, ~~the Golf Course owner,~~ or their agents or employees that a work of Improvement, or any modification thereof, is proceeding without

proper approval, the Association, the Design Review Committee, ~~and the Golf Course owner~~ shall be entitled to exercise the enforcement remedies provided in this Declaration.

Section 5.02.

Composition of the Design Review Committee.

(a) Number and Qualifications. The Design Review Committee shall consist of five (5) Members of the Association whose memberships are in Good Standing. ~~In addition, the owner of the Golf Course shall at all times have the right to appoint one additional member of the Design Review Committee for the purposes of reviewing and determining the compliance of any proposed installation of any Improvement subject to this article proposed for any Golf Course Lot (which determination shall supersede any inconsistent determination of the remaining members of the Design Review Committee).~~

(b) Terms of Office of Committee Members. ~~With the exception of those Design Review Committee members appointed by the Golf Course owner, all~~ All members of the Design Review Committee shall serve at the discretion of the Board of Directors. The Design Review Committee members shall appoint one Design Review Committee member as chairperson. All members shall serve until they resign or are replaced.

(c) Reimbursement of Expenses. The Design Review Committee members shall be entitled to reimbursement for reasonable out-of-pocket expenses incurred by them in the performance of any Design Review Committee functions. Requests for reimbursement shall be supported by adequate documentation and shall be submitted to, and approved by, the Board of Directors.

(d) Employment of Architect or Engineer. The Design Review Committee is expressly permitted to use an applicant's review fees to retain the services of a person or persons as employees or independent contractors (including an architect and/or engineer) with responsibility for assisting the Design Review Committee in such matters as: (i) the intake and review of an applicant's plans and specifications, (ii) communications with the applicant, (iii) making recommendations to the Design Review Committee with respect to the approval, denial or modification of submitted plans and specifications, and (iv) communications with Owners and contractors during the course of construction.

Section 5.03.

Duties. It shall be the duty of the Design Review Committee to consider and act upon the proposals and plans for Improvements submitted to it pursuant to this Declaration, ~~including providing the Golf Course owner with a copy of all proposals and plans for Improvements to Golf Course Lots,~~ to adopt Design Guidelines pursuant to Section 5.05, below, to perform other duties delegated to it by the Board of Directors and to carry out all other duties imposed upon it by this Declaration.

Section 5.04.

Meetings. The Committee shall establish regular meeting dates and shall, at least annually, provide notice to the Members of the established dates. In addition, the Committee shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of a majority of the Design Review Committee members

shall constitute an act by the Design Review Committee and the Design Review Committee shall keep and maintain a written record of all actions taken.

The Owner-applicant shall be entitled to appear at any meeting of the Design Review Committee at which the Owner's proposal is scheduled for review and consideration. The Owner shall be entitled to be heard on the matter and may be accompanied by his or her architect, engineer and/or contractor. Reasonable notice of the time, place and proposed agenda for Design Review Committee meetings shall be communicated before the date of the meeting to any Owner-applicant whose application is scheduled to be heard.

Section 5.05. Design Guidelines.

The Design Review Committee may, from time to time, adopt, amend and repeal rules and regulations to be known as "Design Guidelines". Once adopted, the Design Guidelines shall constitute a portion of the Association Rules. The Design Guidelines shall interpret and implement the provisions of this Article and Article VI ("*Minimum Construction Standards*") by setting forth:

(a) The procedures for Design Review Committee review and approval of Owner submittals of proposed Improvement projects (including, without limitation, minimum requirements for submitting a complete application for project approval);

(b) Guidelines for the construction of Improvements, including, without limitation, architectural design, placement of works of Improvement on Lots (consistent with Section 6.05, below, relating to setbacks), color schemes, exterior finishes and materials and similar features which are recommended or required for use on any Improvements or categories of Improvements within the Development. Without limitation, the Design Guidelines may include charts of approved colors, typical plans and specifications for commonly recurring projects, such as fencing, and the manner in which the height or number of stories of a Residence are to be determined (particularly in the case of Residences built on sloping Lots or Golf Course Lots);

(c) The Design Guidelines may identify categories of Improvement projects or components of the design review and approval process which may be administered by the Association staff or other designee of the Design Review Committee without the need for direct involvement by the Design Review Committee in order to expedite the processing of applications for approval. In the event that the Design Review Committee determines that certain project approvals or plan processing requirements may appropriately be administered by the Association staff or other Design Review Committee designee, such delegation and the scope thereof may be specified in the Design Guidelines.

(d) The criteria and procedures for requesting variances from any property use restrictions or minimum construction standards that would otherwise apply to the proposed Improvement under the Governing Documents (see Section 5.15, below);

(e) Minimum requirements for the maintenance, supervision and restoration of construction sites by Owners and their contractors. Without limiting the foregoing, the Design Guidelines may specifically regulate the activities of contractors and subcontractors (including,

without limitation, hours of permitted construction activity), who shall be deemed to be the Owner's agents for purposes of rules enforcement and compliance matters;

(f) Minimum requirements for the landscaping of areas of the Lot that are disturbed by construction activity which require particular landscape Improvements or which encourage minimal use of landscape irrigation in order to control drainage, limit runoff, avoid erosion and/or risk to native oaks, or to otherwise enhance the appearance of the Lot.

(g) Any requirements for the payment of inspection/plan processing fees and deposits to assure the Owners' and their contractor's proper and timely performance in accordance with the approved plans and specifications and the application, use and/or refund of such fees and deposits;

(h) Uniform and reasonable time limitations for completion of approved Improvement projects or other duly noted compliance matters. The Design Guidelines may also include procedures to request an extension of the usual completion time in order to avoid hardship or to accommodate other factors beyond the Owner's reasonable control which have interrupted the progress of the Improvement project;

(i) Procedures permitting expedited or summary approval of minor projects by the Association staff where ministerial (i.e., nondiscretionary) review and approval is appropriate.

It is anticipated that different Design Guidelines may be adopted for each Phase, and that even within a single Phase, Design Guidelines may impose different conditions upon various Lots in light of Lot size, Lot topography, visibility, proximity to the Golf Course or other factors. Design Guidelines shall be effective when they are adopted by the Design Review Committee; ~~provided, however, that if Design Guidelines are proposed for a Phase for which design review will be performed by a design review committee other than the Design Review Committee organized pursuant to Section 5.02, above, the Design Guidelines shall also be approved by the Master Developers.~~ Notwithstanding the foregoing, the Design Guidelines shall implement the provisions of this Declaration in a reasonable, uniform and nondiscriminatory manner and no Design Guideline shall be in derogation of the minimum standards required by this Declaration. In the event of any conflict between the Design Guidelines and this Declaration, the provisions of this Declaration shall prevail.

Section 5.06. Basis for Approval of Improvements. When a proposed Improvement is submitted to the Design Review Committee for review, the Design Review Committee ~~(and the Golf Course owner's appointee to the Committee for proposed Improvements on Golf Course Lots)~~ shall grant the requested approval only if the Design Review Committee ~~(and, if appropriate, the Golf Course owner)~~, each in its sole discretion, make the following findings regarding the proposed project:

- (a) The Owner's plans and specifications conform to this Declaration and to the Design Guidelines in effect at the time such plans are submitted to the Design Review Committee;

- (b) The Improvement will be in harmony with the external design of other structures and/or landscaping within the Development;
- (c) The Improvement, as a result of its appearance, location or anticipated use, will not interfere with the reasonable enjoyment of any other Owner of his or her property or the Golf Course operations and uses; and
- (d) The proposed Improvement(s), if approved, will otherwise be consistent with the architectural and aesthetic standards prevailing within the Development and with the overall plan and scheme of development within the Development.

While it is recognized that the Design Review Committee's determination will, of necessity, be subjective to some degree, Nevertheless, the members of the Design Review Committee shall act reasonably and in good faith and shall consider such factors as the quality of workmanship and materials proposed for the Improvement project, the harmony of its exterior design, finished materials and color comparisons with that of other existing structures, and the proposed location of the Improvement in relation to the existing topography, finished grade elevations, roads, Common Areas, the Golf Course, and other existing structures.

The approval by the Design Review Committee ~~or the Golf Course owner~~ of any plans, drawings or specifications for any work of Improvement done or proposed, or for any other matter requiring the approval of the Design Review Committee ~~or Golf Course owner~~ under this Declaration, or any waiver thereof, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval by the same or some other Owner. Different locations for Improvements, the size of the Improvement, proximity to Residences or Common Facilities and other factors may be taken into consideration by the Design Review Committee ~~and the Golf Course owner~~ in reviewing a particular submittal. Accordingly, the Design Review Committee ~~and the Golf Course owner~~ shall be entitled to determine that a proposed Improvement or component thereof is unacceptable when proposed on a particular Lot, even if the same or a similar Improvement has previously been approved for use at another location if factors such as drainage, topography, noise or visibility from roads, Common Areas, the Golf Course, or other Lots or prior adverse experience with the product, the design or with similar Improvements mitigate against erection of the Improvement or use of a particular component thereof on the Lot involved in the Owner's submittal.

In approving a request for construction of an Improvement, the Design Review Committee ~~or the Golf Course owner~~ may condition approval upon the adoption of modifications in the plans and specifications or observance of restrictions as to location, noise abatement or similar mitigating conditions.

Section 5.07.

Procedures for Obtaining Design Approval.

(a) Obligation to Obtain Committee Approval. All Owners who desire to undertake any work of Improvement must apply to the Design Review Committee and receive its prior approval, ~~including, for Golf Course Lots, the approval of the Golf Course owner's appointee to the Design Review Committee.~~ The application shall be in writing and shall contain

all information that is necessary to reasonably evaluate the nature, design, location and extent of the proposed Improvement, including, satisfying the requirements set forth in subparagraph (b), below, and such additional information as the Design Review Committee may reasonably request, either by Design Guideline or while the project is under review.

(b) Content of Plans and Specifications. The contents of all proposed plans and specifications shall be as established by the Design Guidelines.

(c) Review Fees and Completion Deposits. The Design Guidelines shall establish a schedule of fees based on the complexity of the proposed Improvement plans. A non-refundable review fee shall be paid when the Owner's plans and specifications are initially submitted to the Design Review Committee. An additional review fee shall also be established for more than three (3) submittals for the same Improvement project. In addition to review fees, the Design Review Committee may require an Owner to post a deposit for major or even minor Improvements when submitting plans to the Committee to ensure compliance with the Design Guidelines and this Declaration. The Committee shall establish a schedule or formula for determining a different amount of the deposit, and may require a separate deposit for proposed landscaping improvements. Owners acknowledge that all or a portion of any deposit may be forfeited to the Design Review Committee if the Owner fails to properly and timely complete works of Improvement in accordance with approved plans and specifications or if an Owner or an Owner's agents cause damage to the Common ~~Area~~Areas or Common Facilities. Prior to any deposit forfeiture, the Design Review Committee shall provide the Owner with notice and an opportunity to be heard, in accordance with California Civil Code Section ~~1363(h)~~4820.

Section 5.08. Delivery of Plans and Specifications. ~~Owners of Golf Course Lots shall submit three (3) complete sets of plans and specifications and all other~~ Lot Owners shall submit two (2) complete sets of plans and specifications to the Design Review Committee by personal delivery or first-class mail addressed to the ~~Secretary of the Association's~~Manager or the ~~Chairman~~Chairperson of the Design Review Committee at the Association's principal office.

Section 5.09. Time Limits for Approval or Rejection. Within fourteen (14) days after the Committee meeting prior to or during which plans were submitted and received by the Committee, the Committee shall return one set of such plans to the applicant, with either written notice of approval or disapproval ~~(including, for Golf Course Lots, the specific approval or disapproval of the Golf Course owner)~~ and with written suggestions of changes required for approval. If the Committee ~~(and if appropriate, the Golf Course owner)~~ fails to approve or disapprove an Owner's plans and specifications (or revisions thereto) within thirty-five (35) days after receipt of the most recently submitted plans, the plans shall be deemed to have been approved as submitted. ~~For Golf Course Lots, notwithstanding the failure of the Committee to approve or disapprove plans, if the Golf Course owner disapproves an Owner's plans and specifications (or revisions thereto) within thirty five (35) days after the Committee's receipt of the most recently submitted plans, the plans shall be deemed to be disapproved.~~

Section 5.10. Proceeding With Work. Upon receipt of approval from the Design Review Committee, the Owner shall, as soon as practicable, satisfy all conditions thereof and diligently proceed with the commencement of construction and erection of the

Improvement pursuant to such approval, such commencement to be, in all cases, within six (6) months from the date of such approval, and the project shall be diligently pursued to completion. If the Owner shall fail to comply with this section, any approval given pursuant to this article, shall be deemed revoked unless the Design Review Committee, upon written request of the Owner made prior to the expiration of the initial six-month period, extends the time for commencement or completion. No such extension shall be granted except upon a finding by the Design Review Committee that there has been no change in the circumstances upon which the original approval was granted and that the Owner has a bona fide intention and ability to complete the project within the time specified in the extension request.

Section 5.11. Failure to Complete. ~~Work.~~ Unless the Owner has been granted an extension of time to complete the Improvement project by the Design Review Committee, construction, reconstruction, refinishing or alteration of any such Improvement must be ~~complete~~completed within one (1) year after construction has commenced, except and for so long as such completion is rendered impossible or would result in great hardship to the Owner because of strikes, fires, national emergencies, natural calamities or other supervening forces beyond the control of the Owner or his or her agents. In the case of building Improvements the requirements of this section shall be deemed to have been met if, within the one-year construction period, the Owner has completed construction of the building's foundation and all exterior surfaces (including the roof, exterior walls, windows and doors).

If the Owner fails to comply with this ~~section~~Section, the Design Review Committee shall notify the Board of such failure, and the Board shall proceed in accordance with the provisions of Sections 5.14, below, as though the failure to complete the Improvement was a noncompliance with approved plans. In addition, upon an Owner's failure to comply with Section 5.14, below, the Owner forfeits any deposit placed with the Committee pursuant to Section 5.07(c), above.

Section 5.12. Inspection of Work by Design Review Committee.
Inspection of the work relating to any approved Improvement and correction of defects therein shall proceed as follows:

(a) During the course of construction, representatives of the Design Review Committee shall have the right to inspect the job site to confirm that the work of Improvement is proceeding in accordance with the approved plans and specifications.

(b) Upon the completion of any work of Improvement for which Design Review Committee approval is required under this article, the Owner shall give the Design Review Committee a written notice of completion.

(c) For a period of thirty (30) days thereafter, the Design Review Committee, or its duly authorized representative, may inspect the Improvement to determine whether it was constructed, reconstructed, altered or refinished in substantial compliance with the approved plans. If the Design Review Committee finds that the Improvement was not erected, constructed or installed in substantial compliance with the Owner's approved plans, then within the 30-day inspection period the Design Review Committee shall give the Owner a written notice of noncompliance detailing those aspects of the Improvement project that must be modified, completed or corrected. If the violation or nonconforming work is not corrected within thirty (30)

days, the Association and the Design Review Committee shall have the rights and remedies set forth in Section 5.14, below.

(d) If for any reason the Design Review Committee fails to notify the Owner of any noncompliance within thirty (30) days after receipt of the Owner's notice of completion, the Improvement shall be deemed to have been constructed in accordance with the approved plans for the Improvement project, unless the Owner otherwise knows of the noncompliance.

Section 5.13. Landscaping. As specified in Section 1.20, above, landscaping shall be deemed to be a work of Improvement requiring Design Review Committee approval hereunder. Landscaping shall include lawns, shrubs, trees, flowers, and permanent works of art, walls, pillars, fountains, paths, and other similar Improvements used to decorate a yard. The use of artificial materials such as plastic plants, flowers, artificial turf, or gravel gardens ~~is hereby disapproved~~ must be first reviewed and approved by the Design Review Committee. All approved landscaping must be completed within sixty (60) days (for front and side yards Visible from Neighboring Property) or six (6) months (for rear and all other yard areas) after a certificate of occupancy is issued by the City for the Owner's Residence. If the Owner fails to comply with this section, the Design Review Committee shall notify the Board of such failure, and the Board shall proceed in accordance with the provisions of Sections 5.14, below, as though the failure to complete the Improvement was a noncompliance with approved plans. In addition, upon an Owner's failure to comply with Section 5.14, below, the Owner forfeits any deposit placed with the Committee pursuant to Section 5.07(c), above.

Section 5.14. Enforcement.

(a) Stop Work Orders. In addition to other enforcement remedies set forth in this Declaration, the Design Review Committee shall have the authority to order an abatement ("red tag") of any construction, alteration or other matter for which approval is required, to the extent that it has not been approved by the Design Review Committee or if it does not conform to the plans and specifications submitted to and approved by the Design Review Committee. If an Improvement project is red tagged, the Owner and his or her contractor shall cease all construction activity until such time as the issue giving rise to the red tag order is resolved. The red tag notice shall clearly state the reasons why the abatement has been ordered.

(b) No Waiver. No work for which Design Review Committee approval is required shall be deemed to be approved simply because it has been completed without a complaint, notice of violation, or commencement of a suit to enjoin such work.

(c) Effect of Failure to Remedy Noncompliance. If the Owner fails to remedy any noticed noncompliance within thirty (30) days from the date of such notification, or if the Owner provides notice that he or she believes the Improvement project has been red tagged without justification, the Design Review Committee shall notify the Board in writing of such failure or notice. The Board shall then set a date on which a hearing before the Board shall be held regarding the alleged noncompliance. The hearing shall be conducted in accordance with Section 13.06, below; ~~provided however, that any matter for which the Golf Course owner is provided design review authority, the Board shall have no authority to overrule the determination of the Golf Course owner.~~

(d) Attorneys' Fees and Costs. If any legal proceeding is initiated to enforce any of the provisions hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to the costs of such proceeding.

Section 5.15. Variances. The Design Review Committee, in its sole discretion, shall be entitled to allow reasonable variances in any procedures specified in this article, the minimum construction standards specified in Article VI, below, or in any land use restrictions specified in Article VIII, below, to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardships. For Golf Course Lots, all variances must be approved by the Golf Course ~~owner~~Owner if the variance is likely to involve adverse visual impacts on the Lot line or yard area that fronts on the adjacent Golf Course property.

The Design Review Committee must make a good faith written determination that the variance is consistent with one or more of the following criteria: (i) the requested variance will not constitute a material deviation from any restriction contained herein or that the variance proposal allows the objectives of the violated requirement(s) to be substantially achieved despite noncompliance; or (ii) that the variance relates to a requirement, land use restriction or minimum construction standard otherwise applicable hereunder that is unnecessary or burdensome under the circumstances; or (iii) that the variance, if granted, will not result in a material detriment, or create an unreasonable nuisance with respect to the Golf Course or any Lot or Common ~~Area~~Areas within the Development.

