

1 Donna Etemadi, Esq. (SBN 354563)  
2 Etemadi Legal Group PC  
3 137 Pineview  
4 Irvine, CA 92620  
5 v: (323)688-0616  
6 email: [donna@elglaw.co](mailto:donna@elglaw.co)

7 Attorneys for Plaintiffs

8 **SUPERIOR COURT FOR THE STATE CALIFORNIA**  
9 **IN AND FOR THE COUNTY OF ORANGE, CENTRAL JUSTICE CENTER**

10 GITTY TAMADON, an individual. RAY  
11 REZA TAMADON, an individual,  
12 MATTHEW GREENBERGER, an individual,  
13 EILEEN HOSHINO, an individual, JUN  
14 HOSHINO, an individual, JENNIE NI, an  
15 individual, HEATHER OGLESBY, an  
16 individual, GAVIN OGLESBY, an individual,  
17 RAJ PRANAV, an individual, RAGHAV  
18 SOOD, an individual

19 Plaintiffs,

20 v.

21 DAN CHOE AKA DANIEL CHOE, AKA  
22 DAN J. CHO, an individual, WILLIAM CHU,  
23 LIA DALHOVER, an individual, SUSAN  
24 KEARNEY OKUNO, an individual, TINA  
25 SMITH, an individual, CLIFF WAGNER, an  
26 individual, LUCIANA J. L. CHANG, an  
27 individual, XIJIA CHEN AKA VICKY YU, an  
28 individual, GRACE LEE, an individual, ALEX  
YANG, an individual, KAREN YANYUN  
CHANG, an individual, ROBERT JIN, an  
individual, JINGHUI LI AKA JUDY LI, an  
individual, HAOFAN CHANG, an individual,  
SAMUEL SUKWOO CHOE, an individual,  
LIU ZIE JIE, an individual, JAYSON KEON,  
an individual, WALID SABBAGH, an  
individual, NORTHWOOD II COMMUNITY  
ASSOCIATION, a California 501(4)  
corporation, PROPERTY MANAGEMENT  
PROFESSIONALS LLC DBA PMP  
MANAGEMENT, a California limited liability  
company; CITADL TECHNOLOGIES LLC, a  
California limited liability company; and  
DOES 1-50, Inclusive;

Case No.:

1. **BREACH OF THE GOVERNING DOCUMENTS**
2. **BREACH OF THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING**
3. **INTENTIONAL INTERFERENCE WITH CONTRACTUAL RELATIONS**
4. **TORTIOUS INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**
5. **FRAUD – LACK OF INTENT TO PERFORM**
6. **FRAUD – FAILURE TO DISCLOSE**
7. **FRAUD – CONSTRUCTIVE FRAUD**
8. **INTENTIONAL MISREPRESENTATION**
9. **NEGLIGENT MISREPRESENTATION**
10. **CONVERSION**
11. **GROSS NEGLIGENCE**
12. **NEGLIGENCE PER SE**
13. **PREMISES LIABILITY**
14. **BREACH OF FIDUCIARY DUTY OF CARE**
15. **BREACH OF FIDUCIARY DUTY OF LOYALTY**
16. **VIOLATIONS OF 18 U.S.C §1962(C); RICO**

1  
2 Defendants.

- 3 17. VIOLATIONS OF 18 U.S.C  
4 §1962(D); CONSPIRACY TO VIOLATE 18  
5 U.S.C §1962(C) RICO  
6 18. VIOLATION OF CAL. PENAL  
7 CODE §186 PC  
8 19. FEDERAL WIRETAP ACT – 18  
9 U.S.C. §2511  
10 20. FEDERAL WIRE FRAUD – 18  
11 U.S.C. §1343  
12 21. FEDERAL MAIL FRAUD –  
13 VIOLATIONS OF 18 U.S.C. §1341  
14 22. MENACING – VIOLATION OF  
15 CAL. PENAL CODE §422  
16 23. EMBEZZLEMENT – VIOLATION  
17 OF CAL. PENAL CODE §496  
18 24. EXTORTION – VIOLATION OF  
19 CAL. PENAL CODE §518  
20 25. INVASION OF PRIVACY ACT –  
21 VIOLATION OF CAL. PENAL CODE  
22 §631  
23 26. EAVSDROPPING – VIOLATION  
24 OF CAL. PENAL CODE §632  
25 27. STALKING – VIOLATION OF  
26 CAL. PENAL CODE §646.9 PC  
27 28. CYBERSTALKING – VIOLATION  
28 OF CAL. PENAL CODE §653.2  
29 29. HARASSMENT – VIOLATION OF  
30 CAL. CIVIL CODE §527.6  
31 30. DEFAMATION  
32 31. DESTRUCTION OF PERSONAL  
33 PROPERTY – VIOLATION OF CAL.  
34 PENAL CODE §594  
35 32. CIVIL CONSPIRACY  
36 33. INTENTIONAL INFLICTION OF  
37 EMOTIONAL DISTRESS  
38 34. PRIVATE NUISANCE  
39 35. VIOLATION OF CIVIL CODE  
40 §4775  
41 36. VIOLATION OF CIVIL CODE  
42 §5500  
43 37. THEFT BY FRAUD – CAL. PENAL  
44 CODE §484  
45 38. DAVIS-STIRLING ACT – CAL.  
46 CIVIL CODE §5145  
47 39. DAVIS-STIRLING ACT – CAL.  
48 CIVIL CODE §5200

40. DAVIS-STIRLING ACT – CAL. CIVIL CODE §5205
41. DAVIS-STIRLING ACT – CAL. CIVIL CODE §5210
42. DAVIS-STIRLING ACT – CAL. CIVIL CODE §5215
43. DAVIS-STIRLING ACT – CAL. CIVIL CODE §5230
44. DAVIS-STIRLING ACT – CAL. CIVIL CODE §5500
45. DAVIS-STIRLING ACT – CAL. CIVIL CODE §5550
46. MISUSE OF FUNDS
47. BREACH OF WARRANTY OF QUIET ENJOYMENT
48. AN ACCOUNTING
49. DISGORGEMENT
50. INTERFERENCE WITH RECEIVING MAIL – 18 U.S.C. §1701
51. CHALLENGING VALIDITY OF HOA ELECTION – CORP. CODE § 7616, 7511(C)
52. SELECTIVE ENFORCEMENT
53. DECLARATORY RELIEF

COME NOW Plaintiffs, RAY REZA TAMADON, an individual, GITTY TAMADON, an individual. MATTHEW GREENBERGER, an individual, EILEEN HOSHINO, an individual, JUN HOSHINO, an individual, JENNIE NI, an individual, HEATHER OGLESBY, an individual, GAVIN OGLESBY, an individual, RAJ PRANAV, an individual, RAGHAV SOOD, an individual (collectively, the “Plaintiffs” or “Residents”) allege as follows:

**THE PARTIES**

1. Plaintiffs are the owners and residents of certain real properties located in the Northwood Estates community of Irvine, California 92620 (hereinafter referred to as "Northwood Estates ").

1           2. Defendants, DAN CHOE AKA DANIEL CHOE, AKA DAN J. CHO, an  
2 individual (hereinafter referred to as “Defendant” or “Dan Choe”), WILLIAM CHU, an  
3 individual (hereinafter referred to as “Defendant” or “Chu”), SUSAN KEARNEY OKUNO, an  
4 individual ((hereinafter referred to as “Defendant” or “Okuno”), TINA SMITH, an individual  
5 (hereinafter referred to as “Defendant” or “Smith”), LIA DALHOVER, an individual  
6 (hereinafter referred to as “Defendant” or “Dalhover”), LUCIANA J. L. CHANG, an individual  
7 (hereinafter referred to as “Defendant” or “Chang”), XIJIA CHEN AKA VICKY YU, an  
8 individual (hereinafter referred to as “Defendant” or “Yu”, GRACE LEE, an individual  
9 (hereinafter referred to as “Defendant” or “Lee”), ALEX YANG, an individual (hereinafter  
10 referred to as “Defendant” or “Yang”), KAREN YANYUN CHANG, an individual (hereinafter  
11 referred to as “Defendant” or “Chang”), ROBERT JIN, an individual (hereinafter referred to as  
12 “Defendant” or “Jin”), JINGHUI LI AKA JUDY LI, an individual (hereinafter referred to as  
13 “Defendant” or “Li”), HAOFAN CHANG, an individual (hereinafter referred to as “Defendant”  
14 or Chang”), SAMUEL SUKWOO CHOE, an individual (hereinafter referred to as “Defendant”  
15 or “Sam Choe”, LIU ZIE JIE, an individual (hereinafter referred to as “Defendant” or “Liu  
16 Zie”), JAYSON KEON, an individual (hereinafter referred to as “Defendant” or “Keon”),  
17 WALID SABBAGH, an individual (hereinafter referred to as “Defendant” or “Sabbagh”),  
18 CLIFF WAGNER, an individual (hereinafter referred to as “Defendant” or “Wagner”,  
19 NORTHWOOD II COMMUNITY ASSOCIATION, a California 501(4) corporation  
20 (hereinafter referred to as “Plaintiff” or “the HOA”), PROPERTY MANAGEMENT  
21 PROFESSIONALS LLC DBA PMP MANAGEMENT, a limited liability company organized  
22 in the State of California (hereinafter referred to as “Plaintiff” or “PMP”); CITADL  
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1 TECHNOLOGIES LLC, a limited liability company organized in the State of California  
2 (hereinafter referred to as “and DOES 1-50, Inclusive;

3 4. Defendant NORTHWOOD II COMMUNITY ASSOCIATION ("the HOA") is  
4 a California 501(c)(4) corporation with its principal place of business at 27220 Turnberry Lane  
5 Suite 150 Valencia, CA 91355,  
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7 5. Defendant PROPERTY MANAGEMENT PROFESSIONALS LLC (“PMP”) is  
8 a California limited liability company with its principal place of business at 27220 Turnberry  
9 Lane #150 Valencia, CA 91355.  
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11 6. Defendant CITADL TECHNOLOGIES LLC is a California limited liability  
12 company with its principal place of business at 29 Torrey Pine Irvine, CA 92620.

13 7. Defendant Dan Choe (“Choe”) is a resident at Northwood Estates. He is a former  
14 HOA Board member and currently, a paid HOA vendor, a “project manager”. Dan Choe  
15 systemically targets families of residents that he finds worthy of scrutiny together with  
16 Defendants to engage in a shaming and harassment campaign against them, weaponizing his  
17 ties to the HOA board and the management company. Defendant Choe has often falsely accused  
18 residents of violations and charges in order to charge them exorbitant fines. Defendant Choe  
19 actively leads, monitors, controls, a large WeChat group of over 120 neighbors to malign  
20 Plaintiffs and other residents and owners he hates on an almost daily basis. Defendant Choe has  
21 often verbally attacked and threatened residents during HOA disciplinary hearings and  
22 demanded written apologies and payment of exorbitant fines and charges. Defendant Choe has  
23 shown Plaintiffs, other residents, and third parties hundreds of photos and videos of residents’  
24 children from cameras which he directly monitors on a regular basis. Defendant Choe has  
25 actively engaged in efforts to interfere with several HOA elections to entrench himself on the  
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1 HOA board in order to maintain control and terrorize the residents and Plaintiffs. Defendant  
2 Choe has routinely stalked and cyberstalked Plaintiffs and residents and their family members  
3 to defame Plaintiffs and their families. Defendant Choe routinely engages in physical  
4 intimidation and confrontations with Plaintiffs by ostentatiously filming them, following them,  
5 verbally attacking, to instigate physical assaults. Defendant Choe has engaged in fearmongering  
6 to exaggerate claims of crime in the community to justify his obsession to constantly monitor  
7 the community with surveillance equipment. Defendant Choe has engaged in harassing renters  
8 and coercion of landlords to pay unjust fees and fines which has resulted in three other lawsuits  
9 by separate Plaintiffs citing him as an individual defendant. Defendant Choe has used  
10 community funds to make large unapproved purchases of surveillance equipment and pay for  
11 personal expenses, legal fees, and expenses for his businesses. Defendant Choe has actively  
12 engaged in efforts to interfere with several HOA elections to entrench himself on the HOA  
13 board in order to maintain control and terrorize the residents and Plaintiffs. Plaintiffs and their  
14 families are in active and constant fear of Defendant Choe on a daily basis.

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18 8. Defendant William Chu (“Chu”) is a resident at Northwood Estates. He is  
19 Defendant Choe’s main HOA Board ally. He actively participates in the WeChat group and  
20 community forums, and social media, that Defendant Choe routinely leads, monitors, controls,  
21 to malign Plaintiffs and other residents and owners. Defendant Chu is complicit and approves  
22 of Defendant Choe’s actions on and through the HOA Board of Directors, including purchases  
23 purportedly for Northwood Estates and purchases. Defendant Chu has systematically verbally  
24 attacked and threatened residents during HOA disciplinary hearings. He has harassed and  
25 screamed at residents and homeowners. Defendant Chu has shown Plaintiffs and other residents  
26 and third parties hundreds of photos and videos of residents’ children doing “bad things”, and  
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1 systemically video monitors neighborhood children.

2 4. Defendant Chu falsely accused a neighbor's son of bullying and vandalism. He  
3 screamed at Plaintiffs to sue Defendant HOA when Plaintiffs voiced their concern about the  
4 HOA videotaping and recording children. Defendant Chu called the Irvine police to one of the  
5 Plaintiffs' homes claiming that Plaintiff harassed his around 15-year-old son when in reality,  
6 Plaintiff's son and his friends wanted to say hello to him on their way home from school.  
7 Plaintiff had no idea he was Defendant Chu's son. By filing false police reports, threatening  
8 and arbitrarily fining residents, and spreading false and damaging information about residents  
9 and Plaintiffs, Defendant Chu, in coordination with other Defendants, has engaged in efforts to  
10 interfere with HOA elections and entrench himself on the HOA board in order to maintain  
11 control and terrorize the residents and Plaintiffs. Plaintiffs and their minors are in active and  
12 constant fear of Defendant Chu.

15 5. Defendant Susan Kearney Okuno ("Okuno") is a resident at Northwood Estates.  
16 She is a current HOA Board member. Defendant Okuno has ratified and approved of Defendant  
17 Choe's actions as an HOA board member, vendor, and community activist. She posts  
18 defamatory statements in the community forums and social media, that Defendant Choe  
19 routinely leads, monitors, controls, to malign Plaintiffs and other residents and owners.  
20 Defendant Okuno has systematically filmed children in the neighborhood, falsely fined  
21 residents, and engaged in election interference and fraud. Defendant Okuno in coordination  
22 with other Defendants has engaged in efforts to interfere with HOA elections and entrench  
23 herself on the HOA board in order to maintain control and terrorize the residents and Plaintiffs.  
24 Plaintiffs and their minor children are in active and constant fear of Defendant Okuno.

1           6.       Defendant Tina Smith (“Smith”) is a resident at Northwood Estates. She is a  
2 current HOA Board member. Defendant Smith has approved Defendant Choe’s actions and  
3 purchases. She frequently posts defamatory statements in the community forums and social  
4 media, that Defendant Choe routinely leads, monitors, controls, to malign Plaintiffs and other  
5 residents and owners. She has systematically filmed children in the neighborhood, falsely fined  
6 residents, and engaged in election interference and fraud. Plaintiffs and their minor children are  
7 in active and constant fear of Defendant Smith.  
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9           7.       Defendant Luciana J.L. Chang (“Chang”) is a resident at Northwood Estates. She  
10 has written many defamatory text messages about Plaintiffs in the community WeChat group  
11 and online community forums. She has actively incited hate towards Plaintiffs in several board  
12 meetings and defamed several of the Plaintiffs. Defendant Chang demanded that Plaintiff Raj  
13 Pranav resign at an August HOA Board meeting. Defendant Chang has incited harassment  
14 against Plaintiffs, including hatred against Plaintiff in a November 2023 board meeting. During  
15 this meeting, Defendant Chang was visibly angry and crying according to attendees and falsely  
16 accused Plaintiff of “shooting bullets” at her and demanded to know where Plaintiff lived.  
17 Plaintiff is in active and constant fear of Defendant Chang.  
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20           8.       Defendant Vicky Yu (“Yu”) is a resident at Northwood Estates. She demanded  
21 that Plaintiff Raj Pranav resign at an August board meeting. She has made many defamatory  
22 texts about Plaintiffs in the community WeChat group and community forums. She has incited  
23 hate towards Plaintiff during several board meetings and defamed Plaintiff. Defendant Yu went  
24 door to door defaming Plaintiff Pranav during the election while campaigning for Defendant  
25 Tina Smith. Defendant Yu has incited harassment against Plaintiffs, including hatred against  
26 Plaintiff in a November 2023 board meeting. During this meeting, she was visibly angry and  
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1 demanded to know where Plaintiff lived. Plaintiff is in active and constant fear of Defendant  
2 Yu.

3 9. Defendant Grace Lee (“Lee”) is a resident at Northwood Estates. She has made  
4 many defamatory posts about Plaintiffs and their child in the community online forums and  
5 Nextdoor.com. She has gone door to door defaming Plaintiff Pranav during the election. She  
6 has spied on and harassed Plaintiffs during Plaintiff’s HOA board campaign events. She has  
7 yelled obscenities at neighbors. An elderly resident has claimed that Defendant Lee told her it  
8 was ok to “jaywalk” on Trabuco street in the community. The police immediately appeared,  
9 and resident received a large fine from the police. Defendant Lee also films children in the  
10 neighborhood to report to Defendant Dan Choe, who leads Defendants to control and terrorize  
11 Plaintiffs and residents. She often posts defamatory statements in the community forums and  
12 social media, that Defendant Choe routinely leads, monitors, controls, to malign Plaintiffs and  
13 other residents and owners. Defendant Lee obsessively monitors the Nextdoor community  
14 forum to delete comments about Defendant Choe or Defendant HOA. Defendant Lee targets a  
15 family and child of a resident in the community to frequently report them to Defendant HOA.  
16 Plaintiffs are in active and constant fear of Defendant Lee.

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20 10. Defendant Alex Yang (“Yang”) is a resident at Northwood Estates. He is the  
21 owner/administrator of the community WeChat group of over 100 residents in the neighborhood.  
22 He has made many defamatory texts about Plaintiffs in the community WeChat group.  
23 Defendant Yang has allowed Defendant Choe and Defendant Chu to actively engage in  
24 defamation of residents. Defendant Yang has incited harassment against Plaintiffs, including  
25 hatred against Plaintiff in a November 2023 board meeting. During this meeting, he was  
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1 extremely angry and demanded to know where Plaintiff lived. Plaintiff is in active and constant  
2 fear of Defendant Yang.

3 11. Defendant Karen Chang (“Karen Chang”) is a resident at Northwood Estates.  
4 She has incited hate against Plaintiff during several board meetings and defamed Plaintiff.  
5 Defendant Karen Chang has written several defamatory messages about a Plaintiff in the  
6 community WeChat group. She has also gone door to door defaming Raj Pranav, a board  
7 member of the HOA during the election while campaigning for Defendant Tina Smith.  
8

9 12. Defendant Robert Jin (“Jin”) is a resident at Northwood Estates. He has made  
10 many defamatory texts about Plaintiffs in the community WeChat group and online forums. He  
11 has demanded that Plaintiff Raj Pranav resign at an August Board meeting. He has spied on and  
12 harassed Plaintiff during his HOA board campaign events.  
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14 13. Defendant Judy Li (“Li”) is a resident at Northwood Estates. She has written  
15 many defamatory texts about Plaintiff in the community WeChat group and online forums. She  
16 has incited hate against Plaintiff during several board meetings and defamed Plaintiff. She has  
17 demanded Plaintiff Raj resign during an August board meeting.  
18

19 14. Defendant Haofan Chang (“Haofan Chang”) is a resident at Northwood Estates.  
20 Haofan Chang has made many defamatory text messages about Plaintiff in the WeChat group  
21 and online forums. Defendant Haofan Chang has incited hate against Plaintiff in several board  
22 meetings. Defendant Haofan has demanded that Plaintiff resign in an August board meeting.  
23

24 15. Defendant Samuel Choe (“Samuel Choe”) is a resident at Northwood Estates.  
25 He went door to door defaming Plaintiff Pranav during the election while campaigning for  
26 Defendant Tina Smith. He has written many defamatory texts about Plaintiff in the community  
27 WeChat group and online forums.  
28

1           16. Defendant Liu Zi Lie (“Lie”) is a resident at Northwood Estates. Lie has written  
2 many defamatory texts about Plaintiff in the community WeChat group.

3           17. Defendant Cliff Wagner (“Wagner”) is a resident at Northwood Estates and is a  
4 former HOA Board member who supported, enabled, approved, and assisted Defendant Choe’s  
5 activities.  
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7           18. Defendant Jayson Keon is a resident at Northwood Estates and is a former HOA  
8 Board member who had full knowledge of the activities of Defendants Choe, Chu, Okuno, and  
9 Sabbagh.  
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11           19. Defendant Walid Sabbagh is a resident at Northwood Estates and is a former  
12 HOA board member who had full knowledge and supported, enabled, approved, and assisted  
13 the activities of Defendants Choe, Chu, Okuno.

14           20. Defendant Lia Dalhover is the property manager for Defendant PMP. As the  
15 manager of Northwood Estates, Defendant Dalhover has grossly enabled Defendant Dan Choe  
16 and is under his control and interim property manager for the community. Defendant Dalhover  
17 had full knowledge of Defendant's Choe’s activities and behaviors and actively enabled and  
18 assisted Defendant Choe in targeting residents for harassment through fines, public shaming  
19 and threats of retribution. She has violated the privacy of Plaintiffs by freely distributing and  
20 publishing Plaintiffs home address and family members names during board meetings and in  
21 written communications, jeopardizing the safety of Plaintiffs. She has routinely and deliberately  
22 ignored homeowner requests for financial records, kicks residents out of Board meetings, and  
23 makes false accusations against residents – all at the behest of Dan Choe and his cohorts in the  
24 community.  
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27           21. Defendant Brad Watson is the owner of Defendant PMP. He similarly grossly  
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1 enables Defendant Choe and follows Choe's orders. He has full knowledge of Defendant  
2 Choe's activities and behaviors towards residents, enabled those behaviors, and thereby  
3 neglected his role as the principal of the management company.  
4

5 22. Plaintiffs do not know the true names of Defendants DOES 1 through 50,  
6 inclusive, and therefore sues them by those fictitious names. Plaintiff believes upon information  
7 and good faith, and thereupon alleges, that each of those Defendants was in some manner legally  
8 responsible for the events and happenings alleged in this Complaint and for Plaintiffs' damages.  
9

10 23. Plaintiffs believe upon information and good faith, and on that basis allege that  
11 at all times mentioned in this Complaint, Defendants named and DOES 1 THROUGH 50, and  
12 each of them, and at all times, were the agents, servants, and employees of their co-defendants,  
13 and each of them, and at all times, were acting within the full scope of that agency, service, and  
14 employment.  
15

16 24. The obligations sued upon herein were made and entered into in the County of  
17 Orange, State of California, and all or a portion of the performance of said obligations were  
18 performed in said County and State.  
19

### 20 **GENERAL ALLEGATIONS**

21 25. The Northwood Estates community has been taken hostage by a group of activist  
22 residents who began to act as a gang of thugs terrorizing other residents through mafia-style  
23 intimidation techniques, arbitrary fines, public shaming through various community forums,  
24 threats of unspecified retribution (physical and otherwise), video and audio surveillance, and  
25 other forms of psychological abuse. This group of gangsters has hijacked the HOA board of  
26 directors and the PNP Management company in order to intimidate and abuse residents that do  
27 not submit to the street rules and whims of the gang. Resident and Defendant Dan Choe is at  
28



1 the helm of this gang. Dan Choe has plagued his neighborhood by the ravaging and manic  
2 delusions of grandeur together with his Codefendants, each of them.

3 26. The Bylaws of the HOA (the “Bylaws”) list many of the responsibilities and  
4 duties of the HOA as it relates to the community, the members, and the public.  
5

6 27. Section 3.1 of the Bylaws provides that “[i]n accordance with the Declaration,  
7 the Maintenance Association is responsible for administering, maintaining, and repairing the  
8 Maintenance Property, approving the annual Budget for the Properties, establishing and  
9 collecting all assessments applicable to the Properties authorized pursuant to the Declaration,  
10 and supervising the overall architectural control of the Properties.” A true and correct copy of  
11 the Bylaws is attached herein as Exhibit A.  
12

13 28. Section 3.8 of the Bylaws provides that any action which may be taken at a  
14 meeting of the Members, except for election of Directors, may be taken without a meeting by  
15 written ballot of the Members. Ballots must be solicited in the same manner as provided in  
16 Section 3.5 for the giving of notice of meetings of Members. Such solicitations must specify  
17 (a) the number of responses needed to meet the quorum requirements, (b) the percentage of  
18 approvals necessary to approve the action, and (c) the time by which ballots must be received  
19 in order to be counted. A matter shall be approved by written ballot upon receipt within the time  
20 period specified in the solicitation of both (A) a number of ballots which equals or exceeds the  
21 quorum which would be required if the action were taken a meeting, and (B) a number of  
22 approvals which exceeds or equals the number of votes which would be required for approval  
23 if the action were taken at a meeting.  
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1           29.     Section 3.10 of the Bylaws provides that “[p]rior to any Members meeting, the  
2 Board may appoint inspectors of election for that meeting. There shall be at least three (3)  
3 inspectors of election.”

4           30.     Section 4.2 of the Bylaws provides that the Board may not enter into any contract  
5 with a third person wherein the third person will furnish goods or services for the Maintenance  
6 Property or to the Maintenance Association for a term in excess of one (1) year, without the vote  
7 of Members representing a majority of the Maintenance Association voting power, except for  
8 limited circumstances.

9           31.     Section 4.3 of the Bylaws provides that “[w]ithout prejudice to the general powers  
10 and duties and such powers and duties as are set forth in the Declaration, the Board has the  
11 following powers and duties” but fails to list any of those duties. Henceforth, Plaintiffs allege  
12 that the Board does not have special powers and duties.

13           32.     Section 4.3.2 of the Bylaws provides that “[t]he power and duty to conduct,  
14 manage and control the Maintenance Association affairs and business, and to make and enforce  
15 such Rules and Regulations therefor consistent with law and the Restrictions as the Board deems  
16 necessary or advisable.”

17           33.     Section 4.5 of the Bylaws provides that “[t]he Board shall distribute the following  
18 financial information to all Members (and to any Beneficiary, insurer and guarantor of a first  
19 Mortgage upon request), regardless of the number of Members or the amount of assets of the  
20 Maintenance Association” and lists items required in the Budget, Anticipated Assessment  
21 Statement, and Reserve Fund Calculations.

22           34.     Section 4.5.2 of the Bylaws provides that “[a] balance sheet as of an accounting  
23 date which is the last day of the month closest in time to six (6) months from the date on which  
24

1 Common Assessments first commenced, and an operating statement for the period from the date  
2 on which Common Assessments commenced to such accounting date, must be distributed Within  
3 sixty (60) days after the accounting date. Such operating statement must include a schedule of  
4 assessments.”

5  
6 35. Section 4.5.3 of the Bylaws provides that “[a] report consisting of the following  
7 (“Annual Report”) must be distributed within one hundred twenty (120) days after the close of  
8 the fiscal year: (a) a balance sheet as of the end of the fiscal year; (b) an operating ( income)  
9 statement for the fiscal year; to) a statement of changes in financial position for the fiscal year;  
10 (d) any information required to be reported under Section 1365.9(c) of the California Civil Code  
11 and Section 8322 of the California Corporations Code; (e) for any fiscal year in which  
12 Maintenance Association gross income exceeds Seventy—Five Thousand Dollars (\$75,000.00),  
13 a copy of a review of the annual report prepared in accordance with generally accepted  
14 accounting principles by a licensee of the California State Board of Accountancy; and (i) a  
15 statement of the place where the names and addresses of the Members are located. If the Annual  
16 Report is not prepared by an independent accountant, it must be accompanied by the certificate  
17 of an authorized Maintenance Association officer certifying that the statement was prepared from  
18 the books and records of the Maintenance Association without independent audit or review.”

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21 36. Section 4.5.5 of the Quarterly Reviews provides that “[t]he Board shall do the  
22 following on at least a quarterly basis: (a) cause to be completed and review a current  
23 reconciliation of the Maintenance Association’s operating and Reserve accounts, (b) review the  
24 Actual Reserves and expenses compared to the Budget for the then current Fiscal Year, (c) review  
25 the income and expense statement for the Maintenance Association’s operating and Reserve  
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1 accounts, and (d) review the most current account statements prepared by the financial  
2 institutions where the Maintenance Association maintains its operating accounts and Reserve.”

3  
4 37. Section 4.10 of the Bylaws provides that “[r]egular meetings of the Board must be  
5 open to the Members, to the extent of the permissible capacity of the meeting room, and may be  
6 held at such time and place within the Properties (or as proximate thereto as possible) as  
7 determined by a resolution adopted by a majority of a quorum of the Directors; provided that  
8 such meetings shall be held no less frequently than quarterly.”

9  
10 38. Section 4.13 of the Bylaws provides that “[t]he Board may act without a meeting,  
11 if all Directors individually or collectively consent in writing to such action. Such written consent  
12 or consents must be filed with the minutes of the proceedings of the Board. Such action by written  
13 consent has the same effect as a unanimous vote of such Directors. - Any meeting, regular or  
14 special, may be held by conference telephone or any other communication equipment, so long as  
15 it is consistent with the California Corporations Code. Within three (3) days after any action  
16 taken by written consent or telephone meeting, an explanation of such action must be either (i)  
17 posted by the Board in a prominent place or places on the Maintenance Property, or (ii)  
18 communicated to the Members by another means the Board determines to be appropriate.”

19  
20 39. Section 12.1 provides that, in the event of an alleged violation of the Restrictions  
21 and related suspension, “[a]ny such suspension may not be for a period of more than thirty (30)  
22 days for any noncontinuing infraction, but in the case of a continuing infraction (including  
23 nonpayment of any assessment after the same becomes delinquent) may be imposed for so long  
24 as the violation continues.”

25  
26 40. Section 6.8 of the CC&Rs requires that all proposed Capital Improvement  
27 Assessments shall require the vote of Owners representing at least a majority of votes at a meeting  
28

1 or written ballot of Owners which is represented more than fifty percent (50%) of the total voting  
2 power attributable to Members subject to such Capital Improvement Assessment. A true and  
3 correct copy of the CC&R's is attached herein as Exhibit B.

4  
5 41. The Northwood Estates Standards and Guidelines (the "Standards and  
6 Guidelines"), adopted March 7, 2023, sets forth the various restrictions and fee schedules that  
7 homeowners are bound by. A true and correct copy of the Standards and Guidelines is attached  
8 herein as Exhibit C.

9  
10 42. The Standards and Guidelines set forth a monthly lease administrative fee of \$45  
11 per month for homeowners who lease their properties, in violation of California law AB 3182.

12 43. The Standards and Guidelines also include various fee schedules for respective  
13 infractions and violations, many of which don't lay out clear guidelines on what constitutes a  
14 violation or infraction.

15  
16 44. The HOA Board has issued proposed new rules in which homeowners would not  
17 even receive a warning letter for violations or infractions – rather, they would be immediately  
18 fined with \$500 to \$5,000 per month.

19  
20 45. On January 4, 2022, the HOA proposed a Northwood Estates Security Camera  
21 Policy ("Camera Policy") that was adopted on February 1, 2022, less than 30 days after the  
22 proposed rules were sent to HOA Members. The HOA did not provide prior notice of the policy  
23 and did not obtain consent of the Members either. A true and correct copy of the Camera Policy  
24 is attached herein as Exhibit D.

25  
26 46. According to the Camera Policy, the HOA "utilizes the services of a video  
27 surveillance cloud service to capture and store recording from the installed cameras."  
28

1           47.    “Video recording equipment has been placed in locations at the community  
2 entrances, exits and recreational areas, which present the best surveillance options with respect  
3 to desired coverage, specific surveillance targets and lighting conditions. Cameras are positioned  
4 so as to not willfully intrude on a homeowner’s property or privacy.”  
5

6           48.    Plaintiffs allege on information and good faith that this is untrue, and the cameras  
7 do in fact, intrude on their residence’s privacy and even capture voices and conversations on  
8 private property.

9           49.    “Signage is posted in location(s) notifying all parties that the area is under 24-hour  
10 video recording surveillance.”  
11

12           50.    Plaintiffs alleged on information and good faith belief that such signage is not  
13 conspicuous.

14           51.    “Access to video footage and photographs is secured and restricted to the Board  
15 of Directors and the managing agent of the Association. The video footage and photographs are  
16 used for the review and investigation of criminal activity or violations of the Association’s Rules  
17 and Policies.”  
18

19           52.    Plaintiffs allege on information and good faith belief that the video footage and  
20 photographs are directly and systemically accessed by Defendant Dan Choe, are routed to his  
21 personal residence for 24/7 viewing, and Defendant Choe, and Co-Defendants, improperly utilize  
22 the footage to create personal dossiers and “hit-lists” on the residents and owners, to monitor  
23 their whereabouts within the community in order to harass them and stalk them as a form of  
24 psychological warfare in order to browbeat and demean them for the Defendants’ pecuniary  
25 benefits and personal, sadistic gratification.  
26  
27  
28

1           53.     Plaintiffs allege on information and good faith belief that Defendants, and each of  
2 them, have obtained improper access to photos of their minor children and Defendant Dan Choe  
3 has posted such photos on community forums, exposing their children to potential predators and  
4 unjust ridicule, and endangering their physical welfare and safety. Plaintiffs further allege that  
5 these photos of their children include photos at the community pool.  
6

7           54.     “Active video footage and photographs shall be stored on a temporary basis with  
8 access limited to the Board of Directors and the managing agent. Archived video footage and  
9 photographs shall be stored only for investigative or legal purposes.”  
10

11           55.     Plaintiffs believe on information and good faith belief that this is inaccurate and  
12 Defendant Choe, Defendant HOA, and other involved Defendants store this footage on their  
13 personal devices and accounts indefinitely as part of their dossiers to be used to browbeat,  
14 demean, and emotionally torment and subdue residents that do not submit to their “street rule”  
15 in the community. Plaintiffs know that Defendant Choe and Defendant HOA utilize the footage  
16 for purposes other than investigative and legal purposes for legitimate investigations within the  
17 realm of the HOA mandate.  
18

19           56.     The HOA Board is solely responsible for deciding when surveillance footage  
20 needs to be viewed.

21           57.     Defendant Dan Choe, his entity Codefendants, and individual Codefendants  
22 have orchestrated a grotesque, Orwellian reign of terror on the residents and owners of  
23 Northwood Estates that has led to owners and residents being fearful for their personal and  
24 family safety, and terrified of financial and personal retaliation and brutal harassment of their  
25 families – and particularly their children. Defendants Dan Choe, Tina Smith, Susan Okuno,  
26 William Chu, and others, with the assistance of Defendant PMP, have engaged in a gross abuse  
27  
28

1 of power akin to that of a criminal gang that controls its turf under the threat of physical  
2 retribution. They have weaponized the HOA Board procedures, disregarded state laws  
3 governing HOA practices and procedures, city ordinances and social norms, and abused their  
4 board duties and responsibilities in order to control all aspects of community living for the  
5 residents. This has included excessive and unjustifiable surveillance of residents, excessive  
6 fines and fees, fearmongering, financial malfeasance/misappropriation, and harassment of  
7 residents which has created a culture of fear, terror and divisiveness where residents are terrified  
8 to speak out and even walk outside their homes.  
9

10  
11 58. The surreal, dystopian community nightmare began few years ago when  
12 Defendant Dan Choe and his spouse purchased a home in Northwood Estates. Soon, thereafter,  
13 Dan Choe ran for election to the HOA Board of Directors (“Board”) using gross misinformation  
14 and fearmongering, manipulated election procedures, forced out existing Board members, and  
15 was “elected” to the Board of the HOA. Upon securing his position on the Board, Defendant  
16 Dan Choe established what became a de facto criminal organization, aiming to extort payments  
17 from residents with threatening and malicious behavior, establish a reign of terror and control  
18 over the neighborhood, and intimidate the homeowners and residents in order to ultimately  
19 become a vendor of the HOA and derive grotesque gratification from spying on his neighbors  
20 and their children to dominate and abuse them not much different from human traffickers and  
21 serial abusers and vicious gangsters. Defendant Dan Choe’s subsequent actions have led to  
22 multiple lawsuits. The racketeering group that Defendant Dan Choe organized, engaged in, inter  
23 alia, excessive, arbitrary, oppressive and grossly punitive fines and fees which are  
24 disproportionate to the violation and not provided for the in the HOA’s Governing Documents,  
25 including the Covenants, Conditions, and Restrictions.  
26  
27  
28



1           59.     In his bid for election to Defendant HOA’s Board, Defendant Dan Choe adopted  
2 the charisma and puffery emblematic of a fascist dictator’s rise to power. In his pitch to become  
3 elected to the HOA Board, Dan Choe wrote the following message to the community:  
4

5           Successful companies, winning sports teams, top schools and thriving non-profit  
6 organizations all have these things in common. The willingness to ask questions,  
7 challenge the status quo and encourage competition and new ideas. In running for the  
8 board, I have been criticized for calling out improvement opportunities and suggesting  
9 change by some connected to the board and the subcommittee.

10           Should I be elected [,] I will fight to change our culture to embrace community feedback  
11 and always be looking for new ways to elevate Northwood Estates.

12           I will personally discourage levying negative messages against community members  
13 critical of the HOA board. We must listen to criticism versus making personal attacks. I  
14 will also continually encourage new candidates for HOA positions and subcommittees to  
15 keep our board invigorated and increase neighborhood engagement. Getting involved in  
16 our community should be embraced and celebrated as selfless rather than labeled  
17 “selfish”.

18           This needs to change and if I am elected [,] I will welcome “all criticism”. (And I have  
19 been heavily criticized by the HOA). I will have a fiduciary responsibility to the HOA,  
20 and this is why I’m the only candidate who has openly left my contact info and address.  
21 Let’s move towards transparency and positivity which will in turn lead more volunteers  
22 to run in the future.

23           This is how we are held accountable. This is how we improve.

24           60.     Defendant Dan Choe, upon being elected to the HOA Board, unequivocally and  
25 abjectly reneged on every promise and assurance he made to the Northwood Estates community.  
26 His platform was deliberately deceitful and a pretext concealing his sociopathic and criminal  
27 agenda to take absolute control over not just the board of the HOA, but the residents of  
28 Northwood Estates. Upon his election to the HOA Board, Defendant Dan Choe, along with  
other Board members, enacted multiple policies without input or approval from residents or  
owners of the community, including the policy of installing cameras and microphones in the  
community. Defendant Dan Choe surreptitiously and without consent or notice installed over

1 70 cameras and recording devices without including a disclosure in the HOA's policy,  
2 governing documents, or other meetings, or posting signage of video surveillance and  
3 conversation and audio recording. Defendant Dan Choe engaged in this conduct with the  
4 ratification and active assistance of Defendant HOA, Defendant PMP, and his individual  
5 Codefendants.  
6

7 61. Defendants Dan Choe, Chu, Okuno, and Smith subjected residents to extreme  
8 surveillance, intimidation, extortion, harassment, and threats in order to control every aspect of  
9 community living. Defendant Dan Choe's racketeering group engaged in, inter alia, excessive,  
10 arbitrary, oppressive, and grossly punitive fines and fees which are disproportionate to the  
11 alleged and often pretextual "violations" many of which are fabricated and/or not provided for  
12 in the HOA's Governing Documents, including the CC&R's. Defendant Dan Choe engaged in  
13 this conduct and behavior with the ratification and assistance of Defendant HOA, Defendant  
14 PMP, and his individual Codefendants.  
15

16 62. Defendants Dan Choe, Chu, Okuno, Smith, Sabbagh, Keon, and Wagner enacted  
17 multiple policies without input from community residents or owners of the community,  
18 including the policy of installing a multitude of video cameras, microphones, other gate  
19 surveillance systems, electronic log systems, and flying drones in the community. Defendant  
20 Dan Choe surreptitiously and without consent or notice installed over 70 cameras and recording  
21 devices without including disclosure in the HOA's policy, governing documents, or other  
22 meetings, or posting signage of video surveillance and conversation and audio recording.  
23 Defendant Dan Choe engaged in this conduct and behavior with the ratification and assistance  
24 of Defendant HOA, Defendant PMP, and his individual Codefendants.  
25  
26  
27  
28

1           63. Defendant Dan Choe directly monitors the cameras and audio recordings, which  
2 Plaintiffs believe upon information and good faith are all routed to his residence as a central  
3 location to allow ease of access and viewing. Defendant Dan Choe monitors these cameras and  
4 audio recordings to issue violations against residents (usually minors) rather than utilizing the  
5 cameras for actual safety measures or monitoring of criminal activity. Defendant Dan Choe  
6 monitors these cameras and audio recordings to eavesdrop on residents, intimidate and scare  
7 residents, and issue fines for grossly exaggerated or completely fabricated violations against  
8 residents and their children (usually minors) rather than utilizing the cameras for actual safety  
9 measures or monitoring of potential criminal activity. Defendant Dan Choe engaged in this  
10 conduct and behavior with the ratification and assistance of Defendant HOA, Defendant PMP,  
11 and his individual Codefendants.  
12

13  
14           64. Defendant Dan Choe engages in gross and baseless fear mongering to justify the  
15 need for dozens of surveillance cameras and high-tech security systems. He frequently cites  
16 false claims of high rates of crime in the community to justify and satisfy his need for him to  
17 closely monitor community activities. The real reason for Dan Choe's surveillance of his  
18 neighbors is to control those that may disobey his reign by monitoring their every move and  
19 recording their children. Defendant Dan Choe tells residents exaggerated tales of drug houses,  
20 prostitution rings, and home invasions in order to create fear despite Irvine being consistently  
21 rated as the safest city in America. Defendant Dan Choe encourages residents to call him if they  
22 see criminal activity and often posts self-aggrandizing statements about how he is fighting  
23 crime and keeping residents safe. In reality, Defendant Dan Choe seeks solely to entrench  
24 himself and his gang of sycophants to financially benefit from the HOA as a vendor.  
25  
26  
27  
28

1           65. Defendant Dan Choe has engaged in gross violations of the privacy of Plaintiffs  
2 and their minor children. Plaintiffs and residents have reported their children being followed  
3 and filmed in the community which are then used to issue violations and fines. Plaintiffs and  
4 residents who are issued violations are then forced to attend “disciplinary hearings” where  
5 Defendant Dan Choe, Okuno, and berate, curse and yell at them to coerce them into admitting  
6 they are wrong and to write an apology to the Board. If residents refuse to admit wrongdoing  
7 or pay the fine/charge, Plaintiffs and their minors are targeted for more fines and publicly  
8 defamed. Defendant Dan Choe engaged in this conduct and behavior with the ratification and  
9 assistance of Defendant HOA, Defendant PMP, and his individual Codefendants.  
10

11           66. Defendant Dan Choe has “dossiers” of Plaintiffs’ and residents’ children as he  
12 knows specific details such as their age, names, faces, where they attend school, who their  
13 friends are, etc., and records them at the community swimming pool and elsewhere. Defendant  
14 Dan Choe sends photographs and descriptions of Plaintiffs’ children which are included in  
15 violation letters sent to Plaintiffs. He also posts this information to community forums and text  
16 groups, often viciously attacking and shaming his targets.  
17

18           67. Dozens of surveillance cameras were installed inside and outside the pool and  
19 common areas and are used to target minors for violating the rules such as not signing the pool  
20 log, or not signing in “correctly” because their children are under the age of 14 (even if the  
21 minor is with an adult), staying past pool hours, rough playing, or throwing a pinecone into the  
22 pool etc. Defendant Dan Choe is known by neighborhood teenagers to conduct nightly patrols  
23 around the pool and common areas to kick them out at closing time. Plaintiffs are greatly  
24 disturbed and afraid to allow their children, especially their teenage daughters to use the pool  
25 for fear of them being monitored and filmed. Even the doors to the pool bathrooms are  
26  
27  
28

1 monitored by cameras. Defendant Dan Choe engaged in this conduct and behavior with the  
2 ratification and assistance of Defendant HOA, Defendant PMP, and his individual  
3 Codefendants.

4  
5 68. Defendant Dan Choe and Defendant HOA are known for targeting the children  
6 of residents in order to selectively issue violations and fines. Defendant Dan Choe, Susan  
7 Okuno, Tina Smith, Grace Lee routinely follow and film children in the neighborhood in order  
8 to issue violations. Photos of children are posted to community forums and social media asking  
9 residents to identify who they are for minor incidents such as using skateboards/scooters,  
10 leaving a bike helmet outside, or ringing doorbells. Plaintiffs' children are falsely accused of  
11 vandalism, bullies, being a nuisance and branded as being “problem children” and pose safety  
12 threats to the community. Defendant Dan Choe engaged in this conduct and behavior with the  
13 ratification and assistance of Defendant HOA, Defendant PMP, and his individual  
14 Codefendants.  
15

16  
17 69. Plaintiffs and residents report that their teenagers and college aged children are  
18 especially targeted. Teens are “pulled over” or ed followed and directly confronted and for not  
19 stopping at stop signs for “3 seconds” or speeding. Plaintiffs are greatly disturbed and afraid to  
20 allow their children to use the pool for fear of their children and especially teenage daughters  
21 being monitored and filmed. Even the access to the pool bathrooms is monitored by cameras.  
22 Plaintiffs' children are accused of “drinking”, loitering, damaging community property, reckless  
23 driving, or being a nuisance.  
24

25 70. Defendant Dan Choe angrily confronted and threatened a Plaintiff’s college age  
26 daughter because he claimed she did not stop “appropriately”. He approached her and scolded  
27 her which was captured on Plaintiff’s camera and then later pounded on Plaintiff’s door  
28

1 demanding to “talk”. On another occasion, Plaintiff’s daughter and her friends were confronted  
2 by Defendant Dan Choe for alleged loitering in their car while parked on the street. They were  
3 accused of creating a disturbance. Plaintiff’s daughter is terrified of Defendant Dan Choe.  
4

5 71. Plaintiffs and residents are then sent violation letters with photographs of their  
6 children from surveillance cameras stating their children’s age and their friends. The  
7 surveillance videos, audio recordings and pictures of children are relentlessly posted without  
8 parental consent or knowledge to community-wide websites, community group texts, and  
9 shown to other residents in order to defame the minors and their parents. Defendant Dan Choe  
10 engaged in this conduct and behavior with the ratification and assistance of Defendant HOA,  
11 Defendant PMP, and his individual Codefendants.  
12

13 72. Defendant Dan Choe and HOA board routinely target landlords and their tenants  
14 in order to rid the neighborhood of renters “because they [renters] bring down property values”.  
15 Multiple renters have reported being followed, harassed, and intimidated by Defendant Dan  
16 Choe and felt they were being forced out.  
17

18 73. CC&R rules appear to discriminate against renters by requiring monthly lease  
19 fees which is purportedly to pay for “property monitoring and administering rental activity  
20 requires the Association to conduct routine occupancy auditing of the community, maintain and  
21 update tenant contact information, obtain and review individual lease agreements, and maintain  
22 a separate set of records of each rental unit.” Defendant Dan Choe engaged in this conduct and  
23 behavior with the ratification and assistance of Defendant HOA, Defendant PMP, and his  
24 individual Codefendants.  
25

26 74. Landlords are required to immediately provide the HOA with a copy of the lease  
27 which contains personal information of their tenants (driver’s license, Social Security Numbers,  
28

1 VIN numbers, income). Many landlords have reported being charged excessive fees for failing  
2 to “register their tenants” within the prescribed 7 days which they consider an unreasonable  
3 deadline. Failure to provide a lease within 7 days of lease start date results in huge fines of  
4 \$1000 for each arbitrary failure. Multiple landlords have reported being charged tens of  
5 thousands of dollars due to such fines. One landlord accrued a bill for over \$60,000 in spurious  
6 fees and fines and was told to apologize in writing in order to have the bill reduced. Other  
7 similar communities in Irvine have no such fees/fines aimed at renters and landlords. Defendant  
8 Dan Choe engaged in this conduct and behavior with the ratification and assistance of  
9 Defendant HOA, Defendant PMP, and his individual Codefendants.  
10  
11

12 75. Landlords have reported being fined for multiple spurious violations their tenants  
13 allegedly committed and have been told by the Defendants to evict their tenants. Tenants have  
14 been reported for “acting suspicious” or “wearing a black hoodie”. Landlords have reported  
15 being coerced into using “recommended property managers”. Several landlords have previously  
16 filed suits over these discriminatory practices which have hindered their ability to rent their  
17 properties and or has affected their income. These fees and fines are not charged in similar,  
18 nearby HOA communities. In fact, Defendant Dan Choe’s fines and threats or retribution are  
19 nothing more than his way of terrorizing the community to exact obedience through fear and  
20 avail Dan Choe of sociopathic gratification from tormenting his neighbors using HOA as a  
21 pretextual cover. Defendant Dan Choe engaged in this conduct and behavior with the  
22 ratification and assistance of Defendant HOA, Defendant PMP, and his individual  
23 Codefendants.  
24  
25

26 76. Defendant Dan Choe and the Defendant HOA have engaged in violations of fair  
27 housing federal regulations by discriminating against renters on the basis of their disabilities,  
28

1 race and gender. Plaintiffs and residents have been called racist slurs such as skin head or neo-  
2 Nazis or been insulted because of their accents. These actions and behavior were ratified and  
3 aided by their entity Codefendants and individual Codefendants.  
4

5 77. The harassment of renters and their landlords has been documented in several  
6 YouTube videos which show Defendants Dan Choe, Chu, Sabbagh, and Wagner confronting  
7 tenants and landlords.

8 78. Plaintiffs allege on information and good faith belief that Defendant Dan Choe  
9 has utilized his position on the HOA Board, and then as a vendor of the HOA, for personal gain.  
10 Defendant Dan Choe imposed his company, Defendant Citadl, to act as “project manager” to  
11 provide services previously provided by PMP management. He negotiated highly favorable  
12 terms for himself including having his liability insurance paid in order to exact more money  
13 from homeowners. Plaintiffs assert that being a paid vendor represents a clear conflict of  
14 interest. Defendant Dan Choe engaged in this conduct and behavior with the ratification and  
15 assistance of Defendant HOA, Defendant PMP, and his individual Codefendants.  
16  
17

18 79. In addition to apparently deriving sadistic gratification from tormenting his  
19 neighbors and the community where he lives, Defendant Dan Choe had a plan to gain pecuniary  
20 benefits from his role as HOA Board Member. Defendant Dan Choe in coordination with his  
21 cohorts, Defendant PMP, Defendant HOA, secured a vendor and consultant position for himself,  
22 getting the HOA to pay him purportedly for “security, technical, special services (\$125/hour)  
23 and “legal” services (\$175/hour), a significant benefit for a stay at home, unemployed  
24 individual. The brazen conflict of interest and criminal behavior exhibited by the Defendants is  
25 no different from that of mobsters who gain control of communities that they live in. Defendant  
26  
27  
28



1 Dan Choe engaged in this conduct and behavior with the ratification and assistance of  
2 Defendant HOA, Defendant PMP, and his individual Codefendants.

3 80. Plaintiffs allege on information and good faith belief that Defendant Dan Choe  
4 has utilized his position on the HOA Board to control residents' ability to efficiently use  
5 community access gates as intended. Defendant Dan Choe, with support of the Board and PMP,  
6 is the only person who can provide transponder stickers, and he is the sole "installer" of all  
7 vehicle entry gate transponder stickers on private vehicles for all residents of Northwood  
8 Estates. Defendant Dan Choe charges residents \$50-\$100 to "install" stickers on cars.  
9 Previously, residents obtained a car transponder sticker directly from the property manager with  
10 no "installer fee". Now residents are required to use Defendant Dan Choe' "installation service"  
11 and submit personal information such as car registration and automobile leases directly to  
12 Defendant Dan Choe under his alias of the "access committee," and later as the "Project  
13 Manager". Defendant Dan Choe selectively delays sticker installation to some residents,  
14 including Plaintiffs, by weeks or months in order to force them to use the keypad to enter their  
15 own community. Defendant Dan Choe engaged in this conduct and behavior with the  
16 ratification and assistance of Defendant HOA, Defendant PMP, and his individual  
17 Codefendants.  
18

19 81. Plaintiffs allege on information and good faith belief that Defendant Dan Choe  
20 has utilized his position as car transponder sticker "installer", to stalk and abuse Plaintiffs and  
21 other residents. Plaintiffs are fearful of allowing Defendant Dan Choe access to their vehicles  
22 because they believe he will monitor their whereabouts. Plaintiffs' have caught Defendant Choe  
23 snooping around their cars in a small claims court parking lot and have seen Defendant Dan  
24 Choe taking photographs of their cars on their streets. Defendant Dan Choe is known to go to  
25  
26  
27  
28

1 great lengths to cyberstalk Plaintiffs and obtains VIN numbers for purposes of looking up  
2 automobile history of Plaintiffs and their family members. Defendant Dan Choe engaged in this  
3 conduct and behavior with the ratification and assistance of Defendant HOA, Defendant PMP,  
4 and his individual Codefendants.  
5

6 82. Plaintiffs allege on information and good faith belief that Defendant Dan Choe  
7 is utilizing cash and reserves targeted for community maintenance to fund his  
8 monitoring/surveillance projects, his business expenses, and personal expenses. Inspection of a  
9 few credit card statements revealed purchases for personal items such as Starbucks, Costco,  
10 groceries, sporting goods, etc. There are also many purchases for electronic, software,  
11 technology related services and products which seem more in line for running a technology  
12 business, and unnecessary for managing a 400-home community and which previous boards  
13 did not require. Defendants Dan Choe and Susan Okuno have used community funds to make  
14 private donations to their schools and charities. Defendant Dan Choe engaged in this conduct  
15 and behavior with the ratification and assistance of Defendant HOA, Defendant PMP, and his  
16 individual Codefendants.  
17  
18

19 83. Plaintiffs further allege on information and good faith belief that Defendants Dan  
20 Choe and William Chu have used HOA assets to fund a technology software consultancy  
21 company in which they are both co-owners.  
22

23 84. Plaintiffs have cited multiple reports of harassment by Defendant Dan Choe.  
24 Plaintiffs and their families and many other residents have been followed, filmed, recorded,  
25 verbally attacked, bullied and threatened, and experienced physical confrontations with  
26 Defendant Dan Choe. Plaintiffs and residents have reported that Defendant Dan Choe has  
27 instigated confrontations, verbally taunting Plaintiffs to “hit me” in order to provoke physical  
28

1 fights. Plaintiffs allege on information and good faith belief that Defendant Dan Choe  
2 intentionally goads Plaintiffs and residents into physical assaults for the purpose of having them  
3 arrested and sued, while ironically assaulting Plaintiffs and routinely stalking them  
4

5 85. Defendant Dan Choe has verbally attacked residents in the common areas,  
6 insulting their families and, for instance, calling a resident “a bad father to his son”, filmed, and  
7 followed the homeowner to his home and followed children. Plaintiffs were physically  
8 confronted in the Orange County Courthouse where Defendant Dan Choe aggressively  
9 approached Plaintiffs, repeatedly demanded they leave, grabbed their coffee and threw it away  
10 in front of multiple witnesses and law enforcement. Courthouse Sheriffs had to physically  
11 restrain Defendant Dan Choe from assaulting one of the Plaintiffs. Based on multiple incidents  
12 such as these, Plaintiffs and residents truly believe that it is only a matter of time before  
13 Defendant Dan Choe further escalates his abuse and does physical harm to Plaintiffs or others.  
14

15 86. Defendants Dan Choe and William Chu repeatedly called police based on false  
16 reports about Plaintiffs in order to stage photo opportunities for purposes of defamation. The  
17 incident greatly traumatized Plaintiffs’ minor son who thought they were going to be arrested  
18 over Defendants’ false allegations of vandalism.  
19

20 87. Despite being told not to trespass onto Plaintiffs and resident’s properties,  
21 Defendant Dan Choe has repeatedly ignored these requests. Defendant has trespassed onto  
22 Plaintiffs property at least twice, posting pictures of their front door (which is not visible or  
23 accessible from the street) and stealing Plaintiffs security camera from their yard.  
24

25 88. Defendant Dan Choe and William Chu cyberstalked Plaintiffs on Yelp, Nextdoor,  
26 Instagram, Google, LinkedIn to find out where Plaintiffs’ children attended school, their  
27 activities and distributed the information on the community forums and large community chat  
28

1 administered by Defendant Alex Yang. Defendant Dan Choe boasted on community forums  
2 and texts that he called every business in which Plaintiff wrote a bad review to give the  
3 businesses the Plaintiff's name and picture.  
4

5 89. Defendants Dan Choe and William Chu also impersonated Plaintiffs in order to  
6 hurt the businesses of other Plaintiffs by writing derogatory reviews of Plaintiff's businesses.  
7 These machinations greatly disturbed and alarmed Plaintiffs and demonstrated a pattern of  
8 retaliation and scheming by Defendant Dan Choe and Defendant William Chu.  
9

10 90. Plaintiffs allege on information and good faith belief that Defendant Dan Choe  
11 has utilized his position on the HOA Board, to physically stalk Plaintiffs. Defendant Dan Choe  
12 has complete access to pool cameras and electronic pool key logs and frequently monitors  
13 access to the pool and common areas. On multiple occasions, Defendant Dan Choe pursued  
14 Plaintiffs late at night in the pool. On at least 6 consecutive occasions, Defendant Dan Choe  
15 showed up at the pool shortly after Plaintiffs entered the pool area. These incidents occurred  
16 late in the evening when there were few people at the pool. These experiences greatly disturbed  
17 and alarmed Plaintiffs to the point where they no longer felt comfortable to use the pool.  
18

19 91. Defendant Dan Choe has even gone beyond the bounds of Northwood Estates  
20 community into neighboring communities to harass and stalk other residents. Residents in  
21 adjoining communities have reported being followed to their homes and verbally confronted  
22 and have felt intimidated to the point where they are unable to enjoy using the adjoining public  
23 park located outside Northwood Estates.  
24

25 92. Plaintiffs and residents have filed multiple incident reports with the Irvine Police  
26 department regarding the harassment of Defendants Dan Choe and William Chu. Several  
27 lawsuits and restraining orders have been filed against Defendant Dan Choe. Plaintiffs have  
28

1 engaged attorneys to write multiple cease and desist letters to Defendants Dan Choe, William  
2 Chu. Despite these efforts, Defendants continue to blatantly disregard the advice of law  
3 enforcement and ignore the admonitions of Orange County Superior Court Judges and continue  
4 to harass and torment Plaintiffs.  
5

6 93. Defendants Dan Choe, Grace Lee, William Chu, Tina Smith, Susan Okuno,  
7 Luciana Chang, Alex (Yinyang) Yang, Vicky Chu, Hoafan Chang, Robert Jin, Jinghue (Judy)  
8 Li, Samuel Sukwoo Choe, Zi Jie Liu engaged in defamation and incitement of hate towards  
9 Plaintiffs. Alex Yang enabled and collaborated with Defendants Dan Choe and William Chu to  
10 create a large community text group (over 120 participants) primarily composed of Chinese  
11 speaking residents. The aforementioned Defendants posted hundreds of defamatory messages  
12 about Plaintiffs and their children on community group texts and online community forums in  
13 order to create a hostile environment for Plaintiffs and their families. Defendants have called  
14 Plaintiffs “crazy”, “sociopaths”, “drunks”, “racists”, “liars”, “vandals” and accused Plaintiffs  
15 of numerous false violations.  
16  
17

18 94. Defendants also targeted and defamed Plaintiffs’ children and spouses.  
19 Defendant Dan Choe routinely attempts to pit neighbors against neighbors by planting false  
20 stories to foment division and hate. He has shown videos of Plaintiffs children to their neighbors  
21 and friends and impersonated Plaintiffs identity on social media in order to defame Plaintiffs  
22 and their children. Defendants have also posted Plaintiffs’ names, pictures, and home addresses  
23 on these forums and text groups which has caused Plaintiffs to fear for their safety and that of  
24 family members.  
25

26 95. Defendants Dan Choe, Grace Lee, William Chu, Tina Smith, Susan Okuno,  
27 Luciana Chang, Alex (Yinyang) Yang, Vicky Chu, Hoafan Chang, Robert Jin, Jinghue (Judy)  
28

1 Li, Samuel Sukwoo Choe, Zi Jie Liu conspired to create a culture of fear and divisiveness within  
2 the community. Defendant Dan Choe exhorts a policy of “if you see something, say something”  
3 and encourages residents to report all incidents (including criminal activities) to him directly.  
4 Under the direction of Defendant Dan Choe, Codefendants spied on Plaintiffs and their families  
5 to report information to him. In short, Plaintiffs feel they are constantly being watched and  
6 unable to freely enjoy their community - walking in the neighborhood or using the pool without  
7 fear of being confronted by Defendant Dan Choe and co-defendants.  
8

9 96. Defendant Dan Choe created a dictatorial environment where residents are  
10 fearful of retaliation if they speak out against him. He demands loyalty from residents and seeks  
11 to identify “traitors” to his cause. He has repeatedly threatened residents in the group WeChat  
12 administered by Alex Yang with lawsuits if they help Plaintiffs in any way.  
13

14 97. Defendant Dan Choe and his individual Codefendants have demonstrated a  
15 pattern of willful targeting and retaliating against Plaintiffs who air their grievances on social  
16 media. They obsessively monitor residents and owners on social media platforms such as  
17 Nextdoor.com to root out anyone who they believe is making critical comments about himself  
18 or the board. Within minutes, Defendants and Codefendants will delete comments made by  
19 Plaintiffs and have repeatedly suspended their accounts. Plaintiffs and residents are then sent  
20 multiple violations and fines in retaliation.  
21

22 98. Defendants Dan Choe, Grace Lee, William Chu, Tina Smith, Susan Okuno,  
23 Luciana Chang, Alex (Yinyang) Yang, Vicky Chu, Hoafan Chang, Robert Jin, Jinghue (Judy)  
24 Li, Samuel Sukwoo Choe, Zi Jie Liu engaged in election interference to unduly influence HOA  
25 elections. Plaintiffs who were running for the HOA board were called “morons”, “crazy”,  
26 “sociopaths”, “drunks”, “racists”, “stupid”, “criminals”, “threatening” among other insults.  
27  
28

1 Defendants also engaged in defamation campaigns going door to door in the community to  
2 malign Plaintiffs (and their families) who were running for election to the HOA boards.

3 99. Defendants Dan Choe, Grace Lee, William Chu, Tina Smith, Susan Okuno,  
4 Luciana Chang, Alex (Yinyang) Yang, Vicky Chu, Hoafan Chang, Robert Jin, Jinghue (Judy)  
5 Li, Samuel Sukwoo Choe, Zi Jie Liu, and Lia Dalhover have used community board meetings  
6 not for the intended purposes of discussing legitimate community business, but to conduct  
7 orchestrated angry mob hate rallies against Plaintiffs. During board meetings, Plaintiffs are  
8 defamed, yelled at, cursed at, and often ejected from meetings. Defendants demanded to release  
9 the names and personal home address of Plaintiff to the community. Plaintiffs are concerned  
10 for their safety and feel intimidated and attacked during community meetings and fear being  
11 confronted by the Defendants within their own neighborhood. Defendant Dan Choe engaged in  
12 this conduct and behavior with the ratification, coordination and assistance of Defendant HOA,  
13 Defendant PMP, and his individual Codefendants.  
14  
15

16 100. The HOA has revised the community “Standards and Guidelines” at least four  
17 times since 2020, imposing new rules and significantly increase the fines multiple times. The  
18 original rules in 2004 were less than eight pages; now, they are close to 25 or more pages.  
19 Defendants Dan Choe, and HOA board have increased the schedule of fines far in excess of  
20 those imposed by similar communities in order to extort more money for CCR “violations”,  
21 many of which are frivolous, arbitrary, or fabricated. The HOA now plans to approve additional  
22 rules and exorbitant fines-\$500 for first infractions up to \$5000 per month to extort even more  
23 money from residents. Defendant Dan Choe engaged in this conduct and behavior with the  
24 ratification, coordination and assistance of Defendant HOA, Defendant PMP, and his individual  
25 Codefendants.  
26  
27  
28

1           101. Throughout his tenure on the Board, Defendant Dan Choe systematically and  
2 deliberately failed to enforce city safety codes and comply with state HOA laws, including the  
3 Davis-Stirling Act. Defendant Dan Choe has engaged in this conduct with the ratification and  
4 active assistance of Defendant HOA, Defendant PMP, and his individual Codefendants.  
5

6           102. Defendant Dan Choe and HOA board failed to conduct the proper inquiries and  
7 obtain Irvine city permits before investing in costly, unapproved neighborhood “security and  
8 surveillance projects.” Defendants also and failed to gain approval from community residents  
9 as required by community bylaws regarding large capital expenses of surveillance equipment.  
10 Defendant Dan Choe engaged in this conduct and behavior with the ratification, coordination  
11 and assistance of Defendant HOA, Defendant PMP, and his individual Codefendants.  
12

13           103. Throughout his tenure on the HOA Board, Defendant Dan Choe systematically  
14 and deliberately failed to obey city safety codes which has resulted in multiple citations from  
15 the City of Irvine. Due to Defendant Dan Choe’s harassment of city officials, the City must use  
16 police escorts for city officials when doing inspections in the community. This failure to follow  
17 City planning, permitting, and safety codes has resulted in municipal violations and fines  
18 against the HOA. Rather than comply with the laws, rules and regulations of the City of Irvine,  
19 Defendant Dan Choe and the Board have used community resources to litigate against the City  
20 of Irvine and file complaints about officials for doing their jobs. Defendant Dan Choe engaged  
21 in this conduct and behavior with the ratification, coordination and assistance of Defendant  
22 HOA, Defendant PMP, and his individual Codefendants.  
23  
24

25           104. Defendants Dan Choe, William Chu, Susan Okuno, Tina Smith and the board  
26 failed to comply with multiple sections of the Davis-Stirling Act which governs HOA  
27 procedures and conduct. Most egregiously, aforementioned Defendants have repeatedly  
28



1 engaged in financial opaqueness and stonewalling and perversion of board election procedures.  
2 Defendant Dan Choe has engaged in this conduct with the ratification and active assistance of  
3 Defendant HOA, Defendant PMP, and his individual Codefendants, all acting in coordinated  
4 and systemic unison.  
5

6 105. Defendants Dan Choe, HOA board, and PMP management have intentionally  
7 failed to maintain financial transparency of expenses and records as required by Davis Stirling  
8 laws regarding the release of Association financial records. Despite multiple requests from  
9 Plaintiffs and residents, Defendant Dan Choe and the HOA, have refused to release all requested  
10 financial records for over a year which prompted Plaintiffs to file a small claims suit to release  
11 the records. Plaintiffs won the small claims suit and Defendant Dan Choe has appealed the case.  
12 Per the vendor contract, Defendant Dan Choe has been charging the community \$175 per hour  
13 for his “legal services” to attend court and defend the multiple lawsuits which he has caused, a  
14 clear instance of self-dealing. These fees are in addition to attorney fees and PMP legal  
15 representative fees, all of which have been borne by the community. Defendant Dan Choe  
16 engaged in this conduct and behavior with the ratification, coordination and assistance of  
17 Defendant HOA, Defendant PMP, and his individual Codefendants.  
18  
19

20 106. Plaintiff, who is a board member of the HOA, has been repeatedly stonewalled  
21 from accessing financial records and information regarding other lawsuits against the HOA and  
22 Defendant Dan Choe. Defendant Dan Choe orchestrated a campaign with Defendants William  
23 Chu, Susan Okuno, Tina Smith, Robert Jin, Vicky Chu, Haofan Chang, Luciana Chang, Grace  
24 Lee to compel Plaintiff to resign because Plaintiff participated in the small claims lawsuit to  
25 release financial records. Without presenting evidence or cause, Defendants used community  
26 meetings to harass and demand Plaintiff resign from the board. Defendant Dan Choe engaged  
27  
28

1 in this conduct and behavior with the ratification, coordination and assistance of Defendant  
2 HOA, Defendant PMP, and his individual Codefendants.

3 107. Defendant Dan Choe has taken on the role of a traffic cop vigilante, conducting  
4 patrols of the neighborhood multiple times a day. He frequently waits in hiding near stop signs  
5 to monitor residents and then confronts them for not stopping fully. Defendant Dan Choe has  
6 frequently approached or “jumped in front” of moving vehicles in order to stop them from  
7 alleged “speeding” which is a nuisance and safety hazard and may result in accidents and his  
8 own personal injury.  
9

10 108. Defendant Dan Choe and HOA board intentionally removed designated public  
11 parking spaces in which Plaintiffs and their neighbors had been using for years in order to  
12 punish them for being a “problem street”. For over 6 months, Defendant Dan Choe patrolled  
13 the streets of Plaintiffs in order to fine and tow their cars. Neighbors have reported Defendant  
14 Dan Choe has had their cars’ tires deflated and towed for arbitrary infractions that even the tow  
15 company considered frivolous. Defendant Dan Choe engaged in this conduct and behavior with  
16 the ratification, coordination and assistance of Defendant HOA, Defendant PMP, and his  
17 individual Codefendants.  
18

19 109. Defendant Dan Choe has appointed himself to function as security patrol and  
20 frequently interrogates guests of residents using community amenities or walking within the  
21 neighborhood.  
22

23 110. Defendants Dan Choe, William Chu, Susan Okuno, Tina Smith engage in  
24 selective enforcement and do not obey the community rules themselves. Plaintiffs have reported  
25 that Defendant Dan Choe has been an extreme nuisance with his constant harassment of  
26 residents, stalking and a threat to resident safety. Defendants fail to stop fully at stop signs,  
27  
28

1 have installed “unsightly” television antennas, and have unmaintained lawns. Plaintiffs have  
2 reported that Defendant William Chu has frequent parking violations, installs unapproved  
3 architectural changes, and leaves recreational equipment in common areas. Plaintiffs have  
4 reported that both Defendants Susan Okuno and Tina Smith have repeatedly been nuisances by  
5 filming Plaintiffs children. Despite these breaking multiple CCR themselves, none of the  
6 Defendants have received violations or fines.  
7

8 111. Plaintiffs have been targeted by Defendant Dan Choe frequently. Plaintiffs feel  
9 intimidated and feel their coming and going are monitored by the license plate scanning system.  
10 As soon as Plaintiffs entered the community, Defendant Dan Choe would frequently appear on  
11 their street to make obscene gestures (middle finger) and to intimidate them by making “I’m  
12 watching you” gestures. Defendant Choe has ostentatiously filmed Plaintiffs for no purposes  
13 other than to harass and disturb them. Plaintiffs have been fined multiple times for specious  
14 frivolous incidents such as claims of following and harassing Board members, stepping onto  
15 community landscaping, or talking to vendors.  
16  
17

18 112. Defendant Dan Choe, Defendant HOA, and Defendant PMP have failed to  
19 properly maintain the community assets and keep them in good condition: Landscaping has  
20 multiple divots and several sinkholes; tree maintenance is neglected; pest control is neglected,  
21 street maintenance is overdue; pedestrian gates fail to close, and the locks are not functioning  
22 on those gates; hardscape is deteriorating, streetlamps have broken glass and walkway lights  
23 are filthy. Street signs are missing and lean; stop signs are badly faded and peeling creating  
24 safety hazards.  
25

26 113. Defendants Dan Choe and William Chu have created hostile working conditions  
27 for postal workers. Workers have complained that the shoddy landscape maintenance – many  
28

1 large divots and sinkholes in the grass and poor lighting create safety hazards for postal workers  
2 in delivering the mail. Defendants revoked postal worker access to common area bathrooms  
3 forcing postal workers to leave the community to use the bathroom. This has created an undue  
4 hardship for workers and delays mail delivery. The installation and replacement of mailboxes  
5 did not get USPS approval/permit. These working conditions have caused delays in delivery of  
6 residents' mail and create the potential for liability for injury of postal workers.  
7

8 114. Defendant Choe has sent at least one Plaintiff numerous phone calls, harassing  
9 text messages, including several aggressive and malevolent text messages for several hours  
10 regarding a simple public forum post that Plaintiff had made about the gates' arms, with  
11 comments including:  
12

13 "you ignore my basic question"

14 "i don't need to be polite. please read and be thankful your family wasn't affected when  
15 many have been."

16 "delete the post. otherwise, the board will want to meet you" "call me or not"

17 "i answered but you were not answering"

18 "you haven't even bothered to read these detailed posts on our forums contextualizing  
19 the pain and suffering of your neighbors"  
20

21 115. Defendant Choe then proceeded to scream at Plaintiff over the phone when she  
22 called him back during her son's game. A true and correct copy of some of these messages is  
23 attached herein as Exhibit E.  
24

25 116. Defendant Choe sent other Plaintiffs text messages attempting to provoke marital  
26 discord between the couple including messages such as "your wife isn't willing to share with  
27  
28

1 you” and others falsely accusing several Plaintiffs and demanding them “to stop harassing my  
2 family”.

3 117. A homeowner had a particularly disturbing encounter that was reported to  
4 Defendant PMP. In their report, they wrote

5  
6 “I am reporting this to PMP and the board for investigation and action. This relates to  
7 an individual who claims to be an agent of the HOA. This incident occurred at  
8 approximately 9:40 pm on 6/12/2024. I was walking on Tea Garden near the clubhouse.  
9 I saw Dan Choe arguing with a tow truck, and after he was done, I politely asked him if  
10 he knew who the HOA uses for transponder installation (see my other service request).  
11 Then the following occurred. First, he said it was ‘A 3<sup>rd</sup> party he didn’t know.’ I asked  
12 if he was sure, and then he said, ‘It was me.’ He became increasingly belligerent and  
13 odd, and started yelling the following points at me, after he took out his camera and  
14 started videotaping. Examples of what he said follows: 1) He said he was going after  
15 me and my family and going to my employer in order to harass me and sue me[;] 2) He  
16 accused various board members and their children of odd acts, such as soliciting  
17 prostitutes[;] 3) He offered me \$1000 to look at my phone accusing me of texting  
18 someone about him [I did not].[;] 4) He screamed that I need to go to therapy[;] 5) He  
19 screamed that I needed to be a better father to my son.[;] 6) He yelled about  
20 vaccinations.[;] 7) As his agitation increased, I felt unsafe with the situation and  
21 therefore I started walking back to my residence briskly and he chased after me, along  
22 with his small dog. He was screaming “Did you call the police?” [;] 8) He followed me  
23 as I walked back to my residence.

24  
25 He appeared to videotape the entire episode, so perhaps there is evidence if you would  
26 like to attempt to corroborate what is above. I did not raise my voice at all during this  
27 uncomfortable and harassing encounter.

28  
29 Mr. Choe claims he was acting as an agent of the HOA as an installer. This unhinged  
30 behavior towards residents is concerning and a significant liability to PMP and the HOA.

31  
32 I would appreciate that PMP and the board investigate and let me know the outcome of  
33 the investigation.

34  
35 118. This homeowner did not receive any follow-up or feedback regarding this  
36 incident.

37  
38 119. Plaintiffs further believe on information and good faith, based on documented  
39 evidence, that Defendant Choe, Defendant HOA, and Codefendants utilize drone technology to

1 surveil residents and homeowners in the community, which is not disclosed in the Camera  
2 Policy.

3 120. Defendant Dan Choe has posted in WeChats goading to the residents and owners  
4 about his infallibility and threatening, posting messages such as “Jama Icanese = fake name =  
5 Eileen Hoshino”, “When I last posted this she called the police on me”, “Irvine PD couldn’t do  
6 anything” with a laughing emoji, “If you take screenshots and there is a legal matter, I will  
7 personally file a lawsuit against you.”, and “Just enjoy the community. Follow the rules. Be  
8 nice to each other.” A true and correct copy of this message chain is attached herein as Exhibit  
9 D.  
10

11 121. Defendant Choe has also stalked an employee of a Plaintiff who was running for  
12 election to the HOA Board, unlawfully and intentionally interfering with the ability of Plaintiff  
13 to effectively run for election.  
14

15 122. Defendant Dan Choe’s actions and behavior, with the ratification and assistance  
16 of Defendant HOA, Defendant PMP, and individual Codefendants, have led to multiple legal  
17 actions and lawsuits that have dramatically increased legal costs for the Northwood Estates  
18 community, including but not limited to failure to install equipment and follow safety codes  
19 which has resulted in city fines and litigation due to Defendant Dan Choe’s harassment of city  
20 officials.  
21

22 123. Other lawsuits against Defendant Choe and Defendant HOA include *Big Star*  
23 *Enterprises, Inc. and Guido Campellone v. Jason Oh, et al.*, filed in the Superior Court of the  
24 State of California County of Orange on December 18, 2023 (Case No. 30-2023-01369166-  
25 CU-CR-NJC), *Jinping Wan v. Northwood II Community Association, et al.*, filed in the Superior  
26 Court of the State of California County of Orange on December 10, 2023 (Case No. 30-2023-  
27  
28

1 01324853-CU-BC-CJC), and *Timothy Cross v. Daniel Choe*, filed in the Superior Court of the  
2 State of California County of Orange (Case No. 30-2023-01335027-CU-HR-CJC).

3 124. There have been multiple Irvine Police incident reports documenting Plaintiffs'  
4 harassment from Defendants Dan Choe and William Chu. Incident report numbers: 24-0610140,  
5 24-08695, 24-04680, 230900336, 24-0501333, 230900332, 220508378, 230506594,  
6 221203189, 23-10641, T21001764, T24000993.  
7

8 125. Defendants, each of them, stalk, harass, and bully renters who lease properties  
9 in the community to prevent landlords from leasing their properties.  
10

11 126. Defendants, each of them, are attempting to coerce landlords into ceasing all  
12 rental activity, in violation of state law.

13 127. Defendant HOA requires that landlords complete an application in order to be  
14 able to lease their residence.

15 128. Defendants, each of them, engage in targeted harassment in efforts to pit  
16 landlords against tenants and vice versa.  
17

18 129. Defendant HOA and Defendant Choe have required landlords to send all of a  
19 renter's personal and lease information to the HOA.

20 130. On at least one occasion, Plaintiffs and/or other homeowners have requested  
21 information and details regarding the citations issued to the Northwood Estates community by  
22 the City of Irvine, including the nature of the violations and any associated documentation.  
23 However, their requests have been ignored and they've simply been told to address at HOA  
24 Board meetings. However, at these meetings, individuals who raise these questions and issues  
25 are attacked, mocked, denigrated, and bullied by Defendant Choe and his gang of vigilantes.  
26  
27  
28

1           131. Defendant Dan Choe failed to conduct proper inquiries before investing in costly  
2 projects and failed to gain approval from community residents. He engaged in this conduct and  
3 behavior with the ratification and assistance of Defendant HOA, Defendant PMP, and his  
4 individual Codefendants.  
5

6           132. Plaintiffs allege on information and good faith belief that Defendant Dan Choe  
7 is utilizing cash reserves targeted for community maintenance to fund his  
8 monitoring/surveillance projects.  
9

10           133. Plaintiffs allege on information and good faith belief that Defendant Dan Choe  
11 has utilized his position the first as a member of the HOA Board and then as a vendor of the  
12 HOA for personal gain. As a member of the HOA Board, Dan Choe suggested his company as  
13 a vendor for the desired contract, a clear conflict of interest.  
14

15           134. Plaintiffs further allege on information and good faith belief that Defendant Dan  
16 Choe is utilizing HOA assets for his own personal benefit. There are many purchases for  
17 electronic, software, technology related services and products which seem excessive and  
18 unsuitable for a 400-home community. They are more in line for a technology business. Some  
19 of this technology includes cloud services (Google, Amazon, Microsoft), IT equipment,  
20 marketing services, etc. It is well-known that Dan Choe has launched multiple IT start-ups and  
21 has even tried to solicit business from residents, including Plaintiff Sood for his products.  
22

23           135. Defendant Dan Choe and his individual Codefendants monitor residents and  
24 owners on social media platforms, Nextdoor.com, and community forums. The Codefendants  
25 will target and retaliate against residents and owners who air their grievances on social media.  
26

27           136. Defendant Dan Choe, Defendant HOA, and Defendant PMP have failed to  
28 properly maintain the community assets and keep them in good condition.



1           137. The previous retired postal worker (Sharon) also complained that the shoddy  
2 landscape maintenance – lots of large divots in the grass, poor lighting created safety hazards  
3 for her in delivering the mail. She said she almost fell a few times. I think she said when she  
4 brought this up to Dan/William, they began to treat her badly – accused her of speeding,  
5 revoking her access to bathrooms which created a hardship for her because she had to go to  
6 Starbucks several times a day, verbally scolding her, etc. She also said replacement of  
7 mailboxes did not get USPS approval/permit.  
8

9  
10           138. Plaintiffs have been subjected to a pattern of aggressive, hostile, intimidating, and  
11 threatening behavior by Defendant Choe, his gang of vigilantes, Defendant PMP, and Defendant  
12 HOA.

13           139. A particular group of Plaintiffs have been particularly victimized by Defendant  
14 Choe and his gang of vigilantes. Since approximately June 2023, Defendant Choe has engaged  
15 in a pattern of increasing intimidation and harassment towards Plaintiffs. She has reported his  
16 behavior to the police, and they advised her to file a civil harassment restraining order as soon  
17 as possible.  
18

19           140. Defendant Choe is extremely angry at Plaintiff because she and her husband  
20 attempted to help a neighbor who was afraid of him. Her and her husband questioned Defendant  
21 Choe's accusations, and she voiced concerns about him filming minors and posting their  
22 pictures to community forums and group texts.  
23

24           141. Because of this, Defendant Choe began to target Plaintiff and her son by  
25 repeatedly falsely accusing her 11-year-old son of vandalism. He forced her and her husband  
26 to attend a "discipline hearing" where Defendant Choe became very hostile and continued to  
27 berate and threaten them.  
28

1           142. Both Plaintiff and her husband filed Temporary Restraining Orders against  
2 Defendant Choe in August 2023 because Choe had been repeatedly targeting their children and  
3 taking photos and filming them despite Plaintiffs telling him to refrain from doing so.  
4 Unfortunately, they had to withdraw the Temporary Restraining Orders due to their neighbor's  
5 life-threatening illness.  
6

7           143. Defendant Choe has repeatedly harassed, intimidated, and threatened Plaintiff to  
8 the point where she no longer feels safe in her own neighborhood. She no longer walks around  
9 the neighborhood or uses the pool and other amenities. She is constantly looking over her  
10 shoulder and is afraid to allow her son to ride his bike around the neighborhood. Sometimes,  
11 when her husband is out of town, she will stay with a friend. Her and her husband have installed  
12 cameras around their home and their cars because of Defendant Choe.  
13

14           144. Defendant Choe's actions towards Plaintiffs have been increasingly aggressive  
15 over the past year. They have had legal cease and desist letters sent to him and the police have  
16 attempted to intervene, but Defendant Choe's harassment has only gotten more hostile and  
17 extreme. Therefore, Plaintiffs intend to file another restraining order because Defendant Choe  
18 has shown no signs of stopping his harassment. Plaintiffs fear for their safety and are under  
19 constant emotional distress.  
20

21           145. On or around August 10, 2023, Defendant Choe physically confronted Plaintiffs  
22 in the courthouse for the Superior Court of Orange County. He was angry that Plaintiffs agreed  
23 to be a character witnesses for a former resident who was filing a restraining order against him.  
24 Defendant Choe followed and filmed Plaintiffs in the courthouse cafeteria. He got very close  
25 to their faces and repeatedly demanded that they leave. Defendant Choe grabbed Plaintiff's  
26 coffee and threw it away. Two sheriffs had to physically separate Defendant Choe from  
27  
28

1 Plaintiffs. Defendant Dan Choe then posted to the pictures of Plaintiffs to the community page  
2 and viciously defamed them.

3 146. Defendant Choe has incited a campaign of hate against Plaintiffs. Several  
4 neighbors have voiced concerns for their safety. Defendant Choe obsessively writes hundreds  
5 and hundreds of online defamatory posts and text messages about Plaintiffs and their family,  
6 which he then sends to the neighborhood on an almost daily basis. He repeatedly makes false  
7 accusations that Plaintiffs' son vandalized community property and repeatedly defames  
8 Plaintiff, calling her a sociopath, a criminal, crazy, and other derogatory terms.  
9

10 147. Since November 2023, Defendant Choe has turned monthly community board  
11 meetings into hate rallies against Plaintiff. Plaintiff feels that Defendant Choe intentionally  
12 organizes these hate rallies with his gang of vigilantes. Defendant Choe has verbally attacked  
13 Plaintiff and screamed at her, repeatedly defaming her and accusing her of fake charges and  
14 allegations. He repeatedly talks disparagingly about her even when she is not in attendance and  
15 encourages his gang of vigilantes to verbally attack her. Plaintiff no longer attends these  
16 meetings out of fear.  
17

18 148. Plaintiffs, on information and good faith belief, allege that Defendant HOA,  
19 Defendant Choe, and Defendant Choe's crew of miscreants utilize surveillance audio collected  
20 throughout the neighborhood to randomly and arbitrarily penalize and fine residents and  
21 homeowners, including resorting to diversionary tactics, extortion, and blackmail.  
22

23 149. On September 21, 2024, Defendant Choe sent Plaintiffs a peculiar email  
24 contrived to on the one hand, deflect from his own misdeeds and unlawful acts, and on the  
25 other, threaten Plaintiffs with public humiliation and degradation if they did not acquiesce to  
26 his machinations, demands, and unruly fines. A true and correct copy of this email is attached  
27  
28

1 herein as Exhibit E.

2 150. Defendant Choe disclosed an unidentified audio recording in the email, citing  
3 that it was an “audio recording from a resident living far away from Torrey Pine, who was  
4 considerably upset due to disturbances to their sleep after 11 pm. One can only imagine the  
5 intensity of the experience firsthand.” While Defendant Choe failed to corroborate the origin or  
6 true nature of the recording, as Plaintiff believes on information and good faith belief that he  
7 could not because he was lying, he made a point to tell Plaintiffs that “I would like to clarify  
8 that this recording did not originate from my residence nor anyone on the board.”  
9

10 151. Defendant Choe assured Plaintiffs that the HOA had been unaware of these  
11 occurrences until informed by residents; however, Defendant Choe then later claims that “[t]he  
12 board also lacked prior knowledge and proceeded to confirm the events through surveillance  
13 footage, dedicating considerable time to authenticate the details.” On the one hand, Defendant  
14 Choe claimed that the HOA had been unaware of these occurrences until informed by residents  
15 and on the other hand, claims that the HOA was able to verify the events through surveillance  
16 footage, which is interesting as Plaintiffs knows that Defendant Choe is consistently monitoring  
17 surveillance footage and even runs out to harass Defendants when they come home from work  
18 because he is watching the surveillance footage from inside his home.  
19

20 152. Plaintiffs allege that Defendant Choe lied in this email to frame Plaintiffs for the  
21 disturbances that he is unable to verify are coming from Plaintiffs’ residence or property and  
22 hasn’t even confirmed what the alarm is in the audio recording.  
23

24 153. Further, in this email, to deflect from his perverse and Machiavellian  
25 machinations, he raises an alleged message that Plaintiff sent Defendant HOA on January 21,  
26 2024, to the HOA’s community manager, stating that “[i]t appears that this HOA is gender  
27  
28

1 discriminating, and called me owner’s wife not the owner. If this HOA does not have access to  
2 the Deed of property, I’m attaching the copy of deed for immediate correction.”

3 154. Any claims from Defendant HOA that Plaintiff are not the owner of the residence  
4 belonging to both Plaintiffs is nothing more than a sinister, calculated, and lowly attempt to  
5 belittle Plaintiff and wrongfully absolve itself of addressing Plaintiffs’ concerns.  
6

7 155. Despite the fact that this claim was made in January 2024, Defendant Choe  
8 shamelessly and gallingly demanded that Plaintiffs demand this allegation to avoid the necessity  
9 of legal action.  
10

11 156. As a final gaslighting tactic in what can be described as nothing more than an  
12 abusive maneuver to coerce Plaintiffs into silence and submission, Defendant Choe brought up  
13 Plaintiffs’ license plate stating that “[i]t’s important to remember that these issues handled with  
14 confidentiality, which means our families are not informed about the violations. However,  
15 should you decide to pursue legal action, it would bring this matter into the public domain, a  
16 decision that rests solely with you...In light of this, I trust that the fine related to the violation  
17 will be resolved without protect. It’s important that we know that moving forward.”  
18

19 157. Defendant Choe has amassed and organized a group of sycophants and  
20 submissive enablers to act at his direction to wreak havoc on the Northwood Estates community  
21 and has elected himself as de facto totalitarian ruler of the community, placing the residents in  
22 a state of constant fear, torturing them psychologically, and endangering the welfare of their  
23 children.  
24

25  
26 **FIRST CAUSE OF ACTION: BREACH OF THE GOVERNING DOCUMENTS**

27 **(Against Defendant HOA and DOES 1-50)**  
28

1 158. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
2 paragraphs, as if set forth at length herein.

3 159. Pursuant to the terms of the CC&R'S, the Bylaws, and the Standards and Guidelines,  
4 the HOA Defendant is obligated to maintain the common areas, in a manner that is consistent  
5 with Section 3.1, 3.8, 3.10, 4.2, 4.3, 4.3.2, 4.5, 4.5.2, 4.5.3, 4.5.5., 4.10, 4.13, and 12.1 of the  
6 Bylaws, Section 6.8 of the CC&R's, and the Camera Policy of the Standards and Guidelines.  
7

8 160. Plaintiffs have performed all obligations required by them under the CC&R'S, the  
9 Bylaws, and the Standards and Guidelines.

10 161. Defendants, by failing obtain permits to install cameras and recording devices, have  
11 caused damages to Plaintiff in an amount to be proven at trial.

12 162. Pursuant to the CC&R'S, Plaintiffs are entitled to recovery of attorney fees for  
13 having to bring this action.  
14

15  
16 **SECOND CAUSE OF ACTION: BREACH OF IMPLIED COVENANT OF GOOD**

17 **FAITH AND FAIR DEALING**

18 **(Against Defendant HOA)**

19  
20 163. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
21 paragraphs, as if set forth at length herein.  
22

23 164. Plaintiff and Defendant entered into a valid and enforceable contract on or about  
24 the date that Plaintiffs became residents and homeowners of Northwood Estates, regarding the  
25 provision of services carried out by Defendant in the management, operations, and upkeep of  
26 the community.  
27  
28

1           165. The contract contained an implied covenant of good faith and fair dealing, which  
2 requires both parties to perform their obligations honestly, fairly, and in good faith.

3           166. Plaintiff performed all conditions, covenants, and promises required under the  
4 contract.

5  
6           167. Defendant, however, failed to act in good faith and fair dealing by failing to act  
7 in the best interests of the community and residents and homeowners for its own financial gain,  
8 ratifying the actions and misdeeds of Defendant Choe and his gang of vigilantes, refusing to  
9 fulfill contractual obligations, acting in a way that undermines the contract's purpose, and  
10 failing to properly repair and maintain the community premises.

11  
12           168. As a direct and proximate result of Defendant's breach of the implied covenant  
13 of good faith and fair dealing, Plaintiff has suffered damages in an amount to be proven at trial.

14  
15                           **THIRD CAUSE OF ACTION: INTENTIONAL INTERFERENCE WITH**  
16   **CONTRACTUAL RELATIONS**

17  
18   **(Against All Defendants)**

19           169. Plaintiff and Defendant HOA entered into a valid and enforceable contract on or  
20 about the date that Plaintiffs became residents and homeowners of Northwood Estates,  
21 regarding the provision of services carried out by Defendant in the management, operations,  
22 and upkeep of the community.

23  
24           170. Defendants, and each of them, were aware of the contractual relationship between  
25 Plaintiffs and Defendant HOA.

26           171. Despite this knowledge, Defendants, and each of them, intentionally and unlawfully  
27 interfered with that contractual relationship by coercing Plaintiffs into tendering payment for  
28

1 arbitrary and unlawful fines, making false statements, engaging in threatening and harassing  
2 behavior leading to Plaintiffs' fearing for their lives, misusing funds, engaging in deceptive  
3 conduct, and breaching their respective duties of care.

4  
5 172. As a result of Defendant's intentional interference, Defendant HOA has breached its  
6 contract, refused to perform, breached its fiduciary duties by engaging in self-dealing, misusing  
7 funds, and refusing to provide financial records, causing Plaintiffs to suffer monetary and  
8 nonmonetary damages, including lost funds, emotional distress and mental anguish, and other  
9 damages.

10  
11 173. Defendants' actions were done with the intent to disrupt the contractual relationship  
12 and/or with a reckless disregard of the consequences to Plaintiff.

13 174. As a direct and proximate result of Defendant's intentional interference with  
14 contractual relations, Plaintiff seeks compensatory damages in an amount to be determined at  
15 trial, punitive damages to deter Defendants and others from engaging in similar conduct, in an  
16 amount to be proven at trial.

17  
18 **FOURTH CAUSE OF ACTION: TORTIOUS INTERFERENCE WITH**  
19 **PROSPECTIVE ECONOMIC ADVANTAGE**

20  
21 **(Against all Defendants)**

22 175. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
23 paragraphs, as if set forth at length herein.

24 176. Plaintiffs formed a contractual relationship with Defendant HOA as homeowners of  
25 Northwood Estates.

26 177. On information and good faith belief, Plaintiffs contend that Defendants, each of  
27 them individually, had knowledge of the contractual relationship between Plaintiffs and  
28



1 Defendant HOA and the resulting prospective economic relations arising out of such contractual  
2 relationship.

3 178. Despite knowing of the contractual relationship between Plaintiffs and Defendant  
4 HOA, Defendants, each of them individually, have actively engaged in behavior or ratified and  
5 enabled behavior, maliciously and oppressively, interfering with Plaintiffs' right to the benefits  
6 of their contractual relationship with Defendant HOA.  
7

8 179. Defendants acted intentionally to interfere with the prospective economic relations  
9 between Plaintiffs and Defendant HOA and to interfere with the prospective economic  
10 advantage of Plaintiffs with regard to their relationship with the Defendant HOA.  
11

12 180. The acts of Defendants as described herein constitute tortious interference with  
13 prospective economic advantage and relations.

14 181. As the direct result of Defendant's actions as alleged herein, Plaintiffs have been  
15 irreparably, materially, and substantially harmed and damaged in an amount to be proven at  
16 trial.  
17

18  
19 **FIFTH CAUSE OF ACTION: FRAUD – LACK OF INTENT TO PERFORM**

20 **(Against Defendants Choe, HOA, Citadl, and PMP)**

21 182. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
22 paragraphs, as if set forth at length herein.  
23

24 183. Individual and entity Defendants made certain representations to Plaintiffs regarding  
25 the premises and their commitment to the Northwood Estates community, as set forth above.

26 184. Defendants did not have any intention to perform the promises made to Plaintiffs at  
27 the time when they were made.  
28

1 185. Plaintiffs believed that Defendant HOA and Defendant PMP would act in their and  
2 the community's best interests.

3 186. Based thereon, Plaintiffs justifiably relied on the facts and promises stated by said  
4 Defendants, to their detriment.

5 187. Defendants, and each of them, breached their duty to disclose material facts  
6 concerning the premises, their activities, and how Plaintiffs' money was being used, which  
7 Defendants were obligated to fully and completely disclose.

8 188. Plaintiffs have continued to be arbitrarily and exorbitantly fined by Defendant Choe  
9 and his gang of vigilantes while the premises continues to be disregarded. Each individual and  
10 entity Defendant either actively participated in these actions and omissions or ratified them.

11 189. As a direct and proximate result of the fraud committed by Defendants, Plaintiffs  
12 have suffered extreme financial damage, anxiety, worry anger, mental and emotional distress,  
13 and Plaintiffs have suffered general, special incidental damages, attorneys' fees, and out of  
14 pocket expenses, all to Plaintiffs' general damage for a total sum to be proven at trial.

15 190. Defendants' conduct as described herein was deceptive, fraudulent, and was  
16 undertaken with a conscious disregard of Plaintiffs' rights so as to entitle Plaintiffs to punitive  
17 damages pursuant to Civil Code §3294.

18  
19  
20  
21  
22  
23 **SIXTH CAUSE OF ACTION: FRAUD – FAILURE TO DISCLOSE**

24 **(Against Defendants Choe, HOA, Citadl, and PMP)**

25 191. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
26 paragraphs, as if set forth at length herein.

1 192. Defendants were aware of, or should have been aware, that the premises were not in  
2 the good condition stated by them, the premises are a hazard, the collection of fines and funds  
3 from Plaintiffs is improper, and Defendant HOA has been mismanaging funds collected by  
4 Plaintiffs.  
5

6 193. Defendant's actions, breach of fiduciary duties, and misuse of funds has been  
7 intentionally concealed, lied about and covered up by these Defendants so as to defraud  
8 Plaintiffs.  
9

10 194. Defendants were aware or should have been aware that full disclosure regarding the  
11 true condition of the premises, the funds collected by the HOA, and the financial records of  
12 Northwood Estates had not been made. These facts were material to Plaintiffs and were within  
13 Defendants' exclusive knowledge.  
14

15 195. Knowledge of these actions and omissions were peculiarly that of Defendants, and  
16 each of them, so as to give rise to a duty to disclose said material facts to Plaintiffs.  
17

18 196. Defendants, and each of them, breached their duty to disclose material facts  
19 concerning the premises and financial malfeasance to Plaintiffs.  
20

21 197. As a direct and proximate result of the fraud committed by Defendants, Plaintiffs  
22 have suffered extreme financial damage, anxiety, worry anger, mental and emotional distress,  
23 and Plaintiffs have suffered general, special incidental damages, attorneys' fees, and out of  
24 pocket expenses, all to Plaintiffs' general damage for a total sum to be proven at trial.  
25

26 198. Defendants' conduct as described herein was deceptive, fraudulent, and was  
27 undertaken with a conscious disregard of Plaintiffs' rights so as to entitle Plaintiffs to punitive  
28 damages pursuant to Civil Code §3294.

1 **SEVENTH CAUSE OF ACTION: FRAUD – CONSTRUCTIVE FRAUD**

2 **(Against Defendant Choe, HOA, PMP, and Citadl)**

3 199. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
4 paragraphs, as if set forth at length herein.

5  
6 200. Plaintiffs and Defendant HOA had a fiduciary relationship, which created a duty of  
7 trust and confidence between the parties.

8 201. In this relationship, Defendant HOA and its agents, representatives, and contractors  
9 owed a duty to act in good faith and to disclose all material facts that could affect Plaintiff's  
10 interests.

11  
12 202. Defendant HOA, however, failed to disclose material facts, including how the funds  
13 are being spent, where the funds are going, the nature of its contract with Defendant Choe, and  
14 other subversive activity Defendant HOA and its agents and representatives, including  
15 Defendant PMP, have engaged in concealing financial records, and misleading homeowners  
16 about repairs and upkeep of the premises.

17  
18 203. Defendant HOA's and his agents, representatives, and contractors' failure to disclose  
19 these facts constituted constructive fraud because the non-disclosure and false representations  
20 have resulted in Plaintiffs' loss of thousands of dollars and has impacted the value of Plaintiffs'  
21 residential properties.

22 204. As a direct and proximate result of Defendants' constructive fraud, Plaintiffs  
23 suffered damages, including financial losses and emotional distress and mental anguish.

24  
25 205. Defendant's actions were willful, wanton, and malicious, reflecting a gross disregard  
26 for the rights and interests of Plaintiffs.

1           206. As a direct and proximate result of Defendants' constructive fraud, Plaintiff seeks  
2 compensatory and punitive damages in an amount to be proven at trial.  
3

4  
5           **EIGHTH CAUSE OF ACTION: INTENTIONAL MISREPRESENTATION**

6                           **(Against All Defendants)**

7           207. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
8 paragraphs, as if set forth at length herein.

9           208. Defendant Choe and his gang of vigilantes instituted a reign of terror when  
10 Defendant Choe became Chair of Defendant HOA and from there, Defendants, and each of  
11 them, conspired together to falsely mislead Plaintiffs as to the true nature and reason for the  
12 arbitrary and haphazard fines, the maintenance of the premises, and the condition and misuse  
13 of HOA funds.  
14

15           209. Defendants' representations to Plaintiffs were false.

16           210. Defendants intended to deceive Plaintiffs and made these representations in  
17 conscious and reckless disregard for the truth.  
18

19           211. Defendant Choe and his gang of vigilantes used their position as members of the  
20 HOA Board and the community to abuse their power and self-deal, by utilizing the fines  
21 obtained from Plaintiffs for their own purposes.  
22

23           212. Each individual and entity Defendant had actual knowledge of these  
24 misrepresentations and authorized, ratified, and condoned the false representations.

25           213. Plaintiffs actually and justifiably relied on the false representations in believing that  
26 the HOA was utilizing the funds for maintenance and repair of the premises. Plaintiffs are  
27

1 informed and believe and thereon allege that Defendants never had any intention of properly  
2 using acquired funds.

3 214. Defendants' false representations were not privileged. Defendants acted with actual  
4 malice in reckless disregard of the truth of the matter asserted and knew or should have known  
5 that the true purpose of the actions they were ratifying, participating in, engaging in, or devising  
6 to carry out were criminal and fraudulent in nature. Defendants lacked reasonable grounds for  
7 belief in the legality and propriety of such conduct and therefore acted in reckless disregard of  
8 the Plaintiffs' rights.  
9

10 215. Defendant HOA and Defendant Choe implemented the camera and audio recording  
11 policy without the consent, notice, or approval of the community, instituting a draconian and  
12 Orwellian reign of terror over the community residents. Plaintiffs are informed and believe and  
13 thereon allege that not only did Defendants spy on Plaintiffs unlawfully and distribute these  
14 recordings, but also that Defendants used the funds obtained from Plaintiffs for their personal  
15 benefit and gain.  
16

17 216. As a proximate cause of Defendants' misrepresentations, Plaintiffs have been  
18 damaged in an amount in excess of the minimum jurisdiction of this Court.  
19

20 217. At all the times that Defendants acted in concert with each other for the engagement  
21 in, ratification, and approval of Defendant Choe's and Defendant HOA's actions, they were  
22 acting in the scope of their authority as officers, directors, and agents of the HOA.  
23

24 218. As a legal result of Defendants' fraud, and each of them, Plaintiffs suffered injury,  
25 financial and mental and emotional anguish, and for which Defendants were and are required  
26 to incur expenses, including legal, repair expenses, and related costs, all of which has damaged  
27 Plaintiffs in an amount to be proven at trial.  
28

1           219. As a further legal cause of Defendants' fraud, and each of them, Plaintiffs are  
2 informed and believe and thereon allege that Defendant HOA's and Defendant Choe's actions  
3 present a real, imminent, and serious threat to the safety of Plaintiffs and their children, and  
4 other community members. Plaintiffs are further informed and believe and thereon allege that  
5 Defendant HOA's and Defendant Choe's actions have irreparably harmed the financial  
6 viability, safety, and environmental enjoyment of the Northwood Estates community.  
7

8           220. Plaintiffs seek a temporary restraining order, preliminary injunction, and permanent  
9 injunction restraining Defendants from enforcing the camera and audio policy, fining any  
10 members of the community, including Plaintiffs, engaging with any of Plaintiffs or their  
11 children in the community, and ordering Defendants to deliver all camera and audio equipment,  
12 camera and audio recordings, and pictures of minor children to this Court.  
13

14           221. Defendants' conduct as described herein was and is despicable and carried on by  
15 the Defendants with a willful and conscious disregard of Plaintiffs' rights or safety and  
16 subjected Plaintiffs to cruel and unjust hardship in conscious disregard of Plaintiffs' rights for  
17 which Plaintiffs seek exemplary damages in a sum to be proven at trial.  
18

19           222. Defendants' conduct was outrageous, malicious, fraudulent, and oppressive, and  
20 specifically designed to harass and vex Plaintiffs entitling Plaintiffs to recover punitive  
21 damages.  
22

23  
24           **NINTH CAUSE OF ACTION: NEGLIGENT MISREPRESENTATION**

25                           **(Against All Defendants)**

26           223. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
27 paragraphs, as if set forth at length herein.  
28

1           224. Defendants, acting in concert with each other, falsely represented to Plaintiffs (and  
2 other members of the HOA who live in the community) that the use of the cameras and audio  
3 wiring were for the safety of the neighborhood, that the fines were due to a legitimate policy,  
4 and that the funds would be used for the maintenance and repair of the premises.  
5

6           225. That although Plaintiffs may have honestly believed that the representation was true,  
7 Defendants had no reasonable grounds for believing the representation was true when they  
8 acted in concert with each other.  
9

10           226. Defendants induced Plaintiffs to rely on this representation.

