

## ARTICLE X

### USE RESTRICTIONS

All real property within the Properties, and annexations thereto, shall be held, used and enjoyed subject to the following limitations and restrictions, subject to the exemption of Grantor in Article XIV hereof:

Section 1. Family Residence. Each Lot shall be developed and used as a residence for a Family and for no other purpose.

Section 2. Business or Commercial Activity. No part of the Properties shall ever be used or caused to be used or allowed or authorized in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storage, vending or other such nonresidential purposes; except Grantor, its successors or assigns, may use any portion of the Properties for a model home site, and display and sales office during the construction and sales period in accordance with Article II, Section 1 (b), and Article XIV of this Declaration. The provisions of this Section 2 shall not preclude professional and administrative occupations without external evidence thereof, for so long as such occupations are in conformance with the ordinances of the applicable County and/or City and are merely incidental to the use of the Dwelling as a residential home.

Section 3. Nuisances. No noxious or offensive activity (including but not limited to the repair of motor vehicles) shall be carried on, in or upon any Lot, Dwelling or the Common Area, nor shall anything be done therein which may be or become an unreasonable annoyance or nuisance to any other Owner. Without limiting the generality of the foregoing provisions, no loud noises or noxious odors, no exterior speakers, horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes), noisy or smokey vehicles, large power equipment or large power tools, unlicensed off-road motor vehicles or other items which may unreasonably interfere with television or radio reception of any Owner in the Properties, shall be located, used or placed on any portion of the Properties, or exposed to the view of other Owners without the prior written approval of the ARC. The Board of Directors shall have the right to determine in accordance with the Bylaws if any noise, odor, interference or activity producing such noise, odor or interference constitutes a nuisance.

Section 4. Signs. No sign, poster, display, billboard or other advertising device of any kind shall be displayed to the public view on any portion of the Properties or any Lot, without the prior written consent of the ARC, except (a) one sign for each Lot, of not larger than eighteen (18) inches by thirty (30) inches, advertising the Lot for sale or rent, or (b) signs, regardless of size, used by Grantor, its successors or assigns, to advertise the Properties during construction and sale period. All signs or billboards and the conditions promulgated for the regulation thereof shall conform to the requirements of all applicable governmental ordinances.

84-146937

Section 5. Parking and Vehicular Restrictions. No Owner shall park, store or keep on any property or street (public or private) within the Properties any large commercial-type vehicle (including, but not limited to, any dump truck, cement mixer truck, oil or gas truck or delivery truck), any recreational vehicle, any bus, trailer, boat, aircraft, mobile home, inoperable vehicle or any other similar vehicle or any vehicular equipment, mobile or otherwise, deemed to be a nuisance by the Board, upon any unenclosed or unscreened parking space, so as to be visible from anywhere in the Properties. The above excludes camper trucks and similar vehicles up to and including three-quarter (3/4) ton when used for everyday-type transportation and subject to approval by the Board. No Owner of a Lot shall conduct major repairs or major restorations of any motor vehicle, boat, trailer, aircraft or other vehicle upon any portion of any Lot, except wholly within the Owner's garage, and then only when the garage door is closed; provided, however, that such activity shall at no time be permitted if it is determined by the Board or its agent to be a nuisance. Garage doors shall remain closed except for reasonable periods while the garages are being used. Garages shall be used for garage purposes only and shall not be converted to other uses. Vehicles owned, operated or within the control of any Owner shall be parked in the garage of such Owner to the extent of the space available therein, and each Owner, to the extent necessary, shall ensure that his garage is maintained so as to be capable of accommodating at least two (2) automobiles. Notwithstanding the foregoing, these restrictions shall not be interpreted in such a manner so as to permit any activity which would be contrary to any ordinance of the applicable County and/or City.

Section 6. Animal Restrictions. No insects, reptiles, poultry, livestock, or animals of any kind shall be raised, bred or kept on any Lot, except usual and ordinary dogs, cats, fish, birds and other household pets, (excluding, without limitation, equine, bovine, sheep, swine, goats and other such animals) may be kept on Lots, provided that they are not kept, bred or maintained for commercial purposes or in unreasonable quantities, nor in violation of the rules and regulations adopted by the Association as provided in the Bylaws. As used in this Declaration, "unreasonable quantities" shall ordinarily mean more than two (2) pets per household, provided, however, that the Association (or the ARC or such other person or entity as the Association may from time to time designate) may determine that a reasonable number in any instance may be more or less.