Section 5.16. Compliance Certificate. Within thirty (30) days after written demand is delivered to the Design Review Committee by any Owner, the Design Review Committee shall provide the requesting Owner with a certificate, executed by any two of its members, certifying (with respect to any Lot owned by the Owner-applicant) that as of the date thereof, either: (a) all Improvements made and other work completed by such Owner comply with this Declaration; or (b) such Improvements or work do not so comply, in which event the certificate shall also identify the noncomplying Improvements or work and set forth with particularity the basis of such noncompliance. Any purchaser from the Owner, or from anyone deriving any interest in such Lot through the Owner, shall be entitled to rely on the Design Review Committee's compliance certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, the Design Review Committee, ~~the Master Developers,~~ all Owners and any persons deriving any interest through them. ~~For any Improvement which required the consent of the Golf Course owner, the Golf Course owner shall be a signatory to the compliance certificate.~~

Section 5.17. Limitation on Liability. Design Review Committee approval of plans shall not constitute a representation, warranty or guarantee, whether expressed or implied, that such plans and specifications comply with good engineering design or with zoning or building ordinances, or other governmental regulations or restrictions. By approving such plans and specifications, neither the Design Review Committee, the members thereof, the Association, any member thereof, the members of the Board ~~nor each Master Developer~~ or the Golf Course ~~owner~~Owner assumes any liability or responsibility therefor, or for any defect in the Improvement constructed from such plans or specifications. Neither the Design Review Committee, nor any member thereof, the Association, the Board ~~nor each Master Developer or~~ the Golf Course ~~owner~~Owner shall be liable to any Member, Owner, occupant, or other person or

entity for any damage, loss, or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; or (b) the construction or performance of any work of Improvement, whether or not pursuant to the approved plans, drawings, and specifications.

Section 5.18. Compliance With Governmental Regulations. Review and approval by the Design Review Committee of any proposals, plans or other submittals pertaining to Improvements shall in no way be deemed to constitute satisfaction of, or compliance with, any building permit process, [ADU or JADU compliance requirements](#), or any other governmental requirements, the responsibility for which shall lie solely with the Lot Owner who desires to construct, install, or modify the Improvement.

ARTICLE VI MINIMUM CONSTRUCTION STANDARDS

Unless a variance is requested from, and granted by, the Design Review Committee in accordance with Section 5.15 above, Improvements constructed on any Lot shall conform to the following minimum construction standards:

Section 6.01. Building Location. No building shall be located nearer to the front, side or rear Lot line or nearer to the side street line than the building setback lines as permitted by Section 6.05, below, and any applicable zoning ordinance or other governmental restriction.

Section 6.02. Licensed Contractor. Residential structures shall be constructed by a contractor licensed under the laws of the State of California.

Section 6.03. Approval by Design Review Committee. No building, fence, wall or other permanent structure or Improvement shall be erected, altered or placed on any Lot until building plans, specifications and a plot plan showing the location of structures on the Lots have been submitted to the Design Review Committee for review and approval as described in Article V, above.

Section 6.04. Square Footage Requirements. Depending upon the size of a Lot, the Residence constructed on a Lot shall have a fully enclosed floor area (exclusive of roofed or unroofed porches, decks, terraces, garages, carports or other outbuildings) as provided in this Section.

(a) Villages 18 and 20. All Lots within Villages 18 and 20 shall be constructed subject to the following size specifications: Single-story Residences shall be 2,400 square feet minimum and 4,000 square feet maximum. Split-level and two-story Residences shall be 3,000 square feet minimum and 5,450 square feet maximum.

(b) Village 13. All Lots within Village 13 shall be constructed subject to the following size specifications: Single-story Residences shall be 3,000 square feet minimum and 5,400 square feet maximum. Split-level and two-story Residences shall be 3,300 square feet minimum and 7,200 square feet maximum.

(c) Villages 14, 15, 16, and 17. For all Lots within Villages 14, 15, 16, and 17 as shown on the tentative subdivision map for the Overall Development, ~~if such Lots are annexed to the Development, such~~ the Lots shall be constructed subject to the following size specifications: Single-story Residences shall be 3,200 square feet minimum and 7,000 square feet maximum. Split-level and two-story Residences shall be 3,800 square feet minimum and 10,000 square feet maximum.

(d) Villages 12, 19 and 23. For all Lots within Villages 12, 19, and 23, setbacks shall be established by the Design Review Committee or in the Declarations of Annexation and shall substantially correlate to the setbacks for Villages containing Lots of similar sizes as provided for herein.

(e) Combined and Oversized Lots. Residences constructed on a Lot which is created by the merger of two Lots shall have a maximum size which is 150% of the larger Lot. Lots not described in Section 6.04(a) through (d) above, shall have minimum and maximum Residence square footages as provided by the Design Review Committee, or in the Declaration of Annexation which annexes such Lot to this Declaration and shall substantially correlate to the setbacks for Villages containing Lots of similar sizes as provided for herein. If a combination of two Lots is approved, the approval can be conditioned on recordation of a covenant, running with the land, requiring the Owner of the combined Lots to continue to pay two Assessments to the Association as if the Lots had remained uncombined, even if the Owner only has one vote for matters pertaining to the Association.

Section 6.05. Setback and Location of ~~Structure~~Structures. The minimum setbacks for the placement of any Residence or other permanent structure (whether or not attached to the Residence) shall be as established by this section, with front setbacks being measured from the back of the sidewalk if the Lot is improved with a sidewalk and from the back of the curb otherwise, and back and side setbacks being measured from the Lot line. The Design Review Committee shall also establish the setbacks for any unusually shaped Lots.

(a) Villages 18 and 20. All Lots within Villages 18 and 20 shall have the following setbacks:

(i) Front Setback: The front setback shall be at least twenty-five feet (25'), provided that a Residence with a front facing garage shall have at least a thirty-five foot (35') setback from the garage face, and any element of a split-level or second story shall have at least a forty foot (40') setback.

(ii) Back Setback: The back setback shall be at least thirty feet (30') for any single-story Residence, and any element of a split-level or second story shall have at least a forty foot (40') setback.

(iii) Side Setback: The sides of the Lot setback shall be a total of twenty feet (20'), with a seven and one-half foot (7.5') minimum on a side, with all windows of a split-level or second story Residence having at least a fifteen foot (15') setback.

(iv) Corner Lots: Corner Lots shall have a total of sixty feet (60') of setback from both streets, with a minimum of twenty-five feet (25') on each side. The Design Review Committee shall determine which street the house shall face, and shall allocate the minimum setbacks between the two streets as the Design Review Committee determines is best suited for the location and topography of the Lot and the surrounding area.

(b) Village 13. All Lots within Village 13 shall have the following setbacks:

(i) Front Setback: Except for Lots which are served by the Common Area loop road ("Loop Road") which serves as ingress and egress from a public roadway, the front setback shall be at least forty feet (40'), provided that a Residence with a front facing garage shall have at least a fifty foot (50') setback from the garage face. Lots which face the Loop Road shall have a front setback of at least fifty feet (50').

(ii) Back Setback: The back setback shall be at least thirty feet (30') for any single-story Residence, and any element of a split-level or second story shall have at least a forty foot (40') setback.

(iii) Side Setback: The side of the Lot setback shall be a total of twenty-five feet (25'), with a ten foot (10') minimum on a side, with all windows of a split-level or second story Residence shall have a twenty foot (20') setback.

(iv) Corner Lots: Corner Lots must have a total of seventy feet (70') of setback from both streets, with a minimum of thirty feet (30') on each side. The Design Review Committee shall determine which street the house shall face, and shall allocate the minimum setbacks between the two streets as the Design Review Committee determines is best suited for the location and topography of the Lot and the surrounding area.

(c) Villages 14, 15, 16, and 17. All Lots within Villages 14, 15, 16, and 17 shall have the following setbacks:

(i) Front Setback: Except for Lots which are served by the Common Area Loop Road which serves as ingress and egress from a public roadway, the front setback shall be at least forty feet (40'), provided that a Residence with a front facing garage shall have at least a fifty foot (50') setback from the garage face, and any element of a split-level or second story shall have at least a fifty foot (50') setback. Lots which face the Loop Road shall have a front setback of at least fifty feet (50').

(ii) Back Setback: The back setback shall be at least forty feet (40') for any single-story Residence, and any element of a split-level or second story shall have at least a fifty foot (50') setback.

(iii) Side Setback: The sides of the Lot setback shall be a total of forty feet (40'), with a fifteen foot (15') minimum on a side, with all windows of a split-level or second story Residence having at least a twenty-five foot (25') setback.

(iv) Corner Lots: Corner Lots shall have a total of eighty feet (80') of setback from both streets, with a minimum of thirty-five feet (35') on each side. The Design Review Committee shall determine which street the house shall face, and shall allocate the minimum setbacks between the two streets as the Design Review Committee determines is best suited for the location and topography of the Lot and the surrounding area.

Review Committee shall determine which street the house shall face, and shall allocate the minimum setbacks between the two streets as the Design Review Committee determines is best suited for the location and topography of the Lot and the surrounding area.

(d) Remaining Lots. For all Lots within the ~~Overall~~ Development ~~which~~that are not described in Sections 6.05(a) through (c), above, if such Lots are annexed to the Development, setbacks shall be established by the Design Review Committee or in the Declaration of Annexation which annexes such Lots to this Declaration and shall substantially correlate to the setbacks for Villages containing Lots of similar sizes as provided for herein.

(e) Setback Exceptions. Notwithstanding the setback requirements of this ~~section~~Section, certain small structures as approved by the Design Review Committee, such as porches and porte cocheres, may be built within the setbacks to within five feet (5') of the applicable Lot line.

Section 6.06. No Temporary Structures. Other than an ADU and/or ~~a~~ JADU Improvements that is constructed in compliance with Civil Code section 4751 and Placer County Code of Ordinances Section 17.56.200, no recreational vehicle, trailer, mobile home, camper, tent, shack, used structures, structures of a temporary character, or other outbuildings shall be used on any Lot at any time as a Residence.

Section 6.07. Utility Lines. All utility lines running from overhead utility poles within the Development to Improvements constructed on any Lot shall be placed underground.

Section 6.08. No Used Materials. No used buildings or structures, intended for use as a Residence shall be placed on any Lot.

Section 6.09. Solar HeatingEnergy Systems. Subject to limitations imposed by California law (see particularly Civil Code Sections 714 and 714.1), the Design Review Committee shall be entitled to adopt, as part of the Design Guidelines, reasonable regulations regarding the installation of solar ~~heatingenergy~~ systems. These rules may include limitations on placement and design of such systems to the extent necessary to avoid an unsightly appearance from neighboring Lots, Common ~~Area or the Golf Course~~.Areas or the Golf Course. Additionally, each Owner is subject to the provisions of California's Solar Shade Act (Public Resources Code §§ 25980 – 25986) (the "Solar Act") provided; however, that any violation of the Solar Act shall be enforced exclusively between the affected Owners, and the Association shall have no obligation to enforce the provisions of the Solar Act or this Section 6.09 as it pertains to the Solar Act.

Section 6.10. Colors and Exterior Finishes. No reflective finishes (other than glass) shall be used on exterior surfaces (other than surfaces of hardware fixtures), including but without limitation, the exterior surfaces of any of the following: roofs, all projections above roofs, retaining walls, doors, trim, fences, pipes, equipment, mailboxes and newspaper tubes. No exterior finishes, textures or materials shall be used without approval of the Design Review Committee. Generally, colors shall be restricted to those found in the immediate vicinity of the Residence. Colors found in nature will be favored and the Committee shall be

authorized, as part of the Design Guidelines, to adopt a chart of approved colors and stains for exterior finishes. All exterior colors, textures and materials, including roof materials, must be adequately described in the plans and specifications (with an indication where the colors will be used upon the finished dwelling or the Improvement) and approved in writing by the Design Review Committee prior to initiation of construction. Color samples shall be submitted to the Design Review Committee along with the plans and specifications. The Committee is authorized to maintain a chart of approved colors.

Section 6.11. Roofing Materials. No metallic roofing panels except for copper or earth tone/neutral colors shall be permitted. No asphaltic, fiberglass, metallic or other artificial shingle systems shall be permitted unless the exposed bottom edge of each shingle is a minimum of one-half inch thick. No artificial ceramic tile shall be permitted without specific approval. No glazed concrete or composite artificial tiles or shakes are permitted without the specific prior approval of the Design Review Committee. No tar and gravel roofs are permitted.

Section 6.12. Siding Materials. The exterior walls of any Residence, garage or other structure or Improvement shall be finished with wood, rock, brick or certain types of stucco as further described in the Design Guidelines, with natural materials being preferred over manufactured materials.

Section 6.13. Drainage. No Owner shall do any work, construct any Improvement, place any landscaping or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Owner's Lot or any adjacent Lots or parcels or Common ~~Area~~Areas or the Golf Course as established in connection with the approval of the final subdivision and parcel maps applicable to the Development by the City, except to the extent such alteration in drainage pattern is approved in writing by the Design Review Committee, ~~the Golf Course owner, as applicable,~~ the City, and all other public authorities having jurisdiction. Plans and specifications submitted by an Owner to the Design Review Committee in connection with the construction of a Residence or other major structural Improvement shall include a drainage plan in sufficient detail to permit the Design Review Committee to assess the impacts, if any, of the Improvement on natural drainage courses. Finished exterior grades for Lot Improvements shall be sloped away from foundations to provide removal of surface water runoff away from structures. All building pads shall be constructed with drainage away from foundations and to a properly controlled discharge system. No surface runoff shall be allowed to flow from the pad over an unprotected slope. All roofs and flatwork shall be directed towards the streets or Common Areas. The perimeter of certain Lots shall be subject to a five foot (5') side-yard and ten foot (10') rear-yard drainage easement, as shown on the Subdivision Map. In no event shall concentrated or collected drainage be permitted to drain on to an adjacent Lot or the Golf Course, unless such drainage is disbursed by not less than twenty feet (20') of uniform sheeting, and pursuant to a drainage plan approved by the Design Review Committee. Nothing in this ~~section~~Section shall be interpreted to mean that water cannot flow downhill in the quantity and locations that existed prior to ~~the~~improvement of the Lot.

Terraced lots should avoid uncontrolled discharge of surface water runoff onto adjoining Lots and the Golf Course. During construction of pads or Residences the Department of Community Development and Department of Public Works of the City may review the project for compliance with this requirement.

In accordance with the City's then current standards, no disturbed surface or soil shall be left standing through a winter season without erosion control measures, such as revegetation. Temporary erosion control measures (such as silt fences, staked straw bales, etc.) shall be employed at the base of disturbed slopes until revegetation is established.

Section 6.14. Antennas, Aerials and Satellite Dishes. No outside television antenna, aerial, satellite dish or similar device for the transmission or reception of television, radio, satellite, or other signals of any kind, are permitted within the Development, except as provided in this section. Antennas or satellite dishes with a diameter or diagonal measurement not greater than one meter which are designed to receive direct broadcast satellite services, video programming services via multi-point distribution services, or television broadcast signals (collectively "Permitted Dishes") may be erected, placed or installed on a Lot or within a Unit, subject to the following restrictions, provided that the application of these restrictions do not unreasonably delay installation or expense, or preclude reception of an acceptable quality signal:

- (a) All Permitted Dishes shall be placed in locations which are not visible from the streets within the Development or Golf Course.
- ~~(b) All Permitted Dishes shall be painted to blend into the background against which they are mounted.~~
- (b) ~~(e)~~ All Permitted Dishes shall be installed at locations in accordance with a prioritized list of placement preferences, if such a list is adopted by the Design Review Committee.
- (c) ~~(d)~~ All Permitted Dishes shall be installed in accordance with such reasonable restrictions which may be imposed as part of the Design Guidelines.

Section 6.15. Exterior Lighting and Fixtures. Fluorescent, mercury vapor, sodium, or amber vapor lights, or standard outdoor lights of the type used for security must be enclosed in a manner that directs the light in a specific area without causing a visual impairment to passing motorists or a nuisance to neighboring properties or the Golf Course. The issue of whether a nuisance exists shall be determined by the Design Review Committee and the Golf Course ~~owner~~ Owner in their sole discretion. No colored lights (except holiday displays and yellow insect type lights) shall be permitted at any location within the Development. All exterior fixtures that are attached to the main Residence and any post-mounted exterior fixtures shall be of compatible design and materials of the Residence. Any post mounted exterior fixtures shall be of compatible design and materials as the fixtures attached to the main Residence.

Section 6.16. Patios, Walkways and Driveways. All driveways, patio, and walkway materials shall be architecturally compatible to the design of the Residence. No gravel/oil and chip/natural soil or any unsecured finish is permitted. No exposed aggregate finish is permitted without an add mixture of two pounds minimum of dry mix color per yard of mixed

concrete. Except for Villages 18, 20, and 23, the ~~first twenty feet (20')~~maximum permitted width of driveway from a Common Area roadway shall ~~not be wider than sixteen~~twenty feet (16') ~~without specific prior approval of the Design Review Committee~~20'.

Section 6.17. Delivery Receptacles. Except for the cluster-style, grouped mailboxes for the Lots, no newspaper type or exterior unattached mail receptacle shall be permitted at any location within the Development. ~~The Master Developers shall have the exclusive right to establish the location of grouped mailboxes in accordance with the requirements of the United States Postal Service.~~This Section 6.17 shall not apply to the Lots within Village 19.

Section 6.18. Garages. Each Residence shall have at least a three-car garage which may be either of an attached or detached design. Whenever topography and the design of the Residence structure reasonably permit, the garage entrance shall be located on the side or rear elevation of the Residence structure, rather than the front.