11           227. Plaintiffs reasonably relied on Defendants' representation.

12           228. As a direct and proximate result of Defendants' negligent misrepresentation,  
13 Plaintiffs were damaged in an amount in excess of the minimum jurisdiction of this Court.  
14

15           229. At all the times that Defendants acted in concert with each other for the engagement  
16 in, ratification, and approval of Defendant Choe's and Defendant HOA's actions, they were  
17 acting in the scope of their authority as officers, directors, and agents of the HOA.

18           230. As a legal result of Defendants' misrepresentations, and each of them, Plaintiffs  
19 suffered injury, financial and mental and emotional anguish, and for which Defendants were  
20 and are required to incur expenses, including legal, repair expenses, and related costs, all of  
21 which has damaged Plaintiffs in an amount to be proven at trial.  
22

23           231. As a further legal cause of Defendants' misrepresentations, and each of them,  
24 Plaintiffs are informed and believe and thereon allege that Defendant HOA's and Defendant  
25 Choe's actions present a real, imminent, and serious threat to the safety of Plaintiffs and their  
26 children, and other community members. Plaintiffs are further informed and believe and thereon  
27  
28



1 allege that Defendant HOA's and Defendant Choe's actions have irreparably harmed the  
2 financial viability, safety, and environmental conditions of the Northwood Estates community.

3 232. Plaintiffs seek a temporary restraining order, preliminary injunction, and permanent  
4 injunction restraining Defendants from enforcing the camera and audio policy, fining any  
5 members of the community, including Plaintiffs, engaging with any of Plaintiffs or their  
6 children in the community, and ordering Defendants to deliver all camera and audio equipment,  
7 camera and audio recordings, and pictures of minor children to this Court.  
8

9 233. Defendants' conduct as described herein was and is despicable and carried on by  
10 the Defendants with a willful and conscious disregard of Plaintiffs' rights or safety and  
11 subjected Plaintiffs to cruel and unjust hardship in conscious disregard of Plaintiffs' rights for  
12 which Plaintiffs seek exemplary damages in a sum to be proven at trial.  
13

14 234. Defendants' conduct was outrageous, malicious, fraudulent, and oppressive, and  
15 specifically designed to harass and vex Plaintiffs entitling Plaintiffs to recover punitive  
16 damages.  
17

18 **TENTH CAUSE OF ACTION: CONVERSION**

19 **(Against All Defendants)**

20 235. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
21 paragraphs, as if set forth at length herein.  
22

23 236. Plaintiffs allege that Defendants wrongfully exercised their control over the funds  
24 intended for maintenance, replacement, or repair of the premises or to manage the needs of the  
25 community.  
26

27 237. As set forth herein, the HOA has failed to be transparent or forthright with respect  
28 to how the funds were utilized by the HOA and to whom they were paid.

1 238. Additionally, the HOA has wrongfully entered into a vendor agreement with  
2 Defendant Choe and has not been forthcoming regarding the details and financial cost this  
3 contract.

4 239. Defendants have engaged in the practice of enforcing unauthorized fines and  
5 extorting funds from Plaintiffs who fear for their safety and wellbeing.  
6

7 240. Plaintiffs were and still are entitled to the possession of funds paid to the HOA for  
8 maintenance, repair, and replacement of the premises and facilities.

9 241. As a direct and proximate result of Defendants' conversion, Plaintiffs suffered  
10 damages in an amount to be proven at trial.  
11

12  
13 **ELEVENTH CAUSE OF ACTION: NEGLIGENCE**

14 **(Against Defendants HOA, Citadl, Choe, and PMP)**

15 242. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
16 paragraphs, as if set forth at length herein.  
17

18 243. At all relevant times, Defendant HOA owned, managed, and/or was in control of the  
19 premises at Northwood Estates community.

20 244. At all relevant times, Defendant PMP was contracted to conduct property  
21 management services for the benefit and enjoyment of the Northwood Estates community and  
22 its members.  
23

24 245. At all relevant times, Defendants owed a legal duty of reasonable care to patrons to  
25 inspect, maintain, and keep the subject premises in a safe condition, in addition to providing all  
26 services in a safe manner.  
27

1           246. At all relevant times, HOA failed to keep the premises safe and otherwise violated  
2 the aforementioned duties, and failed to show even slight care, constituting gross negligence,  
3 thus causing injuries to Plaintiffs.

4           247. At all relevant times, HOA had actual or constructive knowledge of the hazardous  
5 conditions that could have prevented the injury.

6           248. At all relevant times, Plaintiffs were residents of the premises managed and/or  
7 controlled by Defendant HOA and Defendant PP, and as such, Defendants had the duty to  
8 exercise ordinary and reasonable care to maintain its property in a reasonably safe condition for  
9 residents, including Plaintiff. HOA failed in its duties and did not show even slight care,  
10 constituting gross negligence.

11           249. As a direct and proximate result of Defendants' gross negligence, Plaintiffs have  
12 suffered damages in an amount to be proven at trial.

13  
14  
15  
16  
17           **TWELFTH CAUSE OF ACTION: NEGLIGENCE PER SE**

18           **(Against Defendant Choe, HOA, and PMP)**

19           250. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
20 paragraphs, as if set forth at length herein.

21           251. At all relevant times, Defendant had a duty to comply with the Davis-Stirling Act,  
22 California Government Code, California Civil Code, the Federal Wiretap Act, and other state  
23 and federal laws.

24           252. The purpose of the statutes was to protect a specific class of persons, including  
25 Plaintiffs, from the type of harm that occurred.  
26  
27  
28

1           253. Defendant violated these statutes by failing to comply with various provisions of the  
2 Davis-Stirling Act, by not providing financial records to Plaintiffs, by not maintain the  
3 premises, and other provisions, by failing to comply with the Fair Employment and Housing  
4 Act, by failing to comply with the Federal Wiretap Act in conducting surveillance over residents  
5 and homeowners by camera and audio recordings which were not disclosed to homeowners and  
6 residents.  
7

8           254. As a direct and proximate result of Defendants' violation of this statute, Plaintiffs  
9 suffered injuries and damages, including financial loss, emotional distress and mental anguish.  
10

11           255. The violation of these statutes constitutes negligence per se, and therefore, Plaintiffs  
12 are entitled to recover damages without needing to establish the standard of care typically  
13 required in negligence cases.

14           256. As a direct and proximate result of Defendants' negligence per se, Plaintiffs have  
15 suffered damages in an amount to be proven at trial.  
16

17  
18                           **THIRTEENTH CAUSE OF ACTION: PREMISES LIABILITY**

19                                   **(Against Defendant HOA and Defendant PMP)**

20           257. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
21 paragraphs, as if set forth at length herein.  
22

23           258. At all relevant times, Defendant HOA and Defendant PMP owned, managed, and/or  
24 was in control of the subject common premises at Northwood Estates and as such controlled  
25 said premises with the intent to occupy and control it and maintain it for the enjoyment and use  
26 of the community.  
27  
28

1           259. At all relevant times, HOA owed a legal duty to residents and owners to maintain  
2 the premises in a reasonably safe condition and to warn residents and owners of any dangerous  
3 conditions and to warn residents and owners of any dangerous condition which is actually or  
4 constructively known to Defendant HOA and Defendant PMP.  
5

6           260. Furthermore, Defendant HOA and Defendant PMP have a duty to exercise ordinary  
7 care in management of premises in order to avoid exposing persons to unreasonable risk of  
8 harm.  
9

10           261. Plaintiffs are further informed and believe, and on that basis, allege, that at all  
11 relevant times, HOA and PMP knew or should have known through the exercise of reasonable  
12 care that the landscaping conditions of the common areas in the community, the lack of proper  
13 lighting, and the faded stop signs presented an unreasonable risk of harm to residents and  
14 visitors and created an unreasonably unsafe and unnecessarily dangerous condition caused by  
15 unprotected and open areas that individuals could injure themselves in, cause a vehicular  
16 accident, or could otherwise be seriously injured.  
17

18           262. Plaintiff is further informed and believes, and on that basis alleges, that at all relevant  
19 times, HOA and PMP knew, or through the exercise of reasonable care should have known,  
20 that by not adhering to industry standards and by failing to repair or maintain lighting,  
21 dangerous landscaping, and faded stop signs, created an unreasonable risk of harm that would  
22 not be reasonably apparent to residents or visitors.  
23

24           263. At all relevant times, HOA and PMP had actual or constructive knowledge of the  
25 hazardous condition and the right and ability to correct it, which could have prevented the risk  
26 to Plaintiffs and Plaintiffs' injuries.  
27  
28

1           264. Plaintiff is further informed and believes, and on that basis alleges, that at all relevant  
2 times, HOA and PMP knew, or through the exercise of reasonable care should have known,  
3 that warnings of the unreasonably unsafe and unnecessarily dangerous condition of the  
4 landscaping, the lighting, and the stop signs were necessary and essential to eliminate or reduce  
5 the risk of injuries arising therefrom.  
6

7           265. Plaintiff is further informed and believes and on that basis alleges, that at all relevant  
8 times, HOA knew or through the exercise of reasonable care should have known, by failing to  
9 install or maintain adequate landscaping conditions, lighting, and stop signs in the community,  
10 unreasonably increased the inherent risk of injury to residents and visitors, especially to  
11 individuals who may be driving at night, children who may be injured by dangerous  
12 landscaping, or elderly individuals who may be injured due to poor lighting or dangerous  
13 landscaping.  
14

15           266. As a direct and proximate result of Defendants' gross negligence, Plaintiffs have  
16 suffered damages in an amount to be proven at trial.  
17

18  
19           **FOURTEENTH CAUSE OF ACTION: BREACH OF FIDUCIARY DUTY OF CARE**

20                           **(Against Defendant HOA and Defendant Dan Choe)**

21           267. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
22 paragraphs, as if set forth at length herein.  
23

24           268. At all relevant times, a fiduciary relationship existed between Plaintiffs and  
25 Defendant HOA. As a homeowner's association, Defendant had a duty to act in the best  
26 interests of its members, including Plaintiffs, and to manage the common interests and affairs  
27 of the community with care.  
28

1           269. This duty was imputed to Defendant Choe as an HOA board member.

2           270. Defendant owed Plaintiffs a duty of care, which required Defendant to act with  
3 reasonable skill, diligence, and good faith in managing the affairs of the HOA, including but  
4 not limited to financial management, enforcement of rules, maintenance of common areas, and  
5 ensuring the safety and security of the community.  
6

7           271. Defendant breached this duty of care by failing to properly maintain common areas,  
8 mismanaging funds, failing to provide adequate notice of meetings or creating an environment  
9 where members would be afraid to come to meetings, interfering with election participation,  
10 ignoring complaints from members, engaging in Orwellian surveillance of the community, and  
11 establishing a racketeering enterprise that led to the psychological warfare against the  
12 homeowners.  
13

14           272. As a direct and proximate result of Defendant's breach of fiduciary duty, Plaintiff  
15 has suffered damages, including but not limited to financial losses, diminished property value,  
16 emotional distress, and mental anguish.  
17

18           273. As a direct and proximate result of Defendant's conduct, Plaintiff seeks  
19 compensatory damages in an amount to be determined at trial and punitive damages to deter  
20 Defendant and others from engaging in similar conduct.  
21

22 **FIFTEENTH CAUSE OF ACTION: BREACH OF FIDUCIARY DUTY OF LOYALTY**

23  
24 **(Against Defendant HOA and Defendant Dan Choe)**

25           274. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
26 paragraphs, as if set forth at length herein.  
27

1 275. At all relevant times, a fiduciary relationship existed between Plaintiff and  
2 Defendant. As a homeowner’s association, Defendant had a duty to act in the best interests of  
3 its members, including Plaintiff, and to manage the common interests and affairs of the  
4 community with loyalty and good faith.  
5

6 276. Defendant owed Plaintiffs a duty of loyalty, which required Defendant to act in  
7 good faith and to avoid any conflicts of interest that could harm the interests of its members.  
8

9 277. Defendant breached this duty of loyalty by engaging in self-dealing, failing to  
10 disclose conflicts of interest, particularly with its contract with Defendant Choe, prioritizing the  
11 interests of certain members over others, misusing HOA funds, interfering with elections, and  
12 participating in Defendant Choe’s racketeering enterprise.

13 278. As a direct and proximate result of Defendant’s breach of fiduciary duty of  
14 loyalty, Plaintiff has suffered damages, including but not limited to financial losses, diminished  
15 property value, emotional distress, and mental anguish, in an amount to be proven at trial.  
16

17  
18 **SIXTEENTH CAUSE OF ACTION: VIOLATIONS OF 18 U.S.C §1962(C); RICO**

19 **(Against All Defendants)**

20 279. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
21 paragraphs, as if set forth at length herein.  
22

23 280. Defendants and the non-defendant co-conspirators and each of them are “persons”  
24 within the meaning of 18 U.S.C. §1961(3) and §1964(c).

25 281. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
26 paragraphs, as if set forth at length herein.  
27



1           282. At all times, the Defendants and non-defendant coconspirators formed an association  
2 in fact for the purpose of the unlawful taking of cash from Plaintiffs and other residents and  
3 homeowners, injuring them in their property, by fiduciary fraud and self-dealing and related  
4 racketeering activity in and through the enterprise, principally using denial and defrauding of  
5 honest accounting and financial records.  
6

7           283. At all relevant times, as described and alleged herein, the Defendants' enterprise was  
8 engaged in, and its activities affected interstate commerce, within the meaning of 18 U.S.C.  
9 §1962(c).  
10

11           284. At all relevant times, the Defendants and non-defendant coconspirators conducted  
12 the affairs of the enterprise described and alleged herein through a pattern of racketeering  
13 activity in violation of 18 U.S.C. §1962(c) as described and alleged in this Complaint.

14           285. At all relevant times, Defendants and the indicated non-defendant coconspirators  
15 engaged in "racketeering activity" within the meaning of 18 U.S.C. §1961(1) by undertaking  
16 and doing the activity described and alleged in this Complaint, which acts were and involved  
17 various repeated violations that were predicate crimes, both federal and state, specified by 18  
18 U.S.C. §1961(1), the federal crimes described and alleged herein, including mail fraud,  
19 violation of the Wiretap Act, extortion, embezzlement, and other state law predicate crimes.  
20 Plaintiffs are informed and believe, and thereon allege, that each and every Defendant, and  
21 indicated non-defendant co-conspirator, committed and conspired in the commission of at least  
22 two (2), but for most more, violations of the above and herein described predicate crimes, as  
23 stated, and alleged in this Complaint.  
24  
25  
26  
27  
28

1           286. The crimes and acts of racketeering activity, summarized herein and described and  
2 alleged in detail in this Complaint, constituted a “pattern of racketeering activity” within the  
3 meaning of 18 U.S.C. § 1961(5).  
4

5           287. The acts described and alleged were related to each other by virtue of common  
6 participants, a common victim (the Plaintiffs) a common method of commission against  
7 litigants similarly situated as Plaintiffs, and the common primary purpose and common result,  
8 like that in this case, of defrauding and converting and taking from the victims, here the  
9 Plaintiffs, their property and monies.  
10

11           288. The common feature and mechanism of the scheme is to injure the victims in their  
12 property, by making the victims, here the Plaintiffs, have no other choice but to acquiesce to  
13 Defendants’ demands for arbitrary and haphazard fines.  
14

15           289. This Complaint details the ongoing pattern of racketeering based on facts that are  
16 known to Plaintiffs and their counsel. It is filed without the benefit of discovery, which will  
17 likely uncover more predicate acts and further demonstrate the breadth and scope of the  
18 Enterprise's racketeering.

19           290. Collectively, all these violations alleged and described in this complaint, occurring  
20 over years, are a "pattern of racketeering activity" within the meaning of 18 U.S.C. § 1961 (5).  
21

22           291. Each activity was related, had similar purposes, involved the same or similar  
23 participants and methods of commission, and had comparable results affecting similar victims,  
24 including Plaintiffs.

25           292. Because and as a result of Defendants’ violations of 18 U.S.C. §1962(c), Plaintiffs  
26 were injured in their property by loss of their homes’ value and monies due to wrongful fines.  
27  
28

1           293. Pursuant to RICO, 18 U.S.C. § 1964(c), Plaintiffs are entitled to recover three-fold  
2 (3x) their damages plus costs and attorneys' fees from the Defendants and each of them.  
3

4                           **SEVENTEETH CAUSE OF ACTION: VIOLATIONS OF 18 U.S.C §1962(D);**

5   **CONSPIRACY TO VIOLATE 18 U.S.C §1962(C) RICO**

6   **(Against Individual Defendants, Defendant HOA, and Defendant PMP)**  
7

8           294. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
9 paragraphs, as if set forth at length herein.

10           295. Section 1962(d) of RICO provides that it "shall be unlawful for any person to  
11 conspire to violate any of the provisions of subsection (a), (b) or (c) of this section."  
12

13           296. As described and alleged in this Complaint, Defendants, and each of them, violated  
14 18 U.S.C. §1962(c) and also violated §1962(d) by conspiring to violate 18 U.S.C. §1962(c).  
15

16           297. The object of this conspiracy has been and is to conduct or participate in, directly or  
17 indirectly, the conduct of the affairs of the §1962(c) criminal enterprise described and alleged  
18 herein through a pattern of racketeering activity also as described and alleged herein.

19           298. Defendants and non-defendant co-conspirators agreed to join the conspiracy, agreed  
20 to commit, and did commit or conspire to commit the acts described herein, and knew that these  
21 acts were part of a pattern of racketeering activity.

22           299. By deliberate failure and refusal to refrain from their unlawful and intentional  
23 conduct, and by acting contrary to law and its duty by advocating to collect exorbitant funds  
24 from Plaintiffs for the misuse of funds and personal financial profit, Defendants conspired in  
25 and with the Enterprise and its first level actors.  
26  
27  
28

1 300. Defendants and their non-defendant co-conspirators have engaged in numerous  
2 overt and predicate fraudulent racketeering acts in furtherance of the conspiracy, including  
3 material misrepresentations and omissions designed to defraud Plaintiffs, city officials, law  
4 enforcement, the public, and to conceal and hide their unlawful activity.  
5

6 301. The nature of the above-described overt acts, material misrepresentations and  
7 omissions in furtherance of the conspiracy gives rise to an inference that Defendants, co-  
8 conspirators, and enterprise participants not only agreed to the objective of an 18 U.S.C. §  
9 1962(d) violation of RICO by conspiring to violate 18 U.S.C. § 1962(c), but they were aware  
10 that their ongoing fraudulent acts have been and are part of an overall pattern of racketeering  
11 activity.  
12

13 302. As a direct and proximate result of Defendants' and the nondefendant co-  
14 conspirators' overt acts and predicate acts in furtherance of violating 18 U.S.C. § 1962(d) by  
15 conspiring to violate 18 U.S.C. § 1962(c), Plaintiffs and the other residents have been and are  
16 continuing to be injured in their property, as set forth more fully above, and Plaintiffs are  
17 informed and believe, other persons and litigants in other cases are and will be injured by the  
18 described conspiracy to carry out the pattern of predicate crimes for the racketeering enterprise  
19 described and alleged herein.  
20

21 303. As a direct and proximate result of Defendants' unlawful actions, Plaintiff seeks  
22 damages in an amount to be proven at trial.  
23

24  
25 **EIGHTEENTH CAUSE OF ACTION: VIOLATION OF CAL. PENAL CODE §186 PC**

26 **(Against All Defendants)**  
27  
28

1           304. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
2 paragraphs, as if set forth at length herein.

3           305. California Penal Code § 186 is the state law counterpart to federal racketeering law  
4  
5 18 U.S.C. § 1962(c).

6           306. At all relevant times, Defendants engaged in a pattern of criminal activity as defined  
7 by California Penal Code § 186, which constitutes involvement in racketeering, extortion, and  
8 embezzlement in order to operate an enterprise of misusing and misappropriating HOA funds  
9 for their own personal benefit.

10           307. As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs have  
11 suffered damages, including but not limited to financial loss, emotional distress, mental  
12 anguish, loss of home value, and related injury.

13           308. Plaintiffs are entitled to recover damages for the harm caused by Defendants'  
14 violations of California Penal Code § 186, which provides for civil remedies for victims of  
15 organized crime, in an amount to be proven at trial.

16  
17  
18  
19 **NINETEENTH CAUSE OF ACTION: FEDERAL WIRETAP ACT – 18 U.S.C. §2511**

20  
21 **(Against All Defendants)**

22           309. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
23 paragraphs, as if set forth at length herein.

24           310. At all relevant times, Defendants knowingly intercepted, endeavored to intercept, or  
25 procured another person to intercept communications of Plaintiff, in violation of 18 U.S.C. §  
26 2511.

1           311. Specifically, Defendants engaged in the unauthorized recording of conversations,  
2 use of listening devices, interception of private conversations, and unauthorized surveillance of  
3 residents and homeowners.

4           312. Plaintiffs had a reasonable expectation of privacy in the communications that were  
5 intercepted.  
6

7           313. Defendants' actions were done intentionally and with the knowledge that such  
8 interception was unlawful.

9           314. As a direct and proximate result of Defendant's unlawful conduct, Plaintiff has  
10 suffered damages, including but not limited to emotional distress, reputational harm, financial  
11 losses, mental anguish, and related injury.  
12

13           315. Pursuant to 18 U.S.C. § 2520, Plaintiff is entitled to recover actual damages,  
14 including any profits made by Defendants, statutory damages of \$100 per day for each day of  
15 violation, punitive damages, reasonable attorney's fees, and any other relief the court deems  
16 just and proper, in an amount to be proven at trial.  
17

18  
19           **TWENTIETH CAUSE OF ACTION: FEDERAL WIRE FRAUD – 18 U.S.C. §1343**

20                                   **(Against All Defendants)**

21           316. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
22 paragraphs, as if set forth at length herein.  
23

24           317. At all relevant times, Defendants engaged in a scheme to defraud Plaintiffs and/or  
25 others, which involved the use of interstate wire communications, in violation of 18 U.S.C. §  
26 1343.  
27  
28

1           318. Specifically, Defendants engaged in the perpetuation of their racketeering enterprise  
2 and fraudulent scheme through the use of wire communications, such as emails, phone calls, or  
3 other electronic means.

4           319. Defendants acted with the intent to defraud, knowing that the representations made  
5 to Plaintiffs were false or misleading.

6           320. As a direct and proximate result of Defendant's fraudulent conduct, Plaintiff has  
7 suffered damages, including but not limited to financial losses, emotional distress, mental  
8 anguish, and related injury.

9           321. As a direct and proximate result of Defendants' conduct, Plaintiffs are entitled to  
10 recover actual damages, including any profits made by Defendants as a result of the fraudulent  
11 conduct, treble damages, as permitted by law, for the harm suffered, reasonable attorney's fees  
12 and costs, and any other relief the court deems proper in an amount to be proven at trial.

13  
14  
15  
16  
17           **TWENTY FIRST CAUSE OF ACTION: FEDERAL MAIL FRAUD – VIOLATIONS**

18   **OF 18 U.S.C. §1341**

19   **(Against All Defendants)**

20           322. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
21 paragraphs, as if set forth at length herein.

22           323. This claim is asserted against all Defendants for violations of 18 U.S.C. §1341.

23           324. This action arises under federal law, specifically 18 U.S.C. § 1341, which prohibits  
24 fraudulent schemes involving the use of the mail.

25           325. At all relevant times, Defendants engaged in a scheme to defraud Plaintiffs by  
26 perpetuating a racketeering enterprise that arbitrarily and oppressively fined Plaintiffs with  
27  
28

1 intimidation tactics, threats of retribution, and forceful conduct, deceiving Plaintiffs as to how  
2 this money was being used.

3 326. Defendants knowingly and willfully devised this scheme with the intent to defraud.

4 327. In furtherance of this scheme, Defendants utilized the United States mail by sending  
5 fraudulent communications, fraudulent invoices/fines, and other papers that were based on  
6 fraudulent activity by mail.  
7

8 328. As a direct and proximate result of Defendants' mail fraud, Plaintiff has suffered  
9 damages including, but not limited to, financial loss, mental anguish and emotional distresses.  
10

11 329. Plaintiffs are entitled to recover damages under the civil provisions for mail fraud,  
12 as the actions of the Defendant constitute a clear violation of 18 U.S.C. § 1341.

13 330. As a direct and proximate result of Defendants' mail fraud, Plaintiff seeks damages  
14 in an amount to be proven at trial.  
15

16 **TWENTY SECOND CAUSE OF ACTION: MENACING – VIOLATION OF CAL.**

17 **PENAL CODE §422**

18 **(Against Defendants Dan Choe, Chu, Dalhover, Carr, Okuno, Smith, Chang, Chen, Lee,**  
19 **Yang, Chang, Jin, Li, Chang, Samuel Choe, Jie, Keon, Sabbagh, Wagner, Watson, and**  
20

21 **HOA)**

22 331. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
23 paragraphs, as if set forth at length herein.  
24

25 332. In engaging in a repeated pattern of harassment, physical and nonphysical  
26 intimidation, threatening text messages, blackmail, and coercive behavior, Defendants, and  
27 each of them, violated California Penal Code 422(a), which penalizes “[a]ny person who  
28



1 willfully threatens to commit a crime which will result in death or great bodily injury to another  
2 person, with the specific intent that the statement, made verbally, in writing, or by means of  
3 electronic communication device, is to be taken as a threat, even if there is no intent of actually  
4 carrying it out, which, on its face and under the circumstances in which it is made, is so  
5 unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a  
6 gravity of purpose and an immediate prospect of execution of the threat, and thereby causes  
7 that person reasonably to be in sustained fear for his or her own safety or for his or her  
8 immediate family's safety[.]”  
9

10 333. Defendants Dan Choe, Chu, Dalhover, Carr, Okuno, Smith, Chang, Chen, Lee,  
11 Yang, Chang, Jin, Li , Chang, Samuel Choe, Jie, Keon, Sabbagh, Wagner, and Watson, with  
12 Defendant Choe as the ringleader, engaged in a repeated and systematic pattern of intimidating,  
13 bullying, and harassing Plaintiffs to the point where Plaintiffs have become fearful for their  
14 safety, their children's safety, and their lives, even considering selling their homes to flee the  
15 tyrannical mob at Northwood Estates.  
16  
17

18 334. Defendant HOA has ratified, participated in, and condoned Defendant Choe's  
19 actions and is therefore liable under a principal-agent theory as Defendant Choe began this  
20 conduct as Chair of the HOA and has now continued as a third-party contractor being paid by  
21 the HOA for his tyrannical services.  
22

23 335. Plaintiffs allege that Defendants, and each of them, have engaged in threatening text  
24 messages and other conduct to place Plaintiffs in fear of great bodily injury for the sole purpose  
25 of establishing Machiavellian rule. Defendant Choe has accosted Defendant Hoshino on  
26 numerous occasions, physically and verbally, and has sent threatening text messages to  
27 Plaintiffs.  
28

1           336. As a direct and proximate result of Defendants’ actions, Plaintiffs have been injured  
2 and seek damages under civil remedy and criminal restitutions. Defendants’ conduct as  
3 described herein was and is despicable and carried on by the Defendants with a willful and  
4 conscious disregard of Plaintiffs’ rights or safety and subjected Plaintiffs to cruel and unjust  
5 hardship in conscious disregard of Plaintiffs’ rights for which Plaintiffs seek exemplary and  
6 punitive damages in a sum to be proven at trial.  
7

8  
9 **TWENTY THIRD CAUSE OF ACTION: EMBEZZLEMENT – VIOLATION OF CAL.**

10 **PENAL CODE §496**

11 **(Against All Defendants)**

12  
13           337. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
14 paragraphs, as if set forth at length herein.

15           338. Plaintiffs and Defendant HOA had a fiduciary relationship based on Defendant  
16 HOA’s Covenants, Conditions, and Restrictions as it relates to the Northwood Estates  
17 community, which contractually bind Plaintiffs and Defendant to various rights and  
18 responsibilities.  
19

20           339. During the course of this relationship, Defendant HOA, its agents, representatives,  
21 and contractors, unlawfully appropriated and converted to their own use property belonging to  
22 Plaintiffs, specifically personal property and money that was obtained through force and  
23 intimidation under the impression that the HOA had a right to fine residents.  
24

25           340. Defendants’ actions constituted embezzlement as they had lawful possession of the  
26 property but intentionally misappropriated it for personal gain.  
27

1 341. Plaintiffs were unaware of Defendants' wrongful conduct until recently when  
2 Defendant HOA rejected Plaintiffs' bid to access financial records belonging to the HOA.

3 342. As a direct and proximate result of Defendants' embezzlement, Plaintiffs have  
4 suffered damages, including financial loss, mental anguish, and emotional distress.  
5

6 343. Plaintiffs are entitled to recover damages under California Penal Code § 496, which  
7 allows for the recovery of civil damages for losses resulting from the unlawful appropriation of  
8 property.

9 344. As a direct and proximate result of Defendants' unlawful behavior, Plaintiff is  
10 entitled to damages in an amount conforming to proof at trial.  
11

12  
13 **TWENTY FOURTH CAUSE OF ACTION: EXTORTION – VIOLATION OF CAL.**

14 **PENAL CODE §518**

15 **(Against Defendants Choe and HOA)**

16 345. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
17 paragraphs, as if set forth at length herein.  
18

19 346. At all relevant times, Defendants engaged in conduct that constituted extortion as  
20 defined under California Penal Code § 518.

21 347. Specifically, Defendants obtained or attempted to obtain property and monies from  
22 Plaintiff by means of threats of harm, coercion, threats to publicly humiliate Plaintiffs and target  
23 them in the community, threats to ostracize Plaintiffs, threats to wrongfully take legal action  
24 against Plaintiffs, and targeting their minor children.  
25  
26  
27  
28

1           348. Defendant's actions were done with the intent to compel Plaintiff to act against their  
2 will and resulted in Plaintiff relenting on their rights and property, specifically monies that they  
3 should not have given Defendants because Defendants were not entitled to such funds.

4           349. Plaintiffs were harmed as a direct and proximate result of Defendant's extortionate  
5 conduct, suffering damages including financial losses, emotional distress, and mental anguish.

6           350. As a result of Defendant's violation of Penal Code § 518, Plaintiff is entitled to  
7 recover damages and any other appropriate relief as allowed by law.

8           351. As a direct and proximate result of Defendants' conduct, Plaintiff seeks damages in  
9 an amount to be proven at trial.  
10  
11

12  
13           **TWENTY FIFTH CAUSE OF ACTION: INVASION OF PRIVACY ACT –**

14                           **VIOLATION OF CAL. PENAL CODE §631**

15   **(Against All Defendants)**

16           352. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
17 paragraphs, as if set forth at length herein.

18           353. At all relevant times, Defendant HOA, Defendant Choe, and Individual Defendants  
19 knowingly and intentionally intercepted or received communications of Plaintiff without  
20 Plaintiffs' consent, in violation of California Penal Code § 631.

21           354. Specifically, Defendants engaged in the following conduct: using devices to listen  
22 to private conversations, intercepting electronic communications, and engaging in Orwellian  
23 surveillance to monitor the conversations of homeowners and residents in order to build  
24 personal dossiers for individuals that could be used by Defendants in their campaign of  
25 psychological and financial warfare against the homeowners and residents.  
26  
27  
28

1           355. Plaintiffs had a reasonable expectation of privacy in the communications that were  
2 intercepted, and Defendants' actions were done with the intent to invade that privacy.

3           356. As a direct and proximate result of Defendant's unlawful actions, Plaintiff has  
4 suffered damages, including but not limited to emotional distress, mental anguish, loss of  
5 privacy, and financial losses.  
6

7           357. Plaintiff is entitled to recover damages under California Penal Code § 631, which  
8 provides for civil remedies for violations of privacy rights.

9           358. As a direct and proximate result of Defendants' actions, Plaintiff seeks damages in  
10 an amount to be proven at trial.  
11

12  
13 **TWENTY SIXTH CAUSE OF ACTION: EAVSDROPPING – VIOLATION OF CAL.**

14 **PENAL CODE §632**

15 **(Against All Defendants)**

16  
17           359. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
18 paragraphs, as if set forth at length herein.

19           360. At all relevant times, Defendants unlawfully recorded or intercepted confidential  
20 communications of Plaintiffs without Plaintiffs' consent, in violation of California Penal Code  
21 §632.  
22

23           361. Specifically, Defendants engaged in activities such as using recording devices to  
24 capture private conversations, intercepting private conversations that took place in and around  
25 private residences and around the neighborhood, and other areas where residents had a  
26 reasonable expectation of privacy.  
27  
28

1 362. The communications were intended to be confidential, and Plaintiffs had a  
2 reasonable expectation of privacy in those communications.

3 363. Defendants' actions were intentional and done with the knowledge that they were  
4 recording or intercepting communications without the consent of all parties involved.  
5

6 364. The communications were intended to be confidential, and Plaintiffs had a  
7 reasonable expectation of privacy in those communications.

8 365. The communications were intended to be confidential, and Plaintiff had a reasonable  
9 expectation of privacy in those communications.

10 366. Defendants' actions were intentional and done with the knowledge that they were  
11 recording or intercepting communications without the consent of all parties involved.  
12

13 367. As a direct and proximate result of Defendants' unlawful actions, Plaintiff has  
14 suffered damages, including but not limited to emotional distress, mental anguish, loss of  
15 privacy, and financial losses.

16 368. Plaintiff is entitled to recover damages under California Penal Code §632, which  
17 provides for civil remedies for violations of privacy rights.  
18

19 369. As a direct and proximate result of Defendants' actions, Plaintiffs seek damage in  
20 an amount to be proven at trial.  
21

22 **TWENTY SEVENTH CAUSE OF ACTION: STALKING – VIOLATION OF CAL.**

23 **PENAL CODE §646.9 PC**

24 **(Against All Individual Defendants and Defendant HOA)**

25 370. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
26 paragraphs, as if set forth at length herein.  
27  
28

1           371. At all relevant times, Defendants engaged in a course of conduct directed at Plaintiff  
2 that constituted stalking, as defined by California Penal Code § 646.9.

3           372. Specifically, Defendants committed the following acts: following Plaintiffs, making  
4 unwanted communications, showing up at Plaintiff's home, and continuously and repeatedly  
5 following Plaintiffs around the community to harass them.  
6

7           373. Defendants' conduct was intended to cause and did cause Plaintiff to experience fear  
8 for their safety and/or the safety of their immediate family.

9           374. Plaintiff had a reasonable apprehension of harm as a result of Defendants' actions,  
10 which were pursued with a specific intent to harass or intimidate.  
11

12           375. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has  
13 suffered damages, including but not limited to emotional distress, fear, anxiety, mental anguish,  
14 loss of peace of mind, and financial loss.  
15

16           376. Plaintiff is entitled to recover damages under California Penal Code § 646.9, which  
17 allows for civil remedies for victims of stalking.

18           377. As a direct and proximate result of Defendants' actions, Plaintiff seeks damages in  
19 an amount to be proven at trial.  
20

21           **TWENTY EIGHTH CAUSE OF ACTION: CYBERSTALKING – VIOLATION OF**  
22  
23                               **CAL. PENAL CODE §653.2**

24                               **(Against All Individual Defendants and Defendant HOA)**

25           378. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
26 paragraphs, as if set forth at length herein.  
27  
28

1 379. At all relevant times, Defendants engaged in a course of conduct that constituted  
2 cyberstalking as defined under California Penal Code § 653.2.

3 380. Specifically, Defendants engaged in the following actions: sending threatening or  
4 harassing messages via email, and monitoring residents' and homeowners' social media activity  
5 in order to retaliate against them and develop Orwellian and Stalinesque dossiers on them.  
6

7 381. Defendants' actions were intended to cause and did cause Plaintiffs to feel fear for  
8 their safety and/or the safety of their immediate family.

9 382. Plaintiffs had a reasonable apprehension of harm as a result of Defendants' conduct,  
10 which was pursued with the intent to harass, intimidate, or annoy.  
11

12 383. As a direct and proximate result of Defendant's unlawful actions, Plaintiff has  
13 suffered damages, including but not limited to emotional distress, anxiety, loss of peace of  
14 mind, mental anguish, and financial loss.

15 384. Plaintiff is entitled to recover damages under California Penal Code § 653.2, which  
16 provides for civil remedies for victims of cyberstalking.  
17

18 385. As a direct and proximate result of Defendants' actions, Plaintiff seeks damages in  
19 an amount to be proven at trial.  
20

21 **TWENTY NINTH CAUSE OF ACTION: HARASSMENT – VIOLATION OF CAL.**

22 **CIVIL CODE §527.6**

23 **(Against All Defendants)**

24 386. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
25 paragraphs, as if set forth at length herein.  
26  
27  
28



1 387. At all relevant times, Defendant engaged in a course of conduct directed at Plaintiff  
2 that constituted harassment as defined under California Civil Code § 527.6.

3 388. Specifically, Defendants committed the following acts engaged in repeated  
4 unwanted communications, threats to Plaintiffs, following Plaintiffs around the community,  
5 surveilling their every movement, including when they would come home from work and  
6 accosting them in front of their homes, or any other harassing behavior.  
7

8 389. Defendants' conduct was intended to, and did, seriously alarm, annoy, or harass  
9 Plaintiff and served no legitimate purpose.  
10

11 390. As a direct and proximate result of Defendant's harassment, Plaintiff has suffered  
12 damages, including but not limited to emotional distress, anxiety, loss of peace of mind, mental  
13 anguish, and financial losses.

14 391. Plaintiffs have a reasonable fear for their safety and/or the safety of their immediate  
15 family due to Defendants' actions.  
16

17 392. Plaintiffs are entitled to seek relief under California Civil Code § 527.6, which  
18 allows for injunctive relief and damages for victims of harassment

19 393. As a direct and proximate result of Defendants' actions, Plaintiff seeks damages in  
20 an amount to be proven at trial.  
21

22 **THIRTIETH CAUSE OF ACTION: DEFAMATION**

23 **(Against All Individual Defendants and Defendant HOA)**

24 394. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
25 paragraphs, as if set forth at length herein.  
26  
27  
28

1           395. Throughout the times mentioned herein, Individual Defendants, including Defendant  
2 Choe, and Defendant HOA published false statements about Plaintiff that were defamatory. The  
3 statements included: statements about Plaintiffs' actions in the community and were intended  
4 to ostracize Plaintiffs and humiliate them in the community.  
5

6           396. The statements were made verbally at various HOA meetings, in written publications  
7 to community residents, and in written communications.

8           397. The statements were false and were made with negligence, actual malice, and  
9 nefarious intent.

10           398. As a direct and proximate result of Defendant's statements, Plaintiff has suffered  
11 damages, including but not limited to loss of reputation, emotional distress, mental anguish,  
12 and financial loss.  
13

14           399. Plaintiff alleges that the defamatory statements were made with actual malice, which  
15 supports a claim for punitive damages.  
16

17           400. Plaintiffs are entitled to recover damages for the harm caused by Defendants'  
18 defamation, including compensatory damages in an amount to be determined at trial, punitive  
19 damages to deter Defendants and others from engaging in similar conduct, and any other relief  
20 deemed proper.  
21

22  
23 **THIRTY FIRST CAUSE OF ACTION: DESTRUCTION OF PERSONAL PROPERTY**

24 **– VIOLATION OF CAL. PENAL CODE §594**

25 **(Against Defendant Choe and Defendant HOA)**

26           401. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
27 paragraphs, as if set forth at length herein.  
28

1 402. At all relevant times, Plaintiffs owned personal property described as follows: a  
2 personal laptop and a vehicle with tires.

3 403. Defendant Choe intentionally and unlawfully damaged destroyed Plaintiffs' vehicle  
4 by deflating Plaintiff's tires.  
5

6 404. Defendant's actions were done willfully and maliciously, and they knew or should  
7 have known that their actions would cause damage to Plaintiff's property.

8 405. As a direct and proximate result of Defendants' unlawful conduct, Plaintiffs have  
9 suffered damages, including but not limited to emotional distress, mental anguish, and financial  
10 loss in an amount to be proven at trial.  
11

12 406. Plaintiffs are entitled to recover damages under California Penal Code § 594, which  
13 provides for civil remedies for the destruction of personal property.  
14

15 **THIRTY SECOND CAUSE OF ACTION: CIVIL CONSPIRACY**

16 **(Against All Defendants)**

17  
18 407. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
19 paragraphs, as if set forth at length herein.

20 408. At all relevant times, Defendants conspired together to impose arbitrary and  
21 oppressive fines on residents and homeowners in order to commit fraud and run a racketeering  
22 enterprise in which they would use the funds for their own personal gain rather than the  
23 maintenance and upkeep of the community, defame Plaintiffs, engage in harassment,  
24 cyberstalking and defamation in order to impose an Orwellian and Stalinesque regime in place  
25 to force Plaintiffs into accepting their tyrannical rule.  
26  
27  
28

1           409. The purpose of the conspiracy was to use the façade of a legitimate operation at the  
2 HOA in order to harm Plaintiffs, benefit financially, and perpetuate a fraudulent scheme that  
3 would give Defendants ultimate control and leverage to treat Plaintiffs however they chose to.  
4

5           410. In furtherance of the conspiracy, Defendants engaged in the overt act of openly  
6 establishing an allegiance and a ring of Individual Defendants who would support the tyrannical  
7 machinations of Defendant Choe. Defendant HOA and Defendant PMP actively participated in  
8 the conspiracy by not only ratifying the Individual Defendants' actions but providing active  
9 assistance to them.  
10

11           411. When Plaintiffs and other homeowners would call Defendant PMP to submit a  
12 complaint, Defendant PMP would record the conversations to report back to Defendant HOA,  
13 in order for Defendant HOA to develop a dossier on who should be targeted, who Defendant  
14 Choe and his gang of vigilantes should target.

15           412. As a direct and proximate result of the Defendants' conspiracy, Plaintiff has suffered  
16 damages, including but not limited to financial losses, emotional distress, reputational harm,  
17 and mental and emotional anguish.  
18

19           413. Defendants acted with actual malice, recklessness, and intent to cause harm, which  
20 supports a claim for punitive damages.

21           414. Plaintiff is entitled to recover damages for the harm caused by the civil conspiracy,  
22 including compensatory damages, punitive damages to deter Defendants and others from  
23 engaging in similar conduct, and any other relief in an amount to be proven at trial.  
24

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26                   **THIRTY THIRD CAUSE OF ACTION: INTENTIONAL INFLICTION OF**  
27                   **EMOTIONAL DISTRESS**  
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**(Against All Defendants)**

415. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing paragraphs, as if set forth at length herein.

416. At all relevant times, Defendants engaged in extreme and outrageous conduct that was intended to cause, or was done with reckless disregard for, the likelihood of causing emotional distress to Plaintiffs.

417. Specifically, Defendants have subjected Plaintiffs to systematic and ongoing threats, harassment, abusive conduct, fraudulent over fining, and surveillance, all of which has placed Plaintiffs in fear for their and their family's safety.

418. Defendants' conduct has not only been extreme and outrageous, but it also went beyond all possible bounds of decency and is regarded as atrocious and intolerable in a civilized community.

419. As a direct and proximate result of Defendant's conduct, Plaintiffs have suffered extreme emotional distress, including but not limited to anxiety, sleeplessness, mental anguish, and fear of leaving their homes.

420. Plaintiffs' emotional distress was a foreseeable result of Defendants' actions, and Plaintiffs have suffered damages as a result.

**THIRTY FOURTH CAUSE OF ACTION: PRIVATE NUISANCE**

**(Against All Defendants)**

421. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing paragraphs, as if set forth at length herein.

1           422. Defendants' failure to maintain the subject property constitutes a nuisance under  
2 Civil Code §3479. The nuisance is injurious to Plaintiffs' properties, so as to obstruct the free  
3 use of their homes and common areas and interferes with Plaintiffs' comfortable enjoyment of  
4 their homes.  
5

6           423. As a further proximate result of Defendants' conduct as described herein the value  
7 of Plaintiffs' properties has diminished and Plaintiffs damages will continue to accrue in an  
8 amount not yet ascertained but will be proven at trial.  
9

10           424. Plaintiffs have no adequate remedy at law for the injuries being suffered as a result  
11 of Defendants' interference with Plaintiffs' property("the HOA"), is in that, among other things:  
12 Plaintiffs properties are unique real property and therefore pecuniary compensation would not  
13 afford Plaintiffs adequate relief; it would be extremely difficult to ascertain the amount of  
14 monetary damages that would fully compensate Plaintiffs for the losses and damages that will  
15 continue to be incurred in the future as a result of the continued wrongful acts of Defendants;  
16 and it would be necessary to maintain a multiplicity of judicial proceedings to protect Plaintiffs  
17 interests by reason of Defendants' continued intentional and repeated encroachments upon  
18 Plaintiffs' property.  
19

20           425. Unless and until enjoined and restrained by order of this Court, Defendants'  
21 interference with Plaintiffs properties', Defendants will continue to cause great and irreparable  
22 injury to Plaintiffs. The threat of such permanent damage justifies the issuance by this Court of  
23 an injunction, as well as an award of money damages as expressly authorized in Code of Civil  
24 Procedure Section 526 and 73.  
25  
26

27           **THIRTY FIFTH CAUSE OF ACTION: VIOLATION OF CIVIL CODE §4775**  
28

**(Against Defendant HOA and Defendant Choe)**

1  
2 426. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
3 paragraphs, as if set forth at length herein.  
4

5 427. Defendants have violated California Civil Code §4775 in that they have failed to  
6 fulfill their statutory responsibilities to repair, replace or maintain the common areas of the  
7 development.  
8

9 428. Plaintiffs are entitled to an injunction requiring the Board to comply with its  
10 obligations under California Code of Civil Procedure §4475.  
11

12 429. As a result of this breach of statute, Plaintiff have suffered damages in an amount to  
13 be proven at trial and will also be entitled to the recovery of court costs and reasonable  
14 attorney’s fees.  
15

**THIRTY SIXTH CAUSE OF ACTION: VIOLATION OF CIVIL CODE §5500**

**(Against Defendant HOA and Defendant Dan Choe)**

16  
17  
18 430. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
19 paragraphs, as if set forth at length herein.  
20

21 431. Defendants have violated California Civil Code §5500 et. seq. in that they have  
22 failed to fulfill their statutory responsibility to “cause to be conducted a reasonably competent  
23 and diligent visual inspection of the accessible areas of the major components that the  
24 association is obligated to repair, replace, maintain or restore...and implement necessary  
25 adjustments to the board’s analysis of the reserve account requirements as a result of that  
26 review.”  
27  
28

1 432. Plaintiffs are entitled to an injunction requiring the HOA Defendant to comply with  
2 its obligations under the California Code of Civil Procedure and to refrain from terminating the  
3 agreement with GPL, Inc. until such time as this action is resolved.

4  
5 433. As a result of this breach of statute, Plaintiffs have suffered damages in an amount  
6 to be proven at trial and will also be entitled to the recovery of court costs and reasonable  
7 attorney's fees.

8  
9 **THIRTY SEVENTH CAUSE OF ACTION: THEFT BY FRAUD – CAL. PENAL**

10 **CODE §484**

11 **(Against All Defendants)**

12  
13 434. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
14 paragraphs, as if set forth at length herein.

15 435. At all relevant times, Defendants engaged in fraudulent conduct that resulted in the  
16 theft of property belonging to Plaintiffs, in violation of California Penal Code § 484.

17 436. Specifically, Defendants committed misrepresentation, deceit, false promises, and  
18 trickery that led to the theft of property, including Plaintiffs' monies and personal property.

19 437. As a direct and proximate result of Defendants' fraudulent conduct, Plaintiff suffered  
20 the loss of property, including but not limited to monies and personal property wrongfully  
21 confiscated or converted by Defendants.

22 438. Plaintiffs had a right to possess the property that was taken, and Defendants' actions  
23 were intentional and done with the intent to deprive Plaintiffs of that property.  
24  
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1 439. As a result of the theft by fraud, Plaintiff has incurred damages, including but not  
2 limited to financial losses, emotional distress, costs associated with recovery, and mental  
3 anguish.

4 440. Plaintiff is entitled to recover damages for the harm caused by Defendant’s unlawful  
5 conduct, including compensatory damages in an amount to be determined at trial, punitive  
6 damages to deter Defendant and others from engaging in similar conduct, costs of suit, and any  
7 other relief the court deems just and proper in an amount to be proven at trial.  
8

9  
10 **THIRTY EIGHTH CAUSE OF ACTION: DAVIS-STIRLING ACT – CAL. CIVIL**

11 **CODE §5145**

12 **(Against Defendant HOA and Defendant Dan Choe)**

13 441. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
14 paragraphs, as if set forth at length herein.

15 442. Defendants repeatedly refused to provide Plaintiffs, and other residents and  
16 homeowners with access to requested documents, including financial records, meeting minutes,  
17 and organization documents.

18 443. Plaintiffs made multiple attempts to obtain the documents, including following up  
19 with Defendants, to no avail.

20 444. Defendants’ failure to provide access to the requested documents constitutes a  
21 violation of California Civil Code § 5145, which mandates that associations make certain  
22 documents available to members.

23 445. As a direct and proximate result of Defendants’ violations, Plaintiffs have suffered  
24 damages in an amount to be proven at trial.  
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1  
2 **THIRTY NINTH CAUSE OF ACTION: DAVIS-STIRLING ACT – CAL. CIVIL**

3 **CODE §5200**

4 **(Against Defendant HOA and Defendant Dan Choe)**

5  
6 446. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
7 paragraphs, as if set forth at length herein.

8 447. Defendants repeatedly failed to provide Plaintiffs with access to the requested  
9 financial documents.

10 448. Defendants’ failure to provide access to the requested financial documents  
11 constitutes a violation of California Civil Code § 5200, which requires associations to furnish  
12 certain financial information to members.

13  
14 449. As a direct and proximate result of Defendants’ violation, Plaintiff has incurred  
15 damages, including financial loss, costs incurred as a result of such failure, emotional distress,  
16 and mental anguish in an amount to be proven at trial.  
17

18  
19 **FORTIETH CAUSE OF ACTION: DAVIS-STIRLING ACT – CAL. CIVIL CODE**

20 **§5205**

21 **(Against Defendant Dan Choe and Defendant HOA)**

22  
23 450. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
24 paragraphs, as if set forth at length herein.

25 451. Defendants repeatedly failed to provide Plaintiffs with access to the requested  
26 financial documents.  
27

1           452. Under Cal. Civ. Code § 5205, members of the association have the right to inspect  
2 and copy the association's records.

3           453. Plaintiffs repeatedly requested access to financial records, which are required to be  
4 made.

5           454. Defendants failed to provide access to the requested records, despite follow-up  
6 attempts.

7           455. Defendants' failure to provide access to the requested records constitutes a violation  
8 of California Civil Code § 5205, which mandates that associations allow members to inspect  
9 and copy certain records.

10           456. As a direct and proximate result of Defendants' violation, Plaintiff has incurred  
11 damages, including financial loss, costs incurred as a result of such failure, emotional distress,  
12 and mental anguish in an amount to be proven at trial.

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17           **FORTY FIRST CAUSE OF ACTION: DAVIS-STIRLING ACT – CAL. CIVIL CODE**

18                           **§5210**

19                           **(Against Defendant Dan Choe and Defendant HOA)**

20           457. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
21 paragraphs, as if set forth at length herein.

22           458. Under Cal. Civ. Code § 5210, members of the association have the right to inspect  
23 and obtain copies of the association's records upon request.

24           459. Throughout the times mentioned herein, Plaintiffs formally requested to inspect and  
25 obtain copies of specific records, including meeting minutes, financial documents, and other  
26 materials which are required to be disclosed to members.

1 460. Defendants failed to respond to Plaintiffs' request or provided insufficient access to  
2 the requested records within the timeframe mandated by law, despite follow-up  
3 communications.

4 461. As a result of Defendant's failure to comply with its obligations under the Davis-  
5 Stirling Act, Plaintiff has suffered loss of opportunity to participate in association governance,  
6 financial loss, emotional distress, and mental anguish.

7 462. As a direct and proximate result of Defendant's violation, Plaintiff has incurred  
8 damages in an amount to be proven at trial.  
9  
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11  
12 **FORTY SECOND CAUSE OF ACTION: DAVIS-STIRLING ACT – CAL. CIVIL**

13 **CODE §5215**

14 **(Against Defendant HOA and Defendant Dan Choe)**

15 463. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
16 paragraphs, as if set forth at length herein.  
17

18 464. Under Cal. Civ. Code § 5215, the HOA may not withhold or redact information  
19 concerning the compensation paid to employees, vendors, or contractors.

20 465. Defendant HOA has failed to disclose information concerning its vendor contract  
21 with Defendant Choe.  
22

23 466. As a direct and proximate result of Defendants' failure to comply with its obligations  
24 under the Davis-Stirling Act, Plaintiff has suffered inability to participate in governance,  
25 emotional distress, mental anguish, and financial loss.

26 467. As a direct and proximate result of Defendant's violation, Plaintiff has incurred  
27 damages in an amount to be proven at trial.  
28

1  
2 **FORTY THIRD CAUSE OF ACTION: DAVIS-STIRLING ACT – CAL. CIVIL CODE**

3 **§5230**

4 **(Against Defendant HOA and Defendant Dan Choe)**

5  
6 468. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
7 paragraphs, as if set forth at length herein.

8 469. Under Cal. Civ. Code § 5230, associations are required to prepare and distribute a  
9 proposed budget to all members prior to the fiscal year.

10 470. At times mentioned herein, Plaintiffs did not receive the proposed budget for the  
11 upcoming fiscal year, nor any communication regarding its availability, despite it being due as  
12 per the statutory requirements.

13 471. Plaintiffs have made multiple inquiries, but Defendant have failed to respond or  
14 provide the required documents.

15 472. As a direct and proximate result of Defendant's failure to comply with its obligations  
16 under the Davis-Stirling Act, Plaintiff has suffered inability to assess financial obligations,  
17 emotional distress, mental anguish, and financial loss.

18 473. As a direct and proximate result of Defendant's violation, Plaintiff has incurred  
19 damages, in an amount to be proven at trial.

20  
21  
22 **FORTY FOURTH CAUSE OF ACTION: DAVIS-STIRLING ACT – CAL. CIVIL**

23 **CODE §5500**

24 **(Against Defendant HOA and Defendant Dan Choe)**

1           474. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
2 paragraphs, as if set forth at length herein.

3           475. Under Cal. Civ. Code § 5500, the association is required to provide its members with  
4 a summary of the association's financial condition, including a statement of income and  
5 expenses, and any other relevant financial information.  
6

7           476. Plaintiffs have requested access to the financial summary as mandated by the Davis-  
8 Stirling Act.

9           477. Defendant has failed to prove the required financial summary.  
10

11           478. As a direct and proximate result of Defendant’s failure to comply with its obligations  
12 under the Davis-Stirling Act, Plaintiff has suffered financial losses, inability to participate in  
13 governance, emotional distress, and mental anguish.

14           479. As a direct and proximate result of Defendant’s violation, Plaintiff has incurred  
15 damages, in an amount to be proven at trial.  
16

17  
18           **FORTY FIFTH CAUSE OF ACTION: DAVIS-STIRLING ACT – CAL. CIVIL CODE**

19                               **§5550**

20                               **(Against Defendant HOA and Defendant Dan Choe)**

21           480. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
22 paragraphs, as if set forth at length herein.  
23

24           481. Under Cal. Civ. Code § 5550, at least once every three years, the board shall cause  
25 to be conducted a reasonably competent and diligent visual inspection of the accessible areas  
26 of the major components that the association is obligated to repair, replace, restore, or maintain  
27 as part of a study of the reserve account requirements of the common interest development, if  
28

1 the current replacement value of the major components is equal to or greater than one-half of  
2 the gross budget of the association, excluding the association's reserve account for that period.

3 482. Defendant HOA has failed to conduct such competent and diligent visual inspection.

4 483. As a direct and proximate result of Defendant's failure to comply with its obligations  
5 under the Davis-Stirling Act, Plaintiff has suffered financial losses, inability to participate in  
6 governance, emotional distress, and mental anguish.

7 484. As a direct and proximate result of Defendant's violation, Plaintiff has incurred  
8 damages, in an amount to be proven at trial.  
9

10  
11  
12 **FORTY SIXTH CAUSE OF ACTION: MISUSE OF FUNDS**

13 **(Against All Defendants)**

14 485. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
15 paragraphs, as if set forth at length herein.

16 486. Defendants had a fiduciary duty to manage and oversee the funds of the association  
17 responsibly and in accordance with applicable laws and regulations.

18 487. At all times mentioned herein, Defendants misappropriated funds belonging to the  
19 HOA by using funds for personal expenses, using funds for purposes besides association  
20 maintenance, upkeep, and repair, falsifying financial records, diverting funds to unauthorized  
21 accounts, and abusing the process of fining Plaintiffs for the HOA's and board members'  
22 personal gain.  
23

24 488. Plaintiffs have discovered the misuse of funds and have since sought an accounting  
25 of all financial transactions related to the misuse.  
26  
27  
28

1 489. As a direct and proximate result of Defendants' actions, Plaintiff and the association  
2 have suffered financial losses, including loss of funds, additional costs incurred due to the  
3 misuse, and decreases in property values.

4 490. As a direct and proximate of Defendants' actions, Plaintiff has suffered damages in  
5 an amount to be proven at trial.  
6

7  
8 **FORTY SEVENTH CAUSE OF ACTION: BREACH OF WARRANTY OF QUIET**  
9 **ENJOYMENT**

10 **(Against Defendant HOA, and Defendant PMP)**

11  
12 491. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
13 paragraphs, as if set forth at length herein.

14 492. Plaintiffs are members of the homeowner's association governed by Defendant  
15 HOA.

16 493. As part of the governing documents and the implied contract between the members  
17 and the HOA, there is a warranty of quiet enjoyment, which ensures that homeowners are  
18 entitled to peaceful and undisturbed use of their property.  
19

20 494. At all times mentioned herein, Plaintiffs have experienced significant disturbances  
21 in the peacefulness of the neighborhood, constantly being accosted when they come home, use  
22 common areas, or are walking around the neighborhood, improper maintenance of shared  
23 facilities leading to disruptions, failure to address ongoing issues in the community, and failing  
24 to handle the aggressive and tyrannical tactics of Defendant Choe and his gang of vigilantes.  
25 Not only did they fail to handle it, but they ratified, actively participated in, and supported the  
26 actions of the vigilantes.  
27  
28



1 495. Plaintiffs repeatedly objected to the mentioned actions, omissions, and behaviors  
2 through communications, emails, letters, and attending meetings, requesting that the HOA take  
3 appropriate action to remedy the situation.

4 496. Despite these notifications, Defendants failed to address the issues or provide a  
5 satisfactory resolution, thereby breaching the warranty of quiet enjoyment owed to Plaintiff.  
6

7 497. Defendants' actions constitute a breach of the warranty of quiet enjoyment, as  
8 Defendants have failed to provide Plaintiffs with the peaceful and uninterrupted enjoyment of  
9 their property.

10 498. As a direct and proximate result of Defendant's breach, Plaintiff has suffered  
11 damages in an amount to be proven at trial.  
12

13  
14 **FORTY EIGHTH CAUSE OF ACTION: AN ACCOUNTING**

15 **(Against Defendant HOA and Defendant PMP)**

16 499. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
17 paragraphs, as if set forth at length herein.  
18

19 500. Plaintiffs are members of the homeowner's association governed by Defendant and  
20 has paid assessments and fees as required by the governing documents.

21 501. Under California law, and specifically pursuant to the Davis-Stirling Common  
22 Interest Development Act, associations are required to maintain accurate financial records and  
23 provide transparency to their members regarding the association's finances.  
24

25 502. Plaintiffs have requested an accounting of the HOA's financial records, including  
26 but not limited to financial spending reports, budget reports, balance sheets, income statements,  
27 and records of assessments.  
28

1           503. Defendant has failed to provide the requested accounting and has not responded  
2 adequately.

3           504. As a result of Defendant’s failure to provide the accounting, Plaintiffs have been  
4 unable to ascertain the financial status of the association, leading to concerns about  
5 mismanagement and misuse of funds.  
6

7           505. Plaintiffs are entitled to an accounting from Defendant to determine the financial  
8 status of the HOA and the proper allocation of funds.

9           506. Defendant’s failure to provide a complete and accurate accounting constitutes a  
10 breach of its fiduciary duty to the members of the association.  
11

12           507. As a direct and proximate result of Defendant’s failure to provide the requested  
13 accounting, Plaintiff has suffered damages in an amount to be proven at trial.  
14

15                                 **FORTY NINTH CAUSE OF ACTION: DISGORGEMENT**

16                                 **(Against Defendant HOA, Defendant PMP, and Defendant Citadl)**

17           508. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
18 paragraphs, as if set forth at length herein.  
19

20           509. Defendant has a fiduciary duty to manage the common interests of its members and  
21 to act in good faith.  
22

23           510. Defendant collected certain fees, dues, and fines from Plaintiffs and other members.

24           511. These fees were collected without proper authority and/or were excessive and  
25 unjustified.  
26

27           512. Defendant has retained and benefited from these fees, which were wrongfully  
28 collected, thereby unjustly enriching itself at the expense of Plaintiffs and other members.

1           513. Defendant's collection of fees without proper authority constitutes unjust  
2 enrichment, as Defendant has received funds to which it is not entitled.

3           514. As a result of Defendant's wrongful actions, Plaintiff seeks disgorgement of the fees  
4 collected, in an amount to be proven at trial.  
5

6  
7           **FIFTIETH CAUSE OF ACTION: INTERFERENCE WITH RECEIVING MAIL – 18**

8   **U.S.C. §1701**

9           **(Against All Individual Defendants, Defendant PMP, Defendant Citadl, and Defendant**  
10   **HOA)**

11  
12           515. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
13 paragraphs, as if set forth at length herein.

14           516. By their conduct described herein, Defendants have repeatedly interfered with  
15 Plaintiffs' ability to receive mail in violation of state and federal laws, including but not limited  
16 to, 18 U.S.C. §1701.  
17

18           517. As a direct and proximate result of Defendants' conduct, Plaintiffs have suffered  
19 damages and pecuniary losses, including but not limited to, financial loss, lost use and  
20 enjoyment of the property, and other damages that they would not have incurred but for  
21 Defendants' conduct.

22           518. The unlawful acts and omissions described herein were willful, wanton, malicious,  
23 and in reckless disregard of Plaintiffs' rights and he is entitled to punitive damages in an amount  
24 to be determined at trial.  
25  
26  
27  
28

1                   **FIFTY FIRST CAUSE OF ACTION: CHALLENGING VALIDITY OF HOA**  
2                                   **ELECTION – CORP. CODE § 7616, 7511(C)**

3   **(Against Defendant HOA)**

4  
5           519. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
6 paragraphs, as if set forth at length herein.

7           520. Corporations Code Section 7616 provides for a judicial determination of the validity  
8 of an election or appointment of a Director.

9           521. The previous year’s election and current election is unfair because:

10           a. Defendant Choe and other candidates have engaged in ballot harvesting to wrongfully  
11 inflate their votes

12  
13           b. Homeowners and residents have been unlawfully, wrongfully, and intentionally  
14 prevented from participating in the elections, which is a violation of the Davis-Stirling Act, the  
15 CC&R’s, and the bylaws

16  
17           c. Candidates elected to the Board, including Defendant Choe, were engaging in and  
18 continued to engage in self-dealing that affected the impartiality and integrity of the election  
19 process.

20           522. Corporation Code 7616 provides for Superior Court to set within 5 days, or as soon  
21 as possible thereafter, a hearing to determine if an election is fair or reasonable, and whether  
22 substantial compliance mitigates the need to call a new election.

23  
24           523. There is no "substantial compliance" language in the new statutes.

25           524. The new elections law in Section 1363.09 provides that "...a member of an  
26 association may bring a civil action for declaratory or equitable relief for a violation of this  
27 article by an association of which he or she is a member, including, but not limited to, injunctive  
28

1 relief, restitution, or a combination thereof, within one year of the date the cause of action  
2 accrues.

3 525. Upon a finding that the election procedures of this article, or the adoption of and  
4 adherence to rules provided by Article 4 (commencing with Section 1357.100) of Chapter 2,  
5 were not followed, a court may void any results of the election. "... A member who prevails in  
6 a civil action to enforce his or her rights pursuant to this article shall be entitled to reasonable  
7 attorney's fees and court costs, and the court may impose a civil penalty of up to five hundred  
8 dollars (\$ 500) for each violation, except that each identical violation shall be subject to only  
9 one penalty if the violation affects each member of the association equally."  
10  
11

12 526. A prevailing association shall not recover any costs, unless the court finds the action  
13 to be frivolous, unreasonable, or without foundation. "... A cause of action under Section  
14 1363.03 with respect to access to association resources by a candidate or member advocating a  
15 point of view, the receipt of a ballot by a member, or the counting, tabulation, or reporting of,  
16 or access to, ballots for inspection and review after tabulation may be brought in small claims  
17 court if the amount of the demand does not exceed the jurisdiction of that court.  
18  
19

20 **FIFTY SECOND CAUSE OF ACTION: SELECTIVE ENFORCEMENT**

21 **(Against Individual Defendants, Defendant PMP, Defendant Citadl, and Defendant**  
22 **HOA)**  
23

24 527. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
25 paragraphs, as if set forth at length herein.

26 528. Defendants and their agents, representatives, contractors, and affiliates have engaged  
27 in a campaign targeting Plaintiffs in retaliation to their questioning and challenging certain  
28

1 actions and behaviors of the HOA and individual Defendants and selectively enforcing their  
2 interpretation of the HOA governing documents in an attempt to justify their unlawful,  
3 malicious, and intentional harassment and negligence.

4  
5 529. Plaintiffs are informed and believe and based thereon allege that Defendants have  
6 not interpreted or attempted to enforce the HOA governing documents uniformly against the  
7 residents and homeowners and have overwhelmingly and unreasonably issued citations to and  
8 targeted Plaintiffs in an arbitrary, discriminatory and selective manner.

9  
10 530. Plaintiffs are informed and believe and based thereon allege that Defendants have  
11 inequitably and selectively exercised their discretion to interpret and enforce their interpretation  
12 of the rules and policies for issuing citations, fines, election procedures, and conducting repairs  
13 and upkeep as contained in the HOA governing documents, to the exclusion of other similarly  
14 situated owners and residents, all to Plaintiffs' continuing detriment and distress.

15  
16 531. Plaintiffs have been harmed due to the Defendants' selective enforcement of said  
17 regulations and have suffered damages, including but not limited to emotional distress, in an  
18 amount to be proven at the time of trial.

19  
20 532. Plaintiffs are informed and believe and based thereon allege that unless Defendants  
21 are compelled by the Order of the Court to cease and desist from issuing citations, harassing  
22 Plaintiffs and other residents, and intimidating them, Defendants will continue to engage in the  
23 selective enforcement complained of herein and thereby continue to vex and damage Plaintiff.  
24 Such conduct will result in irreparable harm to Plaintiff by causing additional and continuing  
25 damage to their property rights and infringing upon Plaintiffs' comfortable, quiet, and peaceful  
26 enjoyment of the subject property, causing Plaintiffs damage, annoyance, emotional distress,  
27 discomfort, and inconvenience. As such, the threat of such irreparable and permanent damage  
28

1 justifies the issuance of an injunction, as well as award of monetary damages and restitution  
2 expressly authorized by applicable law, including but not limited to the Code of Civil Procedure  
3 Section 526 and 731.  
4

5  
6 **FIFTY THIRD CAUSE OF ACTION: DECLARATORY RELIEF**

7 **(Against All Defendants)**

8 533. Plaintiffs repeat and re-allege herein by reference the allegations of the foregoing  
9 paragraphs, as if set forth at length herein.  
10

11 534. An actual controversy has arisen and now exists between Plaintiffs and Defendants,  
12 and each of them, concerning their respective rights and duties under the rules and regulations  
13 contained in the HOA governing documents that govern the parties' conduct, and the validity,  
14 interpretation and applicability of the HOA governing documents and existing state and federal  
15 law to the parties' conduct.  
16

17 535. A bona fide dispute presently exists between Plaintiffs and Defendants, which is in  
18 need of a declaration by this Court, as to the validity and enforceability of the HOA policies  
19 and practices, its governing documents, and its conduct in conformance with applicable state  
20 and federal law.  
21

22 536. Plaintiffs desire a judicial determination of the parties' rights and duties under the  
23 HOA governing documents, and a judicial determination of the parties' rights and duties under  
24 the Davis-Stirling Act and federal law, including the right to access and inspect HOA financial  
25 records  
26  
27  
28

1           537. A judicial determination is necessary and appropriate at this time so that Plaintiffs  
2 may ascertain their rights and duties and should be made in accordance with Plaintiff's  
3 contentions as set forth above.  
4

5  
6           **DEMAND FOR JURY TRIAL FOR DETERMINATION OF ALL CAUSES OF**  
7   **ACTION**

8           *Plaintiffs hereby demand trial by jury for a determination as to all causes of action as herein*  
9           *alleged.*

10          **WHEREFORE,** Plaintiffs pray for judgment against Defendants as follows:

- 11           1. For any and all economic damages in an amount to be determined according to proof at  
12 trial;
- 13           2. For general damages in an amount to be determined according to proof at trial;
- 14           3. For costs of suit incurred herein;
- 15           4. For any and all prejudgment interest, post-judgment interest according to proof;
- 16           5. For attorney's fees and costs according to contract and in pursuit of the recovery of  
17 property and damages pursuant to *California Civil Code §3336*;
- 18           6. For punitive damages against each and all Defendants in an amount to be determined  
19 according to proof at trial, where applicable;
- 20           7. For an accounting;
- 21           8. For attorneys' fees and costs pursuant to contract;
- 22           9. For any and all contractual and equitable relief allowed by law; and
- 23           10. For such other and further relief as the Court deems just and proper.
- 24           11. For Declaratory Relief ordering the vehicle returned to the Plaintiffs.
- 25
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- 27
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Date: October 21, 2024

**ETEMADI LEGAL GROUP PC**

By:           /Donna Etemadi/  
Donna Etemadi  
Attorney for Plaintiffs

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# EXHIBIT A

BYLAWS  
OF  
NORTHWOOD II COMMUNITY ASSOCIATION

JRS\30160\0099\341512.1  
12/15/03

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FOR

BYLAWS OF

NORTHWOOD II COMMUNITY ASSOCIATION

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NOT FOR RESCROW PURPOSES

BYLAWS

OF

NORTHWOOD II COMMUNITY ASSOCIATION

ARTICLE I

1. **Plan of Ownership.**

1.1. **Name.** The name of the corporation is NORTHWOOD II COMMUNITY ASSOCIATION, hereinafter referred to as the "Maintenance Association." The principal office of the Maintenance Association shall be located in the County of Orange, State of California.

1.2. **Application.** The provisions of these Bylaws are applicable to the master planned community Properties described in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II Community Association (the "Declaration"), located in the City of Irvine, County of Orange, State of California. All present and future Owners and their tenants, future tenants, employees, and any other person who might use the facilities of the Properties in any manner, are subject to the regulations set forth in these Bylaws and in the Declaration Recorded or to be Recorded in the Official Records of Orange County and applicable to the Properties. The mere acquisition or rental of any Lot or Condominium in the Properties or the mere act of occupancy of any Lot or Condominium signifies that these Bylaws are accepted, ratified, and will be complied with.

1.3. **Definitions.** Unless otherwise expressly provided herein, the capitalized terms in these Bylaws have the same meanings as are given to such terms in the Declaration.

ARTICLE II

2. **Voting by Maintenance Association Membership.**

2.1. **Voting.** The Classes of voting Memberships, the number of votes (i.e., voting power) held or represented by Members of the Association ("Members") are set forth in the Declaration, and the provisions of the Declaration governing all such matters are specifically incorporated herein by reference.

2.2. **Quorum.** The presence in person of Members representing at least twenty-five percent (25%) of the voting power of the Maintenance Association constitutes a quorum of the Membership; provided that, if any action to be taken at any meeting of Members requires only the approval of Members in a particular Cost Center, then the presence in person of the Members representing at least twenty-five percent (25%) of the voting power of the Members in such Cost Center constitutes a quorum of the Membership for purposes of said approval. The

Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of Members required to constitute a quorum (or such greater percentage of Members as may be required by the Restrictions for any specific action).

2.3. **Approval by Members.** If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote and voting on any matter, is the act of the Members, unless the vote of a greater number or voting by classes is required by the Restrictions or applicable law. If, however, a meeting is actually attended by Members representing less than one-third (1/3) of the voting power of the Maintenance Association, notwithstanding the presence of a quorum, no matter may be voted upon except such matters notice of the of the general nature of which was given pursuant to Section 3.5 hereof.

### ARTICLE III

#### 3. **Administration.**

3.1. **Maintenance Association Responsibilities.** In accordance with the Declaration, the Maintenance Association is responsible for administering, maintaining and repairing the Maintenance Property, approving the annual Budget for the Properties, establishing and collecting all assessments applicable to the Properties authorized pursuant to the Declaration, and supervising the overall architectural control of the Properties.

3.2. **Place of Meetings of Members.** Meetings of the Members shall be held on the Properties or such other suitable place in Orange County, as proximate thereto as practical and convenient to the Members, as designated by the Board.

3.3. **Annual Meetings of Members.** The first annual meeting of Members shall be held within six (6) months after the first Close of Escrow for the sale of a Lot or Condominium in the Properties. Thereafter, the annual meetings shall be held on or about the anniversary date of the first annual meeting. Each first Mortgagee may designate a representative to attend all annual meetings. The annual meetings of the Members shall be open to attendance by all Members and Mortgagee representatives to the extent of the permissible capacity of the meeting room.

3.4. **Special Meetings of Members.** The President shall call a special meeting of the Members, as directed by resolution of a majority of a quorum of the Board, or upon receipt of a petition signed by not less than five percent (5%) of the Maintenance Association's total voting power. The Secretary shall give notice of any special meeting within twenty (20) days after adoption of such resolution or receipt of such petition. The notice must state the time and place of such meeting and the general nature of the business to be transacted thereat. The special meeting must be held not less than thirty-five (35) days nor more than ninety (90) days after

adoption of such resolution or receipt of such petition. No business may be transacted at a special meeting except as stated in the notice. Each first Mortgagee may designate a representative to attend all special meetings. The special meetings of the Members are open to attendance by all Members and by Mortgagee representatives to the extent of the permissible capacity of the meeting room.

**3.5. Notice of Meetings.** The Secretary must send a notice of each annual or special meeting to each Member of record, to the Class C Member (if Directors are to be elected at such meeting), and to each first Mortgagee who has filed a written request for notice with the Secretary, by personal delivery or by first-class mail, at least ten (10) but not more than thirty (30) days prior to such meeting. The notice must specify those Voting Proposals which are to be presented for action by the Members, as well as the day, hour and place where the meeting is to be held, and may set forth time limits for speakers and procedures for the meeting. In the case of meetings at which Directors are to be elected, the notice of the meeting (i) must set forth the procedures for nominating candidates for the Board, and (ii) must specify that cumulative voting procedures must be followed for the election of Directors where more than one (1) vacancy is being filled. Nominations of candidates for the Board from the floor of the meeting of Members are not permitted. The notice of a meeting of Members shall be considered served two (2) business days after such notice has been deposited in a regular depository of the United States mail postage prepaid or (b) immediately if sent by facsimile (with electronic confirmation of transmittal) or other means of telecommunication such as through the Internet and any Website maintained by the Maintenance Association). Such notice shall be deemed served upon any Member upon posting in a conspicuous place on the Maintenance Property if no address has been furnished the Secretary.

Notwithstanding any other provision of these Bylaws, approval by the Members of any of the following Voting Proposals, other than by unanimous approval of Members, is not valid unless the general nature of the Voting Proposal was stated in the notice to the Members: (a) removing a Director without cause; (b) filling vacancies on the Board; (c) approving a contract or transaction between the Maintenance Association and one or more Directors, or between the Maintenance Association and any entity in which a Director has a material financial interest; (d) amending the Articles; or (e) electing to wind up and dissolve the Maintenance Association.

**3.6. Adjourned Meetings.** If any meeting of Members cannot be organized because a quorum is not present, Members representing a majority of the voting power who are present may adjourn the meeting to a time not less than five (5) days nor more than thirty (30) days from the time the original meeting was called. Such an adjourned meeting may be held without the notice required by Section 3.5 if notice thereof is given by announcement at the meeting at which such adjournment is taken.

**3.7. Order of Business.** Meetings of Members must be conducted in accordance with a recognized system of parliamentary procedure or such parliamentary procedures as the Maintenance Association may adopt. The order of business at all Member



meetings as follows: (a) appointment of inspector of election; (b) roll call to determine the voting power represented at the meeting; (c) proof of notice of meeting or waiver of notice; (d) reading of minutes of preceding meeting; (e) reports of officers; (f) reports of committees; (g) election of Directors (at annual meetings or special meetings held for such purpose); (h) unfinished business; and (i) new business.

3.8. **Action By Written Ballot.** Any action which may be taken at a meeting of the Members (except for election of Directors) may be taken without a meeting by written ballot of the Members. Ballots must be solicited in the same manner as provided in Section 3.5 for the giving of notice of meetings of Members. Such solicitations must specify (a) the number of responses needed to meet the quorum requirements, (b) the percentage of approvals necessary to approve the action, and (c) the time by which ballots must be received in order to be counted. A matter shall be approved by written ballot upon receipt within the time period specified in the solicitation of both (A) a number of ballots which equals or exceeds the quorum which would be required if the action were taken at a meeting, and (B) a number of approvals which exceeds or equals the number of votes which would be required for approval if the action were taken at a meeting.

3.9. **Minutes, Presumption of Notice.** Minutes or a similar record of the proceedings of meetings of Members, when signed by the President or Secretary, are presumed truthfully to evidence the matters set forth therein. A recitation in the minutes of any such meeting that notice of the meeting was properly given is prima facie evidence that such notice was given.

3.10. **Inspector of Elections.** Prior to any Members meeting, the Board may appoint inspectors of election for that meeting. There shall be at least three (3) inspectors of election. The decision, act or certification of a majority shall be effective as the decision, act or certification of all. Any report or certificate of the inspectors of election is prima facie evidence of the matters stated therein. Inspectors of election do not have to be Owners. If the Board does not appoint inspectors of election or if an inspector fails to appear at a meeting, the chairman of the Member's meeting may appoint the inspector of election. If the chairman fails to appoint the inspectors of election, then any Member may request that inspectors of election be appointed. If a Member makes such a request, then the inspectors of election shall be elected by Members representing a majority of the Members present. In case of an action to be taken by the Members by written ballot, the Board may also appoint inspectors of election to count the ballots.

The inspector of election shall determine the number of Memberships outstanding, the voting power of each, the number of Members represented at the meeting, the existence of a quorum, and the authenticity, validity and effect of proxies, receive votes, ballots or consents, hear and determine all challenges and questions in any way arising in connection with the right to vote, count and tabulate all votes or consents, determine when the polls shall close, determine the results and do such acts as may be proper to conduct the election or vote with fairness to all Members. The inspectors of election shall perform their duties impartially, in good faith, to the best of their ability and as expeditiously as is practical.

## ARTICLE IV

### 4. Board of Directors.

4.1. **Number and Qualification.** The property, business and affairs of the Maintenance Association shall be governed by a Board of Directors which initially consists of three (3) persons. The authorized number of Directors may be increased to five (5) or seven (7) when the Board adopts a resolution approving an increase in the authorized number of Directors. An increase in the authorized number of Directors provided for in the immediately preceding sentence is effective as of the annual meeting of Members immediately following the date on which the resolution is adopted by the Board. Any other change in the authorized number of Directors requires an adopted amendment to the Bylaws. All Directors, except for those appointed and serving as first Directors, must either be (i) an Owner of a Lot or Condominium in the Properties, or (ii) an agent of Declarant or an agent of a Merchant Builder for so long as Declarant or a Merchant Builder owns a Lot or Condominium in the Properties or any portion of the Annexable Area. Directors may not receive any salary or compensation for their services as Directors, unless such compensation is first approved by the vote of Members representing at least a majority of the Maintenance Association voting power; provided that (a) nothing in these Bylaws precludes any Director from serving the Maintenance Association in some other capacity and receiving compensation therefor, and (b) any Director may be reimbursed for actual expenses incurred in performance of Maintenance Association duties.

4.2. **Powers and Duties.** Subject to the limitations in the Declaration and these Bylaws, the Board has the powers and duties necessary to administer the Maintenance Association's affairs and may do all acts and things not by law, the Declaration or these Bylaws prohibited to the Maintenance Association or directed to be exercised and done exclusively by the Members. Subject to the provisions of Section 4.4, the Board may not enter into any contract with a third person wherein the third person will furnish goods or services for the Maintenance Property or to the Maintenance Association for a term in excess of one (1) year, without the vote of Members representing a majority of the Maintenance Association voting power, except for (a) a contract with a public utility company for a term that does not exceed the shortest term for which the public utility company will contract at the regulated rate, if the rates charged for the materials or services are regulated by the California Public Utilities Commission; (b) a management contract the terms of which conform to Section 4.4 hereof; (c) prepaid casualty or liability insurance policies of not more than three (3) years' duration, provided that the policies permit short-term cancellation by the Maintenance Association; (d) a contract approved by the DRE for a term approved by the DRE; (e) a contract for a term not to exceed three (3) years that is terminable by the Association after no longer than one year without cause or penalty or other obligation upon ninety (90) days written notice of termination to the other party; or (f) a management contract with a term not to exceed three (3) years.

4.3. **Special Powers and Duties.** Without prejudice to the general powers and duties and such powers and duties as are set forth in the Declaration, the Board has the following powers and duties:

4.3.1. **Officers and Agents.** The power and duty to select, appoint, and remove all Maintenance Association officers, agents, and employees; to prescribe such powers and duties for them as may be consistent with law and the Restrictions; and to fix their compensation (where compensation is permitted) and require from them security for faithful service when deemed advisable by the Board.

4.3.2. **Business Affairs.** The power and duty to conduct, manage and control the Maintenance Association affairs and business, and to make and enforce such Rules and Regulations therefor consistent with law and the Restrictions as the Board deems necessary or advisable.

4.3.3. **Principal Office/Corporate Seal.** The power but not the duty to change the principal office for the transaction of the Maintenance Association's business from one location to another within Orange County; to designate any place within such County for the holding of any annual or special meeting or meetings of Members consistent with the provisions of Section 3.2 hereof; and to adopt and use a corporate seal and to alter the form of such seal from time to time, as the Board, in its sole judgment, deems best, provided that such seal shall at all times comply with the provisions of law.

4.3.4. **Borrowings.** With the approval of Members representing at least sixty-seven percent (67%) of the Maintenance Association voting power, the power but not the duty to borrow money and incur indebtedness for the Maintenance Association's purposes, and to cause to be executed and delivered therefor, in the Maintenance Association's name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations and other evidences of debt and securities therefor.

4.3.5. **Assessments.** The power and duty to fix and levy Common Assessments, Special Assessments, and Reconstruction Assessments as provided in the Declaration; to fix and levy in any fiscal year Capital Improvement Assessments applicable to that year only for capital improvements to the Maintenance Property; to determine and fix the due date for the payment of such assessments; provided, however, that such assessments shall be fixed and levied only to provide for the payment of Common Expenses and for the payment of any and all obligations in relation thereto, or in performing or causing to be performed any of the purposes of the Maintenance Association for the general benefit and welfare of its Members, in accordance with the provisions of the Declaration. Subject to any limitations imposed by the Declaration and these Bylaws, the Board shall have the power and duty to incur any and all such expenditures for any of the foregoing purposes and to provide or cause to be provided Reserves for repairs and replacements of the Maintenance Property. The funds collected by the Board from the Owners for replacement Reserves and for capital Improvements are at all times held in trust for the Members. Disbursements from such trust Reserve Funds may only be made in accordance with the provisions of the Declaration. The Board shall fix all Common Assessments, Reconstruction Assessments, Special Assessments and Capital Improvement Assessments in accordance with the provisions of the Declaration. If a Member fails to pay such

assessments before delinquency, the Board may enforce the payment of such delinquent assessments as provided in the Declaration.

4.3.6. **Enforcement.** The power and duty to enforce the provisions of the Restrictions and any Maintenance Association agreements.

4.3.7. **Insurance.** The power and duty to contract and pay for insurance insuring the Members, the Maintenance Association, any Manager, the Board, the members of the Architectural Committee, and other interested parties, in accordance with the provisions of the Declaration, covering and protecting against such damages or injuries as the Board deems advisable (which may include without limitation, medical expenses of persons injured on the Maintenance Property). The Board shall review, not less frequently than annually, all insurance policies and bonds obtained by the Board on the Maintenance Association's behalf.

4.3.8. **Services.** The power and duty to contract and pay for maintenance, legal, accounting, gardening, common utilities, materials and supplies, and services relating to the Maintenance Property and, subject to limitations contained in the Declaration, to employ personnel necessary to operate the Properties, including legal and accounting services, and to contract for and pay for Improvements on the Maintenance Property.

4.3.9. **Utility Easements.** The power but not the duty to grant or quitclaim easements, licenses or rights-of-way in, on, or over the Maintenance Property for purposes consistent with the intended use of the Properties as a master planned community.

4.3.10. **Rules and Regulations.** The power and duty to adopt such Rules and Regulations as the Board deems necessary for managing the Properties, which Rules and Regulations are effective and binding after (i) they are adopted by a majority of the entire Board, and (ii) they are either (A) posted in a conspicuous place in the Maintenance Property, or (B) sent to the Members by first class U.S. mail. Such Rules and Regulations may concern, without limitation, use of the Maintenance Property, signs, parking restrictions, minimum standards of property maintenance consistent with the Restrictions, and any other matter within the Maintenance Association's jurisdiction as specified in the Restrictions; provided that such Rules and Regulations are enforceable only to the extent that they are consistent with the Restrictions.

4.3.11. **Corporate Records.** The power and duty to keep, or cause to be kept, a complete record of all Maintenance Association acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members and at any other time that such statement is requested by Members representing in the aggregate not less than ten percent (10%) of the Members who are entitled to vote.

4.3.12. **Sale of Maintenance Property.** Subject to the Declaration, the power but not the duty to sell Maintenance Association property, provided, however, that the prior vote of Members representing at least a majority of the Maintenance Association's voting power must be obtained to sell during any fiscal year property of the Maintenance Association

having an aggregate fair market value greater than five percent (5%) of the Maintenance Association's Budgeted gross expenses for that fiscal year.

4.3.13. **Governing Documents.** The power and duty to make available to any prospective purchaser of a Lot or Condominium, any Owner of a Lot or Condominium, any first Mortgagee, and each holder, insurer and guarantor of a first Mortgage on any Lot or Condominium, current copies of the Restrictions and all other books, records and financial statements of the Maintenance Association. The Maintenance Association may charge a fee for providing such documents, but in no event shall the fee exceed the reasonable cost to reproduce the requested documents.

4.3.14. **Subsidy Agreements.** The power but not the duty to negotiate and enter into subsidy agreements or other arrangements with Declarant and Merchant Builders pursuant to which Declarant or such Merchant Builders may subsidize a portion of the Common Expenses in exchange for the Maintenance Association's assumption of the obligation to repair and maintain additional real property and Improvements which it would not be able to so maintain at current Budget levels absent such a subsidy. Any such subsidy agreements or other arrangements must be approved by the DRE.

4.3.15. **Delegation of Powers.** The power but not the duty to Member its powers according to law and to adopt these Bylaws.

4.4. **Management Agent.** The Board shall employ for the Maintenance Association a Manager at a compensation established by the Board to perform such duties and services as the Board authorizes, including, without limitation, the duties listed in Sections 4.2 and 4.3.

4.5. **Books, Audit.** The Board shall distribute the following financial information to all Members (and to any Beneficiary, insurer and guarantor of a first Mortgage upon request), regardless of the number of Members or the amount of assets of the Maintenance Association:

4.5.1. **Budget.** A pro forma operating Budget for each fiscal year consisting of at least the following information must be distributed not less than forty-five (45) nor more than sixty (60) days prior to the beginning of the Fiscal Year:

(i) **Revenue and Expenses.** The estimated revenue and Common Expenses computed on an accrual basis, and allocated among the various Maintenance Funds specified in the Declaration.

(ii) **Reserves.** A summary of the Maintenance Association's Reserves based upon the most recent review or study conducted pursuant to Section 1365.5 of



the California Civil Code or any other applicable statute, as amended, which must be printed in bold type and include all of the following:

(a) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component for which the Maintenance Association is responsible.

(b) As of the end of the fiscal year for which the study is prepared:

(1) The current estimate of the amount of cash Reserves necessary to repair, replace, restore, or maintain the major components for which the Maintenance Association is responsible ("Estimated Reserves").

(2) The current amount of accumulated cash Reserves actually set aside to repair, replace, restore or maintain the major components for which the Maintenance Association is responsible ("Actual Reserves").

(c) The percentage that the Actual Reserves is of the Estimated Reserves.

(iii) **Anticipated Assessment Statement.** A statement as to whether the Board has determined or anticipated that the levy of one (1) or more Capital Improvement or Reconstruction Assessments will be required to repair, replace, or restore any major component for which the Maintenance Association is responsible or to provide adequate Reserves therefor.

(iv) **Reserve Fund Calculations.** A general statement setting forth the procedures used by the Board in the calculation and establishment of the Reserve Funds to defray the costs of repair and replacement of, or additions to, major components of the Maintenance Property and facilities for which the Maintenance Association is responsible.

The Board also may distribute a summary of the Budget in lieu of the Budget itself, so long as the Board complies with the provisions of Section 1365(c) of the California Civil Code, as amended. The Board must cause a study of the "Reserve account requirements" of the Properties, to be conducted in accordance with Section 1365.5 of the California Civil Code.

**4.5.2. Balance Sheet.** A balance sheet as of an accounting date which is the last day of the month closest in time to six (6) months from the date on which Common Assessments first commenced, and an operating statement for the period from the date on which Common Assessments commenced to such accounting date, must be distributed within sixty (60) days after the accounting date. Such operating statement must include a schedule of assessments

received and receivable identified by the number of the Lot or Condominium and the name of the Owner assessed.

4.5.3. **Annual Report.** A report consisting of the following ("Annual Report") must be distributed within one hundred twenty (120) days after the close of the fiscal year: (a) a balance sheet as of the end of the fiscal year; (b) an operating (income) statement for the fiscal year; (c) a statement of changes in financial position for the fiscal year; (d) any information required to be reported under Section 1365.9(c) of the California Civil Code and Section 8322 of the California Corporations Code; (e) for any fiscal year in which Maintenance Association gross income exceeds Seventy-Five Thousand Dollars (\$75,000.00), a copy of a review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy; and (f) a statement of the place where the names and addresses of the Members are located.

If the Annual Report is not prepared by an independent accountant, it must be accompanied by the certificate of an authorized Maintenance Association officer certifying that the statement was prepared from the books and records of the Maintenance Association without independent audit or review.

4.5.4. **Enforcement Policies.** In addition to financial statements, the Board shall annually distribute within sixty (60) days prior to the beginning of the fiscal year a statement of the Maintenance Association's policies and practices in enforcing its remedies against Members for defaults in the payment of Common, Capital Improvement, Reconstruction and Special Assessments, including the Recording and foreclosing of liens against Members' Lots and Condominiums.

4.5.5. **Quarterly Reviews.** The Board shall do the following on at least a quarterly basis: (a) cause to be completed and review a current reconciliation of the Maintenance Association's operating and Reserve accounts, (b) review the Actual Reserves and expenses compared to the Budget for the then current Fiscal Year, (c) review the income and expense statement for the Maintenance Association's operating and Reserve accounts, and (d) review the most current account statements prepared by the financial institutions where the Maintenance Association maintains its operating accounts and Reserve.

#### 4.6. **Election and Term of Office.**

4.6.1. **Election of Directors.** At the first meeting of the Members, and thereafter at each annual meeting of the Members coinciding with the expiration of a Director's term of office or at which a vacancy on the Board exists, the Members and the Class C Members shall elect new Directors as provided in the Restrictions, and all vacant positions on the Board shall be filled at that election. If an annual meeting is not held or the Board is not elected thereat, the Board may be elected at any special meeting of the Members held for that purpose. Each Director shall hold office until his successor has been elected or until his death, resignation, removal or judicial adjudication of mental incompetence.

#### 4.6.2. Term of Office.

(i) **Concurrent/Staggered Terms.** For so long as there are only three (3) authorized Directors, the terms of office of all Directors shall be concurrent. If the authorized number of Directors is expanded pursuant to Section 4.1, the terms of the Directors shall become staggered on a three-two (3-2) or on a three-four (3-4) basis, as applicable.

(ii) **Term Period.** Except as otherwise provided in this subsection in connection with the filling of vacancies resulting from the expansion of the number of authorized Directors pursuant to Section 4.1, the term of office of each Director elected or appointed to fill a vacancy created by the expiration of the term of office of the respective past Director shall be for two (2) years. The term of office of each Director elected or appointed to fill a vacancy created by the resignation, death or removal of his predecessor shall be the balance of the unserved term of his predecessor. Any person serving as a Director may be reelected or reappointed, and there is no limit on the number of terms during which he or she may serve. If the authorized number of Directors is expanded pursuant to Section 4.1, the initial terms of office of the Directors elected to fill the new positions so created shall exceed by one (1) year the then unexpired terms of the three Directors whose terms expire simultaneously, unless vacancies resulting from expiration of the terms of such three (3) Directors are being concurrently filled, in which case the entire Board shall be elected as follows:

(a) The terms of office of the majority of Directors appointed by the Class C Member (or if there is no Class C Member, the majority of Directors receiving the highest number of votes) shall be three (3) years, and

(b) The terms of office of the balance of the Directors receiving the next highest number of votes shall be two (2) years.

(iii) **Cumulative Voting.** With the exception of vacancies filled by the Class C Member, cumulative voting must be used in the election of Directors where more than one (1) vacancy is being filled. In the case of cumulative voting for Directors, each Member shall cast a total number of votes allocated to the Member as set forth in the Declaration, multiplied by the number of Directors to be elected by vote of Members representing the Class A and Class B Members.

4.6.3. **Election by Non-Declarant Owners.** Notwithstanding the foregoing, whenever (a) notice is given for an election of Directors, and (b) upon such date Declarant and Merchant Builders are entitled to exercise a majority of the voting power of the Maintenance Association, and (c) upon such date the Members other than Declarant and any Merchant Builders do not have a sufficient percentage of the Maintenance Association voting power to elect a number of Directors representing at least twenty percent (20%) (though not less than one (1)) of the entire Board through the foregoing cumulative voting procedure, then such notice must also provide for the following special election procedure.



(i) **Minimum Number.** Election of Directors will be first apportioned to Members other than Declarant and any Merchant Builders until the aggregate number of Directors on the Board elected by Members casting votes attributable to Members other than Declarant and any Merchant Builders represents at least twenty percent (20%) (though not less than one (1)) of the entire Board (i.e., the Members must ensure that at least one (1) Director is an Owner not connected directly or indirectly with Declarant or any Merchant Builder ("Nonaffiliated Owner") for so long as a majority of the voting power of the Maintenance Association is attributable to Lots or Condominiums owned by Declarant and Merchant Builders).

(ii) **Procedure.** Any Nonaffiliated Owner otherwise eligible to serve on the Board is an eligible candidate for the special election upon receipt by the Secretary of a declaration of candidacy, signed by the candidate, at any time prior to the election. The Nonaffiliated Owner(s) receiving the greatest number of votes cast by the Members other than Declarant or any Merchant Builders shall be elected to the Board. The remaining members of the Board will be elected through the customary voting procedure outlined above.

4.7. **Vacancies.** A vacancy in the office of Director is deemed to exist in case of a Director's death, resignation, removal, judicial adjudication of mental incompetence or failure to satisfy all of the qualifications of a Director as specified in the Restrictions, or in case the Members fail to elect the full number of authorized Directors at any meeting at which such election is to take place. Until filled by the Members or the Class C Member, as applicable, vacancies on the Board caused by any reason other than the removal of a Director by a vote of the Members may be filled by a vote of the majority of the remaining Directors, even though they may constitute less than a quorum; provided that until termination of the Class C Membership, a vacancy in the office of a Director who was appointed by the Class C Member shall be filled only by an appointee of the Class C Member. Subject to applicable eligibility requirements, each person elected to fill a vacancy pursuant to this Subsection shall be a Director until a successor is elected at the next annual meeting of the Members, or at a special meeting of the Members called for that purpose.

4.8. **Removal of Directors.** At any regular or special meeting of the Members duly called, any individual Directors or the entire Board may be removed prior to the expiration of their terms of office with or without cause as follows: (a) for so long as fewer than fifty (50) Lots and Condominiums are included within the Properties, by the vote of Members representing a majority of the total Maintenance Association voting power (including votes attributable to Declarant and Merchant Builders), and (b) once fifty (50) or more Lots and Condominiums are included within the Properties, by the vote of Members representing a majority of a quorum of the Members. However, if the entire Board is not removed as a group pursuant to a single vote, no individual Director may be removed if the number of votes cast against his removal would be sufficient to elect such Director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of Directors authorized at the time of the Director's most recent election were then being elected. Any Director whose removal has been

proposed must be given an opportunity to present or cause to be presented a position statement at the Membership meeting at which the Voting Proposal for removal of such Director is considered. If any or all of the Directors are so removed at a meeting, new Directors may be elected at the same meeting if the election of Directors to fill such vacancies was included as a part of the same Voting Proposal for the removal of such Directors. Notwithstanding any other provision of this Section, (a) any Director who has been elected to office solely by the votes of Members representing Members other than Declarant and Merchant Builders pursuant to Section 4.6.3 may be removed from office prior to the expiration of the term of office only by the vote of Members representing a simple majority of the voting power residing in Members other than Declarant and any Merchant Builders and, in the event of such removal, such Director's successor shall be elected in the same manner as such Director, pursuant to the provisions of Section 4.6.3; and (b) until termination of the Class C Membership, any Director who has been appointed by the Class C Member may be removed from office and the vacancy filled only by the Class C Member.

4.9. **Organization Meeting.** The first regular meeting of a newly constituted Board shall be held at such time and place determined by that Board, for the purpose of organization, election of officers and the transaction of other business. Notice of the first meeting shall be given in the same manner as notice of other regular meetings.

4.10. **Regular Meetings.** Regular meetings of the Board must be open to the Members, to the extent of the permissible capacity of the meeting room, and may be held at such time and place within the Properties (or as proximate thereto as possible) as determined by a resolution adopted by a majority of a quorum of the Directors; provided that such meetings shall be held no less frequently than quarterly. Members in attendance who are not Directors may not participate in any deliberation or discussion, unless expressly authorized by the vote of a majority of a quorum of the Directors. Notice of the time and place of regular Board meetings must be given to each Director, in the manner provided in Section 4.11 below, at least four (4) calendar days prior to the date named for such meeting, and shall be posted at a prominent place or places within the Maintenance Property. If served by mail, each such notice (including notices of special meetings) shall be sent, postage prepaid, to the address reflected on the records of the Maintenance Association, and shall be deemed given, if not actually received earlier, at 5:00 o'clock P.M. on the second calendar day after it is deposited in a regular depository of the United States mail as provided herein. Whenever any Director is absent from any regular or special meeting of the Board, an entry in the minutes to the effect that notice was given is conclusive and incontrovertible evidence that due notice of such meeting was given to such Director, as required by law and as provided herein.

4.11. **Special Meetings of Board.** Special meetings of the Board must be open to all Members, to the extent of the permissible capacity of the meeting room; provided that Members who are not Directors may not participate in any deliberations or discussions at such special meetings, unless expressly so authorized by a vote of a majority of a quorum of the Board. Special meetings may be called by the President or by any two (2) Directors. At least four (4) calendar days notice shall be given to each Director, personally or by telephone,

including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. The notice must state the time, place and purpose of the meeting, and shall be posted at a prominent place or places within the Maintenance Property.

**4.12. Waiver of Notice.** Before or at any meeting of the Board, any Director may, in writing, waive personal notice of such meeting and such waiver is equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board is a waiver of notice to him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice to Directors is required and any business may be transacted at such meeting. The transactions of any Board meeting, however called and noticed or wherever held, are as valid as though had at a meeting duly held after regular call and notice, if (a) a quorum is present, (b) notice to the Members of such meeting was posted as provided in Section 4.10, and (c) either before or after the meeting, each of the absent Directors signs such a written waiver of notice, a consent to holding such meeting, or an approval of the minutes thereof. The Secretary shall file all such waivers, consents and approvals with the Maintenance Association records or made them a part of the minutes of the meeting.

**4.13. Action Without Meeting; Telephone Meetings.** The Board may act without a meeting, if all Directors individually or collectively consent in writing to such action. Such written consent or consents must be filed with the minutes of the proceedings of the Board. Such action by written consent has the same effect as a unanimous vote of such Directors. Any meeting, regular or special, may be held by conference telephone or any other communication equipment, so long as it is consistent with the California Corporations Code. Within three (3) days after any action taken by written consent or telephone meeting, an explanation of such action must be either (i) posted by the Board in a prominent place or places on the Maintenance Property, or (ii) communicated to the Members by another means the Board determines to be appropriate.