The Association, acting through the Board of Directors, shall have the right to prohibit maintenance of any animal which constitutes, in the opinion of the Board, a nuisance to any other Owner. Animals belonging to Owners, occupants or their licensees, tenants or invitees within the Properties must be either kept within an enclosure, an enclosed yard or on a leash being held by a person capable of controlling the animal. Furthermore, any Owner shall be liable to each and all remaining Owners, their families, guests, tenants and invitees, for any unreasonable noise or damage to person or property caused by any animals brought or kept upon the Properties by an Owner or by members of his family, his tenants or his guests; and it shall be the duty and responsibility of each Owner to clean up after such animals which have used any portion of the Properties.

Section 7. Trash. No rubbish, trash or garbage or other waste material shall be kept or permitted upon any Lot or Common Area, except in sanitary containers located in appropriate areas screened and concealed from view, and no odor shall be permitted to arise therefrom so as to render the Properties, or any portion thereof, unsanitary, unsightly, offensive or detrimental to any other property in the vicinity thereof or its occupants. Such containers shall be exposed to the view of neighboring Lots only when set out for a reasonable period of time (not to exceed twelve (12) hours before and after scheduled trash collection hours). There shall be no exterior fires whatsoever except barbeque fires contained within receptacles therefor and that do not create a fire hazard. No clothing or household fabrics shall be hung, dried or aired in such a way in the Properties as to be visible to other property, and no lumber, grass, shrub or tree clippings or plant waste, metals, bulk material or scrap or refuse or trash shall be kept, stored or allowed to accumulate on any portion of the Properties except within an enclosed structure or appropriately screened from view.

Section 8. View Obstructions. Each Owner by accepting a deed to a Lot hereby acknowledges that any construction or installation by Grantor may impair the view of such Owner and hereby consents to such impairment.

Section 9. Temporary Buildings. No outbuilding, basement, shack, shed or other temporary building or improvement of any kind shall be placed upon any portion of the Properties whether temporarily or permanently. No garage, trailer, camper, motor home or recreation vehicle shall be used as a residence in the Properties, either temporarily or permanently.

Section 10. Common Area. Nothing shall be altered or constructed in or removed from the Common Area except upon the written consent of the Association.

Section 11. Outside Installations. No radio or shortwave station nor exterior radio or "C.B." antennae of any kind shall be operated from any Lot or Dwelling unless approved by the ARC and subject to the conditions, regulations and ordinances of the applicable County and/or City. No fence or wall shall be erected, altered or maintained on any Lot in the Properties, except with prior approval of the ARC and applicable County/City governmental body.

Section 12. Insurance Rates. Nothing shall be done or kept in the Properties which will increase the rate of insurance on any property insured by the Association without the approval of the Board, nor shall anything be done or kept in the Properties which would result in the cancellation of insurance on any property insured by the Association or which would be in violation of any law.

84-146937

Section 13. Drilling. No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any Lot or the Common Area, nor shall oil wells, tanks, tunnels or mineral excavations or shafts be permitted upon the surface of any Lot or Common Area or within five hundred fifty (550') feet below the surface of the Properties. No derrick or other structure designed for use in boring for oil, water or natural gas shall be erected, maintained or permitted upon any Lot or Common Area.

Section 14. Further Subdivision. No Owner shall further partition or subdivide his Lot; provided, however, that this provision shall not be construed to limit the right of an Owner (1) to rent or lease all or any portion of his Lot by means of a written lease or rental agreement subject to the restrictions of this Declaration, so long as the Lot is not leased for transient or hotel purposes; (2) to sell his Lot; or (3) to transfer or sell any Lot to more than one person to be held by them as tenants-in-common, joint tenants, tenants by the entirety or as community property. The terms of any such lease or rental agreement shall be subject in all respects to the provisions of this Declaration and the Bylaws of the Association, and any failure by the lessees of such Lot to comply with the terms of this Declaration or the Bylaws of the Association shall constitute a default under the lease.