Section 6.19. Fences and Pillars. All screening, fencing, and pillars must be approved by the Design Review Committee and must be designed to conform to the design of the proposed or existing Residence; such screening and pillars shall be architecturally designed and in its construction, wrought iron and masonry or a combination thereof shall be preferred. Stucco covered block may be permitted where the adjoining architecture warrants the use of such materials. Wood fences are prohibited within the Development, except for Lots within Villages 12, 18, 19, 20, and 23, which may be improved with wood fences if approved by the Design Review Committee. The composition and design of fencing facing the exterior portions of the Development shall be established by ~~the Master Developers and~~ the Design Review Committee to present a uniform appearance from Twelve Bridges Drive. Fencing between Lots may be required to be uniform in appearance and location even if the uniform appearance results in the fence appearing more like one Residence than the other. ~~All iron fences shall have a one foot (1') concrete mowing strip parallel to the fence and masonry and stucco fences shall have a foundation with a four inch (4") bevel on each side to prevent grasses and weeds from growing through the fence.~~

All screening and fencing must be maintained in a good sound structural manner, and painted periodically so it does not appear shabby or un-kept. Screening and fencing must be so designed as to face its most attractive side towards neighboring Lots, Common AreaAreas and the Golf Course. The screening must be of a quality design, construction and materials to complement the existing adjacent structures. Any front-facing wing fence on a Lot and any side-yard fence which is on a corner Lot and neighboring Property shall be of the same material and color as the exterior wall surface of the residence to which it relates, or a combination of wrought iron and masonry fencing. ~~All fences and screening visible from the Golf Course must be approved in writing by the Golf Course owner.~~ All pillars and fences must be setback twelve feet (12') from the back of the curb of any Common Area roadway.

Section 6.20. Landscaping. For all Lots within ~~Villages 18, 20, and 23,~~ all approved landscaping for the front yard of a Lot shall be completed by the time the Notice of Completion is filed for the Residence constructed on the Lot. For all other Lots within the Development, Village 18, all front yard landscaping on a Lot shall be completed within ninety

(90) days of the issuance of a Notice of Completion for the Lot's Residence. All rear yard landscaping shall be completed within nine (9) months of the issuance of the Notice of Completion for the Lot's Residence. The Design Review Committee may require that the Owner post a bond or cash deposit to assure the faithful and timely installation of the landscape improvements, the amount of such deposit or bond being fixed by the Committee in its sole discretion. If a bond or cash deposit is posted, the Design Review Committee may nevertheless impose a deadline for completion of the landscape improvements and initiate appropriate enforcement actions if the Owner fails to complete the landscape work as agreed. Without limiting the foregoing, remedial action by the Association or the Design Review Committee may include exercise of the Association's rights of entry (see Section 3.07(b), above), installation of landscaping as approved by the Design Review Committee and recovering the cost of such work from the defaulting Owner as a Special Individual Assessment.

Section 6.21. Golf Course Owner Approval With Respect to Certain Improvements on Lots Adjacent to the Golf Course. In addition to the Design Review Committee approval required pursuant to Article V, above, no Owner may construct or alter any non-landscape Improvement within thirty feet (30') of the Golf Course without the express written approval of the Golf Course ~~owner~~Owner. In no event shall a Lot adjacent to the Golf Course be improved so as to permit direct golf cart access from the Lot to the Golf Course.

Section 6.22. Tree Preservation Measures. The following tree preservation measures shall be strictly observed by all Owners and contractors and by the Association with respect to native trees located within the Common ~~Area~~Areas:

- (a) project arborist shall be retained on site during all ~~native tree cutting and implementation of preservation measures~~cutting of native trees with a diameter of eight inches (8") or greater;
- (b) Each tree and/or group of trees to be preserved shall be enclosed with a four-foot, plastic, orange/~~read~~red mesh fence prior to commencement of construction. Fencing shall be located one-foot outside the dripline of the tree(s);
- (c) Equipment operation should be limited and no vehicles may be parked within the dripline of oak trees to be preserved;
- ~~(d) Signs shall be posted approximately every four hundred feet (400') on the construction sides of the fences warning of a monetary fine for anyone found responsible for damage to any tree or group of trees;~~
- (d) ~~(e)~~ Underground utility trenching shall be allowed within the dripline of trees only with the approval of the project arborist. Where trenching within the root zone is unavoidable, a common trench should be used for all utilities;
- (e) ~~(f)~~ Grading must not create ponding conditions in the vicinity of trees;

- (f) ~~(g)~~ No landscape irrigation shall be allowed within the driplines of native deciduous oaks;
- (g) ~~(h)~~ Every site subcontractor who provides services within the Overall Development shall be provided a copy of these preservation requirements.

**ARTICLE VII
ASSOCIATION AND OWNER MAINTENANCE RESPONSIBILITIES**

Section 7.01. Association Maintenance Obligations.

(a) Common Area Maintenance Obligations, Generally. Subject to Section 7.04 sub-paragraphs (c) and (d), below; the Association shall be solely responsible for all maintenance, repair, upkeep and replacement within the Common ~~Area~~Areas. No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any Improvement upon, or shall create any excavation or fill or change the natural or existing drainage on or over any portion of the Common ~~Area~~Areas. In addition, no person shall trim or remove any tree, shrub or other vegetation from, or plant any tree, shrub, or other vegetation upon the Common ~~Area~~Areas without express approval of the Association.

(b) ~~Front Yard Landscaping Stucco Wall Maintenance Cost Center-~~Obligation. The Association shall be solely responsible for all exterior maintenance, repair, upkeep and replacement ~~(but not initial installation), of the landscaping located of any stucco walls within the front yard of each Lot subject to a Front Yard Landscaping Cost Center as described in Section 4.02(b)(ii)(A), above. Such maintenance shall include repairing (but not installing) sprinklers, but Owners shall be responsible for providing water service to their Lots~~Development that adjoin a Lot to the Common Area or a public parcel, the cost of which shall be borne solely by the Association. Notwithstanding the foregoing, the Association and any Owner shall bear equally in the cost of repairing or replacing any tiles located on the stucco wall.

(c) Additional Maintenance/Repair Responsibilities Imposed by Supplemental Declarations or Declarations of Annexation. Supplemental Declarations and/or Declarations of Annexation may provide for additional Common Areas to be owned and maintained or simply maintained by the Association. In such cases, the Association shall accept and/or maintain the areas described and provided for therein.

~~(d) Commencement of Maintenance of Common Areas. Notwithstanding any conveyance of Common Areas to the Association, the Association's responsibility to maintain the Common Areas located in any Phase shall not begin until the later of the following events: (i) inspection and approval of such Common Areas by the Association, not to be unreasonably withheld or delayed, or (ii) commencement of Regular Assessments in such Phase; except that, if such Phase consists of only Common Area, this subdivision (ii) shall be inapplicable. Prior to the commencement of the Association's maintenance responsibility, such maintenance shall be the responsibility of each Master Developer owning real property within the Phase. If a portion of the Common Area is dedicated to and accepted for maintenance by the City or some other governmental agency, then the Association or the Golf Course owner (for any Common Area~~

~~adjacent to the Golf Course) may, in the Board's discretion, maintain the area if the City or the agency fails to maintain the area to a standard acceptable to the Association, or elects to abandon further maintenance of the area.~~

(d) ~~(e)~~ Maintenance of Certain Publicly Owned Parcels Within the Development. The ~~specific plan and development agreement~~ Specific Plan and the Development Agreement between the Master Developers and the City ~~contemplates the~~ contemplated formation of a landscape and lighting district pursuant to California Streets and Highway Code Section 22500 et seq., for the purpose of maintaining the landscaping and related improvements (including street lights) located or installed within the landscape corridor between Twelve Bridges Drive and the Overall Development, as well as at the entry features located at Twelve Bridges Drive and Sierra College Boulevard. In the event the district is not formed, or is formed but ceases operations, the Association shall be responsible for the district's maintenance obligations.

Section 7.02. Owner Maintenance ~~Responsibility~~ Responsibilities. Except for those portions of a Lot which are subject to a Cost Center and are maintained by the Association, each Owner shall be responsible for the maintenance and repair of his or her Residence, Lot, other Improvements, and landscaping in a first-class, neat and attractive appearance. The Owner shall be solely responsible for all interior maintenance, repair, upkeep and replacement of any stucco walls within the Development that adjoin his or her Lot to the Common Area or a public parcel, the cost of which shall be borne solely by the Owner. Notwithstanding the foregoing, the Association and any Owner shall bear equally in the cost of repairing or replacing any tiles located on the stucco wall.

Section 7.03. Recovery of Costs of Certain Repairs and Maintenance.

(a) Association Maintenance Caused by Owner Negligence. If the need for maintenance or repair, which would otherwise be the Association's responsibility hereunder is caused through the willful or negligent acts of an Owner, his or her family, employees, agents, guests, tenants, or invitees, and is not covered or paid for by Association insurance policies or any liability insurance maintained by the responsible Owner, the cost of such maintenance or repairs shall be subject to recovery by the Association through the imposition of a Special Individual Assessment against the offending Owner in accordance with Section 4.04, above.

(b) Owner Defaults in Maintenance Responsibilities. If an Owner fails to perform maintenance or repair functions on the Owner's Lot for which he or she is responsible, the Association ~~(or the Golf Course owner for any Lot adjacent to the Golf Course)~~ may give written notice to the offending Owner with a request to correct the failure within fifteen (15) days after receipt thereof. If the Owner refuses or fails to perform any necessary repair or maintenance, the Association ~~(or the Golf Course owner for any Lot adjacent to the Golf Course)~~ may exercise its rights under pursuant to this Declaration to enter the Owner's Lot and perform the repair or maintenance. Prior to the Association entering a Lot, the Lot's Owner shall be given notice and the opportunity for a hearing in accordance with 13.06, below.

~~(c) Owner Defaults in Maintenance Responsibilities. If an Owner fails to perform maintenance or repair functions on the Owner's Lot as provided in this Declaration, the~~

~~Association (or the Golf Course owner for any Lot adjacent to the Golf Course) may give written notice to the offending Owner with a request to correct the failure within fifteen (15) days after receipt thereof. If the Owner refuses or fails to perform any necessary repair or maintenance, the Association (or the Golf Course owner for any Lot adjacent to the Golf Course) may exercise its rights under Section 3.07(b), above, to enter the Owner's Lot and perform the repair or maintenance so long as the Owner has been given notice and the opportunity for a hearing in accordance with 13.06, below.~~

(c) ~~(d)~~ Association Defaults in Maintenance Responsibilities. If the Association fails to perform maintenance or repair functions on the Common ~~Area~~Areas as provided in this Declaration, the Golf Course ~~owner~~Owner may give written notice to the Association with a request to correct the failure within ten (10) days after receipt thereof. If the Association refuses or fails to perform any necessary repair or maintenance, the Golf Course ~~owner~~Owner may exercise its rights under Section 7.04(b), below, to enter the Common ~~Area~~Areas and perform the repair or maintenance.

Section 7.04.

Golf Course Maintenance.

(a) Golf Course Appearance. Each Owner acknowledges and agrees that neither the Association nor any Owner shall have any right to compel the Golf Course ~~owner~~Owner to maintain the Golf Course or any improvements thereon to any particular standard of care and that the appearance of the Golf Course and improvements shall be determined in the sole discretion of the Golf Course ~~owner~~Owner.

(b) Golf Course Cart Paths. Portions of the golf cart path system may be situated within the Common ~~Area~~Areas. No Owner or invitee shall have any right to use any portion of the golf cart path system, including any portion situated on or within any portion of the Common ~~Area~~Areas without the prior approval of the Golf Course ~~owner~~Owner, which may be withheld in the Golf Course ~~owner~~Owner's sole and absolute discretion. The Golf Course ~~owner~~Owner shall have the exclusive right to maintain or alter any portion of the golf cart path system which may be located within the Common ~~Area~~Areas.

(c) Access Easement on Adjoining Lots for Maintenance. As more particularly provided in subparagraph (d), below, the Golf Course ~~owner~~Owner shall have the right to enter upon any unfenced areas of Lots that share a common boundary line with any portion of the Golf Course for the purpose of maintaining a clean and attractive edge from any portion of the Golf Course into the adjacent Lot.

(d) Authority to Maintain Property Adjacent to Golf Course. If either the Association or an Owner fails to maintain any landscaping situated within fifty (50) feet of the Golf Course or at or along any entry to the development ("defaulting party"), the Golf Course ~~owner~~Owner shall have the right, but not the duty, to maintain the landscaping or to clear brush at the sole cost and expense of the defaulting party. If the Golf Course ~~owner~~Owner desires to perform any such maintenance authorized by the preceding sentence, the Golf Course ~~owner~~Owner shall first notify the defaulting party in writing and provide the defaulting party with at least ten (10) days from the date of the notice to perform such maintenance. If the defaulting party fails to commence and complete such maintenance within such ten (10) day

period, the Golf Course ~~owner~~Owner shall have the right, in the nature of an easement, to enter the Lot or Common ~~Area~~Areas on which the maintenance is required during reasonable business hours and perform such maintenance. The defaulting party shall reimburse the Golf Course ~~owner~~Owner for the costs of performing any such maintenance within (10) days after receipt of a demand for reimbursement.

Neither the Association nor any Owner may permit any irrigation water to over spray or drain from any portion of the Common Area or a Lot onto any portion of the Golf Course except through storm drainage Improvements constructed by a Master Developer for such purpose. Neither the Association nor any Owner may permit any fertilizer, pesticides or other chemical substances to overspray, drain, flow or be disposed of in any manner upon the Golf Course. If the Association or any Owner violates the provisions of this ~~section~~Section, they shall be liable to the Golf Course ~~owner~~Owner for all damages to the turf resulting from their violation and all damages, including consequential damages, suffered by the Golf Course ~~owner~~Owner.

(e) Maintenance Agreements with the Golf Course Owner. The Golf Course ~~owner~~Owner may, but shall have no obligation to enter into a written agreement with the Association which permits the Association to undertake responsibility for the landscaping and maintenance of roughs between Lots or Common Areas and adjacent to the landscaped Golf Course.

Section 7.05. Cooperative Maintenance Obligations.

(a) Cooperation Among Association, Owners and Golf Course Owner. Generally. To the extent necessary or desirable to accomplish the Association's maintenance obligations hereunder, individual Owners shall cooperate with the Association and (with respect to Lots adjacent to the Golf Course, the Golf Course ~~owner~~Owner), and the agents and maintenance personnel of the Association and/or the Golf Course ~~owner~~Owner in the prosecution of their respective maintenance activities.

(b) Assumption of Association Maintenance Responsibilities by Golf Course Owner. The Association maintenance responsibilities, either expressly or impliedly referred to in Section 7.01, above, may be assumed by the Golf Course ~~owner~~Owner or operator pursuant to a maintenance agreement negotiated between the Association and the Golf Course ~~owner~~Owner (see Section 7.05(c), below).

~~(c) Execution of Maintenance Agreements. Neither a Master Developer nor any of its agents shall enter into any contract which would bind the Association or the Board for a period in excess of one year. Subject to this limitation on contract term, the Master Developers may cause agreements, contracts, declarations or other documents ("Maintenance Agreements") to be executed which impose on portions of the Overall Development not then annexed, obligations to make contributions with respect to certain Common Expenses. If any Maintenance Agreements terminate or expire or cease to apply to particular property, the Association shall have the power and the duty, at the request of the owner of any portion of the Overall Development theretofore obligated pursuant to the Maintenance Agreement to execute in recordable form an agreement and acknowledgment that the Maintenance Agreement has terminated, expired, or ceases to apply to a particular property, as the case may be.~~

(c) Execution of Maintenance Agreements. The Association may also enter into Maintenance Agreements (for periods not to exceed one year) with ~~a Master Developer or~~ the Golf Course ~~owner~~Owner, or local governmental agencies in order to achieve economies of scale or to efficiently and cost effectively share maintenance equipment, maintenance personnel or contractors and other resources and to discharge maintenance responsibilities imposed on the Association by the Governing Documents.

Section 7.06.

Drainage Structures, Ditches and Swales.

(a) All drainage structures, culverts and canals improved by a Master Developer or Association for the collection of storm runoff and any natural drainage courses within Common Areas shall be maintained regularly by the Association and shall not be interfered with so as to prevent or obstruct existing flows to the Golf Course.

(b) Each Owner shall be solely responsible for the design, construction and installation of Improvements within all private storm drainage easements shown on such Owner's Lot. In addition, each Owner shall be solely responsible for keeping all private storm drainage easements, drainage courses, ditches and swales on his or her Lot free and clear of all obstructions, and shall, in cooperation with contiguous property Owners (including the Association ~~and each Master Developer~~ and the Golf Course ~~owner~~Owner, maintain all such drainage ditches, swales and culverts common to their Lots in good order.

(c) No Owner or resident shall alter or obstruct a natural or duly constructed drainage course, or materially add to the natural water volume of such drainage course without making adequate provisions with respect to neighboring Lots, Common Areas, and the Golf Course. Any such alterations, obstructions, or additions to water volume shall be considered a work of Improvement that is subject to prior review and approval by the Design Review Committee ~~and the Golf Course owner~~.

(d) No Owner or resident shall construct any Improvement or otherwise interfere with natural or duly constructed waterways, channel, or courses running through the Development to the Golf Course. No Owner or Lot shall have any appropriative or riparian rights with respect to the water in any drainage course, ditch, or culvert.

(e) The Golf Course ~~owner~~Owner shall have the right, but not the obligation, to access and clear drainage courses within the Common ~~Area~~Areas, and to clean and maintain culverts and ditches within the Common ~~Area~~Areas without notice to the Association.

Section 7.07.

Maintenance and Property Use Restrictions Applicable

only to Certain Villages within the Development. For any and all additional maintenance and property use restrictions affecting certain Villages within Verdera, reference is made to each of the Declarations of Annexation and Supplemental Declarations identified in Exhibit "B", attached hereto.

**ARTICLE VIII
USE OF PROPERTY AND RESTRICTIONS**

In addition to the restrictions established by law or by Association Rules promulgated by the Board of Directors (consistent with this Declaration), the following restrictions are hereby imposed upon the use of Lots, Common Areas and other parcels within the Development:

Section 8.01.

Use of Lots.

(a) All Lots within the Development shall be used solely for the construction of Residences whose occupancy and use shall be restricted to residential use. In no event shall a Residence be occupied by more individuals than permitted by applicable law, zoning or other local governmental regulation. This provision shall not be construed as preventing ADUs or JADUs that have received all required permits or approvals from the Design Review Committee and local City agencies.

(b) All Residences and related structures erected on any Lot, including, without limitation ADUs and garages, shall conform to the minimum construction standards set forth in Article VI, above, and the Design Guidelines unless a variance has been granted by the Design Review Committee in accordance with Section 5.15, above.

~~(c) Notwithstanding the foregoing, each Master Developer and its successors or assigns shall be entitled to use Lots owned by such Master Developer, and the Residences located thereon, as models, sales offices or construction headquarters for the purpose of constructing Residences and marketing Lots within the Development until all Lots owned by the Master Developer are sold.~~

(c) ~~(d)~~ Each Lot shall be conveyed as a separately designated and legally described fee simple estate, subject to this Declaration. All Lots and the Residences and other Improvements erected or placed thereon (including, without limitation, landscaping) shall at all times be maintained in such a manner as to prevent their becoming unsightly.