**4.14. Quorum and Adjournment.** Except as otherwise expressly provided herein, at all meetings of the Board a majority of the Directors constitutes a quorum for the transaction of business, and the acts of a majority of the Directors present at a meeting at which a quorum is present are the acts of the Board. If at any meeting of the Board there is less than a quorum present, the majority of those present may adjourn the meeting to another time. At any such adjourned meeting, any business which might have been transacted at the meeting as originally called may be transacted without further notice if a quorum is present. The Board may, with the approval of a majority of the Directors at a meeting at which a quorum has been established, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Maintenance Association is or may become involved, matters relating to the formation of contracts with third parties, and orders of business of a similar nature. The nature of any and all business to be considered in executive session must first be announced in open session and must be generally noted in the minutes of the Board. In any matter relating to the discipline of a Member, the Board must meet in executive session if requested by that Member, and the Member may attend the executive session.

4.15. **Fidelity Bonds.** The Board shall require that all officers and employees and the Manager of the Maintenance Association handling or responsible for Maintenance Association funds furnish adequate fidelity bonds as further provided in the Declaration. The premiums on such bonds shall be paid by the Maintenance Association.

4.16. **Committees.** The Board may, by resolution, designate such advisory and other committees as it desires, and may establish the purposes and powers of each such committee created. The resolution designating and establishing the committee must provide for the appointment of a chairperson and its members, must state the purposes of the committee and must provide for reports, termination and other administrative matters the Board deems appropriate.

## ARTICLE V

### 5. **Officers.**

5.1. **Designation.** The Maintenance Association's principal officers are a President, a Vice President, a Secretary and a Treasurer, all elected by the Board. The Board may appoint an Assistant Treasurer and an Assistant Secretary, and such other officers as it determines to be necessary. Officers other than the President need not be Directors. One Person may hold more than one office.

5.2. **Election of Officers.** The Board shall annually elect the Maintenance Association's officers at the new Board's organization meeting. Each officer shall hold his office at the pleasure of the Board, until he resigns or is removed or otherwise disqualified to serve or his successor is elected and qualified to serve.

5.3. **Removal of Officers.** Upon an affirmative vote of a majority of the entire Board, any officer may be removed, either with or without cause, and his successor elected at any regular meeting of the Board or at any special meeting of the Board called for such purpose. Any officer may resign at any time by giving written notice to the Board or to the President or Secretary. Any such resignation is effective on the date of receipt of such notice or at any later time specified therein. Unless otherwise specified in the notice, acceptance of the resignation by the Board is not necessary to make it effective.

5.4. **Compensation.** Officers, agents, and employees shall receive such reasonable compensation for their services as authorized or ratified by the Board; provided that: (a) no officer may receive any compensation for services performed in the conduct of the Maintenance Association's business unless such compensation is first approved by the vote of Members representing at least a majority of the Maintenance Association voting power; and (b) nothing in these Bylaws precludes any officer from serving the Maintenance Association in some other capacity and receiving compensation therefor; and (c) any officer may be reimbursed for actual expenses incurred in the performance of Maintenance Association duties. Appointment of

any officer, agent, or employee does not of itself create contractual or other rights of compensation for services performed by such officer, agent, or employee. Notwithstanding the foregoing, no officer, employee or director of Declarant or a Merchant Builder or any affiliate of Declarant or a Merchant Builder may receive any compensation.

5.5. **President.** The President is the chief executive officer of the Maintenance Association and shall (a) preside at all Member and Board meetings, (b) shall have all of the general powers and duties which are usually vested in the office of the President of a corporation, and (c) subject to the control of the Board, have general supervision, direction and control of the Maintenance Association's business and shall have such other powers and duties as may be prescribed by the Board or these Bylaws.

5.6. **Vice President.** The Vice President shall take the President's place and perform the President's duties whenever the President is absent, disabled or unable to act. If the President and the Vice President are unable to act, the Board shall appoint some other member of the Board to do so on an interim basis. The Vice President shall also perform such other duties as imposed by the Board or these Bylaws.

5.7. **Secretary.** The Secretary shall (a) keep the minutes of all meetings of the Board and the minutes of all meetings of the Maintenance Association at the Maintenance Association's principal office or at such other place as the Board may order, (b) keep the Maintenance Association's seal in safe custody, (c) keep such books and papers as the Board may direct, (d) perform all of the duties incident to the office of Secretary, (e) give, or cause to be given, notices of meetings of the Members, the Members and the Board required by the Restrictions or by law to be given, and (f) perform such other duties as may be prescribed by the Board or these Bylaws.

5.8. **Treasurer.** The Treasurer is the Maintenance Association's chief financial officer and is responsible for Maintenance Association funds and securities. The Treasurer shall (a) keep, or cause to be kept, full and accurate accounts, tax records and business transactions of the Maintenance Association, including accounts of all assets, liabilities, receipts and disbursements in books belonging to the Maintenance Association (b) be responsible for the deposit of all monies and other valuable effects in the name and to the credit of the Maintenance Association in such depositories as the Board designates, (c) disburse the Maintenance Association's funds as ordered by the Board, in accordance with the Declaration, (d) render to the President and Directors, upon request, an account of all transactions as Treasurer and of the Maintenance Association's financial condition, and (e) have such other powers and perform such other duties prescribed by the Board and these Bylaws.

## ARTICLE VI

### 6. Obligations of Members.

6.1. **Assessments.** All Members must pay, in accordance with the Declaration, all assessments imposed by the Maintenance Association, to meet all Common Expenses. All delinquent assessments shall be enforced, collected or foreclosed in the manner provided in the Declaration.

6.2. **Maintenance and Repair.**

6.2.1. **Members' Obligations.** Every Member must perform promptly, at his or her sole cost, all maintenance and repair work on the Member's Lot or Condominium, as required by the Declaration and any applicable Project Declaration. As further provided in the Declaration, and subject to the exemption of Declarant and the Merchant Builders, all plans for Construction Activities on the Properties must receive the prior written consent of the Architectural Committee. The Architectural Committee shall adhere to the Architectural Committee Rules when granting such approvals, in accordance with the Declaration.

6.2.2. **Damages by Members.** As further provided in the Declaration, each Member shall reimburse the Maintenance Association for any expenditures incurred in repairing or replacing any portion of the Maintenance Property or other properties owned or controlled by the Maintenance Association, which are damaged through such Member's willful misconduct or negligence. Such expenditures shall include all court costs and reasonable attorneys' fees incurred in enforcing any provision of the Restrictions.

**ARTICLE VII**

7. **Amendments to Bylaws.**

7.1. **Vote of Members.** These Bylaws may be amended by the vote of Members representing at least fifty-one percent (51%) of the Maintenance Association voting power; provided that the specified percentage of the Members necessary to amend a specific Section or provision of these Bylaws shall not be less than the percentage of affirmative votes prescribed for action to be taken under that Section or provision. Notwithstanding the foregoing, these Bylaws may be amended by a majority of the entire Board, at any time prior to the first Close of Escrow for the sale of a Lot or Condominium to a purchaser from Declarant or a Merchant Builder pursuant to a transaction requiring issuance of a Final Subdivision Public Report by the DRE.

7.2. **Additional Consents.** Article II, Sections 3.1, 4.1, 4.2, 4.3, 4.4, 4.6, 4.7, 4.8 and Article VII of these Bylaws may not be amended without the written consent of Declarant until the later to occur of the date on which neither Declarant nor Merchant Builders own a Lot or Condominium in the Properties. Before any material amendment to these Bylaws affecting matters delineated in Sections 9.2, 9.3, 12.2.3 or 12.3 of the Declaration is effective, such amendment must be approved by the same percentage of Beneficiaries of first Mortgages as specified in the Declaration section which would be affected by such amendment, and this sentence may not be amended without such prior written approval. Notwithstanding the foregoing, if a first Mortgagee who receives a written request from the Board to approve a

proposed amendment or amendments to the Bylaws does not deliver a negative response to the Board within thirty (30) days of the mailing of such request by the Board, such first Mortgagee shall be deemed to have approved the proposed amendment or amendments.

#### ARTICLE VIII

##### 8. Mortgagees.

8.1. **Notice to Maintenance Association.** Upon request, every Member who Mortgages a Lot or Condominium shall notify the Maintenance Association through the Manager, or through the Secretary if there is no Manager, of the name and address of the Member's Mortgagee. Upon request, Members shall notify the Maintenance Association of the release or discharge of any such Mortgage.

8.2. **Notice of Unpaid Assessments.** The Maintenance Association shall, at the request of a Mortgagee, report any unpaid assessments due from the Owner of such Lot or Condominium in accordance with the provisions of the Declaration.

#### ARTICLE IX

9. **Conflicting Provisions.** If any of these Bylaws conflict with any laws of the State of California, such conflicting Bylaws shall be void upon final court determination to such effect, but all other Bylaws shall remain in full force. In case of any conflict between the Articles and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

#### ARTICLE X

10. **Indemnification of Directors and Officers.** The Board may authorize the Maintenance Association to pay expenses incurred by, or to satisfy a judgment or fine rendered or levied against, any present or former Maintenance Association Director, officer, committee member, employee or agent as provided in the Declaration.

#### ARTICLE XI

##### 11. Miscellaneous.

11.1. **Checks, Drafts and Documents.** All checks, drafts or other orders for payments of money, notes or other evidences of indebtedness, issued in the name of or payable to the Maintenance Association, must be signed or endorsed by the President and Treasurer of the Maintenance Association, or by such person or persons and in such manner as the Board designates by resolution, subject to the provisions of Section 6.3 of the Declaration.

11.2. **Execution of Documents.** The Board may authorize any officer or agent to enter into any contract or execute any instrument in the name and on behalf of the Maintenance Association, and such authority may be general or confined to specific instances. Unless so authorized by the Board, no officer, agent, committee member or employee may bind the Maintenance Association by any contract or engagement or pledge its credit or render it liable for any purpose or in any amount.

11.3. **Maintenance Association Documents.** In addition to the rights afforded by the Declaration to Beneficiaries, insurers and guarantors of first Mortgages with regard to inspection of the Maintenance Association's management documents, the Maintenance Association shall maintain at its principal office (or at such other place within the Properties as the Board may prescribe) the Restrictions and the Maintenance Association's books of account; minutes of meetings of Members, the Board and Board committees; and the Membership Register (collectively, the "Maintenance Association Documents"), each of which shall be made available for inspection and copying by any Member or the Member's duly appointed representative for a purpose reasonably related to the Member's interest as a Member.

11.3.1. **Access Rules.** The Board shall establish reasonable rules regarding (a) notice to be given to the custodian of the Maintenance Association Documents by the Person desiring to make the inspection, (b) hours and days of the week when such an inspection may be made, and (c) payment of the cost of copying any of the requested Maintenance Association Documents; provided that every Director shall have the absolute right at any reasonable time to inspect all Maintenance Association Documents and the physical properties owned or controlled by the Maintenance Association, which right shall include the right to make extracts and copies of documents.

11.3.2. **Minutes.** The minutes, minutes that are proposed for adoption and are marked to indicate draft status, or a summary of the minutes of any meeting of the Board (other than an executive session) must be available to Members within thirty (30) days of the meeting. The minutes, proposed minutes or summary minutes must be distributed to any Member upon request and upon reimbursement of the Maintenance Association's costs in making that distribution. Members must be notified in writing, at the time that the Budget required in Section 4.5.1 hereof is distributed or at the time of any general mailing to the entire Maintenance Association membership, of their right to have copies of the minutes of meetings of the Board and how and where those minutes may be obtained.

11.3.3. **Copies/Statements.** Notwithstanding any contrary Board rules, no later than ten (10) days after the Maintenance Association receives written request from any Member, the Maintenance Association must provide to that Member a copy of each of the documents listed in California Civil Code Section 1568(a) requested by the Member. The Maintenance Association may charge a fee for this service not exceeding the Maintenance Association's reasonable cost to prepare and reproduce the requested documents.



11.4. **Fiscal Year.** The Board shall determine the Maintenance Association's fiscal year. The fiscal year is subject to change as the Board determines.

## ARTICLE XII

### 12. Notice and Hearing Procedure.

12.1. **Suspension of Privileges.** If an alleged violation of the Restrictions occurs, and after written notice of such alleged violation is delivered personally or mailed to the responsible Owner, Project Association, or any agent of the responsible Owner or Project Association alleged to be in default ("respondent") in the manner herein provided, by first-class mail or by certified mail return receipt requested, or both, the Board may, after affording the respondent an opportunity for an appropriate hearing as hereinafter provided, and upon an affirmative vote of a majority of the Board or a majority of the Members of any committee of the Board constituted to conduct such hearings ("Hearing Committee"), take any one (1) or more of the following actions:

- (a) Levy a Special Assessment as provided in the Declaration;
- (b) Suspend or condition the right of the respondent and persons claiming through the respondent to use any recreational facilities the Maintenance Association owns, operates or maintains;
- (c) Suspend the respondent's voting privileges as a Member, as provided in the Declaration;
- (d) If permitted by law, Record a notice of noncompliance encumbering the Respondent's Lot, Condominium or Common Area; or
- (e) Enter upon the Respondent's Lot, Condominium or Common Area to correct the violation of the Restrictions, as further provided in the Declaration.

Any such suspension may not be for a period of more than thirty (30) days for any noncontinuing infraction, but in the case of a continuing infraction (including nonpayment of any assessment after the same becomes delinquent) may be imposed for so long as the violation continues. Suspension of Membership privileges does not relieve the respondent's obligation to pay all assessments levied by the Maintenance Association or to otherwise comply with the Restrictions. The Board's failure to enforce the Restrictions does not waive the right to enforce the same thereafter. The remedies set forth above and otherwise provided by these Bylaws are cumulative and not exclusive. However, any individual Member or Project Association must exhaust all available internal Maintenance Association remedies prescribed by the Restrictions, before that Member or Project Association may resort to a court of law for relief with respect to any alleged violation of the Restrictions by another Member or Project Association. The foregoing limitation pertaining to exhausting internal remedies does not apply to the Board or to

any Member or Project Association where the complaint alleges nonpayment of Maintenance Association assessments.

12.2. **Written Complaint.** A hearing to determine whether a right or privilege of the respondent under the Declaration or these Bylaws should be suspended or conditioned, or whether a Special Assessment should be levied, may be initiated by any Member, any Project Association or by any officer or member of the Board by filing a "Complaint" (as hereafter defined) with the President or other presiding member of the Board. A "Complaint" is a written statement of charges which describes in ordinary and concise language the acts or omissions with which the respondent is charged and a reference to the specific provisions of the Restrictions which the respondent is alleged to have violated. A copy of the Complaint must be delivered to the respondent in accordance with the notice procedures set forth in the Declaration, together with a completed statement substantially in the following form:

"Unless a written request for a hearing signed by or on behalf of the person named as respondent in the accompanying Complaint is delivered or mailed to the Board of Directors within fifteen (15) days after the Complaint, the Board of Directors may proceed upon the Complaint without a hearing, and you will have thus waived your right to a hearing. The request for a hearing may be made by delivering (as evidenced by a dated receipt signed by the Maintenance Association's agent) or mailing (by certified mail, return receipt requested) the enclosed form entitled 'Notice of Defense' to the Board of Directors at the following address:

\_\_\_\_\_. ***You may, but need not, be represented by counsel at any or all stages of these proceedings.*** If you desire the names and addresses of witnesses or an opportunity to inspect any relevant writings or items on file in connection with this matter in the possession, custody or control of the Board of Directors, you may contact \_\_\_\_\_."

The respondent is entitled to a hearing on the merits of the matter if the Notice of Defense is timely filed with the Board. The respondent may file a separate statement by way of mitigation, even if he does not file a Notice of Defense.

12.3. **Notice of Hearing.** The Board shall serve a notice of hearing, as provided herein, on all parties at least ten (10) days prior to the hearing, if a hearing is requested by the respondent. The Board or Hearing Committee shall conduct the hearing no sooner than thirty (30) days after the Complaint is mailed or delivered to the respondent as provided in Section 12.2 above. The notice to the respondent must be in substantially the following form but may include other information:

"You are hereby notified that a hearing will be held before the Board of Directors of Northwood II Community Association ("Maintenance Association"), or a Hearing Committee appointed by the Board of Directors for the purpose of conducting such hearings. The hearing will be held at \_\_\_\_\_ on \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ m., upon the charges made in the Complaint served upon you. You may be present at the hearing, may but need not be represented by counsel, may present any relevant

evidence, and you will be given full opportunity to examine all witnesses testifying against you. You are entitled to request the attendance of witnesses and the inspection, and production of books, documents or other items by applying to the Board of Directors at least two (2) business days prior to the hearing date."

12.4. **Hearing.** The Board or the Hearing Committee shall conduct the hearing, in executive session pursuant to the notice described in Section 12.3 above. Prior to the effectiveness of any sanction hereunder, proof of notice and the invitation to be heard must be placed in the minutes of the meeting. Such proof is adequate if a copy of the notice together with a statement of the date and manner of delivery and the identity of the Person giving the notice is entered in the minutes. The notice requirement is satisfied if the respondent appears at the meeting. The minutes of the meeting must contain a written statement of the results of the hearing and the sanction, if any, imposed. No action against the respondent arising from the alleged violation may take effect sooner than five (5) days after the hearing.

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify that:

1. I am the duly elected and acting Secretary of NORTHWOOD II COMMUNITY ASSOCIATION, a California nonprofit corporation ("Maintenance Association"); and

2. The foregoing Bylaws comprising twenty-three (23) pages including this page constitute the Bylaws of the Maintenance Association duly adopted by written consent of the Board of Directors of the Maintenance Association effective as of December 19, 2003.

IN WITNESS WHEREOF, I have hereunto subscribed my hand and affixed the seal of the Maintenance Association this 19th day of December, 2003.


Wendy Davies  
\_\_\_\_\_, Secretary

[SEAL]

NOT FOR ESCROW PURPOSES

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# EXHIBIT B



**“If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code by submitting a “Restrictive Covenant Modification” form, together with a copy of the attached document with the unlawful provision redacted to the county recorder’s office. The “Restrictive Covenant Modification” form can be obtained from the county recorder’s office and may be available on the internet website. The form may also be available from the party that provided you with this document. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.”**

Recorded in Official Records, County of Orange  
Tom Daly, Clerk-Recorder

**RECORDING REQUESTED BY:**



51.00

RECORDING REQUESTED BY  
FIRST AMERICAN TITLE COMPANY  
SUBDIVISION DEPARTMENT

2004000184722 03:48pm 03/08/04

121 4 A23 R27 14  
0.00 0.00 0.00 0.00 39.00 0.00 0.00 0.00

**WHEN RECORDED MAIL TO:**

NORTHWOOD II COMMUNITY ASSOCIATION  
c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, CA 92705  
Attn: Pam Hunt

**WITH A CONFORMED COPY TO:**

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: Ms. Michele Leondis  
*173582 AS*

*(Space Above for Recorder's Use)*

**SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(THE ARBORS/PHASE 1/TRACT 16309)  
(MERCHANT BUILDER)**

THIS SUPPLEMENTAL DECLARATION is made on February 18, 2004, by  
FIELDSTONE NORTHWOOD, LLC, a Delaware limited liability company ("**Merchant  
Builder**").

**P R E A M B L E:**

A. Merchant Builder is the record owner of certain real property in the City  
of Irvine, County of Orange, State of California, described as:

Lots 188 to 208, inclusive, and Lots O, U, V, W, Y, Z, AA  
and EEE of Tract No. 16309, as shown on a Subdivision  
Map recorded in Book 845, Pages 12 *et seq.*, of  
Miscellaneous Maps, in the Office of the Orange County  
Recorder.

The numbered Lots above are collectively referred to herein as the "**Residential  
Area.**"

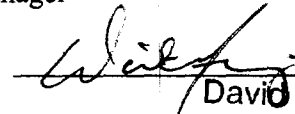
**[SIGNATURE PAGE TO  
SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II]**

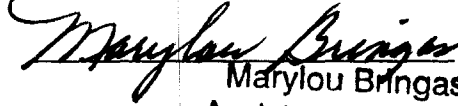
Merchant Builder has executed this Supplemental Declaration the day and year first written above.

“MERCHANT BUILDER”

FIELDSTONE NORTHWOOD, LLC,  
a Delaware limited liability company

By: Fieldstone Communities, Inc.,  
a California corporation,  
Its Manager


By:   
Its: David Greninger  
Assistant Secretary

By:   
Its: Marylou Brngas  
Assistant Secretary

In accordance with Article II of the Declaration, Declarant approves the recordation of this Supplemental Declaration.

“DECLARANT”

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

By: 

Its: THOMAS E. HEGGI  
Vice President

By: 

Its: Michele R. Leondis  
Assistant Secretary

**[NOTARIES ON FOLLOWING PAGE]**



**[NOTARY PAGE TO  
SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTION AND RESERVATION  
OF EASEMENTS FOR NORTHWOOD II]**

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

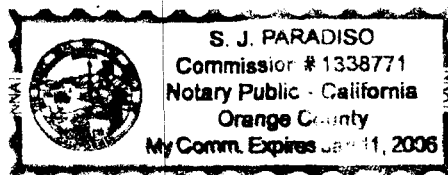
On February 9, 2004, before me, S. J. Paradiso, a Notary Public in and for said State, personally appeared David Yreminger and Marilyn Brunius, personally known to me (or proved to me on the basis of ~~satisfactory evidence~~) to be the person(s) whose name(s) ~~(is)~~ (are) subscribed to the within instrument and acknowledged to me that ~~(he)~~ ~~(she)~~ (they) executed the same in ~~(his)~~ ~~(her)~~ (their) authorized capacity(ies), and that by ~~(his)~~ ~~(her)~~ (their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



Notary Public in and for said State

(SEAL)



STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

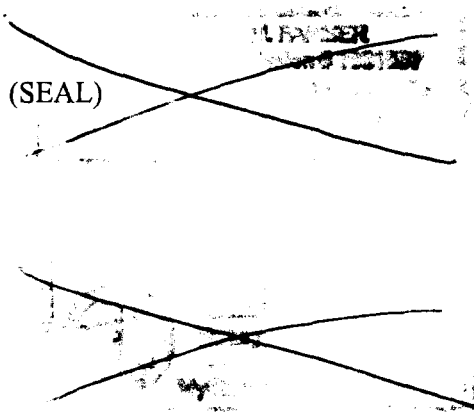
On March 2, 2004, before me, M. Jarman, a Notary Public in and for said State, personally appeared Therese E. Heagy & Michele R. Leonardis, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names <sup>is</sup> subscribed to the within instrument and acknowledged to me that ~~(he)~~ ~~(she)~~ <sup>they</sup> executed the same in ~~(his)~~ ~~(her)~~ <sup>their</sup> authorized capacity, and that by ~~(his)~~ ~~(her)~~ <sup>their</sup> signature on the instrument the person~~s~~, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Notary Public in and for said State

(SEAL)



**SUBORDINATION**

The undersigned, as Beneficiary of the beneficial interest in and under that certain Deed of Trust recorded on June 24, 2003, in the Official Records of Orange County, California, as Instrument No. 2003000738250, which Deed of Trust is between FIELDSTONE NORTHWOOD, LLC, as Trustor, FIRST AMERICAN TITLE INSURANCE COMPANY, as Trustee, and IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company, as Beneficiary, hereby expressly subordinates such Deed of Trust and its beneficial interests thereunder to the foregoing Supplemental Declaration, the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Northwood II described therein ("**Declaration**"), and to all easements to be conveyed to the Maintenance Association in accordance with the Declaration and the Supplemental Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Properties by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned will acquire title subject to the provisions of the Declaration and the Supplemental Declaration, which shall remain in full force and effect.

Dated: MARCH 2, 2004.

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited  
liability company

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

THOMAS E. HEGG  
Vice President

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

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

Michele R. Leondis  
Assistant Secretary

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

STATE OF CALIFORNIA            )  
  ) ss.  
COUNTY OF ORANGE            )

On March 2, 2004, before me, M. Farmer, a Notary Public in and for said State, personally appeared Thomas E. Hegg and Michelle R. Leavelle, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) ~~(is)~~ (are) subscribed to the within instrument and acknowledged to me that ~~(he)~~ ~~(she)~~ ~~(they)~~ executed the same in ~~(his)~~ ~~(her)~~ ~~(their)~~ authorized capacity~~(es)~~, and that by ~~(his)~~ ~~(her)~~ ~~(their)~~ signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

WITNESS my hand and official seal.

M. Farmer  
Notary Public in and for said State

(SEAL)

**LENDER CONSENT AND SUBORDINATION  
TO DECLARATION**

DEUTSCHE BANK TRUST COMPANY AMERICAS, a New York banking corporation, being the beneficiary under that certain deed of trust recorded June 24, 2003 as Instrument No. 2003000738251 in the Official Records of Orange County, California (as such deed of trust may be amended from time to time, the "Deed of Trust") hereby declares that the liens and charges of the Deed of Trust are and shall be subject to the attached Supplemental Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II (the "Declaration") and the easements conveyed thereby; provided however, that nothing contained herein will be deemed to subordinate the liens and charges of the Deed of Trust to any liens assessed pursuant to the Declaration.

Dated 2-18, 2004.

DEUTSCHE BANK TRUST COMPANY AMERICAS,  
a New York banking corporation

By:  
Its:

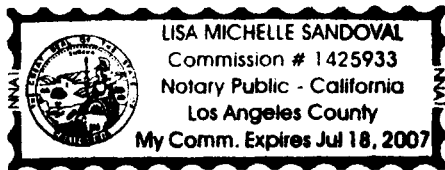
[Signature]  
Director

STATE OF CALIFORNIA        )  
COUNTY OF LOS ANGELES    )

On 2/18/04, before me, Lisa Michelle Sandoval, a Notary Public in and for said State, personally appeared John Corcoran, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature [Signature] (Seal)



**EXHIBIT "1"**

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

**PARCEL NO. 1**

Lots O, U, V, W, Y, Z, AA and EEE of Tract 16309 as shown on a Map recorded in Book 845, Pages 12 to 27, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Lot(s) which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

**PARCEL NO. 2**

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not Applicable.

**PARCEL NO. 3** [Public Property to be maintained by the Maintenance Association]

Not Applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT "1" CONTINUED**

**DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

Not Applicable.

RECORDING REQUESTED BY  
FIRST AMERICAN TITLE COMPANY  
SUBDIVISION DEPARTMENT

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:



21.00

2004000530335 11:46am 06/11/04

104 27 D02 6

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WHEN RECORDED MAIL TO:

NORTHWOOD II COMMUNITY ASSOCIATION  
c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, California 92705  
Attn: Pam Hunt

WITH CONFORMED COPY TO:

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel

186837 <sup>Ⓟ</sup> AS

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(THE ARBORS, PHASE 2, TRACT 16309)  
(ICDC)**

THIS SUPPLEMENTAL DECLARATION is made on May 25, 2004, by  
IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability  
company ("**Declarant**").

**P R E A M B L E:**

A. Declarant is the record owner of certain real property in the City of Irvine, County  
of Orange, State of California, described as ("**Annexed Territory**"):

Lot DDD of Tract No. 16309, as shown on a Subdivision Map  
recorded in Book 845, Pages 12 et seq., of Miscellaneous Maps, in  
the Office of the Orange County Recorder.

B. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (as amended from time to time, the "**Declaration**") for Northwood II ("**Properties**"), recorded on December 23, 2003, as Instrument No. 2003-001510997, as amended by the First Amendment to Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II, recorded on March 26, 2004, as Instrument No. 2004-000251181, both in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

C. Declarant is the "**Declarant**", as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Declarant intends to provide for the maintenance of the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

D. Pursuant to Article II of the Declaration, Declarant now desire to add the Annexed Territory to the Properties subject to the Declaration.

THEREFORE, DECLARANT HEREBY DECLARES AS FOLLOWS:

1. Definitions. Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. Annexation of Territory and Establishment of Comprehensive Plan.

2.1 Comprehensive Plan. This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement of the Annexed Territory and for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Annexed Territory.

2.2 Annexation. Declarant hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3 Equitable Servitudes. The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory, as a servient tenement, for the benefit of each and every Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.4 Covenants Appurtenant. The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.



2.5 Restrictions. This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

3. Land Classifications.

3.1 Maintenance Property. The Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("**Multi-Phased Maintenance Property**") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("**Alternative Phase**").

3.1.1 Title to Maintenance Property. Declarant hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the Declaration over the Maintenance Property, if any, designated on **Exhibit "1"** hereto for easement ownership by the Maintenance Association, such easement to be effective on the first day of the first full calendar month following recordation of a deed conveying same to the Maintenance Association. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on **Exhibit "1"** hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association, as further provided in the Declaration. The Maintenance Association shall also maintain the Public Property (as defined in the Declaration), if any, depicted on **Exhibit "1"** hereto.

3.1.2 Commencement of Maintenance. The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on **Exhibit "1"** hereto on the first day of the first full calendar month following recordation of a deed conveying same to the Maintenance Association; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

3.1.3 Relocation of Maintenance Property Easement. Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("**Interim Easement Area**") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

4. Miscellaneous Provisions.

4.1 Amendment and Duration. Prior to the conveyance of the Maintenance Property to the Maintenance Association, this Supplemental Declaration may be amended or terminated by Declarant in the manner set forth in Article XII of the Declaration. Thereafter, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Article XII of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

4.2 Enforcement and Non-Waiver. Reference is hereby made to the provisions of Article XII of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

4.3 Restrictions Construed Together. All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration.

4.4 Restrictions Severable. Notwithstanding the foregoing Section 4.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

4.5 Number/Captions. As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.


***[SIGNATURES ON FOLLOWING PAGE]***

**[SIGNATURE PAGE TO  
SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(ICDC)]**

Declarant has executed this Supplemental Declaration the day and year first written above.

“DECLARANT”

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

By:   
Its: THOMAS E. MECK  
Vice President

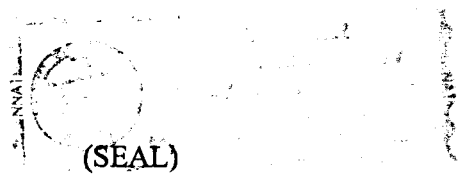
By:   
Its: Michele R. Leondis  
Assistant Secretary

**[NOTARY ACKNOWLEDGMENTS ON FOLLOWING PAGE]**

STATE OF CALIFORNIA        )  
  ) ss  
COUNTY OF ORANGE        )

On May, 2004, before me, [Signature], a  
Notary Public, personally appeared [Signature] and  
Michele E. [Signature] personally known to me or proved to me on the  
basis of satisfactory evidence to be the persons whose names are subscribed to the within  
instrument and acknowledged to me that they executed the same in their authorized capacities,  
and that by their signatures on the instrument the persons, or the entity upon behalf of which the  
persons acted, executed the instrument.

WITNESS my hand and official seal.



[Signature]  
Notary Public in and for said State

**EXHIBIT "1"**

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

**PARCEL NO. 1**

Lot DDD of Tract No. 16309, as shown on a Subdivision Map recorded in Book 845, Pages 12 et seq., of Miscellaneous Maps, in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Lot(s) which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

**PARCEL NO. 2**

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not Applicable.

**PARCEL NO. 3** [Public Property to be maintained by the Maintenance Association]

Not Applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT "1" CONTINUED**

**DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

Not Applicable.

RECORDING REQUESTED BY  
FIRST AMERICAN TITLE COMPANY  
SUBDIVISION DEPARTMENT

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:



39.00

2004000530336 11:46am 06/11/04

104 27 D02 12

0.00 0.00 0.00 0.00 33.00 0.00 0.00 0.00

WHEN RECORDED MAIL TO:

NORTHWOOD II COMMUNITY ASSOCIATION  
c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, CA 92705  
Attn: Pam Hunt

WITH A CONFORMED COPY TO:

IRVINE COMMUNITY DEVELOPMENT COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel  
*186837 © AS*

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(THE ARBORS/PHASE 2, TRACT 16309)  
(MERCHANT BUILDER)**

THIS SUPPLEMENTAL DECLARATION is made on MAY 17, 2004, by  
FIELDSTONE NORTHWOOD, LLC, a Delaware limited liability company ("**Merchant  
Builder**").

**P R E A M B L E:**

A. Merchant Builder is the record owner of certain real property in the City  
of Irvine, County of Orange, State of California, described as:

Lots 170 to 187, inclusive, and Lots T and CCC of Tract No.  
16309, as shown on a Subdivision Map recorded in Book 845,  
Pages 12 et seq., of Miscellaneous Maps, in the Office of the  
Orange County Recorder.

The numbered Lots above are collectively referred to herein as the "**Residential  
Area.**"

**LENDER CONSENT AND SUBORDINATION  
TO DECLARATION**

DEUTSCHE BANK TRUST COMPANY AMERICAS, a New York banking corporation, being the beneficiary under that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Construction Trust Deed) recorded June 24, 2003 as Instrument No. 2003000738251, in the Official Records of Orange County, California, as amended by that certain Amendment to Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Construction Trust Deed) recorded April 15, 2004 as Instrument No. 2004000318100, in the Official Records of Orange County, California (as amended, the "Deed of Trust") hereby declares that the liens and charges of the Deed of Trust are and shall be subject to the attached Supplemental Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II (the "Declaration") and the easements conveyed thereby; provided however, that nothing contained herein will be deemed to subordinate the liens and charges of the Deed of Trust to any liens assessed pursuant to the Declaration.

Dated May 24, 2004.

DEUTSCHE BANK TRUST COMPANY AMERICAS,  
a New York banking corporation

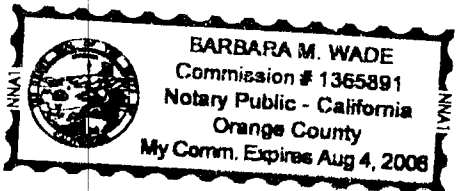
By: *[Signature]*  
Its: Vice President

STATE OF CALIFORNIA            )  
COUNTY OF ORANGE            )

On May 24, 2004, before me, Barbara M. Wade, a Notary Public in and for said State, personally appeared Jeff Wojciechowski, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature *Barbara M. Wade* (Seal)





**EXHIBIT "1"**

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

**PARCEL NO. 1**

Lots T and CCC of Tract 16309 as shown on a Map recorded in Book 845, Pages 12 to 27, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Lot(s) which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

**PARCEL NO. 2**

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not applicable.

**PARCEL NO. 3** [Public Property to be maintained by the Maintenance Association]

Not applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT "1" CONTINUED**

**DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

Not Applicable.

**GOVERNMENT CODE 27361.7**

I CERTIFY UNDER PENALTY OF PERJURY THAT THE NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS FOLLOWS:

NAME OF NOTARY: **SHEILA M. OWENS**  
DATE COMMISSION EXPIRES: **AUGUST 9, 2006**  
COUNTY WHERE BOND IS FILED: **ORANGE**  
COMMISSION NUMBER: **1364414**  
MANUFACTURER/VENDOR NUMBER: **NNA1**

NAME OF NOTARY: **M. FARMER**  
DATE COMMISSION EXPIRES: **APRIL 20, 2005**  
COUNTY WHERE BOND IS FILED: **ORANGE**  
COMMISSION NUMBER: **1301597**  
MANUFACTURER/VENDOR NUMBER: **NNA1**

NAME OF NOTARY: **BARBARA M. WADE**  
DATE COMMISSION EXPIRES: **AUGUST 4, 2006**  
COUNTY WHERE BOND IS FILED: **ORANGE**  
COMMISSION NUMBER: **1365891**  
MANUFACTURER/VENDOR NUMBER: **NNA1**

PLACE OF EXECUTION: **SANTA ANA**  
DATED: June 11, 2004

SIGNATURE:   
FIRST AMERICAN TITLE INSURANCE CO.

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:

RECORDING REQUESTED BY  
FIRST AMERICAN TITLE COMPANY  
SUBDIVISION DEPARTMENT



27.00

2004000757614 11:03am 08/20/04

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WHEN RECORDED MAIL TO:

NORTHWOOD II COMMUNITY ASSOCIATION  
c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, California 92705  
Attn: Pam Hunt

WITH CONFORMED COPY TO:

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel

*187021 - A5*

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(THE ARBORS, PHASE 3, TRACT 16309)  
(ICDC)**

THIS SUPPLEMENTAL DECLARATION is made on *August 13*, 2004, by  
IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability  
company ("**Declarant**").

**P R E A M B L E:**

A. Declarant is the record owner of certain real property in the City of Irvine, County of Orange, State of California, described as ("**Annexed Territory**"):

Lot BBB of Tract No. 16309, as shown on a Subdivision Map recorded in Book 845, Pages 12 et seq., of Miscellaneous Maps, in the Office of the Orange County Recorder.

B. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (as amended from time to time, the "**Declaration**") for Northwood II ("**Properties**"), recorded on December 23, 2003, as Instrument No. 2003-001510997, as amended by the First Amendment to Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II, recorded on March 26, 2004, as Instrument No. 2004-000251181, both in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

C. Declarant is the "**Declarant**", as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Declarant intends to provide for the maintenance of the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

D. Pursuant to Article II of the Declaration, Declarant now desire to add the Annexed Territory to the Properties subject to the Declaration.

THEREFORE, DECLARANT HEREBY DECLARES AS FOLLOWS:

1. Definitions. Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. Annexation of Territory and Establishment of Comprehensive Plan.

2.1 Comprehensive Plan. This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement of the Annexed Territory and for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Annexed Territory.

2.2 Annexation. Declarant hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3 Equitable Servitudes. The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory, as a servient tenement, for the benefit of each and every Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.4 Covenants Appurtenant. The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.

2.5 Restrictions. This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

3. Land Classifications.

3.1 Maintenance Property. The Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("**Multi-Phased Maintenance Property**") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("**Alternative Phase**").

3.1.1 Title to Maintenance Property. Declarant hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the Declaration over the Maintenance Property, if any, designated on **Exhibit "1"** hereto for easement ownership by the Maintenance Association, such easement to be effective on the first day of the first full calendar month following recordation of a deed conveying same to the Maintenance Association. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on **Exhibit "1"** hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association, as further provided in the Declaration. The Maintenance Association shall also maintain the Public Property (as defined in the Declaration), if any, depicted on **Exhibit "1"** hereto.

3.1.2 Commencement of Maintenance. The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on **Exhibit "1"** hereto on the first day of the first full calendar month following recordation of a deed conveying same to the Maintenance Association; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

3.1.3 Relocation of Maintenance Property Easement. Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("**Interim Easement Area**") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

4. Miscellaneous Provisions.

4.1 Amendment and Duration. Prior to the conveyance of the Maintenance Property to the Maintenance Association, this Supplemental Declaration may be amended or terminated by Declarant in the manner set forth in Article XII of the Declaration. Thereafter, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Article XII of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

4.2 Enforcement and Non-Waiver. Reference is hereby made to the provisions of Article XII of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

4.3 Restrictions Construed Together. All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration.

4.4 Restrictions Severable. Notwithstanding the foregoing Section 4.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

4.5 Number/Captions. As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.

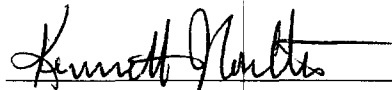
***[SIGNATURES ON FOLLOWING PAGE]***

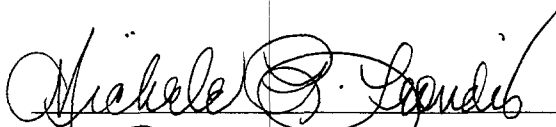
***[SIGNATURE PAGE TO  
SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(ICDC)]***

Declarant has executed this Supplemental Declaration the day and year first written above.

“DECLARANT”

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

By:   
Its: KENNETH J. COULTER  
Senior Vice President

By:   
Its: Michele R. Leondis  
Assistant Secretary

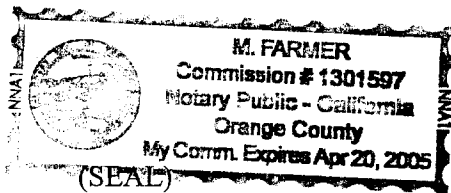
***[NOTARY ACKNOWLEDGMENTS ON FOLLOWING PAGE]***



STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On August 16, 2004, before me, M. Farmer, a  
Notary Public, personally appeared Kenneth Coulter and  
Michele R. Leonds personally known to me or proved to me on the  
basis of satisfactory evidence to be the persons whose names are subscribed to the within  
instrument and acknowledged to me that they executed the same in their authorized capacities,  
and that by their signatures on the instrument the persons, or the entity upon behalf of which the  
persons acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
Notary Public in and for said State

**EXHIBIT "1"**

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

**PARCEL NO. 1**

Lot BBB of Tract No. 16309, as shown on a Subdivision Map recorded in Book 845, Pages 12 et seq., of Miscellaneous Maps, in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Lot(s) which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

**PARCEL NO. 2**

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not Applicable.

**PARCEL NO. 3** [Public Property to be maintained by the Maintenance Association]

Not Applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT "1" CONTINUED**

**DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

Not Applicable.

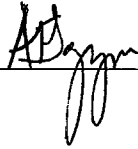
**GOVERNMENT CODE 27361.7**

I CERTIFY UNDER PENALTY OF PERJURY THAT THE NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS FOLLOWS:

NAME OF NOTARY: M. Farmer  
DATE COMMISSION EXPIRES: April 20, 2005  
COUNTY WHERE BOND IS FILED: Orange  
COMMISSION NUMBER: 1301597  
MANUFACTURER/VENDOR NUMBER: NNA1

PLACE OF EXECUTION: Santa Ana  
DATED: August 20, 2004

SIGNATURE: \_\_\_\_\_

A handwritten signature in black ink, appearing to read 'M. Farmer', is written over a horizontal line. The signature is cursive and somewhat stylized.

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:



54.00

RECORDING REQUESTED BY  
FIRST AMERICAN TITLE COMPANY  
SUBDIVISION DEPARTMENT

2004000757613 11:03am 08/20/04

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WHEN RECORDED MAIL TO:

NORTHWOOD II COMMUNITY ASSOCIATION  
c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, CA 92705  
Attn: Pam Hunt

WITH A CONFORMED COPY TO:

IRVINE COMMUNITY DEVELOPMENT COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel  
*18721 - AS*

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(THE ARBORS/PHASE 3, TRACT 16309)  
(MERCHANT BUILDER)**

THIS SUPPLEMENTAL DECLARATION is made on *August 2*, 2004, by  
FIELDSTONE NORTHWOOD, LLC, a Delaware limited liability company ("*Merchant  
Builder*").

P R E A M B L E:

A. Merchant Builder is the record owner of certain real property in the City  
of Irvine, County of Orange, State of California, described as:

Lots 152 to 169, inclusive, and Lots S and AAA of Tract No.  
16309, as shown on a Subdivision Map recorded in Book 845,  
Pages 12 et seq., of Miscellaneous Maps, in the Office of the  
Orange County Recorder.

The numbered Lots above are collectively referred to herein as the "*Residential  
Area.*"

B. Merchant Builder is the record owner (exclusive of public rights-of-way) of certain real property ("**Maintenance Property**") in the City of Irvine, County of Orange, State of California, described on **Exhibit "1"** attached hereto. The Residential Area and the Maintenance Property are collectively referred to hereinafter as the "**Annexed Territory.**"

C. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements as amended (as amended, "**Declaration**") for Northwood II ("**Properties**"), recorded on December 23, 2003, as Instrument No. 2003-001510997, as amended by the First Amendment to Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II, recorded on March 26, 2004, as Instrument No. 2004-000251181, both in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

D. Merchant Builder is a "**Merchant Builder**" as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Merchant Builder intends to improve and sell the Residential Area in the Annexed Territory to the public, and to provide for the maintenance of the Maintenance Property in the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

E. Pursuant to Article II of the Declaration, Merchant Builder now desires to add the Annexed Territory to the Properties subject to the Declaration as a portion of the Maintenance Association Delegate District which is described in the title of this Supplemental Declaration.

THEREFORE, MERCHANT BUILDER HEREBY DECLARES AS FOLLOWS:

1. Definitions. Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. Annexation of Territory and Establishment of Comprehensive Plan.

2.1 Comprehensive Plan. This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement and sale of Lots or Condominiums within the Annexed Territory and for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Annexed Territory and each Lot or Condominium therein.

2.2 Annexation. Merchant Builder hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3 Phase of Development. The Annexed Territory comprises a single Phase of Development of the Properties.

2.4 Equitable Servitudes. The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory and each Lot or Condominium therein, as a servient tenement, for the benefit of each and every other Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.5 Covenants Appurtenant. The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.

2.6 Restrictions. This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

2.7 Membership. The Owners of Lots or Condominiums in the Annexed Territory shall automatically become Members of the Northwood II Community Association (the "***Maintenance Association***" described in Article IV of the Declaration).

3. Land Classifications.

3.1 Residential Area. The Residential Area (other than those portions, if any, comprising Maintenance Property owned as easements) in the Annexed Territory is hereby designated as Residential Area pursuant to Article II of the Declaration.

3.2 Maintenance Property. The Maintenance Property in the Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("***Multi-Phased Maintenance Property***") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("***Alternative Phase***").

3.2.1 Title to Maintenance Property. Merchant Builder hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the Declaration over their respectively owned Maintenance Property, if any, designated on ***Exhibit "1"*** hereto for easement ownership by the Maintenance Association, such easement to be effective upon the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on ***Exhibit "1"*** hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association prior to the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory, as further provided in Section 3.6.1 of the Declaration. The Maintenance Association

shall also maintain the Public Property (as defined in the Declaration), if any, depicted on *Exhibit "I"* hereto.

3.2.2 Commencement of Maintenance. The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on *Exhibit "I"* hereto, concurrently with the commencement of Common Assessments in the Annexed Territory; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

3.2.3 Relocation of Maintenance Property Easement. Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("*Interim Easement Area*") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

4. Assessment Obligations. The rights and obligations of all Owners of Lots or Condominiums located in the Annexed Territory with respect to Maintenance Association assessments shall be as set forth in the Declaration and this Supplemental Declaration. All assessments provided for in the Declaration shall commence as to each Lot or Condominium in the Annexed Territory on first day of the first month following the month in which the first Close of Escrow occurs for the sale of a Lot or Condominium in the Annexed Territory.

5. Architectural Committee Rules/Views. The Board may but need not adopt and enforce supplemental Architectural Committee Rules which are solely applicable to the Annexed Territory; provided that such supplemental Architectural Committee Rules are first approved by Declarant pursuant to the Declaration. Such supplemental Architectural Committee Rules shall be in addition to any Architectural Committee Rules generally applicable to the Properties and may address design, color, siting and other matters within the jurisdiction of the Architectural Committee which are distinctive or unique to the Annexed Territory or the Condominium Project or Planned Development in which the Annexed Territory is located. There are no views in the Annexed Territory which are protected to any extent pursuant to the Declaration or this Supplemental Declaration, as further provided in the Declaration.

6. Airport Influence Area. The Properties are presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the Properties may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. Each Owner is advised to consider what airport annoyances, if any, are associated with the Properties before acquiring a Residence and to determine whether those annoyances are acceptable to such Owner.



7. Miscellaneous Provisions.

7.1 Amendment and Duration. Until the first Close of Escrow for the sale of a Lot or Condominium in the Annexed Territory, this Supplemental Declaration may be amended or terminated by Merchant Builder in the manner set forth in Article XII of the Declaration. Upon the first Close of Escrow in the Annexed Territory, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Section 2.3.6 of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

7.2 Enforcement and Non-Waiver. Reference is hereby made to the provisions of Section 12.5 of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

7.3 Restrictions Construed Together. All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration. Except as may be otherwise provided in this Supplemental Declaration or the Declaration, the rights and obligations of the Owners located in the Annexed Territory shall be the same as the rights and obligations of the other Owners now or hereafter affected by the Declaration.

7.4 Restrictions Severable. Notwithstanding the foregoing Section 6.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

7.5 Number/Captions. As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.

*[SIGNATURES ON FOLLOWING PAGE]*

**[SIGNATURE PAGE TO  
SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II]**

Merchant Builder has executed this Supplemental Declaration the day and year first written above.

“MERCHANT BUILDER”

FIELDSTONE NORTHWOOD, LLC,  
a Delaware limited liability company

By: Fieldstone Communities, Inc.,  
a California corporation, Its Manager

By: 

**David Greninger**

Its:

**Assistant Secretary**

By: 

**Marylou Bringas**

Its:

**Assistant Secretary**

In accordance with Article II of the Declaration, Declarant approves the recordation of this Supplemental Declaration.

“DECLARANT”

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

By: 

**KENNETH J. COULTER**  
Senior Vice President

Its:

By: 

**Michele R. Leondis**

Its:

**Assistant Secretary**

*[NOTARIES ON FOLLOWING PAGE]*

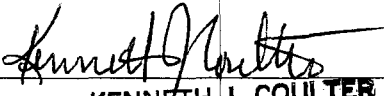


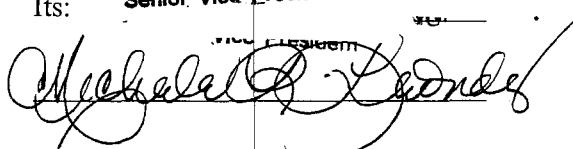
**SUBORDINATION**

The undersigned, as Beneficiary of the beneficial interest in and under that certain Deed of Trust recorded on July 1, 2004, in the Official Records of Orange County, California, as Instrument No. 2004-000600755, which Deed of Trust is between FIELDSTONE NORTHWOOD, LLC, a Delaware limited liability company, as Trustor, FIRST AMERICAN TITLE INSURANCE COMPANY, as Trustee, and IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company, as Beneficiary, hereby expressly subordinates such Deed of Trust and its beneficial interests thereunder to the foregoing Supplemental Declaration, the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Northwood II described therein ("**Declaration**"), and to all easements to be conveyed to the Maintenance Association in accordance with the Declaration and the Supplemental Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Properties by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned will acquire title subject to the provisions of the Declaration and the Supplemental Declaration, which shall remain in full force and effect.

Dated: Aug. 16, 2004

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

By:   
KENNETH J. COULTER  
Its: Senior Vice President

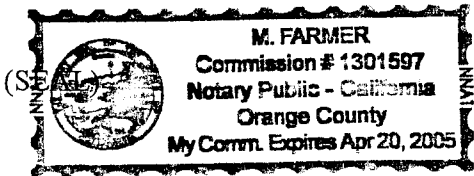
By:   
Its: Michele R. Leondis  
Assistant Secretary

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF Orange )

On August 16, 2004, before me, M. Farmer, a Notary Public in and for said State, personally appeared Kenneth Coulter and Michele Leondis, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me that ~~(he)~~ ~~(she)~~ ~~(they)~~ executed the same in ~~(his)~~ ~~(her)~~ ~~(their)~~ authorized capacity ~~(ies)~~ and that by ~~(his)~~ ~~(her)~~ ~~(their)~~ signature ~~(s)~~ on the instrument the person ~~(s)~~ or the entity upon behalf of which the person ~~(s)~~ acted, executed the instrument.

WITNESS my hand and official seal.

M. Farmer  
Notary Public in and for said State



**LENDER CONSENT AND SUBORDINATION  
TO DECLARATION**

DEUTSCHE BANK TRUST COMPANY AMERICAS, a New York banking corporation, being the beneficiary under that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Construction Trust Deed) recorded June 24, 2003 as Instrument No. 2003-000738251, in the Official Records of Orange County, California, as amended by amendments thereto recorded on April 15, 2004, as Instrument No. 2004-000318100, on May 26, 2004, as Instrument No. 2004-000473186, and on July 1, 2004, as Instrument No. 2004-000600756, all of Official Records of Orange County, California (as amended, the "Deed of Trust") hereby declares that the liens and charges of the Deed of Trust are and shall be subject to the attached Supplemental Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II (the "Declaration") and the easements conveyed thereby; provided however, that nothing contained herein will be deemed to subordinate the liens and charges of the Deed of Trust to any liens assessed pursuant to the Declaration.

Dated August 10, 2004.

DEUTSCHE BANK TRUST COMPANY AMERICAS,  
a New York banking corporation

By: *Jeff Wojciechowski*  
Its: Vice President

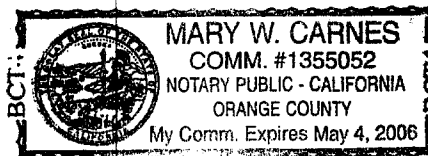
STATE OF CALIFORNIA        )

COUNTY OF ORANGE         )

On Aug 10, 2004, before me, Mary W. Carnes Notary Public in and for said State, personally appeared Jeff Wojciechowski, personally known to me ~~(or proved to me on the basis of satisfactory evidence)~~ to be the person ~~(s)~~ whose name ~~(s)~~ is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity ~~(ies)~~, and that by his/~~her/their~~ signature ~~(s)~~ on the instrument the person ~~(s)~~, or the entity upon behalf of which the person ~~(s)~~ acted, executed the instrument.

WITNESS my hand and official seal.

Signature *Mary W. Carnes* (Seal)



**EXHIBIT "1"**

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

PARCEL NO. 1

Lots S and AAA of Tract 16309 as shown on a Map recorded in Book 845, Pages 12 to 27, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Lot(s) which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

PARCEL NO. 2

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not applicable.

PARCEL NO. 3 [Public Property to be maintained by the Maintenance Association]

Not applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.



**EXHIBIT "1" CONTINUED**

**DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

Not Applicable.

**Government Code 27361.7**

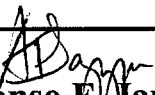
**I certify under the penalty of perjury that the notary seal on this document read as follows:**

**Name of Notary:** M. Keating  
**Commission No.:** 1442944  
**County where Bond is Filed:** Orange  
**Date Commission Expires:** September 30, 2007  
**Manufacturer/Vendor No.:** NNA1

**Place of execution – Santa Ana**

**Date – August 20, 2004**

---

  
**Alfonso F. Japzon**  
**First American Title Company**

**Government Code 27361.7**

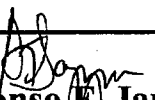
**I certify under the penalty of perjury that the notary seal on this document reads as follows:**

**Name of Notary:** M. Farmer  
**Commission No.:** 1301597  
**County where Bond is Filed:** Orange  
**Date Commission Expires:** April 20, 2005  
**Manufacturer/Vendor No.:** NNA1

**Place of execution – Santa Ana**

**Date – August 20, 2004**

---

  
**Alfonso F. Japzon**  
**First American Title Company**

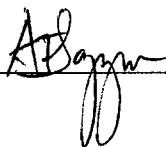
**GOVERNMENT CODE 27361.7**

I CERTIFY UNDER PENALTY OF PERJURY THAT THE NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS FOLLOWS:

NAME OF NOTARY: Mary W. Carnes  
DATE COMMISSION EXPIRES: May 4, 2006  
COUNTY WHERE BOND IS FILED: Orange  
COMMISSION NUMBER: 1355052  
MANUFACTURER/VENDOR NUMBER: BCT4

PLACE OF EXECUTION: Santa Ana  
DATED: August 20, 2004

SIGNATURE: \_\_\_\_\_

A handwritten signature in black ink, appearing to read "M. Carnes", written over a horizontal line. The signature is cursive and includes a large loop at the end.

Recorded in Official Records, County of Orange  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:



2003001525267 08:00am 12/30/03

CHICAGO TITLE COMPANY

103 13 D02 14  
0.00 0.00 0.00 0.00 26.00 0.00 0.00 0.00

WHEN RECORDED MAIL TO:

NORTHWOOD II COMMUNITY ASSOCIATION

c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, CA 92705  
Attn: Pam Hunt

WITH A CONFORMED COPY TO:

IRVINE COMMUNITY DEVELOPMENT COMPANY LLC

550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: Ms. Michele Leondis

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(BELLA ROSA PHASE 1, TRACT 16309)  
(MERCHANT BUILDER)**

THIS SUPPLEMENTAL DECLARATION is made on DECEMBER 17, 2003, by  
PULTE HOME CORPORATION, a Michigan corporation ("**Merchant Builder**").

P R E A M B L E:

A. Merchant Builder is the record owner of certain real property in the City  
of Irvine, County of Orange, State of California, described as:

The "**Units**," "**Maintenance Property**," and "**Common  
Area**," as defined in and shown on the Condominium Plan  
for Bella Rosa -- Pulte Homes, Phase 1, recorded on  
12/29, 2003, as Instrument No. 2003001524409.  
which Condominium Plan covers all or portions of Lot 213  
of Tract 16309, as shown on a Subdivision Map on file in

33818071 - M13.

Book 845, Pages 12, *et seq.*, of Miscellaneous Maps, both in the Office of the Orange County Recorder.

The Units above are collectively referred to herein as the “*Residential Area.*”

B. Merchant Builder is the record owner (exclusive of public rights-of-way) of certain real property (“*Maintenance Property*”) in the City of Irvine, County of Orange, State of California, described on *Exhibit “1”* attached hereto. The Residential Area and the Maintenance Property are collectively referred to hereinafter as the “*Annexed Territory.*”

C. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (“*Declaration*”) for Northwood II (“*Properties*”). The Declaration was recorded on 12/23, 2003, as Instrument No. 2003001510997, in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

D. Merchant Builder is a “Merchant Builder” as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Merchant Builder intends to improve and sell the Residential Area in the Annexed Territory to the public, and to provide for the maintenance of the Maintenance Property in the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

E. Pursuant to Article II of the Declaration, Merchant Builder now desires to add the Annexed Territory to the Properties subject to the Declaration as a portion of the Maintenance Association Delegate District which is described in the title of this Supplemental Declaration.

THEREFORE, MERCHANT BUILDER HEREBY DECLARES AS FOLLOWS:

1. Definitions. Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. Annexation of Territory and Establishment of Comprehensive Plan.

2.1. Comprehensive Plan. This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement and sale of Lots or Condominiums within the Annexed Territory and for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Annexed Territory and each Lot or Condominium therein.

2.2. Annexation. Merchant Builder hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3. Phase of Development. The Annexed Territory comprises a single Phase of Development of the Properties.

2.4. Equitable Servitudes. The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory and each Lot or Condominium therein, as a servient tenement, for the benefit of each and every other Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.5. Covenants Appurtenant. The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.

2.6. Restrictions. This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

2.7. Membership. The Owners of Lots or Condominiums in the Annexed Territory shall automatically become Members of the Northwood II Community Association (the "***Maintenance Association***" described in Article IV of the Declaration).

2.8. Cost Center. The Maintenance Property Improvements described on ***Exhibit "2"*** hereto, to the extent annexed to the Properties ("***Cost Center Improvements***") are part of a Cost Center. All costs associated with the ownership, maintenance and operation of the Cost Center Improvements shall be levied solely and equally among all Owners of Lots in the Annexed Territory and the Owners of Lots in other Phases of Development of the Properties which are added to the foregoing Cost Center through recordation of a Supplemental Declaration of Covenants, Conditions, Restrictions and Reservation of Easements.

### 3. Land Classifications.

3.1. Residential Area. The Residential Area (other than those portions, if any, comprising Maintenance Property owned as easements) in the Annexed Territory is hereby designated as Residential Area pursuant to Article II of the Declaration.

3.2. Maintenance Property. The Maintenance Property in the Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("**Multi-Phased Maintenance Property**") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("**Alternative Phase**").

3.2.1. Title to Maintenance Property. Merchant Builder hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the Declaration over their respectively owned Maintenance Property, if any, designated on **Exhibit "1"** hereto for easement ownership by the Maintenance Association, such easement to be effective upon the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on **Exhibit "1"** hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association prior to the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory, as further provided in Section 3.6.1 of the Declaration. The Maintenance Association shall also maintain the Public Property (as defined in the Declaration), if any, depicted on **Exhibit "1"** hereto.

3.2.2. Commencement of Maintenance. The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on **Exhibit "1"** hereto, concurrently with the commencement of Common Assessments in the Annexed Territory; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

3.2.3. Relocation of Maintenance Property Easement. Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("**Interim Easement Area**") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

4. Assessment Obligations. The rights and obligations of all Owners of Lots or Condominiums located in the Annexed Territory with respect to Maintenance Association assessments shall be as set forth in the Declaration and this Supplemental Declaration. All assessments provided for in the Declaration shall commence as to each Lot or Condominium in

the Annexed Territory on first day of the first month following the month in which the first Close of Escrow occurs for the sale of a Lot or Condominium in the Annexed Territory.

5. Architectural Committee Rules/Views. The Board may but need not adopt and enforce supplemental Architectural Committee Rules which are solely applicable to the Annexed Territory; provided that such supplemental Architectural Committee Rules are first approved by Declarant pursuant to the Declaration. Such supplemental Architectural Committee Rules shall be in addition to any Architectural Committee Rules generally applicable to the Properties and may address design, color, siting and other matters within the jurisdiction of the Architectural Committee which are distinctive or unique to the Annexed Territory or the Condominium Project or Planned Development in which the Annexed Territory is located. There are no views in the Annexed Territory which are protected to any extent pursuant to the Declaration or this Supplemental Declaration, as further provided in the Declaration.

6. Miscellaneous Provisions.

6.1. Amendment and Duration. Until the first Close of Escrow for the sale of a Lot or Condominium in the Annexed Territory, this Supplemental Declaration may be amended or terminated by Merchant Builder in the manner set forth in Article XII of the Declaration. Upon the first Close of Escrow in the Annexed Territory, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Section 2.3.6 of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

6.2. Enforcement and Non-Waiver. Reference is hereby made to the provisions of Section 12.5 of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

6.3. Restrictions Construed Together. All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration. Except as may be otherwise provided in this Supplemental Declaration or the Declaration, the rights and obligations of the Owners located in the Annexed Territory shall be the same as the rights and obligations of the other Owners now or hereafter affected by the Declaration.

6.4. Restrictions Severable. Notwithstanding the foregoing Section 6.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

6.5. Number/Captions. As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be



construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.

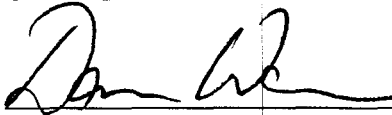
*[SIGNATURES ON FOLLOWING PAGE]*

*[SIGNATURE PAGE TO  
SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II]*


Merchant Builder has executed this Supplemental Declaration the day and year first written above.

“MERCHANT BUILDER”

PULTE HOME CORPORATION,  
a Michigan corporation

By: 

Its: ATTORNEY-IN-FACT

By: 

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

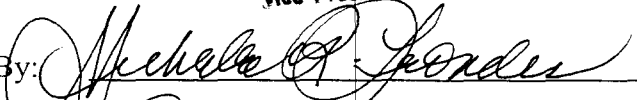
In accordance with Article II of the Declaration, Declarant approves the recordation of this Supplemental Declaration.

“DECLARANT”

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

By: 

Its: THOMAS E. HEGGI  
Vice President

By: 

Its: Michele R. Leondis  
Assistant Secretary

*[NOTARIES ON FOLLOWING PAGE]*

NOTARY PAGE TO  
SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTION AND RESERVATION  
OF EASEMENTS FOR NORTHWOOD III

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF Orange )

On Dec. 17, 2003, before me, GAYE WATANABE, a Notary Public in and for said State, personally appeared DARREN WARREN and \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (is) (~~are~~) subscribed to the within instrument and acknowledged to me that (he) (~~she~~) (~~they~~) executed the same in (his) (~~her~~) (~~their~~) authorized capacity(~~ies~~), and that by (his) (~~her~~) (~~their~~) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

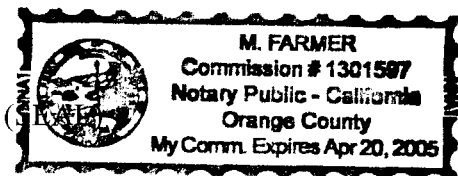


Gaye Watanabe, California  
Notary Public in and for said State

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF Orange )

On Dec. 19, 2003, before me, M. Farmer, a Notary Public in and for said State, personally appeared Thomas E. Hegg and Michele Leonard personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names <sup>are</sup> subscribed to the within instrument and acknowledged to me that (~~he~~) (~~she~~) <sup>they</sup> executed the same in (~~his~~) (~~her~~) <sup>their</sup> authorized capacity<sup>ies</sup>, and that by (~~his~~) (~~her~~) <sup>their</sup> signature(s) on the instrument the person<sup>s</sup>, or the entity upon behalf of which the person<sup>s</sup> acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
Notary Public in and for said State

I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READ AS FOLLOWS:

NAME OF NOTARY: M. FARMER

DATE COMMISSION EXPIRES: APR. 20 - 2005.

COMMISSION NUMBER: 1301597.

VENDOR NUMBER: NNA1

COUNTY WHERE BOND IS FILED: ORANGE.

PLACE OF EXECUTION: IRVINE, CA.

DATE: 12/30/03

BY: Cyreen  
CHICAGO TITLE COMPANY

SUBORDINATION

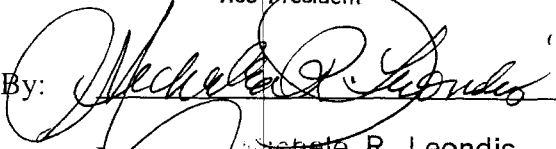
The undersigned, as Beneficiary of the beneficial interest in and under that certain Deed of Trust dated June 16, 2003, recorded on June 24, 2003, in the Official Records of Orange County, California, as Instrument No. 2003000733157, which Deed of Trust is between PULTE HOME CORPORATION, a Michigan corporation, as Trustor, FIRST AMERICAN TITLE INSURANCE COMPANY, as Trustee, and IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company, as Beneficiary, hereby expressly subordinates such Deed of Trust and its beneficial interests thereunder to the foregoing Supplemental Declaration, the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Northwood II described therein ("**Declaration**"), and to all easements to be conveyed to the Maintenance Association in accordance with the Declaration and the Supplemental Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Properties by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned will acquire title subject to the provisions of the Declaration and the Supplemental Declaration, which shall remain in full force and effect.

Dated: 12-19, 2003.

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited  
liability company

By: 

Its: THOMAS E. HEGGI  
Vice President

By: 

Its: Michele R. Leondis  
Assistant Secretary

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF Orange )

On Dec. 19, 2003, before me, M. Farmer, a Notary Public in and for said State, personally appeared Thomas E. Heggi and Michele R. Leonidis, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (X) (are) subscribed to the within instrument and acknowledged to me that ~~(he)~~ ~~(she)~~ (they) executed the same in ~~(his)~~ ~~(her)~~ (their) authorized capacity (ies), and that by ~~(his)~~ ~~(her)~~ (their) signature (s) on the instrument the person (s) or the entity upon behalf of which the person (s) acted, executed the instrument.

WITNESS my hand and official seal.

M. Farmer  
Notary Public in and for said State

(SEAL)

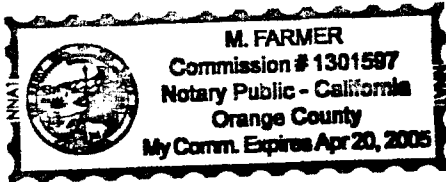


EXHIBIT "1"

DESCRIPTION OF MAINTENANCE PROPERTY

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

PARCEL NO. 1

The "*Maintenance Property*," as defined in and shown on the Condominium Plan for Bella Rosa – Pulte Homes, Phase 1, recorded on 12/29, 2003, as Instrument No. 2003001524409, which Condominium Plan covers all or portions of Lot 213 of Tract 16309, as shown on a Subdivision Map on file in Book 845, Pages 12 *et seq.*, of miscellaneous maps, both in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Maintenance Property which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

PARCEL NO. 2

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not applicable.

PARCEL NO. 3 [Public Property to be maintained by the Maintenance Association]

Not applicable.

EXHIBIT "1" CONTINUED

DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY

Not applicable.



**EXHIBIT "2"**

**DESCRIPTION OF COST CENTER IMPROVEMENTS**

**(Bella Rosa, Phase 1, Tract 16309)**

The name of this Cost Center is the "Northwood II Cost Center." The Lots that benefit from the "Cost Center Improvements" described below and that are obligated to solely and equally bear all costs ("Cost Center Common Expenses") of owning, maintaining and operating the Cost Center Improvements, are all Residential Area Lots described in this Supplemental Declaration and all Lots designated as being part of the Northwood II Cost Center in any previous or future Supplemental Declaration of Covenants, Conditions and Restrictions annexing these lots to Northwood II under the Declaration.

The Cost Center Improvements for this Cost Center are described in the Association Budget as Northwood II Cost Center Expenses.

This Document was electronically recorded by  
Chicago Title Commercial

Recorded in Official Records, County of Orange  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:

CHICAGO TITLE COMPANY

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2004000259566 12:44pm 03/30/04

WHEN RECORDED MAIL TO:

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NORTHWOOD II COMMUNITY ASSOCIATION

c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, CA 92705  
Attn: Pam Hunt

WITH A CONFORMED COPY TO:

IRVINE COMMUNITY DEVELOPMENT

COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel

(Space Above for Recorder's Use)

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

**FOR**

**NORTHWOOD II**

**(BELLA ROSA, PHASE 2, TRACT 16516)**

**(MERCHANT BUILDER)**

THIS SUPPLEMENTAL DECLARATION is made on March 19,  
2004, by PULTE HOME CORPORATION, a Michigan corporation ("Merchant  
Builder").

**P R E A M B L E:**

A. Merchant Builder is the record owner of certain real property in the  
City of Irvine, County of Orange, State of California, described as:

Lots B and C of Tract 16516, as shown on a Subdivision  
Map on file in Book 853, Pages 43, et seq., of  
Miscellaneous Maps, and the "Units," "Maintenance  
Property," and "Common Area," as defined in and shown  
on the Condominium Plan for Bella Rosa -- Pulte Homes,  
Phase 2, recorded on 3-29-2004, ~~2004~~, as  
Instrument No. 2004000255216,  
which Condominium Plan covers Lots 1 and 2 of Tract  
16516, as shown on a Subdivision Map on file in Book

16516 PH2 - M13

853, Pages 43, et seq., of Miscellaneous Maps, all in the Office of the Orange County Recorder.

The Units above are collectively referred to herein as the “**Residential Area.**”

B. Merchant Builder is the record owner (exclusive of public rights-of-way) of certain real property (“**Maintenance Property**”) in the City of Irvine, County of Orange, State of California, described on Exhibit “1” attached hereto. The Residential Area and the Maintenance Property are collectively referred to hereinafter as the “**Annexed Territory.**”

C. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (“**Declaration**”) for Northwood II (“**Properties**”). The Declaration was recorded on December 23, 2003, as Instrument No. 2003-001510997, in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

D. Merchant Builder is a “**Merchant Builder**” as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Merchant Builder intends to improve and sell the Residential Area in the Annexed Territory to the public, and to provide for the maintenance of the Maintenance Property in the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

E. Pursuant to Article II of the Declaration, Merchant Builder now desires to add the Annexed Territory to the Properties subject to the Declaration as a portion of the Maintenance Association Delegate District which is described in the title of this Supplemental Declaration.

THEREFORE, MERCHANT BUILDER HEREBY DECLARES AS FOLLOWS:

1. **Definitions.** Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. **Annexation of Territory and Establishment of Comprehensive Plan.**

2.1 **Comprehensive Plan.** This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement and sale of Lots or Condominiums within the Annexed Territory and for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Annexed Territory and each Lot or Condominium therein.

2.2 **Annexation.** Merchant Builder hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3 **Phase of Development.** The Annexed Territory comprises a single Phase of Development of the Properties.

2.4 **Equitable Servitudes.** The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory and each Lot or Condominium therein, as a servient tenement, for the benefit of each and every other Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.5 **Covenants Appurtenant.** The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.

2.6 **Restrictions.** This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

2.7 **Membership.** The Owners of Lots or Condominiums in the Annexed Territory shall automatically become Members of the Northwood II Community Association (the "Maintenance Association" described in Article IV of the Declaration).

2.8 **Cost Center.** The Maintenance Property Improvements described on Exhibit "2 hereto, to the extent annexed to the Properties ("***Cost Center Improvements***") are part of a Cost Center. All costs associated with the ownership, maintenance and operation of the Cost Center Improvements shall be levied solely and equally among all Owners of Lots in the Annexed Territory and the Owners of Lots in other Phases of Development of the Properties which are added to the foregoing Cost Center through recordation of a Supplemental Declaration of Covenants, Conditions, Restrictions and Reservation of Easements.

### 3. **Land Classifications.**

3.1 **Residential Area.** The Residential Area (other than those portions, if any, comprising Maintenance Property owned as easements) in the Annexed Territory is hereby designated as Residential Area pursuant to Article II of the Declaration.

3.2 **Maintenance Property.** The Maintenance Property in the Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be

Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("**Multi-Phased Maintenance Property**") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("**Alternative Phase**").

3.2.1 **Title to Maintenance Property.** Merchant Builder hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the Declaration over their respectively owned Maintenance Property, if any, designated on **Exhibit "1"** hereto for easement ownership by the Maintenance Association, such easement to be effective upon the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on **Exhibit "1"** hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association prior to the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory, as further provided in Section 3.6.1 of the Declaration. The Maintenance Association shall also maintain the Public Property (as defined in the Declaration), if any, depicted on **Exhibit "1"** hereto.

3.2.2 **Commencement of Maintenance.** The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on Exhibit "1" hereto, concurrently with the commencement of Common Assessments in the Annexed Territory; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

3.2.3 **Relocation of Maintenance Property Easement.** Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("**Interim Easement Area**") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

4. **Assessment Obligations.** The rights and obligations of all Owners of Lots or Condominiums located in the Annexed Territory with respect to Maintenance Association assessments shall be as set forth in the Declaration and this Supplemental Declaration. All assessments provided for in the Declaration shall commence as to each Lot or Condominium in the Annexed Territory on first day of the first month following the month in which the first Close of Escrow occurs for the sale of a Lot or Condominium in the Annexed Territory.

5. **Architectural Committee Rules/Views.** The Board may but need not adopt and enforce supplemental Architectural Committee Rules which are solely applicable to the Annexed Territory; provided that such supplemental Architectural Committee Rules are first approved by Declarant pursuant to the Declaration. Such supplemental Architectural Committee Rules shall be in addition to any Architectural Committee Rules generally applicable to the Properties and may address design, color, siting and other matters within the jurisdiction of the Architectural Committee which are distinctive or unique to the Annexed Territory or the Condominium Project or Planned Development in which the Annexed Territory is located. There are no views in the Annexed Territory which are protected to any extent pursuant to the Declaration or this Supplemental Declaration, as further provided in the Declaration.

6. **Airport Influence Area.** The Properties are presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the Properties may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. Each Owner is advised to consider what airport annoyances, if any, are associated with the Properties before acquiring a Residence and to determine whether those annoyances are acceptable to such Owner.

7. **Miscellaneous Provisions.**

7.1 **Amendment and Duration.** Until the first Close of Escrow for the sale of a Lot or Condominium in the Annexed Territory, this Supplemental Declaration may be amended or terminated by Merchant Builder in the manner set forth in Article XII of the Declaration. Upon the first Close of Escrow in the Annexed Territory, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Section 2.3.6 of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

7.2 **Enforcement and Non-Waiver.** Reference is hereby made to the provisions of Section 12.5 of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

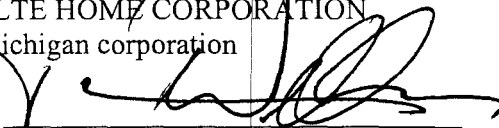
7.3 **Restrictions Construed Together.** All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration. Except as may be otherwise provided in this Supplemental Declaration or the Declaration, the rights and obligations of the Owners located in the Annexed Territory shall be the same as the rights and obligations of the other Owners now or hereafter affected by the Declaration.

7.4 **Restrictions Severable**. Notwithstanding the foregoing Section 6.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

7.5 **Number/Captions**. As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.

*[SIGNATURES ON FOLLOWING PAGE]*


Merchant Builder has executed this Supplemental Declaration the day and year first written above.

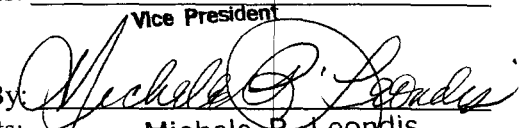
"MERCHANT BUILDER"  
PULTE HOME CORPORATION  
a Michigan corporation  
By:   
Its: ATTORNEY-IN-FACT

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

In accordance with Article II of the Declaration, Declarant approves the recordation of this Supplemental Declaration.

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

By:   
Its: THOMAS E. HEGGI  
Vice President

By:   
Its: Michele R. Leondis  
Assistant Secretary




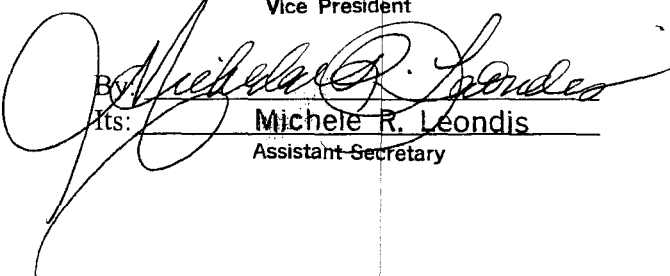
**SUBORDINATION**

The undersigned, as Beneficiary of the beneficial interest in and under that certain Deed of Trust dated recorded on January 29, 2004, in the Official Records of Orange County, California, as Instrument No. 2004-000069558, which Deed of Trust is between PULTE HOME CORPORATION, a Michigan corporation, as Trustor, FIRST AMERICAN TITLE INSURANCE COMPANY, as Trustee, and IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company, as Beneficiary, hereby expressly subordinates such Deed of Trust and its beneficial interests thereunder to the foregoing Supplemental Declaration, the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Northwood II described therein ("Declaration"), and to all easements to be conveyed to the Maintenance Association in accordance with the Declaration and the Supplemental Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Properties by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned will acquire title subject to the provisions of the Declaration and the Supplemental Declaration, which shall remain in full force and effect.

Dated March 22, 2004

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC, a  
Delaware limited liability company

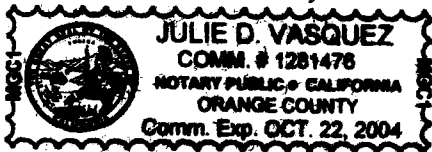
By:   
Its: THOMAS E. HEGGI  
Vice President

By:   
Its: Michele R. Leondis  
Assistant Secretary

STATE OF CALIFORNIA        )  
  ) ss  
COUNTY OF ORANGE        )

On MARCH 19, 2004, before me, JULIE D. VASQUEZ, a Notary Public, personally appeared TIM WELLMAN, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



(SEAL)

Julie D. Vasquez  
Notary Public

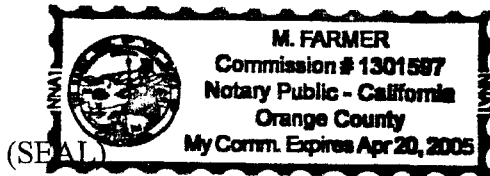
STATE OF CALIFORNIA

) ss.

COUNTY OF ORANGE

On March 23, 2004, before me, M. Farmer, Notary Public, personally appeared THOMAS E. HEGGI and MICHELE R. LEONDIS, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
M. Farmer, Notary Public

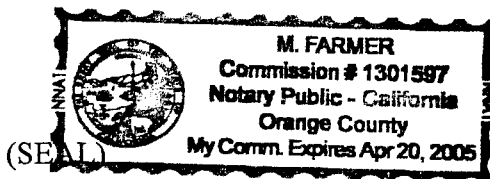
STATE OF CALIFORNIA

) ss.

COUNTY OF ORANGE

On March 23, 2004, before me, M. Farmer, Notary Public, personally appeared THOMAS E. HEGGI and MICHELE R. LEONDIS, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
M. Farmer, Notary Public

I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE  
NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT  
IS ATTACHED READ AS FOLLOWS:

NAME OF NOTARY: M. Farmer

DATE COMMISSION EXPIRES: April 20, 2005

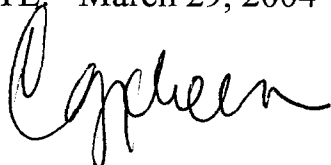
COMMISSION NUMBER: 1301597

VENDOR NUMBER: NNA1

COUNTY WHERE BOND IS FILED: Orange

PLACE OF EXECUTION: IRVINE, CA.

DATE: March 29, 2004

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

C. Green

I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE  
NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT  
IS ATTACHED READ AS FOLLOWS:

NAME OF NOTARY: Julie D. Vasquez

DATE COMMISSION EXPIRES: October 22, 2004

COMMISSION NUMBER: 1281476

VENDOR NUMBER: MGC1

COUNTY WHERE BOND IS FILED: Orange

PLACE OF EXECUTION: IRVINE, CA.

DATE: March 29, 2004

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

C. Green

EXHIBIT "1"

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

PARCEL NO. 1

Lots B and C of Tract 16516, as shown on a Subdivision Map on file in Book 853, Pages 43, et seq., of Miscellaneous Maps, and the "Maintenance Property," as defined in and shown on the Condominium Plan for Bella Rosa – Pulte Homes, Phase 2, recorded on 3-29-2004, 2004, as Instrument No. 2004000255210, which Condominium Plan covers Lots 1 and 2 of Tract 16516, as shown on a Subdivision Map on file in Book 853, Pages 43, et seq., of Miscellaneous Maps, all in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Maintenance Property which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

PARCEL NO. 2

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not Applicable.

PARCEL NO. 3 [Public Property to be maintained by the Maintenance Association]

Not applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT "1" CONTINUED  
DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

Not applicable.

**EXHIBIT 2**

**DESCRIPTION OF COST CENTER IMPROVEMENTS**  
**(Bella Rosa, Phase 2, Tract 16309)**

The name of this Cost Center is the "Northwood II Cost Center." The Lots that benefit from the "Cost Center Improvements" described below and that are obligated to solely and equally bear all costs ("Cost Center Common Expenses") of owning, maintaining and operating the Cost Center Improvements, are all Residential Area Lots described in this Supplemental Declaration and all Lots designated as being part of the Northwood II Cost Center in any previous or future Supplemental Declaration of Covenants, Conditions and Restrictions annexing these lots to Northwood II under the Declaration.

The Cost Center Improvements for this Cost Center are described in the Association Budget as Northwood II Cost Center Expenses.



RECORDING REQUESTED BY  
CHICAGO TITLE COMPANY

Recorded in Official Records, County of Orange  
Tom Daly, Clerk-Recorder



36.00

2004000255216 02:59pm 03/29/04

121 4 C32 11  
0.00 0.00 0.00 0.00 30.00 0.00 0.00 0.00

WHEN RECORDED PLEASE MAIL TO:  
THE KEITH COMPANIES, INC  
ATTN: SCOTT WILSON  
19 TECHNOLOGY DRIVE  
IRVINE, CA. 92618

**CONDOMINIUM PLAN  
BELLA ROSA - PULTE HOMES  
PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54**

UNITS 27 THROUGH 30 AND 47 THROUGH 54 COMMON AREA, AND MAINTENANCE PROPERTY, AS CREATED  
HEREIN FROM LOTS 1, AND 2, OF TRACT 16516 IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF  
CALIFORNIA, AS SHOWN ON THE MAP THEREOF FILED IN BOOK 853 AT PAGES 43 THROUGH 46,  
INCLUSIVE, OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

16516P2-M13-

**OWNERSHIP CERTIFICATE:**

WE THE UNDERSIGNED, BEING ALL PARTIES REQUIRED BY CALIFORNIA CIVIL CODE SECTION 1351(e) TO  
EXECUTE THIS CERTIFICATE, DO HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THE  
WITHIN CONDOMINIUM PLAN PURSUANT TO SAID SECTION 1351 (e)

PULTE HOME CORPORATION, A MICHIGAN CORPORATION

BY: 

PRINT NAME: TIM WELLMAN

PRINT TITLE: ATTORNEY-IN-FACT

**BENEFICIARY STATEMENT:**

The Irvine Community Development Company LLC, a Delaware Limited Liability Company,  
Beneficiary under a Deed of Trust recorded 1/29/04 as Instrument No. 2004000069558  
of Official Records and hereby consents to the recording of this condominium plan.

By: 

THOMAS E. HEGGI  
VICE PRESIDENT  
Irvine Community Development Company LLC,  
a Delaware Limited Liability Company

By: 

PRINT NAME: Michele R. Leondis

PRINT TITLE: Assistant Secretary

# BELLA ROSA - PULTE HOMES PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54 NOTARY ACKNOWLEDGEMENTS

STATE OF CALIFORNIA }  
COUNTY OF ORANGE } SS

On THIS 20<sup>TH</sup> DAY OF FEB, 2004, before me, JULIE D. VASQUEZ, personally appeared TIM WELLMAN, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that He/~~She~~/they executed the same in He/~~She~~/they authorized capacity(ies), and that by He/~~She~~/they signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

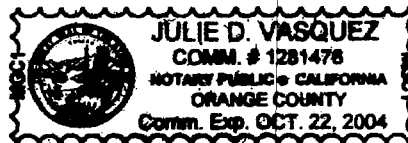
My principal place of Business

WITNESS my hand and official seal.

Is in ORANGE County.

Julie D. Vasquez  
Notary Public in and for said State

My commission Expires OCT. 22, 2004



STATE OF California }  
COUNTY OF Orange } SS

On THIS 23<sup>rd</sup> DAY OF March, 2004, before me, M. Farmer, personally appeared Thomas E. Heggi and Michele R. Leondo, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that He/~~She~~/they executed the same in He/~~She~~/they authorized capacity(ies), and that by He/~~She~~/they signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

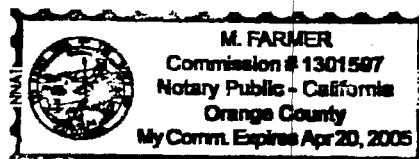
My principal place of Business

WITNESS my hand and official seal.

Is in Orange County.

M. Farmer  
Notary Public in and for said State

My commission Expires 4-20-05



I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE  
NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT  
IS ATTACHED READ AS FOLLOWS:

NAME OF NOTARY: M. Farmer

DATE COMMISSION EXPIRES: April 20, 2005

COMMISSION NUMBER: 1301597

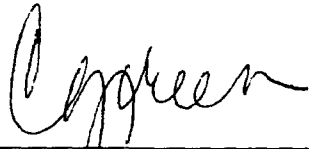
VENDOR NUMBER: NNA1

COUNTY WHERE BOND IS FILED: Orange

PLACE OF EXECUTION: IRVINE, CA.

DATE: March 29, 2004

By:



\_\_\_\_\_  
C. Green

I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE  
NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT  
IS ATTACHED READ AS FOLLOWS:

NAME OF NOTARY: Julie D. Vasquez

DATE COMMISSION EXPIRES: October 22, 2004

COMMISSION NUMBER: 1281476

VENDOR NUMBER: MGC1

COUNTY WHERE BOND IS FILED: Orange

PLACE OF EXECUTION: IRVINE, CA.

DATE: March 29, 2004

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

  
C. Green

# BELLA ROSA - PULTE HOMES

## PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54

### SURVEYOR'S STATEMENT:

I HEREBY CERTIFY THAT I AM A LICENSED LAND SURVEYOR OF THE STATE OF CALIFORNIA, THAT THIS CONDOMINIUM PLAN WAS PREPARED BY ME OR UNDER MY SUPERVISION AND THAT THIS CONDOMINIUM PLAN: (1) CORRECTLY REPRESENTS THE BOUNDARY OF THE LAND INCLUDED WITHIN THIS PROJECT; AND (2) SUBJECT TO MINOR VARIANCES AND SUBJECT ALSO TO THE NOTES AND DEFINITIONS HEREIN, SHOWS THE LOCATION OF THE UNITS TO BE BUILT.

*Scott M. Wilson*

MY LICENSE EXPIRES 12/31/05

**THE KEITH COMPANIES**  
19 TECHNOLOGY DRIVE  
IRVINE, CA 92618  
949.923.6000

**TKC**



DATE 2-16-04

### LEGEND:



-DENOTES PIPELINE EASEMENTS FOR SEWER AND WATER PURPOSES, DEDICATED TO THE IRVINE RANCH WATER DISTRICT PER TRACT 16309,845/12-27

**UNIT 31**

DENOTES THE UNIT NUMBER

MAINTENANCE AREA

-DENOTES THE ASSOCIATION MAINTENANCE AREA

### BASIS OF BEARINGS:

THE BEARINGS SHOWN HEREON ARE BASED ON THE GRID BEARING BETWEEN O.C.S. HORIZONTAL CONTROL STATION GPS NO. 6623 AND STATION GPS NO. 6503 BEING NORTH 62°37'46" EAST PER RECORDS ON FILE IN THE OFFICE OF THE ORANGE COUNTY SURVEYOR.

GPS #6623 (N=2196272.448, E=6098292.498, C.F.=0.99997151)

GPS #6503 (N=2202756.516, E=6110817.247, C.F.=0.99996389)

### BENCHMARK:

ORANGE COUNTY SURVEYOR BENCHMARK NO.

"3B-103-91"

AT THE INTERSECTION OF JEFFREY RD. AND THE ATCHISON TOPEKA AND SANTA FE RAILWAY, 55 FT. NORTHEASTERLY THE RAILWAY, 45 FT. NORTHERLY OF THE CENTERLINE OF JEFFREY RD., SET AT THE MOST WESTERLY CORNER OF A 4 FT. BY 4 FT. CATCH BASIN.

NAVD88/1991 ADJ. ELEV = 143.420

# BELLA ROSA - PULTE HOMES

## PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54

### NOTES AND DEFINITIONS

**Bella Rosa Phase 2.** *Bella Rosa Phase 2 means the real property described and shown as Units, Maintenance Property and Undivided Interest Common Area on this Condominium Plan*

**Condominium.** *Condominium means an estate in real property as defined in California Civil Code Section 1351(f). A Condominium consists of an undivided fee simple ownership interest in the Undivided Interest Common Area in a Phase of Development together with a separate ownership interest in fee in a Unit and all easements appurtenant thereto. The undivided fee simple interest in the Undivided Interest Common Area in a Phase of Development is appurtenant to each Unit in such Phase of Development and is a fraction having one (1) as its numerator and the number of Units in that Phase of Development as its denominator; and shall be held by the Owners of Condominiums in that Phase of Development as tenants-in-common.*

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

**Declaration.** *Declaration means the Declaration of Covenants, Conditions, Restrictions and Reservations of Easements for Northwood II, Recorded in Official Records of Orange County, California, as amended or restated.*

**Maintenance Association.** *Maintenance Association means Northwood II Community Association, a California nonprofit corporation (formed pursuant to the California Nonprofit Mutual Benefit Corporation Law), its successors and assigns. The Maintenance Association is an "association" as defined in Section 1351(a) of the California Civil Code.*

**Maintenance Property.** *Maintenance Property means real or personal property and Improvements which are owned in fee simple at any time by the Maintenance Association, or over which the Maintenance Association has an easement or encroachment permit for the use, care or maintenance thereof, for the common benefit, use and enjoyment of Owners. The Maintenance Property in Bella Rosa Phase 2 is shown on this Condominium Plan. Additional Maintenance Property in Bella Rosa Phase 2 may be shown or described in the Declaration*

**Merchant Builder.** *Merchant Builder means a Person who acquires a portion of the Properties for the purpose of developing such portion for resale to the general public; provided, however, that the term "Merchant Builder" shall not mean Declarant but shall include the Initial Merchant Builder. Pulte Home Corporation, a Michigan corporation, is the Initial Merchant Builder under the Declaration. Merchant Builder is a builder as described in California Civil Code Section 1375.*

**Phase of Development.** *Phase of Development means (i) Bella Rosa Phase 2, (ii) any portion of the Properties covered by a Supplemental Declaration for which a Public Report has been issued by the DRE, unless otherwise defined in such Supplemental Declaration, (iii) any portion of the Properties designated as a Phase of Development in a Recorded Supplemental Declaration (including all amendments thereto) governing such property, and (iv) if no Public Report is issued and there is no Phase of Development designation in the Supplemental Declaration for a portion of the Properties, then all of the real property annexed pursuant to that Supplemental Declaration shall be a Phase of Development.*

**Properties.** *Properties means Bella Rosa Phase 2, together with such portions of the Annexable Area which are annexed to the property which is subject to the Declaration pursuant to Article II thereof. The Properties are classified as a "common interest development" as defined in Section 1351(c) of the California Civil Code.*

**BELLA ROSA - PULTE HOMES**  
**PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54**  
**NOTES AND DEFINITIONS**

**Undivided Interest Common Area.** *Undivided Interest Common Area means those certain volumes of airspace described in this Condominium Plan which shall be owned by Owners in each Phase of Development as tenants-in-common. For Bella Rosa Phase 2, the Undivided Interest Common Area consists of the volume of air space designated as undivided interest common area on this Condominium Plan, the lower boundary of which is a horizontal plane of an elevation of 203.5 feet above sea level, the upper boundary of which is a horizontal plane at an elevation of 253.5 feet above sea level, and the lateral boundaries of which are shown on Sheet 10.*

**Unit.** *Unit means a separate interest in space, in accordance with Section 1351(f) of the California Civil Code. Each Unit is a separate freehold estate, as separately shown, numbered and designated in this Condominium Plan. Each Unit includes all earth, air and Improvements now or hereafter constructed within the boundaries of the Unit as described in this Condominium Plan, including buildings, yards, landscaping, fences, walls, and utility installations (subject to easements of record). The vertical and horizontal boundaries of each Unit shall be as described in the Condominium Plan. However, in interpreting deeds, declarations and plans, the following shall apply in the case of Improvements constructed or reconstructed at Unit boundaries in accordance with the Condominium Plan or the original plans for the Unit: (a) where a division wall separating two or more Units or a party wall is coterminous with a Unit boundary described in the Condominium Plan, then the lateral boundaries of such Units shall be deemed to extend to the center of the division wall or party wall as constructed; and (b) where the perimeter wall is coterminous with a Unit boundary described in the Condominium Plan, then the exterior finished surface of such wall shall be conclusively presumed to be a lateral boundary of the Unit. The foregoing shall apply to Improvements constructed or reconstructed in substantial accordance with the original plans for the Unit, and shall apply notwithstanding any description expressed in the deed, the Condominium Plan or Declaration, regardless of settling or lateral movements of Improvements, and regardless of minor variances between Unit boundaries shown in the Condominium Plan or deed and those of the Improvement. The Units included in Bella Rosa Phase 2 are depicted on this Condominium Plan and are numbered Units 27-30, inclusive, and Units 47-54.*

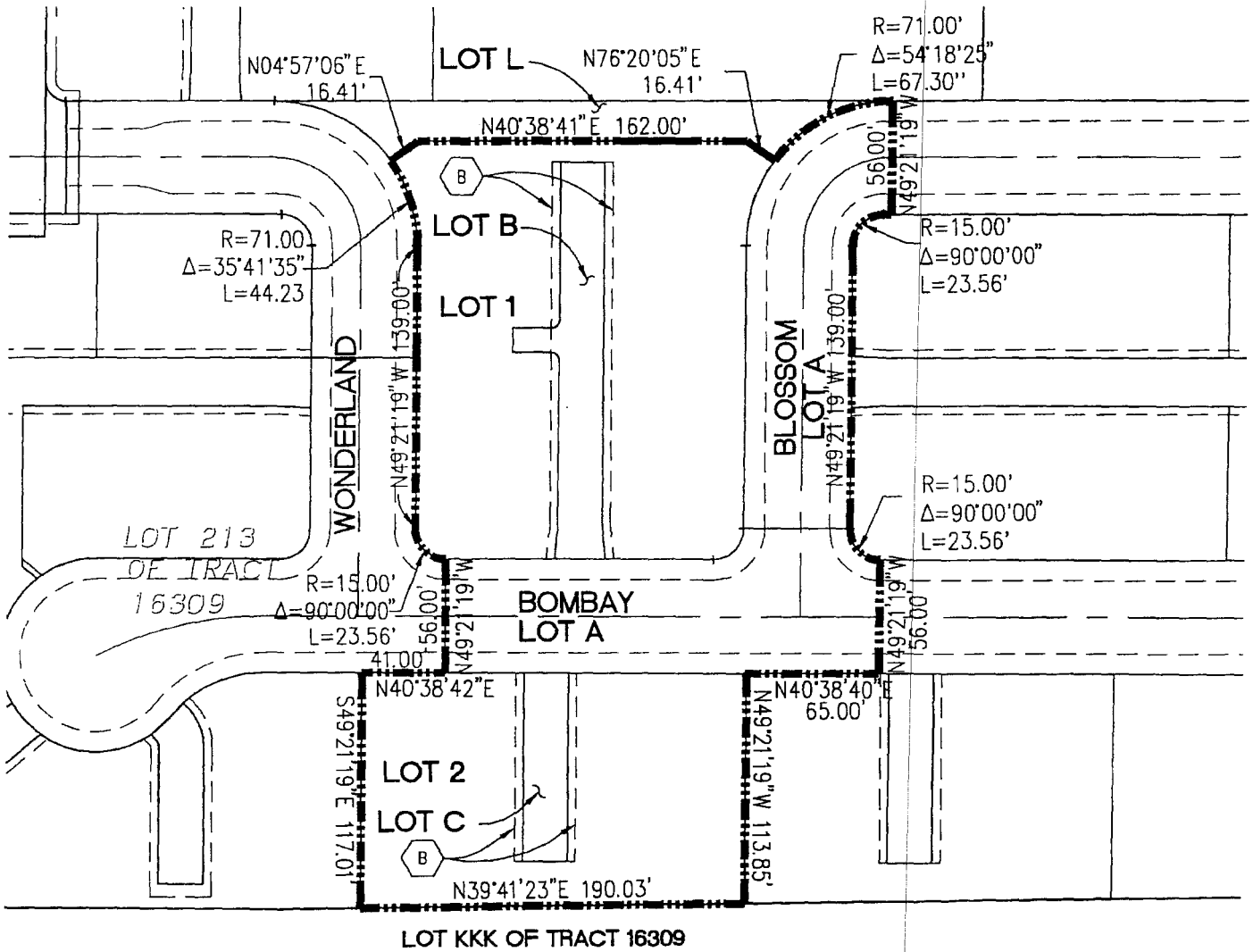
**NOTES:**

*Dimensions shown herein are not intended to be sufficiently accurate to use for computation of floor area or the air space volume in any or all of the Units. This Condominium Plan is prepared for diagrammatic purposes and is not intended to be used for sales purposes to determine square footage. The diagrammatic plans contained herein intentionally omit information with respect to any constructed improvements within the Condominium.*

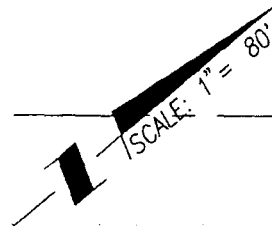
*All capitalized terms in the Definitions and Notes sections of this Condominium Plan which are not defined herein shall have the meanings given them in the Declaration.*

# BELLA ROSA - PULTE HOMES PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54

## MAP LOT 1, AND 2 OF TRACT 16516



JEFFREY ROAD



NOTES:

(B) DENOTES PIPELINE EASEMENTS FOR SEWER AND WATER PURPOSES, DEDICATED TO THE IRVINE RANCH WATER

**THE KEITH COMPANIES**  
 19 TECHNOLOGY DRIVE  
 IRVINE, CA 92618  
 949.923.6000



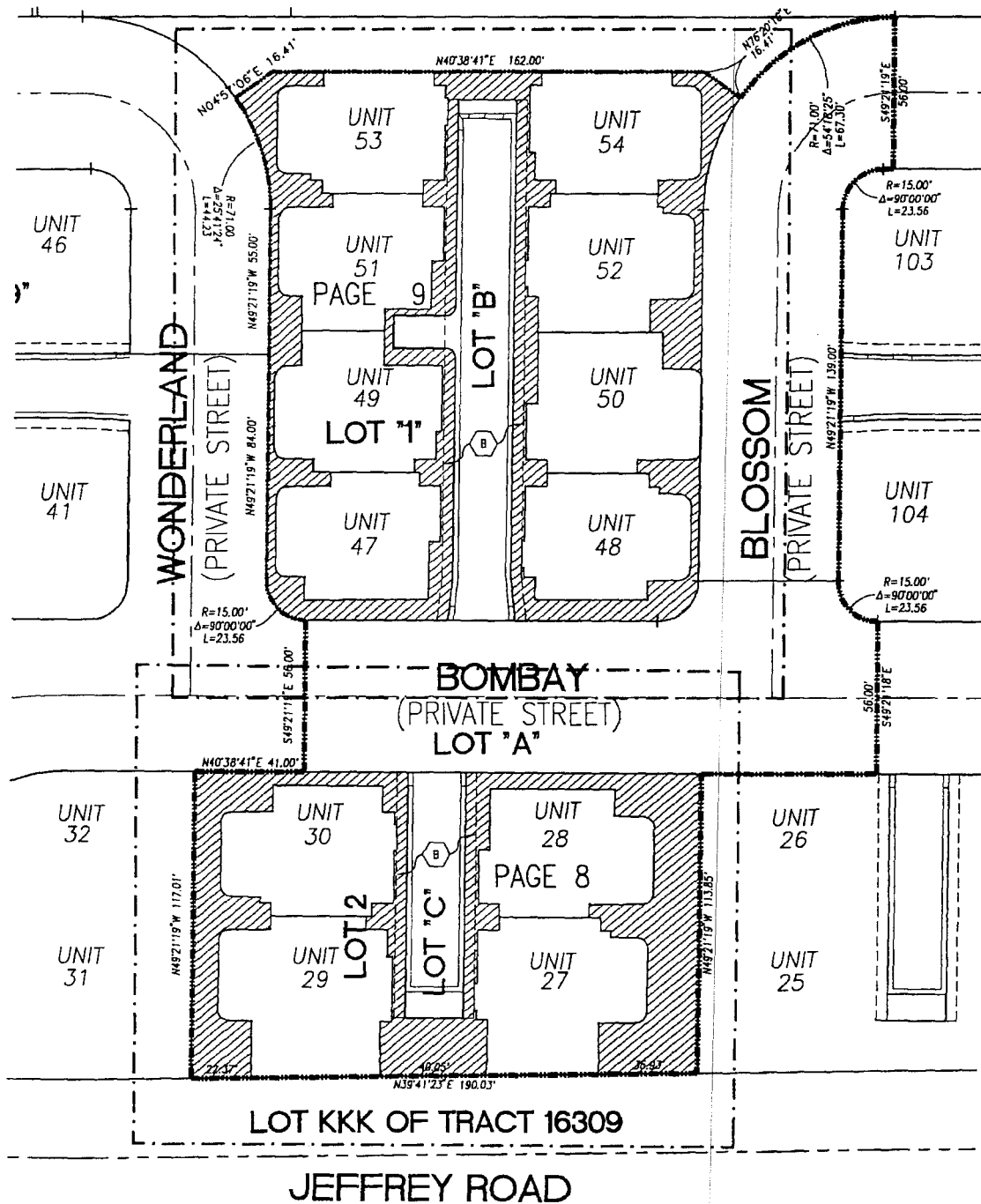
Job No.: 13774.00

Date: 10/03/03



# BELLA ROSA - PULTE HOMES PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54

## UNIT AND MAINTENANCE PROPERTY LOCATION PLAN INDEX PAGE



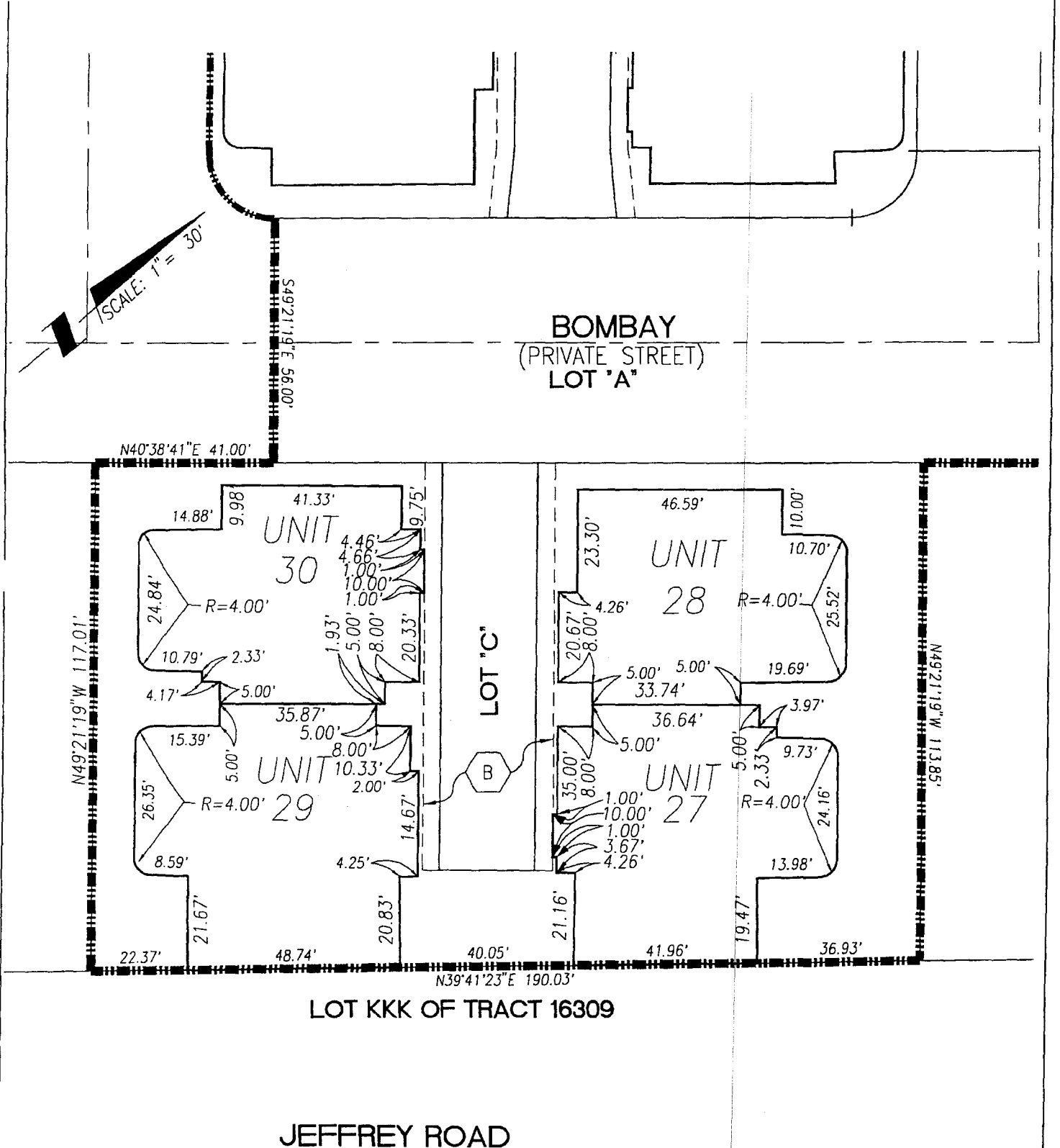
 MAINTENANCE PROPERTY

**THE KEITH COMPANIES**  
 19 TECHNOLOGY DRIVE  
 IRVINE, CA 92618  
 949.923.6000

**TKC**

Job No.: 13774.00      Date: 10/03/03

# BELLA ROSA - PULTE HOMES PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54

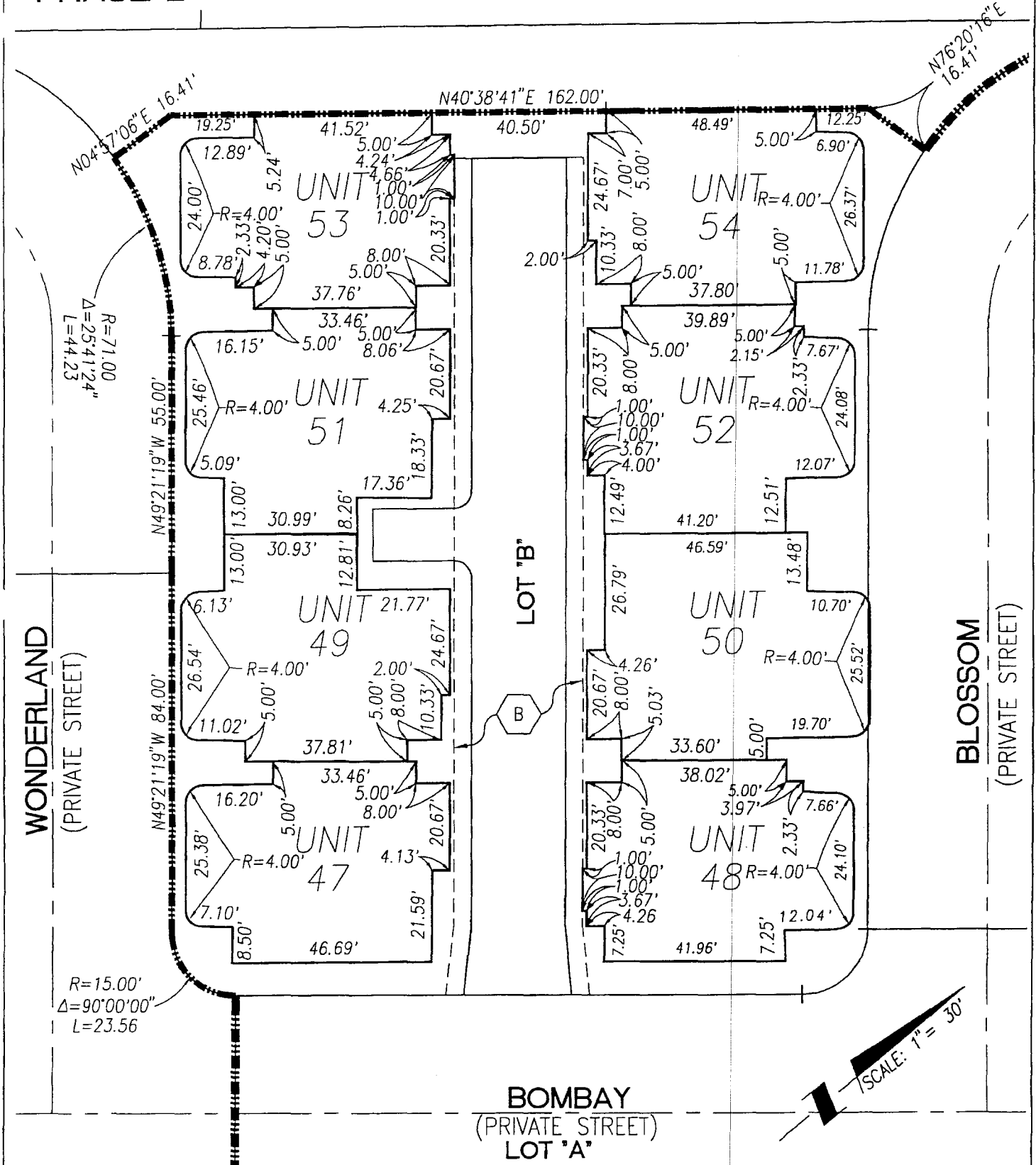


SEE PAGE 6 FOR EASEMENT NOTES  
SEE PAGE 7 FOR INDEX MAP  
SEE PAGE 10 FOR COMMON AREA PLAN  
NOTE: ALL ANGLES 90° UNLESS OTHERWISE NOTED

<b>THE KEITH COMPANIES</b> 19 TECHNOLOGY DRIVE IRVINE, CA 92618 949.923.6000	
Job No.: 13774.00	Date: 08-05-03



# BELLA ROSA - PULTE HOMES PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54



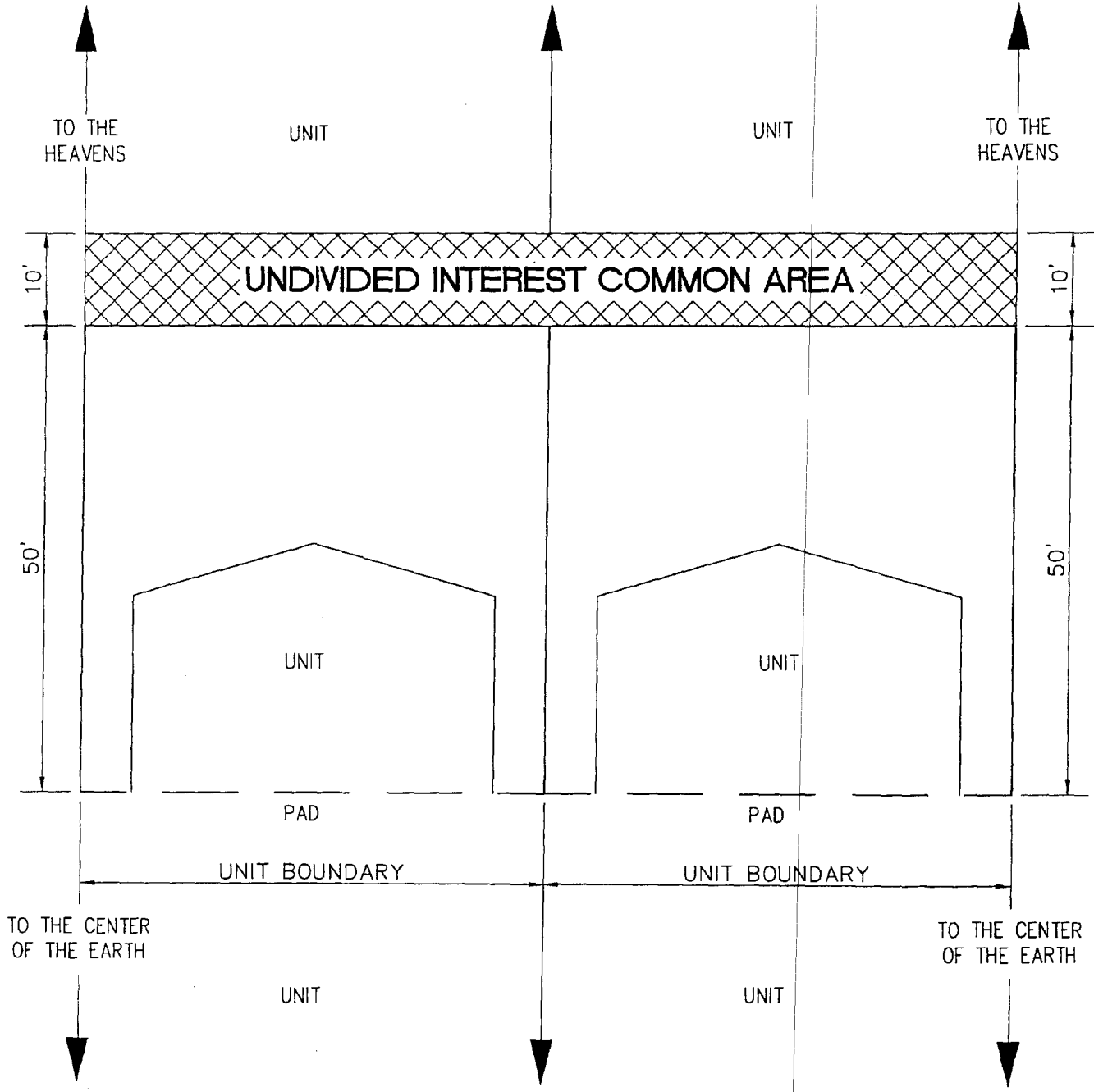
SEE PAGE 6 FOR EASEMENT NOTES  
 SEE PAGE 7 FOR INDEX MAP  
 SEE PAGE 10 FOR COMMON AREA PLAN  
 NOTE: ALL ANGLES 90° UNLESS OTHERWISE NOTED

<b>THE KEITH COMPANIES</b>	
19 TECHNOLOGY DRIVE	
IRVINE, CA 92618	
949.923.6000	
Job No.: 13774.00	Date: 08-05-03



# BELLA ROSA - PULTE HOMES PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54

## UNDIVIDED INTEREST COMMON AREA PLAN



### TYPICAL SECTION

N.T.S.



