

(n) Maintain and repair any private community sewer systems within the Common Area, if applicable.

(o) Obtain, for the benefit of the Properties, all commonly metered water, gas and electric services, and may provide for all refuse collection and cable or master television service (if any), as necessary.

(p) Grant easements, rights of way, or strips of land, where necessary, for utilities and sewer facilities over the Common Area to serve the Common Area and the Lots.

(q) Maintain and repair any private community water systems within the Common Area, if applicable.

(r) To initiate and execute disciplinary proceedings against Members of the Association for violation of the provisions of the Articles of Incorporation and Bylaws of the Association, the declaration and the rules and regulations adopted by the Board. Said members shall have appropriate notice and an opportunity for a hearing before the Board (Pursuant to California Corporation Code 7341).

(s) To prepare budgets and financial statements for the Association as provided in the Bylaws.

(t) To reimburse directors and officers of the Association for expenses incurred in carrying out the business of the Association. However, neither the directors nor the officers shall receive any monetary compensation for their services except upon the vote and written consent of a majority of the voting power of the Association and a majority of the membership other than Declarant.

(u) To prosecute or defend, in the name of the Association, any action affecting or relating to the Common Area, property owned by the Association or property under the Association's jurisdiction and any action in which all or substantially all of the Owners have an interest.

## ARTICLE VI

### COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. Grantor, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association (1) annual Common Assessments for the Common Expenses, (2) Special Assessments, (3) Reconstruction Assessments and (4) Capital Improvement Assessments; such assessments to be established and collected as hereinafter provided. Such assessments, together with interest, costs and reasonable attorneys' fees for the collection thereof, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which such assessment is made. Each such assessment, together with interest, costs and reasonable attorneys' fees, shall also be the personal obligation of the Person who was the Owner of such property at the time when the assessment fell due. Subject to the provisions of this Declaration protecting first Mortgagees, the personal obligation for the delinquent

assessments shall pass to the successors- in-title of such Owner. All such assessments shall be subordinate to the first Mortgage. The Board of Directors shall establish no fewer than two (2) separate accounts (the "Association Funds") into which shall be deposited all monies paid to the Association, and from which disbursements shall be made, as provided herein, in the performance of functions by the Association under the provisions of this Declaration. The Association Funds shall include: (1) an Operating Fund for current expenses of the Association, and (2) a Common Area Reserve Fund for replacements, painting and repairs (which would not reasonably be expected to recur on an annual or less frequent basis) of the Common Area. The Board of Directors shall not co-mingle any amounts deposited into any of the Association Funds with one another.

Section 2. Purpose of Common Assessments. The Assessments levied by the Association shall be used exclusively to promote the common health, safety, benefit, recreation and welfare of the Owners and Members and for the improvement and maintenance of the Common Area and property within the Association's jurisdiction as provided herein. However, disbursements from the Common Area Reserve Fund shall be made by the Board of Directors only for the specific purposes for which said reserve fund is established. Disbursements from the Operating Fund shall be made by the Board of Directors for such purposes as are necessary for the discharge of its responsibilities herein for the common benefit of all of the Owners, other than those purposes for which disbursements from the Common Area Reserve Fund are to be used. Nothing in this Declaration shall be construed in such a way as to permit the Association to use any Assessments to abate any nuisance or annoyance emanating from outside the boundaries of the Properties. Nothing contained herein shall limit, preclude or impair the establishment of additional Association Funds by the Association, so long as the amounts deposited into any such Fund are earmarked for specified purposes authorized by this Declaration. Common Assessments shall include, but not be limited to, and the Association shall acquire and pay for out of the applicable funds derived from said Annual Assessments, the following, which shall be shared equally by all Owners:

(a) Maintenance, cleaning, sweeping and repair of private streets within the Common Area.

(b) Liability insurance, as provided herein, insuring the Association and its Members against any liability to the public or any Owner, their invitees or tenants incident to their occupation and use of the Common Area, with limits of liabilities to be set by the Board of Directors of the Association, subject to First Mortgage requirements, such limits to be reviewed at least annually by the Association and increased or decreased in its discretion. Such errors and omissions and Directors' and officers' liability insurance and Directors' fidelity bonds as the Board deems appropriate pursuant to Article XII.

(c) Workers' Compensation insurance to the extent necessary to comply with any applicable laws, medical payments insurance and any other insurance deemed necessary by the Board of Directors of the Association.

(d) Any other material, supplies, labor services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Association is required to secure or pay for pursuant to the terms of this Declaration or by law, which in the opinion of the Association's Board of Directors shall be

necessary or proper for the operation of the Common Area, the affairs and business of the Association or for the enforcement of these restrictions.