(d) ~~(e)~~ The vegetation and landscaping on any Lot shall be planted or maintained by the Owner or resident in such a manner as to reduce the risk of fire, prevent or retard shifting or erosion of soils, encourage the growth of indigenous ground cover and to cause the proper diversion of water into streets and natural or duly constructed drainage channels.

(e) ~~(f)~~ No camping, whether temporary or permanent, and no temporary structures of any kind ~~(other than a Master Developer's sales offices)~~ shall be permitted on any Lot.

(f) ~~(g)~~ No existing trees with a diameter greater than five inches, measured four feet above grade, shall be destroyed, uprooted, cut down or removed from any Lot unless and until such action has been approved by the Design Review Committee,

Section 8.02.

Common Areas. The Common ~~Area~~Areas within the Development shall be preserved as open space and used for recreational, private ingress and egress and other purposes incidental and ancillary to the use of Lots. Such use shall be limited to private use for aesthetic and recreational purposes by the Members and their tenants, families and guests, subject to the provisions of the Governing Documents. No Improvement, excavation or work which in any way alters any Common Area or Common Facility from its natural or existing

state on the date such Common Area or Common Facility was conveyed to the Association shall be made or done except by the Association and then only in strict compliance with the provisions of this Declaration.

Section 8.03. Prohibition of Noxious Activities. No illegal, noxious or offensive activities shall be carried out or conducted upon any Lot or Common ~~Area~~Areas nor shall anything be done within the Development which is or could become an unreasonable annoyance or nuisance to neighboring property Owners or the Golf Course. Without limiting the foregoing, no Owner shall permit noise, including, but not limited to barking dogs, the operation of excessively noisy air conditioners, stereo amplifier systems, television systems, motor vehicles or power tools, to emanate from an Owner's Lot or from activities within the Common ~~Area~~Areas, which would unreasonably disturb any other Owner's or tenant's enjoyment of his or her Lot or the Common ~~Area~~Areas or the Golf Course. The Association may establish hours of use schedules for outdoor power tools, including, but not limited to, lawnmowers, blowers, chainsaws and similar devices.

The Board has established that "quiet hours" for the Development shall begin at 10:00PM and end at 7:00AM on weekdays and weekends, by which any activity emitting excessive noise including, but not limited to, those activities identified in this Section 8.03, shall be prohibited.

Section 8.04. Household Pets. The following restrictions regarding the care and maintenance of pets within the Development shall be observed by each Owner and resident:

(a) ~~A reasonable number of~~Two (2) common household ~~and/or uncaged~~ pets may be kept on each Lot so long as the same are not kept, bred or maintained for commercial purposes. No other animals, livestock (including, but not limited to potbellied pigs), or poultry of any kind shall be kept, bred or raised on any Lot or in any Residence.

(b) Dogs shall only be allowed on the Common ~~Area~~Areas when they are leashed and under the supervision and restraint of a responsible caretaker, who shall be responsible for the proper disposal of any pet waste within the Common ~~Area~~Areas and on any Lot.

(c) No household pet shall be left chained or otherwise tethered in front of a Lot or in the Common ~~Area~~Areas.

(d) Each person bringing or keeping a pet within the Development shall be solely responsible for the conduct and the consequences of the pets. The Association, its Board, officers, employees and agents shall have no liability (whether by virtue of this Declaration or otherwise) to any Owners, their family members, employees, agents, guests, invitees, tenants and contract purchasers for any damage or injury to persons or property caused by any pet.

(e) The Board of Directors shall have the right to establish and enforce additional rules and regulations ~~defining in a uniform and nondiscriminatory manner, what constitutes a "reasonable number" of pets depending on their size, disposition and/or maintenance requirements and~~ imposing standards for the reasonable control and keeping of household pets in, upon and around the Development to ensure that the same do not interfere

with the quiet and peaceful enjoyment of other Owners and residents within the development. All Owners are bound by the pet rules (as those Operating Rules may be amended from time to time) currently adopted by the Association to the extent not inconsistent with this Declaration.

Section 8.05. **Signs.** No signs whatsoever (including, but not limited to, commercial, ~~political~~ and similar signs) which are Visible From Neighboring Property or Visible From the Golf Course shall be erected or maintained on any Lot except:

- (a) signs required by legal proceedings;
- (b) no more than one identification sign for individual Residences;
- (c) no more than one "for sale" sign for the individual Lot on which the sign is located;
- (d) other signs, such as open house or signs advising of the existence of security or surveillance services, or "no solicitation" signs, the nature, size, number, and location of which have been approved in advance and in writing by the Design Review Committee or are in accordance with written guidelines which may be developed and approved by the Design Review Committee;
- (e) signs posted by the Association within any portion of the Common Area which are not Visible From the Golf Course; and;
- (f) such other signs (including but not limited to builder or political signs) which have been approved in writing by the Design Review Committee as to size, quantity, colors, design, message content and or location. Reasonable rules relating to time, place and manner of displaying political signs may be adopted by the Association.

Section 8.06. **Business Activities.** No business or commercial activities of any kind whatsoever (including, without limitation garage sales or yard sales) shall be conducted in any Residence garage or out building or in any portion of any Lot without the prior written approval of the Board; provided, however, the foregoing restriction shall not apply to the activities, signs or activities of the Association in the discharge of its responsibilities under the Governing Documents ~~or a Master Developer's activities in connection with the development, sale and marketing of the Development.~~ Furthermore, no restrictions contained herein shall be construed in such a manner so as to prohibit any Owner from: (a) maintaining his or her personal library in his or her Residence; (b) keeping his or her personal business records or accounts therein; (c) handling his or her personal or professional telephone calls or correspondence therefrom; (d) engaging in other activities related to the resident's business profession that may be conducted from inside a Residence using computers and other technology so long as the home or business activities generate no traffic, noise, or involve no other employees or contractors in the Residence; (e) leasing or renting his or her Residence in accordance with Section 2.06, above; or (f) conducting any other activities on the Owner's Lot otherwise compatible with residential use and the provisions of this Declaration which are permitted under applicable zoning laws or

regulations without the necessity of first obtaining a special use permit or specific governmental authorization. The uses described in (a) through (f), ~~above~~, of this Section 8.06, are expressly declared to be customarily incidental to the principal residential use and not in violation of this section.

Section 8.07. Garbage. Trash, garbage, accumulated waste plant material, and all other waste and refuse shall be deposited only in covered sanitary containers or recycling containers in accordance with the following provisions:

(a) Except as provided in Section 8.08(b), the containers shall be located upon each Lot in an area which shall be completely screened or otherwise concealed from view from the Common ~~Area~~ Areas, the Golf Course, any street or any other Lot.

(b) The containers may be placed for pickup no earlier than 5:00 p.m. on the day prior to the collection day and must be stored as specified in Section 8.08(a) by no later than 8:00 a.m. on the first day following the collection day.

(c) No Owner or Resident shall permit or cause any garbage, trash, or other waste or refuse to be kept upon any portion of any Lot or elsewhere in the Development, except in such containers.

(d) Any extraordinary accumulation of rubbish, trash, garbage or debris (such as debris generated upon vacating of premises or during the construction of modifications and Improvements) shall be removed from the Development to a public dump or trash collection area by the Owner or tenant at his or her expense. The Association shall be entitled to impose reasonable fines and penalties for the collection of garbage and refuse disposed in a manner inconsistent with this section.

Section 8.08. Storage. Storage of personal property on any Lot shall be entirely within enclosed storage areas. There shall be no woodpiles nor storage piles accumulated on top, or outside, of any enclosed storage area. The Association shall have the right to establish and maintain on the premises appropriate storage yards and storage buildings for the maintenance of materials and equipment used by the Association in connection with its planting, building, repair, maintenance and preservation of the structures, gardens and other Improvements within the Common Areas which the Association is obligated to repair and maintain.

Section 8.09. Clotheslines. No exterior clothesline shall be erected or maintained and there shall be no drying or laundering of clothes on any Lot in a manner which is Visible from Neighboring Property or Visible From the Golf Course.

Section 8.10. Burning. Except barbecues and approved outdoor fireplaces, there shall be no exterior fires on a Lot. No Owner or resident shall permit any condition to exist on his or her Lot, including, without limitation, trash piles, or weeds, which create a fire hazard or is in violation of local fire regulations. In addition, Owners shall comply with the *Fire Protection Requirements for Individual Property Owners Within Verdera*, as more particularly described in attached Exhibit "E".

Section 8.11. Sports Apparatus. No sports apparatus, whether portable or fixed, including without limitation basketball standards, which is Visible From Neighboring Property or Visible From the Golf Course shall be permitted within the Development except in strict accordance with the following provisions:

(a) Portable Sports Apparatus. The Board of Directors shall have the power, but not the obligation, to permit the use of portable sports apparatus, including without limitation portable basketball standards, on any Lot. Use of such portable sports apparatus shall be subject to all Association Rules as the Board may in its absolute discretion adopt. Such Association Rules may include, without limitation, requirements that the apparatus be stored completely out of sight from outside of the Lot when not in use, limitations on the times of day during which such apparatus may be used, and regulations regarding the conduct and noise generated in the use of such apparatus.

(b) Fixed Sports Apparatus. The Board of Directors shall have the power, but not the obligation, to permit the installation of fixed sports apparatus, including without limitation basketball standards, which would otherwise be prohibited by this section upon any Lot provided that (i) architectural approval by the Design Review Committee is obtained pursuant to Article V, (ii) no fixed sports apparatus shall be installed in any front or side yard of a Lot so as to be Visible From Neighboring Property or Visible From the Golf Course, and (iii) the installation is in conformance with the provisions of this Declaration.

As used in this section, the term "sports apparatus" does not include bicycles, skateboards, roller skates, roller blades or any other similar wheeled equipment, whether powered or unpowered, provided that the Board of Directors shall have the discretion to adopt Association Rules and regulations governing the use of such equipment.

Section 8.12. Machinery and Equipment. No power tools, machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot or the Golf Course except such machinery or equipment as is usual or customary in connection with the use, maintenance or repair of a private Residence or appurtenant structures within the Development, and located entirely within the Residence or appurtenant structure.

Section 8.13. Diseases and Pests. No Owner shall permit anything or condition to exist upon his or her Lot which shall induce, breed, or harbor infectious plant diseases, rodents or noxious insects.

Section 8.14. Vehicle and Parking Restrictions. The following vehicle and parking restrictions shall apply to the Development:

(a) Trucks, Trailers, Recreational Vehicles, Campers and Boats. No commercial vehicle, recreational vehicle, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, boat, boat trailer, or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Lot or on any street within the Development so as to be Visible From Neighboring Property or Visible From the Golf Course; provided, however, the provisions of this section shall not apply to pickup trucks designed for

non-commercial use or pickup trucks with camper shells not exceeding a total of seven (7) feet in height measured from ground level ~~and mini-motor homes and/or passenger vans not exceeding eight feet in height and eighteen (18) feet in length which are parked as provided in subparagraph (c), below and are used on a regular and recurring basis for basic transportation.~~ The provisions of this subparagraph (a) shall not apply to cleaning, loading or unloading and short-term parking (not to exceed twenty-four (24) consecutive hours) of non-commercial vehicles which shall be permitted for a cumulative period not to exceed one-hundred and twenty (120) hours in any calendar month. In no circumstances shall vehicles be used for overnight occupancy within the Development.

(b) Motor Vehicle Maintenance/Inoperable Vehicles. No automobile, motorcycle, motorbike or other motor vehicle shall be maintained, constructed, reconstructed or repaired upon any Lot, private street or other Common Area, and no inoperable vehicle may be stored or parked on any such Lot or street, so as to be Visible From Neighboring Property or the Visible From the Golf Course, provided, however, that the provisions of this subparagraph (b) shall not apply to: ~~(i) emergency vehicle repairs or temporary construction shelters or~~ facilities maintained during, and used exclusively in connection with, the construction of any Improvement approved by the Design Review Committee; and (ii) vehicles parked in enclosed garages on Lots.

(c) Parking. In order to maintain the aesthetic and safe environment of the Development, on-street parking is prohibited between midnight and 6:00 a.m. Vehicles of all Owners, residents and their guests, agents tenants, licensees and invitees, including but not limited to regular and occasional household employees, shall be parked and kept in garages, ~~on that portion of the driveway which is not closer than thirty feet (30') from the street,~~ or in other parking areas designated by the Association Rules. Provided, however, this subparagraph (c) shall not be construed to permit the parking in the above-described areas of any vehicle whose parking within the Development is otherwise prohibited or the parking of any inoperable vehicle. The restrictions imposed by this subparagraph shall not apply to vehicles and equipment that are being parked in accordance with local ordinances while a Residence is under construction.

(d) Restrictions Relating to Golf Carts and Use of Cart Paths.

(i) Authorized Golf Carts. The only golf carts (as defined in California Vehicle Code Section 345) which shall be permitted to be operated within the Development shall be golf carts that are either owned by the Golf Course ~~owner~~Owner or operator and made available to Golf Course members and other players for use, carts purchased through the Golf Course, or carts purchased elsewhere which are approved for use within the development by the Golf Course ~~owner~~Owner following a determination that the cart is of the same design, quality and appearance as the golf carts that are offered for sale, rental or lease by or through the Golf Course. The purpose of this restriction is to ensure a uniform and quality standard of maintenance and appearance for golf carts and the carts permitted hereunder are referred to below as "authorized golf carts".

(ii) Operation of Golf Carts on Streets and Cart Paths Within the Development. If permitted by a local ordinance adopted pursuant to California Vehicle Code

Section 21115, and if permitted by the Association Rules, it shall be lawful to drive authorized golf carts on streets within the Development in strict compliance with the rules and regulations set forth in the authorizing resolution or ordinance. Except as provided in the preceding sentence, authorized golf carts shall not be permitted to travel on any road or pedestrian/bicycle path within the Development, except to cross such roads or paths at designated locations.

(iii) Restriction on Use of Cart Paths for Other Recreational Purposes.

Golf cart paths shall not be used by members of the general public and shall not be used by any Owner or other person for recreational activities unrelated to the game of golf, such as jogging or bicycling.

(iv) Enforcement by Golf Course. The restrictions imposed by subparagraphs (i), (ii) and (iii), above, are for the principal benefit of the Golf Course ~~owner~~Owner and shall be enforceable by ~~such owner~~that Owner, with the cooperation of the Association.

Section 8.15. Use of Private Streets ~~in~~within the Development's Common AreaAreas.

(a) ~~Private~~Common Area streets within the Development shall not be used for recreational purposes, including "joy riding" or racing. Motorcycles, mopeds, and cars shall be allowed on such private streets only for ingress and egress.

(b) In order to prevent accelerated deterioration of private roadways, the Association shall be entitled to collect deposits from Owners and/or contractors in connection with construction projects within the Development. Such deposits may be designated as nonrefundable or they can, in the Board's discretion, be applied to correct or repair specific damage caused by the construction in accordance with Section 5.07(c), above.

(c) All provisions of the California Vehicle Code must be honored at all times when operating any motor vehicle or other vehicle within the Development.

(d) Although some roads within the Development may be subject to the California Vehicle Code, the Association shall have the right to adopt reasonable rules regarding the control and use of roads within the Development, vehicles operated thereon and the speed of such vehicles, and shall be further authorized to delegate the discharge of its rights hereunder to a municipality or other governmental entity or to contract with a private privacy patrol company for such purposes so long as the private character of the subdivision's roads is not jeopardized by such action.

Section 8.16. Activities Affecting Insurance. Nothing shall be done or kept on any Lot or within the Common Area which will increase the rate of insurance relating thereto without the prior written consent of the Association and no Owner shall permit anything to be done or kept on his or her Lot or the Common Area which would cause any Improvements to be uninsurable against loss by fire or casualty or result in the cancellation of insurance on any Residence or any part of the Common Area.

Section 8.17. Restriction on Further Subdivision and Severability. No Lot shall be further subdivided nor shall less than all of any such Lot be conveyed by an Owner thereof and no Owner of a Lot within the Development shall be entitled to sever that Lot from the Common Area portion of the Development. The Design Review Committee may, in its sole discretion, approve the combination of one or more adjacent Lots, provided that no combination of Lots shall result in a reduction in the original size of any Lot. Such approval shall be based on the Design Review Committee's determination that the proposed Lot consolidation benefits the community, and conditioned upon compliance with all applicable state and local laws and ordinances (with the approval of the Design Review Committee being obtained prior to any processing of governmental approvals). If Lots are combined in accordance with this ~~section~~Section, they shall be deemed a single Lot for assessment purposes and shall give rise to only a single membership in the Association unless an instrument is recorded as part of the approval for the combination that provides otherwise.

Section 8.18. No Guarantee of Views. Matters of view-sheds and the protection and regulation of views from individual Lots are a private civil matter and are not regulated by the City of Lincoln. The Governing Documents, including this Declaration, do not establish view easements or otherwise protect the view, light, or line of sight of a Lot within the Development. The Association and the Design Review Committee shall not be responsible for maintaining or preserving the view, light or line of sight of any Lot within the Development.

Section 8.19. ~~Section 8.18.~~ Enforcement of Property Use Restrictions. The objective of this Declaration shall be to promote and seek voluntary compliance by Owners and tenants with the environmental standards and property use restrictions contained herein. Accordingly, in the event that the Association becomes aware of a design review or property use infraction that does not necessitate immediate corrective action under Section 13.06, below, the Owner or tenant responsible for the violation shall receive written notice thereof and shall be given a reasonable opportunity to comply voluntarily with the pertinent Governing Document provision(s). Such notice shall describe the noncomplying condition, request that the Owner or tenant correct the condition within a reasonable time specified in the notice, and advise the Owner or tenant of his or her right to be heard on the matter.

ARTICLE IX EASEMENTS

Section 9.01. Blanket Utility Easement. There is hereby created a blanket easement upon, across, over and under the Common Area for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones, drainage and electricity and the master television antenna or cable television system. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment and underground facilities ~~on~~within the Common ~~Area~~Areas at locations approved by the Design Review Committee. Notwithstanding the foregoing, no sewer, electrical lines, water lines, or other utilities may be installed or relocated except as initially designed and approved by a Master Developer or thereafter approved by the

Design Review Committee. The easements provided for in this ~~section~~Section shall in no way affect any other Recorded easement for any portion of the Development.