UNDIVIDED INTEREST COMMON AREA

**THE KEITH COMPANIES**

19 TECHNOLOGY DRIVE

IRVINE, CA 92618

949.923.6000



Job No.: 13774.00

Date: 12/15/03

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

**RECORDING REQUESTED BY:**

CHICAGO TITLE COMPANY



51.00

2004000716390 04:21pm 08/06/04

104 27 D01 S12 14

0.00 0.00 0.00 0.00 39.00 0.00 0.00 0.00

**WHEN RECORDED MAIL TO:**

NORTHWOOD II COMMUNITY ASSOCIATION  
c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, CA 92705  
Attn: Pam Hunt

**WITH A CONFORMED COPY TO:**

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND RESERVATION OF EASEMENTS  
FOR  
NORTHWOOD II  
(BELLA ROSA, PHASE 5, TRACT 16516)  
(MERCHANT BUILDER)**

THIS SUPPLEMENTAL DECLARATION is made on July 19,  
2004, by PULTE HOME CORPORATION, a Michigan corporation ("Merchant  
Builder").

**P R E A M B L E:**

A. Merchant Builder is the record owner of certain real property in the  
City of Irvine, County of Orange, State of California, described as:

Lots D, H and I of Tract 16516, as shown on a Subdivision  
Map on file in Book 853, Pages 43, et seq., of  
Miscellaneous Maps, and the "Units," "Maintenance  
Property," and "Common Area," as defined in and shown  
on the Condominium Plan for Bella Rosa -- Pulte Homes,  
Phase 5, recorded on 8-6-04, 2004, as  
Instrument No. 2004000715139,  
which Condominium Plan covers Lots 9 and 10 of Tract  
16516, as shown on a Subdivision Map on file in Book

43818186A-M13

853, Pages 43, et seq., of Miscellaneous Maps, all in the Office of the Orange County Recorder.

The Units above are collectively referred to herein as the ***“Residential Area.”***

B. Merchant Builder is the record owner (exclusive of public rights-of-way) of certain real property (***“Maintenance Property”***) in the City of Irvine, County of Orange, State of California, described on Exhibit “1” attached hereto. The Residential Area and the Maintenance Property are collectively referred to hereinafter as the ***“Annexed Territory.”***

C. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (as amended, the ***“Declaration”***) for Northwood II (***“Properties”***). The Declaration was recorded on December 23, 2003, as Instrument No. 2003-001510997, and amended by the First Amendment to Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II, recorded on March 26, 2004, as Instrument No. 2004-000251181, both in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

D. Merchant Builder is a ***“Merchant Builder”*** as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Merchant Builder intends to improve and sell the Residential Area in the Annexed Territory to the public, and to provide for the maintenance of the Maintenance Property in the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

E. Pursuant to Article II of the Declaration, Merchant Builder now desires to add the Annexed Territory to the Properties subject to the Declaration.

THEREFORE, MERCHANT BUILDER HEREBY DECLARES AS FOLLOWS:

1. **Definitions.** Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. **Annexation of Territory and Establishment of Comprehensive Plan.**

2.1 **Comprehensive Plan.** This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement and sale of Lots or Condominiums within the Annexed Territory and for the purpose of enhancing

and perfecting the value, desirability and attractiveness of the Annexed Territory and each Lot or Condominium therein.

2.2 **Annexation.** Merchant Builder hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3 **Phase of Development.** The Annexed Territory comprises a single Phase of Development of the Properties.

2.4 **Equitable Servitudes.** The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory and each Lot or Condominium therein, as a servient tenement, for the benefit of each and every other Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.5 **Covenants Appurtenant.** The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.

2.6 **Restrictions.** This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

2.7 **Membership.** The Owners of Lots or Condominiums in the Annexed Territory shall automatically become Members of the Northwood II Community Association (the "Maintenance Association" described in Article IV of the Declaration).

2.8 **Cost Center.** The Maintenance Property Improvements described on *Exhibit 2* hereto, to the extent annexed to the Properties ("***Cost Center Improvements***") are part of a Cost Center. All costs associated with the ownership, maintenance and operation of the Cost Center Improvements shall be levied solely and equally among all Owners of Lots in the Annexed Territory and the Owners of Lots in other Phases of Development of the Properties which are added to the foregoing Cost Center through recordation of a Supplemental Declaration of Covenants, Conditions, Restrictions and Reservation of Easements.

### 3. **Land Classifications.**

3.1 **Residential Area.** The Residential Area (other than those portions, if any, comprising Maintenance Property owned as easements) in the Annexed Territory is hereby designated as Residential Area pursuant to Article II of the Declaration.

3.2 **Maintenance Property.** The Maintenance Property in the Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("**Multi-Phased Maintenance Property**") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("**Alternative Phase**").

3.2.1 **Title to Maintenance Property.** Merchant Builder hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the Declaration over their respectively owned Maintenance Property, if any, designated on **Exhibit "1"** hereto for easement ownership by the Maintenance Association, such easement to be effective upon the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on **Exhibit "1"** hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association prior to the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory, as further provided in Section 3.6.1 of the Declaration. The Maintenance Association shall also maintain the Public Property (as defined in the Declaration), if any, depicted on **Exhibit "1"** hereto.

3.2.2 **Commencement of Maintenance.** The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on Exhibit "1" hereto, concurrently with the commencement of Common Assessments in the Annexed Territory; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

3.2.3 **Relocation of Maintenance Property Easement.** Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("**Interim Easement Area**") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

4. **Assessment Obligations.** The rights and obligations of all Owners of Lots or Condominiums located in the Annexed Territory with respect to Maintenance Association assessments shall be as set forth in the Declaration and this Supplemental Declaration. All assessments provided for in the Declaration shall commence as to each Lot or Condominium in the Annexed Territory on first day of the first month following



the month in which the first Close of Escrow occurs for the sale of a Lot or Condominium in the Annexed Territory.

5. **Architectural Committee Rules/Views.** The Board may but need not adopt and enforce supplemental Architectural Committee Rules which are solely applicable to the Annexed Territory; provided that such supplemental Architectural Committee Rules are first approved by Declarant pursuant to the Declaration. Such supplemental Architectural Committee Rules shall be in addition to any Architectural Committee Rules generally applicable to the Properties and may address design, color, siting and other matters within the jurisdiction of the Architectural Committee which are distinctive or unique to the Annexed Territory or the Condominium Project or Planned Development in which the Annexed Territory is located. There are no views in the Annexed Territory which are protected to any extent pursuant to the Declaration or this Supplemental Declaration, as further provided in the Declaration.

6. **Airport Influence Area.** The Properties are presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the Properties may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. Each Owner is advised to consider what airport annoyances, if any, are associated with the Properties before acquiring a Residence and to determine whether those annoyances are acceptable to such Owner.

7. **Miscellaneous Provisions.**

7.1 **Amendment and Duration.** Until the first Close of Escrow for the sale of a Lot or Condominium in the Annexed Territory, this Supplemental Declaration may be amended or terminated by Merchant Builder in the manner set forth in Article XII of the Declaration. Upon the first Close of Escrow in the Annexed Territory, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Section 2.3.6 of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

7.2 **Enforcement and Non-Waiver.** Reference is hereby made to the provisions of Section 12.5 of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

7.3 **Restrictions Construed Together.** All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration. Except as may be otherwise provided in this Supplemental Declaration or the Declaration, the rights and obligations of the Owners located in the

Annexed Territory shall be the same as the rights and obligations of the other Owners now or hereafter affected by the Declaration.

7.4 **Restrictions Severable**. Notwithstanding the foregoing Section 6.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

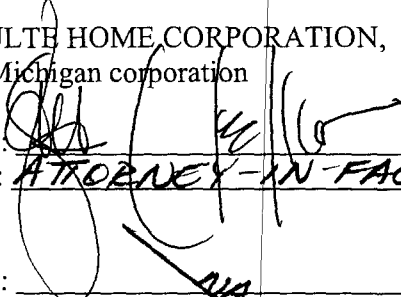
7.5 **Number/Captions**. As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.

***[SIGNATURES ON FOLLOWING PAGE]***

Merchant Builder has executed this Supplemental Declaration the day and year first written above.

"MERCHANT BUILDER"

PULTE HOME CORPORATION,  
a Michigan corporation


By:   
Its: ATTORNEY-IN-FACT

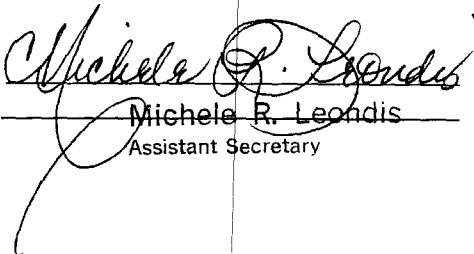
By: \_\_\_\_\_  
Its: \_\_\_\_\_

In accordance with Article II of the Declaration, Declarant approves the recordation of this Supplemental Declaration.

"DECLARANT"

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC, a  
Delaware limited liability company

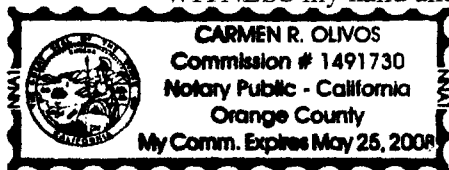
By:   
Its: THOMAS E. HEGGI  
Vice President

By:   
Its: Michele R. Leondis  
Assistant Secretary

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On JULY 19, 2004, before me, CARMEN OLIVOS, a Notary Public, personally appeared SAMRA KELLER, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



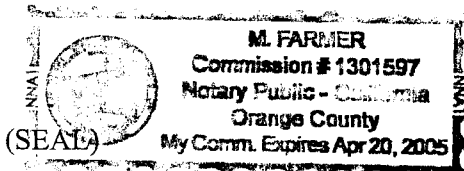
Carmen R. Olivos  
Notary Public

(SEAL)

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF Orange )

On July 28, 2004, before me, M. Farmer, a Notary Public, personally appeared Thomas E. Heggi + Michele R. Leondis, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
Notary Public

I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE  
NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT  
IS ATTACHED READ AS FOLLOWS:

NAME OF NOTARY: M. Farmer

DATE COMMISSION EXPIRES: April 20, 2005

COMMISSION NUMBER: 1301597

VENDOR NUMBER: nna1

COUNTY WHERE BOND IS FILED: Orange

PLACE OF EXECUTION: IRVINE, CA.

DATE: August 6, 2004

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

  
C. Green

I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE  
NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT  
IS ATTACHED READ AS FOLLOWS:

NAME OF NOTARY: M. Farmer

DATE COMMISSION EXPIRES: April 20, 2005

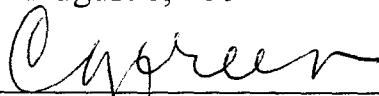
COMMISSION NUMBER: 1301597

VENDOR NUMBER: nna1

COUNTY WHERE BOND IS FILED: Orange

PLACE OF EXECUTION: IRVINE, CA.

DATE: August 6, 2004


By:   
C. Green

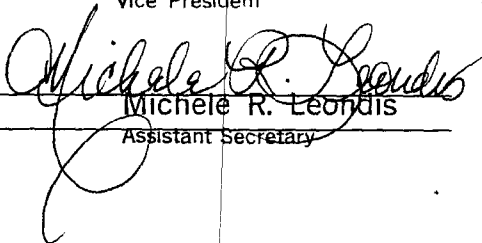
**SUBORDINATION**

The undersigned, as Beneficiary of the beneficial interest in and under those certain Deeds of Trust dated March 12, 2004, and May 24, 2004, recorded on April 2, 2004, and July 1, 2004, in the Official Records of Orange County, California, as Instrument No. 2004-000273867 and Instrument No. 2004-000602392, respectively, which Deeds of Trust are between PULTE HOME CORPORATION, a Michigan corporation, as Trustor, FIRST AMERICAN TITLE INSURANCE COMPANY, as Trustee, and IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company, as Beneficiary, hereby expressly subordinates such Deeds of Trust and its beneficial interests thereunder to the foregoing Supplemental Declaration, the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Northwood II described therein ("Declaration"), and to all easements to be conveyed to the Maintenance Association in accordance with the Declaration and the Supplemental Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Properties by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deeds of Trust, the undersigned will acquire title subject to the provisions of the Declaration and the Supplemental Declaration, which shall remain in full force and effect.

Dated July 28, 2004

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC, a  
Delaware limited liability company

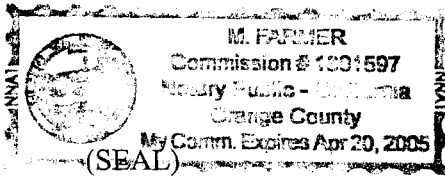
By:   
Its: THOMAS E. HEGGI  
Vice President

By:   
Its: Michele R. Leonidis  
Assistant Secretary

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On July 28, 2004, before me, M. Farmer, a Notary Public, personally appeared Thomas E. Heggi + Michele R. Leondis, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~(is/are)~~ subscribed to the within instrument and acknowledged to me that ~~(he/she/they)~~ executed the same in ~~(his/her/their)~~ authorized capacity ~~(-ies)~~ and that by ~~(his/her/their)~~ signature ~~(s)~~ on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
Notary Public

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2004, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~(is/are)~~ subscribed to the within instrument and acknowledged to me that ~~(he/she/they)~~ executed the same in ~~(his/her/their)~~ authorized capacity ~~(-y/-ies)~~, and that by ~~(his/her/their)~~ signature ~~(s)~~ on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(SEAL)



**EXHIBIT "1"**

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

PARCEL NO. 1

Lots D, H and I of Tract 16516, as shown on a Subdivision Map on file in Book 853, Pages 43, et seq., of Miscellaneous Maps, and the "Maintenance Property," as defined in and shown on the Condominium Plan for Bella Rosa – Pulte Homes, Phase 5, recorded on 8-6, 2004, as Instrument No. 2004000715139, which Condominium Plan covers Lots 9 and 10 of Tract 16516, as shown on a Subdivision Map on file in Book 853, Pages 43, et seq., of Miscellaneous Maps, all in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Maintenance Property which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

PARCEL NO. 2

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress, egress, use and maintenance over the following described real property:

Those portions of Lot A of Tract 16516, as shown on a Subdivision Map on file in Book 853, Pages 43, et seq., of Miscellaneous Maps, in the Office of the Orange County Recorder, which are adjacent to the Residential Area described in Preamble A of this Supplemental Declaration, which easements shall terminate on the conveyance of fee title to such lots to the Association.

PARCEL NO. 3 [Public Property to be maintained by the Maintenance Association]

Not applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT 2**

**DESCRIPTION OF COST CENTER IMPROVEMENTS**  
**(Bella Rosa, Phase 5, Tract 16516)**

The name of this Cost Center is the "Northwood II Cost Center." The Lots that benefit from the "Cost Center Improvements" described below and that are obligated to solely and equally bear all costs ("Cost Center Common Expenses") of owning, maintaining and operating the Cost Center Improvements, are all Residential Area Lots described in this Supplemental Declaration and all Lots designated as being part of the Northwood II Cost Center in any previous or future Supplemental Declaration of Covenants, Conditions and Restrictions annexing these lots to Northwood II under the Declaration.

The Cost Center Improvements for this Cost Center are described in the Association Budget as Northwood II Cost Center Expenses.

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

**RECORDING REQUESTED BY:**

FIDELITY NATIONAL TITLE COMPANY  
SUBDIVISION DEPARTMENT



51.00

2006000222866 04:30pm 04/03/06

**WHEN RECORDED MAIL TO:**

111 51 D02 16  
0.00 0.00 0.00 0.00 45.00 0.00 0.00 0.00

NORTHWOOD II COMMUNITY ASSOCIATION  
c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, CA 92705

**WITH A CONFORMED COPY TO:**

IRVINE COMMUNITY DEVELOPMENT COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(CAMELLIA/PHASE 10, TRACT 16309)  
(MERCHANT BUILDER)**

THIS SUPPLEMENTAL DECLARATION is made on March 24, 2006, by  
CALIFORNIA PACIFIC HOMES, L.P., a California limited partnership ("**Merchant Builder**").

P R E A M B L E:

A. Merchant Builder is the record owner of certain real property in the City  
of Irvine, County of Orange, State of California, described as:

Lots 110 to 123, inclusive, and Lots M and TT of Tract No. 16309,  
as shown on a Subdivision Map recorded in Book 845, Pages 12 *et*  
*seq.*, of Miscellaneous Maps, in the Office of the Orange County  
Recorder.

The numbered Lots above are collectively referred to herein as the "**Residential  
Area.**"

B. Merchant Builder is the record owner (exclusive of public rights-of-way)  
of certain real property ("**Maintenance Property**") in the City of Irvine, County of Orange, State

of California, described on *Exhibit "1"* attached hereto. The Residential Area and the Maintenance Property are collectively referred to hereinafter as the "*Annexed Territory.*"

C. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (as amended, the "*Declaration*") for Northwood II ("*Properties*"). The Declaration was recorded on December 23, 2003, as Instrument No. 2003-001510997, and amended by the First Amendment to Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II recorded on March 26, 2004, as Instrument No. 2004-000251181, both in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

D. Merchant Builder is a "*Merchant Builder*" as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Merchant Builder intends to improve and sell the Residential Area in the Annexed Territory to the public, and to provide for the maintenance of the Maintenance Property in the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

E. Pursuant to Article II of the Declaration, Merchant Builder now desires to add the Annexed Territory to the Properties subject to the Declaration as a portion of the Maintenance Association Delegate District which is described in the title of this Supplemental Declaration.

THEREFORE, MERCHANT BUILDER HEREBY DECLARES AS FOLLOWS:

1. Definitions. Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. Annexation of Territory and Establishment of Comprehensive Plan.

2.1 Comprehensive Plan. This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement and sale of Lots or Condominiums within the Annexed Territory and for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Annexed Territory and each Lot or Condominium therein.

2.2 Annexation. Merchant Builder hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3 Phase of Development. The Annexed Territory comprises a single Phase of Development of the Properties.

2.4 Equitable Servitudes. The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory and each Lot or Condominium therein, as a servient tenement, for the benefit of each and every other Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.5 Covenants Appurtenant. The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.

2.6 Restrictions. This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

2.7 Membership. The Owners of Lots or Condominiums in the Annexed Territory shall automatically become Members of the Northwood II Community Association (the "**Maintenance Association**" described in Article IV of the Declaration).

### 3. Land Classifications.

3.1 Residential Area. The Residential Area (other than those portions, if any, comprising Maintenance Property owned as easements) in the Annexed Territory is hereby designated as Residential Area pursuant to Article II of the Declaration.

3.2 Maintenance Property. The Maintenance Property in the Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("**Multi-Phased Maintenance Property**") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("**Alternative Phase**").

3.2.1 Title to Maintenance Property. Merchant Builder hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the Declaration over their respectively owned Maintenance Property, if any, designated on **Exhibit "1"** hereto for easement ownership by the Maintenance Association, such easement to be effective upon the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on **Exhibit "1"** hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association prior to the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory, as further provided in Section 3.6.1 of the Declaration. The Maintenance Association

shall also maintain the Public Property (as defined in the Declaration), if any, depicted on *Exhibit "I"* hereto.

3.2.2 Commencement of Maintenance. The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on *Exhibit "I"* hereto, concurrently with the commencement of Common Assessments in the Annexed Territory; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

3.2.3 Relocation of Maintenance Property Easement. Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("*Interim Easement Area*") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

### 3.3 Drainage Easement Areas.

3.3.1 Drainage Easements. Merchant Builder has installed a subterranean perforated drainage line ("*Drainage Line*") adjacent to retaining wall(s) in the Annexed Territory and/or which run through certain Lots in the Residential Area out to the street. The Drainage Line is designed and intended to collect subsurface waters and convey them to the streets in the Properties. Merchant Builder reserves easements ("*Drainage Line Easements*") on, over, under and through certain Lots and/or other yard areas of certain Lots for the installation, maintenance, repair and replacement of the Drainage Line. The locations of the Drainage Line Easements are generally depicted on *Exhibit "RDE"* and *Exhibit "RWSE"* attached hereto. Each Lot on which a Drainage Line Easement is located is referred to herein as a "*Burdened Lot.*"

3.3.2 Drainage Easement Area Restrictions. Each Owner of a Burdened Lot agrees to maintain the portion of the Drainage Line located within the rear yard of such Owner's Lot so as to keep it unobstructed and in proper working condition at all times. No Owner of a Burdened Lot may build, construct, install or plant any Improvements of any kind (including, but not limited to, landscaping) in the rear yard area of such Owner's Lot which would obstruct, retard or otherwise interfere with the structural integrity or the proper operation of the Drainage Line, nor remove, alter or modify the Drainage Line in any manner whatsoever (including, but not limited to, connecting any other drain lines serving such Burdened Lot to the Drainage Line). Each Owner of a Burdened Lot will be responsible for any damage to the retaining wall and/or to any Lot which may result if such Owner interferes with the proper operation of the Drainage Line, or removes, alters or otherwise modifies the Drainage Line in any manner whatsoever. If an Owner of a Burdened Lot fails to maintain the portion of the Drainage Line located within such Burdened Lot in proper working condition, the Owner of any

“upstream” Lot, as generally depicted on *Exhibit “RWSE,”* (or Merchant Builder as the owner of any “upstream” portion of the Annexable Property) has an easement and right of access to the Drainage Line located within the Burdened Lot to inspect, maintain and repair the Drainage Line. The Owner of the applicable Burdened Lot shall promptly reimburse the Owner of any upstream Lot who made the necessary repairs for the full amount thereof. Each Owner of a Burdened Lot has an easement and right of access to inspect, maintain and repair the Drainage Line located on any "downstream" Lot, as generally depicted on Exhibit “RWSE” and is entitled to reimbursement for the cost of any repairs made.

4. Assessment Obligations. The rights and obligations of all Owners of Lots or Condominiums located in the Annexed Territory with respect to Maintenance Association assessments shall be as set forth in the Declaration and this Supplemental Declaration. All assessments provided for in the Declaration shall commence as to each Lot or Condominium in the Annexed Territory on first day of the first month following the month in which the first Close of Escrow occurs for the sale of a Lot or Condominium in the Annexed Territory.

5. Architectural Committee Rules/Views. The Board may but need not adopt and enforce supplemental Architectural Committee Rules which are solely applicable to the Annexed Territory; provided that such supplemental Architectural Committee Rules are first approved by Declarant pursuant to the Declaration. Such supplemental Architectural Committee Rules shall be in addition to any Architectural Committee Rules generally applicable to the Properties and may address design, color, siting and other matters within the jurisdiction of the Architectural Committee which are distinctive or unique to the Annexed Territory or the Condominium Project or Planned Development in which the Annexed Territory is located. There are no views in the Annexed Territory which are protected to any extent pursuant to the Declaration or this Supplemental Declaration, as further provided in the Declaration.

6. Airport Influence Area. The Properties are presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the Properties may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. Each Owner is advised to consider what airport annoyances, if any, are associated with the Properties before acquiring a Residence and to determine whether those annoyances are acceptable to such Owner.

7. Miscellaneous Provisions.

7.1 Amendment and Duration. Until the first Close of Escrow for the sale of a Lot or Condominium in the Annexed Territory, this Supplemental Declaration may be amended or terminated by Merchant Builder in the manner set forth in Article XII of the Declaration. Upon the first Close of Escrow in the Annexed Territory, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Section 2.3.6 of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

7.2 Enforcement and Non-Waiver. Reference is hereby made to the provisions of Section 12.5 of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

7.3 Restrictions Construed Together. All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration. Except as may be otherwise provided in this Supplemental Declaration or the Declaration, the rights and obligations of the Owners located in the Annexed Territory shall be the same as the rights and obligations of the other Owners now or hereafter affected by the Declaration.

7.4 Restrictions Severable. Notwithstanding the foregoing Section 6.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

7.5 Number/Captions. As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.

*[SIGNATURES ON FOLLOWING PAGE]*



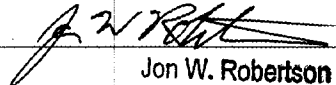
*[SIGNATURE PAGE TO  
SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II]*

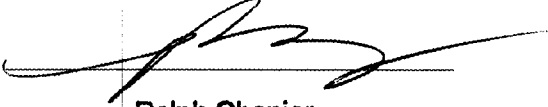
Merchant Builder has executed this Supplemental Declaration the day and year first written above.

“MERCHANT BUILDER”

CALIFORNIA PACIFIC HOMES, L.P.,  
a California limited partnership

By: California Pacific Homes, Inc., a California corporation, its General Partner


By:   
Its: Jon W. Robertson  
Sr. Vice President

By:   
Its: Ralph Chenier  
Vice President

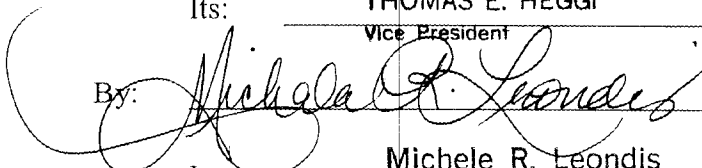
In accordance with Article II of the Declaration, Declarant approves the recordation of this Supplemental Declaration.

“DECLARANT”

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

By: 

Its: THOMAS E. HEGGI  
Vice President

By:   
Its: Michele R. Leondis  
Assistant Secretary

[NOTARY PAGE TO  
 SUPPLEMENTAL DECLARATION OF COVENANTS,  
 CONDITIONS, RESTRICTION AND RESERVATION  
 OF EASEMENTS FOR  
 NORTHWOOD II]

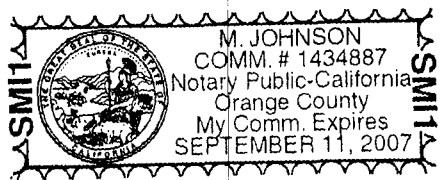
STATE OF CALIFORNIA             )  
   )  
   ) ss.  
 COUNTY OF ORANGE             )

On March 24, 2006, before me, M. Johnson, a Notary Public,  
 personally appeared Joel W. Robertson and Ralph Chewier

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

WITNESS my hand and official seal.

Signature M. Johnson



(Seal)

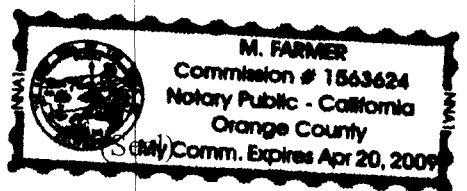
STATE OF CALIFORNIA             )  
   )  
   ) ss.  
 COUNTY OF ORANGE             )

On March 30, 2006, before me, M. Farmer, a Notary Public,  
 personally appeared Thomas E. Heggi and Michele R. Leendis

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

WITNESS my hand and official seal.

Signature M. Farmer



**SUBORDINATION**

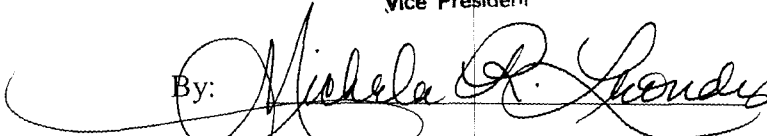
The undersigned, as Beneficiary of the beneficial interest in and under that certain Deed of Trust recorded on March 13, 2006, in the Official Records of Orange County, California, as Instrument No. 2006000162876, which Deed of Trust is between CALIFORNIA PACIFIC HOMES, L.P., a California limited partnership, as Trustor, FIRST AMERICAN TITLE INSURANCE COMPANY, as Trustee, and IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company, as Beneficiary, hereby expressly subordinates such Deed of Trust and its beneficial interests thereunder to the foregoing Supplemental Declaration, the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Northwood II described therein ("**Declaration**"), and to all easements to be conveyed to the Maintenance Association in accordance with the Declaration and the Supplemental Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Properties by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned will acquire title subject to the provisions of the Declaration and the Supplemental Declaration, which shall remain in full force and effect.

Dated: March 28, 2006

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

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

Its: THOMAS E. HEGGI  
Vice President

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

Its: Michele R. Leondis  
Assistant Secretary

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

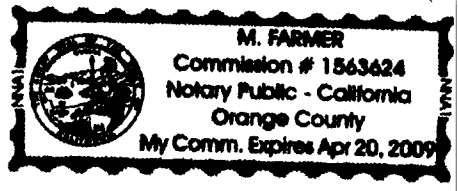
On March 30, 2006, before me, M. Farmer, a Notary Public,  
personally appeared Thomas E. Heggi and  
Michele P Leonds

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

WITNESS my hand and official seal.

Signature M. Farmer

(Seal)



**EXHIBIT "1"**

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

PARCEL NO. 1

Lots M and TT of Tract No. 16309, as shown on a Subdivision Map recorded in Book 845, Pages 12 *et seq.*, of Miscellaneous Maps, in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Lot(s) which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

PARCEL NO. 2

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not applicable.

PARCEL NO. 3 [Public Property to be maintained by the Maintenance Association]

Not applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT "1" CONTINUED**

**DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

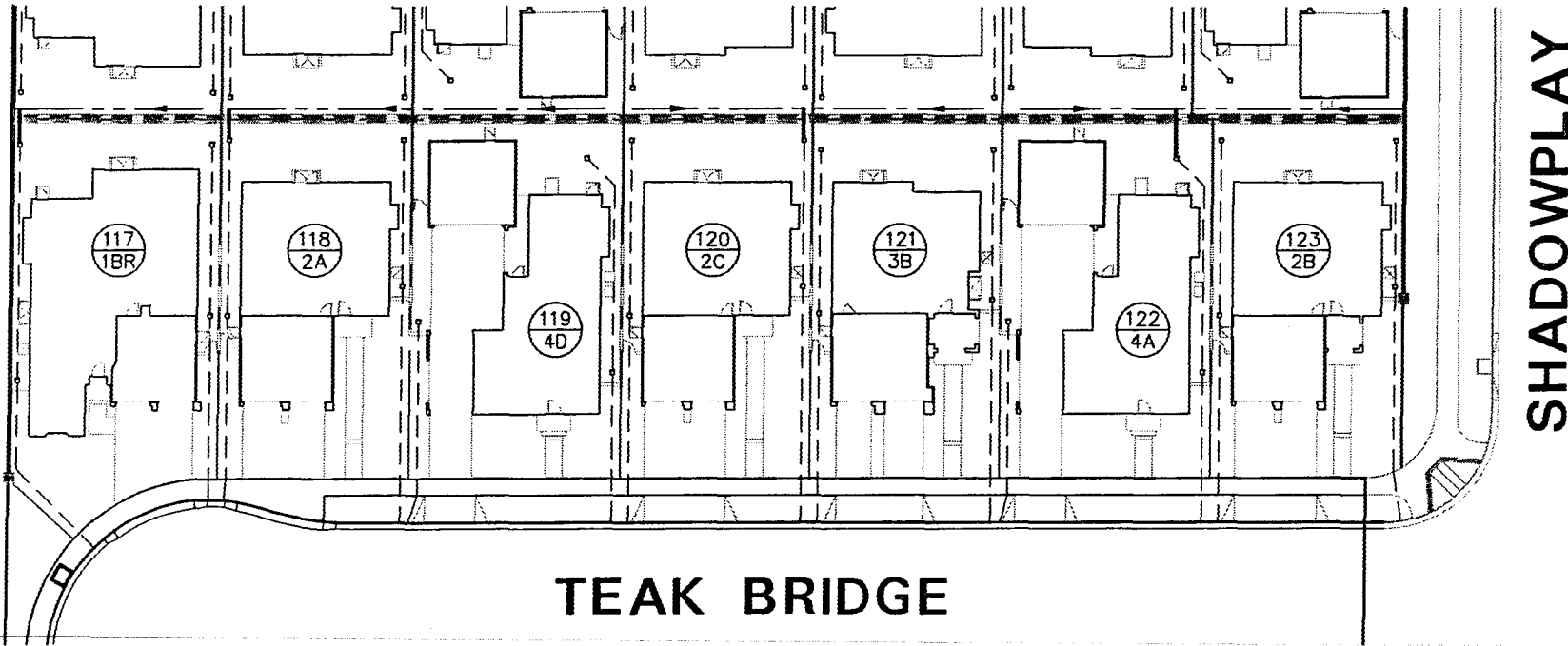
Not Applicable.

**EXHIBIT "RDE"**







**DEPICTION OF DRAINAGE LINE EASEMENT AREAS**  
**(Lines Running to Streets)**





**EXHIBIT RDE**  
**PHASE 10, TRACT NO. 16309**  
**CAMELLIA**  
**RETAINING WALL DRAIN EASEMENT**

Sheet 1 of 1



**LEGEND**

- RETAINING WALL 
- DRAIN PIPE 
- REAR YARD AREA 
- DRAIN PIPE 
- SUB-DRAIN PIPE 
- RETAINING WALL 

LOT NUMBER    
 PLAN TYPE  

NOT TO SCALE

**NOTE:**  
 THIS DEPICTION IS FOR ILLUSTRATION  
 PURPOSES ONLY AND ACTUAL AS-BUILT  
 CONDITION WILL CONTROL.  
 DATE: 12-02-03



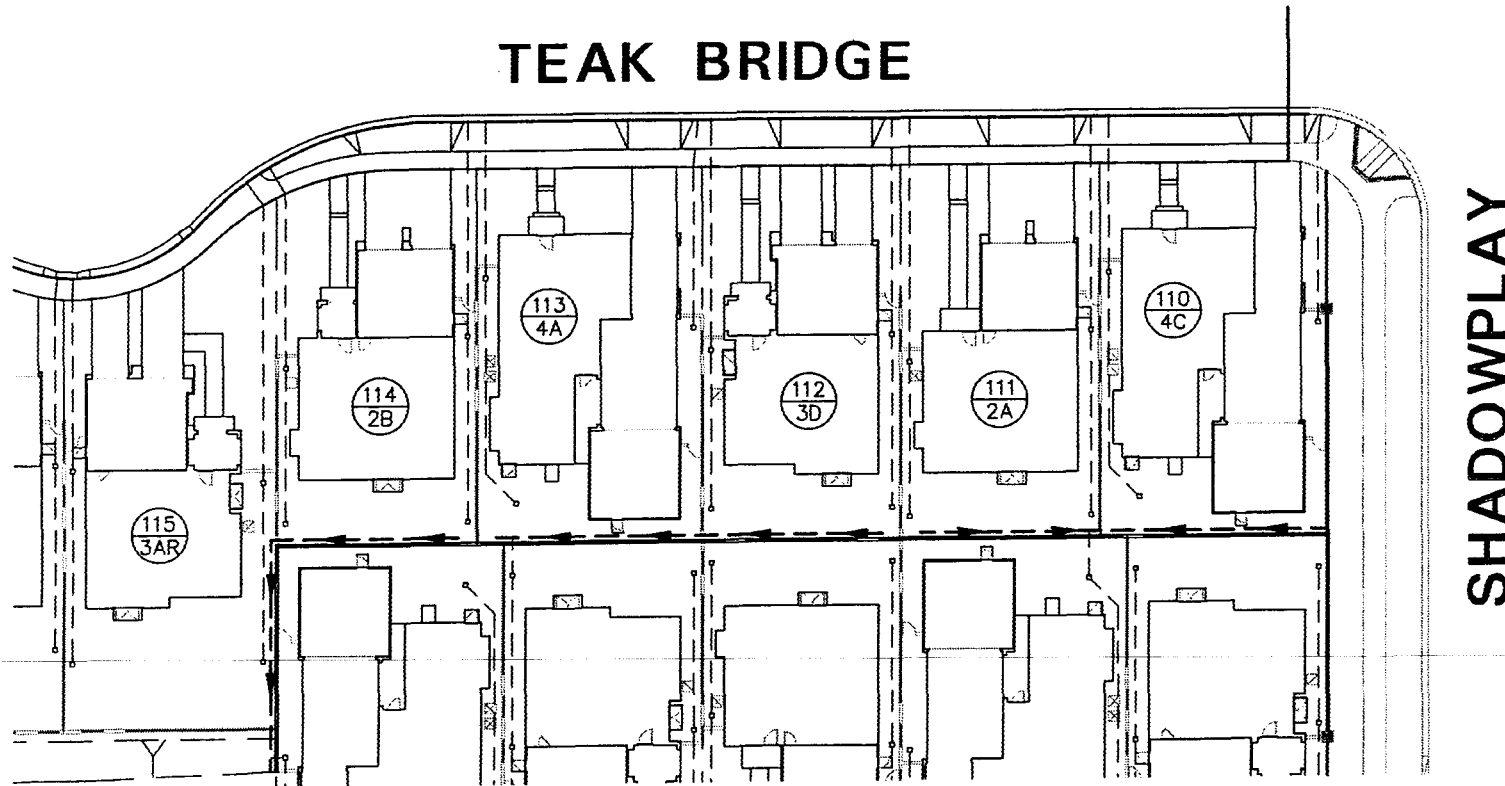
**EXHIBIT "RWSE"**

**DEPICTION OF DRAINAGE LINE EASEMENT AREAS**  
**(Rear Yard Areas)**

**EXHIBIT RWSE**  
**PHASE 10, TRACT NO. 16309**  
**CAMELLIA**  
**RETAINING WALL SUBDRAINAGE EASEMENTS**

Sheet 1 of 1

**TEAK BRIDGE**



**SHADOWPLAY**

**LEGEND**

SUBTERRANEAN PERFORATED  
DRAINAGE PIPE ADJACENT  
TO RETAINING WALL



LOT NUMBER \_\_\_\_\_  
PLAN TYPE \_\_\_\_\_



NOT TO SCALE

**NOTE:**  
THIS DEPICTION IS FOR ILLUSTRATION  
PURPOSES ONLY AND ACTUAL AS-BUILT  
CONDITION WILL CONTROL.

DATE: 12-02-03

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

**RECORDING REQUESTED BY:**

FIDELITY NATIONAL TITLE COMPANY  
SUBDIVISION DEPARTMENT



24.00

2006000222865 04:30pm 04/03/06

111 51 D02 7

0.00 0.00 0.00 0.00 18.00 0.00 0.00 0.00

**WHEN RECORDED MAIL TO:**

NORTHWOOD II COMMUNITY ASSOCIATION  
c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, California 92705

**WITH CONFORMED COPY TO:**

IRVINE COMMUNITY DEVELOPMENT COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(CAMELLIA PHASE 10, TRACT 16309)  
(ICDC)**

THIS SUPPLEMENTAL DECLARATION is made on March 28, 2006, by  
IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability  
company ("**Declarant**").

**P R E A M B L E:**

A. Declarant is the record owner of certain real property in the City of Irvine,  
County of Orange, State of California, described as:

Lot SS of Tract No. 16309, as shown on a Subdivision Map  
recorded in Book 845, Pages 12 *et seq.*, of Miscellaneous  
Maps, in the Office of the Orange County Recorder  
("**Annexed Territory**").

B. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements as amended ("**Declaration**"), for Northpark II Community Association ("**Properties**"). The Declaration was recorded on December 23, 2003, as Instrument No. 2003-001510997, and amended by the First Amendment to Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II recorded on March 26, 2004, as Instrument No. 2004-000251181, both in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

C. Declarant is the "Declarant", as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Declarant intends to provide for the maintenance of the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

D. Pursuant to Article II of the Declaration, Declarant now desire to add the Annexed Territory to the Properties subject to the Declaration.

THEREFORE, DECLARANT HEREBY DECLARES AS FOLLOWS:

1. Definitions. Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. Annexation of Territory and Establishment of Comprehensive Plan.

2.1 Comprehensive Plan. This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement of the Annexed Territory and for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Annexed Territory.

2.2 Annexation. Declarant hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3 Equitable Servitudes. The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory, as a servient tenement, for the benefit of each and every Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.4 Covenants Appurtenant. The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.

2.5 Restrictions. This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

3. Land Classifications.

3.1 Maintenance Property. The Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("**Multi-Phased Maintenance Property**") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("**Alternative Phase**").

3.1.1 Title to Maintenance Property. Declarant hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the Declaration over the Maintenance Property, if any, designated on **Exhibit "1"** hereto for easement ownership by the Maintenance Association, such easement to be effective on the first day of the first full calendar month following recordation of a deed conveying same to the Maintenance Association. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on **Exhibit "1"** hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association, as further provided in the Declaration. The Maintenance Association shall also maintain the Public Property (as defined in the Declaration), if any, depicted on **Exhibit "1"** hereto.

3.1.2 Commencement of Maintenance. The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on **Exhibit "1"** hereto on the first day of the first full calendar month following recordation of a deed conveying same to the Maintenance Association; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

3.1.3 Relocation of Maintenance Property Easement. Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("**Interim Easement Area**") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

4. Miscellaneous Provisions.

4.1 Amendment and Duration. Prior to the conveyance of the Maintenance Property to the Maintenance Association, this Supplemental Declaration may be amended or terminated by Declarant in the manner set forth in Article XII of the Declaration. Thereafter, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Article XII of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

4.2 Enforcement and Non-Waiver. Reference is hereby made to the provisions of Article XII of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

4.3 Restrictions Construed Together. All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration.

4.4 Restrictions Severable. Notwithstanding the foregoing Section 4.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

4.5 Number/Captions. As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.

*[SIGNATURES ON FOLLOWING PAGE]*

[SIGNATURE PAGE TO  
SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II]  
(ICDC)]

Declarant has executed this Supplemental Declaration the day and year first  
written above.

“DECLARANT”

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

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

Its: **THOMAS E. HEGGI**  
Vice President

By: Michele R. Leondis

Its: **Michele R. Leondis**  
Assistant Secretary

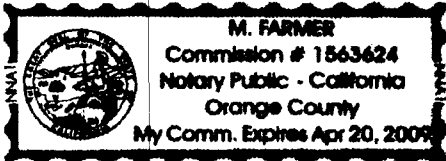
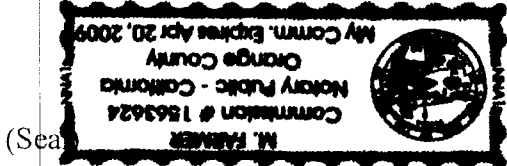
STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On March 29, 2006, before me, M. Farmer, a Notary Public,  
personally appeared Thomas E. Heggi and  
Michele R. Leondis

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

WITNESS my hand and official seal.

Signature M. Farmer



**EXHIBIT "1"**

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

**PARCEL NO. 1**

Lot SS of Tract No. 16309, as shown on a Subdivision Map recorded in Book 845, Pages 12 *et seq.*, of Miscellaneous Maps, in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Lot(s) which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

**PARCEL NO. 2**

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not Applicable.

**PARCEL NO. 3** [Public Property to be maintained by the Maintenance Association]

Not Applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.



**EXHIBIT "1" CONTINUED**

**DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

Not Applicable.

Recorded In Official Records, County of Orange

Tom Daly, Clerk-Recorder



264.00

RECORDING REQUESTED BY:

2003001510997 02:01pm 12/23/03

121 4 D02 R27 127

0.00 0.00 0.00 0.00 252.00 0.00 0.00 0.00

FIDELITY NATIONAL TITLE COMPANY  
SUBDIVISION DEPARTMENT

WHEN RECORDED RETURN TO:

DZIDA, CAREY & STEINMAN (JRS)  
2 Park Plaza, Suite 1140  
Irvine, CA 92614

7707595-KC

(Space Above For Recorder's Use)

DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II

**THESE CC&RS INCLUDE (1) A WAIVER OF THE RIGHT TO JURY TRIAL AND THE USE OF AN ALTERNATE DISPUTE RESOLUTION PROCESS IN THE EVENT OF DISPUTES INVOLVING THE DECLARANT AND/OR THE MAINTENANCE ASSOCIATION AND (2) A WAIVER OF THE RIGHT TO RECOVER PUNITIVE DAMAGES FROM DECLARANT OR ANY OTHER DECLARANT PARTY, AS PROVIDED IN SECTIONS 12.15 AND 12.16 HEREIN.**

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 AND RESERVATION OF EASEMENTS  
 FOR  
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**DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS  
FOR  
NORTHWOOD II**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS ("Declaration") is made by IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company ("Declarant") and LENNAR HOMES OF CALIFORNIA, INC., a California corporation ("Initial Merchant Builder"). Except as otherwise specified herein, the capitalized words and phrases used in this Declaration shall have the meanings specified in Article I hereof.

**P R E A M B L E:**

A. Initial Merchant Builder is or will be the owner and developer of certain real property (exclusive of public rights-of-way) in the City of Irvine, County of Orange, State of California, more particularly described in *Exhibit "A"* attached hereto and incorporated herein. The real property described in *Exhibits "A"* and *"B"* attached hereto constitutes the First Subdivision.

B. All of the Properties will be developed with certain common objectives, and Owners of Lots or Condominiums will have certain common interests. The Properties will be developed with objectives designed to preserve the value of and to benefit all the property within the Properties. The common development plan imposes reciprocal burdens and benefits on all of the Properties, such that each portion and the entirety of the Properties are both burdened by the provisions of this Declaration for the benefit of each other portion of the Properties, and benefitted by the burdens imposed on each other portion of the Properties.

C. Declarant and Initial Merchant Builder have deemed it desirable to create a "master planned community" (as defined in Section 2792.32 of Title 10 of the California Code of Regulations) which is also a common interest development pursuant to the Davis-Stirling Common Interest Development Act, including the Maintenance Association formed under the Nonprofit Mutual Benefit Corporation Law of the State of California, to which shall be delegated and assigned the powers and functions of (1) owning, maintaining and administering the Maintenance Property for the use of its Members and authorized guests, (2) administering and enforcing the Restrictions, and (3) collecting and disbursing the assessments and charges hereinafter created.

D. Declarant and Initial Merchant Builder hereby declare that all of the Properties shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the easements, restrictions, covenants, conditions and equitable servitudes contained in this Declaration, all of which are for the purpose of preserving and protecting the value,

attractiveness and desirability of the Properties, in furtherance of a comprehensive plan for the protection, maintenance, subdivision, improvement and sale of the Properties, or any portion thereof. The covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens and charges set forth herein shall (1) run with the Properties; (2) be binding upon all persons having any right, title or interest in the Properties, or any part thereof, their heirs, successive owners and assigns; (3) inure to the benefit of every portion of the Properties and any interest therein; (4) inure to the benefit of and be binding upon Declarant, the Merchant Builders, and their successive owners and each Owner and his or her respective successors-in-interest; and (5) may be enforced by Declarant, any Merchant Builder, any Owner or the Maintenance Association.

## ARTICLE I DEFINITIONS

Unless otherwise expressly provided, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified.

1.1. **Annexable Area.** Annexable Area means the real property described in *Exhibit "C,"* all or any portion of which property may be made subject to this Declaration pursuant to the provisions of Article II hereof.

1.2. **Architectural Committee.** Architectural Committee means the architectural and landscaping committee created pursuant to Article VIII hereof.

1.3. **Architectural Committee Rules.** Architectural Committee Rules means the Architectural Committee design standards, procedures, rules and guidelines which may be adopted by the Board pursuant to this Declaration, as amended.

1.4. **Articles.** Articles means the Articles of Incorporation of the Maintenance Association, as amended. A copy of the Articles is attached hereto as *Exhibit "D."*

1.5. **Assessment(s).** Assessment(s) means Common Assessments, Capital Improvement Assessments, Reconstruction Assessments and/or Special Assessments.

1.6. **Beneficiary.** Beneficiary means a Mortgagee under a Mortgage or a beneficiary under a deed of trust, as the case may be, and the assignees of such Mortgagee or beneficiary.

1.7. **Best Management Practices.** Best Management Practices means those certain structural and special structural (i.e., physical improvements) and non-structural (i.e., activities and educational information) water quality management practices set forth in, or otherwise required pursuant to, the Water Quality Management Plans prepared in connection with the development of the Properties. The Best Management Practices are designed and intended to control runoff and must be implemented by the Maintenance Association, any Project Association, and the Owners and other residents within the Properties. The structural and special structural Best Management Practices may include, without limitation, a bio-retention basin, dry

weather low flow diversions into bio-filtration (wetland) swales and in-stream detention areas, detention basins and water quality wetlands, catch basins and water quality filters, inlet trash racks and other storm drain filtration devices, energy dissipaters, "V" ditches, bench drains, bench drains, culverts, pipes, efficient irrigation technology and related storm drain and water quality facilities constructed on the Maintenance Property. The specific type of maintenance activity and the maintenance frequency matrix applicable to the structural and special structural Best Management Practices are set forth in the Water Quality Management Plan. The non-structural Best Management Practices generally require the Maintenance Association, any Project Association and the Owners and other residents within the Properties to be aware of the sensitive natural environment surrounding the Properties and to take appropriate actions to control runoff from the Properties. The non-structural Best Management Practices applicable to the Maintenance Association include, without limitation, (i) providing informational materials to the Owners and other residents within the Properties regarding general good housekeeping practices for protection of storm water quality; (ii) restricting certain activities addressed in the informational materials to protect the quality of water entering the storm drain system; (iii) managing on a regular monthly basis the landscaping on the Maintenance Property and Maintenance Areas, including, without limitation, using fertilizers and pesticides in accordance with the "Management Guidelines for Use of Fertilizers and Pesticides" which is included in the appendix to the Water Quality Management Plan; (iv) performing on a regular weekly basis maintenance consisting, at a minimum, of litter control, emptying of common trash receptacles and sweeping of any dumpster enclosures; (v) inspecting on a regular monthly basis, and if necessary, cleaning prior to the storm season (no later than October 1 each year), and after each significant rain event, the catch basins and grated inlets located on the Maintenance Property and (vi) sweeping on a regular monthly basis and prior to the storm season (no later than October 1 each year), the private streets and common parking areas. The non-structural Best Management Practices applicable to the Owners and other residents within the Properties may include, among other things, restricting certain activities to protect the quality of water entering the storm drain system (e.g., prohibiting the disposal of motor oil, paint products, car detergents and other pollutants into the storm drains in the Properties). The specific type of maintenance requirement and/or activity restriction and the maintenance frequency matrix applicable to the non-structural Best Management Practices may vary from tract to tract within the Properties such that Owners and other residents of some tracts may be subject to more stringent Best Management Practices than in other tracts. The Best Management Practices may be modified from time to time by the Declarant or any Local Governmental Agency having jurisdiction regarding water quality for runoff waters from the Properties in order to control runoff as the Properties develop and runoff conditions change. Compliance by the Maintenance Association, any Project Association, and the Owners and other residents within the Properties with the Best Management Practices, as they may be modified from time to time, may be monitored and enforced by any Local Governmental Agency having jurisdiction regarding water quality for runoff waters from the Properties.

1.8. **Board or Board of Directors.** Board or Board of Directors means the Maintenance Association Board of Directors elected in accordance with the Maintenance Association Bylaws and this Declaration.

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

1.10. **Bylaws.** Bylaws means the Maintenance Association's Bylaws adopted or to be adopted by the Board initially in the form of *Exhibit "E"* attached hereto, as amended.

1.11. **Capital Improvement Assessment.** Capital Improvement Assessment means a charge against the Owners and their Lots and Condominiums, representing the Maintenance Association's costs to install or construct any Improvements on any portion of the Maintenance Property.

1.12. **City.** City means the City of Irvine and its various departments, divisions, employees and representatives.

1.13. **Close of Escrow.** Close of Escrow means the date on which a deed or other such instrument is Recorded conveying a Lot or Condominium in the Properties pursuant to a transaction for which a Public Report is required, with the exception of (i) deeds between Declarant and (a) any successor to the rights of Declarant hereunder or (b) any Merchant Builder, or (ii) deeds between Merchant Builders.

1.14. **Common Area.** Common Area means that area within a particular Planned Development or Condominium Project within the Properties which is owned and/or maintained by the Project Association or Maintenance Association for the primary benefit of the Owners within such Planned Development or Condominium.

1.15. **Common Assessment.** Common Assessment means the annual or supplemental charge against each Owner and his Lot or Condominium, representing a portion of the ordinary Common Expenses for maintaining, improving, repairing, replacing, managing and operating the Maintenance Property, which charge shall be levied among all Owners and their respective Lots and Condominiums, as provided herein. Common Assessments shall include all late payment penalties, interest charges, attorneys' fees or other costs incurred by the Maintenance Association in its efforts to collect all assessments (other than Special Assessments) authorized pursuant to this Declaration.

1.16. **Common Driveway.** Common Driveway means any driveway serving more than one Lot that is shown as a separate legal parcel on a Subdivision Map and is owned by the Maintenance Association or which is designated in this Declaration or any Supplemental Declaration as a Common Driveway the Maintenance of which shall be the responsibility of the Maintenance Association. The Common Driveways in the First Subdivision are shown on *Exhibit "G."*

1.17. **Common Expenses.** Common Expenses means the actual and estimated costs of: maintaining, managing, operating, repairing and replacing the Maintenance Property; complying, implementing and maintaining Best Management Practices applicable to the Maintenance Property; unpaid Special Assessments, Reconstruction Assessments and Capital Improvement

Assessments, including those costs not paid by the Owner responsible for payment; managing and administering the Maintenance Association including, but not limited to, compensation paid by the Maintenance Association to Managers, accountants, attorneys and other consultants and employees; all utilities, gardening, and other services benefitting the Maintenance Property; management and maintenance of internet website(s) and related facilities; fire, casualty and liability insurance, worker's compensation insurance, and other insurance covering the Maintenance Property; maintenance of clustered mailbox structures (the mailboxes shall be the responsibility of the applicable Owner); bonding the Maintenance Association Directors, officers, agents, employees and Manager; taxes paid by the Maintenance Association; amounts paid by the Maintenance Association for discharge of any lien or encumbrance levied against the Maintenance Property, or portions thereof, including, without limitation, real property taxes or assessments, if any, levied against the Maintenance Property; all Reserves; and all other items incurred by the Maintenance Association pursuant to this Declaration.

1.18. **Condominium.** Condominium means a condominium as defined in Section 783 of the California Civil Code, or any similar California statute hereafter enacted.

1.19. **Condominium Project.** Condominium Project means a "condominium project" as defined in Section 1351(f) of the California Civil Code, or any similar California statute hereafter enacted, and all property designated in the Project Declaration or Supplemental Declaration for such Condominium Project as additional "phases of development" if such Condominium Project is developed in phased increments.

1.20. **Cost Center.** Cost Center means one or more Improvements or maintenance areas located on a portion or portions of the Maintenance Property where the expenses of operating, maintaining and replacing such Improvements or maintenance areas are borne solely or disproportionately by the applicable Cost Center Owners. The Cost Center(s) established in connection with the First Subdivision (collectively, the "**Initial Cost Centers**") and the Cost Center Owners for each such Cost Center are described on "**Exhibit "F"**" attached hereto and incorporated herein. All costs associated with the ownership, maintenance and operation of the Initial Cost Centers shall be levied solely and equally among the applicable Cost Center Owners. Additional Cost Centers may be designated in connection with future Phases of Development annexed to the Properties.

1.21. **Cost Center Owners.** Cost Center Owners means those Owners who are responsible for the costs of operating, maintaining and replacing Improvements or maintenance areas that are a part of a particular Cost Center.

1.22. **County.** County means the County of Orange and its various departments, divisions, employees and representatives.

1.23. **Declarant.** Declarant means IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company, its successors, and any other Person to which it assigns any of its rights hereunder by an express written and Recorded assignment. Any such assignment may include only specific rights of the Declarant hereunder and may be subject

to such conditions and limitations as IRVINE COMMUNITY DEVELOPMENT COMPANY LLC may impose in its sole and absolute discretion. As used in this Section, "successor" means any Person who acquires Declarant or substantially all of its assets, or who merges with Declarant by sale, merger, reverse merger, consolidations, sale of stock or assets, operation of law or otherwise. Declarant is a builder described in California Civil Code Section 1375.

1.24. **Declaration.** Declaration means this Declaration of Covenants, Conditions and Restrictions and Reservation of Easements, as amended.

1.25. **Dedicated Maintenance Property.** Dedicated Maintenance Property means any portion of the Maintenance Property which is subject to an unaccepted offer of dedication to a Local Governmental Agency for public access, use or maintenance. Dedicated Maintenance Property may include parks, trails, other recreational or open space amenities, landscaping areas or other Improvements. Dedicated Maintenance Property specifically excludes Public Property which is the maintenance responsibility of the Maintenance Association. Dedicated Maintenance Property shall be maintained and used by the Maintenance Association and the Owners in the same manner as all other Maintenance Property until the offer of dedication is accepted, whereupon (I) the Dedicated Maintenance Property shall be maintained by the accepting Local Governmental Agency and shall be available for use by the general public, and (ii) the Dedicated Maintenance Property shall no longer constitute a part of the Maintenance Property.

1.26. **Deed of Trust.** Deed of Trust means a Mortgage as further defined herein.

1.27. **DRE.** DRE means the California Department of Real Estate, or such other successor governmental agency of the State of California which administers the sale of subdivided lands pursuant to Sections 11000 *et seq.*, of the California Business and Professions Code, or any similar California statute hereafter enacted.

1.28. **Family.** Family means (i) a group of natural Persons related to each other by blood or legally related to each other by marriage or adoption, or (ii) a group of natural Persons not all so related who maintain a single common household in a Residence.

1.29. **FHA.** FHA means the Federal Housing Administration of the United States Department of Housing and Urban Development and any department or agency of the United States government which succeeds to the FHA's function of insuring notes secured by Mortgages on residential real estate.

1.30. **FHLMC.** FHLMC means the Federal Home Loan Mortgage Corporation created by Title II of the Emergency Home Finance Act of 1970, and its successors.

1.31. **First Subdivision.** First Subdivision means the real property described in *Exhibit "A"* and *Exhibit "B"* to this Declaration.

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

1.33. **GNMA.** GNMA means the Government National Mortgage Maintenance Association administered by the United States Department of Housing and Urban Development, and its successors.

1.34. **Improvement.** Improvement means all structures, landscaping and appurtenances thereto, including but not limited to buildings, outbuildings, walkways, clustered mailbox structures, sprinkler pipes, irrigation systems, storm drainage systems, garages, recreational facilities, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, hedges, windbreaks, plantings, planted trees and shrubs, fire breaks, poles, antennae, signs, exterior air conditioning and water softener fixtures or equipment. Improvement also means the following: (I) all exterior modifications to a Residence (including, but not limited to, painting the exterior of any Residence or other structure; changing the roof material, windows or exterior doors of any Residence or other structure; and building, constructing or erecting any room additions and/or demolishing or conducting any exterior remodeling); (ii) the demolition or destruction by voluntary action or any structure or appurtenance thereto of every type and kind; (iii) the grading, excavation, filling or similar disturbance of the surface of the land, including, without limitation, change of grade, change of grade level or change of drainage pattern; and (iv) the clearing or removal of landscaping.

1.35. **Local Governmental Agency.** Local Governmental Agency means the City, the County and any other regional, local or municipal governmental entity or agency and any special assessment district, maintenance district or community facilities district.

1.36. **Lot.** Lot means any lot or parcel of land shown upon any Recorded subdivision map, parcel map or lot line adjustment of any portion of the Properties, together with the Improvements, if any, thereon, but excepting any Common Area, the Maintenance Property and any Condominium in a Condominium Project.

1.37. **Maintenance Association.** Maintenance Association means Northwood II Community Association, a California nonprofit corporation (formed pursuant to the Nonprofit Mutual Benefit Corporation Law), its successors and assigns. The Maintenance Association is an "Association" as defined in Section 1351(a) of the California Civil Code.

1.38. **Maintenance Funds.** Maintenance Funds means the accounts created for Maintenance Association receipts and disbursements pursuant to Article VI hereof.

1.39. **Maintenance Guidelines.** Maintenance Guidelines means the guidelines for the ordinary and necessary maintenance, repair, replacement and preservation of Improvements within the Properties. Among other things, the Maintenance Guidelines specify suggested maintenance levels, recommended intervals for regularly scheduled maintenance items, and the scope of required maintenance practices and procedures.

1.40. **Maintenance Property.** Maintenance Property means all the real and personal property and Improvements which are owned in fee simple at any time by the Maintenance Association, or over which the Maintenance Association has an easement or encroachment permit for the use, care or maintenance thereof, for the common benefit, use and enjoyment of Owners, as further provided in Article III of this Declaration. The Maintenance Property includes (for maintenance purposes but not necessarily fee ownership) without limitation and as applicable (I) all walls, median strips, streets, slopes, berms, landscaping, fuel modification zones, parkway areas, parks, recreational facilities, and irrigation and drainage systems in public property or public rights-of-way in or near the Properties designated for maintenance by the Maintenance Association pursuant to this Declaration or any Supplemental Declaration, any agreement between a Local Governmental Agency and Declarant, a Merchant Builder or the Maintenance Association, or on any Recorded subdivision map, parcel map or lot line adjustment of the Properties, the maintenance of which is not the responsibility of a Local Governmental Agency, or a Project Association pursuant to a Project Declaration, (ii) the Maintenance Property Walls as hereafter defined, (iii) areas adjacent to the Properties over which the Maintenance Association is granted a maintenance easement, and (iv) Common Driveways. Title to all or any portion of the Maintenance Property may be subject to a prior dedication to a Local Governmental Agency. Any depiction of the Maintenance Property attached to this Declaration, any Supplemental Declaration or any Grant Deed conveying Maintenance Property is merely for illustrative purposes only and the "as built" condition shall control.

1.41. **Maintenance Property Wall.** Maintenance Property Wall means any wall or fence which (I) separates a Lot or Common Area from the immediately adjacent Maintenance Property or Public Property, regardless of whether such wall or fence (a) is located on the common property line separating the Maintenance Property or Public Property from the adjacent Lot or Common Area, or (b) located wholly or partially within the Maintenance Property, Public Property, Lot or Common Area immediately adjacent to such common property line;(ii) is constructed by Declarant or any Merchant Builder along or adjacent to the perimeter of the First Subdivision Annexable Area; and (iii) is designated as a Maintenance Property Wall on an Exhibit provided to the Manager by Declarant from time to time. Notwithstanding the foregoing, the term Maintenance Property Wall does not include any wall or fence which is the maintenance responsibility of a Project Association or a Local Governmental Agency. The depictions of the Maintenance Property Walls on such Exhibit are for illustrative purposes only and the "as built" condition shall control.

1.42. **Manager.** Manager means the Person, firm or agent employed as an independent contractor by the Maintenance Association to perform functions of the Maintenance Association, as limited by the Restrictions and the terms of the agreement between the Maintenance Association and such Person.

1.43. **Member.** Member means every Person holding a Membership in the Maintenance Association.



1.44. **Membership.** Membership means the voting and other rights and privileges of Members as provided in the Restrictions, together with the correlative duties and obligations contained therein.

1.45. **Merchant Builder.** Merchant Builder means a Person who acquires a portion of the Properties for the purpose of developing such portion for resale to the general public; provided, however, that the term "Merchant Builder" shall not mean Declarant but shall include the Initial Merchant Builder.

1.46. **Mortgage.** Mortgage means any mortgage or deed of trust or other conveyance of a Lot, Condominium or other portion of the Properties to secure the performance of an obligation, which will be reconveyed upon the completion of such performance. The term "Deed of Trust" or "Trust Deed" is synonymous with the term "Mortgage."

1.47. **Mortgagee/Mortgagor.** Mortgagee means a Person to whom a Mortgage is made and includes the beneficiary of a Deed of Trust. Mortgagor means a Person who mortgages his or its property to another (*i.e.*, the maker of a Mortgage), and includes the Trustor of a Deed of Trust. The term "Trustor" is synonymous with the term "Mortgagor," and the term "Beneficiary" is synonymous with the term "Mortgagee."

1.48. **Notice and Hearing.** Notice and Hearing means written notice and a hearing before the Board or the Architectural Committee, as applicable, as further provided in the Bylaws.

1.49. **Owner.** Owner means the Person or Persons, including Declarant and Merchant Builders, holding a fee simple or long-term ground leasehold interest of Record to a Lot or a Condominium. The term "Owner" includes a seller under an executory contract of sale, but excludes Mortgagees.

1.50. **Owner Parties.** Owner Parties means the family, guests, tenants, invitees and contract purchaser of an Owner.

1.51. **Person.** Person means a natural individual, a corporation, partnership or any other entity with the legal right to hold title to real property.

1.52. **Phase of Development.** Phase of Development means (i) the First Subdivision, (ii) any portion of the Properties covered by a Supplemental Declaration for which a Public Report has been issued by the DRE, unless otherwise defined in such Supplemental Declaration, (iii) any portion of the Properties designated as a Phase of Development in a Recorded Supplemental Declaration (including all amendments thereto) governing such property, and (iv) if no Public Report is issued and there is no Phase of Development designation in the Supplemental Declaration for a portion of the Properties, then all of the real property annexed pursuant to that Supplemental Declaration shall be a Phase of Development.

1.53. **Planned Development.** Planned Development means an area of the Properties developed as an integrated increment of this overall planned community, whether or not the increment is developed in phases. For purposes of this Declaration, a Planned Development may or may not qualify as a "planned development" as defined in Section 1351(k) of the California Civil Code, or any similar California statute hereinafter enacted.

1.54. **Project Association.** Project Association means any California nonprofit corporation or unincorporated association, or its successor, established in connection with a Project Declaration, the membership of which is composed of Owners of Lots or Condominiums within a Condominium Project or Planned Development.

1.55. **Project Declaration.** Project Declaration means any declaration of covenants, conditions and restrictions, or similar document, which affects solely a Condominium Project or Planned Development.

1.56. **Properties.** Properties means the First Subdivision, together with such portions of the Annexable Area which are annexed to the property which is subject to this Declaration pursuant to Article II hereof. The Properties are classified as a "common interest development" as defined in Section 1351(c) of the California Civil Code.

1.57. **Public Property.** Public Property means all walls, median strips, slopes, berms, landscaping, equestrian trails, sidewalks and irrigation and drainage systems on public property designated for maintenance by a Local Government Agency pursuant to this Declaration, any Supplemental Declarations, any agreement or Recorded map.

1.58. **Public Report.** Public Report means a Final Subdivision Public Report issued by DRE in compliance with Sections 11000 et seq. of the California Business and Professions Code, or any similar California statute hereafter enacted.

1.59. **Reconstruction Assessment.** Reconstruction Assessment means a charge against each Owner and such Owner's Lot or Condominium, representing a portion of the Maintenance Association's cost to reconstruct any Improvements on the Maintenance Property, pursuant to the provisions of this Declaration.

1.60. **Record, Filed, Recordation.** Record, Filed or Recordation means, with respect to any document, the recordation or filing of such document in the Office of the County Recorder.

1.61. **Reserves.** Reserves means those Common Expenses for which Maintenance Association funds are set aside pursuant to Article VI of this Declaration and Section 1365.5 of the California Civil Code for funding the periodic painting, maintaining, repairing and replacing of the major components of the Maintenance Property which would not reasonably be expected to recur on an annual or less frequent basis, such amounts to be determined annually by the Board pursuant to maintenance cost guidelines established in accordance with prudent property

management practices generally applied for "common interest developments" (as defined in Section 1351(c) of the California Civil Code) throughout the County.

1.62. **Residence.** Residence means a dwelling intended for use and occupancy by a single Family and located on or within a Lot or a Condominium Project.

1.63. **Residential Area.** Residential Area means all of the real property which is so classified in this Declaration or a Supplemental Declaration. The Residential Area is intended to be developed as single-Family Lots or Condominiums.

1.64. **Restrictions.** Restrictions means this Declaration, the Supplemental Declarations, the Articles, the Bylaws, the Architectural Committee Rules, the Rules and Regulations and the Maintenance Guidelines.

1.65. **Rules and Regulations.** Rules and Regulations means the Rules and Regulations adopted by the Board as provided herein.

1.66. **Special Assessment.** Special Assessment means a charge against a particular Owner or a particular Project Association, directly attributable to or reimbursable by such Owner or Project Association, equal to the cost incurred by the Maintenance Association for corrective action performed pursuant to the Restrictions, or levied by the Board as a reasonable fine or penalty for noncompliance with the Restrictions, plus interest and other charges on such Special Assessment as provided for in this Declaration.

1.67. **Supplemental Declaration.** Supplemental Declaration means any declaration of covenants, conditions and restrictions and reservation of easements or similar document adding real property to the Properties or supplementing this Declaration which may be Recorded pursuant to Article II of this Declaration.

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

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

1.70. **Water Quality Management Plans.** Water Quality Management Plans means (I) the Water Quality Management Plan for Planning Area 8A, City of Irvine, County of Orange, California prepared by the Keith Companies dated January 20, 2003, including all amendments

thereto; and (ii) all other water quality management plans that may be prepared for Declarant and/or any Merchant Builder for a portion of the Properties in compliance with applicable federal, state and local laws for the Properties (or portions thereof) and approved by the applicable Public Agencies. The Water Quality Management Plans address water runoff generated by the Residential Areas, the Maintenance Property and other development. Improvements within the Properties will be monitored by various Local Governmental Agencies (e.g., the Regional Water Quality Control Board and the City). A copy of each approved Water Quality Management Plan is available in the office of the Manager.

## ARTICLE II DEVELOPMENT; LAND CLASSIFICATIONS; ANNEXATION

2.1. **Interpretation of Declarations.** As each Phase of Development is developed, Declarant or Declarant and a Merchant Builder may, with respect thereto, Record one (1) or more Project Declarations and/or Supplemental Declarations which incorporate this Declaration by reference, which shall designate the Cost Centers (if any) and use classifications for the affected areas, and which may supplement this Declaration with such additional covenants, conditions, restrictions and land uses as Declarant may deem appropriate for the real property being annexed thereby ("Annexed Territory"). The provisions of any Supplemental or Project Declaration may impose such additional or more restrictive conditions, covenants, restrictions, land uses and limitations as Declarant or a Merchant Builder may deem advisable, taking into account the particular requirements of each Phase of Development; and any such conditions shall not be deemed to constitute a conflict with the provisions of this Declaration to the extent they can reasonably be interpreted to be consistent. If there is any conflict between any Supplemental Declaration and the Declaration, the provisions of the Supplemental Declaration shall control with respect to the Annexed Territory described in such Supplemental Declaration, although such documents shall be construed to be consistent with one another to the extent possible. If there is any conflict between any Project Declaration and the provisions of the Declaration or applicable Supplemental Declaration, this Declaration and applicable Supplemental Declaration shall control, although such documents shall be construed to be consistent with one another to the extent possible. A Project Declaration may, but need not, provide for the establishment of a Project Association, to be comprised of Owners of Lots in a Planned Development or Condominiums in a Condominium Project.

2.2. **Land Classifications.** The Properties, including each portion of Annexed Territory described in a Supplemental Declaration, shall be designated according to one or more of the following land classifications:

2.2.1. **Residential Area.** The portion of the First Subdivision described in *Exhibit "A"* is classified as Residential Area.

2.2.2. **Maintenance Property.** The portion of the First Subdivision, if any, described in *Exhibit "B"* is classified as Maintenance Property.

2.2.3. **Common Area.** The Common Area in the First Subdivision is described and/or depicted in *Exhibit "I"* attached hereto.

2.3. **Annexation of Annexable Area.**

2.3.1. **Timing.** Declarant and Merchant Builders may, but shall not be required to, at any time or from time to time, add to the Properties covered by this Declaration all or any portion of the Annexable Area by Recording a Supplemental Declaration with respect to the Annexed Territory covered thereby. Annexable Area may be added to the Properties without limitation as to time and without the approval of the Owners or Maintenance Association. Any proposed addition to the Properties of real property not located in the Annexable Area ("Other Area") shall require the approval of Owners representing at least two thirds (2/3) of the voting power of the Maintenance Association.

2.3.2. **Declaration Coverage.** Upon Recording a Supplemental Declaration covering any portion of the Annexable Area, the covenants, conditions and restrictions contained in this Declaration shall apply to the Annexed Territory in the same manner as if it were originally covered by this Declaration and originally constituted a portion of the Properties, subject to the provisions of the applicable Supplemental Declaration; and thereafter the rights, privileges, duties and liabilities of the Declarant with respect to the Annexed Territory shall be the same as with respect to the First Subdivision and the rights, obligations, privileges, duties and liabilities of the Owners, lessees and occupants of Lots and Condominiums within the Annexed Territory shall be the same as in the case of the Lots or Condominiums originally affected by this Declaration, subject to the provisions of the applicable Supplemental Declaration.

2.3.3. **Supplemental Declaration Content.** The Supplemental Declaration annexing real property to the Properties shall contain at least the following provisions:

(i) **Declaration Reference.** A reference to this Declaration, which reference shall state the date of Recordation hereof and the Instrument number or other relevant Recording data of the County Recorder's office;

(ii) **Extension of Comprehensive Plan.** A statement that the provisions of this Declaration shall apply to the Annexed Territory as set forth therein;

(iii) **Description.** A description of the Annexed Territory, including any Maintenance Property; and

(iv) **Land Classifications.** The land classifications of the Annexed Territory.

2.3.4. **Approval of Annexations.** Each Supplemental Declaration shall be signed by Declarant and by each Record owner of the Annexed Territory. For any annexation of Other Area, each Supplemental Declaration must be signed by the Record owner of the Other

Area and by an officer of the Maintenance Association, certifying that the approval of the requisite percentage of Owners has been obtained.

**2.3.5. Phasing; Amendments.** A Supplemental Declaration may cover one (1) or more Phases of Development, as designated in such Supplemental Declaration. A Supplemental Declaration which specifies that the Annexed Territory shall comprise a single Phase of Development may be amended prior to the commencement of Common Assessments within the Annexed Territory by an amendment to such Supplemental Declaration executed by all parties required to sign the Supplemental Declaration and thereafter Recorded, which amendment (i) specifies that the Annexed Territory shall comprise more than one (1) Phase of Development and identifies each such Phase of Development within the Annexed Territory, and (ii) identifies which portions of the Maintenance Property, if any, described in the previously Recorded Supplemental Declaration are to be included in each such designated Phase of Development.

**2.3.6. Effective Date of Annexation.** A Supplemental Declaration recorded on a subsequent Phase of Development shall become effective immediately upon the first Close of Escrow for the sale of a Lot or Condominium in such Phase of Development. Thereafter, the rights, obligations, privileges, duties and liabilities of the Owners in said Phase of Development shall be governed by this Master Declaration and the applicable Supplemental Declaration. A Supplemental Declaration that annexes only Maintenance Property shall become effective concurrently with the recordation of the grant deed conveying such Maintenance Property to the Maintenance Association, provided that a Supplemental Declaration that annexes only Maintenance Property owned the Maintenance Association as easements and/or Public Property shall become effective immediately upon recordation of such Supplemental Declaration.

**2.3.7. Deannexation and Amendment.**

(i) **By Declarant.** Declarant may unilaterally amend a Supplemental Declaration or delete all or a portion of a Phase of Development from coverage of this Declaration and the jurisdiction of the Maintenance Association, so long as Declarant is the Owner of all of such Phase of Development (other than Public Property and Dedicated Maintenance Property), and provided that (1) a Notice of Deletion of Territory or an amendment to the Supplemental Declaration, as applicable, is Recorded in the same manner as the applicable Supplemental Declaration was Recorded, (2) no Class A or Class B Maintenance Association vote has been exercised with respect to any portion of such Phase of Development, (3) Common Assessments have not yet commenced with respect to any portion of such Phase of Development, (4) there has been no Close of Escrow for the sale of any Lot or Condominium in such Phase of Development, (5) the Maintenance Association has not made any expenditures or incurred any obligations with respect to any portion of such Phase of Development, and (6) if such Phase of Development consists of area as to which VA or FHA has issued a "project approval" (*i.e.* has agreed to guarantee or insure loans secured by Mortgages on Lots or Condominiums located in such phase of Development), VA, FHA or both, as applicable, have approved such deannexation or amendment. Notwithstanding the foregoing, Declarant may also unilaterally amend a Supplemental Declaration as provided in Section 12.2.1 hereof.

(ii) **By Merchant Builder.** Merchant Builders may amend a Supplemental Declaration or delete all or any portion of a Phase of Development from coverage of this Declaration and the jurisdiction of the Maintenance Association, so long as such Merchant Builders or Declarant and such Merchant Builders together are the Owners of all of such Phase of Development (with the exception of Public Property and Dedicated Maintenance Property) and provided further, that all requirements of items (1) through (5) set forth in Section 2.3.7(I) above have been satisfied, and Declarant has consented in writing to such amendment or deletion by executing the appropriate Notice of Deletion of Territory or amendment to the Supplemental Declaration, as applicable.

### ARTICLE III MAINTENANCE PROPERTY; USES AND RESTRICTIONS

3.1. **Owners' Rights of Enjoyment.** Every Owner and, to the extent permitted by such Owner pursuant to the Restrictions, the Owner Parties who reside in such Owner's Lot or Condominium, shall have a right of ingress and egress and of enjoyment in, to and over the Maintenance Property which shall be appurtenant to and shall pass with title to every Lot and Condominium, subject to the Maintenance Association's right to exercise exclusive jurisdiction over and control of the Maintenance Property (other than Public Property) and the following provisions:

3.1.1. **Additional Maintenance Property.** The right of Declarant or any Merchant Builder to designate additional Maintenance Property pursuant to the terms of Article II hereof.

3.1.2. **Rules and Regulations.** The Maintenance Association's right to establish reasonable Rules and Regulations pertaining to the use of the Maintenance Property and any recreational and other facilities located thereon, including, but not limited to, the right and obligation of the Maintenance Association to enforce all parking restrictions for parking areas within the Maintenance Property as set forth in Section 3.3 below.

3.1.3. **Guests.** The Maintenance Association's right to reasonably limit the number of guests of Owners using the Maintenance Property and any facilities thereon. The Rules and Regulations may specify a maximum number of guests which an Owner may admit to the Maintenance Property recreational facilities at one time without first obtaining the Maintenance Association's prior written authorization. The Rules and Regulations may also require a deposit or other arrangements before Owners may use the Maintenance Property facilities for such large groups of guests.

3.1.4. **Fees.** The Maintenance Association's right to charge reasonable admission and other fees for the use of any facilities situated upon the Maintenance Property.

3.1.5. **Borrowings.** The Maintenance Association's right in accordance with the Articles, Bylaws and this Declaration, with the approval of Owners representing at least

sixty-seven percent (67%) of the Maintenance Association voting power, to borrow money for the purpose of improving, repairing or adding to the Maintenance Property and facilities and, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred pursuant to this subsection.

**3.1.6. Suspension of Rights.** The Maintenance Association's right to suspend the Membership rights and other rights and easements of any Owner and Owner Parties to use the Maintenance Property and the facilities and Improvements located thereon, for any period during which any assessment against such Owner's Lot or Condominium remains unpaid and delinquent; and for a period not to exceed thirty (30) days for any noncontinuing infraction of the Rules and Regulations of the Maintenance Association as more fully provided in the Bylaws. Any suspension of Membership rights or right to use any Maintenance Property facilities (i) shall be made only by the Board, after Notice and Hearing, and (ii) shall not limit or preclude pedestrian or vehicular access to such Owner's Lot or Condominium.

**3.1.7. Maintenance Property Transfers.** The Maintenance Association's rights set forth in Section 5.2.4 of this Declaration and Declarant's rights set forth in Article X hereof.

**3.1.8. Use By Declarant and Merchant Builders.** The right of Declarant and Merchant Builders (and their employees, sales agents, prospective purchasers, customers and representatives) to enter upon the Maintenance Property, for the benefit of Declarant or the Merchant Builders or the Annexable Area or any combination thereof, to complete the construction of any landscaping or other Improvement to be installed thereon, as well as the right to nonexclusive use of the Maintenance Property and the facilities thereof, without charge, for sales, display, access, ingress, egress, exhibition and special events for promotional purposes, which right Declarant hereby reserves; provided, however, that such use rights shall terminate on the earlier of (i) the expiration of fifteen (15) years after the first Close of Escrow for a Lot or Condominium in the Properties, or (ii) the date on which neither Declarant nor any Merchant Builder owns a Lot or Condominium in the Properties and all of the Annexable Area has been annexed to the Properties.

**3.1.9. Reconstruction of Improvements.** The Maintenance Association's right to reconstruct, replace or refinish any Improvement or portion thereof upon the Maintenance Property, in accordance with the Maintenance Guidelines, the Architectural Committee Rules and the original design, finish or standard of construction of such Improvement or of the other Improvements within any Phase of Development, as the case may be; or, if not in accordance with the Maintenance Guidelines, the Architectural Committee Rules and the original design, finish or standard of construction, only with the approval of Owners representing at least sixty-seven percent (67%) of the Maintenance Association voting power, and then subject to Section 12.3 hereof.

**3.1.10. Maintenance.** The Maintenance Association's right to maintain and repair the Maintenance Property, including without limitation the right to plant or remove trees, shrubs, flowers, ground cover and other vegetation upon any portion of the Maintenance



Property, and to replace any such vegetation or other landscaping Improvements which have been damaged or destroyed.

3.1.11. **Restricted Areas.** The Maintenance Association's right to reasonably restrict access to slopes and other landscaped areas, maintenance facilities, open space areas and similar areas of the Maintenance Property. A Supplemental Declaration may designate exclusive use areas within the Maintenance Property for the exclusive use or maintenance by one or more Owners (such as yards or common driveway areas). The Maintenance Association shall have exclusive control over all of the Maintenance Property except for Public Property and any exclusive use or maintenance area designated in a Supplemental Declaration or created by the Association pursuant to Section 5.2.4 below.

3.2. **Delegation of Use.** The Owner of a Lot or Condominium may delegate, in accordance with the Restrictions, the Owner's right of enjoyment of the Maintenance Property and facilities to Owner Parties who occupy the Owner's Lot or Condominium, subject to reasonable regulation by the Board. An Owner who does not reside in his Residence and who has delegated his right of enjoyment of the Maintenance Property to Owner Parties who occupy the Residence shall not be entitled to the use and enjoyment of any recreational facilities located on the Maintenance Property during the term of such delegation.

3.3. **Parking and Traffic Control.** Temporary guest or recreational parking is permitted within the Maintenance Property only within spaces and areas clearly marked for such purpose. The Maintenance Association, through the Board, is empowered to establish "parking" and restricted "guest parking" and "no parking" areas within the Maintenance Property in accordance with Section 22658 and Section 22658.2 of the California Vehicle Code, or any similar statute hereafter enacted, as well as to enforce these parking limitations through its officers and agents by all means lawful for such enforcement on public streets, including the removal of any violating vehicle. The Board is also authorized and empowered to request that the City or other applicable agency enforce the California Vehicle Code on any private streets within the Properties, including the Common Area and any Maintenance Property private streets, pursuant to applicable ordinances and provisions of the California Vehicle Code permitting governmental enforcement thereof.

3.4. **Easements for Pedestrian and Vehicular Traffic.** In addition to the general easements for use of the Maintenance Property reserved herein, Declarant hereby reserves to itself, to all future Owners within the Properties, and to every Owner and their respective agents, employees, guests, tenants, invitees and successors nonexclusive easements appurtenant to each Lot and Condominium in the Properties for vehicular and pedestrian traffic over any and all private streets and walkways, if any, within the Maintenance Property, subject to the parking provisions set forth in Section 3.3 above. Declarant, on behalf of itself and all Merchant Builders, reserves the right to grant similar easements to owners of property in the Annexable Area.

3.5. **Waiver of Use.** No Owner may exempt himself from personal liability for assessments duly levied by the Maintenance Association, nor release his Lot, Condominium or

other property in the Properties from the liens and charges hereof, by waiver of the use and enjoyment of the Maintenance Property or any facilities thereon or by abandonment of his Lot, Condominium or any other property in the Properties.

### 3.6. Title to the Maintenance Property.

3.6.1. **Transfer.** As each Phase of Development is developed, Declarant and/or a Merchant Builder, as applicable, will convey or cause to be conveyed to the Maintenance Association, in fee simple or by easement, the Maintenance Property (excluding Public Property) in such Phase of Development designated by Declarant in its sole discretion, free and clear of any and all monetary encumbrances and liens (other than nondelinquent taxes and assessments), subject to reservations, easements, covenants, and conditions then of record, including those set forth in this Declaration, or as contained in the deed conveying such Maintenance Property. Such conveyance shall be completed before the first Close of Escrow for a Lot or Condominium in such Phase of Development, or if only Maintenance Property is in such Phase of Development, concurrently with the Recordation of the Supplemental Declaration for such Phase of Development. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights hereunder or its easement for maintenance over Maintenance Property which is owned in fee by such Owner or Project Association.

3.6.2. **Commencement of Maintenance.** Notwithstanding any conveyance of Maintenance Property to the Maintenance Association, the Maintenance Association's responsibility to maintain the Maintenance Property located in any Phase of Development shall begin on the commencement of Common Assessments in such Phase of Development; except that, if such Phase of Development consists of only Maintenance Property, the Maintenance Association's maintenance responsibility therefor shall commence on the first day of the month immediately following the month in which the deed is Recorded conveying such property to the Maintenance Association. The same Maintenance Property ("Multi-Phased Maintenance Property") may be designated for Maintenance Association ownership in connection with several different Phases of Development (the "Alternative Phases"). Maintenance of Multi-Phased Maintenance Property, if any, shall commence on the earliest date that maintenance begins in any of the Alternative Phases in which such Multi-Phased Maintenance Property is designated for Maintenance Association ownership. If annexed Maintenance Property is inadvertently not conveyed to the Maintenance Association, the Maintenance Association shall nonetheless be responsible for the maintenance of same upon the first Close of Escrow for the sale of a Lot or Condominium in the Phase of Development in which such Maintenance Property is located and shall indemnify, defend and hold Declarant harmless in connection therewith. Prior to the commencement of the Maintenance Association's maintenance responsibility, such maintenance shall be the responsibility of Declarant or the Merchant Builder, as applicable, depending on whether such Phase of Development is being developed by Declarant or a Merchant Builder. Notwithstanding the foregoing, if the contractors or subcontractors of Declarant or a Merchant Builder are contractually obligated to maintain the landscaping or other Improvements on the Maintenance Property, the Maintenance Association shall not interfere with the performance of such warranty or other contractual maintenance obligations. Such maintenance performed by the contractors or subcontractors of Declarant or Merchant Builders shall not postpone the

commencement of Common Assessments pursuant to this Declaration nor entitle an Owner to claim any offset or reduction in the amount of such Assessments. If the Dedicated Maintenance Property or any other portion of the Maintenance Property is dedicated to and accepted for maintenance by a Local Governmental Agency, the Maintenance Association may but need not maintain the area if the Local Governmental Agency either fails to maintain the area or elects to cease maintaining the area.

**3.6.3. Character of Maintenance Property Improvements.** The nature, design, quantity, quality and all other attributes of the Maintenance Property, and the facilities and amenities thereon, shall be determined in Declarant's sole and absolute discretion. The Maintenance Association shall be unconditionally obligated to accept title to and maintenance responsibility for the Maintenance Property at the times specified in this Declaration. If a dispute arises between the Maintenance Association and Declarant or any Merchant Builder in connection with the nature, design, quantity, quality or other attributes of the Maintenance Property, the completion thereof, the state of title thereto or the acceptance of title or maintenance responsibility therefor (a "Maintenance Property Dispute"), then the Maintenance Association shall be obligated to accept title to and assume maintenance responsibility for such Maintenance Property and the Improvements and facilities thereon pending resolution of such Maintenance Property Dispute in accordance with Section 12.15.

**3.7. Taxes.** Each Owner shall execute such instruments and take such action as may reasonably be specified by the Maintenance Association to obtain separate real estate tax assessment of his Lot or Condominium. If, in the Maintenance Association's opinion, any taxes or assessments constitute a lien on the Maintenance Property, or any part thereof, they may be paid by the Maintenance Association and each Owner shall be obligated to pay or to reimburse the Maintenance Association for, as the case may be, the taxes and assessments assessed by the County Assessor or other taxing authority against the Maintenance Property and attributable to his own Lot or Condominium and interest in the Maintenance Property.

**3.8. Master Communications Systems, Telecommunications and Alarm Cable Easements.** There are hereby reserved for the benefit of Declarant, and its successors and assigns, together with the right to grant or transfer all or any portion of same, permanent, nonexclusive easements in gross on, over, under, across and through: (i) all private and public streets, roads, trails, sidewalks and walkways in the Properties (including any Lot or parcel shown as a street or road right-of-way on a Recorded subdivision map, parcel map or lot line adjustment on any portion of the Properties and any street or road right-of-way conveyed or dedicated in fee or easement to any governmental agency); (ii) all parkways which are adjacent to any such streets, roads, trails, sidewalks or walkways in the Properties; and (iii) all lettered Lots or parcels shown on a Recorded subdivision map, parcel map or lot line adjustment on any portion of the Properties, all for the purposes of constructing, installing (including the right to connect to existing facilities and systems), repairing, replacing, maintaining and using existing or future lines, connections, conduit and other facilities, equipment and systems for any or all of the following: (a) a community antenna television system; (b) alarm system cabling; and (c) electric, gas, cable, telephone, future information technology, water, sewer, drainage facilities and systems; provided, however, that the construction, installation, repair, replacement, maintenance

and use of such lines, connections, conduit and other facilities, equipment and systems shall not unreasonably interfere with an Owner's use of a Lot or Condominium. Declarant hereby reserves the ownership of all such lines, connections, conduit and other facilities, equipment and systems currently existing and owned by Declarant or hereafter installed by or conveyed to Declarant. There are hereby reserved for the benefit of Declarant, and its successors and assigns, together with the right to grant or transfer all or any portion of same, permanent, nonexclusive easements in gross on, over, under, across and through the dry utilities easement located on each Lot and Condominium in the Properties for the installation of fiber optic cable and/or other telecommunication and video (broadband) systems, and for the installation in the Residence of a low-voltage structured wiring systems (including RG6 coaxial cable, CAT5e cable, empty conduit and related outlets and other facilities).

**3.9. Maintenance Property Wall Easements.** Declarant reserves the benefit of the Maintenance Association (a) an easement over those portions of the Lots, Condominiums and Common Areas located within three (3) feet of the common property line separating the Maintenance Property from such Lots, Condominiums and Common Area for the purpose of accommodating footings and other structural components, if any, of the Maintenance Property Wall located on or immediately adjacent to such common property a boundary line, including any encroachments thereof onto to the Lots, Condominiums and Common Area; and (b) an easement of access, ingress and regress over the Lots, Condominiums and Common Areas reasonably necessary for the maintenance, repair and replacement of Maintenance Property Walls and related Improvements.