Section 15. Drainage. There shall be no interference with the established drainage pattern over any Lot within the Properties, unless an adequate alternative provision is made for proper drainage and is first approved by the ARC and in accordance with any requirements of the applicable County and/or City. For the purposes hereof, "established" drainage is defined as the drainage which exists at the time that such Lot is conveyed to a purchaser from Grantor, or that which is shown on any plans approved by the ARC, which may include drainage from the Common Area over any Lot or Lots in the Properties. Each Owner, with respect to his Lot, and the Association with respect to the Common Area, shall have the right to use the established drainage pattern and system for the purpose of draining their respective Lots and improvements thereon; provide that such right of drainage shall not include the right to discharge noxious or offensive matter. Water from any Lot and the improvements thereon may drain or flow into adjacent streets. Water shall not be allowed to drain or flow onto adjacent Lots except to the extent provided for by the established drainage pattern and system. All slopes or terraces on any Lot shall be maintained as provided thereon at the time such Lot is initially conveyed to a purchaser, so as to prevent any erosion thereof upon adjacent streets or adjoining properties.

Section 16. Water Supply Systems. No individual water supply, sewage disposal system or water softener system shall be permitted on any Lot in the Properties unless such system is designed, located, constructed and equipped in accordance with the requirements, standards and recommendations of any applicable water district, the County Health Department, the ARC and all other applicable governmental authorities.

Section 17. Violation of Governing Instruments. There shall be no violation of the restrictions of this Declaration or of the rules and regulations of the Association adopted in accordance with the provisions of the Bylaws. If any Owner, his family, guest, licensee, lessee or invitee violates any such restrictions, the Board may impose a reasonable Special Assessment in the form of a reasonable monetary penalty upon such Owner for each such violation and may suspend the voting privileges of such Owner as further provided in the Bylaws. Such Special Assessment shall be collectible pursuant to Article VII, Section 7. The Board shall give such Owner Notice and Hearing, pursuant to California Corporation Code §7341, before invoking such Special Assessment or suspension.

Section 18. Encroachment. Each Lot within the Properties is hereby declared to have an easement over all adjoining Lots for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of the building roof overhangs, architectural or other appendages, drainage of rainwater from roofs, or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachments, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure on any Lot is partially or totally destroyed and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots shall be permitted, and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

#### ARTICLE XI

##### DAMAGE, DESTRUCTION OR CONDEMNATION

Damage to, destruction or condemnation of all or any portion of the Properties shall be handled in the following manner:

(a) In the event of damage or destruction to the Common Area, the Association shall cause such damage or destruction of the Common Area to be repaired and reconstructed substantially as it previously existed.

If there exists insufficient Association Reserve Funds or insufficient insurance proceeds, if any, then the Association shall raise the necessary funds by levying equal Reconstruction Assessments against all Lots.

(b) Each Lot Owner shall be liable to the Association for any damage to the Common Area, which may be sustained by reason of the negligence or willful misconduct of said Lot Owner or the Persons deriving their right and easement of use and enjoyment of the Common Area from said Lot Owner, or his respective family and guests, both minor and adult. In the case of joint ownership of a Lot, the liability of such Owners shall be joint and several. After Notice and Hearing, pursuant to California Corporation Code §7341, the cost of correcting such damage shall be a Special Assessment against the Lot and may be collected as provided herein for the collection of Common Assessments.

(c) If at any time all or any portion of the Common Area, or any interest therein, be taken for any public or quasi-public use, under any statute, by right of eminent domain or by private purchase in lieu of eminent domain, the award in condemnation shall be paid to the Association. Any such award payable to the Association shall be deposited in the Operating Fund. No Member shall be entitled to participate as a party, or otherwise, in any proceedings relating to such condemnation. The Association shall have the exclusive right to participate in such proceedings and shall, in its name alone, represent the interest of all Members.

(d) In the event of any taking of all or any portion of a residential Lot for any public or quasi-public use, under any statute, by right of eminent domain or by private purchase in lieu of eminent domain, the award in condemnation shall be paid to the applicable Lot Owners and their Mortgagees.

(e) In the event of damage or destruction to any Dwelling or improvements upon any Lot, the Owner(s) thereof shall reconstruct the same pursuant to Article IX, §3.