Section 9.02. Maintenance Easements. An easement is hereby granted to ~~each Master Developer and~~ the Association, their officers, agents, employees, and to any contractor selected by ~~each Master Developer or~~ the Association to enter in or to cross over the Common ~~Area~~Areas and any Lot to perform the Association's duties of maintenance and repair of the Lots, Common Areas, and Common Facilities as provided herein. Entry on to any Lot for maintenance purposes shall be conducted in accordance with Section 3.06(b), above.

Section 9.03. Boundary Changes. An easement shall exist for use and maintenance as Common Area over any portion of a Lot which, because of a change in the boundary of a private structure, including a fence, wall or patio, at the time of original construction lies between that boundary and a Lot line abutting any portion of the Common Area.

Section 9.04. Other Easements. Each Lot and its Owner, and the Association ~~and each Master Developer~~, as the case may be, is hereby declared to be subject to all the easements, dedications and rights-of-way granted or reserved in, on, over and under the real property comprising the Development and each Lot as shown on the Subdivision Map for any portion of the Development.

Section 9.05. Cable Facilities. The Common ~~Area~~Areas may be used by ~~each Master Developer and~~ the Golf Course ~~owner~~Owner, their subsidiaries, transferees, successors and assigns for such cable television cables, wireless telecommunication towers and equipment, and similar facilities as the Design Review Committee may approve, such approval not to be unreasonably withheld. The Lots and Common ~~Area~~Areas comprising the Development are and shall be subject to nonexclusive easements of access, ingress, and egress, for purposes of installation, operation, maintenance, repair, inspection removal and replacement of cable television, telecommunication service lines, and wireless telecommunication facilities and equipment, for the benefit of ~~each Master Developer and~~ the Golf Course ~~owner~~Owner, ~~their~~its subsidiaries, transferees, successors and assigns, as may hereafter be reserved and granted by reservations and conveyances of record. Such easements are freely transferable by ~~a Master Developer and~~ the Golf Course ~~owner~~Owner to any other individual or entity and their successive owners for the purpose of providing cable television and telecommunication service to the Development, and portion thereof, and adjoining property and the Golf Course. All such cable television and telecommunication lines, towers, facilities and equipment shall remain the property of ~~the Master Developer or~~ the Golf Course ~~owner, as applicable,~~Owner and their subsidiaries, successors, transferees and assigns, and transfer of all or any portion of the Development does not imply the transfer of any such cable television and telecommunication easements or the lines, towers, facilities or equipment located thereon.

Section 9.06. Easement for Golf Course Maintenance. Intrusion of Golf Balls and Golf Course Watering Over Spray. There is reserved for the benefit of the Golf Course ~~owner~~Owner and to any successor or assign of the Golf Course ~~owner~~Owner who becomes the owner of record of the Golf Course, a non-exclusive right and easement appurtenant to the Golf Course, as the dominant tenement, and burdening Lots and Common ~~Area~~Areas as the servient tenement, for purposes of:

- (a) over-spray in connection with the watering of any portion of the Golf Course property;
- (b) for maintenance of a clean, attractive fairway edge and transition from the Golf Course to the unimproved areas, if any, of adjacent Lots and Common ~~Area~~Areas;
- (c) for the intrusion of golf balls from any portion of the Golf Course; and
- (d) for the creation of noise at any hour for the maintenance and operation of the Golf Course.

Any person or entity for whose benefit the rights and easements provided in this section are reserved shall not be liable to any Owner or the Association for any damage to person or property occasioned by such overspray or intrusion of golf balls or the entry upon any portion of the Development by golfers or golf balls. The rights and easements reserved by this section shall be for the benefit of the Golf Course ~~owner~~Owner, and for the benefit of their employees, contractors, agents, guests, invitees, and members (collectively referred to as "beneficiaries") and shall burden any Lot or Common ~~Area~~Areas that shares a common boundary with any portion of the Golf Course. Notwithstanding the foregoing, this easement is not intended to confer on any beneficiary (as defined in this paragraph) the right to enter any Lot for purpose of retrieving or playing any golf ball that falls within the boundaries of the Lot.

Section 9.07. Water Flow Easements. There are hereby reserved and granted over, under, and across the Common ~~Area~~Areas, as servient tenements, in favor of the Golf Course, as the dominant tenement, non-exclusive easements for water flow and water drainage within the water supply canals and drainage Improvements which benefit the Golf Course (as may be modified from time to time by the Golf Course ~~owner~~Owner), together with a non-exclusive easement for the maintenance, repair, alteration, relocation, and replacement of such Improvements.

Section 9.08. Storm Drain Easements. As more particularly shown on the Subdivision Maps, certain Lots are subject to non-exclusive private storm drainage easements for surface and subsurface storm drains and the flow of storm waters in accordance with natural drainage patterns and the drainage patterns and Improvements approved pursuant to Article V, above, and installed or constructed by the Lot Owner. Drainage shall include but not be limited to catch basins or other underground drainage improvements, drainage swales, surface and subsurface water and roof and gutter run-off. Within these easements, no structure, planting or other material or debris shall be placed or permitted to remain which may damage or interfere with the installation or flow of drainage.

Section 9.09. Utility Easement. Each Owner shall have, appurtenant to each Owner's Lot, a non-exclusive right and easement over, under, across and through the Development for the use, maintenance and repair of underground utility lines, pipes, wires and conduits located within any public utility easement shown on a Subdivision Map.

ARTICLE X INSURANCE

Section 10.01. Types of Insurance Coverage. The Association shall, at the discretion of the Board of Directors, purchase, obtain and maintain, with the premiums therefor being paid out of Common Funds, the following types of insurance, if and to the extent they are available at a reasonable premium cost:

(a) Fire and Casualty Insurance. A policy of fire and casualty insurance naming as parties insured the Association and containing the standard extended coverage and replacement cost endorsements and such other or special endorsements as will afford protection and insure, for the full insurable, current replacement cost (excluding foundations and excavation, but without deduction for depreciation) as determined annually by the insurance carrier, of all Common Facilities and the personal property of the Association for or against the following:

- (i) Loss or damage by fire or other risks covered by the standard extended coverage endorsement.
- (ii) Loss or damage from theft, vandalism or malicious mischief.
- (iii) Such other risks, perils or coverage as the Board of Directors may determine.

Such policy or the endorsement made a part thereof shall, to the extent available, provide that the insurer issuing the policy agrees to abide by the decision of the Association made in accordance with the provisions of Article XI, below, as to whether or not to repair, reconstruct or restore all or any damaged or destroyed portion of the Common Facilities.

(b) General Liability Insurance. To the extent such insurance is reasonably obtainable, a policy of comprehensive general liability insurance naming as parties insured, the Association, each member of the Association Board of Directors, any manager, the Owners and occupants of Lots, and such other persons as the Board may determine. The policy will insure each named party against any liability incident to the ownership and use of the Common ~~Area~~Areas and including, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than One Million Dollars (\$1,000,000.00) covering all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall include coverage against water damage liability, liability for non-owned and hired automobiles, liability for property of others and any other liability or risk customarily covered with respect to common interest development projects similar in construction, location, facilities, and use.

(c) Director's and Officer's Liability Insurance. To the extent such insurance is reasonably obtainable, the Association shall maintain individual liability insurance for its directors and officers providing coverage for negligent acts or omissions in their official

capacities. The minimum coverage of such insurance shall be at least One Million Dollars (\$1,000,000.00),

(d) Additional Insurance and Bonds. To the extent such insurance is reasonably obtainable, the Association may also purchase such additional insurance and bonds as it may, from time to time, determine to be necessary or desirable, including, without limiting the generality of this section, demolition insurance, flood insurance, and workers' compensation insurance. The Board shall also purchase and maintain fidelity bonds or insurance in an amount not less than one hundred percent (100%) of each year's estimated annual operating expenses and shall contain an endorsement of any person who may serve without compensation. The Board shall purchase and maintain such insurance on personal property owned by the Association and any other insurance, including directors and officers liability insurance, that it deems necessary or desirable

Section 10.02. Coverage Not Available. In the event any insurance policy, or any endorsement thereof, required by Section 10.01, above, is for any reason unavailable, then the Association shall obtain such other or substitute policy or endorsement as may be available which provides, as nearly as possible, the coverage hereinabove described. The Board shall notify the Owners of any material adverse changes in the Association's insurance coverage.

Section 10.03. Copies of Policies. Copies of all insurance policies (or certificates thereof showing the premiums thereon have been paid) shall be retained by the Association and shall be available for inspection by Owners at any reasonable time.

Section 10.04. Trustee All insurance proceeds payable under Section 10.01, above, and subject to the rights of the Mortgagees under Section 10.07, below, may, in the discretion of the Board of Directors, be paid to a trustee to be held and expended for the benefit of the Owners, Mortgagees and others, as their respective interests shall appear. The trustee shall be a commercial bank in the County that agrees in writing to accept such trust.

Section 10.05. Adjustment of Losses. The Board is appointed attorney-in-fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried pursuant to Section 10.01, above. The Board is granted full right and authority to compromise and settle any claims or enforce any claim by legal action or otherwise and to execute releases in favor of any insured.

Section 10.06. Owners' Insurance Obligations With Respect to the Owner's Lot and Residence. Each Owner shall be solely responsible for procuring and maintaining adequate casualty and liability insurance for the Owner's Lot, Residence and personal property and the Association shall have no liability for the adequacy or inadequacy of that coverage.

~~Section 10.07. Policies Obtained by the Master Developers. It is contemplated that the Master Developers may contract for the insurance coverage contemplated by this article prior to or concurrently with obtaining financing for the development of the Development, and any such obligations or commitments for the payment of premiums or~~

~~expenses with respect thereto shall become an obligation of the Association, shall be treated as a Common Expense payable by the Association.~~

Section 10.07. ~~Section 10.08.~~ Annual Review of Association Insurance and Disclosure to Members. The Board shall review the adequacy of all insurance, including the amount of liability coverage and the amount of property damage coverage, at least once every year. At least once every three years, the review shall include a replacement cost appraisal of all insurable Common Area Improvements without respect to depreciation. The Board shall adjust the policies to provide the amounts and types of coverage and protection that are customarily carried by prudent owners' associations operating in similar common interest developments in the greater Sacramento region. In accordance with California Civil Code section 5300(b)(9) annually, as part of its Annual Budget Report, the Association shall distribute to its Members a summary of the Association's property, general liability, and flood insurance (if any), such distribution to be made thirty (30) to ninety (90) days before the end of the Association's fiscal year.

Section 10.08. ~~Section 10.09.~~ Board's Authority to Revise Insurance Coverage. The Board shall have the power and right to deviate from the insurance requirements contained in this Article X in any manner that the Board, in its reasonable business discretion, considers to be in the best interests of the Association. If the Board elects to materially reduce the coverage from the coverage required in this Article X, the Board shall make all reasonable efforts to notify the Members of the reduction in coverage and the reasons therefor at least (30) days prior to the effective date of the reduction. The Association, and its directors and officers, shall have no liability to any Owner or Mortgagee if, after a good faith effort, the Association is unable to obtain any insurance required hereunder because the insurance is no longer available; or, if available, the insurance can be obtained only at a cost that the Board, in its sole discretion, determines is unreasonable under the circumstances; or the Members fail to approve any Assessment increase needed to fund the insurance premiums.

Section 10.09. ~~Section 10.10.~~ Required Notifications to Owners Regarding Insurance Maintained by the Association.

(a) Annual Notice Requirements. The Association shall provide its Members with a summary of the Association's property, general liability, earthquake, flood, and fidelity insurance policies not less than thirty (30) nor more than ninety (90) days prior to the beginning of the Association's fiscal year, that includes all of the following information about each policy: (i) the name of the insurer; (ii) the type of insurance; (iii) the policy limits of the insurance; and (iv) the amount of deductibles, if any, to the extent that any of the information required to be included in the annual insurance disclosure is included in the insurance policy declaration page, the Association may meet its obligation to disclose that information by making copies of that page and distributing the page to its Members. The annual insurance summary shall also contain a statement, in at least 10-point bold face type that states as follows:

“”This summary of the Association's policies of insurance provides only certain information, as required by Civil Code section 5300 and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any Association Member may, upon request and provision of reasonable notice, review the

Association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association maintains the policies of insurance specified in this summary, the Association's policies of insurance may not cover your property, including personal property, or, real property improvements to or around your Lot and Residence, or personal injuries or other losses that occur within or around your Lot and Residence. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association Members should consult their individual insurance broker or agent for appropriate additional coverage."

(b) Notice of Cancellation of Insurance. The Association shall, as soon as reasonably practicable, notify its Members by first-class mail if any of the policies described in subparagraph (a) have lapsed, been canceled, and are not immediately renewed, restored, or replaced, or if ~~their~~there is a significant change, such as a reduction in coverage or policy limits or an increase in the deductible for any policy. If the Association receives any notice of non-renewal of a policy described in subparagraph (a), above, the Association shall immediately notify its Members if replacement coverage will not be in effect by the date the existing coverage will lapse.

Section 10.10. ~~Section 10.11.~~ Limitation on Liability Regarding Insurance Matters. The Association and its directors and officers, shall have no liability to any Owner or Mortgagee if, after a good faith effort, the Association is unable to obtain the insurance required hereunder because the insurance is no longer available or, in the alternative, can be obtained only at a cost that the Board, in its sole discretion, determines is unreasonable under the circumstances, or the Members fail to approve any Assessment increase needed to fund the insurance premiums. In such event, the Board immediately shall notify each Member and any Mortgagee entitled to notice that the insurance will not be obtained or renewed.

Section 10.11. ~~Section 10.12.~~ Insurance Deductibles. The amount of the deductible portion of any insurance coverage maintained by the Association pursuant to this Article X shall be established in the reasonable discretion of the Board. In the event that a loss is not the result of the negligent or willful misconduct of a particular Owner or a particular guest, tenant or invitee of an Owner, or if responsibility cannot clearly be established, the cost of the deductible shall be defrayed by the Association and, if necessary, the deductible shall be recovered from the Owners through levy of a Special Assessment pursuant to Section 4.03(c)(ii), above. However, if a loss is established to be the result of the negligent or willful misconduct of a particular Owner or his or her guest, tenant or invitee, that Owner shall be charged with the deductible amount as a Special Individual Assessment pursuant to Section 4.04(a)(i), above. Before such a Special Individual Assessment may be imposed, the Owner who is alleged to be responsible for the loss shall be entitled to notice and a hearing in accordance with Article XIII, below.

ARTICLE XI DAMAGE OR DESTRUCTION

Section 11.01. Common Facilities; Bids and Determination of Available Insurance Proceeds. In the event any Common Facilities are ever damaged or destroyed, then,

and in such event, as soon as practicable thereafter the Board of Directors shall: (a) obtain bids from at least two reputable, licensed contractors, which bids shall set forth in detail the work required to repair, reconstruct and restore the damaged or destroyed portions of the Common Facilities to substantially the same condition as they existed prior to the damage and the itemized price asked for such work; and (b) determine that amount of all insurance proceeds available to the Association for the purpose of effecting such repair, reconstruction and restoration.

Section 11.02. Common Facilities; Sufficient Insurance Proceeds.

Subject to the provisions of Section 11.01, above, if, in the event of damage to or destruction of any portion of any Common Facility, the insurance proceeds available to the Association are sufficient to cover the costs of repair, reconstruction and restoration, then the Association shall cause such facilities to be repaired, reconstructed and restored; provided, however, that in the event of a total destruction of the Common Facility, the Association shall not be obligated to restore the facility to its prior appearance and condition if in the Board's opinion, architectural or design modifications to the Common Facility will result in providing the Members with an improved facility available for substantially the same use and enjoyment as the destroyed facility.

Section 11.03. Common Facilities; Insurance Proceeds Insufficient in an Amount Exceeding Association Special Assessment Authority. In the event that any Common Facility is totally or substantially damaged or destroyed or, if , in the event of damage to or destruction of only a portion of the Common Facilities, the insurance proceeds and capital replacement reserves available to the Association for the repair, replacement or major reconstruction of the damaged or destroyed facility are insufficient in an amount exceeding the dollar amount that the Board may raise without prior Member approval (see Sections 4.02 and 4.03, above), then the issue of whether repair or replacement of the Common Facility should be funded by a Special Assessment shall be presented to the Members for approval in accordance with Section 4.08, above. The solicitation materials distributed to the Members in connection with any such vote shall include sufficient replacement cost and bid information to enable the Members to make an informed decision and the issue shall be presented on the ballot with the following alternatives: (a) to repair, reconstruct and restore the damaged or destroyed Common Facilities and specially assess all Owners for such additional funds as may be needed for such purpose (with the amount of the Special Assessment stated); or (b), in the alternative, not to repair, reconstruct or restore the damaged or destroyed Common Facilities but rather to utilize the insurance proceeds available for such reconstruction, together with any other sums otherwise available to the Association for such purpose, to demolish and remove the damaged or destroyed Common Facilities from the Common Area and to level and landscape the sites thereof and apply any balance of such proceeds and/or funds as the Members holding such voting power and their first Mortgagees may determine.

Section 11.04. Damage or Destruction of Residences.

(a) **Obligation to Rebuild or Clear Damaged Structures.** If all or any portion of any Residence is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of such Residence to rebuild, repair or reconstruct the Residence or clear the Lot of all damaged or destroyed structures or portions thereof. If structural Improvements other than a Residence or fence are damaged or destroyed and the Owner prefers not to rebuild the

Improvement, the Owner shall clear his or her Lot of all damaged or destroyed materials and return the affected area to an attractive appearance.

(b) Design Review Committee Approval. Any Owner whose Residence or other structural Improvements have been damaged or destroyed shall apply to the Design Review Committee for approval of plans for the reconstruction, rebuilding, or repair of the damaged or destroyed Residence or structure. Application for such approval shall be made in writing together with full and complete plans, specifications, working drawings and elevations showing the proposed reconstruction and the end result thereof. The Design Review Committee shall grant such approval only if the design proposed by the Owner satisfies the requirements for approval set forth in Section 5.06, above.

(c) Time Limitation for Reconstruction or Removal. The Owner or Owners of any damaged Residence(s) and the Design Review Committee shall be obligated to proceed with all due diligence hereunder to remove damaged structures (or portions thereof), prepare and process reconstruction plans and specifications and complete the repair and restoration work. At a minimum, whenever Owners are required to prepare and submit repair or reconstruction plans to the Design Review Committee, such submittal shall be made within sixty (60) days following the event causing the damage and reconstruction shall commence within thirty (30) days following receipt of approval from the Design Review Committee. Reconstruction shall be completed within six (6) months following receipt of Design Review Committee approval. For good cause (including, without limitation, delays caused by inclement weather or the processing of insurance claims) the Design Review Committee may waive or extend any of the deadlines imposed by this subparagraph (c).