**3.10. Easements for Clustered Mailboxes.** In order to comply with the various requirements of the City, County and the United States Postal Service, clustered mailboxes may be installed within the Properties. Declarant hereby reserves for the benefit of Owners and the United States Postal Service easements on and over the affected portions of the Properties for delivery, deposit and retrieval of mail.

**3.11. Declarant Easements.** Declarant hereby reserves to itself, together with the right to grant or transfer same, easements of access, ingress and egress over all Maintenance Property, Lots, Common Area and Condominiums for installation and maintenance of utilities and drainage facilities shown on a Recorded subdivision map, parcel map or lot line adjustment for the Properties and for construction, installation, operation, replacement, repair and maintenance of all utility and service lines, systems and other devices and Improvements which may be reasonably necessary for the development and marketing of Residences within the Properties and Annexable Area, including, but limited to, water, sewer, gas, telephone, electrical, television and storm drain and water lines (collectively the "Facilities"). Each Owner by accepting a deed to a Residence expressly consents to the foregoing easements and rights of way and authorizes and appoints Declarant (so long as Declarant owns all or any portion of the Properties or Annexable Area) as attorney-in-fact of such Owner to execute any and all instruments particularly describing, locating, granting or transferring such easements or rights of way. Within the location of the Facilities' easements and rights of way, no Improvement shall be planted or placed which may interfere with the use, maintenance or operation of the Facilities or which may be in violation any ordinance or law of any applicable governmental authority. Declarant also

reserves the right to grant easements over the Maintenance Property, or any portion thereof for exclusive use by any Owner or Owners of a contiguous Lot or Condominium for which Close of Escrow has already occurred, as a yard, recreational, gardening or landscape area. Any such easement will be conveyed by the Declarant prior to conveying the last Lot or Condominium in the Properties or any portion of the Annexable Area. Such conveyance must be approved in advance by the Board of Directors of the Maintenance Association.

**3.12. Regular Inspection.**

**3.12.1. Duty to Inspect.** It shall be the duty of the Board to have the Maintenance Property inspected at least once every year.

**3.12.2. Purpose of Inspection.** The purpose of the inspection shall be to (i) determine whether the Maintenance Property is being maintained adequately in accordance with the Maintenance Guidelines and such other prudent maintenance practices appropriate for Improvements such as those comprising the Maintenance Property, (ii) identify the condition of the Maintenance Property and any Improvements thereon including the existence of any hazards or defects, and the need for performing additional maintenance, refurbishment, replacement, or repair, and (iii) recommend preventive actions (such as root pruning and tree removal) which may be taken to reduce potential maintenance costs to be incurred in the future.

**3.12.3. Scope of Inspection.** All of the Maintenance Property and Improvements thereon including, but not limited to, all structures, gates, walls, walkways, irrigation systems, landscaping, and drainage devices thereon shall be inspected.

**3.12.4. Experts and Consultants.** The Board may employ such experts and consultants as are necessary to perform the inspection and make the report required by this Section.

**3.12.5. Report to Owners.** The Board shall have a report of the results of the inspection of the Maintenance Property required by this section prepared. The report shall be furnished to Owners and Declarant within the time set forth for furnishing Owners with the Budget. The report shall include at least the following:

(i) a description of the condition of the Maintenance Property, including a list of items inspected, and the status of maintenance, repair and need for replacement of all such items;

(ii) a description of all maintenance, repair and replacement planned for the ensuing fiscal year and included in the Budget;

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

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

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

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

#### **ARTICLE IV MAINTENANCE ASSOCIATION**

4.1. **Organization.** The Maintenance Association is organized as a California corporation under the Nonprofit Mutual Benefit Corporation Law and is charged with the duties and vested with the powers prescribed by law, subject to the limitations and provisions of the Articles, Bylaws, and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed so as to be inconsistent with this Declaration. If there is any ambiguity in any provision of the Articles or Bylaws, then such provision shall be construed, to the extent possible, so as to be consistent with the provisions of this Declaration. Nothing in this Declaration shall prevent the creation, pursuant to Project Declarations, of Project Associations to assess, regulate, maintain or manage the portions of the Properties subject to such Project Declarations, or to own or control portions thereof for the common use or benefit of the Owners of Lots or Condominiums in those portions of the Properties subject to such Project Declarations.

4.2. **Membership.** Members of the Maintenance Association are Declarant, for so long as Declarant is entitled to cast a Class C vote pursuant to this Section, and each Owner (including Declarant and any Merchant Builder) of one (1) or more Lots or Condominiums in the Properties. Membership in the Maintenance Association is subject to the Restrictions. All Memberships in the Maintenance Association held by Owners are appurtenant to the Lot or Condominium owned by each Owner (other than Declarant's Class C Membership), and ownership of a Lot or Condominium is the sole qualification for an Owner's Membership in the Maintenance Association.

4.2.1. **Classes of Membership.** The Maintenance Association shall have three (3) classes of voting Membership as follows:

(i) **Class A.** The Class A Members are all Owners; however, Declarant and Merchant Builders shall not be Class A Members so long as there exists a Class B Membership. Class A Members are assigned one (1) vote for each Lot and/or Condominium which is both subject to Assessments and owned by such Member.

(ii) **Class B.** The Class B Members are Declarant and the Merchant Builders. The Class B Members are assigned three (3) votes for each Lot and/or Condominium which is both subject to Assessments and owned by such Member. The Class B Membership shall be converted to Class A Membership on the date ("Class B Termination Date") which is the earlier to occur of the following events:

(A) The Close of Escrow for the sale of Three Hundred (300) Lots and Condominiums in the overall development composed of the Properties and Annexable Area.

(B) The fifth (5th) anniversary of the first Close of Escrow in the Phase of Development for which a Final Subdivision Public Report was most recently issued by the DRE.

(C) The fifteenth (15th) anniversary of the first Close of Escrow for the sale of a Lot or Condominium in the Properties.

(iii) **Class C.** The Class C Member shall be Declarant irrespective of whether Declarant owns a Lot or Condominium in the Properties. The Class C Membership shall not be considered a part of the voting power of the Maintenance Association and Declarant is not entitled to exercise any Class C vote except for the purpose of electing those members of the Board which the Class C Membership is entitled to elect hereunder. The Class C Member is entitled to solely elect a majority of the members of the Board of Directors until the Class C Termination Date. The "Class C Termination Date" shall be the earlier to occur of the following events:

(A) The Close of Escrow for the sale of Three Hundred (300) Lots and Condominiums in the overall development composed of the Properties and Annexable Area.

(B) The fifth (5th) anniversary of the first Close of Escrow in the Phase of Development for which a Final Subdivision Public Report was most recently issued by the DRE.

(C) The fifteenth (15th) anniversary of the first Close of Escrow for the sale of a Lot or Condominium in the Properties.

**4.2.2. Transfer of Membership.** An Owner's Membership shall not be assigned, transferred, pledged or alienated in any way, except upon the transfer of title to the Owner's appurtenant Lot or Condominium, and then only to the purchaser or Mortgagee of such Lot or Condominium. Any attempt to make a prohibited Membership transfer is void and will not be reflected on the books of the Maintenance Association. Membership in the Maintenance Association is in addition to membership in any Project Association responsible for operating the Planned Development or Condominium Project in which the Owner's Lot or Condominium is located. Notwithstanding the foregoing, a Member who has sold his Lot or Condominium to a contract purchaser under an installment land sale contract may delegate his membership rights to the contract purchaser. Such delegation shall be in writing and must be delivered to the Board before such contract purchaser may exercise Membership privileges. However, the contract seller remains liable for all charges and assessments attributable to his Lot or Condominium until fee title to the Lot or Condominium is transferred. If the Owner of any Lot or Condominium

fails or refuses to transfer the Membership (registered in his name) to the purchaser of such Owner's Lot or Condominium upon transfer of fee title thereto, the Board of Directors may record the transfer on the Maintenance Association's books. The Maintenance Association may levy a reasonable transfer fee against new Owners and their Lots and Condominiums (which fee shall be added to the Common Assessments chargeable to such new Owners) to reimburse the Maintenance Association for the administrative costs of transferring the Memberships to the new Owners on the Maintenance Association's records.

**4.2.3. Suspension of Membership Rights.** The Board may suspend the Membership rights of any Member, including the right to vote at any meeting of the Members, for any period during which any Assessment against such Member and the Lot or Condominium owned by such Member is delinquent. Any such suspension for nonpayment of any Assessment shall not constitute a waiver or discharge of the Member's obligation to pay the Assessments provided for herein.

**4.3. Specified Actions.** Except as provided in Section 12.12 of this Declaration and Section 4.8 of the Bylaws, as long as there exists a Class B Membership, all Voting Proposals which the Restrictions require to be approved by the vote of Owners representing a majority or greater percentage of the total voting power of the Maintenance Association ("Specified Actions") shall require the approval of Owners casting the specified percentage of the voting power of both the Class A and the Class B Membership. Except as provided in Section 12.12 of this Declaration and Section 4.8 of the Bylaws, upon termination of the Class B Membership all Specified Actions shall require the approval of (1) the specified percentage of the voting power of all Owners, *and* (2) such specified percentage of the voting power of the Owners exclusive of votes attributable to Declarant and all Merchant Builders. The term Specified Action as used herein specifically excludes matters requiring a mere majority vote of a quorum of Owners as defined in the Bylaws.

## ARTICLE V FUNCTIONS OF MAINTENANCE ASSOCIATION

**5.1. Permitted Functions.** The Maintenance Association is formed exclusively for those social welfare purposes and activities which are specifically and directly related to (I) equipping, maintaining, operating and utilizing the Maintenance Property, including the social, recreational and other Improvements thereon, (ii) collecting assessments to finance the maintenance and utilization of the Maintenance Property, and (iii) administering and enforcing the Restrictions (collectively, the "Permitted Functions"). Notwithstanding the foregoing, Permitted Functions do *not* include those activities prohibited by Section 5.4 below. The funds and resources of the Maintenance Association shall be utilized solely and exclusively for the direct costs of Permitted Functions. Nothing in this Subsection 5.1 shall be deemed to preclude the use of the Maintenance Property Facilities by Declarant or the Merchant Builders for promotional special events and other purposes as authorized by Section 3.1.8.

**5.2. Powers and Duties.** The Maintenance Association has all of the powers of a California Nonprofit Mutual Benefit Corporation, subject only to such limitations upon the



exercise of such powers as are expressly set forth in the Restrictions. Subject to the Restrictions, the Maintenance Association has the power to perform any and all lawful acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Maintenance Association. Subject to the foregoing provisions, the Maintenance Association, acting through the Board, has:

5.2.1. **Assessments.** The power and duty to levy Assessments on the Owners of Lots or Condominiums in Phases of Development in which Assessments have commenced and to collect and enforce payment of such Assessments in accordance with the provisions of Article VI hereof.

5.2.2. **Repair and Maintenance.** The power and duty to accept title to and to paint, plant, maintain and repair in a neat and attractive condition, all Maintenance Property and all private streets, trails and drives, open space, slopes, private drainage facilities, streetscape architecture, landscaping, utilities, recreational facilities, Maintenance Property Walls, fences or other Improvements thereon, in a safe, sanitary and attractive condition and in good order and repair, and to pay for utilities, gardening and other necessary services for the Maintenance Property. Subject to the Restrictions, all of the foregoing obligations of the Maintenance Association shall be discharged when and in such manner as the Board determines in its judgment to be appropriate, provided that the Maintenance Association shall (i) comply with the Maintenance Guidelines, and (ii) conform with the requirements of any agreements entered into between Declarant or any Merchant Builder and a Local Governmental Agency pertaining to the Properties including, without limitation, any agreements providing for maintenance of Public Property by the Maintenance Association.

(i) **Exclusions from Maintenance.** Notwithstanding the immediately preceding Subsection, the Maintenance Association shall have no responsibility to provide the services referred to in this Subsection with respect to (a) any Dedicated Maintenance Property which is accepted by a Local Governmental Agency for maintenance, (b) any other Improvement (including without limitation parkway areas, median strips, trails and sidewalks) which is accepted for maintenance by any state or Local Governmental Agency, (c) any Improvement which is the maintenance responsibility of any Project Association pursuant to a Project Declaration, or (d) except as otherwise provided in any Supplemental Declaration the exposed surface (including stucco repairs and painting but excluding wrought iron or glass), of any wall or fence which immediately adjoins and faces any Lot, Condominium or Common Area, regardless of whether such wall is (1) located on the common property line separating the Maintenance Property or Public Property from the Lot, Condominium or Common Area, or (2) located wholly or partially within the Maintenance Property, Public Property, Lot or Common Area immediately adjacent to such common property line. Such responsibility shall be that of the applicable agency, entity, or adjacent Owner or Project Association.

(ii) **Compliance with NPDES.** The Properties are subject to all Federal, State and local requirements of the National Pollutant Discharge Elimination System ("NPDES") adopted pursuant to the Federal Clean Water Act. Pursuant to a NPDES General Permit adopted by the State Water Resources Control Board and the County NPDES Storm

Water Permit Program, Drainage Area Management Plan ("DAMP"), the County has adopted the Water Quality Management Plan, which identifies certain Best Management Practices to reduce the discharge of pollutants to storm water facilities. In performing its maintenance obligations pursuant to the Restrictions, the Maintenance Association shall comply with all DAMP requirements and the Water Quality Management Plan and Best Management Practices, as amended from time to time.

(iii) **Modifications by Owners and Project Associations.** No Owner or Project Association shall place or install any sign or other Improvement or alter or remove the Improvements on the Maintenance Property (including, without limitation, any Maintenance Property Wall adjacent to a Lot, Condominium or Common Area) unless such placement, installation or alteration is first approved in writing by the Board. No Owner or Project Association shall affix any object, vegetation or device to any Maintenance Property Wall, pierce the stucco surface or otherwise expose the interior portion of an Maintenance Property Wall to the elements or install landscaping, irrigation systems or other Improvements on the Owner's Lot or the Common Area in such proximity or manner so as to undermine or otherwise impair the structural integrity of any Maintenance Property Wall or impair the weather resistant finish thereon. If any Owner or Project Association allows any object, vegetation or device to be attached to any Maintenance Property Wall and it becomes necessary for the Maintenance Association to perform maintenance on such Maintenance Property Wall, the Maintenance Association shall be entitled to require the Owner to remove such object, vegetation or device prior to performing such maintenance and if such object, vegetation or device is not so removed, the Maintenance Association shall be entitled to remove same and the Maintenance Association shall have no liability for any loss or damage to such object, vegetation or device in connection with the removal thereof and the completion by the Maintenance Association of maintenance of the Maintenance Property Wall. There shall be no building construction over any portion of the Maintenance Property over which an open space, scenic or public resource easement has been dedicated to any Local Governmental Agency.

5.2.3. **Utility Services.** The power and duty to obtain for the benefit of the Maintenance Property, commonly metered water, gas, electric or other utility services necessary for the maintenance of the Maintenance Property. The Maintenance Association shall also be responsible for maintenance, repair and replacement of any private fire hydrant system located on the Maintenance Property.

5.2.4. **Easements and Rights-of-Way.** The power but not the duty to grant and convey to any Person easements, licenses or rights-of-way in, on, over or under the Maintenance Property and fee title to parcels or strips of land which comprise a portion of the Maintenance Property, for purposes consistent with the terms of this Declaration, including without limitation easements for (i) roads, streets, walks, trails, driveways, parkways, landscaping, park areas, open space areas and slope areas; (ii) overhead or underground lines, cables, wires, conduits, or other devices for the transmission of power or signals for lighting, heating, television, telephone and other similar purposes; (iii) sewers, storm water drains, retention basins and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, (iv) exclusive easements or fee title to Owners for backyard, sideyard, and front yard purposes so long as the Board makes a finding that

the use and maintenance of such area is more appropriately placed with the Owner rather than the Maintenance Association; and (v) any similar Improvements, facilities or uses not inconsistent with the use of such property pursuant to this Declaration.

5.2.5. **Manager.** Subject to Section 5.4, the power and duty to contract with a professional Manager for the Maintenance Association. Except as otherwise approved by the DRE and as otherwise provided in this Declaration, any such management agreement, or any agreement providing for services by Declarant to the Maintenance Association, shall be for a term not in excess of one (1) year (renewable by agreement of the parties for successive one (1) year periods), and any such agreement shall be terminable by the Maintenance Association, acting through the Board, at any time without cause or the payment of a penalty or termination fee upon not more than ninety (90) days' written notice.

5.2.6. **Rights of Entry and Enforcement.** The power but not the duty, after Notice and Hearing, to enter any Lot or Common Area without being liable to any Owner or Project Association, except for physical damage caused by such entry, for the purpose of enforcing by peaceful means the provisions of this Declaration, or for the purpose of maintaining or repairing any such Lot or Common Area if for any reason whatsoever the responsible Owner or Project Association fails to maintain and repair any such area as required by the Restrictions; provided that no items of construction on any such Lot or Common Area may be altered or demolished except pursuant to judicial proceedings. The cost of any enforcement action or any maintenance and repair completed in compliance with these provisions is the responsibility of the Owner or Project Association and may be assessed against the responsible Owner or Project Association, as a Special Assessment. The responsible Owner or Project Association shall pay promptly all amounts due for such work, and the costs and expenses of collection. Any physical damage caused by entry upon any Lot or Common Area shall be repaired by the entering party. The Maintenance Association may also commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Restrictions and to enforce, by mandatory injunctions or otherwise, all of the provisions of the Restrictions. If an action is brought by the Maintenance Association, the prevailing party is entitled to recover reasonable attorneys' fees.

5.2.7. **Legal and Accounting Services.** Subject to Section 5.2.10, the power but not the duty, if deemed appropriate by the Board, to retain and pay for legal and accounting services necessary or proper in operating the Maintenance Property, enforcing the Restrictions, and performing any of the other Maintenance Association duties or rights.

5.2.8. **Contracts.** Except as otherwise approved by the DRE or as provided in this Declaration or a Supplemental Declaration, neither Declarant nor any of its agents shall enter any contract which would bind the Maintenance Association or the Board for a period in excess of one (1) year.

5.2.9. **Audit.** The power and duty to permit any Owner, who may be accompanied by an accountant or other consultant, at said Owner's sole expense to audit or inspect the Maintenance Association's books and records; provided that such audit or inspection

is made during normal business hours and without unnecessary interference with the operations of the Manager or the Maintenance Association.

5.2.10. **Litigation.** Subject to Sections 5.4, 12.5, 12.15 and 12.16, the power but not the duty to initiate, defend, settle or intervene in mediation, arbitration, judicial or administrative proceedings on behalf of the Maintenance Association in matters pertaining to (I) the application or enforcement of the Restrictions and (ii) damage to the Maintenance Property. Any recovery by the Maintenance Association with respect to any damage to or defect in the Maintenance Property shall be utilized solely for the purpose of paying for the costs of correcting such Maintenance Property damage or defect.

5.2.11. **Release Security.** The power and duty to release security and exonerate bonds posted by Declarant to secure obligations to the Maintenance Association immediately upon satisfaction of the obligations giving rise to such security.

5.2.12. **Website.** The power but not the duty to establish and maintain a website and provide internet services to the Owners and other residents within the Properties.

5.2.13. **Acceptances and Conveyances of Property.** The power to join with Declarant, a Merchant Builder, a Project Association, an Owner, a Local Governmental Agency, utility company, or other person or entity in the execution of a lot line adjustment, grant deed and/or grant of easement for the purpose of accepting or conveying title to property, including without limitation, any portion of the Maintenance Property, and in furtherance thereof to deannex such portion of the Maintenance Property from this Declaration, as necessary to transfer title, provided and on condition that any such lot line adjustment and/or conveyance is made for any of the following purposes: (I) to eliminate encroachments due to engineering errors or errors in construction of any Improvements upon any of the affected property, (ii) to permit changes in the development plan in circumstances where such changes are the result of topography, obstruction, hardship, aesthetic considerations or environmental conditions, (iii) to fulfill the requirement of a Local Governmental Agency, or (iv) to transfer the burden of management and maintenance of any Maintenance Property which in the reasonable judgment of the Board is generally inaccessible or is not likely to be of general use or benefit to the membership at large of the Maintenance Association.

5.3. **Rules and Regulations.** The Board may adopt such Rules and Regulations as it deems proper for the use, occupancy and maintenance of the Properties. To be effective, a copy of the Rules and Regulations, as adopted, amended or repealed, must be posted in a conspicuous place in the Maintenance Property or must be mailed or otherwise delivered to each Owner. When mailed, delivered or posted, the Rules and Regulations shall have the same force and effect as if they were set forth herein; provided, however, that the Rules and Regulations shall be enforceable only to the extent that they are consistent with this Declaration, any applicable Supplemental Declaration, the Articles and the Bylaws, and may not be used to amend any of such documents.

5.4. **Prohibited Activities.** Notwithstanding any other provisions of this Declaration or the other Restrictions, the Maintenance Association is expressly prohibited from undertaking or performing any of the following activities, or expending or otherwise utilizing Maintenance Association funds or resources therefor, and the following activities shall not constitute Permitted Functions of the Maintenance Association:

5.4.1. **Property Manager.** The Maintenance Association shall not hire any full time employee(s); rent, lease or otherwise furnish offices, personnel or other facilities, whether located within the Properties or off-site; nor utilize any Maintenance Property as office space or other facilities for an "on-site" Manager or for performing other Maintenance Association day-to-day administrative activities. The Maintenance Association Manager shall at all times be a professional manager employed as an independent contractor officed at its own place of business.

5.4.2. **Offsite Nuisances.** The Maintenance Association shall not use any Assessments or expend Maintenance Association funds or resources to abate any annoyance or nuisance emanating from outside the physical boundaries of Phases of Development in which Common Assessments have commenced.

5.4.3. **Political Activities.** The Maintenance Association shall not (I) participate in Federal, State and local political activities or activities intended to influence a governmental action affecting areas outside the boundaries of the Properties (e.g., endorsement or support of (1) legislative or administrative actions by a Local Governmental Agency or state or federal agency which affect persons or property outside the Properties, (2) candidates for elected or appointed office, and (3) ballot proposals) or (ii) conduct, sponsor, participate in or expend funds or resources on any activity, campaign or event, including without limitation any social or political campaign, event or activity, which does not directly and exclusively pertain to a Permitted Function.

## ARTICLE VI FUNDS AND ASSESSMENTS

6.1. **Obligation.** Declarant and any Merchant Builder, for each Lot or Condominium owned by Declarant or such Merchant Builder which is subject to Assessment, hereby covenants and every other Owner of any Lot or Condominium, by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in such deed or such other instrument, is deemed to covenant to pay to the Maintenance Association (I) annual Common Assessments for Common Expenses, (ii) Capital Improvement Assessments, (iii) Special Assessments, and (iv) Reconstruction Assessments; such assessments to be established and collected as hereinafter provided. All Assessments other than Special Assessments, together with interest, costs, and reasonable attorneys' fees for the collection thereof, shall be a charge on the land and shall be a continuing lien upon the Lot or Condominium against which such assessment is made (provided that Special Assessments liens cannot be enforced under Sections 2924, 2924(b) and 2924(c) of the California Civil Code). The personal obligation of assessments shall not pass to the successors-in-title to any Owner, unless expressly assumed by them.

6.2. **Maintenance Funds.** The Board shall (i) cause appropriate financial statements for any Cost Center to be regularly prepared and distributed to the applicable Cost Center Owners concurrently with the delivery to Members of financial statements pertaining to Common Assessments; and (ii) review on at least a quarterly basis the applicable accounts and statements pertaining to such Cost Center. The Board shall Budget, establish and maintain at least the following separate accounts (the "Maintenance Funds") into which shall be deposited all monies paid to the Maintenance Association, and from which disbursements shall be made, as provided herein, in the Maintenance Association's performance of its functions under the Restrictions.

6.2.1. **General Operating Fund.** A General Operating Fund for current expenses of the Maintenance Association, exclusive of current expenses attributable to the Improvements and maintenance responsibilities included within the Cost Centers, if any.

6.2.2. **General Reserve Fund.** An adequate General Reserve Fund for the deposit of Reserves attributable to Improvements within the Maintenance Property, exclusive of Reserves attributable to Improvements included in the Cost Centers, if any.

6.2.3. **Cost Center Operating Fund.** A Cost Center Operating Fund for current expenses of each Cost Center, if any, which has been completed and is subject to maintenance by the Maintenance Association.

6.2.4. **Cost Center Reserve Fund.** An adequate Cost Center Reserve Fund for the deposit of Reserves attributable to each Cost Center, if any, which has been completed and is subject to maintenance by the Maintenance Association.

6.2.5. **Miscellaneous Maintenance Funds.** Any other Maintenance Funds which the Board of Directors may deem necessary.

6.3. **Disbursements.** All amounts deposited into the Maintenance Funds must be used solely for the purposes authorized by the Restrictions, as amended. The Board is authorized to transfer interest and other earnings on the General Reserve Fund and Cost Center Reserve Fund into the respective Operating Fund in order to satisfy income taxes payable by the Maintenance Association attributable to such interest and earnings. The signatures of either two (2) Directors of the Maintenance Association or one (1) Director and one (1) officer of the Maintenance Association who is not also a Director of the Maintenance Association shall be required for the withdrawal of money from the Maintenance Association's Reserve funds. Disbursements from the particular Maintenance Funds shall be limited to specific purposes as follows:

6.3.1. **Cost Center Reserves.** Disbursements from each Cost Center Reserve Fund shall be made solely for the purpose of funding Reserve expenditures attributable to the Cost Center for which the fund was created.



6.3.2. **Cost Center Operations.** Disbursements from each Cost Center Operating Fund shall be made solely for the purpose of funding the current operating Common Expenses of the Cost Center for which the fund was created.

6.3.3. **General Reserves.** Disbursements from the General Reserve Fund shall be made solely for the purpose of funding those Reserve expenditures which are not Budgeted to a Cost Center.

6.3.4. **General Operations.** Disbursements from the General Operating Fund shall be made for such purposes as are necessary for the discharge of the Maintenance Association's responsibilities under the Restrictions, for the common benefit of all Owners, other than those purposes specified in Subsections 6.3.1 through 6.3.3 above. Nothing contained herein shall preclude the establishment of additional Maintenance Funds by the Maintenance Association earmarked for specified purposes authorized by the Restrictions. The Maintenance Association shall not impose or collect an Assessment, penalty or fee which exceeds the amount necessary for the purpose or purposes for which it is levied. If the Maintenance Association decides to use or transfer Reserve funds to pay for litigation, the Maintenance Association must notify its Members of the decision in its next mailing to the Members. Such notice shall provide an explanation of why the litigation is being initiated or defended, why operating funds cannot be used, how and when the Reserve funds will be replaced, and a proposed budget for the litigation. The notice must state that the Members have a right to review an accounting for the litigation as provided in Section 1365.5 of the California Civil Code which will be available at the Maintenance Association's office. The accounting shall be updated monthly.

6.4. **Maintenance Property Damage or Neglect.** If any maintenance, repair or replacement of the Maintenance Property is necessitated in the sole judgment of the Board as a result of the willful or negligent act or neglect of a Project Association, its members, guests or invitees, or an Owner or Owner Parties, such maintenance, repairs or replacements shall be performed at the expense of such Project Association or the applicable Owner, after Notice and Hearing, and a Special Assessment therefor shall be levied against such Project Association or Owner; provided, however, that the liability of an individual Project Association or Owner for such damage to the Maintenance Property shall not be absolute, but shall only be that for which the Project Association or Owner is legally responsible under California law. The foregoing shall include, without limitation, any settlement damage to any Maintenance Property Wall and wall footings adjoining a Lot, Condominium or Common Area caused by any excavation, construction or excess irrigation occurring on such adjacent Lot, Condominium or Common Area.

6.5. **Common Assessments.** Sums sufficient to pay Common Expenses shall be assessed as Common Assessments against the Owners and their Lots and Condominiums as follows:

6.5.1. **General Assessment Component.** Common Expenses of the Maintenance Association exclusive of Common Expenses Budgeted to the Cost Centers

("General Assessment Component") shall be allocated equally among all Lots and Condominiums and the Owners thereof.

**6.5.2. Cost Center Assessment Component.** Common Expenses of the Maintenance Association comprising Cost Center Operating and Reserve Funds Budgeted to any particular Cost Center ("Cost Center Assessment Component") shall be assessed equally to the applicable Cost Center Owners. The Supplemental Declaration covering a Lot or Condominium subject to a Cost Center Assessment Component shall: (i) identify the Cost Center, if existing, or describe the Cost Center if proposed; (ii) identify the Cost Center Owners; and (iii) specify the Common Expenses comprising the Cost Center Assessment Component attributable to such Cost Center. Unless otherwise provided in such Supplemental Declaration, the Cost Center Assessment Component of Common Expenses for any Cost Center shall be allocated equally among all applicable Cost Center Owners.

#### **6.6. Commencement of Common Assessments.**

**6.6.1. Commencement Date.** Common Assessments shall commence as to each Lot or Condominium in the First Subdivision on the first day of the first month following the first Close of Escrow for the sale of a Lot or Condominium in the First Subdivision. Common Assessments shall commence as to any later Phase of Development on the earlier to occur of (i) first day of the first month following the month in which the first Close of Escrow occurs for the sale of a Lot or Condominium in such later Phase of Development, or (ii) the date specified for the commencement of Assessments in the Supplemental Declaration Recorded for such Phase of Development. The first annual Common Assessment shall be adjusted according to the number of months remaining in the fiscal year established pursuant to the Bylaws.

**6.6.2. Payment Procedure.** Subject to Section 6.7.4, the Board shall fix the amount of the annual Common Assessment to be levied against each Lot or Condominium at least thirty (30) days in advance of each Common Assessment period. However, unless otherwise established by the Board, the initial annual Common Assessment shall be levied in accordance with the most recent Budget on file with and approved by the DRE. Written notice of any increase in the amount of the annual Common Assessment or any Capital Improvement or Reconstruction Assessment shall be sent by first class mail to every Owner subject thereto, not less than thirty (30) nor more than sixty (60) days prior to the increased Assessment becoming due. All installments of Common Assessments shall be collected in advance on a regular basis by the Board, at such frequency and on such due dates as the Board determines from time to time in its sole and absolute discretion. Each installment of a Common Assessment shall be paid to the Maintenance Association in one (1) check or money order or electronic transfer, if made available to the Owners by the Association. If any payment of a Common Assessment installment is less than the amount assessed, the payment received by the Maintenance Association from that Owner shall be credited in order of priority first to the General Operating Fund until that portion of the Common Assessment has been satisfied, then to any applicable Cost Center Operating Fund until that portion of the Common Assessment has been satisfied, then to the General Reserve Fund until that portion of the Common Assessment has been satisfied, then to any applicable Cost Center Reserve Fund until that portion of the Common



Assessment has been satisfied, then to any other Maintenance Funds established by the Maintenance Association.

6.6.3. **Excess Funds.** During the term of any subsidy agreement between Declarant and the Maintenance Association approved by the DRE ("Subsidy Agreement"), and during any period of time that the amount of the Common Assessments invoiced to the Owners is stabilized at a level amount pursuant to Section 6.7.4 below, all excess funds remaining in the Maintenance Funds over and above the amounts used for the operation and payment of Common Expenses of the Properties (including Reserves) shall be used by the Maintenance Association to fund future Maintenance Fund deficits. After the termination of any Subsidy Agreement and any program of stabilized Common Assessment payments pursuant to Section 6.7.4, the Board of Directors may determine that excess funds remaining in the Operating Funds, over and above the amounts used for the operation of the Properties, may be used to reduce the following year's Common Assessment attributable to such Maintenance Funds.

6.6.4. **Exemption.** Subject to the provisions of any Subsidy Agreement, notwithstanding any other provision of this Declaration, until (i) a notice of completion (if applicable) of a Maintenance Property Improvement has been Recorded, (ii) such Maintenance Property Improvement has been placed into use, or (iii) the completion date for such Maintenance Property Improvement specified in the Planned Construction Statement on file with the DRE with respect to such Maintenance Property Improvement, whichever occurs first, the Common Assessment shall not include expenses and Reserves directly attributable to the existence and use of such Maintenance Property Improvement.

#### 6.7. **Limitations on Common Assessment Increases.**

6.7.1. **Maximum Authorized Common Assessment for Initial Year of Operations.** During the fiscal year in which Common Assessments commence, the Board shall not levy a Common Assessment against each Lot and Condominium in an amount which exceeds one hundred twenty percent (120%) of the amount of Common Assessments disclosed for the Properties in the most current Budget filed with and approved by the DRE unless first approved by the vote of Owners representing at least (i) in the case of an increase in the General Assessment Component, a majority of votes at a meeting or written ballot of Owners in which more than fifty percent (50%) of the total voting power of the Maintenance Association is represented, and (ii) in the case of an increase in a Cost Center Assessment Component, a majority of votes at a meeting or written ballot of the Owners for the Cost Center generating such Cost Center Assessment Component at which more than fifty percent (50%) of the total voting power attributable to such Cost Center is represented (as applicable, an "Increase Election"). This Section does not limit Common Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 6.7.5 below.

6.7.2. **Maximum Authorized Assessment for Subsequent Fiscal Years.** During the fiscal years following the fiscal year in which Assessments commence, the Board may not levy a Common Assessment which exceeds the Common Assessment for the immediately preceding fiscal year unless:

(i) The increase in Common Assessments does not exceed twenty percent (20%) of the Common Assessments for the immediately preceding fiscal year or then the Board either (I) distributes the Budget for the current fiscal year in accordance with Section 1365(a) of the California Civil Code, or (ii) obtain the approval of Owners casting a majority of votes in an Increase Election; or

(ii) The increase in Common Assessments is greater than twenty percent (20%) of the Common Assessments for the immediately preceding fiscal year and is approved by Owners casting a majority of votes in an Increase Election.

This Section does not limit Common Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 6.7.5 below.

**6.7.3. Supplemental Common Assessments.** If the Board determines that the Association's essential functions may be properly funded by a Common Assessment that is less than the maximum authorized Common Assessment described above, it may levy such lesser Common Assessment. If the Board determines that the estimate of total amounts that will be collected by the Maintenance Association during the current fiscal year is or will become inadequate to meet all Common Expenses, it shall immediately determine the approximate amount of the inadequacy. Subject to the limits described in Sections 6.7.1, 6.7.2 and 6.7.5, the Board may levy a supplemental Common Assessment reflecting a revision of the total charges to be assessed against each Lot and Condominium.

**6.7.4. Automatic Assessment Increases.** Despite any other provisions of this Section 6.6, upon annexation of all or any portion of the Annexable Area pursuant to Article II, the Common Assessment shall be automatically increased by the additional amount, if any, necessary to maintain the Maintenance Property in or abutting such Annexable Area so long as (a) the annexation of such Annexable Area is permitted by the DRE, and (b) the amount of such increase does not result in the levy of an Common Assessment which is greater than the maximum potential Common Assessment disclosed in all Final Subdivision Public Reports for the Properties.

**6.7.5. Emergency Situations.** For purposes of Sections 6.7.1, 6.7.2 and 6.8, an "Emergency Situation" is any of the following:

(i) **Court Ordered Items.** An extraordinary expense required by an order of a court;

(ii) **Safety Items.** An extraordinary expense necessary to repair or maintain the Maintenance Property or any portion thereof for which the Maintenance Association is responsible when a threat to the safety of Persons within the Properties is discovered; and

(iii) **Reasonably Unforeseen Items.** An extraordinary expense necessary to repair or maintain the Maintenance Property or any portion thereof for which the

Maintenance Association is responsible that could not have been reasonably foreseen by the Board when preparing the Budget. Prior to the imposition or collection of an assessment pursuant to this Subsection (iii), the Board must 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 resolution shall be distributed to the Members with the notice of the Assessment.

**6.8. Capital Improvement Assessments.** The Board may levy, in any fiscal year, a 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 a Capital Improvement upon the Maintenance Property, including fixtures and personal property related thereto; provided that all proposed Capital Improvement Assessments shall require the vote of Owners representing at least a majority of votes at a meeting or written ballot of Owners in which is represented more than fifty percent (50%) of the total voting power attributable to Members subject to such Capital Improvement Assessment. Notwithstanding the foregoing, the Board may levy in any fiscal year a Capital Improvement Assessment applicable to that fiscal year without the vote of the Owners if such Capital Improvement Assessment is necessary for addressing an Emergency Situation. All Capital Improvement Assessments must be levied against all Lots and Condominiums in the same manner and in the same proportions as Common Assessments are levied, and they shall be collected in the manner and frequency determined by the Board.

**6.9. Exempt Property.** The following property subject to this Declaration shall be exempt from the assessments herein: those portions of the Properties dedicated in fee and accepted by a public body, agency or authority; the Maintenance Property owned in fee by the Maintenance Association; and all Common Area owned in fee by any Project Association.

**6.10. Remedies of the Maintenance Association.** Any installment of a Common Assessment, Capital Improvement Assessment, Special Assessment, or Reconstruction Assessment not paid within thirty (30) days after the due date shall bear interest from the due date of such installment at a rate determined by the Board, but in no event more than the then maximum nonusurious rate permitted by law. Additionally, the Board may levy a late charge in accordance with California Civil Code Section 1366 or any successive law or ordinance in addition to the interest charged as described above to compensate the Maintenance Association for increased bookkeeping, billing and other administrative costs. No such late charge on any delinquent installment of an Assessment shall exceed the maximum amount allowable by law. If any installment of an Assessment is not paid within thirty (30) days after it is due, the Maintenance Association may bring an action at law against the Owner(s) personally obligated to pay the same, or, with respect to Common Assessments, Capital Improvement Assessments, Special Assessments (except as provided below) and Reconstruction Assessments, foreclose the lien against the Lot or Condominium. Special Assessments shall not be enforced by power of sale under Sections 2924, 2924(b) or 2924(c) of the California Civil Code (but may be enforced by judicial foreclosure). No Owner may escape liability for the Assessments provided for herein by relinquishment of the Membership, or by nonuse of the Maintenance Property or abandonment of the Lot or Condominium. In addition to the foreclosure and other remedies

granted the Maintenance Association herein, each Owner, by acceptance of a deed to such Owner's Lot or Condominium, hereby conveys to the Maintenance Association all of such Owner's right, title and interest in all rents, issues and profits derived from and appurtenant to such Lot or Condominium, subject to the right, power and authority of the Maintenance Association to collect and apply such rents, issues and profits to any delinquent Assessments owed by such Owner, reserving to the Owner the right, prior to any default by the Owner in the payment of Assessments, to collect and retain such right, prior to any default by the Owner in the payment of Assessments, to collect and retain such rents, issues and profits as they may become due and payable. Upon any such default the Maintenance Association may, upon the expiration of thirty (30) days following delivery to the Owner of the "Notice of Assessment" described herein, either in person, by agent or by receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness secured by the lien described herein, (i) enter in or upon and take possession of the Lot or Condominium or any part thereof, (ii) in the Maintenance Association's name sue for or otherwise collect such rents, issues and profits, including those part due and unpaid, and (iii) apply the same, less allowable expenses of operation, to any delinquencies of the Owner hereunder, and in such order as the Maintenance Association may determine. The entering upon and taking possession of the Lot or Condominium, the collection of rents, issues and profits and the application thereof, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

6.11. **Notice of Lien.** No action may be brought to enforce any Assessment lien herein, unless at least thirty (30) days have expired following the date a Notice of Lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Lot or Condominium, and a copy thereof has been Recorded by the Maintenance Association. The Notice of Lien shall be in such form and shall contain such information required by Section 1367(b) of the California Civil Code, or any similar California Statute hereafter enacted, and must be signed and acknowledged by an officer of the Maintenance Association or such other Person expressly authorized by the Board to sign Notices of Liens, and such lien shall be prior to any declaration of homestead Recorded after the date on which this Declaration is Recorded. The lien shall continue until fully paid or otherwise satisfied.

6.12. **Foreclosure Sale.** With the exception of Special Assessments liens (which may only be foreclosed judicially), a sale to foreclose the Assessment lien may be conducted by the trustee designated in the Notice of Lien (or any successor trustee substituted therefor) in accordance with the provisions of Section 2924, 2924a, 2924b, 2924c and 2924f of the California Civil Code, or in accordance with any similar statute hereafter enacted applicable to the exercise of powers of sale in Deeds of Trust, or in any other manner permitted by law. The Maintenance Association, through duly authorized agents, may bid on the Lot or Condominium, at foreclosure sale, and may acquire and hold, lease, mortgage, and convey the same. Upon completion of the foreclosure sale, the Maintenance Association or the purchaser at the sale may file suit to secure occupancy of the Lot or Condominium, and the defaulting Owner shall be required to pay the reasonable rental value of the Lot or Condominium during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner.

6.13. **Curing of Default.** Upon the timely curing of any default for which the Maintenance Association filed a Notice of Lien, the Maintenance Association shall Record an appropriate Release of Lien, upon payment by the defaulting Owner of a reasonable fee to be determined by the Board to cover the cost of preparing and Recording such release. A certificate, executed and acknowledged by any officer of the Maintenance Association, or such other person expressly authorized by the Board, stating the indebtedness secured by the liens upon any Lot or Condominium created hereunder, shall be conclusive upon the Maintenance Association and the Owners as to the amount of such indebtedness as of the date of the certificate in favor of all persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request at a reasonable fee, to be determined by the Board.

6.14. **Cumulative Remedies.** The Assessment lien and the rights of foreclosure and sale thereunder are in addition to and not in substitution for all other rights and remedies which the Maintenance Association and its assigns may have against any delinquent Owner or delinquent Project Association hereunder and by law, including a suit to recover a money judgment for unpaid Assessments, as above provided.

6.15. **Mortgage Protection-Liens.** Subject to Section 6.16 below, no lien created under this Article VI, nor any breach of this Declaration, nor the enforcement of any provision hereof or of any Supplemental Declaration hereto defeats or renders invalid the rights of the Beneficiary under any Recorded Deed of Trust upon a Lot or Condominium, made in good faith and for value. After a Beneficiary or other Person obtains title to a Lot or Condominium by judicial foreclosure or by means of the powers set forth in such Deed of Trust, the Lot or Condominium shall remain subject to the Restrictions and the payment of all installments of Assessments and other obligations, accruing after the date the Beneficiary or other Person obtains title.

6.16. **Priority of Assessment Lien.** Mortgages Recorded before a Notice of Lien have lien priority over the Notice of Lien. The sale or transfer (including any "deed in lieu" of foreclosure) of any Lot or Condominium does not affect the Assessment lien; except that the sale or transfer of any Lot or Condominium pursuant to judicial or nonjudicial foreclosure of a first Mortgage Recorded prior to a Notice of Lien extinguishes the lien of such Assessment as to payments which became due prior to such foreclosure sale or transfer. No sale or transfer relieves such Lot or Condominium from lien rights for any Assessments thereafter becoming due. No Person who obtains title to a Lot or Condominium through judicial or nonjudicial foreclosure of the first Mortgage is liable for the share of the Common Expenses or Assessments chargeable to such Lot or Condominium which became due prior to the acquisition of title to such Lot or Condominium by such Person. Such unpaid share of Common Expenses and Assessments is a Common Expense collectible from all of the Lots and Condominiums, including the Lot or Condominium belonging to such Person.

ARTICLE VII  
USE RESTRICTIONS

The provisions of this Article VII do not apply to Declarant or Merchant Builders or any Improvements they construct, but this Article VII will apply to any alteration, reconstruction or repair of such Improvements by Owners. Subject to the foregoing and the exemptions of Declarant and Merchant Builder set forth in this Declaration, the Properties shall be held, used and enjoyed subject to the following restrictions. Supplemental Declarations may establish supplementary or more restrictive use restrictions for the Annexed Territory the Supplemental Declaration encumbers so long as the restrictions are consistent with the scheme of government that is established in this Declaration and any Supplemental Declaration. Supplemental Declarations may add use restrictions or replace the use restrictions contained in this Article for the Annexed Territory such Supplemental Declaration encumbers.

7.1. **Residential Use.** All Lots and Condominiums shall be improved and used solely for single-Family residential use. This provision does not preclude any Owner in the Properties from renting or leasing all of his Lot or Condominium in accordance with Section 7.7 below. No Lot or Condominium may ever be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storage, vending, or other such nonresidential purposes; except Declarant and Merchant Builders, their successors and assigns, may use any portion of the Properties owned by them for model home sites and display and sales offices during the construction and sales period, in accordance with Article X hereof. The provisions of this Section 7.1 do not preclude professional or similar occupations without external evidence thereof, provided that all of the following conditions are fulfilled: (I) such activities are conducted in conformance with all applicable governmental ordinances; (ii) the patrons or clientele of such activities do not visit the Properties or park their vehicles within the Properties in connection with such activities; (iii) the existence or operation of such activities is not apparent or detectable by sight, smell, sound or other means from outside of the boundaries of the Lot or Condominium where it is being conducted; (iv) such activity does not increase the liability or casualty insurance obligation or premium of the Maintenance Association or any Project Association; and (v) such activities are consistent with the residential character of the Properties and conform to the provisions of the Restrictions. In addition to the other remedies of the Maintenance Association in this Declaration, each Owner, by acceptance of a deed to such Owner's Lot or Condominium, hereby assigns to the Maintenance Association, on a non-exclusive basis, such Owner's right to terminate any lease or occupancy agreement affecting such Owner's Lot or Condominium and to evict the tenant or occupant thereunder if such tenant or occupant violates the Restrictions.

7.2. **Improvements.**

7.2.1. **Single Family Residence.** No Lot may be improved except with one (1) Residence designed to accommodate no more than a Family and its domestic servants and occasional guests, plus a garage, fencing, landscaping and other Improvements as are necessary or customarily incident to a Family Residence.

7.2.2. **Location of Residence.** No Residence shall be constructed on any portion of a Lot except in the location approved by the Architectural Committee unless the location of the Residence or "Building Pad" is specified in a Supplemental Declaration, grant deed or other instrument Recorded by Declarant and/or a Merchant Builder.

7.2.3. **Maximum Building Height.** No portion of the construction on any Lot (exclusive of chimneys, vent stacks or other normal protuberances which in the sole opinion of the Architectural Committee, are of normal height and distribution) shall exceed the maximum height allowed by applicable Local Governmental Agencies. Rooftop mechanical equipment shall not be permitted within the Properties, however, solar equipment or other energy savings devices shall be permitted with approval of applicable Local Governmental Agencies.

7.2.4. **Setbacks.** Except as otherwise provided in a Supplemental Declaration, grant deed or instrument recorded by Declarant and/or Merchant Builder, set back requirements for all Improvements and construction on Lots shall be the more restrictive of those required by the City or Architectural Committee Guidelines.

7.2.5. **Garages.** Garages shall be capable of accommodating at least two (2) automobiles.

7.2.6. **Exterior Facilities.** No sports facility, including, without limitation, basketball backboards shall be installed unless in accordance with the applicable Architectural Committee Guidelines. No patio covering, wiring or air conditioning, water softener or other device shall be installed in the exterior of the Residence or allowed to protrude through the walls or roof of a Residence unless the prior written approval of the Architectural Committee is obtained.

7.2.7. **Utilities.** Unless otherwise approved in writing by the City, all utility services serving the Property shall be installed and maintained underground.

7.2.8. **Fences.** No fence, wall, hedge or other dividing device may be erected, painted, altered or maintained on any Lot or Common Area which borders or is visible from any public or private street, any of the Maintenance Property, or any other Lot, or Common Area, unless such fence or wall is first approved in writing by the Architectural Committee. All alterations or modifications of the fences or walls of any type require the prior written approval of the Architectural Committee.

7.2.9. **Variances.** The Architectural Committee shall be entitled to grant variances from the Restrictions in this Subsection only in hardship cases where, due to the configuration or topography of a Lot, compliance with the foregoing restrictions would be impossible or impractical.

7.3. **Landscaping.** Within one hundred eighty (180) days after the Close of Escrow for the sale of a Lot or Condominium, the Owner must install and must thereafter maintain

(except for any landscaping to be maintained by the Maintenance Association or a Project Association, if applicable) plants, shrubs, trees, and any other appropriate landscaping Improvements, pursuant to plans and specifications approved by the Architectural Committee, on all yard areas that are on or appurtenant to the Lot or Condominium. Each Owner must properly maintain and periodically replace when necessary all trees, plants, grass, vegetation and other landscaping Improvements located on such Owner's Lot which are not the maintenance responsibility of a Project Association or the Maintenance Association. No plants or seeds infected with insects or plant diseases may be brought upon, grown or permitted to exist upon any part of the Properties. Subject to Article X, the Board may adopt, amend or supplement the Architectural Committee Rules to regulate landscaping permitted and required in the Properties. If an Owner fails to install and maintain landscaping in conformance with the Architectural Committee Rules, or allows his Lot or landscaping to deteriorate to a dangerous, unsafe, unsightly or unattractive condition, the Board, upon thirty (30) days' prior written notice to such Owner, may seek any remedies at law or in equity which it may have and, after Notice and Hearing, may correct such condition and enter upon such Owner's property for the purpose of doing so, and such Owner shall promptly reimburse the Maintenance Association for the cost thereof. Such cost shall be a Special Assessment enforceable in the manner as set forth in this Declaration.

**7.4. Parking and Vehicular Restrictions.** The following restrictions *are not* applicable to those portions of the Properties that are Common Area streets or parking areas maintained by a Project Association ("Common Area Streets"). Regulation of Common Area Streets shall be governed by the applicable Project Declaration and Project Association.

**7.4.1. Restricted Vehicles.** The following vehicles are "Restricted Vehicles": motor homes, travel trailers, camper vans, boats and other similar recreational vehicles that are not "Prohibited Vehicles" (as defined below). Restricted Vehicles may be parked wholly within an Owner's garage or on a side or rear yard, screened from view in a manner provided by Improvements original constructed by Declarant or a Merchant Builder or otherwise approved by the Architectural Committee. If a Restricted Vehicle is to be kept on a rear or side yard, a concrete pad shall be installed on the area such vehicle is to be stored on for the purpose of accommodating the weight of the vehicle.

**7.4.2. Prohibited Vehicles.** The following vehicles are "Prohibited Vehicles:" (a) commercial-type vehicles (e.g., stakebed trucks, tank trucks, dump trucks, step vans, concrete trucks and limousines), (b) buses or vans designed to accommodate more than ten (10) people, (c) vehicles having more than two (2) axles, (d) trailers, (e) inoperable vehicles or parts of vehicles, (f) aircraft, (g) any vehicle or vehicular equipment deemed a nuisance by the Board, and (h) any other vehicle not classified as Authorized Vehicles or Restricted Vehicles. Prohibited Vehicles may not be parked, stored or kept on any public or private street in, adjacent to or visible from the Properties or any other Maintenance Property parking area except for brief periods for loading, unloading, making deliveries or emergency repairs. If a vehicle qualifies as both an Authorized Vehicle and a Prohibited Vehicle, then the vehicle is presumed to be a Prohibited Vehicle unless the vehicle is expressly classified as an Authorized Vehicle in writing by the Board.



7.4.3. **General Restrictions.** All vehicles owned or operated by or within the control of an Owner or a resident of an Owner's Lot or Condominium and kept within the Properties must be parked in the assigned parking space or garage of that Owner to the extent of the space available; provided that each Owner shall ensure that any such parking space or garage accommodates at least the number of Authorized Vehicles for which it was originally constructed by Declarant or a Merchant Builder. Garages or other parking areas must be used only for parking vehicles, and may not be used for storage, living, recreational, business or other purposes. Driveways may not be used for parking purposes if the Owner's garage is not being utilized to the maximum designed capacity for the parking of vehicles, or if to do so obstructs free traffic flow, constitutes a nuisance, violates the Rules and Regulations, or otherwise creates a safety hazard. Garage doors shall be kept closed at all times, except as reasonably required for ingress to and egress from the interiors of the garages. No repairs or restorations of any motor vehicle, boat, trailer, aircraft or other vehicle or equipment may be conducted upon any street (public or private), any portion of any Maintenance Property, Common Area, Lot or Condominium, except wholly within an enclosed garage; provided, however, that such activity within an enclosed garage may not be undertaken as a business, and provided further that such activity may be prohibited entirely if it is determined by the Board to be a nuisance. The Board may determine, in its discretion, whether there is noncompliance with the parking and vehicular restrictions contained herein. The Board in its discretion may approve temporary variances from the provisions of this Section 7.4.3. Any such variance (i) shall be authorized only in connection with Construction Activities (as defined in Section 8.3.2 hereof) approved by the Architectural Committee, (ii) must be evidenced in writing signed by an authorized representative of the Maintenance Association, and (iii) must specify the limited period of time for which the variance is effective. These restrictions do not permit any activity which would be contrary to any ordinance of the City or other applicable Local Governmental Agency including without limitation the parking of vehicles on those portions of private streets prohibited by the applicable Local Governmental Agency.

7.4.4. **Parking Regulations.** The Board may establish additional regulations regarding any parking areas not assigned to individual Lots or Condominiums, including without limitation designating "parking," "guest parking," and "no parking" areas thereon, setting time limits for parking vehicles in the Maintenance Property parking areas, and requiring registration of vehicles or use of parking permits; and may enforce all parking and vehicle use regulations applicable to the Properties, including removing violating vehicles from the Properties pursuant to California Vehicle Code Section 22658.2 or other applicable ordinances or statutes. If the Board fails to enforce any of the parking or vehicle use regulations, the applicable Local Governmental Agency may enforce such regulations in accordance with applicable laws and ordinances. If the applicable Local Governmental Agency fails to enforce any of its parking ordinances on public streets within or abutting the Properties, the Maintenance Association has the power but not the duty to enforce such ordinances against Owners and residents of the Properties. The Orange County Fire Department restricts parking on cul de sacs in the Properties. The foregoing shall not restrict the Association from creating additional parking restrictions on other streets and areas within the Properties.

7.4.5. **Common Driveways.** Certain groups of Lots in the Properties (“Driveway Group”) may share a Common Driveway that provides access only to the Driveway Group. Common Driveways and Driveway Groups in the First Subdivision, if any, are designated on *Exhibit “G”* hereto. Any Common Driveways and the applicable Driveway Groups in future phases of Development will be shown or designated in a Supplemental Declaration for the Properties. Each Common Driveway is part of the Maintenance Property and will be maintained by the Maintenance Association. The Owners of Lots in a Driveway Group shall each have perpetual semi-exclusive easements for vehicular and pedestrian access, ingress and egress over the Common Driveway serving such Driveway Group, subject to Maintenance Association access for maintenance of adjacent Maintenance Property. No other Owners or residents of the Properties may use such Common Driveway, which is hereby designated to be for the perpetual exclusive use of the Owners of the Driveway Group, as contemplated by Section 1351(1) of the California Civil Code. There shall be no parking on or obstruction of the Common Driveways. Provided, however, that the foregoing shall not preclude (a) temporary obstruction approved by the Association in connection with maintenance of the Common Driveway and maintenance of utility and drainage lines located beneath the Common Driveway, and the parking of service and similar vehicles on Common Driveways if (i) parking space is not available in the driveway located on the Lot within the Driveway Group being serviced by such vehicles; (ii) such parking is for temporary service purposes not to exceed the amount of time necessary to complete the service, but in no event longer than eight (8) consecutive hours; and (iii) no vehicle shall be parked so as to unreasonably obstruct vehicular access to other Lots within the Driveway Group. Notwithstanding any other provision of the Declaration, the provisions of this Section 7.4.5 may not be modified, amended or terminated without the prior written approval of the City, which approval may be withheld in the sole and absolute discretion of the City. The City may, but shall not be required to, enforce the provisions of this Section 7.4.5.

7.5. **Antennae.** As used in this Declaration, an “Authorized Antenna” means a mast supporting an antenna that is owned by or under the exclusive control of an Owner and designed to receive on such Owner’s Residence (i) direct broadcast satellite service, including direct-to-home satellite service, that is one meter or less in diameter, (ii) video programming service, including multichannel multipoint distribution service, instructional television fixed service, and local multipoint distribution service, and is one meter or less in diameter or diagonal measurement and/or (iii) television broadcast signals. Owners are prohibited from installing any antennae on the exterior of a Residence for any purpose, except for an “Authorized Antenna,” which may be installed so long as the proposed type and location for such installation of same is reviewed and approved by the Architectural Committee before installation to ensure that the visibility of the Authorized Antenna is minimized with respect to other Owners. The Maintenance Association and/or Architectural Committee may adopt restrictions on the location, installation and/or use of an Authorized Antenna on an Owner’s Lot or Condominium so long as such restrictions do not (1) unreasonably delay or prevent installation, maintenance or use of an Authorized Antenna, (2) unreasonably increase the cost of installation maintenance or use of an Authorized Antenna, or (3) preclude acceptable quality reception. In addition, the Maintenance Association may prohibit the installation of an Authorized Antenna if the installation, location or maintenance of such Authorized Antenna unreasonably affects the safety of managers, agents or

employees of the Maintenance Association and other Owners, or for any other safety related reason established by the Maintenance Association. This Section is intended to be a restatement of the authority granted to the Maintenance Association under the local, state and federal law. All amendments, modifications, restatements and interpretations of the law applicable to the installation, use or maintenance of an antenna shall be interpreted to amend, modify, restate or interpret this Section.

7.6. **Insurance Rates.** Nothing shall be done or kept in the Properties which will increase the rate of insurance on any Lot, Condominium, Common Area, Maintenance Property or other portion of the Properties 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 Lot, Condominium, Common Area, Maintenance Property or other portion of the Properties or which would be in violation of any law.

7.7. **No Further Subdivision.** Except as expressly authorized in a Supplemental Declaration, no Common Area, Lot or Condominium may be further subdivided (including division into time-share estates or time-share uses) without the prior written approval of the Board. Nothing in this Section shall be deemed to prevent an Owner from, or require the approval of the Board for: (a) selling a Lot or Condominium; or (b) transferring or selling any Lot or Condominium to more than one (1) Person to be held by them as tenants in common, joint tenants, tenants by the entirety or as community property; or (c) leasing or renting all of such Owner's Lot or Condominium, provided that any such lease or rental is subject to the Restrictions.

7.8. **Signs.** No sign, poster, billboard, balloon advertising device or other display of any kind ("Displays") may be displayed within the Properties except (i) such Displays (regardless of size, configuration or content) as may be used by Declarant or a Merchant Builder in connection with the development of the Properties and the sale, lease or other disposition of Lots and Condominiums, (ii) entry monuments and similar community identification signs maintained by the Maintenance Association and the Project Associations, (iii) subject to Architectural Committee Rules governing the location, size, materials and other such criteria, one (1) nameplate or similar Owner name identification, and a reasonable number of signs advising of the existence of security services protecting a Lot or Condominium; and (iv) one (1) sign which may be displayed on each Lot or from each Condominium advertising the Lot or Condominium for sale or lease; provided that such for sale or lease signs (a) may not be larger than eighteen inches (18") by thirty inches (30") in size; (b) may not be attached to the ground by means other than a conventional single vertical stake which may not exceed two inches (2") by three inches (3") in diameter (i.e., posts, pillars, frames or similar arrangements are prohibited); (c) may not extend more than three feet (3') above ground level; and (d) shall be of such colors and styles as are approved by the Architectural Committee.

7.9. **Animals.** No animals, fowl, reptiles, poultry, fish or insects of any kind ("animals") may be raised, bred or kept on any Lot, Condominium or Common Area within the Properties, except that a reasonable number of birds, fish, dogs, cats or other customary household pets may be kept on a Lot or Condominium; provided that they are not kept, bred or

maintained for any commercial purpose, nor in unreasonable quantities nor in violation of any applicable local ordinance or any other provision of the Restrictions, and such limitations as may be set forth in the Rules and Regulations. As used in this Declaration "unreasonable quantities" ordinarily means more than two (2) household pets per Residence; provided, however, that the Board of Directors may determine that a reasonable number in any instance is more or less. The Maintenance Association, acting through the Board of Directors, may prohibit maintenance of any animal which constitutes, in the opinion of the Board, a nuisance to other Owners of Lots or Condominiums in the Properties. Animals belonging to Owners, occupants or their licensees, tenants or invitees within the Properties must be kept within an enclosure or an enclosed yard or on a leash or other restraint being held by a person capable of controlling the animal. Furthermore, to the extent permitted by law, each 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. It shall be the absolute duty and responsibility of each Owner to clean up after such animals which have used any portion of the Properties.

7.10. **Nuisances.** No rubbish or debris of any kind may be placed or permitted to accumulate anywhere within the Properties, and no odor may be permitted to arise therefrom so as to render the Properties or any portion thereof unsanitary, unsightly, or offensive from any public or private street or from any other Lot or Condominium in the vicinity thereof or to its occupants. No noise or other nuisance shall be permitted to exist upon or emanate from any portion of the Maintenance Property or any portion of a Lot, Condominium or Common Area within the Properties so as to be offensive or detrimental to any other Lot, Condominium or Common Area in the Properties or to its occupants. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes and commercially designed and reasonably used exterior speakers), live bands, noisy, unsightly, unusually painted or smoky vehicles, aircraft, large noisy power equipment or tools, unlicensed off-road motor vehicles, transmissions which may unreasonably interfere with television or radio reception within the Properties, or other items which may unreasonably disturb other Owners or their tenants may be located, used or placed on any portion of the Properties without the prior written approval of the Architectural Committee. No vehicles may be operated upon any portion of the Maintenance Property or Common Area not improved as a street or parking area without the prior written approval of the Architectural Committee, which approval may be withheld for any reason whatsoever. Alarm devices used exclusively to protect the security and contents of a vehicle, Lot, Condominium or Common Area, are permitted, provided that such devices do not produce annoying sounds or conditions as a result of frequently occurring false alarms.

7.11. **Exterior Maintenance and Repair.** No Improvement shall be permitted to fall into disrepair, and each such Improvement must at all times be kept in good condition and repair. It is the responsibility of the applicable Owner or Project Association to maintain and repair (including painting and stucco repairs) the surface of any Maintenance Property Wall which faces the Lot, Condominium or Common Area (excluding wrought iron or glass surfaces which shall be maintained by the Maintenance Association), regardless of whether such Maintenance Property Wall is (1) located on the common property line separating the Maintenance Property or

Public Property from the Lot, Condominium or Common Area, or (ii) wholly or partially within the Maintenance Property, Public Property, Lot or Common Area immediately adjacent to such common property line. Such maintenance obligations shall include without limitation the obligation to paint, stucco patch and otherwise protect and preserve such Maintenance Property Wall surface from exposure to and deterioration by the elements. Owners shall be responsible for maintenance, repair and replacement of the individual mailboxes, however, the Maintenance Association shall be responsible for maintenance of mailbox stands and structures not maintained by a Project Association. Without limiting the generality of any other provisions respecting maintenance set forth in this Declaration, each Owner, the Maintenance Association and each Project Association shall comply with the following general maintenance standards as to its Lot, Condominium, Maintenance Property or Common Area, as applicable:

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

**7.11.2. Trees and Shrubs.** All trees and shrubs shall be trimmed so they do not impede pedestrian traffic along the streets and sidewalks. Trees shall be pruned so they do not contact Improvements constructed on an adjoining Lot, Condominium Common Area or Maintenance Property and shall be maintained so they do not have droppings or create other nuisances to adjoining Lots or Condominiums or the Maintenance Property. All trees shall also be root pruned to eliminate exposed surface roots and damage to Residences, Maintenance Property Walls, streets, sidewalks, driveways or other Improvements.

**7.11.3. Private Streets.** All private streets, walkways and sidewalks shall be maintained so that they are safe for users. Significant pavement cracks, pavement distress, excessive slab settlement, abrupt vertical variations and debris shall be removed or repaired promptly.

**7.11.4. Exterior Surfaces.** All wrought iron, tubular steel or similar portions of a Maintenance Property Wall shall be painted as needed to eliminate cracking, chipping, and oxidation.

If any Owner or Project Association fails to adhere to foregoing general maintenance standards or permits any Improvement which is the maintenance responsibility of such Owner or Project Association to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board, after consulting with the Architectural Committee, and after affording the responsible Owner or Project Association Notice and Hearing, may, but need not, enter upon the affected Lot, Condominium, or Common Area for the purpose of correcting such condition, and the responsible Owner or Project Association shall promptly reimburse the Maintenance Association for the cost thereof. Such cost shall be a Special Assessment enforceable in the manner set forth in this Declaration, and the Owner of the offending Lot or Condominium or the Project Association which owns or maintains the Common Area, as applicable, shall be personally liable for all costs and expenses incurred by the

Maintenance Association in taking such corrective acts, plus all costs incurred in collecting the amounts due. Each Owner or Project Association, as applicable, shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor.

7.12. **Drainage.** There shall be no interference with the rain gutters, downspouts, or drainage systems originally installed by Declarant or the Merchant Builders, or alter or interfere with the established drainage pattern over any Lot, Condominium or Common Area, unless an adequate alternative provision is made for proper drainage. For the purpose hereof, "established" drainage means the drainage pattern and drainage Improvements which exist at the time the Lot, Condominium or Common Area, as the case may be, is conveyed to the Owner or Project Association by Declarant or a Merchant Builder. There shall be no violation of the drainage requirements of the applicable Local Governmental Agency or other applicable Local Governmental Agency, notwithstanding any approval by the Architectural Committee. Each Owner, by accepting a grant deed to his Lot, acknowledges and understands that in connection with the development of the Properties, Declarant may have installed one or more "subdrains" beneath the surface of such Owner's Lot. The subdrains and all appurtenant Improvements constructed or installed by Declarant ("Drainage Improvements"), if any, provide for subterranean drainage of water from and to various portions of the Properties. To ensure adequate drainage within the Properties, it is essential that the Drainage Improvements, if any, not be modified, removed or blocked without having first made alternative drainage arrangements. Therefore, any damage or injury resulting from or arising in connection with the alteration, modification, removal or replacement of any Drainage Improvements on a Lot shall be the responsibility of the Owner of such Lot.

7.13. **Water and Sewer Systems.** No individual water supply system, water softener system or sewage disposal system is permitted on any Lot, Condominium or Common Area unless such system is designed, located, constructed and equipped in accordance with the requirements, standards, and recommendations of the applicable water or sewer district and any applicable governmental health authority having jurisdiction.

7.14. **No Hazardous Activities.** No activities may be conducted, nor may any Improvements be constructed, anywhere in the Properties which are or might be unsafe or hazardous to any Person, Lot, Condominium, Common Area or Maintenance Property in the Properties.

7.15. **Unsightly Articles.** No unsightly articles, including clotheslines and trash dumpsters, are permitted to remain on any portion of the Properties so as to be visible from any public or private street or from any other Lot, Condominium, Common Area or Maintenance Property. Without limiting the generality of the foregoing, at all times refuse, garbage and trash must be kept in covered, sanitary containers designed for such purpose and located within enclosed areas or areas screened from the view of any other Lot, Condominium, Common Area or Maintenance Property. Trash containers may be exposed to the view of neighboring Lots, Condominiums, Common Area or Maintenance Property only when set out for a reasonable period of time (not to exceed twelve (12) hours before and after scheduled trash collection hours). No exterior fires whatsoever are permitted within the Properties, except barbecue fires

contained within receptacles commercially designed therefor, fire pits in enclosed areas designed so that they do not create a fire hazard, and other fires specifically authorized in writing by the Maintenance Association, all of which are also subject to applicable ordinances and fire regulations.

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

7.17. **Temporary Prefabricated Structures/Dumpsters.** Unless approved in writing by the Board, and then only in connection with Construction Activities approved by the Architectural Committee, no tent, shack, trailer or any temporary building, Improvement or structure, or prefabricated building or structure may be placed upon any portion of the Properties. No trash dumpsters are allowed in any driveway or other exposed areas, or any street (public or private) within the Properties for more than four (4) consecutive calendar days, unless first approved in writing by the Architectural Committee in connection with Architectural Committee approved Construction Activities, and then subject to such conditions and requirements as may be specified by the Architectural Committee.

7.18. **No Mining or Drilling.** No oil drilling, oil, gas or mineral development operations, oil refining, geothermal exploration or development, quarrying or mining operations of any kind may be conducted upon the Properties, nor are oil, water or other wells, tanks, tunnels, mineral or geothermal excavations or shafts permitted upon or within five hundred feet (500') of the surface of any portion of the Properties.

7.19. **Improvements and Alterations.** No excavation, construction, painting, alteration or erection of any projection which in any way alters the exterior appearance of any Lot, Condominium or Common Area from any public or private street, or from any other Lot, Condominium or Common Area (other than minor repairs or rebuilding pursuant to Section 7.11) is permitted without the prior approval of the Architectural Committee pursuant to Article VIII hereof. All Improvements and alterations are subject to the setback, sideyard and other requirements of the applicable Local Governmental Agency, notwithstanding any approval by the Architectural Committee. No walls, fences, spas, play equipment, sheds, light posts, pilasters higher than three (3) feet, glass block, or boulders are allowed in the yards visible from any of the streets within the Properties.

7.20. **Solar Heating Systems.** Solar heating systems may be installed on individual Lots, Condominiums or Common Areas, provided that such heating systems comply with all requirements of applicable Local Governmental Agencies and regulations and have been approved by the Architectural Committee based on reasonable architectural review standards consistent with applicable law.



7.21. **Views.** There are no views in the Properties which are protected to any extent by this Declaration, and no Owner who becomes subject to the terms hereof shall thereby obtain any view rights whatsoever. Notwithstanding any other provision of any Project Declaration, each Owner and each Project Association, by accepting a deed to a Lot, Condominium or any Common Area, acknowledges that any construction or installation by Declarant or a Merchant Builder or by other Owners following Architectural Committee approval as provided in Article VIII hereof may impair the view of such Owner or of the members of such Project Association, and each Owner and each Project Association on behalf of its members hereby consent to such impairment.

7.22. **Rights of Handicapped.** Subject to the provisions of Article VIII hereof, each Owner may modify his Lot or Condominium, at his sole cost and expense, in order to facilitate access to the Residence by persons who are blind, visually handicapped, deaf or physically disabled, or to alter conditions which could be hazardous to such persons, in accordance with Section 1360 of the California Civil Code or other applicable law or ordinance.

7.23. **Party Walls.** Each wall or fence which is placed on the dividing line between the Lots or Condominiums (but not the structural wall of a Residence) is a "Party Wall," and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions apply thereto.

7.23.1. **Sharing of Repair and Maintenance.** Unless otherwise provided in a Project Declaration, the cost of reasonable repair and maintenance of a Party Wall shall be shared equally by the Owners of the Lots or Condominiums connected by such Party Wall. However, each Owner shall be solely responsible for repainting the side of any Party Wall facing his Lot or Condominium.

7.23.2. **Destruction by Fire or Other Casualty.** If a Party Wall is destroyed or damaged by fire or other casualty, any Owner whose Lot or Condominium is affected thereby may restore it, and the Owner of the other Lot or Condominium which is affected thereby shall contribute equally to the cost of restoration thereof without prejudice, however, to the right of any such Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

7.23.3. **Right to Contribution Runs With Land.** The right of any Owner to contribution from any other Owner under this Section 7.23 is appurtenant to the land and passes to such Owner's successors in title.

7.24. **Damage to Residences-Reconstruction.** If all or any portion of any Lot or Residence is damaged or destroyed by fire or other casualty, the Owner of such Lot or Residence shall rebuild, repair or reconstruct the Lot or Residence in a manner which will restore them substantially to their appearance and condition immediately prior to the casualty or as otherwise approved by the Architectural Review Committee. The Owner of any damaged Lot or Residence and the Architectural Review Committee shall proceed with all due diligence, and the Owner



shall cause reconstruction to commence within six (6) months after the damage occurs and to be completed within twelve (12) months after damage occurs, unless prevented by causes beyond such Owner's reasonable control. A transferee of the Lot which is damaged or upon which is located a damaged Residence shall commence and complete reconstruction in the respective periods which would have remained for the performance of such obligations if the Owner of the Lot at the time of the damage still held title to the Lot. However, no such transferee may be required to commence or complete such reconstruction in less than thirty (30) days from the date such transferee acquired title to the Lot.

7.25. **Hazardous Materials.** No hazardous waste, substance or material (as defined in any federal, state or local law, ordinance or regulation) shall be stored or permitted upon any portion of the Properties, except in compliance with all applicable laws, ordinances and regulations of all applicable Public Agencies. Without limiting the generality of the foregoing, the Properties is subject to all federal, state and local requirements of the NPDES adopted pursuant to the Federal Clean Water Act. In accordance therewith, the Maintenance Association, any Project Association and all Owners may not dispose of any hazardous waste, substance or material into any storm drain or other drainage device located anywhere within the Properties in violation of NPDES or any other applicable laws, ordinances or regulations.

#### **ARTICLE VIII PROPERTIES ARCHITECTURAL CONTROL**

8.1. **Members of Architectural Committee.** The Architectural and Landscaping Committee, sometimes referred to in this Declaration as the "Architectural Committee", shall consist of three (3) members; provided, however, that such number may be changed by resolution of the Board of Directors so long as the Architectural Committee never consists of greater than five (5) nor fewer than three (3) members. Members of the Architectural Committee may be removed at any time without cause by the Person appointing such member as provided herein. Unless changed by resolution of the Board, the address of the Architectural Committee for all purposes, including the submission of plans for approval, is the principal office of the Maintenance Association as designated by the Board pursuant to the Bylaws. Declarant may, in a Supplemental Declaration, create a separate architectural committee ("Separate Committee") from the area annexed to the Properties through such Supplemental Declaration ("Separate Area"). The Separate Committee shall have sole architectural control pursuant to this Article VIII over the Separate Area and the Architectural Committee shall have no control or jurisdiction over Construction Activities (as defined below) or otherwise over the Separate Area. If a Separate Committee is created, the provisions of this Article VIII shall apply to the Separate Committee which shall be deemed the "Architectural Committee" for all purposes hereunder regarding the Separate Area. However, members of the Separate Committee appointed pursuant to Subsection 8.2.2 below, shall be solely Owners of Residences in the Separate Area.

## 8.2. Rights of Appointment.

8.2.1. **By Declarant.** Declarant may appoint and remove a majority of the members of the Architectural Committee, which appointees need not be Members of the Maintenance Association, until the earlier to occur of (i) the date on which Close of Escrow has occurred for the sale of Three Hundred Sixty (360) Lots and Condominiums in the Properties, or (ii) the fifth (5th) anniversary of the first Close of Escrow for the sale of a Lot or Condominium in the Phase of Development for which a Public Report was most recently issued by the DRE, or (iii) the date on which neither Declarant nor any Merchant Builder owns a Lot or Condominium in the Properties or Annexable Area.

8.2.2. **By the Board.** The Board may appoint and remove those members of the Architectural Committee which Declarant is not authorized to appoint until such time as Declarant's rights of appointment shall have expired, and thereafter the Board may appoint and remove all members of the Architectural Committee. Architectural Committee members appointed by the Board must be Members of the Maintenance Association at all times during their service on the Architectural Committee, and shall serve for a term of one (1) year or until their respective successors are appointed.

8.2.3. **Notice of Appointment.** Whenever an Architectural Committee member is appointed or removed while both Declarant and the Board have rights of appointment, written notice of such appointment or removal must be given by the appointing party to the other party.

8.3. **Review of Construction Activities.** Subject to Article X of this Declaration, no construction, development, painting, alteration, grading, addition, installation, landscaping or modification thereof, excavation, modification, decoration, redecoration or reconstruction of an Improvement in the Properties (including the Common Area therein) or the Maintenance Property, or any other activity within the jurisdiction of the Architectural Committee pursuant to this Declaration (collectively "Construction Activities") may be commenced or maintained until the plans and specifications therefor showing the nature, design, kind, shape, height, width, color, materials, location and other aspects of the same have been submitted to the Architectural Committee and approved in writing by the Architectural Committee. Construction Activities include the construction, installation, alteration and modification of solar energy systems, as defined in Section 801.5 of the California Civil Code, subject to the provisions of California Civil Code Section 714 and other applicable governmental laws, ordinances and regulations.

8.3.1. **Architectural Committee Rules.** Subject to Section 10.1.5, the Board may adopt, supplement and amend Architectural Committee Rules which impose design and materials standards, submittal procedures, review criteria and other factors to be considered and followed by the Architectural Committee and the Owners in connection with Construction Activities.

8.3.2. **Exemptions/Declarant Approval.** Notwithstanding any other provision of the Restrictions, Declarant and Merchant Builders need not seek Architectural Committee approval with respect to their construction or development activities, including without limitation

any activity which would be classified as a "Construction Activity." However, Merchant Builders must obtain Declarant's written approval of all construction and development activities as if such activities were "Construction Activities" hereunder and Declarant were the "Architectural Committee." The Declarant's approval rights in the preceding sentence are in addition to and shall not effect any other rights of Declarant under other written agreements between Declarant and Merchant Builders.

**8.4. Applications.** The Person submitting plans and specifications to the Architectural Committee ("Applicant") must obtain a dated, written receipt for such plans and specifications and furnish the Architectural Committee with the address to which further communications from the Architectural Committee are to be directed. The Architectural Committee may further require that all plans and specifications first be approved by any Project Association or Project Association architectural committee having jurisdiction. Conditions and requirements imposed by the Architectural Committee supersede all conflicting conditions or requirements which may be imposed by a Project Association or a Project Association architectural committee. The Architectural Committee's determination of the existence of a conflict or discrepancy between the conditions or requirements imposed by the Architectural Committee and those imposed by a Project Association or a Project Association architectural committee are binding and conclusive upon the Project Association, the Project Association architectural committee, and the Applicant. The Architectural Committee Rules may set forth procedures for the submission of plans for approval, require a fee to accompany each application for approval (or request for a certificate stating that Architectural Committee approval is not required), or establish additional factors which the Architectural Committee will take into consideration in reviewing submissions. The Architectural Committee Rules may provide that the amount of any Architectural Committee fee shall be uniform, or that it may be determined in any other reasonable manner, such as based upon the cost of the construction, alterations or installations contemplated or the reasonable cost of architectural or other professional fees incurred by the Maintenance Association in reviewing plans.

**8.4.1. Criteria.** The Architectural Committee shall consider and act upon all plans and specifications submitted for its approval under this Declaration and perform such other duties as are specified in this Declaration, including the inspection of construction in progress to assure its conformance with the plans approved by the Architectural Committee. The Architectural Committee may approve plans and specifications submitted for its approval only if it determines that (i) the Construction Activity is in conformance with the Architectural Committee Rules, (ii) the Construction Activity in the locations indicated will not be detrimental to the appearance of the surrounding area or the Properties as a whole, (iii) the appearance of any structure affected thereby will be in harmony with the surrounding structures, (iv) the Construction Activity and the product thereof will not detract from the beauty, wholesomeness and attractiveness of the Maintenance Property and the Common Area or the enjoyment thereof by the Members, and (v) the upkeep and maintenance thereof will not become a burden on the Maintenance Association.

**8.4.2. Conditions.** The Architectural Committee may condition its approval of plans and specifications for any Improvement upon any of the following: (i) the Applicant's

furnishing the Maintenance Association with a bond or other security acceptable to the Architectural Committee in an amount reasonably sufficient to (a) assure the completion of such Improvement, (b) the availability of funds adequate to remedy any nuisance or unsightly conditions occurring as a result of the partial completion of such Improvement, and (c) to protect the Maintenance Association and the other Owners against mechanic's liens or other encumbrances which may be Recorded against their respective interests in the Properties or damage to the Maintenance Property as a result of such work, (ii) such changes therein as it deems appropriate, (iii) the grant of appropriate easements to the Maintenance Association for the maintenance of the Improvement and access to all Maintenance Property, (iv) the Applicant's agreement to reimburse the Maintenance Association for the cost of maintaining the Improvement, (v) the Applicant's agreement to complete the proposed work within a stated period of time, or (vi) all of the foregoing, and may require submission of additional plans and specifications or other information prior to approving or disapproving materials submitted.

**8.4.3. Review Period.** The Architectural Committee may require such detail in plans and specifications submitted for its review as it deems proper, including without limitation, site plans, lighting plans, landscaping plans, elevation drawings and descriptions or samples of exterior materials and colors. Until the Architectural Committee receives all required plans and specifications (and any Project Association approval if required as a prerequisite to plan consideration), the Architectural Committee may postpone review of any plan submitted for approval or determination of exemption. The Architectural Committee shall transmit its decision and the reasons therefore or a request for further information to the Applicant at the address furnished by the Applicant, within thirty (30) days after the date of the receipt issued by the Architectural Committee for materials submitted to the Architectural Committee. Subject to appeal procedures which may be adopted by the Board as provided in Section 8.12, any application or request for certificate of exemption submitted pursuant to this Section shall be deemed approved, unless the Architectural Committee transmits written disapproval or a request for additional information or materials to the Applicant within thirty (30) days after the date of receipt by the Architectural Committee of the Applicant's submitted materials.

**8.4.4. Submittal to Local Governmental Agency - Right of Architectural Committee to Review.** Upon obtaining the written approval of the Architectural Committee, the Owner shall thereafter submit the approved plans and specifications to the Local Governmental Agencies having jurisdiction. If all necessary approvals of the Local Governmental Agencies for the issuance of a building permit or other permits required to commence the work contemplated in the plans and specifications are not obtained within six (6) months from the date of approval by the Architectural Committee, the Architectural Committee shall have the right, but not the obligation, to re-review all previously approved plans and specifications. In addition, if any Local Governmental Agency requires modifications to the plans and specifications previously approved by the Architectural Committee, the Owner shall submit to the Architectural Committee all modifications to the plans and specifications previously approved by the Architectural Committee. In the event the Owner is obligated to resubmit plans and specifications to the Architectural Committee to reflect the modifications required by the Local Governmental Agency, the Architectural Committee shall have the right to review and to impose

further conditions on any such modifications which are not inconsistent with the requirements imposed by the Local Governmental Agency.

**8.4.5. Conflicts Between the Local Governmental Agency and Architectural Review Committee.** In the event of a conflict between the conditions of approval for any proposed Improvement imposed by any Local Governmental Agency and the Architectural Review Committee, the more restrictive of such conditions shall be controlling. Nothing herein shall limit the Architectural Review Committee from imposing conditions of approval for any proposed Improvement which are more restrictive than the conditions imposed by the Local Governmental Agency.

**8.4.6. Owner Improvements Affecting Maintenance Property Wall.** If the Architectural Committee determines that it is reasonably necessary for an Owner to temporarily remove a Maintenance Property Wall in order to install a pool, spa or other Improvement in his rear yard, the Architectural Committee may approve such temporary removal subject to the following conditions: (i) the Owner, at his sole cost, shall agree to reconstruct such Maintenance Property Wall with the same types of materials as originally used by Declarant or the Merchant Builder and restore any damaged Maintenance Property to substantially the same condition as existed prior to such work; (ii) if applicable, the Owner shall restucco and/or repaint extended portions of the Maintenance Property Wall as reasonably necessary to avoid a patched appearance; and (iii) the Owner obtains all other approvals and permits as provided in this Article.

**8.5. Meetings of the Architectural Committee.** The Architectural Committee shall meet as necessary to perform its duties hereunder. The vote or written consent of a majority of the members of the Architectural Committee shall constitute an act of the Architectural Committee. Subject to the prior approval of the Board, the Architectural Committee may engage architects, landscape architects, designers, planners and such similar professionals and consultants and appoint such subcommittees as the Architectural Committee deems appropriate to assist the Architectural Committee and the Architectural Committee Representative in the evaluation of plans, specifications and other items submitted for Architectural Committee approval pursuant to the Declaration.

**8.6. No Waiver of Future Approvals.** Architectural Committee approval of any proposals or plans and specifications or drawings for any Construction Activity done or proposed or in connection with any other matter requiring Architectural Committee approval does not waive any right to withhold approval of any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

**8.7. Compensation of Members.** The Architectural Committee members shall receive no compensation for services rendered, other than reimbursement by the Maintenance Association for expenses incurred by them in performing their duties. The foregoing shall not preclude payment of compensation approved by the Board to architects or similar professionals engaged to assist the Architectural Committee or the Architectural Committee Representative or

to perform the function of the Architectural Committee Representative pursuant to Section 8.5 above.

8.8. **Correction of Defects.** Inspection of work and correction of defects therein shall proceed as follows:

8.8.1. **Notice of Completion.** The Architectural Committee or its duly appointed representative may at any time inspect any Improvement or Construction Activity for which approval of plans is required under this Article. The Architectural Committee's right of inspection of Improvements for which plans have been submitted and approved shall terminate sixty (60) days after the work of Improvement has been completed and the Architectural Committee has received written notice of such completion. The Architectural Committee's rights of inspection shall not terminate pursuant to this paragraph if plans for the work of Improvement have not previously been submitted to and approved (or determined exempt) in writing by the Architectural Committee. If the Architectural Committee finds that an Improvement was done without obtaining written approval of the plans therefor or was not done in substantial compliance with the plans approved by the Architectural Committee, it shall notify the Owner in writing of failure to comply with this Article VIII, specifying the particulars of noncompliance. The Architectural Committee may require the Owner to take such action as may be necessary to remedy a noncompliance.

8.8.2. **Noncompliance.** If the Owner fails to remedy the noncompliance within sixty (60) days from the date the Architectural Committee's notice of noncompliance is deemed received by the Owner, the Architectural Committee shall notify the Board in writing of such failure. Upon Notice and Hearing, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Owner must remedy or remove the same within a period of not more than forty-five (45) days from the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Board may Record a notice of noncompliance and may commence a lawsuit for damages or injunctive relief, as appropriate, to remedy the noncompliance.

8.8.3. **Compliance.** If the Architectural Committee fails to notify the Applicant of any noncompliance with previously submitted and approved plans within sixty (60) days after receipt of written notice of completion from the Applicant, the Construction Activity shall be deemed to be in accordance with such approved plans.

8.8.4. **Prosecution of Work.** The Architectural Committee approval for any particular Construction Activity expires and the plans and specifications therefor must be resubmitted for Architectural Committee approval pursuant to this Article VIII if substantial work pursuant to the approved plans and specifications is not commenced within six (6) months of the Architectural Committee's approval of such Construction Activity. All Construction Activities shall be performed as promptly and diligently as possible and, unless an earlier completion date is specified in this Declaration or the Architectural Committee approval, must be completed within one (1) year after the date on which the work commenced.

8.9. **Scope of Review.** The Architectural Committee shall review and approve or disapprove all plans submitted to it for any proposed Construction Activity solely on the basis of the considerations set forth in this Declaration. The Architectural Committee is not responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building codes or other governmental requirements. The Architectural Committee may consider reasonable privacy right claims as factors in reviewing, approving or disapproving any proposed Construction Activities. However, Declarant and the Merchant Builders do not warrant any protected views within the Properties and no Lot, Residence or Common Area is guaranteed the existence or unobstructed continuation of any particular view.

8.10. **Variances.** The Architectural Committee may recommend variances from compliance with any of the architectural provisions of this Declaration or any Supplemental Declaration, including, without limitation, restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variances must be approved by the Board, evidenced in writing, and signed by at least two (2) officers of the Maintenance Association certifying such Board approval, and are effective upon Recordation. No violation of the covenants, conditions and restrictions contained in this Declaration or any Supplemental Declaration shall exist with respect to any Construction Activity for which a variance is granted. The granting of such a variance does not waive any of the terms and provisions of this Declaration or of any Supplemental Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor does it affect the Owner's obligation to comply with all governmental laws and regulations.

8.11. **Pre-Approvals.** Subject to Section 10.1.5, the Board may authorize the pre-approval of certain specified types or classes of Construction Activities in the Architectural Committee Rules if, in the exercise of the Board's judgment, pre-approval of such types or classes of Improvements is appropriate in carrying out the purposes of this Declaration.

8.12. **Appeals.** For so long as Declarant has the right to appoint and remove a majority of the Architectural Committee members, the Architectural Committee's decisions are final, and there is no appeal to the Board. When Declarant is no longer entitled to appoint and remove a majority of the Architectural Committee's members, the Board may adopt policies and procedures for the appeal of Architectural Committee decisions to the Board. The Board has no obligation to adopt or implement any appeal procedures, and in the absence of Board adoption of appeal procedures, all Architectural Committee decisions are final.

#### **ARTICLE IX DESTRUCTION OR CONDEMNATION OF MAINTENANCE PROPERTY**

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

9.1. **Damages by Owners or Project Associations.** To the extent permitted by law, each Owner and Project Association is liable to the Maintenance Association for any damage to the Maintenance Property not fully reimbursed to the Maintenance Association by insurance (including any insurance policy deductible amounts) if the damage is sustained because of the negligence, neglect, willful misconduct or unauthorized or improper installation or maintenance of any Improvement by the Project Association, its members, guests or invitees, or the Owner, his Family, guests, tenants or invitees, or any other Persons deriving their right and easement of use and enjoyment of the Maintenance Property from the Project Association, the Owner or its Owner Parties. However, the Maintenance Association, acting through the Board, may determine whether any claim will be made upon the insurance maintained by the Maintenance Association, and after Notice and Hearing the Maintenance Association may levy a Special Assessment equal to the increase, if any, in insurance premiums directly attributable to the damage caused by the Owner or the Person for whom the Owner may be liable as described above. In the case of joint ownership of a Lot or Condominium, the liability of the Owners is joint and several, except to the extent that the Maintenance Association has previously contracted in writing with the joint Owners to the contrary. After Notice and Hearing, the cost of correcting the damage, to the extent not reimbursed to the Maintenance Association by insurance, shall be a Special Assessment.

9.2. **Repair of Damages.** If Maintenance Property Improvements which are the maintenance responsibility of the Maintenance Association are damaged by fire or other casualty, any insurance proceeds payable by reason thereof shall be paid to the Maintenance Association, which thereupon shall contract for the repair or replacement of all the Maintenance Property Improvements so damaged. The Maintenance Association shall levy a Reconstruction Assessment on Owners to satisfy any deficiency between insurance proceeds and the actual cost of repair or replacement in the same manner and proportion that Common Assessments are levied against and collected from Owners (for example, Cost Center Owners will pay their proportionate share of any Reconstruction Assessment attributable to their Cost Center Improvements, and Owners not located in such Cost Center are exempt from such Reconstruction Assessment). Any restoration or repair of the Maintenance Property Improvements after damage due to an insurable hazard will be performed substantially in accordance with the original plans and specifications unless other action is approved by holders of fifty-one percent (51%) of the first Mortgages on Lots and Condominiums subject to Common Assessments for the maintenance of such Maintenance Property.

9.3. **Condemnation.** If all or any portion of the Maintenance Property, or any interest therein, is taken by right of eminent domain or by private purchase in lieu of eminent domain, the award in condemnation shall be paid to the Maintenance Association and deposited in the appropriate Operating Fund. No Member (other than a Person on whose Lot an Maintenance Property easement affected by a condemnation may be located) may participate as a party, or otherwise, in any proceedings relating to such condemnation. The Maintenance Association has the exclusive right to participate in such proceedings and shall, in its name alone, represent the interests of all Members.



9.4. **Notice to Owners and Listed Mortgagees.** The Board of Directors immediately upon learning of any taking by eminent domain of any Maintenance Property, or any threat thereof, shall promptly notify all Owners whose Lots and Condominiums are subject to Common Assessments for the maintenance of such Maintenance Property, and all Record holders of first Mortgages on such Owners' Lots and Condominiums. The Board, immediately upon learning of any damage or destruction affecting a material portion of the Maintenance Property, shall promptly notify all Owners whose Lots and Condominiums are subject to Common Assessments for the maintenance of such Maintenance Property, and all holders, insurers, and guarantors of first Mortgages on Lots or Condominiums who have filed a written request for such notice.

## **ARTICLE X DECLARANT AND MERCHANT BUILDER EXEMPTION**

10.1. **Interest of Declarant.** The First Subdivision is a portion of a larger parcel of land which Declarant is developing into a master planned community. Declarant in cooperation with the applicable Local Governmental Agency, has created a comprehensive plan for the development of the Properties which includes modern master-planning objectives which have been formulated for the common good and preservation of property values within the community. Each Owner of a Lot or Condominium which is part of the Properties acknowledges by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in any such deed or other instrument, that Declarant has a substantial interest in assuring compliance with and enforcement of, the covenants, conditions, restrictions and reservations contained in this Declaration and any amendments thereto and any Supplemental Declarations Recorded pursuant to this Declaration. Commencing on the date on which Declarant no longer has an elected or appointed representative on the Board, and continuing until the date on which Declarant no longer owns a Lot or Condominium in the Properties or any portion of the Annexable Area, the Maintenance Association shall provide Declarant with written notice of all meetings of the Board as if Declarant were an Owner and Declarant shall be entitled to have a representative present at all such Board meetings ("Declarant's Representative"). The Declarant's Representative shall be present in an advisory capacity only and shall not be a Board member or have any right to vote on matters coming before the Board. Notwithstanding any other provisions of the Restrictions, until the earlier to occur of (i) annexation of all of the Annexable Area and the Close of Escrow in each such Phase, or (ii) the fifteenth (15th) anniversary of the first Close of Escrow in the Properties, the following actions, before being undertaken by the Owners, the Members or the Maintenance Association, must first be approved in writing by Declarant:

10.1.1. **Specified Approvals.** Any amendment or action requiring the approval of Declarant pursuant to this Declaration, including without limitation all amendments and actions specified in Section 12.2.2, and any amendment or action requiring the approval of first Mortgagees pursuant to this Declaration, including without limitation all amendments and actions specified in Sections 12.2.3 and 12.3. The Maintenance Association must provide Declarant with all notices and other documents to which a Beneficiary is entitled pursuant to this Declaration, and Declarant shall be furnished such notices and other documents without the necessity of a written request.

10.1.2. **Annexation.** The annexation to the Properties of Other Area (not Annexable Area) pursuant to Section 2.3;

10.1.3. **Capital Improvement Assessments.** The levy of a Capital Improvement Assessment for the construction of new facilities not originally included in the Maintenance Property or the material modification of Maintenance Property Improvements or facilities;

10.1.4. **Service/Maintenance Reductions.** Subject to Section 6.7 regarding limitations on yearly Common Assessment increases, any significant reduction of Maintenance Property maintenance or other services or entering into contracts for maintenance or other goods and services benefitting the Maintenance Association or the Maintenance Property at contract rates which are fifteen percent (15%) or more below the reasonable cost for such maintenance, goods or services as determined pursuant to the cost guidelines described in Section 6.7.4;

10.1.5. **Architectural Committee Rules.** The adoption of and any supplement or amendment to the Architectural Committee Rules, including any pre-approval authorization pursuant to Section 8.11;

10.1.6. **Maintenance Guidelines.** Any supplement to or amendment of the Maintenance Guidelines.

10.1.7. **Other Amendments.** Any other amendment that would, in Declarant's judgment, materially alter or affect the rights or exemptions of Declarant hereunder.

10.2. **Exemptions.** Nothing in the Restrictions limits and no Owner, Project Association or the Maintenance Association will interfere with the right of Declarant and Merchant Builders, either directly or through their respective agents and representatives, to subdivide, resubdivide, sell, resell, rent or rerent any portion of the Properties, or the right of Declarant or a Merchant Builder to complete excavation, grading, construction of Improvements or other development activities to and on any portion of the Properties owned by Declarant or a Merchant Builder, as applicable, or to alter the foregoing and the construction plans and designs, or to construct such additional Improvements as Declarant or a Merchant Builder deems advisable in the course of developing the Properties so long as any Lot or Condominium in the Properties or any portion of the Annexable Area is owned by Declarant or a Merchant Builder. These rights include, but are not limited to, (a) exemption from the provisions of Article VII, and (b) carrying on by Declarant, the Merchant Builders and their respective agents and representatives of such grading work as may be approved by the applicable Local Governmental Agency having jurisdiction, and erecting, constructing and maintaining on the Properties such structures, signs and displays reasonably necessary for the conduct of the business of completing the work and disposing of the Properties and the Annexable Area by sale, lease or otherwise. Each Owner, by accepting a deed to a Lot or Condominium, acknowledges that any construction or installation by Declarant or a Merchant Builder may impair the view of such Owner, and each Owner consents to such impairment.

This Declaration does not limit the right of Declarant or a Merchant Builder, at any time prior to acquisition of title to a Lot or Condominium by a purchaser from Declarant or a Merchant Builder, to establish on that Lot or Condominium, as the case may be, additional licenses, easements, reservations and rights-of-way to itself, to utility companies, or to others as reasonably necessary to the proper development and disposal of the Properties and Annexable Area provided, however, if VA or FHA has issued a "project approval" (as described in Section 2.3.7(I) hereof) with regard to any Condominium Project or Planned Development in the Properties which is to be subject to any of the actions described herein, then FHA, VA or both shall have the right to approve any such grants as provided herein. Prospective purchasers, Declarant and Merchant Builders may use any and all portions of the Maintenance Property for access to the sales and leasing facilities of Declarant and Merchant Builders. Declarant and Merchant Builders may use any structures or vehicles owned, respectively, by Declarant or Merchant Builders in the Properties as model home complexes, or real estate sales or leasing offices; provided that such uses within the Properties shall terminate on the fifteenth (15th) anniversary of the first Close of Escrow for the sale of a Lot or Condominium on the Properties pursuant to a transaction requiring the issuance of a Public Report, at which time Declarant and Merchant Builders shall restore their respective structures to their previous appearance. All or any portion of the rights of Declarant or a Merchant Builder, as applicable, hereunder and elsewhere in these Restrictions may be assigned by Declarant or such Merchant Builder, as applicable, to any successor in interest to any portion of Declarant's or Merchant Builder's interest in any portion of the Properties or the Annexable Area (including, without limitation, to any Merchant Builder) by an express Recorded written assignment which specifies the rights of Declarant or such Merchant Builder so assigned. Notwithstanding any other provision of this Declaration, for so long as Declarant owns any portion of the Properties or the Annexable Area, Declarant's prior written approval is required before any amendment to this Article X is effective.

10.3. **Easement Relocation.** Maintenance Property comprising easements over real property the fee title to which has not been made subject to the Declaration ("Interim Easement Area") may be relocated, modified or terminated by Declarant to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any Lot or Condominium.

## **ARTICLE XI INSURANCE**

11.1. **Casualty Insurance.** The Board shall obtain and maintain fire and casualty insurance with extended coverage for loss or damage to all insurable Improvements installed by Declarant, any Merchant Builder or by the Maintenance Association on the Maintenance Property for the full replacement cost thereof without deduction for depreciation or coinsurance, and may obtain insurance against such other hazards and casualties as the Maintenance Association may deem desirable. The Maintenance Association may also insure any other real or

personal property it owns against loss or damage by fire and such other hazards as the Maintenance Association may deem desirable, with the Maintenance Association as the owner and beneficiary of such insurance. The policies insuring the Maintenance Property must be written in the name of, and the proceeds thereof must be payable to the Maintenance Association. Unless the applicable insurance policy provides for a different procedure for the filing of claims, all claims made under such policy must be sent to the insurance carrier or agent, as applicable, by certified mail and be clearly identified as a claim. The Maintenance Association shall keep a record of all claims made. The Maintenance Association shall use insurance proceeds to repair or replace the property for which the insurance was carried. Premiums for all insurance carried by the Maintenance Association are a Common Expense.

**11.2. Insurance Obligations of Owners.** Each Owner is responsible for insuring his personal property and all other property and Improvements within his Lot or Condominium as required by this Declaration, the applicable Supplemental Declaration or applicable Project Declaration. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Maintenance Association, and duplicate copies of such other policies shall be deposited with the Board upon the Board's request. If any loss intended to be covered by insurance carried by or on behalf of the Maintenance Association occurs and the proceeds payable thereunder are reduced due to insurance carried by any Owner, such Owner shall assign the proceeds of such insurance to the Maintenance Association, to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

**11.3. Waiver of Subrogation.** All policies of physical damage insurance the Maintenance Association maintains must provide, if reasonably possible, for waiver of: (i) any defense based on coinsurance; (ii) any right of setoff, counterclaim, apportionment, proration or contribution due to other insurance not carried by the Maintenance Association; (iii) any invalidity, other adverse effect or defense due to any breach of warranty or condition caused by the Maintenance Association, any Owner or any tenant of any Owner, or arising from any act or omission of any named insured or the respective agents, contractors and employees of any insured; (iv) any rights of the insurer to repair, rebuild or replace, and, if any Improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the Improvements insured; (v) notice of the assignment of any Owner of its interest in the insurance by virtue of a conveyance of any Lot; (vi) any denial of an Owner's claim because of negligent acts by the Maintenance Association or other Owners; or (vii) prejudice of the insurance by any acts or omissions of Owners that are not under the Maintenance Association's control. As to each policy of insurance the Maintenance Association maintains which will not be voided or impaired thereby, the Maintenance Association hereby waives and releases all claims against the Board, the Owners, the Maintenance Association Manager, Declarant, the Merchant Builders and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence or breach of any agreement by such Persons, but only to the extent that insurance proceeds are received in compensation for such loss.

11.4. **Liability and Other Insurance.** The Maintenance Association shall obtain comprehensive public liability insurance, including medical payments and malicious mischief, in such limits as it deems desirable with such minimum limits as are set forth in Section 1365.9 of the California Civil Code, insuring against liability for bodily injury, death and property damage arising from the Maintenance Association's activities or with respect to property the Maintenance Association maintains or is required to maintain including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured. The Maintenance Association may also obtain Worker's Compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, the Maintenance Association, Board and Maintenance Association Manager, against liability in connection with the Maintenance Property, the premiums for which are a Common Expense. The Board shall review all insurance policies at least annually and adjust the limits in its discretion. The Board may also obtain such errors and omissions insurance, indemnity bonds, fidelity insurance and other insurance as it deems advisable, insuring the Board, the Maintenance Association's officers and the Maintenance Association 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. However, fidelity insurance coverage which names the Maintenance Association as an obligee must be obtained by or on behalf of the Maintenance Association for any Person handling Maintenance Association funds, including, but not limited to, Maintenance Association officers, directors, employees and agents and Maintenance Association Manager employees, whether or not such Persons are compensated for their services in an amount not less than the estimated maximum of funds, including reserve funds, in the Maintenance Association's or Maintenance Association Manager's custody during the term of each bond. The aggregate amount of such bonds may not be less than one-fourth (1/4) of the Common Assessments on all Lots and Condominiums in the Properties, plus reserve funds. In addition, the Maintenance Association shall continuously maintain in effect such casualty, flood and liability insurance and fidelity insurance coverage meeting the requirements for planned unit developments established by FNMA, GNMA and FHLMC, so long as any of them is a Mortgagee or an Owner of a Residence in the Properties, except to the extent such coverage is not reasonably available or has been waived in writing by FNMA, GNMA and FHLMC as applicable.

11.5. **Notice of Expiration Requirement.** If available, each insurance policy the Maintenance Association maintains must contain a provision that said policy may not be canceled, terminated, materially modified or allowed to expire by its terms, without thirty (30) days' prior written notice to the Board, Declarant, and to each Owner and Beneficiary, insurer and guarantor of a first Mortgage who has filed a written request with the carrier for such notice, and every other Person in interest who requests such notice of the insurer.