## ARTICLE XII

### INSURANCE

Section 1. Liability and Other Insurance. The Association shall have the power and duty to and shall obtain comprehensive public liability insurance, including medical payments, liquor liability insurance and malicious mischief, in such limits as it shall deem desirable, insuring against liability for bodily injury, death and property damage arising from the activities of the Association or with respect to property under its jurisdiction, including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured. The Association shall also obtain, through the Board, Worker's Compensation insurance and other liability insurance as it may deem desirable, insuring each Lot Owner and the Association, Board of Directors and Manager from liability in connection with the Common Area, the premiums for which are a Common Expense included in the Common Assessments made against the Owners. All insurance policies shall be reviewed at least annually by the Board of Directors and the limits increased in its discretion, and which will meet the requirements established by any Federal Agency. The Board may also obtain such errors and omissions insurance, indemnity bonds and other insurance as it deems advisable, insuring the Board, the officers of the Association and the Manager against any liability for any act or omission in carrying out their obligations hereunder, or resulting from their membership on the Board or on any committee thereof.

Section 2. Casualty Insurance-Common Area. The Association shall keep all buildings, improvements and fixtures of the Common Area insured against loss or damage by fire or other hazards and casualties for the full insurance replacement cost thereof, when applicable. The insurance coverage with respect to the

Common Area shall be written in the name of, and the proceeds thereof shall be payable to the Association. Insurance proceeds shall be used by the Association for the repair or replacement of the property for which the insurance was carried. Premiums for all insurance carried by the Association are Common Expenses included in the Common Assessments made by the Association.

Section 3. Casualty Insurance-Residential Structures. Each Owner shall keep his/her Dwelling and Lot Improvements insured against loss or damage by fire or other hazards and casualties for the full insurance replacement cost thereof. The insurance proceeds must be used by the Lot Owners for the repair and replacement of the property and improvements thereon for which the insurance was carried, pursuant to Section 3 of Article IX.

Section 4. Waiver of Subrogation. All policies of physical damage insurance maintained by the Association shall provide, if reasonably possible, for waiver of: (1) any defense based on co-insurance; (2) any right of setoff, counterclaim, apportionment, proration or contribution by reason of other insurance not carried by the Association, and/or (3) any invalidity, other adverse effect or defense on account of any breach of warranty or condition caused by the Association, any Owner or any tenant of any Owner, or arising from any act, neglect, or omission of any named insured or the respective agents, contractors and employees of any insured.

Section 5. Insurance Obligations of Owners. It shall be the responsibility of each Owner to obtain comprehensive liability insurance for his Lot in such limits as required by FHMA, GNMA, FHLMC and any other Federal Agency if applicable, insuring against liability for bodily injury, death and property damage. It shall also be the responsibility of each Owner to maintain his own individual personal property insurance coverage.

Section 6. Notice Obligations. Each Owner shall, within thirty (30) days after recordation of the conveyance of his Lot from Grantor and thereafter at least ten (10) days prior to the expiration, termination, cancellation or modification of any existing policy, furnish to the Association duplicate copies of policies or certificates thereof, showing that such insurance is currently in force, certified by the insurance company or by its duly authorized agent. All such policies shall contain a provision that the same shall not be cancelled or terminated except upon at least thirty (30) days' written notice to the Association and to the holder of the first mortgage and each Owner shall notify the Association of the existence or nonexistence of an assignment of such insurance maintained by said Owner upon the sale of his Lot. The Association, as required, shall provide all holders of first mortgages duplicate copies of policies or certificates the Association is obligated to maintain.

Section 7. FNMA, GNMA AND FHLMC Insurance Requirements. Notwithstanding any other provisions herein, the Association shall continuously maintain in effect such casualty, earthquake, flood and liability insurance and a fidelity bond meeting the requirements established by the Federal National Mortgage Association ("FNMA"), the Government National Mortgage Association ("GNMA") and the Federal

84-146937

Home Loan Mortgage Corporation ("FHLMC") or other Federal Agencies, so long as any of which is a Mortgagee, Owner, insurer or guarantor of a loan on a Lot in the Properties, except to the extent such coverage is not available or has been waived in writing by the FNMA, GNMA and FHLMC or other Federal Agencies where applicable.