ARTICLE XII CONDEMNATION

If all or part of the Common Area shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages for or on account of the taking of the Common Area, exclusive of compensation for consequential damages to certain affected Lots, shall be payable to the Association as trustee for all Owners and mortgagees according to the loss or damages to their respective interest in the Common Area. The Association, acting through its Board of Directors, shall have the right to act on behalf of the Owners with respect to the negotiation, settlement and litigation of the issues with respect to the taking and compensation affecting the Common Area. Each Owner hereby designates and appoints the Association's Board of Directors as his or her attorney-in-fact for such purposes.

ARTICLE XIII ENFORCEMENT OF COVENANTS AND RESTRICTIONS

Section 13.01. Association Standing and Enforcement Rights, Generally.

(a) Association Standing to Represent the Owners/Members. In accordance with Civil Code section 5980, the Association has standing to institute, defend, settle, or

intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest and without necessity of joining the Members in matters pertaining to:

- (i) Enforcement of the Governing Documents;
- (ii) Damage to the Common ~~Area~~Areas;
- (iii) Damage to any portion of a Lot or Residence that the Association is obligated to maintain or repair; and
- (iv) Damage to a Lot or Residence that arises out of, or is integrally related to, damage to the Common Areas or to a portion of a Lot or Residence that the Association is obligated to maintain or repair.

(b) Remedy at Law Inadequate. Except for the nonpayment of any Assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration are inadequate and that the failure of any Owner, tenant, occupant or user of any Lot or Residence, or any portion of the Common ~~Area~~Areas or Common Facilities, to comply with any provision of this Declaration or any rule, regulation, decision or resolution of the Board of Directors, Bylaws, or Articles of the Association, all as may be amended from time to time, may be enjoined by appropriate legal proceedings instituted by any Owner, the Association, or its officers or Board of Directors.

Section 13.02. Nuisance. Without limiting the generality of the foregoing Section 13.01, the result of every act or omission whereby any covenant contained in this Declaration is violated in whole or in part is hereby declared to be a nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.

Section 13.03. Attorneys' Fees. Reasonable attorneys' fees and costs shall be awarded to the prevailing party in any procedure to enforce the Governing Documents or a party's rights arising under the Governing Documents. Such enforcement procedures include an action brought in any court of competent jurisdiction as well as any internal dispute resolution (IDR) and/or alternative dispute resolution (ADR) procedures implemented pursuant to the Governing Documents or pursuant to California Civil Code sections 5855 (Board meetings to consider the levy of a fine or other Member discipline) and 5900 through 5915 (Internal Dispute Resolution) or 5925 through 5960 (Alternative Dispute Resolution). In any enforcement procedure, such as mediation in which there is no agreement between all of the parties that attorneys will represent them, recoverable costs are limited to attorneys' fees and costs incurred in providing the notices required under such statute.

Section 13.04. Cumulative Remedies. The respective rights and remedies provided by this Declaration or by law shall be cumulative, and the exercise of any one (1) or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different default or

breach or for the same or any different failure of any Owner or others to perform or observe any provision of this Declaration.

Section 13.05. Failure Not a Waiver. The failure of any Owner, the Board of Directors, the Association or its officers or agents to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Association, the Board, or any of its officers or agents.

Section 13.06. Rights and Remedies of the Association.

(a) **Rights Generally.** In the event of a breach or violation of any Association Rule or of any of the restrictions contained in any Governing Document by an Owner, his or her family, or the Owner's guests, employees, invitees, licensees, or tenants, the Board, for and on behalf of all other Owners, may enforce the obligations of each Owner to obey the Association Rules, covenants, or restrictions through the use of such remedies as are deemed appropriate by the Board and available in law or in equity, including, but not limited to, the hiring of legal counsel, the imposition of fines and monetary penalties, the pursuit of legal action, or the suspension of the Owner's right to use recreation Common Facilities or suspension of the Owner's voting rights as a Member of the Association; provided, however, the Association's right to undertake disciplinary action against its Members shall be subject to the conditions set forth in this Section 13.06.

The decision of whether it is appropriate or necessary for the Association to take enforcement or disciplinary action in any particular instance shall be within the sole discretion of the Association's Board or its duly authorized enforcement committee. If the Association declines to take action in any instance, any Owner shall have such rights of enforcement pursuant to California Civil Code section 5900 through ~~6000~~,6000 or otherwise by law.

(b) **Schedule of Fines.** The Board may implement a schedule of reasonable fines and penalties for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate (such as fines for late payment of Assessments or illegally parked vehicles). Upon adoption of a fine schedule and later at any time the schedule is revised, the Association shall distribute a copy of the schedule to its Members as part of the Association's Annual Policy Statement prepared in accordance with Civil Code section 5310 and delivered to the Members by any means constituting ~~"individual delivery"~~ **"Individual Delivery"** under Civil Code section 4040. See the Association Bylaws at Section 13.01. Prior to imposition of a fine, the Board shall comply with the procedures for providing written notice to the Member (by personal delivery or Individual Delivery) and an opportunity for a hearing before the Board in accordance with Civil Code section 5855 and subparagraph (d), below. Once imposed, a fine or penalty may be collected as a Special Individual Assessment, subject to the limitation on the use of lien and foreclosure remedies stated in Section 4.10(b)(x), above.

(c) **Definition of ~~"Violation"~~ **"Violation"**.** A violation of the Governing Documents shall be defined as a single act or omission occurring on a single day. If the detrimental effect of a violation continues for additional days, discipline imposed by the Board may include one

component for the violation and, according to the Board's discretion, a per diem component for so long as the detrimental effect continues. Similar violations on different days shall justify cumulative imposition of disciplinary measures. The Association shall take reasonable and prompt action to repair or avoid the continuing damaging effects of a violation or nuisance occurring within any portion of the Common ~~Area~~Areas of the Development at the cost of the responsible Owner.

(d) Limitations of Disciplinary Rights.

(i) Limitations on Association's Right to Suspend Member Privileges.

The Association shall have no power to cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of his or her Lot due to the failure by the Owner (or his or her family members, tenants, guests or invitees) to comply with any provision of the Governing Documents or of any duly enacted Association Rule except where the loss or forfeiture is the result of the judgment of a court of competent jurisdiction, a decision arising out of arbitration or a foreclosure or sale under a power of sale for failure of the Owner to pay Assessments levied by the Association, or where the loss or forfeiture is limited to a temporary suspension of an Owner's rights as a Member of the Association or the imposition of monetary penalties for failure to pay Assessments or otherwise comply with any Governing Documents so long as the Association's actions satisfy the due process requirements of subparagraph (iii), below.

(ii) Monetary penalties imposed by the Association. In accordance with Civil Code section 5725, the following limitations apply to the collection of any monetary penalty, including a fine or Special Individual Assessment levied against a Member pursuant to this Declaration:

- (A) A monetary charge imposed by the Association as a means of reimbursing the Association for costs incurred by the Association in the repair of damage to Common ~~Area~~Areas and/or the Common Facilities that is caused by a Member or the Member's guest or tenant may become a lien against the Member's Lot enforceable by the sale of the Lot under sections 2924, 2924b, and 2924c of the California Civil Code.
- (B) A monetary penalty imposed by the Association as a disciplinary measure for failure of a Member to comply with the Governing Documents, except for the late payments, may not be characterized nor treated in the Governing Documents as an Assessment that may become a lien against the Member's Lot that is enforceable by the sale of the Lot under sections 2924, 2924b, and 2924c of the California Civil Code.

(iii) Notice and Hearing Requirements for Disciplinary Actions. In accordance with Civil Code section 5855 no disciplinary action, penalty or temporary suspension of rights shall be imposed pursuant to this Article XIII unless the Owner alleged to be in

violation is given at least ten (10) days prior notice by personal delivery or Individual Delivery that the Board of Directors will be meeting to consider imposing such discipline. In accordance with Civil Code section 5855(c), the notice shall include, at a minimum, the date, time, and place of the meeting, the nature of the alleged violations for which the Owner may be disciplined, and a statement that the Owner has a right to attend and address the Board at the hearing. The Board shall meet in executive session if requested by the Owner who is the subject of the disciplinary action (Civil Code sections 5855(b) and 4935(b)). If disciplinary action is taken, the Board shall notify the accused Owner with written notification of the decision, by either personal delivery or Individual Delivery within fifteen (15) days following the Board's action.

In accordance with Civil Code section 5855(d), disciplinary action shall not be effective against an Owner unless the Board fulfills the requirements of this subparagraph (iii). The Association shall also adopt hearing and disciplinary procedures that comply with the requirements set forth in Civil Code section 5910.

Notwithstanding the foregoing, under circumstances involving conduct that constitutes: (A) an immediate and unreasonable infringement of, or threat to, the safety or quiet enjoyment of neighboring Owners; (B) a traffic or fire hazard; (C) a threat of material damage to, or destruction of, any Lot, Residence, any portion of the Common ~~Area~~Areas or any Common Facilities; or (D) a violation of the Governing Documents that is of such a nature that there is no material question regarding the identity of the violator or whether a violation has occurred (such as late payment of Assessments or parking violations), the Board of Directors, or its duly authorized agents, may undertake immediate corrective or disciplinary action and, upon request of the offending Owner (which request must be received by the Association, in writing, within five (5) days following the Association's disciplinary action), or on its own initiative, conduct a hearing as soon thereafter as reasonably possible.

(e) Inapplicability of Section 13.06(d) Procedures to Assessment Collection Actions. The notice and hearing procedures set forth in this Section 13.06 shall not apply to any actions by the Association or its duly authorized agents to collect delinquent assessments. Assessment collections shall be subject to the prior notification and other procedural requirements set forth in Section 4.10, above, and any other notice, hearing and/or dispute resolution requirements or procedures as may be specifically applicable by law to Association assessment collection. See Civil Code sections 5650 through 5740.

(f) Rules Regarding Disciplinary Proceedings. The Board, or an appropriate committee appointed by the Board to conduct and administer disciplinary hearings and related proceedings, shall be entitled to adopt rules that further elaborate and refine the procedures for conducting disciplinary proceedings, so long as such rules meet the minimum requirements of section 5910 of the Civil Code. Such rules, when approved and adopted by the Board, shall become a part of the Association Rules.

Section 13.07. Court Actions. Court actions to enforce the Governing Documents may only be initiated on behalf of the Association by resolution of the Board. Prior to the filing of any court action seeking declaratory or injunctive relief to interpret or enforce the Governing Documents (including either such action coupled with a claim for monetary damages not in excess of Five Thousand Dollars (\$5,000.00)), the Association shall first comply with the

provisions of California Civil Code sections 5925 through 5950 relating to alternative dispute resolution. The Association's own notice and hearing procedures may be drafted to satisfy these statutory requirements.

ARTICLE XIV PROTECTION OF MORTGAGEES

Section 14.01. Assessment Lien Subordinated. Any lien created or claimed under the provisions of Article IV, above, shall be subject and subordinate to the lien of any first Mortgage given in good faith and for value. No such Mortgagee who acquires title to any Lot by judicial foreclosure or by exercise of power of sale contained in the Mortgage shall be obligated to cure any breach of this Declaration by a former Owner of such Lot or shall be liable for any unpaid Assessments made against the Lot which accrued prior to the date the Mortgagee acquired such title. No lien created or claimed under the provisions of Article IV, above, shall in any way defeat, invalidate or impair the rights of any Mortgagee under any such recorded Mortgage.

Section 14.02. Amendment of This Declaration. Except where an amendment has been approved in accordance with Section 14.12, below, no amendment of this Declaration shall affect any of the rights of the holder of any Mortgage described in Section 14.01, above, which is made in good faith and for value, if such Mortgage is recorded and notice of the delivery and recording thereof is given to the Association prior to the recording of such amendment.

Section 14.03. Default by Owner; Mortgagee's Right to Vote. In the event of a default by any Owner under a Mortgage encumbering such Owner's Lot, the Mortgagee under such Mortgage shall, upon: (a) giving written notice to the defaulting Owner; (b) recording a Notice of Default in accordance with California Civil Code section 2924; and (c) delivering a copy of such recorded Notice of Default to the Association, have the right to exercise the vote of the Owner at any regular or special meeting of the Association held only during such period as such default continues.

Section 14.04. Breach; Obligation After Foreclosure. No breach of any provision of this Declaration by the Association or any Owner shall impair or invalidate the lien of any recorded Mortgage made in good faith and for value and encumbering any Lot. The Association and its successors and assigns shall be obligated to abide by all of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes provided for in this Declaration as it may be amended from time to time with respect to any person who acquires title to or any beneficial interest in any Lot through foreclosure, trustee's sale or otherwise.

Section 14.05. Right to Examine Books and Records of the Association. All Mortgagees, insurers and guarantors of any Mortgages on any Lot shall have the right, upon written request to the Association, to:

- (a) Examine current copies of the Governing Documents and the Association's books, records and financial statements, during normal business hours;
- (b) Require the Association to provide an audited statement for the preceding fiscal year: (i) at no expense to the requesting entity when the Development consist of 50 or more Lots; and (ii) at the requesting entity's expense when the Development consists of fewer than 50 Lots and no audited statement is available; and
- (c) Receive a written notice of all meetings of the Association and designate a representative to attend all such meetings.

Section 14.06. Declaration to Conform With Mortgagee Requirements.

It is the intent of this Article that this Declaration, the Articles of Incorporation, the Bylaws and the Development in general, shall now and in the future meet all requirements of any institutional Mortgagee intending to secure its Mortgage by a Lot or necessary to purchase, guarantee, insure or subsidize any Mortgage of a Lot by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Veterans' Administration.

ARTICLE XV

RESTRICTIONS AND PROTECTIVE PROVISIONS FOR THE GOLF COURSE

Section 15.01. Golf Course Restrictions. The provisions of this Article XV shall not be subject to modification except with the written consent of the Golf Course ~~owner~~Owner. With respect to Golf Course Lots, specific obligations or prohibitions to be observed by an Owner of such Lot may be noted on the Recorded map, or in the Declaration of Annexation, or Design Guidelines, or may be established by Rules of the Board to supplement (but not to contravene) this Declaration, or may be established in a Supplemental Declaration applicable to a particular Lot.

Section 15.02. Risks Resulting from Proximity to Golf Course. Each Owner who acquires a Lot within the Development, by acceptance of the deed to the Lot, acknowledges, accepts and assumes the risk of the special benefits and burdens associated with the Golf Course and its facilities, including without limitation, those matters more particularly described below. The Golf Course ~~owner~~Owner and each and every member, guest, golfer, employee, agent or invitee of the Golf Course, disclaims any liability for personal injury or property damage resulting in any way, all or in part, from any of the following items set forth in subparagraphs (a) through (h), inclusive, and each Owner accepts such disclaimer and agrees to release and waive any claims that the Owner, or any guest, tenant, agent, invitee, employee or contractor of Owner, may have as a result of any such following items:

(a) **Errant Golf Balls.** Owners of all Lots within the Development, particularly Lots abutting the Golf Course, acknowledge the inherent risk of errant golf balls entering the boundaries of the Lot, and assume and accept such risk with respect to both personal injury and property damage, as to themselves, the members of their family, tenants, agents, employees, guests and invitees. Owners acknowledge and accept the risk that, despite any policy or signage

to the contrary, golfers may attempt to retrieve or play errant golf balls from any Lot and each Owner agrees to release and waive any claims that the Owner or any person visiting or residing on the Owner's Lot may have as a result of such retrieval. Section 9.06, above, creates certain easements for water overspray, golf course maintenance and golf ball intrusion, which easements burden those Lots that share a common boundary with any portion of the Golf Course or any Lot adjacent to any portion of the Common Area that is adjacent to the Golf Course. Owners of such Lots are also advised that due to such factors as the location of a Lot along a Golf Course tee, fairway, hazard, rough, or green, the contour of tees, fairways, roughs, hazards, and greens, changes in topography, and other factors, some Lots may experience a greater incidence of intrusion by errant golf balls than other Lots.

(b) View Impairment/Privacy. Owners of Lots, including Owners of Lots abutting the Golf Course, have no guarantee that their view over, and upon the Golf Course will be forever preserved without impairment or that the view of or from the Golf Course will not be impaired. The Golf Course ~~owner~~Owner has no obligation to prune or not prune trees or other landscaping and the Golf Course ~~owner~~Owner has reserved the right, at its sole and absolute discretion, to add, change or reconfigure the Golf Course, including any trees, landscapes, tees, bunkers, fairways and greens of the Golf Course, regardless of whether such changes diminish or obstruct the view from or to any Lot.

(c) Pesticides and Fertilizers. Pesticides, fertilizers and other chemicals and treatments will be utilized in connection with the Golf Course and the Owners acknowledge, accept the use and assume the risk of such pesticides, fertilizers, chemicals, and treatments.

(d) Overspray. Owners of Lots, particularly Owners of Lots abutting the Golf Course, may experience "overspray" from the Golf Course irrigation system, and the Owners acknowledge, accept and assume the risk of such "overspray." See also Section 9.06, above.

(e) Noise and Light. Owners of Lots, particularly Owners of Lots in proximity to the Golf Course, including its tees, fairways, greens, hazards, clubhouse, or maintenance facility, may be exposed to lights, noise or activities resulting from use of the amenities, including the clubhouse for dining and entertainment and use of the parking lot, and the Owners acknowledge, accept and assume the risk of such light, use, noise or activities.

(f) No Access. Notwithstanding the proximity of the Golf Course to any Lot, and notwithstanding that the Owner of any Lot may have a right to use the Golf Course facilities as a result of membership or other rights acquired separately from ownership of a Lot, no Owner, resident, occupant, tenant, agent, guest or invitee of a Lot has a right of access to or upon the Golf Course directly from their Lot without the prior written consent of the Golf Course ~~owner~~Owner.

(g) Golf Course Maintenance Activities. The Golf Course requires daily maintenance, including mowing, irrigation and grooming, during early morning and evening hours, including without limitation the use of tractors, blowers, pumps, compressors and utility vehicles. Owners of Lots, particularly Owners of Lots in proximity to the Golf Course, will be exposed to the noise and other effects of such maintenance, and the Owners acknowledge, accept and assume the risk of such noise and effects at any time as the same shall occur.