## ARTICLE XII MISCELLANEOUS

12.1. **Term and Termination.** This Declaration continues in full force until a Declaration of Termination satisfying the requirements of an amendment to this Declaration as set forth in Section 12.2 of this Article is Recorded.

## 12.2. Amendments.

**12.2.1. By Declarant.** Prior to the first Close of Escrow for the sale of a Lot or Condominium to a member of the public pursuant to a transaction requiring the issuance of a Public Report, this Declaration may be amended or terminated by Recording a written instrument signed by Declarant setting forth such amendment or termination. Notwithstanding any other provisions of this Declaration, for so long as Declarant owns any portion of the Properties or the Annexable Area, Declarant may unilaterally amend this Declaration (I) to conform this Declaration to the requirements of VA, FHA, DRE, FNMA, GNMA, FHLMC, the County, City or any other governmental agency or entity then in effect or to otherwise comply with or implement any state, federal or local law, regulation or ordinance (including, without limitation, the provisions of California Civil Code Sections 895 through 945.5, as enacted by California Statutes Chapter 722, as amended from time to time), (ii) correct typographical or inadvertent errors and (iii) to update or supplement the disclosures contained in Section 12.9 below, by Recording a written instrument signed solely by Declarant.

**12.2.2. By Owners.** The provisions of this Declaration (all of which may not be amended without the written consent of Declarant until the fifteenth (15th) anniversary of the first Close of Escrow in the Properties), may be amended by Recording an instrument, signed and acknowledged by Declarant (for those amendments which must be approved by Declarant) and two (2) officers of the Maintenance Association, setting forth the amendment and certifying that such amendment has been approved by Owners representing sixty-seven percent (67%) of the voting power of the Maintenance Association and the requisite percentage of holders and insurers of first Mortgages, in the case of those amendments which this Declaration requires to be approved by first Mortgagees. Amendments shall be effective upon Recordation.

**12.2.3. Approval of First Mortgagees.** Notwithstanding the foregoing, any of the following amendments, to be effective, must be approved by fifty-one percent (51%) of the first Mortgagees who have requested the Maintenance Association to notify them of proposed action requiring the consent of a specified percentage of first Mortgagees, based upon one (1) vote for each Lot or Condominium pledged as security for the respective first Mortgage:

(i) **Rights of Lenders.** Any amendment which affects or purports to affect the validity or priority of encumbrances or the rights or protections granted to Beneficiaries, insurers and guarantors of first Mortgages as provided in Articles II, VI, IX, X, XI, and XII hereof.

(ii) **Lien Priority.** Any amendment which would necessitate a Mortgagee after it has acquired a Lot or Condominium through foreclosure to pay more than its proportionate share of any unpaid Assessment or Assessments accruing after such foreclosure.

(iii) **Forfeitures and Taxes.** Any amendment which would or could result in (a) an encumbrance being canceled by forfeiture, or (b) an individual Lot or Condominium not being separately assessed for tax purposes.

(iv) **insurance and Condemnation.** Any amendment relating to the insurance provisions as set out in Article XI hereof, or to the application of insurance proceeds as set out in Article XI hereof, or to the disposition of any money received in any taking under condemnation proceedings.

(v) **Termination and Subdivision.** Any amendment which would or could result in termination or abandonment of the Properties or partition or subdivision of a Lot or Condominium, in any manner inconsistent with the provisions of this Declaration; provided that termination of the legal status of the Properties as a common interest development for reasons other than substantial destruction or condemnation of the Properties must be approved by the institutional Record holders of sixty-seven percent (67%) of the first Mortgages at the time of such amendment.

Any approval by a holder, insurer or guarantor of a first Mortgage required under this Section 12.2.3, or required pursuant to any other provisions of the Restrictions, must either be given in writing, or is deemed given if, within thirty (30) days after receipt of written notice of the proposed action sent via registered or certified mail, return receipt requested, the holder, insurer or guarantor does not submit a written response to the notice.

12.2.4. **Veto by City.** The City shall have the power to veto any purported amendment or termination of this Declaration, which affects any provision required by Conditions of Approval to development of the Properties imposed by the City. No amendment or written agreement purporting to terminate or modify such provisions of this Declaration shall take effect until thirty (30) calendar days following delivery by mail, return receipt requested, of written notice thereof, to the City Director of Planning and Community Development, with a copy thereof to the City Attorney, and if no veto is exercised by the City Planning Director within thirty (30) calendar days after the receipt of such notice, such amendment or termination shall thereafter become effective.

12.2.5. **Certification.** A certificate, signed and sworn to by two (2) officers of the Maintenance Association that Owners representing sixty-seven percent (67%) of the Lots and Condominiums have voted for any amendment adopted as provided above, when Recorded, shall be conclusive evidence of that fact. The certificate reflecting any termination or amendment which requires the consent of any of the record holders, guarantors or insurers of first Mortgages shall include a certification that the requisite approval of the City, and such holders, guarantors or insurers of first Mortgages has been obtained or waived. The certificate reflecting any termination or amendment requiring Declarant's consent shall be signed and acknowledged by Declarant. The Maintenance Association shall maintain in its files the record of all such votes and Mortgagee consent solicitations and disapprovals for a period of at least four (4) years.

12.3. **Mortgagee Protection-General.** Notwithstanding any other provision of this Declaration, no amendment or violation of this Declaration will defeat or render invalid the rights of the Beneficiary under any Deed of Trust made in good faith and for value, and Recorded prior to the Recordation of such amendment (or a Notice of Lien Recorded pursuant to Section 6.11). After the foreclosure of any such Deed of Trust such Lot or Condominium remains

subject to this Declaration, as amended. Notwithstanding any and all provisions of this Declaration to the contrary, in order to induce FHLMC, GNMA, FNMA, VA and FHA to participate in the financing of Lots and Condominiums within the Properties, the following provisions are added hereto (and to the extent these added provisions, pertaining to the rights of Mortgagees, FHLMC, FNMA, GNMA, VA and FHA, conflict with any other provisions of this Declaration or any other of the Restrictions, these added restrictions shall control):

**12.3.1. Notice of Default.** Each Beneficiary, insurer and guarantor of a first Mortgage encumbering any Lot or Condominium, upon filing a written request for notification with the Board, is entitled to written notification from the Maintenance Association of (I) any condemnation or casualty loss which affects either a material portion of the Properties or the Lot or Condominium securing the respective first Mortgage; (ii) any delinquency of sixty (60) days or more in the performance by the Owner of such Lot or Condominium of any obligation arising pursuant to this Declaration, including without limitation the payment of Assessments or charges owed by the Owner of the Lot or Condominium securing the respective first Mortgage, which notice each Owner hereby consents to and authorizes; (iii) a lapse, cancellation, or material modification of any policy of insurance or fidelity bond maintained by the Maintenance Association; and (iv) any proposed action of the Maintenance Association which requires consent by a specified percentage of first Mortgagees.

**12.3.2. First Refusal Exemption.** Every Owner, including every first Mortgagee of a Mortgage encumbering any Lot or Condominium, which obtains title to such Lot or Condominium pursuant to the remedies provided in such Mortgage, or pursuant to foreclosure of the Mortgage, or by deed (or assignment) in lieu of foreclosure, is exempt from any "right of first refusal."

**12.3.3. Lien Priority.** Each first Mortgagee of a Mortgage encumbering any Lot or Condominium and Recorded prior to a Notice of Lien which obtains title to such Lot or Condominium pursuant to judicial foreclosure or the powers provided in such Mortgage takes title to such Lot or Condominium free and clear of any claims for unpaid Assessments or charges against such Lot or Condominium which accrued prior to the time such Mortgagee acquires title to such Lot or Condominium in accordance with Section 6.16.

**12.3.4. Books and Records.** All Beneficiaries, insurers and guarantors of first Mortgages on Lots or Condominiums, upon written request to the Maintenance Association, may examine current copies of the Maintenance Association's books, records and financial statements and the Restrictions during normal business hours, and may require the Maintenance Association to submit an annual audited financial statement for the preceding fiscal year without expense to the entity requesting the statement within one hundred twenty (120) days of the end of the fiscal year.

**12.3.5. Mortgage Notices.** All Beneficiaries, insurers and guarantors of first Mortgages of Lots or Condominiums who have filed a written request with the Maintenance Association shall be given (1) thirty (30) days' written notice prior to the effective date of any proposed, material amendment to this Declaration or the Articles or Bylaws, and prior to the



effective date of any termination of an agreement for professional management of the Properties following a decision of the Owners to assume self-management of the Properties; (ii) written notice of all meetings of the Owners and the right to designate in writing a representative who shall be authorized to attend all such meetings; and (iii) immediate written notice as soon as the Board receives notice or otherwise learns of any damage to the Maintenance Property whenever the cost of reconstruction exceeds Ten Thousand Dollars (\$10,000), and as soon as the Board receives notice or otherwise learns of any condemnation or eminent domain proceedings or other proposed acquisition, with respect to any portion of the Properties.

**12.3.6. Maintenance Property Taxes.** First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Maintenance Property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such property, and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Maintenance Association.

**12.4. Notices.** Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered two (2) business days after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any Person at the address given by such Person to the Maintenance Association for the purpose of service of such notice, or to the Residence (or principal place of business in the case of a Project Association) of such Person if no address has been given to the Maintenance Association. Such address may be changed from time to time by notice in writing to the Maintenance Association.

**12.5. Enforcement and Non-Waiver.**

**12.5.1. Right of Enforcement.** Subject to Sections 1354 and 1375 of the California Civil Code and Sections 12.5.8, 12.5.10, 12.15 and 12.16 below, the Maintenance Association, the successors-in-interest of the Maintenance Association, any Owner, Project Association, Declarant and Merchant Builders (so long as Declarant or a Merchant Builder owns a Lot or Condominium in the Properties or is entitled to add any portion of the Annexable Area to the Properties), may enforce any of the provisions of the Restrictions against any portion of the Properties which is in noncompliance, and against each Owner, the Maintenance Association, any Project Association, or any other Person responsible for the noncompliance. Such right shall include proceedings for damages, as well as proceedings to enjoin any violation of the Restrictions. The City shall be entitled but not obligated to enforce all provisions of this Declaration required by the City as conditions to approval of development of the Properties.

**12.5.2. Project Declaration Enforcement.** Subject to Sections 1354 of the California Civil Code and Sections 5.2.10, 12.5.8, 12.5.10, 12.15 and 12.16 below, the Maintenance Association may commence and maintain actions and proceedings to restrain and enjoin any breach or threatened breach of the provisions of any applicable Project Declaration and to enforce, by mandatory injunctions or otherwise, all of the provisions of any applicable Project Declaration.

12.5.3. **Violations are Nuisance.** Every act or omission whereby any provision of the Restrictions is violated in whole or in part is declared a nuisance and every remedy allowed by law or equity against a nuisance, either public or private, is applicable against every such violation and may be exercised as provided in Section 12.5.1 above.

12.5.4. **Violation of Law.** Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any of the Properties is a violation of the Restrictions and subject to all of the enforcement procedures set forth in the Restrictions.

12.5.5. **Remedies Cumulative.** Each remedy provided by the Restrictions is cumulative and not exclusive. The Maintenance Association may, without waiving the right to enforce its lien against the Lot or Condominium, bring a suit at law to enforce each Assessment obligation.

12.5.6. **No Waiver.** Failure to enforce any provision of the Restrictions does not waive the right to enforce that provision, or any other provision thereof.

12.5.7. **Special Assessment.** If any Owner, Owner Parties or any Project Association violates the Restrictions, the Board may, after Notice and Hearing and in addition to the other remedies available, impose a reasonable Special Assessment upon such Owner, its Owner Parties or Project Association for each violation and may as further provided in the Bylaws, suspend or condition such Owner's right (and the right of the Owner Parties) to use any portion of the Maintenance Property (other than streets and driveways providing access to such Owner's Lot or Condominium). Any such suspension or conditional suspension shall be for a period of not more than thirty (30) days for any noncontinuing infraction, but in the case of a continuing infraction (including nonpayment of any delinquent Assessment) may be imposed for so long as the violation continues. The Board may also adopt a schedule of reasonable fines or penalties which, in its reasonable discretion, it may assess against an Owner or Project Association for failure of the Project Association or Owner, his Family or a resident of or visitor to his Lot or Condominium, to comply with any provision of the Restrictions, other than Article VI hereof. Such fines or penalties may only be assessed by the Board after Notice and Hearing.

12.5.8. **Alternative Dispute Resolution of Assessment Disputes.** Disputes between an Owner and the Maintenance Association regarding the Assessments imposed by the Maintenance Association may be submitted to alternative dispute resolution in accordance with Civil Code Section 1354 if such Owner pays in full (i) the amount of the Assessment in dispute, (ii) any late charges, (iii) any interest, and (iv) all fees and costs associated with the preparation and filing of a Notice of Delinquent Assessment (including mailing costs and attorneys fees not to exceed the maximum amount allowed by law), and states by written notice that such amount is paid under protest, and the written notice is mailed by certified mail not more than thirty (30) days from the Recording of a Notice of Delinquent Assessment. Upon receipt of such written notice, the Maintenance Association shall inform the Owner in writing that the dispute may be resolved through alternative dispute resolution as set forth in Civil Code Section 1354. The right

of any Owner to utilize alternative dispute resolution under this Section may not be exercised more than two times in any single calendar year, and not more than three times within any five (5) calendar years. Nothing within this Section shall preclude any Owner and the Maintenance Association, upon mutual agreement, from entering into alternative dispute resolution in excess of the limits set forth herein. An Owner may request and be awarded through alternative dispute resolution reasonable interest to be paid by the Maintenance Association in the total amount paid under items (I) through (iv) above, if it is determined that the Assessment levied by the Maintenance Association was not correctly levied.

**12.5.9. Notice of Noncompliance.** After Notice and Hearing, the Board may direct the officers of the Maintenance Association to Record a Notice of Noncompliance against a Residence owned by any Member of the Maintenance Association who has violated any provision of this Declaration. The notice shall include a legal description of the Residence and shall specify the provision of this Declaration that was violated, the violation committed, and the steps required to remedy the noncompliance. Once the noncompliance is remedied or the noncomplying Owner has taken such other steps as reasonably required by the Board, the Board shall direct the officers of the Maintenance Association to Record a notice that the noncompliance has been remedied.

**12.5.10. Limitation on Expenditures.** The Maintenance Association may not incur litigation expenses, including without limitation attorneys' fees, or borrow money to fund litigation, where the Maintenance Association initiates legal proceedings or is joined as a plaintiff in legal proceedings, unless the Maintenance Association first obtains the approval of sixty-seven percent (67%) of the Owners (excluding the voting power of any Owner who would be a defendant in such proceedings), and, if applicable, complies with the requirements of Section 1354 of the California Civil Code. Such approval is not necessary if the legal proceedings are initiated (i) to enforce the use restrictions contained in Article VII, (ii) to enforce the architectural and landscaping control provisions contained in Article VIII, (iii) to collect any unpaid Assessments levied pursuant to this Declaration, (iv) for a claim, the total value of which is less than five hundred thousand dollars (\$500,000), or (v) as a cross-complaint in litigation to which the Maintenance Association is already a party. If the Maintenance Association decides to use or transfer Reserve funds or borrow funds to pay for any litigation, such notice shall provide an explanation of why the litigation is being initiated or defended, why operating funds cannot be used, how and when the reserve funds will be replaced or the loan will be repaid, and a proposed budget for the litigation. The notice must state that the Members have a right to review an accounting for the litigation which will be available at the Maintenance Association's office. The accounting shall be updated monthly.

## **12.6. Interpretation.**

**12.6.1. Restrictions Construed Together.** The Restrictions shall be liberally construed to effectuate the fundamental concepts of the Properties as set forth in the Preamble to this Declaration. The Restrictions shall be interpreted so as to be consistent with applicable laws and regulations, including ordinances and regulations of applicable Local Governmental

Agencies. The Restrictions shall be construed and governed by the laws of the State of California.

**12.6.2. Restrictions Severable.** Notwithstanding the provisions of Section 12.6.1, each of the provisions of the Restrictions is 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.

**12.6.3. Singular Includes Plural.** Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

**12.6.4. Captions.** All captions and titles in this Declaration are solely for convenience of reference and do not affect that which is set forth in any of the provisions hereof.

**12.6.5. Time Periods.** Except as otherwise expressly provided herein, any reference in this Declaration to time for performance of obligations or to elapsed time means consecutive calendar days, months, or years, as applicable.

**12.7. Reservation of Easements.** Declarant and the Merchant Builders hereby reserve for the benefit of all of the Properties reciprocal easements for access, ingress and egress for all Owners to and from their respective Lots and Condominiums; for installation and repair of utility services; for encroachments of Improvements constructed by Declarant and Merchant Builders or authorized by the Architectural Committee over the Maintenance Property, Condominiums and Lots; for drainage of water over, across and upon adjacent Lots, Common Areas and Maintenance Property resulting from the normal use of adjoining Lots, Common Areas or Maintenance Property; for necessary maintenance and repair of any Improvement constructed by Declarant or a Merchant Builder; easements as may be shown on any Recorded subdivision map or Recorded parcel map of any portion of the Properties; and for such other purposes specified in this Declaration. Such easements may be used by Declarant and the Merchant Builders, their successors, invitees and purchasers, the Maintenance Association, and all Owners, their guests, tenants and invitees, residing on or temporarily visiting the Properties, for pedestrian walkways, vehicular access and such other purposes specified herein or reasonably necessary for the use, maintenance and enjoyment of a Lot, Condominium, Common Areas or the Maintenance Property. Declarant hereby reserves easements for the installation and maintenance of master antenna or communications service, as provided in Section 3.8.

**12.8. No Public Right of Dedication.** Nothing in this Declaration is a gift or dedication of all or any part of the Properties to the public, or for any public use.

**12.9. Disclosures.** Every person who owns, occupies or acquires any right, title, estate or interest in or to any Lot or Condominium or other portion of the Properties agrees to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in the Properties. Each Owner, by acceptance of a deed or other conveyance

of a Lot or Condominium, whether or not it shall be so expressed in any such deed or other instrument, acknowledges and understands the following:

**12.9.1. Soil Condition.** Soils in the Properties are expansive in nature. These types of soils will expand when they become wet and contract when they are dry. This expansion and contraction may cause movement, cracking and other distress in slabs, patios, sidewalks and other flatwork Improvements within the Properties. Soil within the Properties also contains a large amount of subterranean rock. Consequently, installation of pools, spas, landscaping and other Improvements which require digging, trenching or other excavation may be more expensive due to the possibility of encountering buried rocks and the necessity of removing same. Owners of Residences should take these conditions into account in the design of the landscape, hardscape and Improvements which they construct on their Lots. Owners should advise their contractors, engineers and/or architects of the presence of these expansive soils so that their effect may be mitigated by appropriate design and construction techniques. Copies of the soils reports for the Properties are available for review at the City.

**12.9.2. Post Tension Concrete Slabs.** Concrete slabs for Residences constructed in the Properties may be reinforced with a grid of steel cable installed in the concrete slab and then tightened to create extremely high tension. This type of slab is commonly known as a "Post Tension Slab." Cutting into a Post Tension Slab for any reason (e.g., to install a floor safe, to remodel plumbing, etc.) is very hazardous and may result in serious damage to the Residence and/or personal injury. All Owners shall determine if their Residence has been constructed with a Post Tension Slab and, if so agree: (1) they shall not cut into or otherwise tamper with the Post Tension Slab; (2) will not permit or allow any other person to cut into or tamper with the Post Tension Slab so long as Owner owns any interest in the Residence; (3) they shall disclose the existence of the Post Tension Slab to any person who rents, leases or purchases the Residence from Owner; and (4) they shall indemnify and hold Declarant, and its officers, employees, contractors and agents, free and harmless from and against any and all claims, damages, losses or other liability (including attorneys' fees and costs of court) arising from any breach of this covenant by such Owner.

**12.9.3. Proto-II Wall Disclosure.** Each Owner acknowledges and understands that some Maintenance Property Walls and other walls on or adjacent to Lots are a type of masonry fencing known as "Proto-II" walls. Although Proto-II walls typically look the same as conventional masonry fencing, the method of construction differs. Conventional masonry walls are built with rigid vertical and horizontal sleeves of rebar and grout to provide strength and stability to the wall. Proto-II walls, on the other hand, are constructed using high strength steel post-tensioning rods inside the footings and wall to induce tightness (tension) throughout the footings and wall. Because of the presence of post-tension rods within the structure of the wall, it is imperative that Owners contact a professional Proto-II wall installer before undertaking any structural repair of the Proto-II walls. By accepting conveyance of a Residence, each Owner specifically covenants and agrees (i) to engage the services of a Proto-II wall professional in connection with any structural work on the Proto-II wall; (ii) to disclose the existence of the Proto-II wall to any lessee, tenant, or subsequent purchaser; and (iii) neither Declarant nor any Merchant Builder shall be responsible for any damage or injury resulting from or arising in

connection with the alteration of the Proto-II wall by Owner or any employee, agent, family member or representative of Owner.

12.9.4. **Entry Gates.** Subject to Subsection (I) below, vehicular access into the Properties may be controlled by electronically operated entry gates located at the private street entrances into the Properties, which facilities may also have pedestrian gates that may or may not be controlled in any way, and may be open to the general public. There may be additional controlled access pedestrian gates at other locations within the Properties. The entry gates will not be staffed.

(i) **Gate Operations During Marketing Period.** Declarant reserves the unrestricted right to limit or suspend the operation of any vehicular entry gates and other measures to restrict access to the Properties and Annexable Area during the "Marketing Period" (as defined in Subsection (iii) below). During the Marketing Period the entry gates and access points to the Properties may be open without restriction to the general public and Declarant and Merchant Builder construction, model home and other development and marketing traffic at all hours of the day, seven days a week; provided however, that Declarant without notice to or the approval of the Board of Directors or Owners may change the hours or nature of entry gate and access point operation in its sole discretion and without notice to accommodate construction, marketing and other development activities. Neither the Board of Directors nor Owners shall take any action that interferes with the rights of Declarant hereunder with respect to the unrestricted control over the operation and use of and entry through entry gates and access points to the Properties and Annexable Area during the Marketing Period.

(ii) **Security and Privacy Disclaimer.** Entry gates are not intended to provide security for persons, personal property or Residences within the Properties. Declarant, the Merchant Builders and the Maintenance Association do not undertake to provide security for the Properties nor do they make any representations or warranties whatsoever concerning the effect the gates may have on vehicular and pedestrian access through the Properties or the privacy and safety of the Properties.

(iii) **Entry Gate Disclosure.** Each Owner of a Lot or Condominium which is part of the Properties acknowledges by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in any such deed or other instrument, that Declarant has a substantial interest in assuring unrestricted access to the Properties to accommodate the construction and marketing of the Residences and development of the Properties. Therefore, notwithstanding any other provisions of the Restrictions, until the earlier to occur of (I) Close of Escrow for the sale of all Residences in the Properties, and annexation of all the Annexable Area or (ii) fifteen (15) years following the first Close of Escrow for the sale of a Lot or Condominium pursuant to a transaction requiring the issuance of a Public Report ("Marketing Period"), Declarant is entitled to control the operation of the entry gates and access points which provide vehicular access to the Properties. During the Marketing Period Declarant may establish and change the hours of gate operation and any other access restriction in its sole discretion without notice, and require that the general public, Declarant and Merchant Builders and their employees, agents, representatives, consultants, contractors and subcontractors have

unrestricted access through entry gates and access points to accommodate construction, marketing activities and other development activities.

**12.9.5. Noise From Entry Gates.** Residents living in the vicinity of the entry gates will experience noise from the operation of the entry gates and from traffic entering and exiting the Properties. Vehicles may line up outside the Properties at the start of each work day if the gates are not open. The Maintenance Association may need to clean the streets in the Properties more frequently due to such construction traffic until all Residences have been constructed.

**12.10. Public Access.** In accordance with certain conditions of approval imposed by the City in connection with the development of the Properties, certain portions of the Maintenance Property (e.g., private streets, certain park facilities, and hiking and/or biking trails, etc.) will be available for use by members of the general public.

**12.11. No Representations or Warranties; Not an Enhanced Protection Agreement.** No representations or warranties of any kind, express or implied, have been given or made by Declarant or its agents or employees in connection with the Properties or any portion of the Properties, or any Improvement thereon, its physical conditions, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, except as specifically and expressly set forth in this Declaration and except as may be filed from time to time with the DRE or with any other governmental authority. This Declaration is not an "enhanced protection agreement" (as described in California Civil Code Section 901, as enacted by California Statutes, Chapter 722, as amended from time to time, or any successor statute). Nothing in this Declaration shall be construed to be an enhanced protection agreement.

**12.12. Standard of Care, Nonliability.**

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

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

(ii) **Business Affairs.** This Subsection 12.12.1(ii) applies to Board member actions in connection with management, personnel, maintenance and operations, insurance, contracts and finances and Architectural Review Committee member actions. Each Board member shall perform the duties of a Board member in good faith, in a manner such Board

member believes to be in the best interests of the Maintenance Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. When performing his duties, a Board member is entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

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

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

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

(4) This Subsection 12.12.1(ii) is intended to be a restatement of the business judgement rule established in applicable law as it applies to the Maintenance Association. All amendments, modifications, restatements and interpretations of the business judgment rule applicable to the Maintenance Association shall be interpreted to amend, modify, restate or interpret this Subsection 12.12.1(ii).

(iii) **Maintenance Association Governance.** This Subsection 12.12.1(iii) applies to Board actions, Architectural Review Committee decisions and other Committee decisions in connection with interpretation and enforcement of the Restrictions, architectural and landscaping control, regulation of uses within the Properties, rule making and oversight of committees. Actions taken or decisions made in connection with these matters shall be reasonable, fair and nondiscriminatory.

#### 12.12.2. **Nonliability.**

(i) **General Rule.** No Person is liable to any other Person (other than the Maintenance Association or a party claiming in the name of the Maintenance Association) for injuries or damage resulting from such Person's acts or omissions when the acts or omissions are within what the Person reasonably believed to be the scope of the Person's Maintenance Association duties ("Official Acts"), except to the extent that injuries or damage result from the Person's willful or malicious misconduct. No Person is liable to the Maintenance Association (or to any party claiming in the name of the Maintenance Association) for injuries or damage resulting from such Person's Official Acts, except to the extent that such injuries or damage result from such Person's willful or malicious misconduct. The Maintenance Association is not liable for damage to property in the Properties unless caused by the negligence of the



Maintenance Association, the Board, the Owners, the Maintenance Association's officers, the Manager or the Manager's staff.

(ii) **Nonliability of Volunteer Board Members and Officers.** A volunteer Board member or volunteer Maintenance Association officer shall not be personally liable to any Person who suffers injury, including without limitation bodily injury, emotional distress, wrongful death or property damage or loss as a result of the tortious act or omission of the volunteer officer or Board member if all of the applicable conditions specified in Section 1365.7 of the California Civil Code, as modified, amended, or replaced, are met.

**12.13. Enforcement of Certain Bonded Obligations.** If (i) the Maintenance Property Improvements located on any Phase of Development of the Properties are not completed by the developer (Merchant Builder or Declarant, as the case may be) of such Phase of Development of the Properties (herein the "Developer"), prior to the issuance of a Final Subdivision Public Report for that Phase of Development by the DRE, and (ii) the Maintenance Association is obligee under a bond, letter of credit or other arrangement ("Bond") required by the DRE to secure performance of the Developer's commitment to complete the Improvements, the following provisions of this Section will be applicable:

12.13.1. **Board Action.** The Board shall consider and vote on the question of Maintenance Association action to enforce the obligations under the Bond, with respect to any such Improvement for which a Notice of Completion has not been filed, within sixty (60) days after the completion date specified for that Improvement in the Planned Construction Statement appended to the Bond. If the Maintenance Association has given an extension in writing for the completion of any Maintenance Property Improvement, the Board shall consider and vote on the aforesaid question if a Notice of Completion has not been filed, within thirty (30) days after the expiration of the extension.

12.13.2. **Owner Action.** A special meeting of Owners, for the purpose of voting to override a decision by the Board not to initiate action to enforce the obligations under the Bond or on the Board's failure to consider and vote on the question, shall be held no fewer than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such a meeting signed by Owners representing in the aggregate not less than five percent (5%) of the Maintenance Association total voting power. A vote of Owners representing a majority of the Maintenance Association voting power, disregarding any votes attributable to Lots or Condominiums owned by the Developer, to take action to enforce the obligations under the Bond shall be deemed the Maintenance Association's decision, and the Board must thereafter implement this decision by initiating and pursuing appropriate action in the Maintenance Association's name.

12.14. **Priorities and Inconsistencies.** If there are conflicts or inconsistencies between this Declaration and either the Articles of Incorporation or the Bylaws of the Maintenance Association, the terms and provisions of this Declaration shall prevail. In addition, if there are any conflicts or inconsistencies between this Declaration or any of the Restrictions, and any documentation executed by a Merchant Builder and Declarant in connection with the sale of any property in the Properties to the Merchant Builder (collectively "Development Documents"), as between Merchant Builder and Declarant, the terms and provisions of the Development Documents shall control.

12.15. **Dispute Resolution.** All disputes involving (i) the Maintenance Association and/or (ii) any "Declarant Parties" (defined below) which arise out of, or relate to, the Restrictions (excluding any action for delinquent Assessments) or which relate to the Properties, shall be resolved as provided in this Section. For purposes of this Section, the term "Declarant Parties" means and collectively refers to the Declarant, its members, managers, and each of their respective members, managers, shareholders, directors, officers and employees, and the term "Declarant Party" refers to any of the foregoing individually. This Section is not intended and shall not apply to any disputes solely between or among any Merchant Builders, Project Associations and/or any Owners. Any Merchant Builder may designate in a sale agreement or in a recorded document an alternative dispute resolution procedure with respect to disputes solely between a Merchant Builder and the purchaser of a Residence that do not involve Declarant or any other Declarant Parties or the Maintenance Association. The dispute resolution procedure in this Section 12.15 shall control all disputes involving Declarant and/or other Declarant Parties.

(a) **Construction Defect Disputes.** Prior to the commencement of any legal action by the Maintenance Association, Project Association or any Owner(s) against the Declarant or any other Declarant Party based upon a claim for defects in the design or construction of any Residence, Maintenance Property or Improvements thereon, the Maintenance Association, Project Association or Owner must first comply with the requirements of Civil Code Section 1375 (notwithstanding the fact that Section 1375 does not apply to Owners by its terms). If the parties are unable to resolve their dispute in accordance with the procedures established under Civil Code Section 1375, the dispute shall be resolved in accordance with subsection (c) below and the parties shall each be responsible for their own attorneys' fees, expert witness fees and similar or related costs and fees.

(b) **Other Disputes.** Any other disputes involving (i) the Maintenance Association and/or (ii) any Declarant Parties which arise out of, or relate to, the Restrictions (excluding any action for delinquent Assessments) or which relate to the Properties shall be resolved in accordance with subsection (c) below. The dispute resolution procedure in subsection (c) as it applies solely to a dispute under this subsection (b) shall be deemed to satisfy the alternative dispute requirements of Civil Code Section 1354, as applicable.

(c) **Judicial Reference.** The following dispute resolution procedure is implemented for the Properties in accordance with the philosophy and intent of the Federal Arbitration Act (9 U.S.C. Sections 1-16) which is designed to encourage use of alternative

methods of dispute resolution that avoid costly and potentially lengthy traditional court proceedings. The dispute resolution procedure in this Section is to be interpreted and enforced as if it were a proceeding authorized by the Federal Arbitration Act. Parties interpreting this Section shall follow the federal and state court rulings which provide that the Federal Arbitration Act (1) is a congressional declaration of a liberal federal policy favoring arbitration agreements, notwithstanding substantive or procedural state policies to the contrary, (2) requires that federal and state courts rigorously enforce agreements to arbitrate, and (3) requires that the scope of arbitrable issues be resolved in favor of arbitration. Specifically, this Section is to be interpreted in accordance with Allied-Bruce Terminix Companies, Inc. v. Dobson, 115 S.Ct. 834 (1995). References in this Section to California Code Sections are not to be interpreted as a waiver of rights created under federal law.

Any unresolved disputes shall be submitted to general judicial reference pursuant to California Code of Civil Procedure Sections 638(1) and 641-645.1. The parties shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the judicial reference proceeding. Declarant Parties shall not be required to participate in the judicial reference proceeding unless Declarant is satisfied that all necessary and appropriate parties will participate. The parties shall each be responsible for their own attorneys' fees, expert witness fees and similar or related costs and fees. The prevailing party in any dispute subject to this Section 12.15 shall not be entitled to reasonable attorney's fees, expert witness fees or similar or related costs and fees. If any Declarant Party is a party to the proceeding, the fee to initiate the reference proceeding and the referee's fees shall be advanced by Declarant (unless any Merchant Builder is a party to such proceeding, in which case the initiation fee and fees of the referee shall be advanced by Declarant and such Merchant Builder(s) equally). If no Declarant Party is a party to the proceeding, the initiation fee shall be advanced by the party initiating the proceeding and the referee's fees shall be borne equally by all parties. The referee in any proceeding shall have the power to reallocate the initiation fee and referee's fees among the parties to the proceeding in the referee's final ruling.

The general referee shall have the authority to try all issues, whether of fact or law, and to report a statement of decision to the court. The parties shall use the procedures adopted by JAMS ("JAMS") for judicial reference and selection of a referee (or any other entity offering judicial reference dispute resolution procedures as may be mutually acceptable to the parties), provided that the following rules and procedures shall apply in all cases unless the parties agree otherwise:

- (1) The proceedings shall be heard in the County;
- (2) The referee must be a retired judge or a licensed attorney with substantial experience in relevant real estate matters;
- (3) Any dispute regarding the selection of the referee shall be resolved by JAMS or the entity providing the reference services, or, if no entity is involved, by the court with appropriate jurisdiction;
- (4) The referee may require one or more pre-hearing conferences;

- (5) The parties shall be entitled to discovery, and the referee shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge;
- (6) A stenographic record of the trial shall be made, provided that the record shall remain confidential except as may be necessary for post-hearing motions and any appeals;
- (7) The referee's statement of decision shall contain findings of fact and conclusions of law to the extent applicable; and
- (8) The referee shall have the authority to rule on all post-hearing motions in the same manner as a trial judge.

The statement of decision of the referee upon all of the issues considered by the referee is binding upon the parties, and upon filing of the statement of decision with the clerk of the court, or with the judge where there is no clerk, judgment may be entered thereon. The decision of the referee shall be appealable as if rendered by the court. This provision shall in no way be construed to limit any valid cause of action which may be brought by any of the parties. The parties acknowledge and accept that they are waiving their right to a jury trial.

(d) **Civil Code Section 1354.** This Section 12.15 governs only the resolution of disputes involving Declarant Parties and/or the Maintenance Association and shall not affect the subject matter of such disputes. Unless the subject matter of a dispute expressly involves enforcement of the Restrictions, such dispute shall not be governed by the provisions of California Civil Code Section 1354, or any successor statute. Enforcement of the Restrictions as between any Declarant Party, and Merchant Builder(s), the Maintenance Association and/or any other party shall not entitle the prevailing party in such dispute to reasonable attorneys' fees or costs.

(e) **Statutes of Limitations.** Nothing in this Section 12.15 shall be considered to toll, stay, reduce or extend any applicable statute of limitations, provided, however, that Declarant, the Declarant Parties, the Maintenance Association, and Project Association and any Owner may commence a legal action which in the good faith determination of that Person is necessary to preserve that Person's rights under any applicable statute of limitations so long as no further steps in processing the action are taken except those authorized in this Section 12.15.

(f) **AGREEMENT TO DISPUTE RESOLUTION; WAIVER OF JURY TRIAL.** DECLARANT, THE MAINTENANCE ASSOCIATION, EACH PROJECT ASSOCIATION, EACH MERCHANT BUILDER AND EACH OWNER AGREE TO USE THE PROCEDURES ESTABLISHED IN THIS SECTION 12.15 TO RESOLVE ALL DISPUTES WHICH ARE COVERED UNDER THIS SECTION 12.15 AND WAIVE THEIR RIGHTS TO RESOLVE DISPUTES IN ANY OTHER MANNER. DECLARANT, THE MAINTENANCE ASSOCIATION, EACH PROJECT ASSOCIATION AND EACH OWNER

ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL DISPUTES AS PROVIDED IN THIS SECTION 12.15 THEY ARE GIVING UP THEIR RIGHT TO HAVE DISPUTES TRIED BEFORE A JURY, PURSUANT TO THE FEDERAL ARBITRATION ACT. THIS SECTION 12.15 MAY NOT BE AMENDED WITHOUT DECLARANT'S PRIOR WRITTEN CONSENT.

**12.16. WAIVER OF PUNITIVE DAMAGES.** BY ACCEPTANCE OF A DEED OR OTHER CONVEYANCE OF A LOT, CONDOMINIUM, MAINTENANCE PROPERTY OR COMMON AREA, EACH OWNER, THE MAINTENANCE ASSOCIATION AND EACH PROJECT ASSOCIATION SHALL BE DEEMED TO HAVE WAIVED, FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS, ALL RIGHT TO RECOVER PUNITIVE OR OTHER EXEMPLARY DAMAGES FROM AND ANY OR ALL DECLARANT PARTIES.

*[SIGNATURES ON FOLLOWING PAGES]*

Declarant and Initial Merchant Builder have executed this Declaration as of the date set forth below.

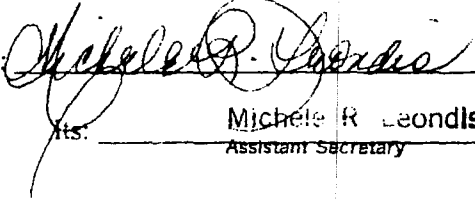
Dated: 12.19, 2003

"DECLARANT"

IRVINE COMMUNITY DEVELOPMENT  
COMPANY L.L.C. a Delaware limited liability  
company

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

Its: THOMAS E. HEGGI  
Vice President

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

Its: Michele R. Leondis  
Assistant Secretary

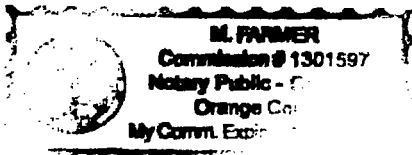
*[SIGNATURE(S) OF INITIAL MERCHANT BUILDER ON FOLLOWING PAGE]*



STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On Dec 19, 2003, before me, M Farmer, a Notary Public in and for said State, personally appeared Thomas E. Heggi and Michele R. Leonde, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (~~is~~ are) subscribed to the within instrument and acknowledged to me that ~~he~~ ~~she~~ (they) executed the same in ~~his~~ ~~her~~ (their) authorized capacity(ies), and that by ~~his~~ ~~her~~ (their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
Notary Public in and for said State

(SEAL)



STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On \_\_\_\_\_, 2003, before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_ and \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me that (he) (she) (they) executed the same in (his) (her) (their) authorized capacity(ies), and that by (his) (her) (their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public in and for said State

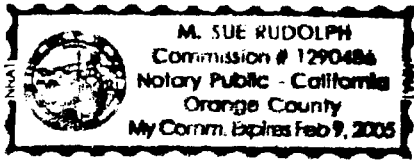
(SEAL)



STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On December 17, 2003, before me, M. Sue Rudolph, a  
Notary Public in and for said State, personally appeared Anita Reynoso /ahd  
~~\_\_\_\_\_~~, personally known to me (or ~~proved to me on the basis of~~  
~~satisfactory evidence~~) to be the person(s) whose name(s) (is) (are) subscribed to the within  
instrument and acknowledged to me that (he) (she) (they) executed the same in (his) (her) (their)  
authorized capacity(ies), and that by (his) (her) (their) signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



M. Sue Rudolph  
Notary Public in and for said State

(SEAL)

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On \_\_\_\_\_, 2003, before me, \_\_\_\_\_, a  
Notary Public in and for said State, personally appeared \_\_\_\_\_ and  
\_\_\_\_\_, personally known to me (or proved to me on the basis of  
satisfactory evidence) to be the person(s) whose name(s) (is) (are) subscribed to the within  
instrument and acknowledged to me that (he) (she) (they) executed the same in (his) (her) (their)  
authorized capacity(ies), and that by (his) (her) (their) signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public in and for said State

(SEAL)

**SUBORDINATION**

The undersigned, as Beneficiary of the beneficial interest in and under that certain Deed of Trust recorded on June 24, 2003, as Instrument No. 2003000737912, in the Official Records of Orange County, California (the "Deed of Trust"), which Deed of Trust is by and between LENNAR HOMES OF CALIFORNIA, INC., a California corporation, as Trustor, and FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, as Trustee, and IRVINE COMMUNITY DEVELOPMENT COMPANY, LLC, a Delaware limited liability company, as Beneficiary, expressly subordinates said Deed of Trust and its beneficial interest thereunder to the foregoing Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II, as amended or restated ("Declaration"), to any Supplemental Declaration recorded pursuant to the provisions of Article II of the Declaration, as amended or restated ("Supplemental Declaration"), and to all easements to be conveyed to the Maintenance Association in accordance with the Declaration and any Supplemental Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Project by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned will acquire title subject to the provisions of the Declaration and any applicable Supplemental Declaration, which shall remain in full force and effect.

Dated: 12-19, 2003

"BENEFICIARY"

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

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

Its: THOMAS E. HEGGI  
Vice President

By: Michele R. Leondis

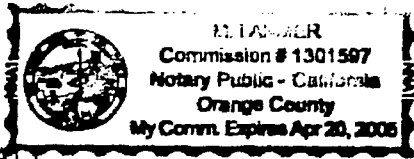
Its: Michele R. Leondis  
Assistant Secretary

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On Dec. 19, 2003, before me, M. Farmer, a Notary Public in and for said State, personally appeared Thomas E. Haggi and Michelle R. Leonardis, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me that ~~(he)~~ ~~(she)~~ (they) executed the same in ~~(his)~~ ~~(her)~~ (their) authorized capacity(ies), and that by ~~(his)~~ ~~(her)~~ (their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

M. Farmer  
Notary Public in and for said State



(SEAL)

Government Code 27361.7

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

Name of Notary: M. FARMER  
Date Commission Expires: APR 20, 2005  
County where bond is Filed: ORANGE COUNTY  
Commission No.: 1301597  
Manufacturer/Vendor No.: N N A 1

Place of execution - Newport Beach

Date - December 23, 2003

  
FIDELITY NATIONAL TITLE COMPANY

Government Code 27361.7

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

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

Place of execution - Newport Beach

Date - December 23, 2003

  
FIDELITY NATIONAL TITLE COMPANY

**EXHIBIT "A"**

**DESCRIPTION OF RESIDENTIAL AREA  
IN FIRST SUBDIVISION**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

Units 11 to 24, inclusive, and 39 to 43, inclusive, as shown on the Condominium Plan for Phase 1 of Serissa, recorded on 06.19, 2003, as Instrument No. 200301602905 consisting of all or portions of Lots 1 and 2 of Tract No. 16518, as shown on a Subdivision Map filed in Book 851, Page(s) 17-21, of Miscellaneous Maps, both in the Office of the Orange County Recorder.

**EXHIBIT "B"**

**DESCRIPTION OF MAINTENANCE PROPERTY  
IN FIRST SUBDIVISION**

All that certain real property located in the City of Irvine, County of Orange, State of California, as described as follows:

PARCEL NO. 1

Lot 210 of Tract No. 16309, as shown on a Subdivision Map filed in Book 845, Page(s) 12 *et seq.*, of Miscellaneous Maps, in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Lot(s) which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

PARCEL NO. 2

The Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

None.

PARCEL NO. 3 [Public Property to be maintained by the Maintenance Association]

None.

**EXHIBIT "B" CONTINUED**

**DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS**

Not applicable.

**EXHIBIT "C"**

**DESCRIPTION OF ANNEXABLE AREA**

All that certain real property located in the City of Irvine, Orange County, California,  
described as follows:

Tract No. 16309, as shown on a Subdivision Map filed in Book 845,  
Page(s) 12 *et seq.*, of Miscellaneous Maps, in the Office of the Orange  
County Recorder,

Excluding the First Subdivision.



**EXHIBIT "D"**

**ARTICLES OF INCORPORATION OF  
MAINTENANCE ASSOCIATION**

**ARTICLES OF INCORPORATION  
OF  
NORTHWOOD II COMMUNITY ASSOCIATION**

ONE: The name of this corporation ("Corporation") is **NORTHWOOD II COMMUNITY ASSOCIATION**.

TWO: This Corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of the Corporation is to engage in any lawful act or activity, other than credit union business, for which a corporation may be organized under such law.

THREE: The name and address in the state of California of the Corporation's initial agent for service of process is: Mary Westbrook, Esq., 550 Newport Center Drive, Newport Beach, CA 92660.

FOUR: The Corporation shall have and exercise any and all powers, rights and privileges which a corporation organized under the Nonprofit Mutual Benefit Corporation Law may now or hereafter have or exercise, provided that the Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the specific purpose of the Corporation, which is to operate a homeowners association within the meaning of Section 23701t of the California Revenue and Taxation Code and Section 528 of the Internal Revenue Code and to manage a common interest development under the Davis-Stirling Common Interest Development Act. The Corporation does not have a corporate office. The common interest development is near the intersection of Jeffrey and Bryan, Irvine, California 92614-0000.

FIVE: The classes of Membership and the voting and other rights and privileges of Members shall be as set forth in the Bylaws. So long as there are two classes of Membership, amendment of these Articles of Incorporation shall require the assent (by vote or written consent) of (i) a bare majority of the Board of Directors of the Corporation, and (ii) Members representing a bare majority of the voting power of each class of Members. After conversion of the Class B Membership to Class A Membership, amendment of these Articles of Incorporation shall require the assent (by vote or written consent) of (i) a bare majority of the Board of Directors of the Corporation, (ii) a bare majority of the total voting power of the Members, and (iii) Members representing a bare majority of the voting power of the Members other than the Subdivider of the Project ("Declarant").

SIX: The Corporation has no managing agent.

The undersigned, who is the incorporator of the Corporation, has executed these  
Articles of Incorporation on \_\_\_\_\_, 2003.

---

***"Incorporator"***

**EXHIBIT "E"**  
**BYLAWS OF MAINTENANCE ASSOCIATION**

**EXHIBIT "F"**

**INITIAL COST CENTER(S)**

**None.**

**EXHIBIT "G"**

**COMMON DRIVEWAYS IN FIRST SUBDIVISION**

**None.**

**EXHIBIT "H"**

**COMMON AREA IN FIRST SUBDIVISION**

The "Association Property," as described in the Condominium Plan for Serissa Phase 1, recorded on Dec. 19, 2003, as Instrument No. 2003001502905, in the Office of the Orange County Recorder.

**REQUESTED BY:**

NORTH AMERICAN TITLE COMPANY

**WHEN RECORDED MAIL TO:**

Lennar Homes of California, Inc.  
Attn: T. Wilson  
25 Enterprise, Ste. 300  
Aliso Viejo, CA 92656

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder



18.00

2004000861325 04:30pm 09/24/04

104 27 N03 5

0.00 0.00 0.00 0.00 12.00 0.00 0.00 0.00

Phase 5, Units 1-10 only

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**NOTICE OF BUILDER'S ELECTION FOR HANDLING OF CONSTRUCTION  
CLAIMS PURSUANT TO CALIFORNIA CIVIL CODE SECTION 895 ET SEQ.**

This Notice of Builder's Election for Handling of Construction Claims Pursuant to California Civil Code Section 895 et seq. ("**Notice**"), is made by LENNAR HOMES OF CALIFORNIA, INC., a California corporation ("**Builder**").

**RECITALS**

**A.** Builder is the owner of that certain real property located in Irvine, California being developed by Builder as a residential community, commonly known as SERISSA ("**Community**").

**B.** Builder intends to sell and convey certain real property within the Community which may consist of one or both of the following: (1) individual residential dwelling units; and/or (2) certain common area improvements to be owned in fee or by easement and maintained by the Homeowners Association for the Community ("**Association**"), as applicable.

**C.** This Notice is intended to affect the real property in the Community more particularly described in the legal description attached hereto as **Exhibit "A"** ("**Property**").

**D.** Builder is required pursuant to California Civil Code Section 912(f) (as enacted by Cal. Stats. 2002, ch. 722), to record a notice of existence of non-adversarial procedures for the resolution of construction defect claims contained in California Civil Code Sections 910 through 938 ("**Statutory Pre-litigation Procedures**").

**E.** Pursuant to California Civil Code Section 914, Builder is permitted to elect to utilize alternate contractual non-adversarial procedures ("**Contractual Pre-litigation Procedures**").

**F.** Builder desires to provide notice to the buyers of the individual dwelling units, on behalf of themselves and as members of the Association, and the Association, as applicable, including their respective successors and assigns (collectively "**Owners**") that Builder has elected to use Contractual Pre-Litigation Procedures in lieu of the Statutory Pre-litigation Procedures.



G. Builder has bound the original Owners of the Property to follow Builder's Contractual Pre-litigation Procedures via their respective purchase agreements with Builder and all Owners are bound to follow Builder's Contractual Pre-Litigation Procedures by the Declaration of Covenants, Conditions and Restrictions recorded for the Community ("**CC&Rs**").

H. Builder also desires to provide notice to the Owners of their obligations to provide copies of certain purchase documents to their successor Owners and to follow Builder's maintenance and preventative maintenance recommendations and schedules and other reasonable maintenance and preventative maintenance recommendations and schedules.

## NOTICE

**1. Incorporation of Recitals.** The above recitals are hereby incorporated herein as if fully set forth at this point.

**2. Covenant Running With the Land.** This Notice and the Contractual Pre-litigation Procedures referenced herein, benefit and burden the Property, and are covenants running with the land established in accordance with Section 1468 of the California Civil Code for the benefit of and to bind Builder and all Owners of the Property.

**3. Election to Use Contractual Non-Adversarial Procedures.** Notice is hereby given to Owners that Builder has elected to use the Contractual Pre-Litigation Procedures contained in Buyers' respective purchase agreements and the CC&Rs for the Community, in lieu of the Statutory Pre-litigation Procedures contained in California Civil Code Sections 910 through 938. Each Owner is advised to review the applicable provisions in his purchase agreement and the CC&Rs and must follow the procedures contained therein prior to initiating any legal proceeding against Builder or any director, officer, partner, employer, contractor, design professional, consultant, subcontractor or agent of Builder, relating to alleged construction deficiencies or any alleged violation of the provisions of California Civil Code Section 895, *et seq.*

**4. Obligation to Retain Maintenance Documents.** All Owners shall maintain full and complete copies of all documents received from Builder relating to maintenance and any warranties, including, but not limited to (a) a Maintenance Manual or other maintenance or preventative maintenance information, (b) manufactured products' maintenance and limited warranty information, and (c) a fit and finish warranty or other contractual warranties (collectively, "**Documents**") and all Owners are required by law to provide copies of the Documents to their successors' in interest.

**5. Obligation to Follow Maintenance Recommendations.** All Owners are obligated by Section 907 of the California Civil Code to follow Builder's maintenance recommendations and schedules, including the maintenance and preventative maintenance recommendations and schedules for manufactured products and appliances provided with the Property, as well as all commonly accepted maintenance practices (collectively, "**Maintenance Recommendations**"). Per Section 945.5 of the California Civil Code, failure to follow the Maintenance Recommendations may reduce or preclude Owner's right to recover damages relating to such Owner's Property, which could have been prevented or mitigated had the Maintenance Recommendations been followed.

**6. Mortgage Protection.** Nothing in this Notice shall be construed to invalidate or impair the rights of any mortgagee or beneficiary under an otherwise valid mortgage or deed of trust securing the obligations of an Owner.

IN WITNESS WHEREOF, Builder has executed this Notice as of September 23, 2004.

LENNAR HOMES OF CALIFORNIA, INC.,  
a California corporation

By: *A Reynoso*  
Its: Vice President

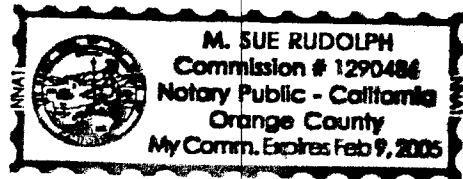
**ACKNOWLEDGMENT**

STATE OF CALIFORNIA        )  
  )        ss.  
COUNTY OF ORANGE        )

On September 23, 2004, before me, M. Sue Rudolph, a Notary Public for the State of California, personally appeared, Anita Reynoso, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person or the entity on behalf of which the person acted, executed the instrument.

Witness my hand and official seal.

Notary Public *M. Sue Rudolph*



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

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

Units 1 through 10 inclusive, and Association Property, and Condominium Common Area, as shown on that certain Serissa Phase 5 Condominium Plan, Lots 9 and 10, Tract 16518, recorded on September 23, 2004, as Instrument No. 2004000853912, in the Official Records of Orange County, California, of Tract No. 16518, as shown on a Subdivision Map Filed on November 24, 2003, in Book 851, at Pages 17 to 21, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

GOVERNMENT CODE 27361-7

I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE NOTARY  
ACKNOWLEDGEMENT  
ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS  
FOLLOWS:

NAME OF NOTARY: M. Sue Rudolph

DATE OF COMMISSION EXPIRES: February 9, 2005

COUNTY IN WHICH BOND IS FILED: Orange

COMMISSION #: 1290486

MANUFACTURER/VENDOR NO: NNAI

DATE:

9/24/04



JENNIFER HARER  
NORTH AMERICAN TITLE COMPANY

ORANGE, CA  
PLACE OF EXECUTION

---

Recorded in Official Records, County of Orange  
Tom Daly, Clerk-Recorder



264.00

RECORDING REQUESTED BY:

2003001510997 02:01pm 12/23/03

121 4 D02 R27 127

0.00 0.00 0.00 0.00 252.00 0.00 0.00 0.00

FIDELITY NATIONAL TITLE COMPANY  
SUBDIVISION DEPARTMENT

WHEN RECORDED RETURN TO:

DZIDA, CAREY & STEINMAN (JRS)  
2 Park Plaza, Suite 1140  
Irvine, CA 92614

777595-KC

(Space Above For Recorder's Use)

DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II

**THESE CC&RS INCLUDE (1) A WAIVER OF THE RIGHT TO JURY TRIAL AND THE USE OF AN ALTERNATE DISPUTE RESOLUTION PROCESS IN THE EVENT OF DISPUTES INVOLVING THE DECLARANT AND/OR THE MAINTENANCE ASSOCIATION AND (2) A WAIVER OF THE RIGHT TO RECOVER PUNITIVE DAMAGES FROM DECLARANT OR ANY OTHER DECLARANT PARTY, AS PROVIDED IN SECTIONS 12.15 AND 12.16 HEREIN.**

30160-0099-341525.7  
12/16/03

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FOR  
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**DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS  
FOR  
NORTHWOOD II**

THIS DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS AND RESERVATION OF EASEMENTS ("Declaration") is made by IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company ("Declarant") and LENNAR HOMES OF CALIFORNIA, INC., a California corporation ("Initial Merchant Builder"). Except as otherwise specified herein, the capitalized words and phrases used in this Declaration shall have the meanings specified in Article I hereof.

P R E A M B L E:

A. Initial Merchant Builder is or will be the owner and developer of certain real property (exclusive of public rights-of-way) in the City of Irvine, County of Orange, State of California, more particularly described in *Exhibit "A"* attached hereto and incorporated herein. The real property described in *Exhibits "A"* and *"B"* attached hereto constitutes the First Subdivision.

B. All of the Properties will be developed with certain common objectives, and Owners of Lots or Condominiums will have certain common interests. The Properties will be developed with objectives designed to preserve the value of and to benefit all the property within the Properties. The common development plan imposes reciprocal burdens and benefits on all of the Properties, such that each portion and the entirety of the Properties are both burdened by the provisions of this Declaration for the benefit of each other portion of the Properties, and benefitted by the burdens imposed on each other portion of the Properties.

C. Declarant and Initial Merchant Builder have deemed it desirable to create a "master planned community" (as defined in Section 2792.32 of Title 10 of the California Code of Regulations) which is also a common interest development pursuant to the Davis-Stirling Common Interest Development Act, including the Maintenance Association formed under the Nonprofit Mutual Benefit Corporation Law of the State of California, to which shall be delegated and assigned the powers and functions of (1) owning, maintaining and administering the Maintenance Property for the use of its Members and authorized guests, (2) administering and enforcing the Restrictions, and (3) collecting and disbursing the assessments and charges hereinafter created.

D. Declarant and Initial Merchant Builder hereby declare that all of the Properties shall be held, sold, conveyed, encumbered, hypothecated, leased, used, occupied and improved subject to the easements, restrictions, covenants, conditions and equitable servitudes contained in this Declaration, all of which are for the purpose of preserving and protecting the value,

attractiveness and desirability of the Properties, in furtherance of a comprehensive plan for the protection, maintenance, subdivision, improvement and sale of the Properties, or any portion thereof. The covenants, conditions, restrictions, reservations, easements, equitable servitudes, liens and charges set forth herein shall (1) run with the Properties; (2) be binding upon all persons having any right, title or interest in the Properties, or any part thereof, their heirs, successive owners and assigns; (3) inure to the benefit of every portion of the Properties and any interest therein; (4) inure to the benefit of and be binding upon Declarant, the Merchant Builders, and their successive owners and each Owner and his or her respective successors-in-interest; and (5) may be enforced by Declarant, any Merchant Builder, any Owner or the Maintenance Association.

## ARTICLE I DEFINITIONS

Unless otherwise expressly provided, the following words and phrases when used in this Declaration shall have the meanings hereinafter specified.

1.1. **Annexable Area.** Annexable Area means the real property described in *Exhibit "C,"* all or any portion of which property may be made subject to this Declaration pursuant to the provisions of Article II hereof.

1.2. **Architectural Committee.** Architectural Committee means the architectural and landscaping committee created pursuant to Article VIII hereof.

1.3. **Architectural Committee Rules.** Architectural Committee Rules means the Architectural Committee design standards, procedures, rules and guidelines which may be adopted by the Board pursuant to this Declaration, as amended.

1.4. **Articles.** Articles means the Articles of Incorporation of the Maintenance Association, as amended. A copy of the Articles is attached hereto as *Exhibit "D."*

1.5. **Assessment(s).** Assessment(s) means Common Assessments, Capital Improvement Assessments, Reconstruction Assessments and/or Special Assessments.

1.6. **Beneficiary.** Beneficiary means a Mortgagee under a Mortgage or a beneficiary under a deed of trust, as the case may be, and the assignees of such Mortgagee or beneficiary.

1.7. **Best Management Practices.** Best Management Practices means those certain structural and special structural (i.e., physical improvements) and non-structural (i.e., activities and educational information) water quality management practices set forth in, or otherwise required pursuant to, the Water Quality Management Plans prepared in connection with the development of the Properties. The Best Management Practices are designed and intended to control runoff and must be implemented by the Maintenance Association, any Project Association, and the Owners and other residents within the Properties. The structural and special structural Best Management Practices may include, without limitation, a bio-retention basin, dry

weather low flow diversions into bio-filtration (wetland) swales and in-stream detention areas, detention basins and water quality wetlands, catch basins and water quality filters, inlet trash racks and other storm drain filtration devices, energy dissipaters, "V" ditches, bench drains, bench drains, culverts, pipes, efficient irrigation technology and related storm drain and water quality facilities constructed on the Maintenance Property. The specific type of maintenance activity and the maintenance frequency matrix applicable to the structural and special structural Best Management Practices are set forth in the Water Quality Management Plan. The non-structural Best Management Practices generally require the Maintenance Association, any Project Association and the Owners and other residents within the Properties to be aware of the sensitive natural environment surrounding the Properties and to take appropriate actions to control runoff from the Properties. The non-structural Best Management Practices applicable to the Maintenance Association include, without limitation, (i) providing informational materials to the Owners and other residents within the Properties regarding general good housekeeping practices for protection of storm water quality; (ii) restricting certain activities addressed in the informational materials to protect the quality of water entering the storm drain system; (iii) managing on a regular monthly basis the landscaping on the Maintenance Property and Maintenance Areas, including, without limitation, using fertilizers and pesticides in accordance with the "Management Guidelines for Use of Fertilizers and Pesticides" which is included in the appendix to the Water Quality Management Plan; (iv) performing on a regular weekly basis maintenance consisting, at a minimum, of litter control, emptying of common trash receptacles and sweeping of any dumpster enclosures; (v) inspecting on a regular monthly basis, and if necessary, cleaning prior to the storm season (no later than October 1 each year), and after each significant rain event, the catch basins and grated inlets located on the Maintenance Property and (vi) sweeping on a regular monthly basis and prior to the storm season (no later than October 1 each year), the private streets and common parking areas. The non-structural Best Management Practices applicable to the Owners and other residents within the Properties may include, among other things, restricting certain activities to protect the quality of water entering the storm drain system (e.g., prohibiting the disposal of motor oil, paint products, car detergents and other pollutants into the storm drains in the Properties). The specific type of maintenance requirement and/or activity restriction and the maintenance frequency matrix applicable to the non-structural Best Management Practices may vary from tract to tract within the Properties such that Owners and other residents of some tracts may be subject to more stringent Best Management Practices than in other tracts. The Best Management Practices may be modified from time to time by the Declarant or any Local Governmental Agency having jurisdiction regarding water quality for runoff waters from the Properties in order to control runoff as the Properties develop and runoff conditions change. Compliance by the Maintenance Association, any Project Association, and the Owners and other residents within the Properties with the Best Management Practices, as they may be modified from time to time, may be monitored and enforced by any Local Governmental Agency having jurisdiction regarding water quality for runoff waters from the Properties.

1.8. **Board or Board of Directors.** Board or Board of Directors means the Maintenance Association Board of Directors elected in accordance with the Maintenance Association Bylaws and this Declaration.

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

1.10. **Bylaws.** Bylaws means the Maintenance Association's Bylaws adopted or to be adopted by the Board initially in the form of *Exhibit "E"* attached hereto, as amended.

1.11. **Capital Improvement Assessment.** Capital Improvement Assessment means a charge against the Owners and their Lots and Condominiums, representing the Maintenance Association's costs to install or construct any Improvements on any portion of the Maintenance Property.

1.12. **City.** City means the City of Irvine and its various departments, divisions, employees and representatives.

1.13. **Close of Escrow.** Close of Escrow means the date on which a deed or other such instrument is Recorded conveying a Lot or Condominium in the Properties pursuant to a transaction for which a Public Report is required, with the exception of (i) deeds between Declarant and (a) any successor to the rights of Declarant hereunder or (b) any Merchant Builder, or (ii) deeds between Merchant Builders.

1.14. **Common Area.** Common Area means that area within a particular Planned Development or Condominium Project within the Properties which is owned and/or maintained by the Project Association or Maintenance Association for the primary benefit of the Owners within such Planned Development or Condominium.

1.15. **Common Assessment.** Common Assessment means the annual or supplemental charge against each Owner and his Lot or Condominium, representing a portion of the ordinary Common Expenses for maintaining, improving, repairing, replacing, managing and operating the Maintenance Property, which charge shall be levied among all Owners and their respective Lots and Condominiums, as provided herein. Common Assessments shall include all late payment penalties, interest charges, attorneys' fees or other costs incurred by the Maintenance Association in its efforts to collect all assessments (other than Special Assessments) authorized pursuant to this Declaration.

1.16. **Common Driveway.** Common Driveway means any driveway serving more than one Lot that is shown as a separate legal parcel on a Subdivision Map and is owned by the Maintenance Association or which is designated in this Declaration or any Supplemental Declaration as a Common Driveway the Maintenance of which shall be the responsibility of the Maintenance Association. The Common Driveways in the First Subdivision are shown on *Exhibit "G."*

1.17. **Common Expenses.** Common Expenses means the actual and estimated costs of: maintaining, managing, operating, repairing and replacing the Maintenance Property; complying, implementing and maintaining Best Management Practices applicable to the Maintenance Property; unpaid Special Assessments, Reconstruction Assessments and Capital Improvement

Assessments, including those costs not paid by the Owner responsible for payment; managing and administering the Maintenance Association including, but not limited to, compensation paid by the Maintenance Association to Managers, accountants, attorneys and other consultants and employees; all utilities, gardening, and other services benefitting the Maintenance Property; management and maintenance of internet website(s) and related facilities; fire, casualty and liability insurance, worker's compensation insurance, and other insurance covering the Maintenance Property; maintenance of clustered mailbox structures (the mailboxes shall be the responsibility of the applicable Owner); bonding the Maintenance Association Directors, officers, agents, employees and Manager; taxes paid by the Maintenance Association; amounts paid by the Maintenance Association for discharge of any lien or encumbrance levied against the Maintenance Property, or portions thereof, including, without limitation, real property taxes or assessments, if any, levied against the Maintenance Property; all Reserves; and all other items incurred by the Maintenance Association pursuant to this Declaration.

1.18. **Condominium.** Condominium means a condominium as defined in Section 783 of the California Civil Code, or any similar California statute hereafter enacted.

1.19. **Condominium Project.** Condominium Project means a "condominium project" as defined in Section 1351(f) of the California Civil Code, or any similar California statute hereafter enacted, and all property designated in the Project Declaration or Supplemental Declaration for such Condominium Project as additional "phases of development" if such Condominium Project is developed in phased increments.

1.20. **Cost Center.** Cost Center means one or more Improvements or maintenance areas located on a portion or portions of the Maintenance Property where the expenses of operating, maintaining and replacing such Improvements or maintenance areas are borne solely or disproportionately by the applicable Cost Center Owners. The Cost Center(s) established in connection with the First Subdivision (collectively, the "*Initial Cost Centers*") and the Cost Center Owners for each such Cost Center are described on "*Exhibit "F"*" attached hereto and incorporated herein. All costs associated with the ownership, maintenance and operation of the Initial Cost Centers shall be levied solely and equally among the applicable Cost Center Owners. Additional Cost Centers may be designated in connection with future Phases of Development annexed to the Properties.

1.21. **Cost Center Owners.** Cost Center Owners means those Owners who are responsible for the costs of operating, maintaining and replacing Improvements or maintenance areas that are a part of a particular Cost Center.

1.22. **County.** County means the County of Orange and its various departments, divisions, employees and representatives.

1.23. **Declarant.** Declarant means IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company, its successors, and any other Person to which it assigns any of its rights hereunder by an express written and Recorded assignment. Any such assignment may include only specific rights of the Declarant hereunder and may be subject



to such conditions and limitations as IRVINE COMMUNITY DEVELOPMENT COMPANY LLC may impose in its sole and absolute discretion. As used in this Section, "successor" means any Person who acquires Declarant or substantially all of its assets, or who merges with Declarant by sale, merger, reverse merger, consolidations, sale of stock or assets, operation of law or otherwise. Declarant is a builder described in California Civil Code Section 1375.

1.24. **Declaration.** Declaration means this Declaration of Covenants, Conditions and Restrictions and Reservation of Easements, as amended.

1.25. **Dedicated Maintenance Property.** Dedicated Maintenance Property means any portion of the Maintenance Property which is subject to an unaccepted offer of dedication to a Local Governmental Agency for public access, use or maintenance. Dedicated Maintenance Property may include parks, trails, other recreational or open space amenities, landscaping areas or other Improvements. Dedicated Maintenance Property specifically excludes Public Property which is the maintenance responsibility of the Maintenance Association. Dedicated Maintenance Property shall be maintained and used by the Maintenance Association and the Owners in the same manner as all other Maintenance Property until the offer of dedication is accepted, whereupon (i) the Dedicated Maintenance Property shall be maintained by the accepting Local Governmental Agency and shall be available for use by the general public, and (ii) the Dedicated Maintenance Property shall no longer constitute a part of the Maintenance Property.

1.26. **Deed of Trust.** Deed of Trust means a Mortgage as further defined herein.

1.27. **DRE.** DRE means the California Department of Real Estate, or such other successor governmental agency of the State of California which administers the sale of subdivided lands pursuant to Sections 11000 et seq., of the California Business and Professions Code, or any similar California statute hereafter enacted.

1.28. **Family.** Family means (i) a group of natural Persons related to each other by blood or legally related to each other by marriage or adoption, or (ii) a group of natural Persons not all so related who maintain a single common household in a Residence.

1.29. **FHA.** FHA means the Federal Housing Administration of the United States Department of Housing and Urban Development and any department or agency of the United States government which succeeds to the FHA's function of insuring notes secured by Mortgages on residential real estate.

1.30. **FHLMC.** FHLMC means the Federal Home Loan Mortgage Corporation created by Title II of the Emergency Home Finance Act of 1970, and its successors.

1.31. **First Subdivision.** First Subdivision means the real property described in *Exhibit "A"* and *Exhibit "B"* to this Declaration.

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

1.33. **GNMA.** GNMA means the Government National Mortgage Maintenance Association administered by the United States Department of Housing and Urban Development, and its successors.

1.34. **Improvement.** Improvement means all structures, landscaping and appurtenances thereto, including but not limited to buildings, outbuildings, walkways, clustered mailbox structures, sprinkler pipes, irrigation systems, storm drainage systems, garages, recreational facilities, roads, driveways, parking areas, fences, screening walls, retaining walls, stairs, decks, hedges, windbreaks, plantings, planted trees and shrubs, fire breaks, poles, antennae, signs, exterior air conditioning and water softener fixtures or equipment. Improvement also means the following: (i) all exterior modifications to a Residence (including, but not limited to, painting the exterior of any Residence or other structure; changing the roof material, windows or exterior doors of any Residence or other structure; and building, constructing or erecting any room additions and/or demolishing or conducting any exterior remodeling); (ii) the demolition or destruction by voluntary action of any structure or appurtenance thereto of every type and kind; (iii) the grading, excavation, filling or similar disturbance of the surface of the land, including, without limitation, change of grade, change of grade level or change of drainage pattern; and (iv) the clearing or removal of landscaping.

1.35. **Local Governmental Agency.** Local Governmental Agency means the City, the County and any other regional, local or municipal governmental entity or agency and any special assessment district, maintenance district or community facilities district.

1.36. **Lot.** Lot means any lot or parcel of land shown upon any Recorded subdivision map, parcel map or lot line adjustment of any portion of the Properties, together with the Improvements, if any, thereon, but excepting any Common Area, the Maintenance Property and any Condominium in a Condominium Project.

1.37. **Maintenance Association.** Maintenance Association means Northwood II Community Association, a California nonprofit corporation (formed pursuant to the Nonprofit Mutual Benefit Corporation Law), its successors and assigns. The Maintenance Association is an "Association" as defined in Section 1351(a) of the California Civil Code.

1.38. **Maintenance Funds.** Maintenance Funds means the accounts created for Maintenance Association receipts and disbursements pursuant to Article VI hereof.

1.39. **Maintenance Guidelines.** Maintenance Guidelines means the guidelines for the ordinary and necessary maintenance, repair, replacement and preservation of Improvements within the Properties. Among other things, the Maintenance Guidelines specify suggested maintenance levels, recommended intervals for regularly scheduled maintenance items, and the scope of required maintenance practices and procedures.

1.40. **Maintenance Property.** Maintenance Property means all the real and personal property and Improvements which are owned in fee simple at any time by the Maintenance Association, or over which the Maintenance Association has an easement or encroachment permit for the use, care or maintenance thereof, for the common benefit, use and enjoyment of Owners, as further provided in Article III of this Declaration. The Maintenance Property includes (for maintenance purposes but not necessarily fee ownership) without limitation and as applicable (I) all walls, median strips, streets, slopes, berms, landscaping, fuel modification zones, parkway areas, parks, recreational facilities, and irrigation and drainage systems in public property or public rights-of-way in or near the Properties designated for maintenance by the Maintenance Association pursuant to this Declaration or any Supplemental Declaration, any agreement between a Local Governmental Agency and Declarant, a Merchant Builder or the Maintenance Association, or on any Recorded subdivision map, parcel map or lot line adjustment of the Properties, the maintenance of which is not the responsibility of a Local Governmental Agency, or a Project Association pursuant to a Project Declaration, (ii) the Maintenance Property Walls as hereafter defined, (iii) areas adjacent to the Properties over which the Maintenance Association is granted a maintenance easement, and (iv) Common Driveways. Title to all or any portion of the Maintenance Property may be subject to a prior dedication to a Local Governmental Agency. Any depiction of the Maintenance Property attached to this Declaration, any Supplemental Declaration or any Grant Deed conveying Maintenance Property is merely for illustrative purposes only and the "as built" condition shall control.

1.41. **Maintenance Property Wall.** Maintenance Property Wall means any wall or fence which (I) separates a Lot or Common Area from the immediately adjacent Maintenance Property or Public Property, regardless of whether such wall or fence (a) is located on the common property line separating the Maintenance Property or Public Property from the adjacent Lot or Common Area, or (b) located wholly or partially within the Maintenance Property, Public Property, Lot or Common Area immediately adjacent to such common property line; (ii) is constructed by Declarant or any Merchant Builder along or adjacent to the perimeter of the First Subdivision Annexable Area; and (iii) is designated as a Maintenance Property Wall on an Exhibit provided to the Manager by Declarant from time to time. Notwithstanding the foregoing, the term Maintenance Property Wall does not include any wall or fence which is the maintenance responsibility of a Project Association or a Local Governmental Agency. The depictions of the Maintenance Property Walls on such Exhibit are for illustrative purposes only and the "as built" condition shall control.

1.42. **Manager.** Manager means the Person, firm or agent employed as an independent contractor by the Maintenance Association to perform functions of the Maintenance Association, as limited by the Restrictions and the terms of the agreement between the Maintenance Association and such Person.

1.43. **Member.** Member means every Person holding a Membership in the Maintenance Association.

1.44. **Membership.** Membership means the voting and other rights and privileges of Members as provided in the Restrictions, together with the correlative duties and obligations contained therein.

1.45. **Merchant Builder.** Merchant Builder means a Person who acquires a portion of the Properties for the purpose of developing such portion for resale to the general public; provided, however, that the term "Merchant Builder" shall not mean Declarant but shall include the Initial Merchant Builder.

1.46. **Mortgage.** Mortgage means any mortgage or deed of trust or other conveyance of a Lot, Condominium or other portion of the Properties to secure the performance of an obligation, which will be reconveyed upon the completion of such performance. The term "Deed of Trust" or "Trust Deed" is synonymous with the term "Mortgage."

1.47. **Mortgagee/Mortgagor.** Mortgagee means a Person to whom a Mortgage is made and includes the beneficiary of a Deed of Trust. Mortgagor means a Person who mortgages his or its property to another (*i.e.*, the maker of a Mortgage), and includes the Trustor of a Deed of Trust. The term "Trustor" is synonymous with the term "Mortgagor," and the term "Beneficiary" is synonymous with the term "Mortgagee."

1.48. **Notice and Hearing.** Notice and Hearing means written notice and a hearing before the Board or the Architectural Committee, as applicable, as further provided in the Bylaws.

1.49. **Owner.** Owner means the Person or Persons, including Declarant and Merchant Builders, holding a fee simple or long-term ground leasehold interest of Record to a Lot or a Condominium. The term "Owner" includes a seller under an executory contract of sale, but excludes Mortgagees.

1.50. **Owner Parties.** Owner Parties means the family, guests, tenants, invitees and contract purchaser of an Owner.

1.51. **Person.** Person means a natural individual, a corporation, partnership or any other entity with the legal right to hold title to real property.

1.52. **Phase of Development.** Phase of Development means (i) the First Subdivision, (ii) any portion of the Properties covered by a Supplemental Declaration for which a Public Report has been issued by the DRE, unless otherwise defined in such Supplemental Declaration, (iii) any portion of the Properties designated as a Phase of Development in a Recorded Supplemental Declaration (including all amendments thereto) governing such property, and (iv) if no Public Report is issued and there is no Phase of Development designation in the Supplemental Declaration for a portion of the Properties, then all of the real property annexed pursuant to that Supplemental Declaration shall be a Phase of Development.

1.53. **Planned Development.** Planned Development means an area of the Properties developed as an integrated increment of this overall planned community, whether or not the increment is developed in phases. For purposes of this Declaration, a Planned Development may or may not qualify as a "planned development" as defined in Section 1351(k) of the California Civil Code, or any similar California statute hereinafter enacted.

1.54. **Project Association.** Project Association means any California nonprofit corporation or unincorporated association, or its successor, established in connection with a Project Declaration, the membership of which is composed of Owners of Lots or Condominiums within a Condominium Project or Planned Development.

1.55. **Project Declaration.** Project Declaration means any declaration of covenants, conditions and restrictions, or similar document, which affects solely a Condominium Project or Planned Development.

1.56. **Properties.** Properties means the First Subdivision, together with such portions of the Annexable Area which are annexed to the property which is subject to this Declaration pursuant to Article II hereof. The Properties are classified as a "common interest development" as defined in Section 1351(c) of the California Civil Code.

1.57. **Public Property.** Public Property means all walls, median strips, slopes, berms, landscaping, equestrian trails, sidewalks and irrigation and drainage systems on public property designated for maintenance by a Local Government Agency pursuant to this Declaration, any Supplemental Declarations, any agreement or Recorded map.

1.58. **Public Report.** Public Report means a Final Subdivision Public Report issued by DRE in compliance with Sections 11000 *et seq.* of the California Business and Professions Code, or any similar California statute hereafter enacted.

1.59. **Reconstruction Assessment.** Reconstruction Assessment means a charge against each Owner and such Owner's Lot or Condominium, representing a portion of the Maintenance Association's cost to reconstruct any Improvements on the Maintenance Property, pursuant to the provisions of this Declaration.

1.60. **Record, Filed, Recordation.** Record, Filed or Recordation means, with respect to any document, the recordation or filing of such document in the Office of the County Recorder.

1.61. **Reserves.** Reserves means those Common Expenses for which Maintenance Association funds are set aside pursuant to Article VI of this Declaration and Section 1365.5 of the California Civil Code for funding the periodic painting, maintaining, repairing and replacing of the major components of the Maintenance Property which would not reasonably be expected to recur on an annual or less frequent basis, such amounts to be determined annually by the Board pursuant to maintenance cost guidelines established in accordance with prudent property

management practices generally applied for "common interest developments" (as defined in Section 1351(c) of the California Civil Code) throughout the County.

1.62. **Residence.** Residence means a dwelling intended for use and occupancy by a single Family and located on or within a Lot or a Condominium Project.

1.63. **Residential Area.** Residential Area means all of the real property which is so classified in this Declaration or a Supplemental Declaration. The Residential Area is intended to be developed as single-Family Lots or Condominiums.

1.64. **Restrictions.** Restrictions means this Declaration, the Supplemental Declarations, the Articles, the Bylaws, the Architectural Committee Rules, the Rules and Regulations and the Maintenance Guidelines.

1.65. **Rules and Regulations.** Rules and Regulations means the Rules and Regulations adopted by the Board as provided herein.

1.66. **Special Assessment.** Special Assessment means a charge against a particular Owner or a particular Project Association, directly attributable to or reimbursable by such Owner or Project Association, equal to the cost incurred by the Maintenance Association for corrective action performed pursuant to the Restrictions, or levied by the Board as a reasonable fine or penalty for noncompliance with the Restrictions, plus interest and other charges on such Special Assessment as provided for in this Declaration.

1.67. **Supplemental Declaration.** Supplemental Declaration means any declaration of covenants, conditions and restrictions and reservation of easements or similar document adding real property to the Properties or supplementing this Declaration which may be Recorded pursuant to Article II of this Declaration.

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

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

1.70. **Water Quality Management Plans.** Water Quality Management Plans means (I) the Water Quality Management Plan for Planning Area 8A, City of Irvine, County of Orange, California prepared by the Keith Companies dated January 20, 2003, including all amendments

thereto; and (ii) all other water quality management plans that may be prepared for Declarant and/or any Merchant Builder for a portion of the Properties in compliance with applicable federal, state and local laws for the Properties (or portions thereof) and approved by the applicable Public Agencies. The Water Quality Management Plans address water runoff generated by the Residential Areas, the Maintenance Property and other development. Improvements within the Properties will be monitored by various Local Governmental Agencies (e.g., the Regional Water Quality Control Board and the City). A copy of each approved Water Quality Management Plan is available in the office of the Manager.

## ARTICLE II DEVELOPMENT; LAND CLASSIFICATIONS; ANNEXATION

2.1. **Interpretation of Declarations.** As each Phase of Development is developed, Declarant or Declarant and a Merchant Builder may, with respect thereto, Record one (1) or more Project Declarations and/or Supplemental Declarations which incorporate this Declaration by reference, which shall designate the Cost Centers (if any) and use classifications for the affected areas, and which may supplement this Declaration with such additional covenants, conditions, restrictions and land uses as Declarant may deem appropriate for the real property being annexed thereby ("Annexed Territory"). The provisions of any Supplemental or Project Declaration may impose such additional or more restrictive conditions, covenants, restrictions, land uses and limitations as Declarant or a Merchant Builder may deem advisable, taking into account the particular requirements of each Phase of Development; and any such conditions shall not be deemed to constitute a conflict with the provisions of this Declaration to the extent they can reasonably be interpreted to be consistent. If there is any conflict between any Supplemental Declaration and the Declaration, the provisions of the Supplemental Declaration shall control with respect to the Annexed Territory described in such Supplemental Declaration, although such documents shall be construed to be consistent with one another to the extent possible. If there is any conflict between any Project Declaration and the provisions of the Declaration or applicable Supplemental Declaration, this Declaration and applicable Supplemental Declaration shall control, although such documents shall be construed to be consistent with one another to the extent possible. A Project Declaration may, but need not, provide for the establishment of a Project Association, to be comprised of Owners of Lots in a Planned Development or Condominiums in a Condominium Project.

2.2. **Land Classifications.** The Properties, including each portion of Annexed Territory described in a Supplemental Declaration, shall be designated according to one or more of the following land classifications:

2.2.1. **Residential Area.** The portion of the First Subdivision described in *Exhibit "A"* is classified as Residential Area.

2.2.2. **Maintenance Property.** The portion of the First Subdivision, if any, described in *Exhibit "B"* is classified as Maintenance Property.

2.2.3. **Common Area.** The Common Area in the First Subdivision is described and/or depicted in *Exhibit "I"* attached hereto.

2.3. **Annexation of Annexable Area.**

2.3.1. **Timing.** Declarant and Merchant Builders may, but shall not be required to, at any time or from time to time, add to the Properties covered by this Declaration all or any portion of the Annexable Area by Recording a Supplemental Declaration with respect to the Annexed Territory covered thereby. Annexable Area may be added to the Properties without limitation as to time and without the approval of the Owners or Maintenance Association. Any proposed addition to the Properties of real property not located in the Annexable Area ("Other Area") shall require the approval of Owners representing at least two thirds (2/3) of the voting power of the Maintenance Association.

2.3.2. **Declaration Coverage.** Upon Recording a Supplemental Declaration covering any portion of the Annexable Area, the covenants, conditions and restrictions contained in this Declaration shall apply to the Annexed Territory in the same manner as if it were originally covered by this Declaration and originally constituted a portion of the Properties, subject to the provisions of the applicable Supplemental Declaration; and thereafter the rights, privileges, duties and liabilities of the Declarant with respect to the Annexed Territory shall be the same as with respect to the First Subdivision and the rights, obligations, privileges, duties and liabilities of the Owners, lessees and occupants of Lots and Condominiums within the Annexed Territory shall be the same as in the case of the Lots or Condominiums originally affected by this Declaration, subject to the provisions of the applicable Supplemental Declaration.

2.3.3. **Supplemental Declaration Content.** The Supplemental Declaration annexing real property to the Properties shall contain at least the following provisions:

(i) **Declaration Reference.** A reference to this Declaration, which reference shall state the date of Recordation hereof and the Instrument number or other relevant Recording data of the County Recorder's office;

(ii) **Extension of Comprehensive Plan.** A statement that the provisions of this Declaration shall apply to the Annexed Territory as set forth therein;

(iii) **Description.** A description of the Annexed Territory, including any Maintenance Property; and

(iv) **Land Classifications.** The land classifications of the Annexed Territory.

2.3.4. **Approval of Annexations.** Each Supplemental Declaration shall be signed by Declarant and by each Record owner of the Annexed Territory. For any annexation of Other Area, each Supplemental Declaration must be signed by the Record owner of the Other



Area and by an officer of the Maintenance Association, certifying that the approval of the requisite percentage of Owners has been obtained.

**2.3.5. Phasing; Amendments.** A Supplemental Declaration may cover one (1) or more Phases of Development, as designated in such Supplemental Declaration. A Supplemental Declaration which specifies that the Annexed Territory shall comprise a single Phase of Development may be amended prior to the commencement of Common Assessments within the Annexed Territory by an amendment to such Supplemental Declaration executed by all parties required to sign the Supplemental Declaration and thereafter Recorded, which amendment (i) specifies that the Annexed Territory shall comprise more than one (1) Phase of Development and identifies each such Phase of Development within the Annexed Territory, and (ii) identifies which portions of the Maintenance Property, if any, described in the previously Recorded Supplemental Declaration are to be included in each such designated Phase of Development.

**2.3.6. Effective Date of Annexation.** A Supplemental Declaration recorded on a subsequent Phase of Development shall become effective immediately upon the first Close of Escrow for the sale of a Lot or Condominium in such Phase of Development. Thereafter, the rights, obligations, privileges, duties and liabilities of the Owners in said Phase of Development shall be governed by this Master Declaration and the applicable Supplemental Declaration. A Supplemental Declaration that annexes only Maintenance Property shall become effective concurrently with the recordation of the grant deed conveying such Maintenance Property to the Maintenance Association, provided that a Supplemental Declaration that annexes only Maintenance Property owned the Maintenance Association as easements and/or Public Property shall become effective immediately upon recordation of such Supplemental Declaration.

**2.3.7. Deannexation and Amendment.**

(i) **By Declarant.** Declarant may unilaterally amend a Supplemental Declaration or delete all or a portion of a Phase of Development from coverage of this Declaration and the jurisdiction of the Maintenance Association, so long as Declarant is the Owner of all of such Phase of Development (other than Public Property and Dedicated Maintenance Property), and provided that (1) a Notice of Deletion of Territory or an amendment to the Supplemental Declaration, as applicable, is Recorded in the same manner as the applicable Supplemental Declaration was Recorded, (2) no Class A or Class B Maintenance Association vote has been exercised with respect to any portion of such Phase of Development, (3) Common Assessments have not yet commenced with respect to any portion of such Phase of Development, (4) there has been no Close of Escrow for the sale of any Lot or Condominium in such Phase of Development, (5) the Maintenance Association has not made any expenditures or incurred any obligations with respect to any portion of such Phase of Development, and (6) if such Phase of Development consists of area as to which VA or FHA has issued a "project approval" (i.e. has agreed to guarantee or insure loans secured by Mortgages on Lots or Condominiums located in such phase of Development), VA, FHA or both, as applicable, have approved such deannexation or amendment. Notwithstanding the foregoing, Declarant may also unilaterally amend a Supplemental Declaration as provided in Section 12.2.1 hereof.

(ii) **By Merchant Builder.** Merchant Builders may amend a Supplemental Declaration or delete all or any portion of a Phase of Development from coverage of this Declaration and the jurisdiction of the Maintenance Association, so long as such Merchant Builders or Declarant and such Merchant Builders together are the Owners of all of such Phase of Development (with the exception of Public Property and Dedicated Maintenance Property) and provided further, that all requirements of items (1) through (5) set forth in Section 2.3.7(I) above have been satisfied, and Declarant has consented in writing to such amendment or deletion by executing the appropriate Notice of Deletion of Territory or amendment to the Supplemental Declaration, as applicable.

### ARTICLE III MAINTENANCE PROPERTY; USES AND RESTRICTIONS

3.1. **Owners' Rights of Enjoyment.** Every Owner and, to the extent permitted by such Owner pursuant to the Restrictions, the Owner Parties who reside in such Owner's Lot or Condominium, shall have a right of ingress and egress and of enjoyment in, to and over the Maintenance Property which shall be appurtenant to and shall pass with title to every Lot and Condominium, subject to the Maintenance Association's right to exercise exclusive jurisdiction over and control of the Maintenance Property (other than Public Property) and the following provisions:

3.1.1. **Additional Maintenance Property.** The right of Declarant or any Merchant Builder to designate additional Maintenance Property pursuant to the terms of Article II hereof.

3.1.2. **Rules and Regulations.** The Maintenance Association's right to establish reasonable Rules and Regulations pertaining to the use of the Maintenance Property and any recreational and other facilities located thereon, including, but not limited to, the right and obligation of the Maintenance Association to enforce all parking restrictions for parking areas within the Maintenance Property as set forth in Section 3.3 below.

3.1.3. **Guests.** The Maintenance Association's right to reasonably limit the number of guests of Owners using the Maintenance Property and any facilities thereon. The Rules and Regulations may specify a maximum number of guests which an Owner may admit to the Maintenance Property recreational facilities at one time without first obtaining the Maintenance Association's prior written authorization. The Rules and Regulations may also require a deposit or other arrangements before Owners may use the Maintenance Property facilities for such large groups of guests.

3.1.4. **Fees.** The Maintenance Association's right to charge reasonable admission and other fees for the use of any facilities situated upon the Maintenance Property.

3.1.5. **Borrowings.** The Maintenance Association's right in accordance with the Articles, Bylaws and this Declaration, with the approval of Owners representing at least

sixty-seven percent (67%) of the Maintenance Association voting power, to borrow money for the purpose of improving, repairing or adding to the Maintenance Property and facilities and, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred pursuant to this subsection.

**3.1.6. Suspension of Rights.** The Maintenance Association's right to suspend the Membership rights and other rights and easements of any Owner and Owner Parties to use the Maintenance Property and the facilities and Improvements located thereon, for any period during which any assessment against such Owner's Lot or Condominium remains unpaid and delinquent; and for a period not to exceed thirty (30) days for any noncontinuing infraction of the Rules and Regulations of the Maintenance Association as more fully provided in the Bylaws. Any suspension of Membership rights or right to use any Maintenance Property facilities (i) shall be made only by the Board, after Notice and Hearing, and (ii) shall not limit or preclude pedestrian or vehicular access to such Owner's Lot or Condominium.

**3.1.7. Maintenance Property Transfers.** The Maintenance Association's rights set forth in Section 5.2.4 of this Declaration and Declarant's rights set forth in Article X hereof.

**3.1.8. Use By Declarant and Merchant Builders.** The right of Declarant and Merchant Builders (and their employees, sales agents, prospective purchasers, customers and representatives) to enter upon the Maintenance Property, for the benefit of Declarant or the Merchant Builders or the Annexable Area or any combination thereof, to complete the construction of any landscaping or other Improvement to be installed thereon, as well as the right to nonexclusive use of the Maintenance Property and the facilities thereof, without charge, for sales, display, access, ingress, egress, exhibition and special events for promotional purposes, which right Declarant hereby reserves; provided, however, that such use rights shall terminate on the earlier of (i) the expiration of fifteen (15) years after the first Close of Escrow for a Lot or Condominium in the Properties, or (ii) the date on which neither Declarant nor any Merchant Builder owns a Lot or Condominium in the Properties and all of the Annexable Area has been annexed to the Properties.

**3.1.9. Reconstruction of Improvements.** The Maintenance Association's right to reconstruct, replace or refinish any Improvement or portion thereof upon the Maintenance Property, in accordance with the Maintenance Guidelines, the Architectural Committee Rules and the original design, finish or standard of construction of such Improvement or of the other Improvements within any Phase of Development, as the case may be; or, if not in accordance with the Maintenance Guidelines, the Architectural Committee Rules and the original design, finish or standard of construction, only with the approval of Owners representing at least sixty-seven percent (67%) of the Maintenance Association voting power, and then subject to Section 12.3 hereof.

**3.1.10. Maintenance.** The Maintenance Association's right to maintain and repair the Maintenance Property, including without limitation the right to plant or remove trees, shrubs, flowers, ground cover and other vegetation upon any portion of the Maintenance

Property, and to replace any such vegetation or other landscaping Improvements which have been damaged or destroyed.

**3.1.11. Restricted Areas.** The Maintenance Association's right to reasonably restrict access to slopes and other landscaped areas, maintenance facilities, open space areas and similar areas of the Maintenance Property. A Supplemental Declaration may designate exclusive use areas within the Maintenance Property for the exclusive use or maintenance by one or more Owners (such as yards or common driveway areas). The Maintenance Association shall have exclusive control over all of the Maintenance Property except for Public Property and any exclusive use or maintenance area designated in a Supplemental Declaration or created by the Association pursuant to Section 5.2.4 below.

**3.2. Delegation of Use.** The Owner of a Lot or Condominium may delegate, in accordance with the Restrictions, the Owner's right of enjoyment of the Maintenance Property and facilities to Owner Parties who occupy the Owner's Lot or Condominium, subject to reasonable regulation by the Board. An Owner who does not reside in his Residence and who has delegated his right of enjoyment of the Maintenance Property to Owner Parties who occupy the Residence shall not be entitled to the use and enjoyment of any recreational facilities located on the Maintenance Property during the term of such delegation.

**3.3. Parking and Traffic Control.** Temporary guest or recreational parking is permitted within the Maintenance Property only within spaces and areas clearly marked for such purpose. The Maintenance Association, through the Board, is empowered to establish "parking" and restricted "guest parking" and "no parking" areas within the Maintenance Property in accordance with Section 22658 and Section 22658.2 of the California Vehicle Code, or any similar statute hereafter enacted, as well as to enforce these parking limitations through its officers and agents by all means lawful for such enforcement on public streets, including the removal of any violating vehicle. The Board is also authorized and empowered to request that the City or other applicable agency enforce the California Vehicle Code on any private streets within the Properties, including the Common Area and any Maintenance Property private streets, pursuant to applicable ordinances and provisions of the California Vehicle Code permitting governmental enforcement thereof.

**3.4. Easements for Pedestrian and Vehicular Traffic.** In addition to the general easements for use of the Maintenance Property reserved herein, Declarant hereby reserves to itself, to all future Owners within the Properties, and to every Owner and their respective agents, employees, guests, tenants, invitees and successors nonexclusive easements appurtenant to each Lot and Condominium in the Properties for vehicular and pedestrian traffic over any and all private streets and walkways, if any, within the Maintenance Property, subject to the parking provisions set forth in Section 3.3 above. Declarant, on behalf of itself and all Merchant Builders, reserves the right to grant similar easements to owners of property in the Annexable Area.

**3.5. Waiver of Use.** No Owner may exempt himself from personal liability for assessments duly levied by the Maintenance Association, nor release his Lot, Condominium or

other property in the Properties from the liens and charges hereof, by waiver of the use and enjoyment of the Maintenance Property or any facilities thereon or by abandonment of his Lot, Condominium or any other property in the Properties.

### 3.6. Title to the Maintenance Property.

3.6.1. **Transfer.** As each Phase of Development is developed, Declarant and/or a Merchant Builder, as applicable, will convey or cause to be conveyed to the Maintenance Association, in fee simple or by easement, the Maintenance Property (excluding Public Property) in such Phase of Development designated by Declarant in its sole discretion, free and clear of any and all monetary encumbrances and liens (other than nondelinquent taxes and assessments), subject to reservations, easements, covenants, and conditions then of record, including those set forth in this Declaration, or as contained in the deed conveying such Maintenance Property. Such conveyance shall be completed before the first Close of Escrow for a Lot or Condominium in such Phase of Development, or if only Maintenance Property is in such Phase of Development, concurrently with the Recordation of the Supplemental Declaration for such Phase of Development. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights hereunder or its easement for maintenance over Maintenance Property which is owned in fee by such Owner or Project Association.

3.6.2. **Commencement of Maintenance.** Notwithstanding any conveyance of Maintenance Property to the Maintenance Association, the Maintenance Association's responsibility to maintain the Maintenance Property located in any Phase of Development shall begin on the commencement of Common Assessments in such Phase of Development; except that, if such Phase of Development consists of only Maintenance Property, the Maintenance Association's maintenance responsibility therefor shall commence on the first day of the month immediately following the month in which the deed is Recorded conveying such property to the Maintenance Association. The same Maintenance Property ("Multi-Phased Maintenance Property") may be designated for Maintenance Association ownership in connection with several different Phases of Development (the "Alternative Phases"). Maintenance of Multi-Phased Maintenance Property, if any, shall commence on the earliest date that maintenance begins in any of the Alternative Phases in which such Multi-Phased Maintenance Property is designated for Maintenance Association ownership. If annexed Maintenance Property is inadvertently not conveyed to the Maintenance Association, the Maintenance Association shall nonetheless be responsible for the maintenance of same upon the first Close of Escrow for the sale of a Lot or Condominium in the Phase of Development in which such Maintenance Property is located and shall indemnify, defend and hold Declarant harmless in connection therewith. Prior to the commencement of the Maintenance Association's maintenance responsibility, such maintenance shall be the responsibility of Declarant or the Merchant Builder, as applicable, depending on whether such Phase of Development is being developed by Declarant or a Merchant Builder. Notwithstanding the foregoing, if the contractors or subcontractors of Declarant or a Merchant Builder are contractually obligated to maintain the landscaping or other Improvements on the Maintenance Property, the Maintenance Association shall not interfere with the performance of such warranty or other contractual maintenance obligations. Such maintenance performed by the contractors or subcontractors of Declarant or Merchant Builders shall not postpone the

commencement of Common Assessments pursuant to this Declaration nor entitle an Owner to claim any offset or reduction in the amount of such Assessments. If the Dedicated Maintenance Property or any other portion of the Maintenance Property is dedicated to and accepted for maintenance by a Local Governmental Agency, the Maintenance Association may but need not maintain the area if the Local Governmental Agency either fails to maintain the area or elects to cease maintaining the area.

**3.6.3. Character of Maintenance Property Improvements.** The nature, design, quantity, quality and all other attributes of the Maintenance Property, and the facilities and amenities thereon, shall be determined in Declarant's sole and absolute discretion. The Maintenance Association shall be unconditionally obligated to accept title to and maintenance responsibility for the Maintenance Property at the times specified in this Declaration. If a dispute arises between the Maintenance Association and Declarant or any Merchant Builder in connection with the nature, design, quantity, quality or other attributes of the Maintenance Property, the completion thereof, the state of title thereto or the acceptance of title or maintenance responsibility therefor (a "Maintenance Property Dispute"), then the Maintenance Association shall be obligated to accept title to and assume maintenance responsibility for such Maintenance Property and the Improvements and facilities thereon pending resolution of such Maintenance Property Dispute in accordance with Section 12.15.

**3.7. Taxes.** Each Owner shall execute such instruments and take such action as may reasonably be specified by the Maintenance Association to obtain separate real estate tax assessment of his Lot or Condominium. If, in the Maintenance Association's opinion, any taxes or assessments constitute a lien on the Maintenance Property, or any part thereof, they may be paid by the Maintenance Association and each Owner shall be obligated to pay or to reimburse the Maintenance Association for, as the case may be, the taxes and assessments assessed by the County Assessor or other taxing authority against the Maintenance Property and attributable to his own Lot or Condominium and interest in the Maintenance Property.

**3.8. Master Communications Systems, Telecommunications and Alarm Cable Easements.** There are hereby reserved for the benefit of Declarant, and its successors and assigns, together with the right to grant or transfer all or any portion of same, permanent, nonexclusive easements in gross on, over, under, across and through: (i) all private and public streets, roads, trails, sidewalks and walkways in the Properties (including any Lot or parcel shown as a street or road right-of-way on a Recorded subdivision map, parcel map or lot line adjustment on any portion of the Properties and any street or road right-of-way conveyed or dedicated in fee or easement to any governmental agency); (ii) all parkways which are adjacent to any such streets, roads, trails, sidewalks or walkways in the Properties; and (iii) all lettered Lots or parcels shown on a Recorded subdivision map, parcel map or lot line adjustment on any portion of the Properties, all for the purposes of constructing, installing (including the right to connect to existing facilities and systems), repairing, replacing, maintaining and using existing or future lines, connections, conduit and other facilities, equipment and systems for any or all of the following: (a) a community antenna television system; (b) alarm system cabling; and (c) electric, gas, cable, telephone, future information technology, water, sewer, drainage facilities and systems; provided, however, that the construction, installation, repair, replacement, maintenance

and use of such lines, connections, conduit and other facilities, equipment and systems shall not unreasonably interfere with an Owner's use of a Lot or Condominium. Declarant hereby reserves the ownership of all such lines, connections, conduit and other facilities, equipment and systems currently existing and owned by Declarant or hereafter installed by or conveyed to Declarant. There are hereby reserved for the benefit of Declarant, and its successors and assigns, together with the right to grant or transfer all or any portion of same, permanent, nonexclusive easements in gross on, over, under, across and through the dry utilities easement located on each Lot and Condominium in the Properties for the installation of fiber optic cable and/or other telecommunication and video (broadband) systems, and for the installation in the Residence of a low-voltage structured wiring systems (including RG6 coaxial cable, CAT5e cable, empty conduit and related outlets and other facilities).

**3.9. Maintenance Property Wall Easements.** Declarant reserves the benefit of the Maintenance Association (a) an easement over those portions of the Lots, Condominiums and Common Areas located within three (3) feet of the common property line separating the Maintenance Property from such Lots, Condominiums and Common Area for the purpose of accommodating footings and other structural components, if any, of the Maintenance Property Wall located on or immediately adjacent to such common property a boundary line, including any encroachments thereof onto to the Lots, Condominiums and Common Area; and (b) an easement of access, ingress and regress over the Lots, Condominiums and Common Areas reasonably necessary for the maintenance, repair and replacement of Maintenance Property Walls and related Improvements.

**3.10. Easements for Clustered Mailboxes.** In order to comply with the various requirements of the City, County and the United States Postal Service, clustered mailboxes may be installed within the Properties. Declarant hereby reserves for the benefit of Owners and the United States Postal Service easements on and over the affected portions of the Properties for delivery, deposit and retrieval of mail.

**3.11. Declarant Easements.** Declarant hereby reserves to itself, together with the right to grant or transfer same, easements of access, ingress and egress over all Maintenance Property, Lots, Common Area and Condominiums for installation and maintenance of utilities and drainage facilities shown on a Recorded subdivision map, parcel map or lot line adjustment for the Properties and for construction, installation, operation, replacement, repair and maintenance of all utility and service lines, systems and other devices and Improvements which may be reasonably necessary for the development and marketing of Residences within the Properties and Annexable Area, including, but limited to, water, sewer, gas, telephone, electrical, television and storm drain and water lines (collectively the "Facilities"). Each Owner by accepting a deed to a Residence expressly consents to the foregoing easements and rights of way and authorizes and appoints Declarant (so long as Declarant owns all or any portion of the Properties or Annexable Area) as attorney-in-fact of such Owner to execute any and all instruments particularly describing, locating, granting or transferring such easements or rights of way. Within the location of the Facilities' easements and rights of way, no Improvement shall be planted or placed which may interfere with the use, maintenance or operation of the Facilities or which may be in violation any ordinance or law of any applicable governmental authority. Declarant also

reserves the right to grant easements over the Maintenance Property, or any portion thereof for exclusive use by any Owner or Owners of a contiguous Lot or Condominium for which Close of Escrow has already occurred, as a yard, recreational, gardening or landscape area. Any such easement will be conveyed by the Declarant prior to conveying the last Lot or Condominium in the Properties or any portion of the Annexable Area. Such conveyance must be approved in advance by the Board of Directors of the Maintenance Association.