### ARTICLE XIII

#### MORTGAGEE PROTECTION CLAUSES

84-146937

Notwithstanding any and all provisions hereof to the contrary, in order to induce the Federal Home Loan Mortgage Corporation ("FHLMC"), the Government National Mortgage Association ("GNMA") and the Federal National Mortgage Association ("FNMA") to participate in the financing of the sale of Lots within the Properties, the following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control):

(a) Each First Mortgagee of a Mortgage encumbering any Lot, at its written request, is entitled to written notification from the Association of any default by the Mortgagor of such Lot in the performance of such Mortgagor's obligations under this Declaration, the Articles of Incorporation of the Association or the Bylaws of the Association, which default is not cured within thirty (30) days after the Association learns of such default.

(b) Each Owner, as well as every First Mortgagee of a Mortgage encumbering any Lot which obtains title to such Lot pursuant to the remedies provided in such Mortgage, or by foreclosure of such Mortgage, or by deed (or assignment) in lieu of foreclosure, shall be exempt from any "right of first refusal" and can sell or lease his Lot.

(c) Each First Mortgagee of a Mortgage encumbering any Lot which obtains title to such Lot pursuant to the remedies provided in such Mortgage (which shall not include deed in lieu of foreclosure) or by foreclosure of such Mortgage, shall take title to such Lot free and clear of any claims of unpaid assessments or charges against such Lot which accrued prior to the acquisition of title to such Lot by the Mortgagee.

(d) Unless at least seventy-five (75%) percent of the First Mortgagees, based upon one vote for each Mortgage owned have given their prior written approval, neither the Association nor the Owners shall:

(1) subject to California Nonprofit Corporation law to the contrary, seek, by act or omission, to abandon, partition, alienate, subdivide, release, hypothecate, encumber, sell or transfer the Common Area;

(The granting of easements for public utilities or for other public purposes, consistent with the intended use of such property shall not be deemed a transfer within the meaning of this clause);

(2) change the method of determining the obligations, assessments, dues or other charges which may be levied against a Lot Owner, or the method of allocation distributions of insurance proceeds or condemnation awards; (dues or charges shall include an adequate reserve fund for the repair and replacement of the Common Area and property and improvements under the Association's jurisdiction).

(3) by act or omission, change, waive or abandon any scheme of regulations, or enforcement thereof, pertaining to the project design, the maintenance and upkeep of the common fences, private streets, lawns and plantings within the Properties, and maintenance and upkeep of other property and improvements under the Association's jurisdiction.

(4) use any applicable insurance proceeds for losses to the Common Area property for other than the repair, replacement or reconstruction of such Common Area.

(e) First Mortgagees, upon written request, shall have the right to (1) examine the books and records of the Association during normal business hours, (2) require from the Association the submission of audited annual financial reports and other financial data, (3) receive written notice of all meetings of the Members, and (4) designate in writing a representative to attend all such meetings, (5) receive thirty (30) days' written notice prior to the effective date of any proposed amendment to this Declaration or the Articles or Bylaws of the Association and (6) receive immediate notice following any threatened condemnation proceeding or proposed acquisition of any portion of the Properties.

(f) Professional management of this development is required. Any amendment to this Declaration regarding the Owners' decision to assume self-management of the Properties shall require (1) prior written approval of seventy-five (75%) percent or more of the first Mortgagees and (2) prior written waiver of the requirement of professional management by FNMA.

(g) No provision of this Declaration gives any Lot Owner priority over any rights of the first mortgagee of any Lot pursuant to its mortgage in the case of a distribution to such Lot Owner of insurance proceeds or condemnation awards for losses to or taking of the Common Area property.

(h) First Mortgagees of Lots within the Properties may, jointly or singly, pay taxes or other charges which are in default and which have or may become a charge against the Common Area property and may pay overdue premiums on insurance policies, or secure new insurance coverage upon the lapse of a policy for such Common Area, and the First Mortgagee(s) making such payments shall be owed immediate reimbursement therefor from the Homeowners' Association.

(i) The Association shall furnish FNMA, GNMA or FHLMC, in care of the mortgage company or other financial institution acting as its servicer, in writing, notice of any loss to, or taking of the Common Area if such loss or taking exceeds \$10,000.

(j) Any amendment to this Declaration or equivalent document which materially modifies the following shall require prior written approval of seventy-five (75%) percent or more of the First Mortgagees before same shall become effective: voting; assessment liens or subordination of such liens; maintenance reserves; insurance; fidelity bonds; rights to use Common Area; maintenance responsibility; Dwelling and Lot boundaries; right of first refusal restrictions; and self-management.

84-146937