(h) Risk of Injury. Each Owner expressly assumes the detriments and risks of owning property adjacent to the Golf Course as described in the Governing Documents and otherwise, and agrees that neither ~~a Master Developer~~, the Golf Course ~~owner~~Owner, operator, manager, architect or designer of the Golf Course nor any of their employees, agents, contractors, or successors or assigns shall be liable to the Owner or to anyone claiming any loss, damage or personal injury, destruction of property, trespass or any other alleged wrong or entitlement to remedy based upon or arising out of the proximity of the Owner's Lot to the Golf Course or alleged errors in the design of the Golf Course, including but not limited to the tees, fairways, roughs, hazards, greens, or practice areas in relation to Lots, Common ~~Area~~Areas or other property in the Development. Each Owner of a Lot hereby agrees to indemnify and to hold harmless, ~~each Master Developer and~~ the Golf Course ~~owner~~Owner, operator, manager, their officers, employees, and agents, and their successors and assigns, against any and all such claims by the Owner, his or her family, tenants, employees, agents, guests, and invitees related to errant golf balls and the proximity of the Golf Course to a Lot.

Section 15.03. Golf Course Entry. Neither the Association, nor any Owner shall have any right of entry on to the Golf Course without the prior written consent of the Golf Course ~~owner~~Owner. Neither the Association nor any Owner may permit any irrigation water to overspray or drain from ~~their~~the Association's Common Area or any Lots onto any portion of the Golf Course, except through storm drainage Improvements constructed by a Master Developer or otherwise for such purpose. Neither the Association nor any Owner may permit any fertilizer, pesticides or other chemical substances to overspray, drain, flow or be disposed of in any manner upon the Golf Course. If the Association or any Owner violates the provisions of this subparagraph, they shall be liable to the Golf Course ~~owner~~Owner for all damages resulting from such violation.

Section 15.04. No Representations or Warranties. Ownership or operation of the Golf Course may change at any time. The consent of the Association or any Owner is not required to effect any change in the ownership or operation of the Golf Course. All Owners are hereby advised that no representations or warranties have been made or are made by ~~a Master Developer or~~ the Golf Course ~~owner~~Owner regarding the continuing existence, ownership or operation of the Golf Course.

Section 15.05. Right to Use the Golf Course. Neither being an Owner of a Lot within the Development or being a Member of the Association confers any ownership interest in or right to use the Golf Course. The Golf Course ~~owner~~Owner shall grant memberships in the Golf Course and manage the use of the Golf Course as such owner sees fit. Rights to use the Golf Course are within the exclusive control of the Golf Course ~~owner~~Owner, and will be given to such persons and on such terms and conditions as the Golf Course ~~owner~~Owner may determine from time to time in its sole and absolute discretion. The Golf Course ~~owner~~Owner may amend or waive its determinations and policies with respect to use of the Golf Course or membership in the Golf Course at any time.

Section 15.06. Amendment. The provisions of this Article XV may not be amended without the written consent of the Golf Course Owner.

ARTICLE XVI
NOTICES

Section 16.01. Mailing Addresses. Any communication or notice of any kind permitted or required herein shall be in writing and may be served, as an alternative to personal service, by mailing the same as follows:

- | | |
|------------------------------|--|
| If to any Owner: | To the street address of his or her Lot or to such other address as he or she may from time to time designate in writing to the Association. |
| If to the Association: | Verdera Community Association, at the principal office of the Association (or to such other address as the Association may from time to time designate in writing to the Owners). <u>Currently the Association address is: 1875 Ladera Drive, #3, Lincoln, CA 95648.</u> |
| If to the Golf Course Owner: | Catta Verdera –Golf Course, LLC, c/o Andrew Sackheim, Esq, 3455 American River Drive, Suite “C”, Sacramento, CA, 95864 <u>Country Club LLC, c/o Jeffrey O. Wilson, 1111 Catta Verdera, Lincoln, CA, 95648</u> (or to such other address as the Golf Course Owner may from time to time designate in writing to the Association. |

Nothing in this Section 16.01 is intended to preclude the use of any other means of delivering notices to Members or Owners (other than by personal service or mail) if other methods of delivery are authorized by this Declaration, the California Corporations Code or by Civil Code Sections 4040 through 4050.

Section 16.02. Personal Service Upon Co-Owners and Others. Personal service of a notice or demand to one of the Co-Owners of any Lot, to any general partner of a partnership which is the Owner of Record of the Lot, or to any officer or agent for service of process of a corporation which is the Owner of Record of the Lot, shall be deemed delivered to all such co-owners, to such partnership, or to such corporation, as the case may be.

Section 16.03. General Rules Regarding Delivery of Notices. In accordance with Civil Code sections 4050 and 4055, the following general rules shall apply to the provision of notices:

- (a) If a document is delivered by mail, delivery is deemed to be complete on deposit into the United States mail.
- (b) If a document is delivered by electronic means, delivery is complete at the time of transmission.
- (c) If the Association or a Member has consented to receive information by electronic delivery, and a provision of the Davis-Stirling Act requires that the information be in writing, that requirement is satisfied if the information is provided in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

ARTICLE XVII NO PUBLIC RIGHTS IN THE DEVELOPMENT

Nothing contained in this Declaration shall be deemed to be gift or dedication of all or any portion of the Development to the general public or for any public use or purpose whatsoever.

ARTICLE XVIII AMENDMENT OF DECLARATION

Section 18.01. Amendment of the Declaration, Generally. This Declaration may be amended or revoked in any respect upon compliance with the following provisions:

- (a) Member Approval Requirements.

- (i) Member Approvals, Generally. Except as otherwise provided in subparagraphs (ii) and (iii) below, this Declaration may be amended by the affirmative vote of at least fifty-one percent (51%) of the Voting Power of the Members, in a vote conducted by use of a secret mailed ballot in accordance with Civil Code sections 5100 through 5135.

- (ii) Member Approval Requirements for Amendments Deleting a Designated Cost Center. Sections 1.11, 4.01(e) and 4.02(b)(ii) permit the Association to establish what are defined in Section 1.11 as "Cost Centers" for the purpose of assessing some Members of the Association, to the exclusion of other Members, for benefits and/or services that are only being provided to Members whose Lots are within the designated Cost Center. Under Section 4.01(e) of the Declaration, the Association only has authority to create a Cost Center if

approved by at least a Majority of the Voting Power of the Members who own Lots in the proposed Cost Center. As of the recordation date of this Declaration, only one Cost Center has been established for front yard landscape maintenance by the Association for Lots located in Verdera Villages 18 and 20, although additional Cost Centers can be established in accordance with Sections 4.01(e) and 4.02(b)(ii).

In the event that a Cost Center has been established in accordance with those provisions of the Declaration Members owning at least ten percent (10%) of the Lots within the Cost Center can petition the Board of Directors to distribute secret ballots to all Owners of Lots in the Cost Center (in accordance with the secret ballot voting rules set forth in Civil Code sections 5100 through 5135) to terminate the Association's obligation to provide the goods or services for which the Cost Center was created. Discussion of the proposal presented in the petition shall be placed on the agenda for an open meeting of the Board of Directors and a balloting period of at least sixty (60) days shall be established to vote for or against the proposal. The proposal may be approved on the affirmative vote of at least a majority of the Members of the Lots that are included in the Cost Center. The ballot materials shall include at least one statement, not to exceed five hundred words, in support of the proposal and one statement, not to exceed five hundred words, in opposition to the proposal (if there is any opposition). The approval of Members whose Lots are not in the Cost Center shall not be required.

Notwithstanding the foregoing, if a Cost Center has been established with the approval of a majority of the Voting Power of the Owners of Lots in the Cost Center pursuant to Section 4.01(e) of the Declaration a petition to end the Cost Center may not be entertained by the Board until the Cost Center has been in existence for at least two (2) years. In addition, if a petition to end a duly created Cost Center fails to be approved by at least a majority of the Voting Power of the Owners of Lots in the Cost Center, a new petition cannot be presented to the Board for at least one year after the votes in the last election have been tabulated and announced.

(iii) Amendments Requiring a Super Majority Vote. In the event that any Member approvals for amendments of this Declaration requires the affirmative of more than fifty-one percent (51%) of the Voting Power of the Members, then the vote to amend that specific clause or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause.

(b) Additional Approvals for Amendments to Particular Provisions.

(i) Approval of Golf Course Owner. The following provisions are included in this Declaration for the benefit of the Golf Course ~~owner~~Owner and may not be amended without the consent of the Golf Course ~~owner~~Owner: Sections ~~2.01(a), 2.02, 2.04(c) and (d), 2.05, 3.07(b)(i) and (ii), 4.01(g), 4.04(a)(ii) and (iii), 5.01(b), 5.02, 5.06(e), 5.14 (e), 2.04, 4.01(g), 5.15, 5.16, 5.17, 6.09, 6.13, 6.14, 6.15, 6.19, 6.20, 6.21, 7.03(b) and (c), 7.04, 7.05, 7.06, 8.03, 8.08, 8.12, 8.15(a), (b), and (d), 9.01, 9.05, 9.06, 13.01, 13.05, 13.06, Article XVII XV, and Section 18.03; this subparagraph (b)(1).~~

(c) Right of Amendment Requested by Governmental Mortgage Agency or Federally Chartered Lending Institutions. Subject only to the provisions of Section 18.01(b)(i), above, ~~the Master Developers and~~ the Association's Board of Directors reserve the right to amend

all or any part of this Declaration to such an extent and with such language as may be requested by governmental mortgage agencies which require such an amendment as a condition precedent to such agency's approval of this Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Lot(s) or any portions thereof. Any such amendment shall be effectuated by the Recordation of a certificate of amendment duly signed by or on behalf of the authorized agents, or authorized officers of ~~a Master Developer or the Association, as applicable~~, with their signatures acknowledged, specifying the governmental mortgage agency, or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such a certificate of amendment shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such certificate, when Recorded, shall be binding upon all of Lots and Common ~~Area~~Areas comprising the Development and all persons having any interest therein.

~~(d) Right of Amendment if Requested by City of Lincoln. Subject only to the provisions of Section 18.01(b)(i), above, the Master Developers reserve the right to amend all or any part of this Declaration to such an extent and with such language as may be requested by the City of Lincoln to reflect a modification of the Development Agreement between the Master Developers and the City which requires a conforming amendment to this Declaration. Any such amendment shall be effectuated by the recordation, by the Master Developers, of a certificate of amendment duly signed by or on behalf of the authorized agents, or authorized officers of each Master Developer, or the Association as applicable, with their signatures acknowledged, specifying that the City of Lincoln requested the amendment and setting forth the amendatory language requested by the City. Recordation of such a certificate shall be deemed conclusive proof of the City's request for such an amendment, and such certificate, when Recorded, shall be binding upon the Development and all persons having an interest therein.~~

Section 18.02. Mortgagee Approval. Mortgagee approval of any proposed material amendment shall be required in accordance with Section 14.02, above.

Section 18.03. Effective Date of Amendment. The amendment will be effective upon the Recording of a certificate of amendment, duly executed and certified by the president and secretary of the Association (and the Golf Course ~~owner~~Owner, if applicable) setting forth in full the amendment so approved and that the approval requirements of subsection (a) or (b) above have been duly met. If the consent or approval of any governmental authority, Mortgagee, Golf Course ~~owner~~Owner, or other entity is required under this Declaration to amend or revoke any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained.

~~Section 18.04. Business and Professions Code Section 11018.7. All amendments or revocations of this Declaration shall comply with the provisions of California Business and Professions Code Section 11018.7 to the extent that section is applicable.~~

[Section 18.04.](#) ~~[Section 18.05.](#)~~ Reliance on Amendments. Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

ARTICLE XIX GENERAL PROVISIONS

[Section 19.01.](#) Term. The covenants, conditions, restrictions, limitations, reservations, grants of easement, rights, rights-of-way, liens, charges and equitable servitudes contained in this Declaration shall run with, and shall benefit and burden the Lots and the Common ~~Area~~[Areas](#) as herein provided, and shall inure to the benefit of and be binding upon the Owners, the Association, its Board of Directors, and its officers and agents, and their respective successors in interest, for the term of sixty (60) years from the date of the Recording of this Declaration. After the expiration of the initial term, the term of this Declaration shall be automatically extended for successive periods of ten (10) years each unless, within six (6) months prior to the expiration of the initial 60-year term or any such 10-year extension period, a recordable written instrument, approved by Owners entitled to vote and holding at least a majority of the Voting Power of the Association terminating the effectiveness of this Declaration, is Recorded.

[Section 19.02.](#) Statutory References. In the event that any statute in this Declaration, whether stated by code and number, or named by body of law, is amended, repealed, renumbered, or renamed, all references to such statute or body of law shall refer to the amended, repealed, renumbered, or renamed statutory provisions.

[Section 19.03.](#) Construction.

(a) Restrictions Construed Together. All of the covenants, conditions and restrictions of this Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Development as set forth in the Recitals of this Declaration. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision in a subsequent application or any other provision hereof.

(b) Restrictions Severable. Notwithstanding the provisions of subparagraph (a) above, the covenants, conditions and restrictions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

(c) Singular Includes Plural. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter, as the context requires.

(d) Captions. All captions or titles used in this Declaration are intended solely for convenience of reference and shall not affect the interpretation or application of that which is set forth in any of the terms or provisions of the Declaration.

(e) Exhibits. All exhibits to which reference is made herein are deemed to be incorporated herein by reference, whether or not actually attached.

(f) References to State Statutes. Any references in this Declaration to California Statutes shall be to the referenced statute as in effect on the date that this Declaration is Recorded in the Official Records of the County. In the event that any referenced statute is subsequently amended or superseded, all such references shall thereupon mean and refer to the referenced statute as so amended, modified or superseded, so long as the amended statute continues to regulate or pertain to the same subject matter.

(g) Rule Against Perpetuities. If any interest purported to be created by this Declaration is challenged under the Rule against Perpetuities or any related rule of law, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be: (a) those which would be used in determining the validity of the challenged interest; plus (b) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest.

DATED: , ~~2021~~, , 2021

VERDERA COMMUNITY ASSOCIATION,
a California nonprofit mutual benefit corporation

By: _____
Shamus McClure, Its: President

By: _____
Tony Manning, Its: Secretary

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not to the truthfulness, accuracy, or validity of that document.

State of California
County of _____)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not to the truthfulness, accuracy, or validity of that document.

State of California
County of _____)

On _____ before me, _____
(insert name and title of the officer)

personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

EXHIBIT "A"
LEGAL DESCRIPTION OF THE PROPERTY SUBJECT TO THIS DECLARATION

All of the certain real property located in the City of Lincoln, Placer County, California, more particularly described as follows:

Lots 79 through 81, inclusive, and Lot F as shown on the subdivision map of "Verdera Village 13 - Phase 1" filed for Record on November 6, 2003, in Book Z of Maps, at Page 36, Placer County Records;

Lots 128 through 172, inclusive, and Lots O, P, Q, R, and S as shown on the subdivision map of "Verdera Village 16" filed for Record on November 6, 2003, in Book Z of Maps, at Page 37, Placer County Records; and

Lot A as shown on the subdivision map of "Verdera Large Lot Subdivision" filed for Record on September 22, 2003, in Book Z of Maps, at Page 32, Placer County Records.

Lots 12, 14, 15, 17, 20, 23, 301 and 302, Lots 501 through 504, inclusive, and Lot B, as shown on the subdivision map of "Verdera Large Lot Subdivision" filed for Record on September 22, 2003, in Book Z of Maps, at Page 32, Placer County Records;

Lot G and the Remainder parcel, as shown on the subdivision map of "Verdera Village 13 - Phase 1" filed for Record on November 6, 2003, in Book Z of Maps, at Page 36, Placer County Records;

Lots 514 through 516: inclusive, as shown on the subdivision map of "Verdera Village 16" filed for Record on November 6, 2003, in Book Z of Maps, at Page 37, Placer County Records;

Lots 1 through 178, 303, 304, 506, 507, and Lots C and D, as shown on the subdivision map of "Verdera Village 18", filed for Record on October 3, 2003 in Book Z of Maps, at Page 33, Placer County Records.

Lot 17, as shown on the subdivision map of "Twelve Bridges Large Lot Subdivision", filed for Record on March 12, 1999, in Book V of Maps, at Page 31, Placer County Records;

and [see following pages 1 through 4, inclusive]

EXHIBIT "B"
DECLARATIONS OF ANNEXATION AND SUPPLEMENTAL DECLARATION
AFFECTING VILLAGES WITHIN VERDERA

Title	Recording Date	Document No.
Declaration of Annexation, Supplemental Declaration, and Reservation of Easements for Verdera, Village 12	December 1, 2006	2006-0129193-00
Restated Declaration of Annexation, Supplemental Declaration, and Reservation of Easements for Verdera, Village 12	October 1, 2013	2013-0094630-00
Supplemental Declaration for Verdera Community Association Setback Variance for Village 13, Lot 35	April 14, 2006	2006-0041077-00
Declaration of Annexation and Reservation of Easements for Verdera, Village 18	November 25, 2003	2003-0198485-00
Declaration of Annexation and Reservation of Easements for Verdera, Village 20	December 11, 2003	2003-0205660-00
Declaration of Annexation, Supplemental Declaration and Reservation of Easements for Verdera, Village 23	July 24, 2015	2015-0064153-00

EXHIBIT "C"
LEGAL DESCRIPTION OF THE ~~PHASE 1~~ASSOCIATION COMMON AREA

All of the certain real property located in the City of Lincoln, Placer County, California, more particularly described as follows:

Lot F as shown on the subdivision map of "Verdera Village 13 - Phase 1" filed for Record on November 6, 2003, in Book Z of Maps, at Page 36, Placer County Records;

Lots O, P, Q, R and S, as shown on the subdivision map of "Verdera Village 16" filed for Record on November 6, 2003, in Book Z of Maps, at Page 37, Placer County Records; and

Lot A as shown on the subdivision map of "Verdera Large Lot Subdivision" filed for Record on September 22, 2003, in Book Z of Maps, at Page 32, Placer County Records.

EXHIBIT "D"
LEGAL DESCRIPTION OF THE GOLF COURSE LOTS IN PHASE 1

All of the certain real property located in the City of Lincoln, Placer County, California, more particularly described as follows:

Lots 79 through 81, inclusive, as shown on the subdivision map of "Verdera Village 13 – Phase 1" filed for Record on November 6, 2003, in Book Z of Maps, at Page 36, Placer County Records;

Lots 128 through 131, inclusive, Lots 133 through 138, inclusive, Lots 151 and 152, and Lots 160 through 167, inclusive, as shown on the subdivision map of "Verdera Village 16" filed for Record on November 6, 2003, in Book Z of Maps, at Page 37, Placer County Records.