### **3.12. Regular Inspection.**

**3.12.1. Duty to Inspect.** It shall be the duty of the Board to have the Maintenance Property inspected at least once every year.

**3.12.2. Purpose of Inspection.** The purpose of the inspection shall be to (1) determine whether the Maintenance Property is being maintained adequately in accordance with the Maintenance Guidelines and such other prudent maintenance practices appropriate for Improvements such as those comprising the Maintenance Property, (ii) identify the condition of the Maintenance Property and any Improvements thereon including the existence of any hazards or defects, and the need for performing additional maintenance, refurbishment, replacement, or repair, and (iii) recommend preventive actions (such as root pruning and tree removal) which may be taken to reduce potential maintenance costs to be incurred in the future.

**3.12.3. Scope of Inspection.** All of the Maintenance Property and Improvements thereon including, but not limited to, all structures, gates, walls, walkways, irrigation systems, landscaping, and drainage devices thereon shall be inspected.

**3.12.4. Experts and Consultants.** The Board may employ such experts and consultants as are necessary to perform the inspection and make the report required by this Section.

**3.12.5. Report to Owners.** The Board shall have a report of the results of the inspection of the Maintenance Property required by this section prepared. The report shall be furnished to Owners and Declarant within the time set forth for furnishing Owners with the Budget. The report shall include at least the following:

(i) a description of the condition of the Maintenance Property, including a list of items inspected, and the status of maintenance, repair and need for replacement of all such items;

(ii) a description of all maintenance, repair and replacement planned for the ensuing fiscal year and included in the Budget;

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



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

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

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

#### ARTICLE IV MAINTENANCE ASSOCIATION

4.1. **Organization.** The Maintenance Association is organized as a California corporation under the Nonprofit Mutual Benefit Corporation Law and is charged with the duties and vested with the powers prescribed by law, subject to the limitations and provisions of the Articles, Bylaws, and this Declaration. Neither the Articles nor Bylaws shall, for any reason, be amended or otherwise changed so as to be inconsistent with this Declaration. If there is any ambiguity in any provision of the Articles or Bylaws, then such provision shall be construed, to the extent possible, so as to be consistent with the provisions of this Declaration. Nothing in this Declaration shall prevent the creation, pursuant to Project Declarations, of Project Associations to assess, regulate, maintain or manage the portions of the Properties subject to such Project Declarations, or to own or control portions thereof for the common use or benefit of the Owners of Lots or Condominiums in those portions of the Properties subject to such Project Declarations.

4.2. **Membership.** Members of the Maintenance Association are Declarant, for so long as Declarant is entitled to cast a Class C vote pursuant to this Section, and each Owner (including Declarant and any Merchant Builder) of one (1) or more Lots or Condominiums in the Properties. Membership in the Maintenance Association is subject to the Restrictions. All Memberships in the Maintenance Association held by Owners are appurtenant to the Lot or Condominium owned by each Owner (other than Declarant's Class C Membership), and ownership of a Lot or Condominium is the sole qualification for an Owner's Membership in the Maintenance Association.

4.2.1. **Classes of Membership.** The Maintenance Association shall have three (3) classes of voting Membership as follows:

(i) **Class A.** The Class A Members are all Owners; however, Declarant and Merchant Builders shall not be Class A Members so long as there exists a Class B Membership. Class A Members are assigned one (1) vote for each Lot and/or Condominium which is both subject to Assessments and owned by such Member.

(ii) **Class B.** The Class B Members are Declarant and the Merchant Builders. The Class B Members are assigned three (3) votes for each Lot and/or Condominium which is both subject to Assessments and owned by such Member. The Class B Membership shall be converted to Class A Membership on the date ("Class B Termination Date") which is the earlier to occur of the following events:

(A) The Close of Escrow for the sale of Three Hundred (300) Lots and Condominiums in the overall development composed of the Properties and Annexable Area.

(B) The fifth (5th) anniversary of the first Close of Escrow in the Phase of Development for which a Final Subdivision Public Report was most recently issued by the DRE.

(C) The fifteenth (15th) anniversary of the first Close of Escrow for the sale of a Lot or Condominium in the Properties.

(iii) **Class C.** The Class C Member shall be Declarant irrespective of whether Declarant owns a Lot or Condominium in the Properties. The Class C Membership shall not be considered a part of the voting power of the Maintenance Association and Declarant is not entitled to exercise any Class C vote except for the purpose of electing those members of the Board which the Class C Membership is entitled to elect hereunder. The Class C Member is entitled to solely elect a majority of the members of the Board of Directors until the Class C Termination Date. The "Class C Termination Date" shall be the earlier to occur of the following events:

(A) The Close of Escrow for the sale of Three Hundred (300) Lots and Condominiums in the overall development composed of the Properties and Annexable Area.

(B) The fifth (5th) anniversary of the first Close of Escrow in the Phase of Development for which a Final Subdivision Public Report was most recently issued by the DRE.

(C) The fifteenth (15th) anniversary of the first Close of Escrow for the sale of a Lot or Condominium in the Properties.

**4.2.2. Transfer of Membership.** An Owner's Membership shall not be assigned, transferred, pledged or alienated in any way, except upon the transfer of title to the Owner's appurtenant Lot or Condominium, and then only to the purchaser or Mortgagee of such Lot or Condominium. Any attempt to make a prohibited Membership transfer is void and will not be reflected on the books of the Maintenance Association. Membership in the Maintenance Association is in addition to membership in any Project Association responsible for operating the Planned Development or Condominium Project in which the Owner's Lot or Condominium is located. Notwithstanding the foregoing, a Member who has sold his Lot or Condominium to a contract purchaser under an installment land sale contract may delegate his membership rights to the contract purchaser. Such delegation shall be in writing and must be delivered to the Board before such contract purchaser may exercise Membership privileges. However, the contract seller remains liable for all charges and assessments attributable to his Lot or Condominium until fee title to the Lot or Condominium is transferred. If the Owner of any Lot or Condominium

fails or refuses to transfer the Membership (registered in his name) to the purchaser of such Owner's Lot or Condominium upon transfer of fee title thereto, the Board of Directors may record the transfer on the Maintenance Association's books. The Maintenance Association may levy a reasonable transfer fee against new Owners and their Lots and Condominiums (which fee shall be added to the Common Assessments chargeable to such new Owners) to reimburse the Maintenance Association for the administrative costs of transferring the Memberships to the new Owners on the Maintenance Association's records.

**4.2.3. Suspension of Membership Rights.** The Board may suspend the Membership rights of any Member, including the right to vote at any meeting of the Members, for any period during which any Assessment against such Member and the Lot or Condominium owned by such Member is delinquent. Any such suspension for nonpayment of any Assessment shall not constitute a waiver or discharge of the Member's obligation to pay the Assessments provided for herein.

**4.3. Specified Actions.** Except as provided in Section 12.12 of this Declaration and Section 4.8 of the Bylaws, as long as there exists a Class B Membership, all Voting Proposals which the Restrictions require to be approved by the vote of Owners representing a majority or greater percentage of the total voting power of the Maintenance Association ("Specified Actions") shall require the approval of Owners casting the specified percentage of the voting power of both the Class A and the Class B Membership. Except as provided in Section 12.12 of this Declaration and Section 4.8 of the Bylaws, upon termination of the Class B Membership all Specified Actions shall require the approval of (1) the specified percentage of the voting power of all Owners, *and* (2) such specified percentage of the voting power of the Owners exclusive of votes attributable to Declarant and all Merchant Builders. The term Specified Action as used herein specifically excludes matters requiring a mere majority vote of a quorum of Owners as defined in the Bylaws.

## ARTICLE V FUNCTIONS OF MAINTENANCE ASSOCIATION

**5.1. Permitted Functions.** The Maintenance Association is formed exclusively for those social welfare purposes and activities which are specifically and directly related to (i) equipping, maintaining, operating and utilizing the Maintenance Property, including the social, recreational and other Improvements thereon, (ii) collecting assessments to finance the maintenance and utilization of the Maintenance Property, and (iii) administering and enforcing the Restrictions (collectively, the "Permitted Functions"). Notwithstanding the foregoing, Permitted Functions do *not* include those activities prohibited by Section 5.4 below. The funds and resources of the Maintenance Association shall be utilized solely and exclusively for the direct costs of Permitted Functions. Nothing in this Subsection 5.1 shall be deemed to preclude the use of the Maintenance Property Facilities by Declarant or the Merchant Builders for promotional special events and other purposes as authorized by Section 3.1.8.

**5.2. Powers and Duties.** The Maintenance Association has all of the powers of a California Nonprofit Mutual Benefit Corporation, subject only to such limitations upon the

exercise of such powers as are expressly set forth in the Restrictions. Subject to the Restrictions, the Maintenance Association has the power to perform any and all lawful acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Maintenance Association. Subject to the foregoing provisions, the Maintenance Association, acting through the Board, has:

**5.2.1. Assessments.** The power and duty to levy Assessments on the Owners of Lots or Condominiums in Phases of Development in which Assessments have commenced and to collect and enforce payment of such Assessments in accordance with the provisions of Article VI hereof.

**5.2.2. Repair and Maintenance.** The power and duty to accept title to and to paint, plant, maintain and repair in a neat and attractive condition, all Maintenance Property and all private streets, trails and drives, open space, slopes, private drainage facilities, streetscape architecture, landscaping, utilities, recreational facilities, Maintenance Property Walls, fences or other Improvements thereon, in a safe, sanitary and attractive condition and in good order and repair, and to pay for utilities, gardening and other necessary services for the Maintenance Property. Subject to the Restrictions, all of the foregoing obligations of the Maintenance Association shall be discharged when and in such manner as the Board determines in its judgment to be appropriate, provided that the Maintenance Association shall (i) comply with the Maintenance Guidelines, and (ii) conform with the requirements of any agreements entered into between Declarant or any Merchant Builder and a Local Governmental Agency pertaining to the Properties including, without limitation, any agreements providing for maintenance of Public Property by the Maintenance Association.

(i) **Exclusions from Maintenance.** Notwithstanding the immediately preceding Subsection, the Maintenance Association shall have no responsibility to provide the services referred to in this Subsection with respect to (a) any Dedicated Maintenance Property which is accepted by a Local Governmental Agency for maintenance, (b) any other Improvement (including without limitation parkway areas, median strips, trails and sidewalks) which is accepted for maintenance by any state or Local Governmental Agency, (c) any Improvement which is the maintenance responsibility of any Project Association pursuant to a Project Declaration, or (d) except as otherwise provided in any Supplemental Declaration the exposed surface (including stucco repairs and painting but excluding wrought iron or glass), of any wall or fence which immediately adjoins and faces any Lot, Condominium or Common Area, regardless of whether such wall is (1) located on the common property line separating the Maintenance Property or Public Property from the Lot, Condominium or Common Area, or (2) located wholly or partially within the Maintenance Property, Public Property, Lot or Common Area immediately adjacent to such common property line. Such responsibility shall be that of the applicable agency, entity, or adjacent Owner or Project Association.

(ii) **Compliance with NPDES.** The Properties are subject to all Federal, State and local requirements of the National Pollutant Discharge Elimination System ("NPDES") adopted pursuant to the Federal Clean Water Act. Pursuant to a NPDES General Permit adopted by the State Water Resources Control Board and the County NPDES Storm

Water Permit Program, Drainage Area Management Plan ("DAMP"), the County has adopted the Water Quality Management Plan, which identifies certain Best Management Practices to reduce the discharge of pollutants to storm water facilities. In performing its maintenance obligations pursuant to the Restrictions, the Maintenance Association shall comply with all DAMP requirements and the Water Quality Management Plan and Best Management Practices, as amended from time to time.

(iii) **Modifications by Owners and Project Associations.** No Owner or Project Association shall place or install any sign or other Improvement or alter or remove the Improvements on the Maintenance Property (including, without limitation, any Maintenance Property Wall adjacent to a Lot, Condominium or Common Area) unless such placement, installation or alteration is first approved in writing by the Board. No Owner or Project Association shall affix any object, vegetation or device to any Maintenance Property Wall, pierce the stucco surface or otherwise expose the interior portion of an Maintenance Property Wall to the elements or install landscaping, irrigation systems or other Improvements on the Owner's Lot or the Common Area in such proximity or manner so as to undermine or otherwise impair the structural integrity of any Maintenance Property Wall or impair the weather resistant finish thereon. If any Owner or Project Association allows any object, vegetation or device to be attached to any Maintenance Property Wall and it becomes necessary for the Maintenance Association to perform maintenance on such Maintenance Property Wall, the Maintenance Association shall be entitled to require the Owner to remove such object, vegetation or device prior to performing such maintenance and if such object, vegetation or device is not so removed, the Maintenance Association shall be entitled to remove same and the Maintenance Association shall have no liability for any loss or damage to such object, vegetation or device in connection with the removal thereof and the completion by the Maintenance Association of maintenance of the Maintenance Property Wall. There shall be no building construction over any portion of the Maintenance Property over which an open space, scenic or public resource easement has been dedicated to any Local Governmental Agency.

5.2.3. **Utility Services.** The power and duty to obtain for the benefit of the Maintenance Property, commonly metered water, gas, electric or other utility services necessary for the maintenance of the Maintenance Property. The Maintenance Association shall also be responsible for maintenance, repair and replacement of any private fire hydrant system located on the Maintenance Property.

5.2.4. **Easements and Rights-of-Way.** The power but not the duty to grant and convey to any Person easements, licenses or rights-of-way in, on, over or under the Maintenance Property and fee title to parcels or strips of land which comprise a portion of the Maintenance Property, for purposes consistent with the terms of this Declaration, including without limitation easements for (i) roads, streets, walks, trails, driveways, parkways, landscaping, park areas, open space areas and slope areas; (ii) overhead or underground lines, cables, wires, conduits, or other devices for the transmission of power or signals for lighting, heating, television, telephone and other similar purposes; (iii) sewers, storm water drains, retention basins and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, (iv) exclusive easements or fee title to Owners for backyard, sideyard, and front yard purposes so long as the Board makes a finding that

the use and maintenance of such area is more appropriately placed with the Owner rather than the Maintenance Association; and (v) any similar Improvements, facilities or uses not inconsistent with the use of such property pursuant to this Declaration.

**5.2.5. Manager.** Subject to Section 5.4, the power and duty to contract with a professional Manager for the Maintenance Association. Except as otherwise approved by the DRE and as otherwise provided in this Declaration, any such management agreement, or any agreement providing for services by Declarant to the Maintenance Association, shall be for a term not in excess of one (1) year (renewable by agreement of the parties for successive one (1) year periods), and any such agreement shall be terminable by the Maintenance Association, acting through the Board, at any time without cause or the payment of a penalty or termination fee upon not more than ninety (90) days' written notice.

**5.2.6. Rights of Entry and Enforcement.** The power but not the duty, after Notice and Hearing, to enter any Lot or Common Area without being liable to any Owner or Project Association, except for physical damage caused by such entry, for the purpose of enforcing by peaceful means the provisions of this Declaration, or for the purpose of maintaining or repairing any such Lot or Common Area if for any reason whatsoever the responsible Owner or Project Association fails to maintain and repair any such area as required by the Restrictions; provided that no items of construction on any such Lot or Common Area may be altered or demolished except pursuant to judicial proceedings. The cost of any enforcement action or any maintenance and repair completed in compliance with these provisions is the responsibility of the Owner or Project Association and may be assessed against the responsible Owner or Project Association, as a Special Assessment. The responsible Owner or Project Association shall pay promptly all amounts due for such work, and the costs and expenses of collection. Any physical damage caused by entry upon any Lot or Common Area shall be repaired by the entering party. The Maintenance Association may also commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Restrictions and to enforce, by mandatory injunctions or otherwise, all of the provisions of the Restrictions. If an action is brought by the Maintenance Association, the prevailing party is entitled to recover reasonable attorneys' fees.

**5.2.7. Legal and Accounting Services.** Subject to Section 5.2.10, the power but not the duty, if deemed appropriate by the Board, to retain and pay for legal and accounting services necessary or proper in operating the Maintenance Property, enforcing the Restrictions, and performing any of the other Maintenance Association duties or rights.

**5.2.8. Contracts.** Except as otherwise approved by the DRE or as provided in this Declaration or a Supplemental Declaration, neither Declarant nor any of its agents shall enter any contract which would bind the Maintenance Association or the Board for a period in excess of one (1) year.

**5.2.9. Audit.** The power and duty to permit any Owner, who may be accompanied by an accountant or other consultant, at said Owner's sole expense to audit or inspect the Maintenance Association's books and records; provided that such audit or inspection

is made during normal business hours and without unnecessary interference with the operations of the Manager or the Maintenance Association.

**5.2.10. Litigation.** Subject to Sections 5.4, 12.5, 12.15 and 12.16, the power but not the duty to initiate, defend, settle or intervene in mediation, arbitration, judicial or administrative proceedings on behalf of the Maintenance Association in matters pertaining to (I) the application or enforcement of the Restrictions and (ii) damage to the Maintenance Property. Any recovery by the Maintenance Association with respect to any damage to or defect in the Maintenance Property shall be utilized solely for the purpose of paying for the costs of correcting such Maintenance Property damage or defect.

**5.2.11. Release Security.** The power and duty to release security and exonerate bonds posted by Declarant to secure obligations to the Maintenance Association immediately upon satisfaction of the obligations giving rise to such security.

**5.2.12. Website.** The power but not the duty to establish and maintain a website and provide internet services to the Owners and other residents within the Properties.

**5.2.13. Acceptances and Conveyances of Property.** The power to join with Declarant, a Merchant Builder, a Project Association, an Owner, a Local Governmental Agency, utility company, or other person or entity in the execution of a lot line adjustment, grant deed and/or grant of easement for the purpose of accepting or conveying title to property, including without limitation, any portion of the Maintenance Property, and in furtherance thereof to deannex such portion of the Maintenance Property from this Declaration, as necessary to transfer title, provided and on condition that any such lot line adjustment and/or conveyance is made for any of the following purposes: (I) to eliminate encroachments due to engineering errors or errors in construction of any Improvements upon any of the affected property, (ii) to permit changes in the development plan in circumstances where such changes are the result of topography, obstruction, hardship, aesthetic considerations or environmental conditions, (iii) to fulfill the requirement of a Local Governmental Agency, or (iv) to transfer the burden of management and maintenance of any Maintenance Property which in the reasonable judgment of the Board is generally inaccessible or is not likely to be of general use or benefit to the membership at large of the Maintenance Association.

**5.3. Rules and Regulations.** The Board may adopt such Rules and Regulations as it deems proper for the use, occupancy and maintenance of the Properties. To be effective, a copy of the Rules and Regulations, as adopted, amended or repealed, must be posted in a conspicuous place in the Maintenance Property or must be mailed or otherwise delivered to each Owner. When mailed, delivered or posted, the Rules and Regulations shall have the same force and effect as if they were set forth herein; provided, however, that the Rules and Regulations shall be enforceable only to the extent that they are consistent with this Declaration, any applicable Supplemental Declaration, the Articles and the Bylaws, and may not be used to amend any of such documents.

5.4. **Prohibited Activities.** Notwithstanding any other provisions of this Declaration or the other Restrictions, the Maintenance Association is expressly prohibited from undertaking or performing any of the following activities, or expending or otherwise utilizing Maintenance Association funds or resources therefor, and the following activities shall not constitute Permitted Functions of the Maintenance Association:

5.4.1. **Property Manager.** The Maintenance Association shall not hire any full time employee(s); rent, lease or otherwise furnish offices, personnel or other facilities, whether located within the Properties or off-site; nor utilize any Maintenance Property as office space or other facilities for an "on-site" Manager or for performing other Maintenance Association day-to-day administrative activities. The Maintenance Association Manager shall at all times be a professional manager employed as an independent contractor officed at its own place of business.

5.4.2. **Offsite Nuisances.** The Maintenance Association shall not use any Assessments or expend Maintenance Association funds or resources to abate any annoyance or nuisance emanating from outside the physical boundaries of Phases of Development in which Common Assessments have commenced.

5.4.3. **Political Activities.** The Maintenance Association shall not (1) participate in Federal, State and local political activities or activities intended to influence a governmental action affecting areas outside the boundaries of the Properties (e.g., endorsement or support of (1) legislative or administrative actions by a Local Governmental Agency or state or federal agency which affect persons or property outside the Properties, (2) candidates for elected or appointed office, and (3) ballot proposals) or (ii) conduct, sponsor, participate in or expend funds or resources on any activity, campaign or event, including without limitation any social or political campaign, event or activity, which does not directly and exclusively pertain to a Permitted Function.

## ARTICLE VI FUNDS AND ASSESSMENTS

6.1. **Obligation.** Declarant and any Merchant Builder, for each Lot or Condominium owned by Declarant or such Merchant Builder which is subject to Assessment, hereby covenants and every other Owner of any Lot or Condominium, by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in such deed or such other instrument, is deemed to covenant to pay to the Maintenance Association (i) annual Common Assessments for Common Expenses, (ii) Capital Improvement Assessments, (iii) Special Assessments, and (iv) Reconstruction Assessments; such assessments to be established and collected as hereinafter provided. All Assessments other than Special Assessments, together with interest, costs, and reasonable attorneys' fees for the collection thereof, shall be a charge on the land and shall be a continuing lien upon the Lot or Condominium against which such assessment is made (provided that Special Assessments liens cannot be enforced under Sections 2924, 2924(b) and 2924(c) of the California Civil Code). The personal obligation of assessments shall not pass to the successors-in-title to any Owner, unless expressly assumed by them.



6.2. **Maintenance Funds.** The Board shall (i) cause appropriate financial statements for any Cost Center to be regularly prepared and distributed to the applicable Cost Center Owners concurrently with the delivery to Members of financial statements pertaining to Common Assessments; and (ii) review on at least a quarterly basis the applicable accounts and statements pertaining to such Cost Center. The Board shall Budget, establish and maintain at least the following separate accounts (the "Maintenance Funds") into which shall be deposited all monies paid to the Maintenance Association, and from which disbursements shall be made, as provided herein, in the Maintenance Association's performance of its functions under the Restrictions.

6.2.1. **General Operating Fund.** A General Operating Fund for current expenses of the Maintenance Association, exclusive of current expenses attributable to the Improvements and maintenance responsibilities included within the Cost Centers, if any.

6.2.2. **General Reserve Fund.** An adequate General Reserve Fund for the deposit of Reserves attributable to Improvements within the Maintenance Property, exclusive of Reserves attributable to Improvements included in the Cost Centers, if any.

6.2.3. **Cost Center Operating Fund.** A Cost Center Operating Fund for current expenses of each Cost Center, if any, which has been completed and is subject to maintenance by the Maintenance Association.

6.2.4. **Cost Center Reserve Fund.** An adequate Cost Center Reserve Fund for the deposit of Reserves attributable to each Cost Center, if any, which has been completed and is subject to maintenance by the Maintenance Association.

6.2.5. **Miscellaneous Maintenance Funds.** Any other Maintenance Funds which the Board of Directors may deem necessary.

6.3. **Disbursements.** All amounts deposited into the Maintenance Funds must be used solely for the purposes authorized by the Restrictions, as amended. The Board is authorized to transfer interest and other earnings on the General Reserve Fund and Cost Center Reserve Fund into the respective Operating Fund in order to satisfy income taxes payable by the Maintenance Association attributable to such interest and earnings. The signatures of either two (2) Directors of the Maintenance Association or one (1) Director and one (1) officer of the Maintenance Association who is not also a Director of the Maintenance Association shall be required for the withdrawal of money from the Maintenance Association's Reserve funds. Disbursements from the particular Maintenance Funds shall be limited to specific purposes as follows:

6.3.1. **Cost Center Reserves.** Disbursements from each Cost Center Reserve Fund shall be made solely for the purpose of funding Reserve expenditures attributable to the Cost Center for which the fund was created.

**6.3.2. Cost Center Operations.** Disbursements from each Cost Center Operating Fund shall be made solely for the purpose of funding the current operating Common Expenses of the Cost Center for which the fund was created.

**6.3.3. General Reserves.** Disbursements from the General Reserve Fund shall be made solely for the purpose of funding those Reserve expenditures which are not Budgeted to a Cost Center.

**6.3.4. General Operations.** Disbursements from the General Operating Fund shall be made for such purposes as are necessary for the discharge of the Maintenance Association's responsibilities under the Restrictions, for the common benefit of all Owners, other than those purposes specified in Subsections 6.3.1 through 6.3.3 above. Nothing contained herein shall preclude the establishment of additional Maintenance Funds by the Maintenance Association earmarked for specified purposes authorized by the Restrictions. The Maintenance Association shall not impose or collect an Assessment, penalty or fee which exceeds the amount necessary for the purpose or purposes for which it is levied. If the Maintenance Association decides to use or transfer Reserve funds to pay for litigation, the Maintenance Association must notify its Members of the decision in its next mailing to the Members. Such notice shall provide an explanation of why the litigation is being initiated or defended, why operating funds cannot be used, how and when the Reserve funds will be replaced, and a proposed budget for the litigation. The notice must state that the Members have a right to review an accounting for the litigation as provided in Section 1365.5 of the California Civil Code which will be available at the Maintenance Association's office. The accounting shall be updated monthly.

**6.4. Maintenance Property Damage or Neglect.** If any maintenance, repair or replacement of the Maintenance Property is necessitated in the sole judgment of the Board as a result of the willful or negligent act or neglect of a Project Association, its members, guests or invitees, or an Owner or Owner Parties, such maintenance, repairs or replacements shall be performed at the expense of such Project Association or the applicable Owner, after Notice and Hearing, and a Special Assessment therefor shall be levied against such Project Association or Owner; provided, however, that the liability of an individual Project Association or Owner for such damage to the Maintenance Property shall not be absolute, but shall only be that for which the Project Association or Owner is legally responsible under California law. The foregoing shall include, without limitation, any settlement damage to any Maintenance Property Wall and wall footings adjoining a Lot, Condominium or Common Area caused by any excavation, construction or excess irrigation occurring on such adjacent Lot, Condominium or Common Area.

**6.5. Common Assessments.** Sums sufficient to pay Common Expenses shall be assessed as Common Assessments against the Owners and their Lots and Condominiums as follows:

**6.5.1. General Assessment Component.** Common Expenses of the Maintenance Association exclusive of Common Expenses Budgeted to the Cost Centers

("General Assessment Component") shall be allocated equally among all Lots and Condominiums and the Owners thereof.

**6.5.2. Cost Center Assessment Component.** Common Expenses of the Maintenance Association comprising Cost Center Operating and Reserve Funds Budgeted to any particular Cost Center ("Cost Center Assessment Component") shall be assessed equally to the applicable Cost Center Owners. The Supplemental Declaration covering a Lot or Condominium subject to a Cost Center Assessment Component shall: (i) identify the Cost Center, if existing, or describe the Cost Center if proposed; (ii) identify the Cost Center Owners; and (iii) specify the Common Expenses comprising the Cost Center Assessment Component attributable to such Cost Center. Unless otherwise provided in such Supplemental Declaration, the Cost Center Assessment Component of Common Expenses for any Cost Center shall be allocated equally among all applicable Cost Center Owners.

**6.6. Commencement of Common Assessments.**

**6.6.1. Commencement Date.** Common Assessments shall commence as to each Lot or Condominium in the First Subdivision on the first day of the first month following the first Close of Escrow for the sale of a Lot or Condominium in the First Subdivision. Common Assessments shall commence as to any later Phase of Development on the earlier to occur of (i) first day of the first month following the month in which the first Close of Escrow occurs for the sale of a Lot or Condominium in such later Phase of Development, or (ii) the date specified for the commencement of Assessments in the Supplemental Declaration Recorded for such Phase of Development. The first annual Common Assessment shall be adjusted according to the number of months remaining in the fiscal year established pursuant to the Bylaws.

**6.6.2. Payment Procedure.** Subject to Section 6.7.4, the Board shall fix the amount of the annual Common Assessment to be levied against each Lot or Condominium at least thirty (30) days in advance of each Common Assessment period. However, unless otherwise established by the Board, the initial annual Common Assessment shall be levied in accordance with the most recent Budget on file with and approved by the DRE. Written notice of any increase in the amount of the annual Common Assessment or any Capital Improvement or Reconstruction Assessment shall be sent by first class mail to every Owner subject thereto, not less than thirty (30) nor more than sixty (60) days prior to the increased Assessment becoming due. All installments of Common Assessments shall be collected in advance on a regular basis by the Board, at such frequency and on such due dates as the Board determines from time to time in its sole and absolute discretion. Each installment of a Common Assessment shall be paid to the Maintenance Association in one (1) check or money order or electronic transfer, if made available to the Owners by the Association. If any payment of a Common Assessment installment is less than the amount assessed, the payment received by the Maintenance Association from that Owner shall be credited in order of priority first to the General Operating Fund until that portion of the Common Assessment has been satisfied, then to any applicable Cost Center Operating Fund until that portion of the Common Assessment has been satisfied, then to the General Reserve Fund until that portion of the Common Assessment has been satisfied, then to any applicable Cost Center Reserve Fund until that portion of the Common

Assessment has been satisfied, then to any other Maintenance Funds established by the Maintenance Association.

**6.6.3. Excess Funds.** During the term of any subsidy agreement between Declarant and the Maintenance Association approved by the DRE ("Subsidy Agreement"), and during any period of time that the amount of the Common Assessments invoiced to the Owners is stabilized at a level amount pursuant to Section 6.7.4 below, all excess funds remaining in the Maintenance Funds over and above the amounts used for the operation and payment of Common Expenses of the Properties (including Reserves) shall be used by the Maintenance Association to fund future Maintenance Fund deficits. After the termination of any Subsidy Agreement and any program of stabilized Common Assessment payments pursuant to Section 6.7.4, the Board of Directors may determine that excess funds remaining in the Operating Funds, over and above the amounts used for the operation of the Properties, may be used to reduce the following year's Common Assessment attributable to such Maintenance Funds.

**6.6.4. Exemption.** Subject to the provisions of any Subsidy Agreement, notwithstanding any other provision of this Declaration, until (i) a notice of completion (if applicable) of a Maintenance Property Improvement has been Recorded, (ii) such Maintenance Property Improvement has been placed into use, or (iii) the completion date for such Maintenance Property Improvement specified in the Planned Construction Statement on file with the DRE with respect to such Maintenance Property Improvement, whichever occurs first, the Common Assessment shall not include expenses and Reserves directly attributable to the existence and use of such Maintenance Property Improvement.

**6.7. Limitations on Common Assessment Increases.**

**6.7.1. Maximum Authorized Common Assessment for Initial Year of Operations.** During the fiscal year in which Common Assessments commence, the Board shall not levy a Common Assessment against each Lot and Condominium in an amount which exceeds one hundred twenty percent (120%) of the amount of Common Assessments disclosed for the Properties in the most current Budget filed with and approved by the DRE unless first approved by the vote of Owners representing at least (i) in the case of an increase in the General Assessment Component, a majority of votes at a meeting or written ballot of Owners in which more than fifty percent (50%) of the total voting power of the Maintenance Association is represented, and (ii) in the case of an increase in a Cost Center Assessment Component, a majority of votes at a meeting or written ballot of the Owners for the Cost Center generating such Cost Center Assessment Component at which more than fifty percent (50%) of the total voting power attributable to such Cost Center is represented (as applicable, an "Increase Election"). This Section does not limit Common Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 6.7.5 below.

**6.7.2. Maximum Authorized Assessment for Subsequent Fiscal Years.** During the fiscal years following the fiscal year in which Assessments commence, the Board may not levy a Common Assessment which exceeds the Common Assessment for the immediately preceding fiscal year unless:

(i) The increase in Common Assessments does not exceed twenty percent (20%) of the Common Assessments for the immediately preceding fiscal year or then the Board either (I) distributes the Budget for the current fiscal year in accordance with Section 1365(a) of the California Civil Code, or (ii) obtain the approval of Owners casting a majority of votes in an Increase Election; or

(ii) The increase in Common Assessments is greater than twenty percent (20%) of the Common Assessments for the immediately preceding fiscal year and is approved by Owners casting a majority of votes in an Increase Election.

This Section does not limit Common Assessment increases necessary for addressing an "Emergency Situation" as defined in Section 6.7.5 below.

**6.7.3. Supplemental Common Assessments.** If the Board determines that the Association's essential functions may be properly funded by a Common Assessment that is less than the maximum authorized Common Assessment described above, it may levy such lesser Common Assessment. If the Board determines that the estimate of total amounts that will be collected by the Maintenance Association during the current fiscal year is or will become inadequate to meet all Common Expenses, it shall immediately determine the approximate amount of the inadequacy. Subject to the limits described in Sections 6.7.1, 6.7.2 and 6.7.5, the Board may levy a supplemental Common Assessment reflecting a revision of the total charges to be assessed against each Lot and Condominium.

**6.7.4. Automatic Assessment Increases.** Despite any other provisions of this Section 6.6, upon annexation of all or any portion of the Annexable Area pursuant to Article II, the Common Assessment shall be automatically increased by the additional amount, if any, necessary to maintain the Maintenance Property in or abutting such Annexable Area so long as (a) the annexation of such Annexable Area is permitted by the DRE, and (b) the amount of such increase does not result in the levy of a Common Assessment which is greater than the maximum potential Common Assessment disclosed in all Final Subdivision Public Reports for the Properties.

**6.7.5. Emergency Situations.** For purposes of Sections 6.7.1, 6.7.2 and 6.8, an "Emergency Situation" is any of the following:

(i) **Court Ordered Items.** An extraordinary expense required by an order of a court;

(ii) **Safety Items.** An extraordinary expense necessary to repair or maintain the Maintenance Property or any portion thereof for which the Maintenance Association is responsible when a threat to the safety of Persons within the Properties is discovered; and

(iii) **Reasonably Unforeseen Items.** An extraordinary expense necessary to repair or maintain the Maintenance Property or any portion thereof for which the

Maintenance Association is responsible that could not have been reasonably foreseen by the Board when preparing the Budget. Prior to the imposition or collection of an assessment pursuant to this Subsection (iii), the Board must 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 resolution shall be distributed to the Members with the notice of the Assessment.

**6.8. Capital Improvement Assessments.** The Board may levy, in any fiscal year, a 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 a Capital Improvement upon the Maintenance Property, including fixtures and personal property related thereto; provided that all proposed Capital Improvement Assessments shall require the vote of Owners representing at least a majority of votes at a meeting or written ballot of Owners in which is represented more than fifty percent (50%) of the total voting power attributable to Members subject to such Capital Improvement Assessment. Notwithstanding the foregoing, the Board may levy in any fiscal year a Capital Improvement Assessment applicable to that fiscal year without the vote of the Owners if such Capital Improvement Assessment is necessary for addressing an Emergency Situation. All Capital Improvement Assessments must be levied against all Lots and Condominiums in the same manner and in the same proportions as Common Assessments are levied, and they shall be collected in the manner and frequency determined by the Board.

**6.9. Exempt Property.** The following property subject to this Declaration shall be exempt from the assessments herein: those portions of the Properties dedicated in fee and accepted by a public body, agency or authority; the Maintenance Property owned in fee by the Maintenance Association; and all Common Area owned in fee by any Project Association.

**6.10. Remedies of the Maintenance Association.** Any installment of a Common Assessment, Capital Improvement Assessment, Special Assessment, or Reconstruction Assessment not paid within thirty (30) days after the due date shall bear interest from the due date of such installment at a rate determined by the Board, but in no event more than the then maximum nonusurious rate permitted by law. Additionally, the Board may levy a late charge in accordance with California Civil Code Section 1366 or any successive law or ordinance in addition to the interest charged as described above to compensate the Maintenance Association for increased bookkeeping, billing and other administrative costs. No such late charge on any delinquent installment of an Assessment shall exceed the maximum amount allowable by law. If any installment of an Assessment is not paid within thirty (30) days after it is due, the Maintenance Association may bring an action at law against the Owner(s) personally obligated to pay the same, or, with respect to Common Assessments, Capital Improvement Assessments, Special Assessments (except as provided below) and Reconstruction Assessments, foreclose the lien against the Lot or Condominium. Special Assessments shall not be enforced by power of sale under Sections 2924, 2924(b) or 2924(c) of the California Civil Code (but may be enforced by judicial foreclosure). No Owner may escape liability for the Assessments provided for herein by relinquishment of the Membership, or by nonuse of the Maintenance Property or abandonment of the Lot or Condominium. In addition to the foreclosure and other remedies

granted the Maintenance Association herein, each Owner, by acceptance of a deed to such Owner's Lot or Condominium, hereby conveys to the Maintenance Association all of such Owner's right, title and interest in all rents, issues and profits derived from and appurtenant to such Lot or Condominium, subject to the right, power and authority of the Maintenance Association to collect and apply such rents, issues and profits to any delinquent Assessments owed by such Owner, reserving to the Owner the right, prior to any default by the Owner in the payment of Assessments, to collect and retain such right, prior to any default by the Owner in the payment of Assessments, to collect and retain such rents, issues and profits as they may become due and payable. Upon any such default the Maintenance Association may, upon the expiration of thirty (30) days following delivery to the Owner of the "Notice of Assessment" described herein, either in person, by agent or by receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness secured by the lien described herein, (i) enter in or upon and take possession of the Lot or Condominium or any part thereof, (ii) in the Maintenance Association's name sue for or otherwise collect such rents, issues and profits, including those part due and unpaid, and (iii) apply the same, less allowable expenses of operation, to any delinquencies of the Owner hereunder, and in such order as the Maintenance Association may determine. The entering upon and taking possession of the Lot or Condominium, the collection of rents, issues and profits and the application thereof, shall not cure or waive any default or notice of default hereunder or invalidate any act done pursuant to such notice.

6.11. **Notice of Lien.** No action may be brought to enforce any Assessment lien herein, unless at least thirty (30) days have expired following the date a Notice of Lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of the Lot or Condominium, and a copy thereof has been Recorded by the Maintenance Association. The Notice of Lien shall be in such form and shall contain such information required by Section 1367(b) of the California Civil Code, or any similar California Statute hereafter enacted, and must be signed and acknowledged by an officer of the Maintenance Association or such other Person expressly authorized by the Board to sign Notices of Liens, and such lien shall be prior to any declaration of homestead Recorded after the date on which this Declaration is Recorded. The lien shall continue until fully paid or otherwise satisfied.

6.12. **Foreclosure Sale.** With the exception of Special Assessments liens (which may only be foreclosed judicially), a sale to foreclose the Assessment lien may be conducted by the trustee designated in the Notice of Lien (or any successor trustee substituted therefor) in accordance with the provisions of Section 2924, 2924a, 2924b, 2924c and 2924f of the California Civil Code, or in accordance with any similar statute hereafter enacted applicable to the exercise of powers of sale in Deeds of Trust, or in any other manner permitted by law. The Maintenance Association, through duly authorized agents, may bid on the Lot or Condominium, at foreclosure sale, and may acquire and hold, lease, mortgage, and convey the same. Upon completion of the foreclosure sale, the Maintenance Association or the purchaser at the sale may file suit to secure occupancy of the Lot or Condominium, and the defaulting Owner shall be required to pay the reasonable rental value of the Lot or Condominium during any period of continued occupancy by the defaulting Owner or any persons claiming under the defaulting Owner.

6.13. **Curing of Default.** Upon the timely curing of any default for which the Maintenance Association filed a Notice of Lien, the Maintenance Association shall Record an appropriate Release of Lien, upon payment by the defaulting Owner of a reasonable fee to be determined by the Board to cover the cost of preparing and Recording such release. A certificate, executed and acknowledged by any officer of the Maintenance Association, or such other person expressly authorized by the Board, stating the indebtedness secured by the liens upon any Lot or Condominium created hereunder, shall be conclusive upon the Maintenance Association and the Owners as to the amount of such indebtedness as of the date of the certificate in favor of all persons who rely thereon in good faith. Such certificate shall be furnished to any Owner upon request at a reasonable fee, to be determined by the Board.

6.14. **Cumulative Remedies.** The Assessment lien and the rights of foreclosure and sale thereunder are in addition to and not in substitution for all other rights and remedies which the Maintenance Association and its assigns may have against any delinquent Owner or delinquent Project Association hereunder and by law, including a suit to recover a money judgment for unpaid Assessments, as above provided.

6.15. **Mortgage Protection-Liens.** Subject to Section 6.16 below, no lien created under this Article VI, nor any breach of this Declaration, nor the enforcement of any provision hereof or of any Supplemental Declaration hereto defeats or renders invalid the rights of the Beneficiary under any Recorded Deed of Trust upon a Lot or Condominium, made in good faith and for value. After a Beneficiary or other Person obtains title to a Lot or Condominium by judicial foreclosure or by means of the powers set forth in such Deed of Trust, the Lot or Condominium shall remain subject to the Restrictions and the payment of all installments of Assessments and other obligations, accruing after the date the Beneficiary or other Person obtains title.

6.16. **Priority of Assessment Lien.** Mortgages Recorded before a Notice of Lien have lien priority over the Notice of Lien. The sale or transfer (including any "deed in lieu" of foreclosure) of any Lot or Condominium does not affect the Assessment lien; except that the sale or transfer of any Lot or Condominium pursuant to judicial or nonjudicial foreclosure of a first Mortgage Recorded prior to a Notice of Lien extinguishes the lien of such Assessment as to payments which became due prior to such foreclosure sale or transfer. No sale or transfer relieves such Lot or Condominium from lien rights for any Assessments thereafter becoming due. No Person who obtains title to a Lot or Condominium through judicial or nonjudicial foreclosure of the first Mortgage is liable for the share of the Common Expenses or Assessments chargeable to such Lot or Condominium which became due prior to the acquisition of title to such Lot or Condominium by such Person. Such unpaid share of Common Expenses and Assessments is a Common Expense collectible from all of the Lots and Condominiums, including the Lot or Condominium belonging to such Person.



## ARTICLE VII USE RESTRICTIONS

The provisions of this Article VII do not apply to Declarant or Merchant Builders or any Improvements they construct, but this Article VII will apply to any alteration, reconstruction or repair of such Improvements by Owners. Subject to the foregoing and the exemptions of Declarant and Merchant Builder set forth in this Declaration, the Properties shall be held, used and enjoyed subject to the following restrictions. Supplemental Declarations may establish supplementary or more restrictive use restrictions for the Annexed Territory the Supplemental Declaration encumbers so long as the restrictions are consistent with the scheme of government that is established in this Declaration and any Supplemental Declaration. Supplemental Declarations may add use restrictions or replace the use restrictions contained in this Article for the Annexed Territory such Supplemental Declaration encumbers.

7.1. **Residential Use.** All Lots and Condominiums shall be improved and used solely for single-Family residential use. This provision does not preclude any Owner in the Properties from renting or leasing all of his Lot or Condominium in accordance with Section 7.7 below. No Lot or Condominium may ever be used in any way, directly or indirectly, **for any business, commercial, manufacturing, mercantile, storage, vending, or other such nonresidential purposes;** except Declarant and Merchant Builders, their successors and assigns, may use any portion of the Properties owned by them for model home sites and display and sales offices during the construction and sales period, in accordance with Article X hereof. The provisions of this Section 7.1 do not preclude professional or similar occupations without external evidence thereof, provided that all of the following conditions are fulfilled: (i) such activities are conducted in conformance with all applicable governmental ordinances; (ii) the patrons or clientele of such activities do not visit the Properties or park their vehicles within the Properties in connection with such activities; (iii) the existence or operation of such activities is not apparent or detectable by sight, smell, sound or other means from outside of the boundaries of the Lot or Condominium where it is being conducted; (iv) such activity does not increase the liability or casualty insurance obligation or premium of the Maintenance Association or any Project Association; and (v) such activities are consistent with the residential character of the Properties and conform to the provisions of the Restrictions. In addition to the other remedies of the Maintenance Association in this Declaration, each Owner, by acceptance of a deed to such Owner's Lot or Condominium, hereby assigns to the Maintenance Association, on a non-exclusive basis, such Owner's right to terminate any lease or occupancy agreement affecting such Owner's Lot or Condominium and to evict the tenant or occupant thereunder if such tenant or occupant violates the Restrictions.

### 7.2. **Improvements.**

7.2.1. **Single Family Residence.** No Lot may be improved except with one (1) Residence designed to accommodate no more than a Family and its domestic servants and occasional guests, plus a garage, fencing, landscaping and other Improvements as are necessary or customarily incident to a Family Residence.

7.2.2. **Location of Residence.** No Residence shall be constructed on any portion of a Lot except in the location approved by the Architectural Committee unless the location of the Residence or "Building Pad" is specified in a Supplemental Declaration, grant deed or other instrument Recorded by Declarant and/or a Merchant Builder.

7.2.3. **Maximum Building Height.** No portion of the construction on any Lot (exclusive of chimneys, vent stacks or other normal protuberances which in the sole opinion of the Architectural Committee, are of normal height and distribution) shall exceed the maximum height allowed by applicable Local Governmental Agencies. Rooftop mechanical equipment shall not be permitted within the Properties, however, solar equipment or other energy savings devices shall be permitted with approval of applicable Local Governmental Agencies.

7.2.4. **Setbacks.** Except as otherwise provided in a Supplemental Declaration, grant deed or instrument recorded by Declarant and/or Merchant Builder, set back requirements for all Improvements and construction on Lots shall be the more restrictive of those required by the City or Architectural Committee Guidelines.

7.2.5. **Garages.** Garages shall be capable of accommodating at least two (2) automobiles.

7.2.6. **Exterior Facilities.** No sports facility, including, without limitation, basketball backboards shall be installed unless in accordance with the applicable Architectural Committee Guidelines. No patio covering, wiring or air conditioning, water softener or other device shall be installed in the exterior of the Residence or allowed to protrude through the walls or roof of a Residence unless the prior written approval of the Architectural Committee is obtained.

7.2.7. **Utilities.** Unless otherwise approved in writing by the City, all utility services serving the Property shall be installed and maintained underground.

7.2.8. **Fences.** No fence, wall, hedge or other dividing device may be erected, painted, altered or maintained on any Lot or Common Area which borders or is visible from any public or private street, any of the Maintenance Property, or any other Lot, or Common Area, unless such fence or wall is first approved in writing by the Architectural Committee. All alterations or modifications of the fences or walls of any type require the prior written approval of the Architectural Committee.

7.2.9. **Variances.** The Architectural Committee shall be entitled to grant variances from the Restrictions in this Subsection only in hardship cases where, due to the configuration or topography of a Lot, compliance with the foregoing restrictions would be impossible or impractical.

7.3. **Landscaping.** Within one hundred eighty (180) days after the Close of Escrow for the sale of a Lot or Condominium, the Owner must install and must thereafter maintain

(except for any landscaping to be maintained by the Maintenance Association or a Project Association, if applicable) plants, shrubs, trees, and any other appropriate landscaping Improvements, pursuant to plans and specifications approved by the Architectural Committee, on all yard areas that are on or appurtenant to the Lot or Condominium. Each Owner must properly maintain and periodically replace when necessary all trees, plants, grass, vegetation and other landscaping Improvements located on such Owner's Lot which are not the maintenance responsibility of a Project Association or the Maintenance Association. No plants or seeds infected with insects or plant diseases may be brought upon, grown or permitted to exist upon any part of the Properties. Subject to Article X, the Board may adopt, amend or supplement the Architectural Committee Rules to regulate landscaping permitted and required in the Properties. If an Owner fails to install and maintain landscaping in conformance with the Architectural Committee Rules, or allows his Lot or landscaping to deteriorate to a dangerous, unsafe, unsightly or unattractive condition, the Board, upon thirty (30) days' prior written notice to such Owner, may seek any remedies at law or in equity which it may have and, after Notice and Hearing, may correct such condition and enter upon such Owner's property for the purpose of doing so, and such Owner shall promptly reimburse the Maintenance Association for the cost thereof. Such cost shall be a Special Assessment enforceable in the manner as set forth in this Declaration.

**7.4. Parking and Vehicular Restrictions.** The following restrictions *are not* applicable to those portions of the Properties that are Common Area streets or parking areas maintained by a Project Association ("Common Area Streets"). Regulation of Common Area Streets shall be governed by the applicable Project Declaration and Project Association.

**7.4.1. Restricted Vehicles.** The following vehicles are "Restricted Vehicles": motor homes, travel trailers, camper vans, boats and other similar recreational vehicles that are not "Prohibited Vehicles" (as defined below). Restricted Vehicles may be parked wholly within an Owner's garage or on a side or rear yard, screened from view in a manner provided by Improvements original constructed by Declarant or a Merchant Builder or otherwise approved by the Architectural Committee. If a Restricted Vehicle is to be kept on a rear or side yard, a concrete pad shall be installed on the area such vehicle is to be stored on for the purpose of accommodating the weight of the vehicle.

**7.4.2. Prohibited Vehicles.** The following vehicles are "Prohibited Vehicles:" (a) commercial-type vehicles (e.g., stakebed trucks, tank trucks, dump trucks, step vans, concrete trucks and limousines), (b) buses or vans designed to accommodate more than ten (10) people, (c) vehicles having more than two (2) axles, (d) trailers, (e) inoperable vehicles or parts of vehicles, (f) aircraft, (g) any vehicle or vehicular equipment deemed a nuisance by the Board, and (h) any other vehicle not classified as Authorized Vehicles or Restricted Vehicles. Prohibited Vehicles may not be parked, stored or kept on any public or private street in, adjacent to or visible from the Properties or any other Maintenance Property parking area except for brief periods for loading, unloading, making deliveries or emergency repairs. If a vehicle qualifies as both an Authorized Vehicle and a Prohibited Vehicle, then the vehicle is presumed to be a Prohibited Vehicle unless the vehicle is expressly classified as an Authorized Vehicle in writing by the Board.

**7.4.3. General Restrictions.** All vehicles owned or operated by or within the control of an Owner or a resident of an Owner's Lot or Condominium and kept within the Properties must be parked in the assigned parking space or garage of that Owner to the extent of the space available; provided that each Owner shall ensure that any such parking space or garage accommodates at least the number of Authorized Vehicles for which it was originally constructed by Declarant or a Merchant Builder. Garages or other parking areas must be used only for parking vehicles, and may not be used for storage, living, recreational, business or other purposes. Driveways may not be used for parking purposes if the Owner's garage is not being utilized to the maximum designed capacity for the parking of vehicles, or if to do so obstructs free traffic flow, constitutes a nuisance, violates the Rules and Regulations, or otherwise creates a safety hazard. Garage doors shall be kept closed at all times, except as reasonably required for ingress to and egress from the interiors of the garages. No repairs or restorations of any motor vehicle, boat, trailer, aircraft or other vehicle or equipment may be conducted upon any street (public or private), any portion of any Maintenance Property, Common Area, Lot or Condominium, except wholly within an enclosed garage; provided, however, that such activity within an enclosed garage may not be undertaken as a business, and provided further that such activity may be prohibited entirely if it is determined by the Board to be a nuisance. The Board may determine, in its discretion, whether there is noncompliance with the parking and vehicular restrictions contained herein. The Board in its discretion may approve temporary variances from the provisions of this Section 7.4.3. Any such variance (i) shall be authorized only in connection with Construction Activities (as defined in Section 8.3.2 hereof) approved by the Architectural Committee, (ii) must be evidenced in writing signed by an authorized representative of the Maintenance Association, and (iii) must specify the limited period of time for which the variance is effective. These restrictions do not permit any activity which would be contrary to any ordinance of the City or other applicable Local Governmental Agency including without limitation the parking of vehicles on those portions of private streets prohibited by the applicable Local Governmental Agency.

**7.4.4. Parking Regulations.** The Board may establish additional regulations regarding any parking areas not assigned to individual Lots or Condominiums, including without limitation designating "parking," "guest parking," and "no parking" areas thereon, setting time limits for parking vehicles in the Maintenance Property parking areas, and requiring registration of vehicles or use of parking permits; and may enforce all parking and vehicle use regulations applicable to the Properties, including removing violating vehicles from the Properties pursuant to California Vehicle Code Section 22658.2 or other applicable ordinances or statutes. If the Board fails to enforce any of the parking or vehicle use regulations, the applicable Local Governmental Agency may enforce such regulations in accordance with applicable laws and ordinances. If the applicable Local Governmental Agency fails to enforce any of its parking ordinances on public streets within or abutting the Properties, the Maintenance Association has the power but not the duty to enforce such ordinances against Owners and residents of the Properties. The Orange County Fire Department restricts parking on cul de sacs in the Properties. The foregoing shall not restrict the Association from creating additional parking restrictions on other streets and areas within the Properties.

7.4.5. **Common Driveways.** Certain groups of Lots in the Properties ("Driveway Group") may share a Common Driveway that provides access only to the Driveway Group. Common Driveways and Driveway Groups in the First Subdivision, if any, are designated on *Exhibit "G"* hereto. Any Common Driveways and the applicable Driveway Groups in future phases of Development will be shown or designated in a Supplemental Declaration for the Properties. Each Common Driveway is part of the Maintenance Property and will be maintained by the Maintenance Association. The Owners of Lots in a Driveway Group shall each have perpetual semi-exclusive easements for vehicular and pedestrian access, ingress and egress over the Common Driveway serving such Driveway Group, subject to Maintenance Association access for maintenance of adjacent Maintenance Property. No other Owners or residents of the Properties may use such Common Driveway, which is hereby designated to be for the perpetual exclusive use of the Owners of the Driveway Group, as contemplated by Section 1351(1) of the California Civil Code. There shall be no parking on or obstruction of the Common Driveways. Provided, however, that the foregoing shall not preclude (a) temporary obstruction approved by the Association in connection with maintenance of the Common Driveway and maintenance of utility and drainage lines located beneath the Common Driveway, and the parking of service and similar vehicles on Common Driveways if (1) parking space is not available in the driveway located on the Lot within the Driveway Group being serviced by such vehicles; (ii) such parking is for temporary service purposes not to exceed the amount of time necessary to complete the service, but in no event longer than eight (8) consecutive hours; and (iii) no vehicle shall be parked so as to unreasonably obstruct vehicular access to other Lots within the Driveway Group. Notwithstanding any other provision of the Declaration, the provisions of this Section 7.4.5 may not be modified, amended or terminated without the prior written approval of the City, which approval may be withheld in the sole and absolute discretion of the City. The City may, but shall not be required to, enforce the provisions of this Section 7.4.5.

7.5. **Antennae.** As used in this Declaration, an "Authorized Antenna" means a mast supporting an antenna that is owned by or under the exclusive control of an Owner and designed to receive on such Owner's Residence (1) direct broadcast satellite service, including direct-to-home satellite service, that is one meter or less in diameter, (ii) video programming service, including multichannel multipoint distribution service, instructional television fixed service, and local multipoint distribution service, and is one meter or less in diameter or diagonal measurement and/or (iii) television broadcast signals. Owners are prohibited from installing any antennae on the exterior of a Residence for any purpose, except for an "Authorized Antenna," which may be installed so long as the proposed type and location for such installation of same is reviewed and approved by the Architectural Committee before installation to ensure that the visibility of the Authorized Antenna is minimized with respect to other Owners. The Maintenance Association and/or Architectural Committee may adopt restrictions on the location, installation and/or use of an Authorized Antenna on an Owner's Lot or Condominium so long as such restrictions do not (1) unreasonably delay or prevent installation, maintenance or use of an Authorized Antenna, (2) unreasonably increase the cost of installation maintenance or use of an Authorized Antenna, or (3) preclude acceptable quality reception. In addition, the Maintenance Association may prohibit the installation of an Authorized Antenna if the installation, location or maintenance of such Authorized Antenna unreasonably affects the safety of managers, agents or

employees of the Maintenance Association and other Owners, or for any other safety related reason established by the Maintenance Association. This Section is intended to be a restatement of the authority granted to the Maintenance Association under the local, state and federal law. All amendments, modifications, restatements and interpretations of the law applicable to the installation, use or maintenance of an antenna shall be interpreted to amend, modify, restate or interpret this Section.

**7.6. Insurance Rates.** Nothing shall be done or kept in the Properties which will increase the rate of insurance on any Lot, Condominium, Common Area, Maintenance Property or other portion of the Properties 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 Lot, Condominium, Common Area, Maintenance Property or other portion of the Properties or which would be in violation of any law.

**7.7. No Further Subdivision.** Except as expressly authorized in a Supplemental Declaration, no Common Area, Lot or Condominium may be further subdivided (including division into time-share estates or time-share uses) without the prior written approval of the Board. Nothing in this Section shall be deemed to prevent an Owner from, or require the approval of the Board for: (a) selling a Lot or Condominium; or (b) transferring or selling any Lot or Condominium to more than one (1) Person to be held by them as tenants in common, joint tenants, tenants by the entirety or as community property; or (c) leasing or renting all of such Owner's Lot or Condominium, provided that any such lease or rental is subject to the Restrictions.

**7.8. Signs.** No sign, poster, billboard, balloon advertising device or other display of any kind ("Displays") may be displayed within the Properties except (i) such Displays (regardless of size, configuration or content) as may be used by Declarant or a Merchant Builder in connection with the development of the Properties and the sale, lease or other disposition of Lots and Condominiums, (ii) entry monuments and similar community identification signs maintained by the Maintenance Association and the Project Associations, (iii) subject to Architectural Committee Rules governing the location, size, materials and other such criteria, one (1) nameplate or similar Owner name identification, and a reasonable number of signs advising of the existence of security services protecting a Lot or Condominium; and (iv) one (1) sign which may be displayed on each Lot or from each Condominium advertising the Lot or Condominium for sale or lease; provided that such for sale or lease signs (a) may not be larger than eighteen inches (18") by thirty inches (30") in size; (b) may not be attached to the ground by means other than a conventional single vertical stake which may not exceed two inches (2") by three inches (3") in diameter (i.e., posts, pillars, frames or similar arrangements are prohibited); (c) may not extend more than three feet (3') above ground level; and (d) shall be of such colors and styles as are approved by the Architectural Committee.

**7.9. Animals.** No animals, fowl, reptiles, poultry, fish or insects of any kind ("animals") may be raised, bred or kept on any Lot, Condominium or Common Area within the Properties, except that a reasonable number of birds, fish, dogs, cats or other customary household pets may be kept on a Lot or Condominium; provided that they are not kept, bred or

maintained for any commercial purpose, nor in unreasonable quantities nor in violation of any applicable local ordinance or any other provision of the Restrictions, and such limitations as may be set forth in the Rules and Regulations. As used in this Declaration "unreasonable quantities" ordinarily means more than two (2) household pets per Residence; provided, however, that the Board of Directors may determine that a reasonable number in any instance is more or less. The Maintenance Association, acting through the Board of Directors, may prohibit maintenance of any animal which constitutes, in the opinion of the Board, a nuisance to other Owners of Lots or Condominiums in the Properties. Animals belonging to Owners, occupants or their licensees, tenants or invitees within the Properties must be kept within an enclosure or an enclosed yard or on a leash or other restraint being held by a person capable of controlling the animal. Furthermore, to the extent permitted by law, each 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. It shall be the absolute duty and responsibility of each Owner to clean up after such animals which have used any portion of the Properties.

**7.10. Nuisances.** No rubbish or debris of any kind may be placed or permitted to accumulate anywhere within the Properties, and no odor may be permitted to arise therefrom so as to render the Properties or any portion thereof unsanitary, unsightly, or offensive from any public or private street or from any other Lot or Condominium in the vicinity thereof or to its occupants. No noise or other nuisance shall be permitted to exist upon or emanate from any portion of the Maintenance Property or any portion of a Lot, Condominium or Common Area within the Properties so as to be offensive or detrimental to any other Lot, Condominium or Common Area in the Properties or to its occupants. Without limiting the generality of any of the foregoing provisions, no horns, whistles, bells or other sound devices (other than security devices used exclusively for security purposes and commercially designed and reasonably used exterior speakers), live bands, noisy, unsightly, unusually painted or smoky vehicles, aircraft, large noisy power equipment or tools, unlicensed off-road motor vehicles, transmissions which may unreasonably interfere with television or radio reception within the Properties, or other items which may unreasonably disturb other Owners or their tenants may be located, used or placed on any portion of the Properties without the prior written approval of the Architectural Committee. No vehicles may be operated upon any portion of the Maintenance Property or Common Area not improved as a street or parking area without the prior written approval of the Architectural Committee, which approval may be withheld for any reason whatsoever. Alarm devices used exclusively to protect the security and contents of a vehicle, Lot, Condominium or Common Area, are permitted, provided that such devices do not produce annoying sounds or conditions as a result of frequently occurring false alarms.

**7.11. Exterior Maintenance and Repair.** No Improvement shall be permitted to fall into disrepair, and each such Improvement must at all times be kept in good condition and repair. It is the responsibility of the applicable Owner or Project Association to maintain and repair (including painting and stucco repairs) the surface of any Maintenance Property Wall which faces the Lot, Condominium or Common Area (excluding wrought iron or glass surfaces which shall be maintained by the Maintenance Association), regardless of whether such Maintenance Property Wall is (1) located on the common property line separating the Maintenance Property or

Public Property from the Lot, Condominium or Common Area, or (ii) wholly or partially within the Maintenance Property, Public Property, Lot or Common Area immediately adjacent to such common property line. Such maintenance obligations shall include without limitation the obligation to paint, stucco patch and otherwise protect and preserve such Maintenance Property Wall surface from exposure to and deterioration by the elements. Owners shall be responsible for maintenance, repair and replacement of the individual mailboxes, however, the Maintenance Association shall be responsible for maintenance of mailbox stands and structures not maintained by a Project Association. Without limiting the generality of any other provisions respecting maintenance set forth in this Declaration, each Owner, the Maintenance Association and each Project Association shall comply with the following general maintenance standards as to its Lot, Condominium, Maintenance Property or Common Area, as applicable:

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

**7.11.2. Trees and Shrubs.** All trees and shrubs shall be trimmed so they do not impede pedestrian traffic along the streets and sidewalks. Trees shall be pruned so they do not contact Improvements constructed on an adjoining Lot, Condominium Common Area or Maintenance Property and shall be maintained so they do not have droppings or create other nuisances to adjoining Lots or Condominiums or the Maintenance Property. All trees shall also be root pruned to eliminate exposed surface roots and damage to Residences, Maintenance Property Walls, streets, sidewalks, driveways or other Improvements.

**7.11.3. Private Streets.** All private streets, walkways and sidewalks shall be maintained so that they are safe for users. Significant pavement cracks, pavement distress, excessive slab settlement, abrupt vertical variations and debris shall be removed or repaired promptly.

**7.11.4. Exterior Surfaces.** All wrought iron, tubular steel or similar portions of a Maintenance Property Wall shall be painted as needed to eliminate cracking, chipping, and oxidation.

If any Owner or Project Association fails to adhere to foregoing general maintenance standards or permits any Improvement which is the maintenance responsibility of such Owner or Project Association to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board, after consulting with the Architectural Committee, and after affording the responsible Owner or Project Association Notice and Hearing, may, but need not, enter upon the affected Lot, Condominium, or Common Area for the purpose of correcting such condition, and the responsible Owner or Project Association shall promptly reimburse the Maintenance Association for the cost thereof. Such cost shall be a Special Assessment enforceable in the manner set forth in this Declaration, and the Owner of the offending Lot or Condominium or the Project Association which owns or maintains the Common Area, as applicable, shall be personally liable for all costs and expenses incurred by the



Maintenance Association in taking such corrective acts, plus all costs incurred in collecting the amounts due. Each Owner or Project Association, as applicable, shall pay all amounts due for such work within ten (10) days after receipt of written demand therefor.

7.12. **Drainage.** There shall be no interference with the rain gutters, downspouts, or drainage systems originally installed by Declarant or the Merchant Builders, or alter or interfere with the established drainage pattern over any Lot, Condominium or Common Area, unless an adequate alternative provision is made for proper drainage. For the purpose hereof, "established" drainage means the drainage pattern and drainage Improvements which exist at the time the Lot, Condominium or Common Area, as the case may be, is conveyed to the Owner or Project Association by Declarant or a Merchant Builder. There shall be no violation of the drainage requirements of the applicable Local Governmental Agency or other applicable Local Governmental Agency, notwithstanding any approval by the Architectural Committee. Each Owner, by accepting a grant deed to his Lot, acknowledges and understands that in connection with the development of the Properties, Declarant may have installed one or more "subdrains" beneath the surface of such Owner's Lot. The subdrains and all appurtenant Improvements constructed or installed by Declarant ("Drainage Improvements"), if any, provide for subterranean drainage of water from and to various portions of the Properties. To ensure adequate drainage within the Properties, it is essential that the Drainage Improvements, if any, not be modified, removed or blocked without having first made alternative drainage arrangements. Therefore, any damage or injury resulting from or arising in connection with the alteration, modification, removal or replacement of any Drainage Improvements on a Lot shall be the responsibility of the Owner of such Lot.

7.13. **Water and Sewer Systems.** No individual water supply system, water softener system or sewage disposal system is permitted on any Lot, Condominium or Common Area unless such system is designed, located, constructed and equipped in accordance with the requirements, standards, and recommendations of the applicable water or sewer district and any applicable governmental health authority having jurisdiction.

7.14. **No Hazardous Activities.** No activities may be conducted, nor may any Improvements be constructed, anywhere in the Properties which are or might be unsafe or hazardous to any Person, Lot, Condominium, Common Area or Maintenance Property in the Properties.

7.15. **Unsightly Articles.** No unsightly articles, including clotheslines and trash dumpsters, are permitted to remain on any portion of the Properties so as to be visible from any public or private street or from any other Lot, Condominium, Common Area or Maintenance Property. Without limiting the generality of the foregoing, at all times refuse, garbage and trash must be kept in covered, sanitary containers designed for such purpose and located within enclosed areas or areas screened from the view of any other Lot, Condominium, Common Area or Maintenance Property. Trash containers may be exposed to the view of neighboring Lots, Condominiums, Common Area or Maintenance Property only when set out for a reasonable period of time (not to exceed twelve (12) hours before and after scheduled trash collection hours). No exterior fires whatsoever are permitted within the Properties, except barbecue fires

contained within receptacles commercially designed therefor, fire pits in enclosed areas designed so that they do not create a fire hazard, and other fires specifically authorized in writing by the Maintenance Association, all of which are also subject to applicable ordinances and fire regulations.

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

7.17. **Temporary Prefabricated Structures/Dumpsters.** Unless approved in writing by the Board, and then only in connection with Construction Activities approved by the Architectural Committee, no tent, shack, trailer or any temporary building, Improvement or structure, or prefabricated building or structure may be placed upon any portion of the Properties. No trash dumpsters are allowed in any driveway or other exposed areas, or any street (public or private) within the Properties for more than four (4) consecutive calendar days, unless first approved in writing by the Architectural Committee in connection with Architectural Committee approved Construction Activities, and then subject to such conditions and requirements as may be specified by the Architectural Committee.

7.18. **No Mining or Drilling.** No oil drilling, oil, gas or mineral development operations, oil refining, geothermal exploration or development, quarrying or mining operations of any kind may be conducted upon the Properties, nor are oil, water or other wells, tanks, tunnels, mineral or geothermal excavations or shafts permitted upon or within five hundred feet (500') of the surface of any portion of the Properties.

7.19. **Improvements and Alterations.** No excavation, construction, painting, alteration or erection of any projection which in any way alters the exterior appearance of any Lot, Condominium or Common Area from any public or private street, or from any other Lot, Condominium or Common Area (other than minor repairs or rebuilding pursuant to Section 7.11) is permitted without the prior approval of the Architectural Committee pursuant to Article VIII hereof. All Improvements and alterations are subject to the setback, sideyard and other requirements of the applicable Local Governmental Agency, notwithstanding any approval by the Architectural Committee. No walls, fences, spas, play equipment, sheds, light posts, pilasters higher than three (3) feet, glass block, or boulders are allowed in the yards visible from any of the streets within the Properties.

7.20. **Solar Heating Systems.** Solar heating systems may be installed on individual Lots, Condominiums or Common Areas, provided that such heating systems comply with all requirements of applicable Local Governmental Agencies and regulations and have been approved by the Architectural Committee based on reasonable architectural review standards consistent with applicable law.

7.21. **Views.** There are no views in the Properties which are protected to any extent by this Declaration, and no Owner who becomes subject to the terms hereof shall thereby obtain any view rights whatsoever. Notwithstanding any other provision of any Project Declaration, each Owner and each Project Association, by accepting a deed to a Lot, Condominium or any Common Area, acknowledges that any construction or installation by Declarant or a Merchant Builder or by other Owners following Architectural Committee approval as provided in Article VIII hereof may impair the view of such Owner or of the members of such Project Association, and each Owner and each Project Association on behalf of its members hereby consent to such impairment.

7.22. **Rights of Handicapped.** Subject to the provisions of Article VIII hereof, each Owner may modify his Lot or Condominium, at his sole cost and expense, in order to facilitate access to the Residence by persons who are blind, visually handicapped, deaf or physically disabled, or to alter conditions which could be hazardous to such persons, in accordance with Section 1360 of the California Civil Code or other applicable law or ordinance.

7.23. **Party Walls.** Each wall or fence which is placed on the dividing line between the Lots or Condominiums (but not the structural wall of a Residence) is a "Party Wall," and, to the extent not inconsistent with the provisions of this Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions apply thereto.

7.23.1. **Sharing of Repair and Maintenance.** Unless otherwise provided in a Project Declaration, the cost of reasonable repair and maintenance of a Party Wall shall be shared equally by the Owners of the Lots or Condominiums connected by such Party Wall. However, each Owner shall be solely responsible for repainting the side of any Party Wall facing his Lot or Condominium.

7.23.2. **Destruction by Fire or Other Casualty.** If a Party Wall is destroyed or damaged by fire or other casualty, any Owner whose Lot or Condominium is affected thereby may restore it, and the Owner of the other Lot or Condominium which is affected thereby shall contribute equally to the cost of restoration thereof without prejudice, however, to the right of any such Owner to call for a larger contribution from the other under any rule of law regarding liability for negligent or willful acts or omissions.

7.23.3. **Right to Contribution Runs With Land.** The right of any Owner to contribution from any other Owner under this Section 7.23 is appurtenant to the land and passes to such Owner's successors in title.

7.24. **Damage to Residences-Reconstruction.** If all or any portion of any Lot or Residence is damaged or destroyed by fire or other casualty, the Owner of such Lot or Residence shall rebuild, repair or reconstruct the Lot or Residence in a manner which will restore them substantially to their appearance and condition immediately prior to the casualty or as otherwise approved by the Architectural Review Committee. The Owner of any damaged Lot or Residence and the Architectural Review Committee shall proceed with all due diligence, and the Owner

shall cause reconstruction to commence within six (6) months after the damage occurs and to be completed within twelve (12) months after damage occurs, unless prevented by causes beyond such Owner's reasonable control. A transferee of the Lot which is damaged or upon which is located a damaged Residence shall commence and complete reconstruction in the respective periods which would have remained for the performance of such obligations if the Owner of the Lot at the time of the damage still held title to the Lot. However, no such transferee may be required to commence or complete such reconstruction in less than thirty (30) days from the date such transferee acquired title to the Lot.

7.25. **Hazardous Materials.** No hazardous waste, substance or material (as defined in any federal, state or local law, ordinance or regulation) shall be stored or permitted upon any portion of the Properties, except in compliance with all applicable laws, ordinances and regulations of all applicable Public Agencies. Without limiting the generality of the foregoing, the Properties is subject to all federal, state and local requirements of the NPDES adopted pursuant to the Federal Clean Water Act. In accordance therewith, the Maintenance Association, any Project Association and all Owners may not dispose of any hazardous waste, substance or material into any storm drain or other drainage device located anywhere within the Properties in violation of NPDES or any other applicable laws, ordinances or regulations.

## ARTICLE VIII PROPERTIES ARCHITECTURAL CONTROL

8.1. **Members of Architectural Committee.** The Architectural and Landscaping Committee, sometimes referred to in this Declaration as the "Architectural Committee", shall consist of three (3) members; provided, however, that such number may be changed by resolution of the Board of Directors so long as the Architectural Committee never consists of greater than five (5) nor fewer than three (3) members. Members of the Architectural Committee may be removed at any time without cause by the Person appointing such member as provided herein. Unless changed by resolution of the Board, the address of the Architectural Committee for all purposes, including the submission of plans for approval, is the principal office of the Maintenance Association as designated by the Board pursuant to the Bylaws. Declarant may, in a Supplemental Declaration, create a separate architectural committee ("Separate Committee") from the area annexed to the Properties through such Supplemental Declaration ("Separate Area"). The Separate Committee shall have sole architectural control pursuant to this Article VIII over the Separate Area and the Architectural Committee shall have no control or jurisdiction over Construction Activities (as defined below) or otherwise over the Separate Area. If a Separate Committee is created, the provisions of this Article VIII shall apply to the Separate Committee which shall be deemed the "Architectural Committee" for all purposes hereunder regarding the Separate Area. However, members of the Separate Committee appointed pursuant to Subsection 8.2.2 below, shall be solely Owners of Residences in the Separate Area.

## 8.2. Rights of Appointment.

8.2.1. **By Declarant.** Declarant may appoint and remove a majority of the members of the Architectural Committee, which appointees need not be Members of the Maintenance Association, until the earlier to occur of (I) the date on which Close of Escrow has occurred for the sale of Three Hundred Sixty (360) Lots and Condominiums in the Properties, or (ii) the fifth (5th) anniversary of the first Close of Escrow for the sale of a Lot or Condominium in the Phase of Development for which a Public Report was most recently issued by the DRE, or (iii) the date on which neither Declarant nor any Merchant Builder owns a Lot or Condominium in the Properties or Annexable Area.

8.2.2. **By the Board.** The Board may appoint and remove those members of the Architectural Committee which Declarant is not authorized to appoint until such time as Declarant's rights of appointment shall have expired, and thereafter the Board may appoint and remove all members of the Architectural Committee. Architectural Committee members appointed by the Board must be Members of the Maintenance Association at all times during their service on the Architectural Committee, and shall serve for a term of one (1) year or until their respective successors are appointed.

8.2.3. **Notice of Appointment.** Whenever an Architectural Committee member is appointed or removed while both Declarant and the Board have rights of appointment, written notice of such appointment or removal must be given by the appointing party to the other party.

8.3. **Review of Construction Activities.** Subject to Article X of this Declaration, no construction, development, painting, alteration, grading, addition, installation, landscaping or modification thereof, excavation, modification, decoration, redecoration or reconstruction of an Improvement in the Properties (including the Common Area therein) or the Maintenance Property, or any other activity within the jurisdiction of the Architectural Committee pursuant to this Declaration (collectively "Construction Activities") may be commenced or maintained until the plans and specifications therefor showing the nature, design, kind, shape, height, width, color, materials, location and other aspects of the same have been submitted to the Architectural Committee and approved in writing by the Architectural Committee. Construction Activities include the construction, installation, alteration and modification of solar energy systems, as defined in Section 801.5 of the California Civil Code, subject to the provisions of California Civil Code Section 714 and other applicable governmental laws, ordinances and regulations.

8.3.1. **Architectural Committee Rules.** Subject to Section 10.1.5, the Board may adopt, supplement and amend Architectural Committee Rules which impose design and materials standards, submittal procedures, review criteria and other factors to be considered and followed by the Architectural Committee and the Owners in connection with Construction Activities.

8.3.2. **Exemptions/Declarant Approval.** Notwithstanding any other provision of the Restrictions, Declarant and Merchant Builders need not seek Architectural Committee approval with respect to their construction or development activities, including without limitation

any activity which would be classified as a "Construction Activity." However, Merchant Builders must obtain Declarant's written approval of all construction and development activities as if such activities were "Construction Activities" hereunder and Declarant were the "Architectural Committee." The Declarant's approval rights in the preceding sentence are in addition to and shall not effect any other rights of Declarant under other written agreements between Declarant and Merchant Builders.

**8.4. Applications.** The Person submitting plans and specifications to the Architectural Committee ("Applicant") must obtain a dated, written receipt for such plans and specifications and furnish the Architectural Committee with the address to which further communications from the Architectural Committee are to be directed. The Architectural Committee may further require that all plans and specifications first be approved by any Project Association or Project Association architectural committee having jurisdiction. Conditions and requirements imposed by the Architectural Committee supersede all conflicting conditions or requirements which may be imposed by a Project Association or a Project Association architectural committee. The Architectural Committee's determination of the existence of a conflict or discrepancy between the conditions or requirements imposed by the Architectural Committee and those imposed by a Project Association or a Project Association architectural committee are binding and conclusive upon the Project Association, the Project Association architectural committee, and the Applicant. The Architectural Committee Rules may set forth procedures for the submission of plans for approval, require a fee to accompany each application for approval (or request for a certificate stating that Architectural Committee approval is not required), or establish additional factors which the Architectural Committee will take into consideration in reviewing submissions. The Architectural Committee Rules may provide that the amount of any Architectural Committee fee shall be uniform, or that it may be determined in any other reasonable manner, such as based upon the cost of the construction, alterations or installations contemplated or the reasonable cost of architectural or other professional fees incurred by the Maintenance Association in reviewing plans.

**8.4.1. Criteria.** The Architectural Committee shall consider and act upon all plans and specifications submitted for its approval under this Declaration and perform such other duties as are specified in this Declaration, including the inspection of construction in progress to assure its conformance with the plans approved by the Architectural Committee. The Architectural Committee may approve plans and specifications submitted for its approval only if it determines that (I) the Construction Activity is in conformance with the Architectural Committee Rules, (ii) the Construction Activity in the locations indicated will not be detrimental to the appearance of the surrounding area or the Properties as a whole, (iii) the appearance of any structure affected thereby will be in harmony with the surrounding structures, (iv) the Construction Activity and the product thereof will not detract from the beauty, wholesomeness and attractiveness of the Maintenance Property and the Common Area or the enjoyment thereof by the Members, and (v) the upkeep and maintenance thereof will not become a burden on the Maintenance Association.

**8.4.2. Conditions.** The Architectural Committee may condition its approval of plans and specifications for any Improvement upon any of the following: (I) the Applicant's

furnishing the Maintenance Association with a bond or other security acceptable to the Architectural Committee in an amount reasonably sufficient to (a) assure the completion of such Improvement, (b) the availability of funds adequate to remedy any nuisance or unsightly conditions occurring as a result of the partial completion of such Improvement, and (c) to protect the Maintenance Association and the other Owners against mechanic's liens or other encumbrances which may be Recorded against their respective interests in the Properties or damage to the Maintenance Property as a result of such work, (ii) such changes therein as it deems appropriate, (iii) the grant of appropriate easements to the Maintenance Association for the maintenance of the Improvement and access to all Maintenance Property, (iv) the Applicant's agreement to reimburse the Maintenance Association for the cost of maintaining the Improvement, (v) the Applicant's agreement to complete the proposed work within a stated period of time, or (vi) all of the foregoing, and may require submission of additional plans and specifications or other information prior to approving or disapproving materials submitted.

**8.4.3. Review Period.** The Architectural Committee may require such detail in plans and specifications submitted for its review as it deems proper, including without limitation, site plans, lighting plans, landscaping plans, elevation drawings and descriptions or samples of exterior materials and colors. Until the Architectural Committee receives all required plans and specifications (and any Project Association approval if required as a prerequisite to plan consideration), the Architectural Committee may postpone review of any plan submitted for approval or determination of exemption. The Architectural Committee shall transmit its decision and the reasons therefore or a request for further information to the Applicant at the address furnished by the Applicant, within thirty (30) days after the date of the receipt issued by the Architectural Committee for materials submitted to the Architectural Committee. Subject to appeal procedures which may be adopted by the Board as provided in Section 8.12, any application or request for certificate of exemption submitted pursuant to this Section shall be deemed approved, unless the Architectural Committee transmits written disapproval or a request for additional information or materials to the Applicant within thirty (30) days after the date of receipt by the Architectural Committee of the Applicant's submitted materials.

**8.4.4. Submittal to Local Governmental Agency - Right of Architectural Committee to Review.** Upon obtaining the written approval of the Architectural Committee, the Owner shall thereafter submit the approved plans and specifications to the Local Governmental Agencies having jurisdiction. If all necessary approvals of the Local Governmental Agencies for the issuance of a building permit or other permits required to commence the work contemplated in the plans and specifications are not obtained within six (6) months from the date of approval by the Architectural Committee, the Architectural Committee shall have the right, but not the obligation, to re-review all previously approved plans and specifications. In addition, if any Local Governmental Agency requires modifications to the plans and specifications previously approved by the Architectural Committee, the Owner shall submit to the Architectural Committee all modifications to the plans and specifications previously approved by the Architectural Committee. In the event the Owner is obligated to resubmit plans and specifications to the Architectural Committee to reflect the modifications required by the Local Governmental Agency, the Architectural Committee shall have the right to review and to impose

further conditions on any such modifications which are not inconsistent with the requirements imposed by the Local Governmental Agency.

**8.4.5. Conflicts Between the Local Governmental Agency and Architectural Review Committee.** In the event of a conflict between the conditions of approval for any proposed Improvement imposed by any Local Governmental Agency and the Architectural Review Committee, the more restrictive of such conditions shall be controlling. Nothing herein shall limit the Architectural Review Committee from imposing conditions of approval for any proposed Improvement which are more restrictive than the conditions imposed by the Local Governmental Agency.

**8.4.6. Owner Improvements Affecting Maintenance Property Wall.** If the Architectural Committee determines that it is reasonably necessary for an Owner to temporarily remove a Maintenance Property Wall in order to install a pool, spa or other Improvement in his rear yard, the Architectural Committee may approve such temporary removal subject to the following conditions: (i) the Owner, at his sole cost, shall agree to reconstruct such Maintenance Property Wall with the same types of materials as originally used by Declarant or the Merchant Builder and restore any damaged Maintenance Property to substantially the same condition as existed prior to such work; (ii) if applicable, the Owner shall restucco and/or repaint extended portions of the Maintenance Property Wall as reasonably necessary to avoid a patched appearance; and (iii) the Owner obtains all other approvals and permits as provided in this Article.

**8.5. Meetings of the Architectural Committee.** The Architectural Committee shall meet as necessary to perform its duties hereunder. The vote or written consent of a majority of the members of the Architectural Committee shall constitute an act of the Architectural Committee. Subject to the prior approval of the Board, the Architectural Committee may engage architects, landscape architects, designers, planners and such similar professionals and consultants and appoint such subcommittees as the Architectural Committee deems appropriate to assist the Architectural Committee and the Architectural Committee Representative in the evaluation of plans, specifications and other items submitted for Architectural Committee approval pursuant to the Declaration.

**8.6. No Waiver of Future Approvals.** Architectural Committee approval of any proposals or plans and specifications or drawings for any Construction Activity done or proposed or in connection with any other matter requiring Architectural Committee approval does not waive any right to withhold approval of any similar proposals, plans and specifications, drawings or matters subsequently or additionally submitted for approval or consent.

**8.7. Compensation of Members.** The Architectural Committee members shall receive no compensation for services rendered, other than reimbursement by the Maintenance Association for expenses incurred by them in performing their duties. The foregoing shall not preclude payment of compensation approved by the Board to architects or similar professionals engaged to assist the Architectural Committee or the Architectural Committee Representative or



to perform the function of the Architectural Committee Representative pursuant to Section 8.5 above.

8.8. **Correction of Defects.** Inspection of work and correction of defects therein shall proceed as follows:

8.8.1. **Notice of Completion.** The Architectural Committee or its duly appointed representative may at any time inspect any Improvement or Construction Activity for which approval of plans is required under this Article. The Architectural Committee's right of inspection of Improvements for which plans have been submitted and approved shall terminate sixty (60) days after the work of Improvement has been completed and the Architectural Committee has received written notice of such completion. The Architectural Committee's rights of inspection shall not terminate pursuant to this paragraph if plans for the work of Improvement have not previously been submitted to and approved (or determined exempt) in writing by the Architectural Committee. If the Architectural Committee finds that an Improvement was done without obtaining written approval of the plans therefor or was not done in substantial compliance with the plans approved by the Architectural Committee, it shall notify the Owner in writing of failure to comply with this Article VIII, specifying the particulars of noncompliance. The Architectural Committee may require the Owner to take such action as may be necessary to remedy a noncompliance.

8.8.2. **Noncompliance.** If the Owner fails to remedy the noncompliance within sixty (60) days from the date the Architectural Committee's notice of noncompliance is deemed received by the Owner, the Architectural Committee shall notify the Board in writing of such failure. Upon Notice and Hearing, the Board shall determine whether there is a noncompliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a noncompliance exists, the Owner must remedy or remove the same within a period of not more than forty-five (45) days from the date that notice of the Board ruling is given to the Owner. If the Owner does not comply with the Board ruling within that period, the Board may Record a notice of noncompliance and may commence a lawsuit for damages or injunctive relief, as appropriate, to remedy the noncompliance.

8.8.3. **Compliance.** If the Architectural Committee fails to notify the Applicant of any noncompliance with previously submitted and approved plans within sixty (60) days after receipt of written notice of completion from the Applicant, the Construction Activity shall be deemed to be in accordance with such approved plans.

8.8.4. **Prosecution of Work.** The Architectural Committee approval for any particular Construction Activity expires and the plans and specifications therefor must be resubmitted for Architectural Committee approval pursuant to this Article VIII if substantial work pursuant to the approved plans and specifications is not commenced within six (6) months of the Architectural Committee's approval of such Construction Activity. All Construction Activities shall be performed as promptly and diligently as possible and, unless an earlier completion date is specified in this Declaration or the Architectural Committee approval, must be completed within one (1) year after the date on which the work commenced.

8.9. **Scope of Review.** The Architectural Committee shall review and approve or disapprove all plans submitted to it for any proposed Construction Activity solely on the basis of the considerations set forth in this Declaration. The Architectural Committee is not responsible for reviewing, nor shall its approval of any plan or design be deemed approval of, any plan or design from the standpoint of structural safety or conformance with building codes or other governmental requirements. The Architectural Committee may consider reasonable privacy right claims as factors in reviewing, approving or disapproving any proposed Construction Activities. However, Declarant and the Merchant Builders do not warrant any protected views within the Properties and no Lot, Residence or Common Area is guaranteed the existence or unobstructed continuation of any particular view.

8.10. **Variances.** The Architectural Committee may recommend variances from compliance with any of the architectural provisions of this Declaration or any Supplemental Declaration, including, without limitation, restrictions upon height, size, floor area or placement of structures, or similar restrictions, when circumstances such as topography, natural obstructions, hardship, aesthetic or environmental considerations may require. Such variances must be approved by the Board, evidenced in writing, and signed by at least two (2) officers of the Maintenance Association certifying such Board approval, and are effective upon Recordation. No violation of the covenants, conditions and restrictions contained in this Declaration or any Supplemental Declaration shall exist with respect to any Construction Activity for which a variance is granted. The granting of such a variance does not waive any of the terms and provisions of this Declaration or of any Supplemental Declaration for any purpose except as to the particular property and particular provision hereof covered by the variance, nor does it affect the Owner's obligation to comply with all governmental laws and regulations.

8.11. **Pre-Approvals.** Subject to Section 10.1.5, the Board may authorize the pre-approval of certain specified types or classes of Construction Activities in the Architectural Committee Rules if, in the exercise of the Board's judgment, pre-approval of such types or classes of Improvements is appropriate in carrying out the purposes of this Declaration.

8.12. **Appeals.** For so long as Declarant has the right to appoint and remove a majority of the Architectural Committee members, the Architectural Committee's decisions are final, and there is no appeal to the Board. When Declarant is no longer entitled to appoint and remove a majority of the Architectural Committee's members, the Board may adopt policies and procedures for the appeal of Architectural Committee decisions to the Board. The Board has no obligation to adopt or implement any appeal procedures, and in the absence of Board adoption of appeal procedures, all Architectural Committee decisions are final.

#### **ARTICLE IX DESTRUCTION OR CONDEMNATION OF MAINTENANCE PROPERTY**

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

9.1. **Damages by Owners or Project Associations.** To the extent permitted by law, each Owner and Project Association is liable to the Maintenance Association for any damage to the Maintenance Property not fully reimbursed to the Maintenance Association by insurance (including any insurance policy deductible amounts) if the damage is sustained because of the negligence, neglect, willful misconduct or unauthorized or improper installation or maintenance of any Improvement by the Project Association, its members, guests or invitees, or the Owner, his Family, guests, tenants or invitees, or any other Persons deriving their right and easement of use and enjoyment of the Maintenance Property from the Project Association, the Owner or its Owner Parties. However, the Maintenance Association, acting through the Board, may determine whether any claim will be made upon the insurance maintained by the Maintenance Association, and after Notice and Hearing the Maintenance Association may levy a Special Assessment equal to the increase, if any, in insurance premiums directly attributable to the damage caused by the Owner or the Person for whom the Owner may be liable as described above. In the case of joint ownership of a Lot or Condominium, the liability of the Owners is joint and several, except to the extent that the Maintenance Association has previously contracted in writing with the joint Owners to the contrary. After Notice and Hearing, the cost of correcting the damage, to the extent not reimbursed to the Maintenance Association by insurance, shall be a Special Assessment.

9.2. **Repair of Damages.** If Maintenance Property Improvements which are the maintenance responsibility of the Maintenance Association are damaged by fire or other casualty, any insurance proceeds payable by reason thereof shall be paid to the Maintenance Association, which thereupon shall contract for the repair or replacement of all the Maintenance Property Improvements so damaged. The Maintenance Association shall levy a Reconstruction Assessment on Owners to satisfy any deficiency between insurance proceeds and the actual cost of repair or replacement in the same manner and proportion that Common Assessments are levied against and collected from Owners (for example, Cost Center Owners will pay their proportionate share of any Reconstruction Assessment attributable to their Cost Center Improvements, and Owners not located in such Cost Center are exempt from such Reconstruction Assessment). Any restoration or repair of the Maintenance Property Improvements after damage due to an insurable hazard will be performed substantially in accordance with the original plans and specifications unless other action is approved by holders of fifty-one percent (51%) of the first Mortgages on Lots and Condominiums subject to Common Assessments for the maintenance of such Maintenance Property.

9.3. **Condemnation.** If all or any portion of the Maintenance Property, or any interest therein, is taken by right of eminent domain or by private purchase in lieu of eminent domain, the award in condemnation shall be paid to the Maintenance Association and deposited in the appropriate Operating Fund. No Member (other than a Person on whose Lot an Maintenance Property easement affected by a condemnation may be located) may participate as a party, or otherwise, in any proceedings relating to such condemnation. The Maintenance Association has the exclusive right to participate in such proceedings and shall, in its name alone, represent the interests of all Members.

9.4. **Notice to Owners and Listed Mortgagees.** The Board of Directors immediately upon learning of any taking by eminent domain of any Maintenance Property, or any threat thereof, shall promptly notify all Owners whose Lots and Condominiums are subject to Common Assessments for the maintenance of such Maintenance Property, and all Record holders of first Mortgages on such Owners' Lots and Condominiums. The Board, immediately upon learning of any damage or destruction affecting a material portion of the Maintenance Property, shall promptly notify all Owners whose Lots and Condominiums are subject to Common Assessments for the maintenance of such Maintenance Property, and all holders, insurers, and guarantors of first Mortgages on Lots or Condominiums who have filed a written request for such notice.

## **ARTICLE X DECLARANT AND MERCHANT BUILDER EXEMPTION**

10.1. **Interest of Declarant.** The First Subdivision is a portion of a larger parcel of land which Declarant is developing into a master planned community. Declarant in cooperation with the applicable Local Governmental Agency, has created a comprehensive plan for the development of the Properties which includes modern master-planning objectives which have been formulated for the common good and preservation of property values within the community. Each Owner of a Lot or Condominium which is part of the Properties acknowledges by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in any such deed or other instrument, that Declarant has a substantial interest in assuring compliance with and enforcement of, the covenants, conditions, restrictions and reservations contained in this Declaration and any amendments thereto and any Supplemental Declarations Recorded pursuant to this Declaration. Commencing on the date on which Declarant no longer has an elected or appointed representative on the Board, and continuing until the date on which Declarant no longer owns a Lot or Condominium in the Properties or any portion of the Annexable Area, the Maintenance Association shall provide Declarant with written notice of all meetings of the Board as if Declarant were an Owner and Declarant shall be entitled to have a representative present at all such Board meetings ("Declarant's Representative"). The Declarant's Representative shall be present in an advisory capacity only and shall not be a Board member or have any right to vote on matters coming before the Board. Notwithstanding any other provisions of the Restrictions, until the earlier to occur of (i) annexation of all of the Annexable Area and the Close of Escrow in each such Phase, or (ii) the fifteenth (15th) anniversary of the first Close of Escrow in the Properties, the following actions, before being undertaken by the Owners, the Members or the Maintenance Association, must first be approved in writing by Declarant:

10.1.1. **Specified Approvals.** Any amendment or action requiring the approval of Declarant pursuant to this Declaration, including without limitation all amendments and actions specified in Section 12.2.2, and any amendment or action requiring the approval of first Mortgagees pursuant to this Declaration, including without limitation all amendments and actions specified in Sections 12.2.3 and 12.3. The Maintenance Association must provide Declarant with all notices and other documents to which a Beneficiary is entitled pursuant to this Declaration, and Declarant shall be furnished such notices and other documents without the necessity of a written request.

10.1.2. **Annexation.** The annexation to the Properties of Other Area (not Annexable Area) pursuant to Section 2.3;

10.1.3. **Capital Improvement Assessments.** The levy of a Capital Improvement Assessment for the construction of new facilities not originally included in the Maintenance Property or the material modification of Maintenance Property Improvements or facilities;

10.1.4. **Service/Maintenance Reductions.** Subject to Section 6.7 regarding limitations on yearly Common Assessment increases, any significant reduction of Maintenance Property maintenance or other services or entering into contracts for maintenance or other goods and services benefitting the Maintenance Association or the Maintenance Property at contract rates which are fifteen percent (15%) or more below the reasonable cost for such maintenance, goods or services as determined pursuant to the cost guidelines described in Section 6.7.4;

10.1.5. **Architectural Committee Rules.** The adoption of and any supplement or amendment to the Architectural Committee Rules, including any pre-approval authorization pursuant to Section 8.11;

10.1.6. **Maintenance Guidelines.** Any supplement to or amendment of the Maintenance Guidelines.

10.1.7. **Other Amendments.** Any other amendment that would, in Declarant's judgment, materially alter or affect the rights or exemptions of Declarant hereunder.

10.2. **Exemptions.** Nothing in the Restrictions limits and no Owner, Project Association or the Maintenance Association will interfere with the right of Declarant and Merchant Builders, either directly or through their respective agents and representatives, to subdivide, resubdivide, sell, resell, rent or reread any portion of the Properties, or the right of Declarant or a Merchant Builder to complete excavation, grading, construction of Improvements or other development activities to and on any portion of the Properties owned by Declarant or a Merchant Builder, as applicable, or to alter the foregoing and the construction plans and designs, or to construct such additional Improvements as Declarant or a Merchant Builder deems advisable in the course of developing the Properties so long as any Lot or Condominium in the Properties or any portion of the Annexable Area is owned by Declarant or a Merchant Builder. These rights include, but are not limited to, (a) exemption from the provisions of Article VII, and (b) carrying on by Declarant, the Merchant Builders and their respective agents and representatives of such grading work as may be approved by the applicable Local Governmental Agency having jurisdiction, and erecting, constructing and maintaining on the Properties such structures, signs and displays reasonably necessary for the conduct of the business of completing the work and disposing of the Properties and the Annexable Area by sale, lease or otherwise. Each Owner, by accepting a deed to a Lot or Condominium, acknowledges that any construction or installation by Declarant or a Merchant Builder may impair the view of such Owner, and each Owner consents to such impairment.

This Declaration does not limit the right of Declarant or a Merchant Builder, at any time prior to acquisition of title to a Lot or Condominium by a purchaser from Declarant or a Merchant Builder, to establish on that Lot or Condominium, as the case may be, additional licenses, easements, reservations and rights-of-way to itself, to utility companies, or to others as reasonably necessary to the proper development and disposal of the Properties and Annexable Area provided, however, if VA or FHA has issued a "project approval" (as described in Section 2.3.7(D) hereof) with regard to any Condominium Project or Planned Development in the Properties which is to be subject to any of the actions described herein, then FHA, VA or both shall have the right to approve any such grants as provided herein. Prospective purchasers, Declarant and Merchant Builders may use any and all portions of the Maintenance Property for access to the sales and leasing facilities of Declarant and Merchant Builders. Declarant and Merchant Builders may use any structures or vehicles owned, respectively, by Declarant or Merchant Builders in the Properties as model home complexes, or real estate sales or leasing offices; provided that such uses within the Properties shall terminate on the fifteenth (15th) anniversary of the first Close of Escrow for the sale of a Lot or Condominium on the Properties pursuant to a transaction requiring the issuance of a Public Report, at which time Declarant and Merchant Builders shall restore their respective structures to their previous appearance. All or any portion of the rights of Declarant or a Merchant Builder, as applicable, hereunder and elsewhere in these Restrictions may be assigned by Declarant or such Merchant Builder, as applicable, to any successor in interest to any portion of Declarant's or Merchant Builder's interest in any portion of the Properties or the Annexable Area (including, without limitation, to any Merchant Builder) by an express Recorded written assignment which specifies the rights of Declarant or such Merchant Builder so assigned. Notwithstanding any other provision of this Declaration, for so long as Declarant owns any portion of the Properties or the Annexable Area, Declarant's prior written approval is required before any amendment to this Article X is effective.

10.3. **Easement Relocation.** Maintenance Property comprising easements over real property the fee title to which has not been made subject to the Declaration ("Interim Easement Area") may be relocated, modified or terminated by Declarant to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any Lot or Condominium.

## ARTICLE XI INSURANCE

11.1. **Casualty Insurance.** The Board shall obtain and maintain fire and casualty insurance with extended coverage for loss or damage to all insurable Improvements installed by Declarant, any Merchant Builder or by the Maintenance Association on the Maintenance Property for the full replacement cost thereof without deduction for depreciation or coinsurance, and may obtain insurance against such other hazards and casualties as the Maintenance Association may deem desirable. The Maintenance Association may also insure any other real or

personal property it owns against loss or damage by fire and such other hazards as the Maintenance Association may deem desirable, with the Maintenance Association as the owner and beneficiary of such insurance. The policies insuring the Maintenance Property must be written in the name of, and the proceeds thereof must be payable to the Maintenance Association. Unless the applicable insurance policy provides for a different procedure for the filing of claims, all claims made under such policy must be sent to the insurance carrier or agent, as applicable, by certified mail and be clearly identified as a claim. The Maintenance Association shall keep a record of all claims made. The Maintenance Association shall use insurance proceeds to repair or replace the property for which the insurance was carried. Premiums for all insurance carried by the Maintenance Association are a Common Expense.

**11.2. Insurance Obligations of Owners.** Each Owner is responsible for insuring his personal property and all other property and Improvements within his Lot or Condominium as required by this Declaration, the applicable Supplemental Declaration or applicable Project Declaration. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the Maintenance Association, and duplicate copies of such other policies shall be deposited with the Board upon the Board's request. If any loss intended to be covered by insurance carried by or on behalf of the Maintenance Association occurs and the proceeds payable thereunder are reduced due to insurance carried by any Owner, such Owner shall assign the proceeds of such insurance to the Maintenance Association, to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

**11.3. Waiver of Subrogation.** All policies of physical damage insurance the Maintenance Association maintains must provide, if reasonably possible, for waiver of: (i) any defense based on coinsurance; (ii) any right of setoff, counterclaim, apportionment, proration or contribution due to other insurance not carried by the Maintenance Association; (iii) any invalidity, other adverse effect or defense due to any breach of warranty or condition caused by the Maintenance Association, any Owner or any tenant of any Owner, or arising from any act or omission of any named insured or the respective agents, contractors and employees of any insured; (iv) any rights of the insurer to repair, rebuild or replace, and, if any Improvement is not repaired, rebuilt or replaced following loss, any right to pay under the insurance an amount less than the replacement value of the Improvements insured; (v) notice of the assignment of any Owner of its interest in the insurance by virtue of a conveyance of any Lot; (vi) any denial of an Owner's claim because of negligent acts by the Maintenance Association or other Owners; or (vii) prejudice of the insurance by any acts or omissions of Owners that are not under the Maintenance Association's control. As to each policy of insurance the Maintenance Association maintains which will not be voided or impaired thereby, the Maintenance Association hereby waives and releases all claims against the Board, the Owners, the Maintenance Association Manager, Declarant, the Merchant Builders and the agents and employees of each of the foregoing, with respect to any loss covered by such insurance, whether or not caused by negligence or breach of any agreement by such Persons, but only to the extent that insurance proceeds are received in compensation for such loss.

11.4. **Liability and Other Insurance.** The Maintenance Association shall obtain comprehensive public liability insurance, including medical payments and malicious mischief, in such limits as it deems desirable with such minimum limits as are set forth in Section 1365.9 of the California Civil Code, insuring against liability for bodily injury, death and property damage arising from the Maintenance Association's activities or with respect to property the Maintenance Association maintains or is required to maintain including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured. The Maintenance Association may also obtain Worker's Compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, the Maintenance Association, Board and Maintenance Association Manager, against liability in connection with the Maintenance Property, the premiums for which are a Common Expense. The Board shall review all insurance policies at least annually and adjust the limits in its discretion. The Board may also obtain such errors and omissions insurance, indemnity bonds, fidelity insurance and other insurance as it deems advisable, insuring the Board, the Maintenance Association's officers and the Maintenance Association 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. However, fidelity insurance coverage which names the Maintenance Association as an obligee must be obtained by or on behalf of the Maintenance Association for any Person handling Maintenance Association funds, including, but not limited to, Maintenance Association officers, directors, employees and agents and Maintenance Association Manager employees, whether or not such Persons are compensated for their services, in an amount not less than the estimated maximum of funds, including reserve funds, in the Maintenance Association's or Maintenance Association Manager's custody during the term of each bond. The aggregate amount of such bonds may not be less than one-fourth (1/4) of the Common Assessments on all Lots and Condominiums in the Properties, plus reserve funds. In addition, the Maintenance Association shall continuously maintain in effect such casualty, flood and liability insurance and fidelity insurance coverage meeting the requirements for planned unit developments established by FNMA, GNMA and FHLMC, so long as any of them is a Mortgagee or an Owner of a Residence in the Properties, except to the extent such coverage is not reasonably available or has been waived in writing by FNMA, GNMA and FHLMC, as applicable.

11.5. **Notice of Expiration Requirements.** If available, each insurance policy the Maintenance Association maintains must contain a provision that said policy may not be canceled, terminated, materially modified or allowed to expire by its terms, without thirty (30) days' prior written notice to the Board, Declarant, and to each Owner and Beneficiary, insurer and guarantor of a first Mortgage who has filed a written request with the carrier for such notice, and every other Person in interest who requests such notice of the insurer.

## ARTICLE XII MISCELLANEOUS

12.1. **Term and Termination.** This Declaration continues in full force until a Declaration of Termination satisfying the requirements of an amendment to this Declaration as set forth in Section 12.2 of this Article is Recorded.