(e) Resurfacing, replacement or repairs which would not reasonably be expected to recur on an annual basis for the Common Area to be paid for out of the Common Area Reserve Fund.

(f) Water, electrical, lighting and other necessary utility services for the Common Area.

(g) Landscape planting and maintenance by the Association of all landscaping and planted areas within the Common Area including irrigation and lighting.

(h) Standard fidelity bonds which name the Association as obligee covering all Members of the Board of Directors, officers and employees of the Association and any management agent and his employees in an amount equal to one hundred and fifty (150%) percent of the Association's annual Common Assessments plus reserves.

(i) Maintenance, repair and replacement of all buildings, equipment and landscaping in, on and of the Common Area, as the board of Directors of the Association shall determine is necessary and proper.

(j) Cost of operating and maintaining any private sewer or water system if applicable.

Section 3. Damage to Common Area by Owners. The foregoing maintenance, repairs or replacements within the Common Area arising out of or caused by the willful or negligent act of an Owner, his family, guests, licensees, contract purchasers, tenants or invitees, shall be done at said Owner's expense or, after Notice and Hearing, a Special Assessment therefor shall be made by the Board against his Lot.

Section 4. Basis of Maximum Common Assessment. Until the first day of the fiscal year immediately following the conveyance of the first improved Lot in the Properties to an Owner, the maximum annual Common Assessment under Article VI shall be the amount of \$ 498.00 per year, per Lot.

(a) From and after the first day of the fiscal year immediately following close of escrow for the sale of the first Lot improved with a Dwelling thereon to an Owner, the maximum annual Common Assessment may be increased by the Board each year in an amount no more than the greater of (1) five (5%) percent above the maximum assessment for the previous year or (2) the percentage by which the Consumer Price Index for All Urban Consumers covering the area in which the Properties are located has increased as of the date of the increase over the level of the Index as of the last date the Common Assessment was established (so long as the later increase does not exceed 20% of the previous year's assessment) without a vote or written assent of a majority of the voting power of the Association residing in Members other than Declarant.

(b) The Board of Directors may fix an annual Common Assessment at an amount not in excess of the maximum allowed.

Section 5. Reconstruction Assessments and Capital Improvement Assessment. In addition to the Common Assessments authorized above, the Board of Directors of the Association may levy, in any assessment year, a Reconstruction Assessment or Capital Improvement Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of the Common Area or properties and improvements under the Association's jurisdiction; provided that whenever the aggregate Reconstruction Assessment or Capital Improvement Assessments regarding the Common Area property in any fiscal year exceed five (5%) percent of the budgeted Common Area Reserve Fund of the Association or insurance proceeds, such excess shall have the vote or written assent of a majority of the voting power of the Association residing in Members other than the Grantor.

Section 6. Notice and Quorum for any Action Authorized Under Sections 4 & 5. Written notice of any meeting called for the purpose of taking action by the Members authorized under Sections 4 and 5 shall be sent to all Members not less than ten (10) days, nor more than ninety (90) days, in advance of the meeting. The notice shall specify the place, day and hour of the meeting and the nature of the business to be undertaken.

A quorum for such meeting shall be fifty-one (51%) percent of the total voting power of the Association through presence in person or by proxy. If the required quorum is not present, another meeting may be called subject to the same notice requirements stated herein, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum for the preceding meeting, but not less than twenty-five (25%) percent of the total voting power of the Association.

Section 7. Uniform Rate of Assessment. Common Assessments, Capital Improvement Assessments and Reconstruction Assessments provided for in this Article VI must be fixed at a uniform rate for all Lots within the Properties; provided, however, that the Association may, subject to the provisions of Section 3 of this Article, levy Special Assessments against selected Owners who have caused the Association to incur special expenses due to willful or negligent acts of said Owners, their guests or agent. All installments of Common Assessments shall be collected in advance on a regular basis by the Board of Directors, at such frequency as the Board shall determine from time to time.

Section 8. Date of Commencement of Common Assessments. The annual Common Assessments provided for herein shall commence as to all Lots of Phase 1 on the first day of the month following the close of escrow for the conveyance of the first improved Lot within the Phase 1 development of the Properties pursuant to a Final Subdivision Public Report. As subsequent Lots are added to the Properties by annexation, the annual Common Assessment amount will change to include the new Owners of the subsequent Lots development and annexation. The annual Common Assessment for the annexed Lots shall commence on the first day of the month following the conveyance of the first Lot of the subsequent phases. The annual

Common Assessment shall continue to be fixed at a uniform rate for all Lot Owners as the subsequent Lots are added and developed under the multiphase plan. The first annual Common Assessment shall be adjusted according to the number of months remaining in the fiscal year as set forth in the Bylaws. The Board of Directors shall fix the amount of the Common Assessment against each Lot at least thirty (30) days in advance of each Common Assessment period. Written notice of any change in the amount of any annual Common Assessment shall be sent to every Owner subject thereto, not less than thirty (30) days prior to the effective date of such change. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for reasonable charge, furnish a certificate signed by an officer or agent of the Association, setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments against a Lot is binding upon the Association as of the date of its issuance.