EXHIBIT "E"
FIRE PROTECTION REQUIREMENTS FOR INDIVIDUAL PROPERTY OWNERS
WITHIN VERDERA

Each Owner shall maintain his or her Lot in accordance with the following standards:

1. Each Owner shall ensure that a 35-foot wide defensible space (firespace) is created and maintained between open space areas and the Residence and any building improvement that may contain activities that can produce flames or sparks. The firespace may consist of a green belt, such as a lawn or succulents, as well as fire resistant, fire retardant planting with a reliable automatic irrigation system. Such planting shall be low in oils and resins. Drought resistant planting is encouraged.
2. Every effort should be made to site the Residence and Improvements within a Lot envelope to provide 35-feet of defensible space, firespace, where the Improvement fronts open space. When an Improvement site cannot provide this defensible space, the Owner shall meet with the Association and the City of Lincoln and the Lincoln Fire Department to determine if an alternative method can be approved that achieves the intent of establishing the defensible space. This may require mitigation work that infringes upon open space and may need approval by the regulatory agencies.
3. Each Owner shall ensure that the defensible zone is created within 90-days of occupancy of the Owner's residence.
4. Prior to the completion of the construction of a residence on a Lot, an Owner shall maintain the Lot as a fire break.
5. Owners shall remove and maintain trees and brush from the underside of combustible overhangs such as eaves and decks.
6. All trees shall be trimmed to maintain a minimum distance of 15-feet from chimneys.
7. Owners shall not permit the storing of combustible material within 15-feet of Common Areas, open space areas or within fuel breaks. This includes, but is not limited to, materials such as vegetation clippings, flammable liquids, charcoal, and propane tanks.
8. Owners shall use only City-approved containers intended for the disposal of combustible vegetation.
9. Barbeques shall not be located or used within 15-feet of open space with combustible ground cover, nor shall they be used under building overhangs or trees. Barbeques shall not be ignited with materials that facilitate the spread of flames or sparks.
10. The use or storage of fireworks within the Verdera development is prohibited.

11. Owners shall not permit the use of flames or sparks within 15-feet of Common Area, any open space area or any combustible material.

12. Owners shall disclose to any prospective purchaser that the Owner's Lot is in a wildland area and is exposed to risk and/or hazard of a wildland fire that may involve the Lot as well as the Verdera development in general. The seller must disclose to any prospective buyer that the fire protection requirements of the Owners must be strictly maintained but such requirements do not guarantee that fire will not transfer from wildland areas to the property being sold.

**RECORDING REQUESTED BY, AND
WHEN RECORDED, MAIL TO:**

**SPROUL TROST LLP
Attn: Kyle C. Sproul, Esq.
3200 Douglas Boulevard, Suite 300
Roseville, CA 95661**

(Space Above For Recorder's Use)

**FIRST RESTATED DECLARATION
OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR VERDERA**

TABLE OF CONTENTS

	Page
RECITALS	1
ARTICLE I DEFINITIONS	2
Section 1.01. " <u>ADU</u> "	<u>2</u>
<u>Section 1.02.</u> " <u>Annual Budget Report</u> "	<u>23</u>
Section 1.02. <u>1.03.</u> " <u>Annual Policy Statement</u> "	<u>23</u>
Section 1.03. " Articles "	<u>2</u>
Section 1.04. " Assessment <u>Articles</u> "	3
Section 1.05. " Assocation <u>Assessment</u> "	3
Section 1.06. "Association Rules "	3
Section 1.07. " <u>Association Rules</u> "	<u>3</u>
<u>Section 1.08.</u> " <u>Board of Directors</u> " or " <u>Board</u> "	3 <u>Section 1.08.</u> " <u>Bylaws</u> "
Section 1.09. " City <u>Bylaws</u> "	3
Section 1.10. " Common Area <u>City</u> "	3
Section 1.11. "Common Expense <u>Area</u> "	3
Section 1.12. "Common Facilities <u>Expense</u> "	<u>34</u>
Section 1.13. " Cost Center <u>Common Facilities</u> "	4
Section 1.14. " County <u>Cost Center</u> "	4
Section 1.15. " Declaration <u>County</u> "	4
Section 1.16. " Design Guidelines <u>Declaration</u> "	4
Section 1.17. "Design Review Committee and " <u>Committee Guidelines</u> "	4
Section 1.18. " Development <u>Design Review Committee</u> " and " <u>Committee</u> "	4
Section 1.19. " <u>Development</u> "	<u>5</u>
<u>Section 1.20.</u> " <u>Emergency Assessment</u> "	<u>45</u>
Section 1.20. " General Notice " and " <u>General Delivery</u> "	<u>4</u>
Section 1.21. " Golf Course <u>General Notice</u> " and " <u>General Delivery</u> "	5
Section 1.22. "Golf Course Lots "	5
Section 1.23. "Golf Course Owner <u>Lots</u> "	5
Section 1.24. " <u>Golf Course Owner</u> "	<u>5</u>
<u>Section 1.25.</u> " <u>Good Standing</u> "	5
Section 1.25. <u>1.26.</u> " <u>Governing Documents</u> "	<u>56</u>
Section 1.26. " Improvement "	<u>5</u>
Section 1.27. " Individual Notice or " <u>Individual Delivery Improvement</u> "	6
Section 1.28. " Lot <u>Individual Notice</u> " or " <u>Individual Delivery</u> "	6
Section 1.29. " <u>Lot</u> "	<u>7</u>
<u>Section 1.30.</u> " <u>Majority of a Quorum</u> "	<u>67</u>
Section 1.30. " Master Developer "	<u>6</u>
Section 1.31. " Member <u>Master Developers</u> "	<u>67</u>
Section 1.32. " Mortgage <u>Member</u> "	<u>67</u>
Section 1.33. " Owner <u>Mortgage</u> "	<u>67</u>
Section 1.34. "Owner of Record "	<u>67</u>
Section 1.35. " <u>Property Owner of Record</u> "	7
Section 1.36. " Record <u>Property</u> "	7
Section 1.37. " Regular Assessment <u>Record</u> "	7

TABLE OF CONTENTS
(continued)

	Page
Section 1.38. " Reserves Regular Assessment"	7
Section 1.39. " Residence Reserves"	7
Section 1.40. " Residence "	8
<u>Section 1.41.</u> "Single Family Residential Use"	7 8
Section 1.41. " Special Assessment "	7
Section 1.42. "Special Individual Assessment"	7 8
Section 1.43. " Special Individual Assessment "	8
<u>Section 1.44.</u> "Subdivision Map"	7 8
Section 1.44. <u>1.45.</u> "Visible From Neighboring Property" or "Visible From the Golf Course"	8
Section 1.45. <u>1.46.</u> "Voting Power"	8
 ARTICLE II PROPERTY RIGHTS AND OBLIGATIONS OF OWNERS	 89
Section 2.01. Declaration Regarding the Property Comprising the Development	8 9
Section 2.02. Property Rights in <u>the</u> Common Area Areas	9
Section 2.03. Owners' Nonexclusive Easements of Enjoyment	9 10
Section 2.04. No Right to Use the Golf Course	10
Section 2.05. Delegation of Use	10 11
Section 2.06. Obligations of Owners	11 12
 ARTICLE III VERDERA COMMUNITY HOMEOWNERS-ASSOCIATION	 14
Section 3.01. Association Membership	14
Section 3.02. One Class of Membership	14 15
Section 3.03. Voting Rights of Members	14 15
Section 3.04. Assessments	14 15
Section 3.05. Transfer of Memberships	14 15
Section 3.06. Powers and Authority of the Association	15
Section 3.07. Association Rules	16 17
Section 3.08. Limitation on Liability of the Association's Directors and Officers	20 21
 ARTICLE IV ASSESSMENTS	 2122
Section 4.01. Assessments Generally	21 22
Section 4.02. Regular Assessments	23
Section 4.03. Special Assessments	25 26
Section 4.04. Special Individual Assessments	27 28
Section 4.05. Assessments to Address Emergency Situations	28 29
Section 4.06. Purpose and Reasonableness of Assessments	29 30
Section 4.07. Exemption of Certain Portions of the Development From Assessments	29 30

TABLE OF CONTENTS
(continued)

		Page
Section 4.08.	Notice and Procedure for Member Approval Pursuant to Sections 4.02 and 4.03	29 <u>30</u>
Section 4.09.	Maintenance and Expenditure of Assessment Funds	30 <u>31</u>
Section 4.10.	Collection of Assessments; Enforcement of Liens	33 <u>34</u>
Section 4.11.	Transfer of Lots by Sale or Foreclosure	39
Section 4.12.	Priorities	39 <u>40</u>
Section 4.13.	Waiver of Exemptions	40
 ARTICLE V DESIGN REVIEW AND APPROVAL OF IMPROVEMENT PROJECTS		 40<u>41</u>
Section 5.01.	Design Review Committee Approval of Improvements	40 <u>41</u>
Section 5.02.	Composition of the Design Review Committee	40 <u>41</u>
Section 5.03.	Duties	41 <u>42</u>
Section 5.04.	Meetings	41 <u>42</u>
Section 5.05.	Design Guidelines	42
Section 5.06.	Basis for Approval of Improvements	43 <u>44</u>
Section 5.07.	Procedures for Obtaining Design Approval	44 <u>45</u>
Section 5.08.	Delivery of Plans and Specifications	45
Section 5.09.	Time Limits for Approval or Rejection	45
Section 5.10.	Proceeding With Work	45 <u>46</u>
Section 5.11.	Failure to Complete	46
Section 5.12.	Inspection of Work by Design Review Committee	46
Section 5.13.	Landscaping	46 <u>47</u>
Section 5.14.	Enforcement	47
Section 5.15.	Variances	47 <u>48</u>
Section 5.16.	Compliance Certificate	48
Section 5.17.	Limitation on Liability	48
Section 5.18.	Compliance With Governmental Regulations	48 <u>49</u>
 ARTICLE VI MINIMUM CONSTRUCTION STANDARDS		 49
Section 6.01.	Building Location	49
Section 6.02.	Licensed Contractor	49
Section 6.03.	Approval by Design Review Committee	49
Section 6.04.	Square Footage Requirements	49
Section 6.05.	Setback and Location of Structure <u>Structures</u>	50
Section 6.06.	No Temporary Structures	52
Section 6.07.	Utility Lines	52
Section 6.08.	No Used Materials	52
Section 6.09.	Solar Heating <u>Energy</u> Systems	52
Section 6.10.	Colors and Exterior Finishes	52
Section 6.11.	Roofing Materials	52 <u>53</u>
Section 6.12.	Siding Materials	53
Section 6.13.	Drainage	53

TABLE OF CONTENTS
(continued)

	Page
Section 6.14. Antennas, Aerials and Satellite Dishes.....	53 <u>54</u>
Section 6.15. Exterior Lighting and Fixtures.....	54
Section 6.16. Patios, Walkways and Driveways.....	54
Section 6.17. Delivery Receptacles.....	54
Section 6.18. Garages.....	54 <u>55</u>
Section 6.19. Fences and Pillars.....	54 <u>55</u>
Section 6.20. Landscaping.....	55
Section 6.21. Golf Course Owner Approval With Respect to Certain Improvements on Lots Adjacent to the Golf Course.....	55
Section 6.22. Tree Preservation Measures.....	56
ARTICLE VII ASSOCIATION AND OWNER MAINTENANCE RESPONSIBILITIES.....	
	56
Section 7.01. Association Maintenance Obligations.....	56
Section 7.02. Owner Maintenance Responsibility <u>Responsibilities</u>	57
Section 7.03. Recovery of Costs of Certain Repairs and Maintenance.....	57
Section 7.04. Golf Course Maintenance.....	58
Section 7.05. Cooperative Maintenance Obligations.....	59
Section 7.06. Drainage Structures, Ditches and Swales.....	<u>59</u>
<u>Section 7.07. Maintenance and Property Use Restrictions Applicable only to Certain Villages within the Development</u>	60
ARTICLE VIII USE OF PROPERTY AND RESTRICTIONS.....	
	61 <u>60</u>
Section 8.01. Use of Lots.....	61 <u>60</u>
Section 8.02. Common Areas.....	62 <u>61</u>
Section 8.03. Prohibition of Noxious Activities.....	62 <u>61</u>
Section 8.04. Temporary Structures	62 <u>Section 8.05.</u> Household Pets
<u>Section 8.05. Signs</u>	62
Section 8.06. Signs	63 <u>Section 8.07.</u> Business Activ
<u>Section 8.07. Garbage</u>	<u>63</u>
Section 8.08. Garbage <u>Storage</u>	64
Section 8.09. Storage <u>Clotheslines</u>	64
Section 8.10. Clotheslines	65 <u>Burning</u> 64
Section 8.11. Burning	65 <u>Section 8.12.</u> Sports Appar
Section 8.13. <u>8.12.</u> Machinery and Equipment.....	65
Section 8.14. <u>8.13.</u> Diseases and Pests.....	65
Section 8.15. <u>8.14.</u> Vehicle and Parking Restrictions.....	66 <u>65</u>
Section 8.16. <u>8.15.</u> Use of Private Streets in <u>within the Development's</u> Common <u>Area</u>	67 <u>Areas</u> 66
Section 8.17. <u>8.16.</u> Activities Affecting Insurance.....	68 <u>67</u>
Section 8.18. <u>8.17.</u> Restriction on Further Subdivision and Severability.....	68 <u>67</u>
<u>Section 8.18. No Guarantee of Views</u>	<u>67</u>
Section 8.19. Enforcement of Property Use Restrictions.....	68 <u>67</u>

TABLE OF CONTENTS
(continued)

	Page
ARTICLE IX EASEMENTS	68
Section 9.01. Blanket Utility Easement	68
Section 9.02. Maintenance Easements	69 68
Section 9.03. Boundary Changes	69 68
Section 9.04. Other Easements	69 68
Section 9.05. Cable Facilities	69 68
Section 9.06. Easement for Golf Course Maintenance. Intrusion of Golf Balls and Golf Course Watering Over Spray	69
Section 9.07. Master Developer Rights and Easements	70 Section 9.08. Water Flow Ea
Section 9.09. 9.08. Storm Drain Easements	70 69
Section 9.10. 9.09. Utility Easement	71 70
 ARTICLE X INSURANCE	 7170
Section 10.01. Types of Insurance Coverage	71 70
Section 10.02. Coverage Not Available	72 71
Section 10.03. Copies of Policies	72 71
Section 10.04. Trustee	72 71
Section 10.05. Adjustment of Losses	72 71
Section 10.06. Owners' Insurance Obligations With Respect to the Owner's Lot and Residence	72 71
Section 10.07. Policies Obtained by the Master Developers	72 Section 10.08. Annual Review
Section 10.09. 10.08. Board's Authority to Revise Insurance Coverage	72 72
Section 10.09. Required Notifications to Owners Regarding Insurance Maintained by the Association	72
Section 10.10. Limitation on Liability Regarding Insurance Matters	73
Section 10.11. Insurance Deductibles	73
 ARTICLE XI DAMAGE OR DESTRUCTION	 7473
Section 11.01. Common Facilities; Bids and Determination of Available Insurance Proceeds	74 73
Section 11.02. Common Facilities; Sufficient Insurance Proceeds	74
Section 11.03. Common Facilities; Insurance Proceeds Insufficient in an Amount Exceeding Association Special Assessment Authority	74
Section 11.04. Damage or Destruction of Residences	75 74
 ARTICLE XII CONDEMNATION	 75
 ARTICLE XIII ENFORCEMENT OF COVENANTS AND RESTRICTIONS	 7675
Section 13.01. Association Standing and Enforcement Rights, Generally	76 75
Section 13.02. Nuisance	76

TABLE OF CONTENTS
(continued)

	Page
Section 13.03. Attorneys' Fees	76
Section 13.04. Cumulative Remedies	77 76
Section 13.05. Failure Not a Waiver	77 76
Section 13.06. Rights and Remedies of the Association	77
Section 13.07. Court Actions	79
Section 13.08. SB 800 Warranty Obligations and Claims	80
Section 13.09. No Amendment or Repeal	81
 ARTICLE XIV PROTECTION OF MORTGAGEES	 8280
Section 14.01. Assessment Lien Subordinated	82 80
Section 14.02. Amendment of This Declaration	82 80
Section 14.03. Default by Owner; Mortgagee's Right to Vote	82 80
Section 14.04. Breach; Obligation After Foreclosure	82 80
Section 14.05. Exchange of Information	82
Section 14.06. Certain Restrictions Affecting the Association	83
Section 14.07. Right of First Mortgagees to Make Certain Payments and Right of Reimbursement Therefor	83 Section 14.08. Right to Exami
Section 14.09. Notices to First Mortgagees	84
Section 14.10. Superiority of Mortgage to Condemnation Proceeds	84
Section 14.11. Superiority of Mortgage to Insurance Proceeds	84
Section 14.12. Approval of Material Amendments or Termination	84
Section 14.13. Quality of Future Improvements	86 Section 14.14.14.06. Declaration to
 ARTICLE XV RESTRICTIONS AND PROTECTIVE PROVISIONS FOR THE GOLF COURSE	 8681
Section 15.01. Golf Course Restrictions	86 81
Section 15.02. Risks Resulting from Proximity to Golf Course	86 81
Section 15.03. Golf Course Entry	88 83
Section 15.04. No Representations or Warranties	88 83
Section 15.05. Right to Use the Golf Course	88 83
Section 15.06. Amendment	88 83
 ARTICLE XVI NOTICES	 8884
Section 16.01. Mailing Addresses	89 84
Section 16.02. Personal Service Upon Co-Owners and Others	89 84
Section 16.03. General Rules Regarding Delivery of Notices	89 84
 ARTICLE XVII NO PUBLIC RIGHTS IN THE DEVELOPMENT	 9085
 ARTICLE XVIII AMENDMENT OF DECLARATION	 9085

TABLE OF CONTENTS
(continued)

	Page
Section 18.01. Amendment of the Declaration, Generally.....	90 <u>85</u>
Section 18.02. Mortgage Approval	<u>87</u>
Section 18.03. Effective Date of Amendment	<u>87</u>
Section 18.04. Reliance on Amendments	<u>87</u>
 ARTICLE XIX GENERAL PROVISIONS	 90 <u>87</u>
Section 19.01. Term.....	90 <u>87</u>
Section 19.02. Statutory References.....	91 <u>87</u>
Section 19.03. Construction.....	91 <u>87</u>

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