The Board of Directors shall cause to be prepared an annual balance sheet and operating statement reflecting income and expenditures of the Association for each fiscal year, including deposits in and withdrawals from the Association Reserve Fund and the Association Operating Fund, and shall cause to be distributed a copy of each such statement to each Member, and to each First Mortgagee who has filed a written request for copies of the same with the Board of Directors, in the manner provided in the Bylaws of the Association. At least sixty (60) days prior to the beginning of each fiscal year, the Board of Directors shall prepare and distribute to the membership of the Association, a written, itemized estimate (budget) of the income and expense of the Association for such year in performing its functions under this Declaration (including a reasonable provision for contingencies and deposits into the Association Reserve Fund, less any expected income and accounting for any surplus from the prior year's respective Association Operating Fund).

Each annual Common Assessment shall constitute an aggregate of separate assessments for each of the Association Funds, reflecting an itemization of the amounts assessed and attributable to prospective deposits into the Common Area Reserve Fund, the Operating Fund and any other Association Maintenance Fund established by the Association. If the estimated sums prove inadequate for any reason, including nonpayment of any Owner's annual Common Assessment, the Board may, at any time, levy supplemental Common Assessments, subject to the provisions of Section 4 of this Article, for any of the Association Funds which shall be assessed equally against the Owner of each Lot in the Properties.

The annual Common Assessment shall be paid by the Lot Owners in monthly installments to the Association. Each Common Assessment may be paid by the Owner to the Association in one check or payment in separate checks, as payments attributable to deposits into specified Association Funds. In the event that any installment of a Common Assessment payment is less than the amount assessed and the payment does not specify the Association Fund or Funds into which it should be deposited, the receipt by the Association from that Owner shall be credited in order of priority first to the Operating Fund, until that portion of the Common Assessment has been satisfied, and second to the Common Area Reserve Fund.

Section 9. Exempt Property. The following property subject to this Declaration shall be exempt from the assessments herein:

- (a) All Properties dedicated to and accepted by a public authority;
- (b) Association owned property.

## ARTICLE VII

### EFFECT OF NONPAYMENT OF ASSESSMENTS; REMEDIES OF THE ASSOCIATION

Section 1. Effect of Nonpayment of Assessments; Remedies of the Association. Any installment of a Common Assessment, Special Assessment, Capital Improvement Assessment or Reconstruction Assessment not paid within thirty (30) days after the due date shall be delinquent and shall bear interest from the due date at the rate of ten (10%) percent per annum. If any such installment on an assessment is not paid within thirty (30) days after it is due, the Owner responsible therefor may be required further by the Board of Directors to pay a reasonable late charge. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Lot subject to Article VII, Section 7. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot. If any installment of a Common Assessment is not paid within thirty (30) days after its due date, the Board may mail an acceleration notice to the Owner and to each First Mortgagee of a Lot which has requested a copy of the notice. The notice shall specify (1) the fact that the installment is delinquent, (2) the action required to cure the default, (3) a date, not less than thirty (30) days from the date the Notice is mailed to the Owner, by which such default must be cured, (4) that failure to cure the default on or before the date specified in the notice may result in acceleration of the balance of the installment of the Common Assessment for the then current fiscal year and the sale of the Lot and (5) the name of the record or reputed record Owner of the Lot. The notice shall further inform the Owner of his right to cure after acceleration and to bring a court action to assert the non-existence of a default or any other defense of the Owner to acceleration and sale. If the delinquent installments of Common Assessments and any charges thereon are not paid in full on or before the date specified in the notice, the Board at its option may declare all of the unpaid balance of the annual Common Assessment to be immediately due and payable without further demand and may enforce the collection of the full Common Assessment and all charges thereon in any manner authorized by law and this Declaration.

Section 2. Notice of Assessment. No action shall be brought to enforce any assessment lien herein, unless at least thirty (30) days has expired following the date a Notice of Assessment is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Lot, and a copy thereof has been recorded by the Association in the office of the County Recorder in which the Properties are located; said Notice of Assessment must recite a good and sufficient legal description of any such Lot, the record Owner or reputed Owner thereof, the amount claimed (which may at the Association's option include interest on the unpaid assessment at ten (10%) percent, plus

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