## 12.2. Amendments.

12.2.1. **By Declarant.** Prior to the first Close of Escrow for the sale of a Lot or Condominium to a member of the public pursuant to a transaction requiring the issuance of a Public Report, this Declaration may be amended or terminated by Recording a written instrument signed by Declarant setting forth such amendment or termination. Notwithstanding any other provisions of this Declaration, for so long as Declarant owns any portion of the Properties or the Annexable Area, Declarant may unilaterally amend this Declaration (I) to conform this Declaration to the requirements of VA, FHA, DRE, FNMA, GNMA, FHLMC, the County, City or any other governmental agency or entity then in effect or to otherwise comply with or implement any state, federal or local law, regulation or ordinance (including, without limitation, the provisions of California Civil Code Sections 895 through 945.5, as enacted by California Statutes Chapter 722, as amended from time to time), (ii) correct typographical or inadvertent errors and (iii) to update or supplement the disclosures contained in Section 12.9 below, by Recording a written instrument signed solely by Declarant.

12.2.2. **By Owners.** The provisions of this Declaration (all of which may not be amended without the written consent of Declarant until the fifteenth (15th) anniversary of the first Close of Escrow in the Properties), may be amended by Recording an instrument, signed and acknowledged by Declarant (for those amendments which must be approved by Declarant) and two (2) officers of the Maintenance Association, setting forth the amendment and certifying that such amendment has been approved by Owners representing sixty-seven percent (67%) of the voting power of the Maintenance Association and the requisite percentage of holders and insurers of first Mortgages, in the case of those amendments which this Declaration requires to be approved by first Mortgagees. Amendments shall be effective upon Recordation.

12.2.3. **Approval of First Mortgagees.** Notwithstanding the foregoing, any of the following amendments, to be effective, must be approved by fifty-one percent (51%) of the first Mortgagees who have requested the Maintenance Association to notify them of proposed action requiring the consent of a specified percentage of first Mortgagees, based upon one (1) vote for each Lot or Condominium pledged as security for the respective first Mortgage:

(i) **Rights of Lenders.** Any amendment which affects or purports to affect the validity or priority of encumbrances or the rights or protections granted to Beneficiaries, insurers and guarantors of first Mortgages as provided in Articles II, VI, IX, X, XI, and XII hereof.

(ii) **Lien Priority.** Any amendment which would necessitate a Mortgagee after it has acquired a Lot or Condominium through foreclosure to pay more than its proportionate share of any unpaid Assessment or Assessments accruing after such foreclosure.

(iii) **Forfeitures and Taxes.** Any amendment which would or could result in (a) an encumbrance being canceled by forfeiture, or (b) an individual Lot or Condominium not being separately assessed for tax purposes.

(iv) **Insurance and Condemnation.** Any amendment relating to the insurance provisions as set out in Article XI hereof, or to the application of insurance proceeds as set out in Article XI hereof, or to the disposition of any money received in any taking under condemnation proceedings.

(v) **Termination and Subdivision.** Any amendment which would or could result in termination or abandonment of the Properties or partition or subdivision of a Lot or Condominium, in any manner inconsistent with the provisions of this Declaration; provided that termination of the legal status of the Properties as a common interest development for reasons other than substantial destruction or condemnation of the Properties must be approved by the institutional Record holders of sixty-seven percent (67%) of the first Mortgages at the time of such amendment.

Any approval by a holder, insurer or guarantor of a first Mortgage required under this Section 12.2.3, or required pursuant to any other provisions of the Restrictions, must either be given in writing, or is deemed given if, within thirty (30) days after receipt of written notice of the proposed action sent via registered or certified mail, return receipt requested, the holder, insurer or guarantor does not submit a written response to the notice.

12.2.4. **Veto by City.** The City shall have the power to veto any purported amendment or termination of this Declaration, which affects any provision required by Conditions of Approval to development of the Properties imposed by the City. No amendment or written agreement purporting to terminate or modify such provisions of this Declaration shall take effect until thirty (30) calendar days following delivery by mail, return receipt requested, of written notice thereof, to the City Director of Planning and Community Development, with a copy thereof to the City Attorney, and if no veto is exercised by the City Planning Director within thirty (30) calendar days after the receipt of such notice, such amendment or termination shall thereafter become effective.

12.2.5. **Certification.** A certificate, signed and sworn to by two (2) officers of the Maintenance Association that Owners representing sixty-seven percent (67%) of the Lots and Condominiums have voted for any amendment adopted as provided above, when Recorded, shall be conclusive evidence of that fact. The certificate reflecting any termination or amendment which requires the consent of any of the record holders, guarantors or insurers of first Mortgages shall include a certification that the requisite approval of the City, and such holders, guarantors or insurers of first Mortgages has been obtained or waived. The certificate reflecting any termination or amendment requiring Declarant's consent shall be signed and acknowledged by Declarant. The Maintenance Association shall maintain in its files the record of all such votes and Mortgagee consent solicitations and disapprovals for a period of at least four (4) years.

12.3. **Mortgagee Protection-General.** Notwithstanding any other provision of this Declaration, no amendment or violation of this Declaration will defeat or render invalid the rights of the Beneficiary under any Deed of Trust made in good faith and for value, and Recorded prior to the Recordation of such amendment (or a Notice of Lien Recorded pursuant to Section 6.11). After the foreclosure of any such Deed of Trust such Lot or Condominium remains

subject to this Declaration, as amended. Notwithstanding any and all provisions of this Declaration to the contrary, in order to induce FHLMC, GNMA, FNMA, VA and FHA to participate in the financing of Lots and Condominiums within the Properties, the following provisions are added hereto (and to the extent these added provisions, pertaining to the rights of Mortgagees, FHLMC, FNMA, GNMA, VA and FHA, conflict with any other provisions of this Declaration or any other of the Restrictions, these added restrictions shall control):

**12.3.1. Notice of Default.** Each Beneficiary, insurer and guarantor of a first Mortgage encumbering any Lot or Condominium, upon filing a written request for notification with the Board, is entitled to written notification from the Maintenance Association of (I) any condemnation or casualty loss which affects either a material portion of the Properties or the Lot or Condominium securing the respective first Mortgage; (ii) any delinquency of sixty (60) days or more in the performance by the Owner of such Lot or Condominium of any obligation arising pursuant to this Declaration, including without limitation the payment of Assessments or charges owed by the Owner of the Lot or Condominium securing the respective first Mortgage, which notice each Owner hereby consents to and authorizes; (iii) a lapse, cancellation, or material modification of any policy of insurance or fidelity bond maintained by the Maintenance Association; and (iv) any proposed action of the Maintenance Association which requires consent by a specified percentage of first Mortgagees.

**12.3.2. First Refusal Exemption.** Every Owner, including every first Mortgagee of a Mortgage encumbering any Lot or Condominium, which obtains title to such Lot or Condominium pursuant to the remedies provided in such Mortgage, or pursuant to foreclosure of the Mortgage, or by deed (or assignment) in lieu of foreclosure, is exempt from any "right of first refusal."

**12.3.3. Lien Priority.** Each first Mortgagee of a Mortgage encumbering any Lot or Condominium and Recorded prior to a Notice of Lien which obtains title to such Lot or Condominium pursuant to judicial foreclosure or the powers provided in such Mortgage takes title to such Lot or Condominium free and clear of any claims for unpaid Assessments or charges against such Lot or Condominium which accrued prior to the time such Mortgagee acquires title to such Lot or Condominium in accordance with Section 6.16.

**12.3.4. Books and Records.** All Beneficiaries, insurers and guarantors of first Mortgages on Lots or Condominiums, upon written request to the Maintenance Association, may examine current copies of the Maintenance Association's books, records and financial statements and the Restrictions during normal business hours, and may require the Maintenance Association to submit an annual audited financial statement for the preceding fiscal year without expense to the entity requesting the statement within one hundred twenty (120) days of the end of the fiscal year.

**12.3.5. Mortgagee Notices.** All Beneficiaries, insurers and guarantors of first Mortgages of Lots or Condominiums who have filed a written request with the Maintenance Association shall be given (1) thirty (30) days' written notice prior to the effective date of any proposed, material amendment to this Declaration or the Articles or Bylaws, and prior to the

effective date of any termination of an agreement for professional management of the Properties following a decision of the Owners to assume self-management of the Properties; (ii) written notice of all meetings of the Owners and the right to designate in writing a representative who shall be authorized to attend all such meetings; and (iii) immediate written notice as soon as the Board receives notice or otherwise learns of any damage to the Maintenance Property whenever the cost of reconstruction exceeds Ten Thousand Dollars (\$10,000), and as soon as the Board receives notice or otherwise learns of any condemnation or eminent domain proceedings or other proposed acquisition, with respect to any portion of the Properties.

**12.3.6. Maintenance Property Taxes.** First Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Maintenance Property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for such property, and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Maintenance Association.

**12.4. Notices.** Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered two (2) business days after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any Person at the address given by such Person to the Maintenance Association for the purpose of service of such notice, or to the Residence (or principal place of business in the case of a Project Association) of such Person if no address has been given to the Maintenance Association. Such address may be changed from time to time by notice in writing to the Maintenance Association.

**12.5. Enforcement and Non-Waiver.**

**12.5.1. Right of Enforcement.** Subject to Sections 1354 and 1375 of the California Civil Code and Sections 12.5.8, 12.5.10, 12.15 and 12.16 below, the Maintenance Association, the successors-in-interest of the Maintenance Association, any Owner, Project Association, Declarant and Merchant Builders (so long as Declarant or a Merchant Builder owns a Lot or Condominium in the Properties or is entitled to add any portion of the Annexable Area to the Properties), may enforce any of the provisions of the Restrictions against any portion of the Properties which is in noncompliance, and against each Owner, the Maintenance Association, any Project Association, or any other Person responsible for the noncompliance. Such right shall include proceedings for damages, as well as proceedings to enjoin any violation of the Restrictions. The City shall be entitled but not obligated to enforce all provisions of this Declaration required by the City as conditions to approval of development of the Properties.

**12.5.2. Project Declaration Enforcement.** Subject to Sections 1354 of the California Civil Code and Sections 5.2.10, 12.5.8, 12.5.10, 12.15 and 12.16 below, the Maintenance Association may commence and maintain actions and proceedings to restrain and enjoin any breach or threatened breach of the provisions of any applicable Project Declaration and to enforce, by mandatory injunctions or otherwise, all of the provisions of any applicable Project Declaration.

**12.5.3. Violations are Nuisance.** Every act or omission whereby any provision of the Restrictions is violated in whole or in part is declared a nuisance and every remedy allowed by law or equity against a nuisance, either public or private, is applicable against every such violation and may be exercised as provided in Section 12.5.1 above.

**12.5.4. Violation of Law.** Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any of the Properties is a violation of the Restrictions and subject to all of the enforcement procedures set forth in the Restrictions.

**12.5.5. Remedies Cumulative.** Each remedy provided by the Restrictions is cumulative and not exclusive. The Maintenance Association may, without waiving the right to enforce its lien against the Lot or Condominium, bring a suit at law to enforce each Assessment obligation.

**12.5.6. No Waiver.** Failure to enforce any provision of the Restrictions does not waive the right to enforce that provision, or any other provision thereof.

**12.5.7. Special Assessment.** If any Owner, Owner Parties or any Project Association violates the Restrictions, the Board may, after Notice and Hearing and in addition to the other remedies available, impose a reasonable Special Assessment upon such Owner, its Owner Parties or Project Association for each violation and may as further provided in the Bylaws, suspend or condition such Owner's right (and the right of the Owner Parties) to use any portion of the Maintenance Property (other than streets and driveways providing access to such Owner's Lot or Condominium). Any such suspension or conditional suspension shall be for a period of not more than thirty (30) days for any noncontinuing infraction, but in the case of a continuing infraction (including nonpayment of any delinquent Assessment) may be imposed for so long as the violation continues. The Board may also adopt a schedule of reasonable fines or penalties which, in its reasonable discretion, it may assess against an Owner or Project Association for failure of the Project Association or Owner, his Family or a resident of or visitor to his Lot or Condominium, to comply with any provision of the Restrictions, other than Article VI hereof. Such fines or penalties may only be assessed by the Board after Notice and Hearing.

**12.5.8. Alternative Dispute Resolution of Assessment Disputes.** Disputes between an Owner and the Maintenance Association regarding the Assessments imposed by the Maintenance Association may be submitted to alternative dispute resolution in accordance with Civil Code Section 1354 if such Owner pays in full (i) the amount of the Assessment in dispute, (ii) any late charges, (iii) any interest, and (iv) all fees and costs associated with the preparation and filing of a Notice of Delinquent Assessment (including mailing costs and attorneys fees not to exceed the maximum amount allowed by law), and states by written notice that such amount is paid under protest, and the written notice is mailed by certified mail not more than thirty (30) days from the Recording of a Notice of Delinquent Assessment. Upon receipt of such written notice, the Maintenance Association shall inform the Owner in writing that the dispute may be resolved through alternative dispute resolution as set forth in Civil Code Section 1354. The right

of any Owner to utilize alternative dispute resolution under this Section may not be exercised more than two times in any single calendar year, and not more than three times within any five (5) calendar years. Nothing within this Section shall preclude any Owner and the Maintenance Association, upon mutual agreement, from entering into alternative dispute resolution in excess of the limits set forth herein. An Owner may request and be awarded through alternative dispute resolution reasonable interest to be paid by the Maintenance Association in the total amount paid under items (I) through (iv) above, if it is determined that the Assessment levied by the Maintenance Association was not correctly levied.

**12.5.9. Notice of Noncompliance.** After Notice and Hearing, the Board may direct the officers of the Maintenance Association to Record a Notice of Noncompliance against a Residence owned by any Member of the Maintenance Association who has violated any provision of this Declaration. The notice shall include a legal description of the Residence and shall specify the provision of this Declaration that was violated, the violation committed, and the steps required to remedy the noncompliance. Once the noncompliance is remedied or the noncomplying Owner has taken such other steps as reasonably required by the Board, the Board shall direct the officers of the Maintenance Association to Record a notice that the noncompliance has been remedied.

**12.5.10. Limitation on Expenditures.** The Maintenance Association may not incur litigation expenses, including without limitation attorneys' fees, or borrow money to fund litigation, where the Maintenance Association initiates legal proceedings or is joined as a plaintiff in legal proceedings, unless the Maintenance Association first obtains the approval of sixty-seven percent (67%) of the Owners (excluding the voting power of any Owner who would be a defendant in such proceedings), and, if applicable, complies with the requirements of Section 1354 of the California Civil Code. Such approval is not necessary if the legal proceedings are initiated (I) to enforce the use restrictions contained in Article VII, (ii) to enforce the architectural and landscaping control provisions contained in Article VIII, (iii) to collect any unpaid Assessments levied pursuant to this Declaration, (iv) for a claim, the total value of which is less than five hundred thousand dollars (\$500,000), or (v) as a cross-complaint in litigation to which the Maintenance Association is already a party. If the Maintenance Association decides to use or transfer Reserve funds or borrow funds to pay for any litigation, such notice shall provide an explanation of why the litigation is being initiated or defended, why operating funds cannot be used, how and when the reserve funds will be replaced or the loan will be repaid, and a proposed budget for the litigation. The notice must state that the Members have a right to review an accounting for the litigation which will be available at the Maintenance Association's office. The accounting shall be updated monthly.

## **12.6. Interpretation.**

**12.6.1. Restrictions Construed Together.** The Restrictions shall be liberally construed to effectuate the fundamental concepts of the Properties as set forth in the Preamble to this Declaration. The Restrictions shall be interpreted so as to be consistent with applicable laws and regulations, including ordinances and regulations of applicable Local Governmental

Agencies. The Restrictions shall be construed and governed by the laws of the State of California.

**12.6.2. Restrictions Severable.** Notwithstanding the provisions of Section 12.6.1, each of the provisions of the Restrictions is 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.

**12.6.3. Singular Includes Plural.** Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular; and the masculine, feminine or neuter shall each include the masculine, feminine and neuter.

**12.6.4. Captions.** All captions and titles in this Declaration are solely for convenience of reference and do not affect that which is set forth in any of the provisions hereof.

**12.6.5. Time Periods.** Except as otherwise expressly provided herein, any reference in this Declaration to time for performance of obligations or to elapsed time means consecutive calendar days, months, or years, as applicable.

**12.7. Reservation of Easements.** Declarant and the Merchant Builders hereby reserve for the benefit of all of the Properties reciprocal easements for access, ingress and egress for all Owners to and from their respective Lots and Condominiums; for installation and repair of utility services; for encroachments of Improvements constructed by Declarant and Merchant Builders or authorized by the Architectural Committee over the Maintenance Property, Condominiums and Lots; for drainage of water over, across and upon adjacent Lots, Common Areas and Maintenance Property resulting from the normal use of adjoining Lots, Common Areas or Maintenance Property; for necessary maintenance and repair of any Improvement constructed by Declarant or a Merchant Builder; easements as may be shown on any Recorded subdivision map or Recorded parcel map of any portion of the Properties; and for such other purposes specified in this Declaration. Such easements may be used by Declarant and the Merchant Builders, their successors, invitees and purchasers, the Maintenance Association, and all Owners, their guests, tenants and invitees, residing on or temporarily visiting the Properties, for pedestrian walkways, vehicular access and such other purposes specified herein or reasonably necessary for the use, maintenance and enjoyment of a Lot, Condominium, Common Areas or the Maintenance Property. Declarant hereby reserves easements for the installation and maintenance of master antenna or communications service, as provided in Section 3.8.

**12.8. No Public Right of Dedication.** Nothing in this Declaration is a gift or dedication of all or any part of the Properties to the public, or for any public use.

**12.9. Disclosures.** Every person who owns, occupies or acquires any right, title, estate or interest in or to any Lot or Condominium or other portion of the Properties agrees to every limitation, restriction, easement, reservation, condition and covenant contained herein, whether or not any reference to this Declaration is contained in the instrument by which such person acquired an interest in the Properties. Each Owner, by acceptance of a deed or other conveyance

of a Lot or Condominium, whether or not it shall be so expressed in any such deed or other instrument, acknowledges and understands the following:

12.9.1. **Soil Condition.** Soils in the Properties are expansive in nature. These types of soils will expand when they become wet and contract when they are dry. This expansion and contraction may cause movement, cracking and other distress in slabs, patios, sidewalks and other flatwork Improvements within the Properties. Soil within the Properties also contains a large amount of subterranean rock. Consequently, installation of pools, spas, landscaping and other Improvements which require digging, trenching or other excavation may be more expensive due to the possibility of encountering buried rocks and the necessity of removing same. Owners of Residences should take these conditions into account in the design of the landscape, hardscape and Improvements which they construct on their Lots. Owners should advise their contractors, engineers and/or architects of the presence of these expansive soils so that their effect may be mitigated by appropriate design and construction techniques. Copies of the soils reports for the Properties are available for review at the City.

12.9.2. **Post Tension Concrete Slabs.** Concrete slabs for Residences constructed in the Properties may be reinforced with a grid of steel cable installed in the concrete slab and then tightened to create extremely high tension. This type of slab is commonly known as a "Post Tension Slab." Cutting into a Post Tension Slab for any reason (e.g., to install a floor safe, to remodel plumbing, etc.) is very hazardous and may result in serious damage to the Residence and/or personal injury. All Owners shall determine if their Residence has been constructed with a Post Tension Slab and, if so agree: (1) they shall not cut into or otherwise tamper with the Post Tension Slab; (2) will not permit or allow any other person to cut into or tamper with the Post Tension Slab so long as Owner owns any interest in the Residence; (3) they shall disclose the existence of the Post Tension Slab to any person who rents, leases or purchases the Residence from Owner; and (4) they shall indemnify and hold Declarant, and its officers, employees, contractors and agents, free and harmless from and against any and all claims, damages, losses or other liability (including attorneys' fees and costs of court) arising from any breach of this covenant by such Owner.

12.9.3. **Proto-II Wall Disclosure.** Each Owner acknowledges and understands that some Maintenance Property Walls and other walls on or adjacent to Lots are a type of masonry fencing known as "Proto-II" walls. Although Proto-II walls typically look the same as conventional masonry fencing, the method of construction differs. Conventional masonry walls are built with rigid vertical and horizontal sleeves of rebar and grout to provide strength and stability to the wall. Proto-II walls, on the other hand, are constructed using high strength steel post-tensioning rods inside the footings and wall to induce tightness (tension) throughout the footings and wall. Because of the presence of post-tension rods within the structure of the wall, it is imperative that Owners contact a professional Proto-II wall installer before undertaking any structural repair of the Proto-II walls. By accepting conveyance of a Residence, each Owner specifically covenants and agrees (i) to engage the services of a Proto-II wall professional in connection with any structural work on the Proto-II wall; (ii) to disclose the existence of the Proto-II wall to any lessee, tenant, or subsequent purchaser; and (iii) neither Declarant nor any Merchant Builder shall be responsible for any damage or injury resulting from or arising in



connection with the alteration of the Proto-II wall by Owner or any employee, agent, family member or representative of Owner.

12.9.4. **Entry Gates.** Subject to Subsection (I) below, vehicular access into the Properties may be controlled by electronically operated entry gates located at the private street entrances into the Properties, which facilities may also have pedestrian gates that may or may not be controlled in any way, and may be open to the general public. There may be additional controlled access pedestrian gates at other locations within the Properties. The entry gates will not be staffed.

(i) **Gate Operations During Marketing Period.** Declarant reserves the unrestricted right to limit or suspend the operation of any vehicular entry gates and other measures to restrict access to the Properties and Annexable Area during the "Marketing Period" (as defined in Subsection (iii) below). During the Marketing Period the entry gates and access points to the Properties may be open without restriction to the general public and Declarant and Merchant Builder construction, model home and other development and marketing traffic at all hours of the day, seven days a week; provided however, that Declarant without notice to or the approval of the Board of Directors or Owners may change the hours or nature of entry gate and access point operation in its sole discretion and without notice to accommodate construction, marketing and other development activities. Neither the Board of Directors nor Owners shall take any action that interferes with the rights of Declarant hereunder with respect to the unrestricted control over the operation and use of and entry through entry gates and access points to the Properties and Annexable Area during the Marketing Period.

(ii) **Security and Privacy Disclaimer.** Entry gates are not intended to provide security for persons, personal property or Residences within the Properties. Declarant, the Merchant Builders and the Maintenance Association do not undertake to provide security for the Properties nor do they make any representations or warranties whatsoever concerning the effect the gates may have on vehicular and pedestrian access through the Properties or the privacy and safety of the Properties.

(iii) **Entry Gate Disclosure.** Each Owner of a Lot or Condominium which is part of the Properties acknowledges by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in any such deed or other instrument, that Declarant has a substantial interest in assuring unrestricted access to the Properties to accommodate the construction and marketing of the Residences and development of the Properties. Therefore, notwithstanding any other provisions of the Restrictions, until the earlier to occur of (I) Close of Escrow for the sale of all Residences in the Properties, and annexation of all the Annexable Area or (ii) fifteen (15) years following the first Close of Escrow for the sale of a Lot or Condominium pursuant to a transaction requiring the issuance of a Public Report ("Marketing Period"), Declarant is entitled to control the operation of the entry gates and access points which provide vehicular access to the Properties. During the Marketing Period Declarant may establish and change the hours of gate operation and any other access restriction in its sole discretion without notice, and require that the general public, Declarant and Merchant Builders and their employees, agents, representatives, consultants, contractors and subcontractors have

unrestricted access through entry gates and access points to accommodate construction, marketing activities and other development activities.

**12.9.5. Noise From Entry Gates.** Residents living in the vicinity of the entry gates will experience noise from the operation of the entry gates and from traffic entering and exiting the Properties. Vehicles may line up outside the Properties at the start of each work day if the gates are not open. The Maintenance Association may need to clean the streets in the Properties more frequently due to such construction traffic until all Residences have been constructed.

**12.10. Public Access.** In accordance with certain conditions of approval imposed by the City in connection with the development of the Properties, certain portions of the Maintenance Property (e.g., private streets, certain park facilities, and hiking and/or biking trails, etc.) will be available for use by members of the general public.

**12.11. No Representations or Warranties; Not an Enhanced Protection Agreement.** No representations or warranties of any kind, express or implied, have been given or made by Declarant or its agents or employees in connection with the Properties or any portion of the Properties, or any Improvement thereon, its physical conditions, zoning, compliance with applicable laws, fitness for intended use, or in connection with the subdivision, sale, operation, maintenance, cost of maintenance, taxes or regulation thereof, except as specifically and expressly set forth in this Declaration and except as may be filed from time to time with the DRE or with any other governmental authority. This Declaration is not an "enhanced protection agreement" (as described in California Civil Code Section 901, as enacted by California Statutes, Chapter 722, as amended from time to time, or any successor statute). Nothing in this Declaration shall be construed to be an enhanced protection agreement.

**12.12. Standard of Care, Nonliability.**

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

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

(ii) **Business Affairs.** This Subsection 12.12.1(ii) applies to Board member actions in connection with management, personnel, maintenance and operations, insurance, contracts and finances and Architectural Review Committee member actions. Each Board member shall perform the duties of a Board member in good faith, in a manner such Board

member believes to be in the best interests of the Maintenance Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. When performing his duties, a Board member is entitled to rely on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by:

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

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

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

(4) This Subsection 12.12.1(ii) is intended to be a restatement of the business judgement rule established in applicable law as it applies to the Maintenance Association. All amendments, modifications, restatements and interpretations of the business judgment rule applicable to the Maintenance Association shall be interpreted to amend, modify, restate or interpret this Subsection 12.12.1(ii).

(iii) **Maintenance Association Governance.** This Subsection 12.12.1(iii) applies to Board actions, Architectural Review Committee decisions and other Committee decisions in connection with interpretation and enforcement of the Restrictions, architectural and landscaping control, regulation of uses within the Properties, rule making and oversight of committees. Actions taken or decisions made in connection with these matters shall be reasonable, fair and nondiscriminatory.

#### 12.12.2. **Nonliability.**

(i) **General Rule.** No Person is liable to any other Person (other than the Maintenance Association or a party claiming in the name of the Maintenance Association) for injuries or damage resulting from such Person's acts or omissions when the acts or omissions are within what the Person reasonably believed to be the scope of the Person's Maintenance Association duties ("Official Acts"), except to the extent that injuries or damage result from the Person's willful or malicious misconduct. No Person is liable to the Maintenance Association (or to any party claiming in the name of the Maintenance Association) for injuries or damage resulting from such Person's Official Acts, except to the extent that such injuries or damage result from such Person's willful or malicious misconduct. The Maintenance Association is not liable for damage to property in the Properties unless caused by the negligence of the

Maintenance Association, the Board, the Owners, the Maintenance Association's officers, the Manager or the Manager's staff.

(ii) **Nonliability of Volunteer Board Members and Officers.** A volunteer Board member or volunteer Maintenance Association officer shall not be personally liable to any Person who suffers injury, including without limitation bodily injury, emotional distress, wrongful death or property damage or loss as a result of the tortious act or omission of the volunteer officer or Board member if all of the applicable conditions specified in Section 1365.7 of the California Civil Code, as modified, amended, or replaced, are met.

**12.13. Enforcement of Certain Bonded Obligations.** If (i) the Maintenance Property Improvements located on any Phase of Development of the Properties are not completed by the developer (Merchant Builder or Declarant, as the case may be) of such Phase of Development of the Properties (herein the "Developer"), prior to the issuance of a Final Subdivision Public Report for that Phase of Development by the DRE, and (ii) the Maintenance Association is obligee under a bond, letter of credit or other arrangement ("Bond") required by the DRE to secure performance of the Developer's commitment to complete the Improvements, the following provisions of this Section will be applicable:

**12.13.1. Board Action.** The Board shall consider and vote on the question of Maintenance Association action to enforce the obligations under the Bond, with respect to any such Improvement for which a Notice of Completion has not been filed, within sixty (60) days after the completion date specified for that Improvement in the Planned Construction Statement appended to the Bond. If the Maintenance Association has given an extension in writing for the completion of any Maintenance Property Improvement, the Board shall consider and vote on the aforesaid question if a Notice of Completion has not been filed, within thirty (30) days after the expiration of the extension.

**12.13.2. Owner Action.** A special meeting of Owners, for the purpose of voting to override a decision by the Board not to initiate action to enforce the obligations under the Bond or on the Board's failure to consider and vote on the question, shall be held no fewer than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such a meeting signed by Owners representing in the aggregate not less than five percent (5%) of the Maintenance Association total voting power. A vote of Owners representing a majority of the Maintenance Association voting power, disregarding any votes attributable to Lots or Condominiums owned by the Developer, to take action to enforce the obligations under the Bond shall be deemed the Maintenance Association's decision, and the Board must thereafter implement this decision by initiating and pursuing appropriate action in the Maintenance Association's name.

**12.14. Priorities and Inconsistencies.** If there are conflicts or inconsistencies between this Declaration and either the Articles of Incorporation or the Bylaws of the Maintenance Association, the terms and provisions of this Declaration shall prevail. In addition, if there are any conflicts or inconsistencies between this Declaration or any of the Restrictions, and any documentation executed by a Merchant Builder and Declarant in connection with the sale of any property in the Properties to the Merchant Builder (collectively "Development Documents"), as between Merchant Builder and Declarant, the terms and provisions of the Development Documents shall control.

**12.15. Dispute Resolution.** All disputes involving (i) the Maintenance Association and/or (ii) any "Declarant Parties" (defined below) which arise out of, or relate to, the Restrictions (excluding any action for delinquent Assessments) or which relate to the Properties, shall be resolved as provided in this Section. For purposes of this Section, the term "Declarant Parties" means and collectively refers to the Declarant, its members, managers, and each of their respective members, managers, shareholders, directors, officers and employees, and the term "Declarant Party" refers to any of the foregoing individually. This Section is not intended and shall not apply to any disputes solely between or among any Merchant Builders, Project Associations and/or any Owners. Any Merchant Builder may designate in a sale agreement or in a recorded document an alternative dispute resolution procedure with respect to disputes solely between a Merchant Builder and the purchaser of a Residence that do not involve Declarant or any other Declarant Parties or the Maintenance Association. The dispute resolution procedure in this Section 12.15 shall control all disputes involving Declarant and/or other Declarant Parties.

(a) **Construction Defect Disputes.** Prior to the commencement of any legal action by the Maintenance Association, Project Association or any Owner(s) against the Declarant or any other Declarant Party based upon a claim for defects in the design or construction of any Residence, Maintenance Property or Improvements thereon, the Maintenance Association, Project Association or Owner must first comply with the requirements of Civil Code Section 1375 (notwithstanding the fact that Section 1375 does not apply to Owners by its terms). If the parties are unable to resolve their dispute in accordance with the procedures established under Civil Code Section 1375, the dispute shall be resolved in accordance with subsection (c) below and the parties shall each be responsible for their own attorneys' fees, expert witness fees and similar or related costs and fees.

(b) **Other Disputes.** Any other disputes involving (i) the Maintenance Association and/or (ii) any Declarant Parties which arise out of, or relate to, the Restrictions (excluding any action for delinquent Assessments) or which relate to the Properties shall be resolved in accordance with subsection (c) below. The dispute resolution procedure in subsection (c) as it applies solely to a dispute under this subsection (b) shall be deemed to satisfy the alternative dispute requirements of Civil Code Section 1354, as applicable.

(c) **Judicial Reference.** The following dispute resolution procedure is implemented for the Properties in accordance with the philosophy and intent of the Federal Arbitration Act (9 U.S.C. Sections 1-16) which is designed to encourage use of alternative

methods of dispute resolution that avoid costly and potentially lengthy traditional court proceedings. The dispute resolution procedure in this Section is to be interpreted and enforced as if it were a proceeding authorized by the Federal Arbitration Act. Parties interpreting this Section shall follow the federal and state court rulings which provide that the Federal Arbitration Act (1) is a congressional declaration of a liberal federal policy favoring arbitration agreements, notwithstanding substantive or procedural state policies to the contrary, (2) requires that federal and state courts rigorously enforce agreements to arbitrate, and (3) requires that the scope of arbitrable issues be resolved in favor of arbitration. Specifically, this Section is to be interpreted in accordance with Allied-Bruce Terminix Companies, Inc. v. Dobson, 115 S.Ct. 834 (1995). References in this Section to California Code Sections are not to be interpreted as a waiver of rights created under federal law.

Any unresolved disputes shall be submitted to general judicial reference pursuant to California Code of Civil Procedure Sections 638(1) and 641-645.1. The parties shall cooperate in good faith to ensure that all necessary and appropriate parties are included in the judicial reference proceeding. Declarant Parties shall not be required to participate in the judicial reference proceeding unless Declarant is satisfied that all necessary and appropriate parties will participate. The parties shall each be responsible for their own attorneys' fees, expert witness fees and similar or related costs and fees. The prevailing party in any dispute subject to this Section 12.15 shall not be entitled to reasonable attorney's fees, expert witness fees or similar or related costs and fees. If any Declarant Party is a party to the proceeding, the fee to initiate the reference proceeding and the referee's fees shall be advanced by Declarant (unless any Merchant Builder is a party to such proceeding, in which case the initiation fee and fees of the referee shall be advanced by Declarant and such Merchant Builder(s) equally). If no Declarant Party is a party to the proceeding, the initiation fee shall be advanced by the party initiating the proceeding and the referee's fees shall be borne equally by all parties. The referee in any proceeding shall have the power to reallocate the initiation fee and referee's fees among the parties to the proceeding in the referee's final ruling.

The general referee shall have the authority to try all issues, whether of fact or law, and to report a statement of decision to the court. The parties shall use the procedures adopted by JAMS ("JAMS") for judicial reference and selection of a referee (or any other entity offering judicial reference dispute resolution procedures as may be mutually acceptable to the parties), provided that the following rules and procedures shall apply in all cases unless the parties agree otherwise:

- (1) The proceedings shall be heard in the County;
- (2) The referee must be a retired judge or a licensed attorney with substantial experience in relevant real estate matters;
- (3) Any dispute regarding the selection of the referee shall be resolved by JAMS or the entity providing the reference services, or, if no entity is involved, by the court with appropriate jurisdiction;
- (4) The referee may require one or more pre-hearing conferences;

- (5) The parties shall be entitled to discovery, and the referee shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge;
- (6) A stenographic record of the trial shall be made, provided that the record shall remain confidential except as may be necessary for post-hearing motions and any appeals;
- (7) The referee's statement of decision shall contain findings of fact and conclusions of law to the extent applicable; and
- (8) The referee shall have the authority to rule on all post-hearing motions in the same manner as a trial judge.

The statement of decision of the referee upon all of the issues considered by the referee is binding upon the parties, and upon filing of the statement of decision with the clerk of the court, or with the judge where there is no clerk, judgment may be entered thereon. The decision of the referee shall be appealable as if rendered by the court. This provision shall in no way be construed to limit any valid cause of action which may be brought by any of the parties. The parties acknowledge and accept that they are waiving their right to a jury trial.

(d) **Civil Code Section 1354.** This Section 12.15 governs only the resolution of disputes involving Declarant Parties and/or the Maintenance Association and shall not affect the subject matter of such disputes. Unless the subject matter of a dispute expressly involves enforcement of the Restrictions, such dispute shall not be governed by the provisions of California Civil Code Section 1354, or any successor statute. Enforcement of the Restrictions as between any Declarant Party, and Merchant Builder(s), the Maintenance Association and/or any other party shall not entitle the prevailing party in such dispute to reasonable attorneys' fees or costs.

(e) **Statutes of Limitations.** Nothing in this Section 12.15 shall be considered to toll, stay, reduce or extend any applicable statute of limitations, provided, however, that Declarant, the Declarant Parties, the Maintenance Association, and Project Association and any Owner may commence a legal action which in the good faith determination of that Person is necessary to preserve that Person's rights under any applicable statute of limitations so long as no further steps in processing the action are taken except those authorized in this Section 12.15.

(f) **AGREEMENT TO DISPUTE RESOLUTION; WAIVER OF JURY TRIAL.** DECLARANT, THE MAINTENANCE ASSOCIATION, EACH PROJECT ASSOCIATION, EACH MERCHANT BUILDER AND EACH OWNER AGREE TO USE THE PROCEDURES ESTABLISHED IN THIS SECTION 12.15 TO RESOLVE ALL DISPUTES WHICH ARE COVERED UNDER THIS SECTION 12.15 AND WAIVE THEIR RIGHTS TO RESOLVE DISPUTES IN ANY OTHER MANNER. DECLARANT, THE MAINTENANCE ASSOCIATION, EACH PROJECT ASSOCIATION AND EACH OWNER

ACKNOWLEDGE THAT BY AGREEING TO RESOLVE ALL DISPUTES AS PROVIDED IN THIS SECTION 12.15 THEY ARE GIVING UP THEIR RIGHT TO HAVE DISPUTES TRIED BEFORE A JURY, PURSUANT TO THE FEDERAL ARBITRATION ACT. THIS SECTION 12.15 MAY NOT BE AMENDED WITHOUT DECLARANT'S PRIOR WRITTEN CONSENT.

12.16. **WAIVER OF PUNITIVE DAMAGES.** BY ACCEPTANCE OF A DEED OR OTHER CONVEYANCE OF A LOT, CONDOMINIUM, MAINTENANCE PROPERTY OR COMMON AREA, EACH OWNER, THE MAINTENANCE ASSOCIATION AND EACH PROJECT ASSOCIATION SHALL BE DEEMED TO HAVE WAIVED, FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS, ALL RIGHT TO RECOVER PUNITIVE OR OTHER EXEMPLARY DAMAGES FROM AND ANY OR ALL DECLARANT PARTIES.

*[SIGNATURES ON FOLLOWING PAGES]*



Declarant and Initial Merchant Builder have executed this Declaration as of the date set forth below.

Dated: 12.19, 2003

"DECLARANT"

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

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

Its: THOMAS E. HEGGI  
Vice President

By: *Michele R. Leondis*

Its: Michele R. Leondis  
Assistant Secretary

*[SIGNATURE(S) OF INITIAL MERCHANT BUILDER ON FOLLOWING PAGE]*

"INITIAL MERCHANT BUILDER"

LENNAR HOMES OF CALIFORNIA, INC.,  
a California corporation

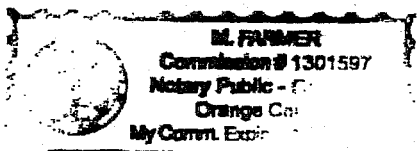
By: *Armando*  
Its: VICE PRESIDENT

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

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

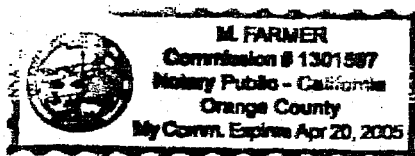
On Dec. 19, 2003, before me, M. Farmer, a Notary Public in and for said State, personally appeared Thomas E. Heggi and Michele R. Leads, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me that ~~(he)~~ ~~(she)~~ (they) executed the same in ~~(his)~~ ~~(her)~~ (their) authorized capacity(ies), and that by ~~(his)~~ ~~(her)~~ (their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
Notary Public in and for said State

(SEAL)



STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On \_\_\_\_\_, 2003, before me, \_\_\_\_\_, a Notary Public in and for said State, personally appeared \_\_\_\_\_ and \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me that (he) (she) (they) executed the same in (his) (her) (their) authorized capacity(ies), and that by (his) (her) (their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public in and for said State

(SEAL)

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On December 17, 2003, before me, M. Sue Rudolph, a  
Notary Public in and for said State, personally appeared Anita Reynoso /~~and~~  
~~\_\_\_\_\_~~, personally known to me (or ~~proved to me on the basis of~~  
~~satisfactory evidence~~) to be the person(s) whose name(s) (is) (~~are~~) subscribed to the within  
instrument and acknowledged to me that (~~he~~) (she) (~~they~~) executed the same in (~~his~~) (her) (~~their~~)  
authorized capacity(~~ies~~), and that by (~~his~~) (her) (~~their~~) signature(~~s~~) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



M. Sue Rudolph  
Notary Public in and for said State

(SEAL)

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On \_\_\_\_\_, 2003, before me, \_\_\_\_\_, a  
Notary Public in and for said State, personally appeared \_\_\_\_\_ and  
\_\_\_\_\_, personally known to me (or proved to me on the basis of  
satisfactory evidence) to be the person(s) whose name(s) (is) (are) subscribed to the within  
instrument and acknowledged to me that (he) (she) (they) executed the same in (his) (her) (their)  
authorized capacity(ies), and that by (his) (her) (their) signature(s) on the instrument the  
person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public in and for said State

(SEAL)

**SUBORDINATION**

The undersigned, as Beneficiary of the beneficial interest in and under that certain Deed of Trust recorded on June 24, 2003, as Instrument No. 2003000737912, in the Official Records of Orange County, California (the "Deed of Trust"), which Deed of Trust is by and between LENNAR HOMES OF CALIFORNIA, INC., a California corporation, as Trustor, and FIRST AMERICAN TITLE INSURANCE COMPANY, a California corporation, as Trustee, and IRVINE COMMUNITY DEVELOPMENT COMPANY, LLC, a Delaware limited liability company, as Beneficiary, expressly subordinates said Deed of Trust and its beneficial interest thereunder to the foregoing Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II, as amended or restated ("Declaration"), to any Supplemental Declaration recorded pursuant to the provisions of Article II of the Declaration, as amended or restated ("Supplemental Declaration"), and to all easements to be conveyed to the Maintenance Association in accordance with the Declaration and any Supplemental Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Project by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned will acquire title subject to the provisions of the Declaration and any applicable Supplemental Declaration, which shall remain in full force and effect.

Dated: 12-19, 2003

"BENEFICIARY"

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

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

Its: THOMAS E. HEGGI  
Vice President

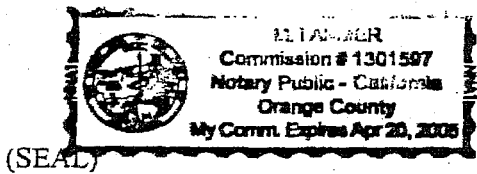
By: Michele R. Leondis

Its: Michele R. Leondis  
Assistant Secretary

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On Dec. 19, 2003, before me, M Farmer, a Notary Public in and for said State, personally appeared Thomas E Heggi and Michelle R Leonardis, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me that ~~(he)~~ ~~(she)~~ (they) executed the same in ~~(his)~~ ~~(her)~~ (their) authorized capacity~~(ies)~~, and that by ~~(his)~~ ~~(her)~~ (their) signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
Notary Public in and for said State

Government Code 27361.7

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

Name of Notary: M. FARMER  
Date Commission Expires: APR 20, 2005  
County where bond is Filed: ORANGE COUNTY  
Commission No.: 1301597  
Manufacturer/Vendor No.: N N A 1

Place of execution - Newport Beach

Date - December 23, 2003

  
FIDELITY NATIONAL TITLE COMPANY

Government Code 27361.7

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

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

Place of execution - Newport Beach

Date - December 23, 2003

  
FIDELITY NATIONAL TITLE COMPANY

**EXHIBIT "A"**

**DESCRIPTION OF RESIDENTIAL AREA  
IN FIRST SUBDIVISION**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

Units 11 to 24, inclusive, and 39 to 43, inclusive, as shown on the Condominium Plan for Phase 1 of Serissa, recorded on Doc. 19, 2003, as Instrument No. 200301512905 consisting of all or portions of Lots 1 and 2 of Tract No. 16518, as shown on a Subdivision Map filed in Book 851, Page(s) 17-21, of Miscellaneous Maps, both in the Office of the Orange County Recorder.



EXHIBIT "B"

DESCRIPTION OF MAINTENANCE PROPERTY  
IN FIRST SUBDIVISION

All that certain real property located in the City of Irvine, County of Orange, State of California, as described as follows:

PARCEL NO. 1

Lot 210 of Tract No. 16309, as shown on a Subdivision Map filed in Book 845, Page(s) 12 *et seq.*, of Miscellaneous Maps, in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Lot(s) which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

PARCEL NO. 2

The Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

None.

PARCEL NO. 3 [Public Property to be maintained by the Maintenance Association]

None.

**EXHIBIT "B" CONTINUED**

**DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS**

Not applicable.

**EXHIBIT "C"**

**DESCRIPTION OF ANNEXABLE AREA**

All that certain real property located in the City of Irvine, Orange County, California, described as follows:

Tract No. 16309, as shown on a Subdivision Map filed in Book 845, Page(s) 12 *et seq.*, of Miscellaneous Maps, in the Office of the Orange County Recorder,

Excluding the First Subdivision.

**EXHIBIT "D"**

**ARTICLES OF INCORPORATION OF  
MAINTENANCE ASSOCIATION**

30160-0099341525.7  
12/16/03

**ARTICLES OF INCORPORATION  
OF  
NORTHWOOD II COMMUNITY ASSOCIATION**

ONE: The name of this corporation ("Corporation") is **NORTHWOOD II COMMUNITY ASSOCIATION**.

TWO: This Corporation is a nonprofit mutual benefit corporation organized under the Nonprofit Mutual Benefit Corporation Law. The purpose of the Corporation is to engage in any lawful act or activity, other than credit union business, for which a corporation may be organized under such law.

THREE: The name and address in the state of California of the Corporation's initial agent for service of process is: Mary Westbrook, Esq., 550 Newport Center Drive, Newport Beach, CA 92660.

FOUR: The Corporation shall have and exercise any and all powers, rights and privileges which a corporation organized under the Nonprofit Mutual Benefit Corporation Law may now or hereafter have or exercise, provided that the Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the specific purpose of the Corporation, which is to operate a homeowners association within the meaning of Section 23701t of the California Revenue and Taxation Code and Section 528 of the Internal Revenue Code and to manage a common interest development under the Davis-Stirling Common Interest Development Act. The Corporation does not have a corporate office. The common interest development is near the intersection of Jeffrey and Bryan, Irvine, California 92614-0000.

FIVE: The classes of Membership and the voting and other rights and privileges of Members shall be as set forth in the Bylaws. So long as there are two classes of Membership, amendment of these Articles of Incorporation shall require the assent (by vote or written consent) of (i) a bare majority of the Board of Directors of the Corporation, and (ii) Members representing a bare majority of the voting power of each class of Members. After conversion of the Class B Membership to Class A Membership, amendment of these Articles of Incorporation shall require the assent (by vote or written consent) of (i) a bare majority of the Board of Directors of the Corporation, (ii) a bare majority of the total voting power of the Members, and (iii) Members representing a bare majority of the voting power of the Members other than the Subdivider of the Project ("Declarant").

SIX: The Corporation has no managing agent.

The undersigned, who is the incorporator of the Corporation, has executed these  
Articles of Incorporation on \_\_\_\_\_, 2003.

---

***"Incorporator"***

**EXHIBIT "E"**

**BYLAWS OF MAINTENANCE ASSOCIATION**

30160-0099\341525.7  
12/16/03

**EXHIBIT "F"**

**INITIAL COST CENTER(S)**

None.



**EXHIBIT "G"**

**COMMON DRIVEWAYS IN FIRST SUBDIVISION**

**None.**

**EXHIBIT "H"**

**COMMON AREA IN FIRST SUBDIVISION**

The "Association Property," as described in the Condominium Plan for Serissa Phase 1, recorded on Dec. 19, 2003, as Instrument No. 2003001502905, in the Office of the Orange County Recorder.

REQUESTED BY:

NORTH AMERICAN TITLE COMPANY

WHEN RECORDED MAIL TO:

Lennar Homes of California, Inc.  
Attn: T. Wilson  
25 Enterprise, Ste. 300  
Aliso Viejo, CA 92656

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder



18.00

2004000861325 04:30pm 09/24/04

104 27 N03 5

0.00 0.00 0.00 0.00 12.00 0.00 0.00 0.00

Phase 5, Units 1-10 only

SPACE ABOVE THIS LINE FOR RECORDER'S USE

**NOTICE OF BUILDER'S ELECTION FOR HANDLING OF CONSTRUCTION  
CLAIMS PURSUANT TO CALIFORNIA CIVIL CODE SECTION 895 ET SEQ.**

This Notice of Builder's Election for Handling of Construction Claims Pursuant to California Civil Code Section 895 et seq. ("**Notice**"), is made by LENNAR HOMES OF CALIFORNIA, INC., a California corporation ("**Builder**").

**RECITALS**

**A.** Builder is the owner of that certain real property located in Irvine, California being developed by Builder as a residential community, commonly known as SERISSA ("**Community**").

**B.** Builder intends to sell and convey certain real property within the Community which may consist of one or both of the following: (1) individual residential dwelling units; and/or (2) certain common area improvements to be owned in fee or by easement and maintained by the Homeowners Association for the Community ("**Association**"), as applicable.

**C.** This Notice is intended to affect the real property in the Community more particularly described in the legal description attached hereto as **Exhibit "A"** ("**Property**").

**D.** Builder is required pursuant to California Civil Code Section 912(f) (as enacted by Cal. Stats. 2002, ch. 722), to record a notice of existence of non-adversarial procedures for the resolution of construction defect claims contained in California Civil Code Sections 910 through 938 ("**Statutory Pre-litigation Procedures**").

**E.** Pursuant to California Civil Code Section 914, Builder is permitted to elect to utilize alternate contractual non-adversarial procedures ("**Contractual Pre-litigation Procedures**").

**F.** Builder desires to provide notice to the buyers of the individual dwelling units, on behalf of themselves and as members of the Association, and the Association, as applicable, including their respective successors and assigns (collectively "**Owners**") that Builder has elected to use Contractual Pre-Litigation Procedures in lieu of the Statutory Pre-litigation Procedures.

G. Builder has bound the original Owners of the Property to follow Builder's Contractual Pre-litigation Procedures via their respective purchase agreements with Builder and all Owners are bound to follow Builder's Contractual Pre-Litigation Procedures by the Declaration of Covenants, Conditions and Restrictions recorded for the Community ("**CC&Rs**").

H. Builder also desires to provide notice to the Owners of their obligations to provide copies of certain purchase documents to their successor Owners and to follow Builder's maintenance and preventative maintenance recommendations and schedules and other reasonable maintenance and preventative maintenance recommendations and schedules.

## NOTICE

**1. Incorporation of Recitals.** The above recitals are hereby incorporated herein as if fully set forth at this point.

**2. Covenant Running With the Land.** This Notice and the Contractual Pre-litigation Procedures referenced herein, benefit and burden the Property, and are covenants running with the land established in accordance with Section 1468 of the California Civil Code for the benefit of and to bind Builder and all Owners of the Property.

**3. Election to Use Contractual Non-Adversarial Procedures.** Notice is hereby given to Owners that Builder has elected to use the Contractual Pre-Litigation Procedures contained in Buyers' respective purchase agreements and the CC&Rs for the Community, in lieu of the Statutory Pre-litigation Procedures contained in California Civil Code Sections 910 through 938. Each Owner is advised to review the applicable provisions in his purchase agreement and the CC&Rs and must follow the procedures contained therein prior to initiating any legal proceeding against Builder or any director, officer, partner, employer, contractor, design professional, consultant, subcontractor or agent of Builder, relating to alleged construction deficiencies or any alleged violation of the provisions of California Civil Code Section 895, *et seq.*

**4. Obligation to Retain Maintenance Documents.** All Owners shall maintain full and complete copies of all documents received from Builder relating to maintenance and any warranties, including, but not limited to (a) a Maintenance Manual or other maintenance or preventative maintenance information, (b) manufactured products' maintenance and limited warranty information, and (c) a fit and finish warranty or other contractual warranties (collectively, "**Documents**") and all Owners are required by law to provide copies of the Documents to their successors' in interest.

**5. Obligation to Follow Maintenance Recommendations.** All Owners are obligated by Section 907 of the California Civil Code to follow Builder's maintenance recommendations and schedules, including the maintenance and preventative maintenance recommendations and schedules for manufactured products and appliances provided with the Property, as well as all commonly accepted maintenance practices (collectively, "**Maintenance Recommendations**"). Per Section 945.5 of the California Civil Code, failure to follow the Maintenance Recommendations may reduce or preclude Owner's right to recover damages relating to such Owner's Property, which could have been prevented or mitigated had the Maintenance Recommendations been followed.

6. **Mortgage Protection.** Nothing in this Notice shall be construed to invalidate or impair the rights of any mortgagee or beneficiary under an otherwise valid mortgage or deed of trust securing the obligations of an Owner.

IN WITNESS WHEREOF, Builder has executed this Notice as of September 23, 2004.

LENNAR HOMES OF CALIFORNIA, INC.,  
a California corporation

By: Anita Reynoso  
Its: Vice President

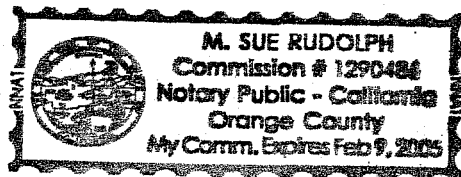
**ACKNOWLEDGMENT**

STATE OF CALIFORNIA            )  
  )     ss.  
COUNTY OF ORANGE         )

On September 23, 2004, before me, M. Sue Rudolph, a Notary Public for the State of California, personally appeared, Anita Reynoso, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person or the entity on behalf of which the person acted, executed the instrument.

Witness my hand and official seal.

Notary Public M. Sue Rudolph



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

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

Units 1 through 10 inclusive, and Association Property, and Condominium Common Area, as shown on that certain Serissa Phase 5 Condominium Plan, Lots 9 and 10, Tract 16518, recorded on September 23, 2004, as Instrument No. 2004000853912, in the Official Records of Orange County, California, of Tract No. 16518, as shown on a Subdivision Map Filed on November 24, 2003, in Book 851, at Pages 17 to 21, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

GOVERNMENT CODE 27361-7

I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE NOTARY  
ACKNOWLEDGEMENT  
ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS  
FOLLOWS:

NAME OF NOTARY: M. Sue Rudolph


DATE OF COMMISSION EXPIRES: February 9, 2005

COUNTY IN WHICH BOND IS FILED: Orange

COMMISSION #: 1290486

MANUFACTURER/VENDOR NO: NNAI

DATE: 9/24/04

  
JENNIFER HARER  
NORTH AMERICAN TITLE COMPANY

ORANGE, CA  
PLACE OF EXECUTION

---

Recorded in Official Records, County of Orange  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:

RECORDING REQUESTED BY  
FIRST AMERICAN TITLE COMPANY  
SUBDIVISION DEPARTMENT



51.00

2004000184722 03:48pm 03/08/04

121 4 A23 R27 14

0.00 0.00 0.00 0.00 39.00 0.00 0.00 0.00

WHEN RECORDED MAIL TO:

NORTHWOOD II COMMUNITY ASSOCIATION  
c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, CA 92705  
Attn: Pam Hunt

WITH A CONFORMED COPY TO:

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: Ms. Michele Leondis  
*173582 AS*

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(THE ARBORS/PHASE 1/TRACT 16309)  
(MERCHANT BUILDER)**

THIS SUPPLEMENTAL DECLARATION is made on February 18, 2004, by  
FIELDSTONE NORTHWOOD, LLC, a Delaware limited liability company ("**Merchant  
Builder**").

**P R E A M B L E:**

A. Merchant Builder is the record owner of certain real property in the City  
of Irvine, County of Orange, State of California, described as:

Lots 188 to 208, inclusive, and Lots O, U, V, W, Y, Z, AA  
and EEE of Tract No. 16309, as shown on a Subdivision  
Map recorded in Book 845, Pages 12 *et seq.*, of  
Miscellaneous Maps, in the Office of the Orange County  
Recorder.

The numbered Lots above are collectively referred to herein as the "**Residential  
Area.**"




**[SIGNATURE PAGE TO  
SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II ]**

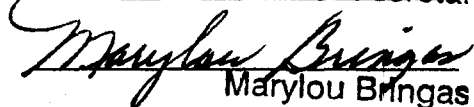
Merchant Builder has executed this Supplemental Declaration the day and year first written above.

“MERCHANT BUILDER”

FIELDSTONE NORTHWOOD, LLC,  
a Delaware limited liability company

By: Fieldstone Communities, Inc.,  
a California corporation,  
Its Manager

By:   
Its: David Greminger  
Assistant Secretary

By:   
Its: Marylou Bringas  
Assistant Secretary

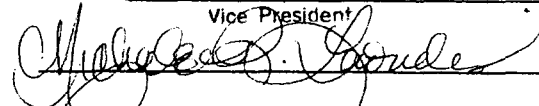
In accordance with Article II of the Declaration, Declarant approves the recordation of this Supplemental Declaration.

“DECLARANT”

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

By: 

Its: THOMAS E. HEGGI  
Vice President

By: 

Its: Michele R. Leondis  
Assistant Secretary


**[NOTARIES ON FOLLOWING PAGE]**

[NOTARY PAGE TO  
 SUPPLEMENTAL DECLARATION OF COVENANTS,  
 CONDITIONS, RESTRICTION AND RESERVATION  
 OF EASEMENTS FOR NORTHWOOD II]

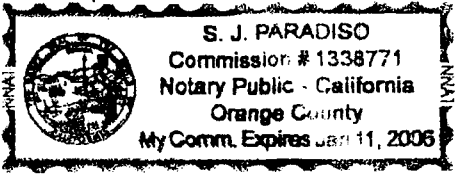
STATE OF CALIFORNIA )  
 ) ss.  
 COUNTY OF ORANGE )

On February 9, 2004, before me, S. J. Paradiso, a Notary Public in and for said State, personally appeared David Breminger and Marilyn Brungas, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) ~~(is)~~ (are) subscribed to the within instrument and acknowledged to me that ~~(he)~~ ~~(she)~~ (they) executed the same in ~~(his)~~ ~~(her)~~ (their) authorized capacity(ies), and that by ~~(his)~~ ~~(her)~~ (their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

  
 \_\_\_\_\_  
 Notary Public in and for said State


(SEAL)



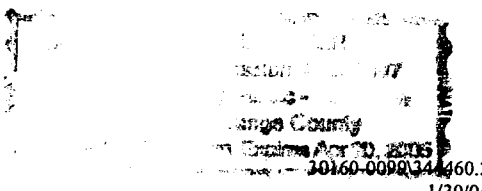
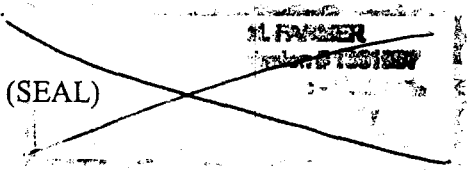
STATE OF CALIFORNIA )  
 ) ss.  
 COUNTY OF ORANGE )

On March 2, 2004, before me, M. Jarmer, a Notary Public in and for said State, personally appeared Thomas E. Hogg & Michele R. Leonardis, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names <sup>are</sup> subscribed to the within instrument and acknowledged to me that ~~(he)~~ ~~(she)~~ <sup>they</sup> executed the same in ~~(his)~~ ~~(her)~~ <sup>their</sup> authorized capacity, and that by ~~(his)~~ ~~(her)~~ <sup>their</sup> signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

  
 \_\_\_\_\_  
 Notary Public in and for said State

(SEAL)



**SUBORDINATION**

The undersigned, as Beneficiary of the beneficial interest in and under that certain Deed of Trust recorded on June 24, 2003, in the Official Records of Orange County, California, as Instrument No. 2003000738250, which Deed of Trust is between FIELDSTONE NORTHWOOD, LLC, as Trustor, FIRST AMERICAN TITLE INSURANCE COMPANY, as Trustee, and IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company, as Beneficiary, hereby expressly subordinates such Deed of Trust and its beneficial interests thereunder to the foregoing Supplemental Declaration, the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Northwood II described therein ("**Declaration**"), and to all easements to be conveyed to the Maintenance Association in accordance with the Declaration and the Supplemental Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Properties by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned will acquire title subject to the provisions of the Declaration and the Supplemental Declaration, which shall remain in full force and effect.

Dated: MARCH 2, 2004.

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited  
liability company

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

THOMAS E. HEGG  
Its: Vice President

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

Michele R. Leondis  
Its: Assistant Secretary

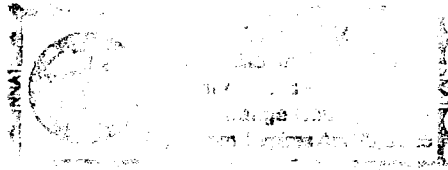
STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE )

On March 2, 2004, before me, M. Farmer, a Notary Public in and for said State, personally appeared Thomas E. Hegg and Michelle R. Leonard, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) ~~(is)~~ (are) subscribed to the within instrument and acknowledged to me that ~~(he)~~ (she) (they) executed the same in ~~(his)~~ (her) (their) authorized capacity~~(ies)~~, and that by ~~(his)~~ (her) (their) signature~~(s)~~ on the instrument the person~~(s)~~, or the entity upon behalf of which the person~~(s)~~ acted, executed the instrument.

WITNESS my hand and official seal.

M. Farmer  
Notary Public in and for said State

(SEAL)



**LENDER CONSENT AND SUBORDINATION  
TO DECLARATION**

DEUTSCHE BANK TRUST COMPANY AMERICAS, a New York banking corporation, being the beneficiary under that certain deed of trust recorded June 24, 2003 as Instrument No. 2003000738251 in the Official Records of Orange County, California (as such deed of trust may be amended from time to time, the "Deed of Trust") hereby declares that the liens and charges of the Deed of Trust are and shall be subject to the attached Supplemental Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II (the "Declaration") and the easements conveyed thereby; provided however, that nothing contained herein will be deemed to subordinate the liens and charges of the Deed of Trust to any liens assessed pursuant to the Declaration.

Dated 2-18, 2004.

DEUTSCHE BANK TRUST COMPANY AMERICAS,  
a New York banking corporation

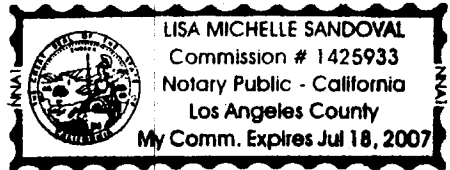
By: \_\_\_\_\_  
Its: Director

STATE OF CALIFORNIA        )  
COUNTY OF LOS ANGELES    )

On 2/13/04, before me, Lisa Michelle Sandoval, a Notary Public in and for said State, personally appeared John Carcasi, personally known to me ~~(or proved to me on the basis of satisfactory evidence)~~ to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)



**EXHIBIT "1"**

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

**PARCEL NO. 1**

Lots O, U, V, W, Y, Z, AA and EEE of Tract 16309 as shown on a Map recorded in Book 845, Pages 12 to 27, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Lot(s) which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

**PARCEL NO. 2**

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not Applicable.

**PARCEL NO. 3** [Public Property to be maintained by the Maintenance Association]

Not Applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT "1" CONTINUED**

**DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

Not Applicable.

RECORDING REQUESTED BY  
FIRST AMERICAN TITLE COMPANY  
SUBDIVISION DEPARTMENT

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:



21.00

2004000530335 11:46am 06/11/04

104 27 D02 6

0.00 0.00 0.00 0.00 15.00 0.00 0.00 0.00

WHEN RECORDED MAIL TO:

NORTHWOOD II COMMUNITY ASSOCIATION  
c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, California 92705  
Attn: Pam Hunt

WITH CONFORMED COPY TO:

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel

186837 @ AS

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(THE ARBORS, PHASE 2, TRACT 16309)  
(ICDC)**

THIS SUPPLEMENTAL DECLARATION is made on May 25, 2004, by  
IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability  
company ("**Declarant**").

**P R E A M B L E:**

A. Declarant is the record owner of certain real property in the City of Irvine, County  
of Orange, State of California, described as ("**Annexed Territory**"):

Lot DDD of Tract No. 16309, as shown on a Subdivision Map  
recorded in Book 845, Pages 12 et seq., of Miscellaneous Maps, in  
the Office of the Orange County Recorder.



B. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (as amended from time to time, the "**Declaration**") for Northwood II ("**Properties**"), recorded on December 23, 2003, as Instrument No. 2003-001510997, as amended by the First Amendment to Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II, recorded on March 26, 2004, as Instrument No. 2004-000251181, both in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

C. Declarant is the "**Declarant**", as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Declarant intends to provide for the maintenance of the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

D. Pursuant to Article II of the Declaration, Declarant now desire to add the Annexed Territory to the Properties subject to the Declaration.

THEREFORE, DECLARANT HEREBY DECLARES AS FOLLOWS:

1. Definitions. Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. Annexation of Territory and Establishment of Comprehensive Plan.

2.1 Comprehensive Plan. This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement of the Annexed Territory and for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Annexed Territory.

2.2 Annexation. Declarant hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3 Equitable Servitudes. The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory, as a servient tenement, for the benefit of each and every Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.4 Covenants Appurtenant. The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.

2.5 Restrictions. This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

3. Land Classifications.

3.1 Maintenance Property. The Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("**Multi-Phased Maintenance Property**") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("**Alternative Phase**").

3.1.1 Title to Maintenance Property. Declarant hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the Declaration over the Maintenance Property, if any, designated on **Exhibit "1"** hereto for easement ownership by the Maintenance Association, such easement to be effective on the first day of the first full calendar month following recordation of a deed conveying same to the Maintenance Association. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on **Exhibit "1"** hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association, as further provided in the Declaration. The Maintenance Association shall also maintain the Public Property (as defined in the Declaration), if any, depicted on **Exhibit "1"** hereto.

3.1.2 Commencement of Maintenance. The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on **Exhibit "1"** hereto on the first day of the first full calendar month following recordation of a deed conveying same to the Maintenance Association; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

3.1.3 Relocation of Maintenance Property Easement. Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("**Interim Easement Area**") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

4. Miscellaneous Provisions.

4.1 Amendment and Duration. Prior to the conveyance of the Maintenance Property to the Maintenance Association, this Supplemental Declaration may be amended or terminated by Declarant in the manner set forth in Article XII of the Declaration. Thereafter, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Article XII of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

4.2 Enforcement and Non-Waiver. Reference is hereby made to the provisions of Article XII of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

4.3 Restrictions Construed Together. All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration.

4.4 Restrictions Severable. Notwithstanding the foregoing Section 4.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

4.5 Number/Captions. As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.

***[SIGNATURES ON FOLLOWING PAGE]***

**[SIGNATURE PAGE TO  
SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(ICDC)]**

Declarant has executed this Supplemental Declaration the day and year first written above.

"DECLARANT"

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

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

Its: THOMAS E. HEGG  
vice President

By: Michele R. Leondis

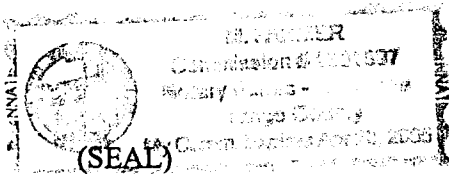
Its: Michele R. Leondis  
Assistant Secretary

**[NOTARY ACKNOWLEDGMENTS ON FOLLOWING PAGE]**

STATE OF CALIFORNIA       )  
  ) ss  
COUNTY OF ORANGE       )

On May 21, 2004, before me, M. Farmer, a  
Notary Public, personally appeared Thomas E. Hogg and  
Michele R. Lewis personally known to me or proved to me on the  
basis of satisfactory evidence to be the persons whose names are subscribed to the within  
instrument and acknowledged to me that they executed the same in their authorized capacities,  
and that by their signatures on the instrument the persons, or the entity upon behalf of which the  
persons acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
Notary Public in and for said State

**EXHIBIT "1"**

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

**PARCEL NO. 1**

Lot DDD of Tract No. 16309, as shown on a Subdivision Map recorded in Book 845, Pages 12 et seq., of Miscellaneous Maps, in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Lot(s) which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

**PARCEL NO. 2**

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not Applicable.

**PARCEL NO. 3** [Public Property to be maintained by the Maintenance Association]

Not Applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT "1" CONTINUED**

**DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

Not Applicable.

RECORDING REQUESTED BY  
FIRST AMERICAN TITLE COMPANY  
SUBDIVISION DEPARTMENT

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:



39.00

2004000530336 11:46am 06/11/04

104 27 D02 12

0.00 0.00 0.00 0.00 33.00 0.00 0.00 0.00

WHEN RECORDED MAIL TO:

NORTHWOOD II COMMUNITY ASSOCIATION  
c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, CA 92705  
Attn: Pam Hunt

WITH A CONFORMED COPY TO:

IRVINE COMMUNITY DEVELOPMENT COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel  
*186837 © AS*

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(THE ARBORS/PHASE 2, TRACT 16309)  
(MERCHANT BUILDER)**

THIS SUPPLEMENTAL DECLARATION is made on MAY 17, 2004, by  
FIELDSTONE NORTHWOOD, LLC, a Delaware limited liability company ("**Merchant  
Builder**").

**P R E A M B L E:**

A. Merchant Builder is the record owner of certain real property in the City  
of Irvine, County of Orange, State of California, described as:

Lots 170 to 187, inclusive, and Lots T and CCC of Tract No.  
16309, as shown on a Subdivision Map recorded in Book 845,  
Pages 12 et seq., of Miscellaneous Maps, in the Office of the  
Orange County Recorder.

The numbered Lots above are collectively referred to herein as the "**Residential  
Area.**"



**LENDER CONSENT AND SUBORDINATION  
TO DECLARATION**

DEUTSCHE BANK TRUST COMPANY AMERICAS, a New York banking corporation, being the beneficiary under that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Construction Trust Deed) recorded June 24, 2003 as Instrument No. 2003000738251, in the Official Records of Orange County, California, as amended by that certain Amendment to Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Construction Trust Deed) recorded April 15, 2004 as Instrument No. 2004000318100, in the Official Records of Orange County, California (as amended, the "Deed of Trust") hereby declares that the liens and charges of the Deed of Trust are and shall be subject to the attached Supplemental Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II (the "Declaration") and the easements conveyed thereby; provided however, that nothing contained herein will be deemed to subordinate the liens and charges of the Deed of Trust to any liens assessed pursuant to the Declaration.

Dated May 24, 2004.

DEUTSCHE BANK TRUST COMPANY AMERICAS,  
a New York banking corporation

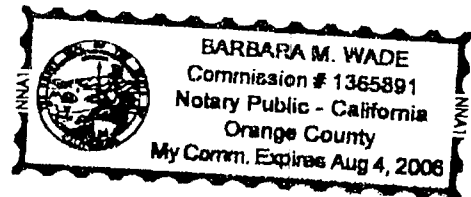
By: *J. Wojciechowski*  
Its: Vice President

STATE OF CALIFORNIA        )  
COUNTY OF ORANGE        )

On May 24, 2004, before me, Barbara M. Wade, a Notary Public in and for said State, personally appeared Jeff Wojciechowski, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(ies), and that by his/~~her/their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature        *Barbara M. Wade* (Seal)



**EXHIBIT "1"**

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

PARCEL NO. 1

Lots T and CCC of Tract 16309 as shown on a Map recorded in Book 845, Pages 12 to 27, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Lot(s) which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

PARCEL NO. 2

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not applicable.

PARCEL NO. 3 [Public Property to be maintained by the Maintenance Association]

Not applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT "1" CONTINUED**

**DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

Not Applicable.

**GOVERNMENT CODE 27361.7**

I CERTIFY UNDER PENALTY OF PERJURY THAT THE NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS FOLLOWS:

NAME OF NOTARY: **SHEILA M. OWENS**  
DATE COMMISSION EXPIRES: **AUGUST 9, 2006**  
COUNTY WHERE BOND IS FILED: **ORANGE**  
COMMISSION NUMBER: **1364414**  
MANUFACTURER/VENDOR NUMBER: **NNA1**

NAME OF NOTARY: **M. FARMER**  
DATE COMMISSION EXPIRES: **APRIL 20, 2005**  
COUNTY WHERE BOND IS FILED: **ORANGE**  
COMMISSION NUMBER: **1301597**  
MANUFACTURER/VENDOR NUMBER: **NNA1**

NAME OF NOTARY: **BARBARA M. WADE**  
DATE COMMISSION EXPIRES: **AUGUST 4, 2006**  
COUNTY WHERE BOND IS FILED: **ORANGE**  
COMMISSION NUMBER: **1365891**  
MANUFACTURER/VENDOR NUMBER: **NNA1**

PLACE OF EXECUTION: **SANTA ANA**  
DATED: **June 11, 2004**

SIGNATURE:   
FIRST AMERICAN TITLE INSURANCE CO.

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:

RECORDING REQUESTED BY  
FIRST AMERICAN TITLE COMPANY  
SUBDIVISION DEPARTMENT



27.00

2004000757614 11:03am 08/20/04

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WHEN RECORDED MAIL TO:

NORTHWOOD II COMMUNITY ASSOCIATION  
c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, California 92705  
Attn: Pam Hunt

WITH CONFORMED COPY TO:

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel

*187021 - A5*

(Space Above for Recorder's Use)

SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(THE ARBORS, PHASE 3, TRACT 16309)  
(ICDC)

THIS SUPPLEMENTAL DECLARATION is made on *August 13*, 2004, by  
IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability  
company ("*Declarant*").

P R E A M B L E:

A. Declarant is the record owner of certain real property in the City of Irvine, County  
of Orange, State of California, described as ("*Annexed Territory*"):

Lot BBB of Tract No. 16309, as shown on a Subdivision Map  
recorded in Book 845, Pages 12 et seq., of Miscellaneous Maps, in  
the Office of the Orange County Recorder.

B. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (as amended from time to time, the "**Declaration**") for Northwood II ("**Properties**"), recorded on December 23, 2003, as Instrument No. 2003-001510997, as amended by the First Amendment to Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II, recorded on March 26, 2004, as Instrument No. 2004-000251181, both in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

C. Declarant is the "**Declarant**", as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Declarant intends to provide for the maintenance of the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

D. Pursuant to Article II of the Declaration, Declarant now desire to add the Annexed Territory to the Properties subject to the Declaration.

THEREFORE, DECLARANT HEREBY DECLARES AS FOLLOWS:

1. Definitions. Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. Annexation of Territory and Establishment of Comprehensive Plan.

2.1 Comprehensive Plan. This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement of the Annexed Territory and for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Annexed Territory.

2.2 Annexation. Declarant hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3 Equitable Servitudes. The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory, as a servient tenement, for the benefit of each and every Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.4 Covenants Appurtenant. The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.

2.5 Restrictions. This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

3. Land Classifications.

3.1 Maintenance Property. The Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("**Multi-Phased Maintenance Property**") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("**Alternative Phase**").

3.1.1 Title to Maintenance Property. Declarant hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the Declaration over the Maintenance Property, if any, designated on *Exhibit "1"* hereto for easement ownership by the Maintenance Association, such easement to be effective on the first day of the first full calendar month following recordation of a deed conveying same to the Maintenance Association. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on *Exhibit "1"* hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association, as further provided in the Declaration. The Maintenance Association shall also maintain the Public Property (as defined in the Declaration), if any, depicted on *Exhibit "1"* hereto.

3.1.2 Commencement of Maintenance. The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on *Exhibit "1"* hereto on the first day of the first full calendar month following recordation of a deed conveying same to the Maintenance Association; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

3.1.3 Relocation of Maintenance Property Easement. Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("**Interim Easement Area**") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

4. Miscellaneous Provisions.

4.1 Amendment and Duration. Prior to the conveyance of the Maintenance Property to the Maintenance Association, this Supplemental Declaration may be amended or terminated by Declarant in the manner set forth in Article XII of the Declaration. Thereafter, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Article XII of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

4.2 Enforcement and Non-Waiver. Reference is hereby made to the provisions of Article XII of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

4.3 Restrictions Construed Together. All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration.

4.4 Restrictions Severable. Notwithstanding the foregoing Section 4.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

4.5 Number/Captions. As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.

*[SIGNATURES ON FOLLOWING PAGE]*

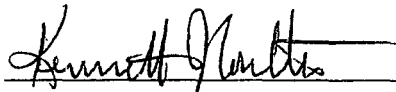



***[SIGNATURE PAGE TO  
SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(ICDC)]***

Declarant has executed this Supplemental Declaration the day and year first written above.

“DECLARANT”

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

By:   
Its: KENNETH J. COULTER  
Senior Vice President

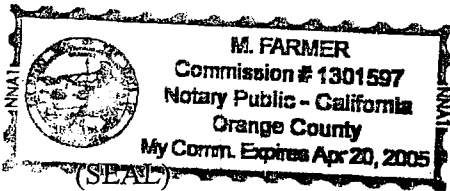
By:   
Its: Michele R. Leondis  
Assistant Secretary

***[NOTARY ACKNOWLEDGMENTS ON FOLLOWING PAGE]***

STATE OF CALIFORNIA        )  
  ) ss  
COUNTY OF ORANGE        )

On August 16, 2004, before me, M. Farmer, a  
Notary Public, personally appeared Kenneth Coulter and  
Michele R. Leondis personally known to me or proved to me on the  
basis of satisfactory evidence to be the persons whose names are subscribed to the within  
instrument and acknowledged to me that they executed the same in their authorized capacities,  
and that by their signatures on the instrument the persons, or the entity upon behalf of which the  
persons acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
Notary Public in and for said State

**EXHIBIT "1"**

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

**PARCEL NO. 1**

Lot BBB of Tract No. 16309, as shown on a Subdivision Map recorded in Book 845, Pages 12 et seq., of Miscellaneous Maps, in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Lot(s) which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

**PARCEL NO. 2**

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not Applicable.

**PARCEL NO. 3** [Public Property to be maintained by the Maintenance Association]

Not Applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT "1" CONTINUED**

**DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

Not Applicable.

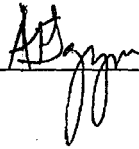
**GOVERNMENT CODE 27361.7**

I CERTIFY UNDER PENALTY OF PERJURY THAT THE NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS FOLLOWS:

NAME OF NOTARY: M. Farmer  
DATE COMMISSION EXPIRES: April 20, 2005  
COUNTY WHERE BOND IS FILED: Orange  
COMMISSION NUMBER: 1301597  
MANUFACTURER/VENDOR NUMBER: NNA1

PLACE OF EXECUTION: Santa Ana  
DATED: August 20, 2004

SIGNATURE: \_\_\_\_\_

A handwritten signature in black ink, appearing to read "M. Farmer", is written over a horizontal line. The signature is cursive and somewhat stylized.

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:



54.00

RECORDING REQUESTED BY  
FIRST AMERICAN TITLE COMPANY  
SUBDIVISION DEPARTMENT

2004000757613 11:03am 08/20/04  
105 21 D02 S13 15  
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WHEN RECORDED MAIL TO:

NORTHWOOD II COMMUNITY ASSOCIATION  
c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, CA 92705  
Attn: Pam Hunt

WITH A CONFORMED COPY TO:

IRVINE COMMUNITY DEVELOPMENT COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel  
*187021 - AJ*

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(THE ARBORS/PHASE 3, TRACT 16309)  
(MERCHANT BUILDER)**

THIS SUPPLEMENTAL DECLARATION is made on *August 2*, 2004, by  
FIELDSTONE NORTHWOOD, LLC, a Delaware limited liability company ("*Merchant  
Builder*").

**P R E A M B L E:**

A. Merchant Builder is the record owner of certain real property in the City  
of Irvine, County of Orange, State of California, described as:

Lots 152 to 169, inclusive, and Lots S and AAA of Tract No.  
16309, as shown on a Subdivision Map recorded in Book 845,  
Pages 12 et seq., of Miscellaneous Maps, in the Office of the  
Orange County Recorder.

The numbered Lots above are collectively referred to herein as the "*Residential  
Area.*"

B. Merchant Builder is the record owner (exclusive of public rights-of-way) of certain real property ("**Maintenance Property**") in the City of Irvine, County of Orange, State of California, described on **Exhibit "1"** attached hereto. The Residential Area and the Maintenance Property are collectively referred to hereinafter as the "**Annexed Territory.**"

C. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements as amended (as amended, "**Declaration**") for Northwood II ("**Properties**"), recorded on December 23, 2003, as Instrument No. 2003-001510997, as amended by the First Amendment to Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II, recorded on March 26, 2004, as Instrument No. 2004-000251181, both in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

D. Merchant Builder is a "**Merchant Builder**" as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Merchant Builder intends to improve and sell the Residential Area in the Annexed Territory to the public, and to provide for the maintenance of the Maintenance Property in the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

E. Pursuant to Article II of the Declaration, Merchant Builder now desires to add the Annexed Territory to the Properties subject to the Declaration as a portion of the Maintenance Association Delegate District which is described in the title of this Supplemental Declaration.

THEREFORE, MERCHANT BUILDER HEREBY DECLARES AS FOLLOWS:

1. Definitions. Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. Annexation of Territory and Establishment of Comprehensive Plan.

2.1 Comprehensive Plan. This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement and sale of Lots or Condominiums within the Annexed Territory and for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Annexed Territory and each Lot or Condominium therein.

2.2 Annexation. Merchant Builder hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3 Phase of Development. The Annexed Territory comprises a single Phase of Development of the Properties.

2.4 Equitable Servitudes. The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory and each Lot or Condominium therein, as a servient tenement, for the benefit of each and every other Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.5 Covenants Appurtenant. The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.

2.6 Restrictions. This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

2.7 Membership. The Owners of Lots or Condominiums in the Annexed Territory shall automatically become Members of the Northwood II Community Association (the "*Maintenance Association*" described in Article IV of the Declaration).

### 3. Land Classifications.

3.1 Residential Area. The Residential Area (other than those portions, if any, comprising Maintenance Property owned as easements) in the Annexed Territory is hereby designated as Residential Area pursuant to Article II of the Declaration.

3.2 Maintenance Property. The Maintenance Property in the Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("*Multi-Phased Maintenance Property*") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("*Alternative Phase*").

3.2.1 Title to Maintenance Property. Merchant Builder hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the Declaration over their respectively owned Maintenance Property, if any, designated on *Exhibit "I"* hereto for easement ownership by the Maintenance Association, such easement to be effective upon the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on *Exhibit "I"* hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association prior to the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory, as further provided in Section 3.6.1 of the Declaration. The Maintenance Association



shall also maintain the Public Property (as defined in the Declaration), if any, depicted on *Exhibit "1"* hereto.

3.2.2 Commencement of Maintenance. The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on *Exhibit "1"* hereto, concurrently with the commencement of Common Assessments in the Annexed Territory; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

3.2.3 Relocation of Maintenance Property Easement. Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("*Interim Easement Area*") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

4. Assessment Obligations. The rights and obligations of all Owners of Lots or Condominiums located in the Annexed Territory with respect to Maintenance Association assessments shall be as set forth in the Declaration and this Supplemental Declaration. All assessments provided for in the Declaration shall commence as to each Lot or Condominium in the Annexed Territory on first day of the first month following the month in which the first Close of Escrow occurs for the sale of a Lot or Condominium in the Annexed Territory.

5. Architectural Committee Rules/Views. The Board may but need not adopt and enforce supplemental Architectural Committee Rules which are solely applicable to the Annexed Territory; provided that such supplemental Architectural Committee Rules are first approved by Declarant pursuant to the Declaration. Such supplemental Architectural Committee Rules shall be in addition to any Architectural Committee Rules generally applicable to the Properties and may address design, color, siting and other matters within the jurisdiction of the Architectural Committee which are distinctive or unique to the Annexed Territory or the Condominium Project or Planned Development in which the Annexed Territory is located. There are no views in the Annexed Territory which are protected to any extent pursuant to the Declaration or this Supplemental Declaration, as further provided in the Declaration.

6. Airport Influence Area. The Properties are presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the Properties may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. Each Owner is advised to consider what airport annoyances, if any, are associated with the Properties before acquiring a Residence and to determine whether those annoyances are acceptable to such Owner.

7. Miscellaneous Provisions.

7.1 Amendment and Duration. Until the first Close of Escrow for the sale of a Lot or Condominium in the Annexed Territory, this Supplemental Declaration may be amended or terminated by Merchant Builder in the manner set forth in Article XII of the Declaration. Upon the first Close of Escrow in the Annexed Territory, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Section 2.3.6 of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

7.2 Enforcement and Non-Waiver. Reference is hereby made to the provisions of Section 12.5 of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

7.3 Restrictions Construed Together. All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration. Except as may be otherwise provided in this Supplemental Declaration or the Declaration, the rights and obligations of the Owners located in the Annexed Territory shall be the same as the rights and obligations of the other Owners now or hereafter affected by the Declaration.

7.4 Restrictions Severable. Notwithstanding the foregoing Section 6.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

7.5 Number/Captions. As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.

*[SIGNATURES ON FOLLOWING PAGE]*

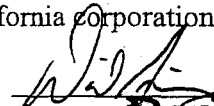
*[SIGNATURE PAGE TO  
SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II ]*

Merchant Builder has executed this Supplemental Declaration the day and year first written above.


“MERCHANT BUILDER”

FIELDSTONE NORTHWOOD, LLC,  
a Delaware limited liability company

By: Fieldstone Communities, Inc.,  
a California corporation, Its Manager

By:   
**David Greminger**

Its: **Assistant Secretary**

By:   
**Marylou Bringas**

Its: **Assistant Secretary**

In accordance with Article II of the Declaration, Declarant approves the recordation of this Supplemental Declaration.

“DECLARANT”

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

By:   
**KENNETH J. COULTER**  
Senior Vice President

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

By:   
**Michele R. Leondis**

Its: **Assistant Secretary**

*[NOTARIES ON FOLLOWING PAGE]*

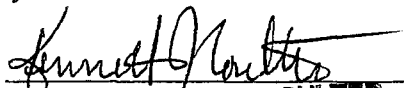


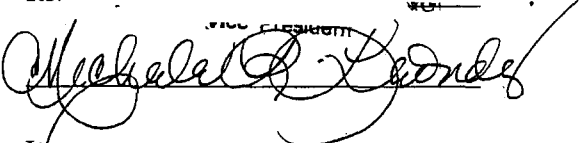
**SUBORDINATION**

The undersigned, as Beneficiary of the beneficial interest in and under that certain Deed of Trust recorded on July 1, 2004, in the Official Records of Orange County, California, as Instrument No. 2004-000600755, which Deed of Trust is between FIELDSTONE NORTHWOOD, LLC, a Delaware limited liability company, as Trustor, FIRST AMERICAN TITLE INSURANCE COMPANY, as Trustee, and IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company, as Beneficiary, hereby expressly subordinates such Deed of Trust and its beneficial interests thereunder to the foregoing Supplemental Declaration, the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Northwood II described therein ("**Declaration**"), and to all easements to be conveyed to the Maintenance Association in accordance with the Declaration and the Supplemental Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Properties by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned will acquire title subject to the provisions of the Declaration and the Supplemental Declaration, which shall remain in full force and effect.

Dated: Aug. 16, 2004

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

By:   
KENNETH J. COULTER  
Its: Senior Vice President

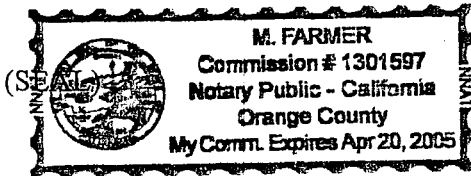
By:   
Its: Michele R. Leondis  
Assistant Secretary

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF Orange )

On August 16, 2004, before me, M. Farmer, a Notary Public in and for said State, personally appeared Kenneth Coulter and Michele Leonds, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me that ~~(he)~~ ~~(she)~~ ~~(they)~~ executed the same in ~~(his)~~ ~~(her)~~ ~~(their)~~ authorized capacity ~~(ies)~~ and that by ~~(his)~~ ~~(her)~~ ~~(their)~~ signature ~~(s)~~ on the instrument the person ~~(s)~~ or the entity upon behalf of which the person ~~(s)~~ acted, executed the instrument.

WITNESS my hand and official seal.

M. Farmer  
Notary Public in and for said State



**LENDER CONSENT AND SUBORDINATION  
TO DECLARATION**

DEUTSCHE BANK TRUST COMPANY AMERICAS, a New York banking corporation, being the beneficiary under that certain Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing (Construction Trust Deed) recorded June 24, 2003 as Instrument No. 2003-000738251, in the Official Records of Orange County, California, as amended by amendments thereto recorded on April 15, 2004, as Instrument No. 2004-000318100, on May 26, 2004, as Instrument No. 2004-000473186, and on July 1, 2004, as Instrument No. 2004-000600756, all of Official Records of Orange County, California (as amended, the "Deed of Trust") hereby declares that the liens and charges of the Deed of Trust are and shall be subject to the attached Supplemental Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II (the "Declaration") and the easements conveyed thereby; provided however, that nothing contained herein will be deemed to subordinate the liens and charges of the Deed of Trust to any liens assessed pursuant to the Declaration.

Dated August 10, 2004.

DEUTSCHE BANK TRUST COMPANY AMERICAS,  
a New York banking corporation

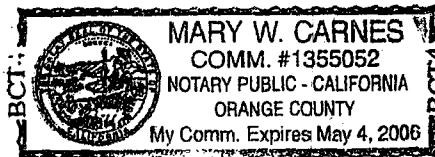
By: *Jeff Wojciechowski*  
Its: Vice President

STATE OF CALIFORNIA        )  
COUNTY OF ORANGE        )

On Aug. 10, 2004, before me, Mary W. Carnes Notary Public in and for said State, personally appeared Jeff Wojciechowski, personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature *Mary W. Carnes* (Seal)





**EXHIBIT "1"**

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

**PARCEL NO. 1**

Lots S and AAA of Tract 16309 as shown on a Map recorded in Book 845, Pages 12 to 27, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Lot(s) which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

**PARCEL NO. 2**

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not applicable.

**PARCEL NO. 3** [Public Property to be maintained by the Maintenance Association]

Not applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT "1" CONTINUED**

**DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

Not Applicable.

**Government Code 27361.7**


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

**Name of Notary:** M. Keating  
**Commission No.:** 1442944  
**County where Bond is Filed:** Orange  
**Date Commission Expires:** September 30, 2007  
**Manufacturer/Vendor No.:** NNA1

**Place of execution – Santa Ana**

**Date – August 20, 2004**

---

  
**Alfonso F. Japzon**  
**First American Title Company**

**Government Code 27361.7**

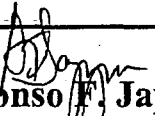
**I certify under the penalty of perjury that the notary seal on this document reads as follows:**

**Name of Notary:** M. Farmer  
**Commission No.:** 1301597  
**County where Bond is Filed:** Orange  
**Date Commission Expires:** April 20, 2005  
**Manufacturer/Vendor No.:** NNA1

**Place of execution – Santa Ana**

**Date – August 20, 2004**

---

  
**Alfonso F. Japzon**  
**First American Title Company**

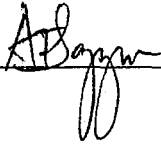
**GOVERNMENT CODE 27361.7**

I CERTIFY UNDER PENALTY OF PERJURY THAT THE NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS FOLLOWS:

NAME OF NOTARY: Mary W. Carnes  
DATE COMMISSION EXPIRES: May 4, 2006  
COUNTY WHERE BOND IS FILED: Orange  
COMMISSION NUMBER: 1355052  
MANUFACTURER/VENDOR NUMBER: BCT4

PLACE OF EXECUTION: Santa Ana  
DATED: August 20, 2004

SIGNATURE: \_\_\_\_\_

A handwritten signature in cursive script, appearing to read "A. Bayne", is written over a horizontal line. The signature is positioned above the line and extends slightly below it.

Recorded in Official Records, County of Orange  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:



2003001525267 08:00am 12/30/03

CHICAGO TITLE COMPANY

103 13 D02 14

0.00 0.00 0.00 0.00 26.00 0.00 0.00 0.00

WHEN RECORDED MAIL TO:

NORTHWOOD II COMMUNITY ASSOCIATION

c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, CA 92705  
Attn: Pam Hunt

WITH A CONFORMED COPY TO:

IRVINE COMMUNITY DEVELOPMENT COMPANY LLC

550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: Ms. Michele Leondis

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II  
(BELLA ROSA PHASE 1, TRACT 16309)  
(MERCHANT BUILDER)**

THIS SUPPLEMENTAL DECLARATION is made on DECEMBER 17, 2003, by  
PULTE HOME CORPORATION, a Michigan corporation ("*Merchant Builder*").

**P R E A M B L E:**

A. Merchant Builder is the record owner of certain real property in the City  
of Irvine, County of Orange, State of California, described as:

The "*Units*," "*Maintenance Property*," and "*Common Area*," as defined in and shown on the Condominium Plan for Bella Rosa -- Pulte Homes, Phase 1, recorded on 12/29, 2003, as Instrument No. 2003001524409, which Condominium Plan covers all or portions of Lot 213 of Tract 16309, as shown on a Subdivision Map on file in

338/8071 - M13

Book 845, Pages 12, *et seq.*, of Miscellaneous Maps, both  
in the Office of the Orange County Recorder.

The Units above are collectively referred to herein as the “*Residential Area.*”

B. Merchant Builder is the record owner (exclusive of public rights-of-way) of certain real property (“*Maintenance Property*”) in the City of Irvine, County of Orange, State of California, described on *Exhibit “I”* attached hereto. The Residential Area and the Maintenance Property are collectively referred to hereinafter as the “*Annexed Territory.*”

C. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (“*Declaration*”) for Northwood II (“*Properties*”). The Declaration was recorded on 12/23, 2003, as Instrument No. 2003001510997, in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

D. Merchant Builder is a “Merchant Builder” as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Merchant Builder intends to improve and sell the Residential Area in the Annexed Territory to the public, and to provide for the maintenance of the Maintenance Property in the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

E. Pursuant to Article II of the Declaration, Merchant Builder now desires to add the Annexed Territory to the Properties subject to the Declaration as a portion of the Maintenance Association Delegate District which is described in the title of this Supplemental Declaration.

THEREFORE, MERCHANT BUILDER HEREBY DECLARES AS FOLLOWS:

1. Definitions. Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. Annexation of Territory and Establishment of Comprehensive Plan.

2.1. Comprehensive Plan. This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement and sale of Lots or Condominiums within the Annexed Territory and for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Annexed Territory and each Lot or Condominium therein.

2.2. Annexation. Merchant Builder hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3. Phase of Development. The Annexed Territory comprises a single Phase of Development of the Properties.

2.4. Equitable Servitudes. The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory and each Lot or Condominium therein, as a servient tenement, for the benefit of each and every other Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.5. Covenants Appurtenant. The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.

2.6. Restrictions. This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

2.7. Membership. The Owners of Lots or Condominiums in the Annexed Territory shall automatically become Members of the Northwood II Community Association (the "*Maintenance Association*" described in Article IV of the Declaration).

2.8. Cost Center. The Maintenance Property Improvements described on *Exhibit "2"* hereto, to the extent annexed to the Properties ("*Cost Center Improvements*") are part of a Cost Center. All costs associated with the ownership, maintenance and operation of the Cost Center Improvements shall be levied solely and equally among all Owners of Lots in the Annexed Territory and the Owners of Lots in other Phases of Development of the Properties which are added to the foregoing Cost Center through recordation of a Supplemental Declaration of Covenants, Conditions, Restrictions and Reservation of Easements.

### 3. Land Classifications.

3.1. Residential Area. The Residential Area (other than those portions, if any, comprising Maintenance Property owned as easements) in the Annexed Territory is hereby designated as Residential Area pursuant to Article II of the Declaration.

3.2. Maintenance Property. The Maintenance Property in the Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("**Multi-Phased Maintenance Property**") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("**Alternative Phase**").

3.2.1. Title to Maintenance Property. Merchant Builder hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the Declaration over their respectively owned Maintenance Property, if any, designated on **Exhibit "1"** hereto for easement ownership by the Maintenance Association, such easement to be effective upon the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on **Exhibit "1"** hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association prior to the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory, as further provided in Section 3.6.1 of the Declaration. The Maintenance Association shall also maintain the Public Property (as defined in the Declaration), if any, depicted on **Exhibit "1"** hereto.

3.2.2. Commencement of Maintenance. The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on **Exhibit "1"** hereto, concurrently with the commencement of Common Assessments in the Annexed Territory; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

3.2.3. Relocation of Maintenance Property Easement. Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("**Interim Easement Area**") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

4. Assessment Obligations. The rights and obligations of all Owners of Lots or Condominiums located in the Annexed Territory with respect to Maintenance Association assessments shall be as set forth in the Declaration and this Supplemental Declaration. All assessments provided for in the Declaration shall commence as to each Lot or Condominium in



the Annexed Territory on first day of the first month following the month in which the first Close of Escrow occurs for the sale of a Lot or Condominium in the Annexed Territory.

5. Architectural Committee Rules/Views. The Board may but need not adopt and enforce supplemental Architectural Committee Rules which are solely applicable to the Annexed Territory; provided that such supplemental Architectural Committee Rules are first approved by Declarant pursuant to the Declaration. Such supplemental Architectural Committee Rules shall be in addition to any Architectural Committee Rules generally applicable to the Properties and may address design, color, siting and other matters within the jurisdiction of the Architectural Committee which are distinctive or unique to the Annexed Territory or the Condominium Project or Planned Development in which the Annexed Territory is located. There are no views in the Annexed Territory which are protected to any extent pursuant to the Declaration or this Supplemental Declaration, as further provided in the Declaration.

6. Miscellaneous Provisions.

6.1. Amendment and Duration. Until the first Close of Escrow for the sale of a Lot or Condominium in the Annexed Territory, this Supplemental Declaration may be amended or terminated by Merchant Builder in the manner set forth in Article XII of the Declaration. Upon the first Close of Escrow in the Annexed Territory, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Section 2.3.6 of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

6.2. Enforcement and Non-Waiver. Reference is hereby made to the provisions of Section 12.5 of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

6.3. Restrictions Construed Together. All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration. Except as may be otherwise provided in this Supplemental Declaration or the Declaration, the rights and obligations of the Owners located in the Annexed Territory shall be the same as the rights and obligations of the other Owners now or hereafter affected by the Declaration.

6.4. Restrictions Severable. Notwithstanding the foregoing Section 6.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

6.5. Number/Captions. As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be

construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.

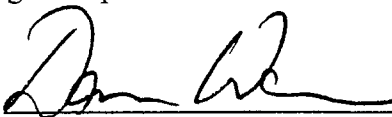
*[SIGNATURES ON FOLLOWING PAGE]*

*[SIGNATURE PAGE TO  
SUPPLEMENTAL DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND RESERVATION  
OF EASEMENTS FOR  
NORTHWOOD II]*

Merchant Builder has executed this Supplemental Declaration the day and year first written above.

“MERCHANT BUILDER”

PULTE HOME CORPORATION,  
a Michigan corporation

By: 

Its: ATTORNEY-IN-FACT

By: ~~NA~~

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

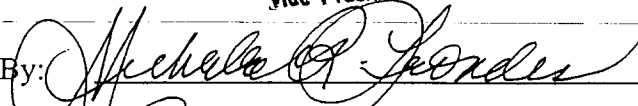
In accordance with Article II of the Declaration, Declarant approves the recordation of this Supplemental Declaration.

“DECLARANT”

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

By: 

Its: THOMAS E. HEGGI  
Vice President

By: 

Its: Michele R. Leondis  
Assistant Secretary

*[NOTARIES ON FOLLOWING PAGE]*



I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE  
NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT  
IS ATTACHED READ AS FOLLOWS:

NAME OF NOTARY: M. FARMER

DATE COMMISSION EXPIRES: APR. 20 - 2005.

COMMISSION NUMBER: 1301597.

VENDOR NUMBER: NNA1.

COUNTY WHERE BOND IS FILED: ORANGE.

PLACE OF EXECUTION: IRVINE, CA.

DATE: 12/30/03.

BY: Cyreen  
CHICAGO TITLE COMPANY

SUBORDINATION

The undersigned, as Beneficiary of the beneficial interest in and under that certain Deed of Trust dated June 16, 2003, recorded on June 24, 2003, in the Official Records of Orange County, California, as Instrument No. 2003000733157, which Deed of Trust is between PULTE HOME CORPORATION, a Michigan corporation, as Trustor, FIRST AMERICAN TITLE INSURANCE COMPANY, as Trustee, and IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company, as Beneficiary, hereby expressly subordinates such Deed of Trust and its beneficial interests thereunder to the foregoing Supplemental Declaration, the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Northwood II described therein ("**Declaration**"), and to all easements to be conveyed to the Maintenance Association in accordance with the Declaration and the Supplemental Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Properties by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned will acquire title subject to the provisions of the Declaration and the Supplemental Declaration, which shall remain in full force and effect.

Dated: 12-19, 2003.

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited  
liability company

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

Its: THOMAS E. HEGGI  
Vice President

By: Michelle R. Leondis

Its: Michelle R. Leondis  
Assistant Secretary

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF Orange )

On Dec. 19, 2003, before me, M. Farmer, a Notary Public in and for said State, personally appeared Thomas E. Heggi and Michele R. Leondis, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) (is) (are) subscribed to the within instrument and acknowledged to me that ~~(he)~~ ~~(she)~~ ~~(they)~~ executed the same in ~~(his)~~ ~~(her)~~ ~~(their)~~ authorized capacity (es) and that by ~~(his)~~ ~~(her)~~ ~~(their)~~ signature (s) on the instrument the person (s), or the entity upon behalf of which the person (s) acted, executed the instrument.

WITNESS my hand and official seal.

M. Farmer  
Notary Public in and for said State

(SEAL)

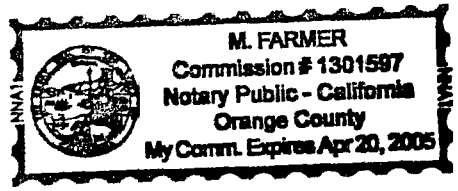


EXHIBIT "1"

DESCRIPTION OF MAINTENANCE PROPERTY

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

PARCEL NO. 1

The "*Maintenance Property*," as defined in and shown on the Condominium Plan for Bella Rosa – Pulte Homes, Phase 1, recorded on 12/29, 2003, as Instrument No. 2003001524409, which Condominium Plan covers all or portions of Lot 213 of Tract 16309, as shown on a Subdivision Map on file in Book 845, Pages 12 *et seq.*, of miscellaneous maps, both in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Maintenance Property which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

PARCEL NO. 2

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not applicable.

PARCEL NO. 3 [Public Property to be maintained by the Maintenance Association]

Not applicable.



EXHIBIT "1" CONTINUED

DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY

Not applicable.

**EXHIBIT "2"**

**DESCRIPTION OF COST CENTER IMPROVEMENTS**

**(Bella Rosa, Phase 1, Tract 16309)**

The name of this Cost Center is the "Northwood II Cost Center." The Lots that benefit from the "Cost Center Improvements" described below and that are obligated to solely and equally bear all costs ("Cost Center Common Expenses") of owning, maintaining and operating the Cost Center Improvements, are all Residential Area Lots described in this Supplemental Declaration and all Lots designated as being part of the Northwood II Cost Center in any previous or future Supplemental Declaration of Covenants, Conditions and Restrictions annexing these lots to Northwood II under the Declaration.

The Cost Center Improvements for this Cost Center are described in the Association Budget as Northwood II Cost Center Expenses.

Recorded in Official Records, County of Orange  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:

CHICAGO TITLE COMPANY



54.00

2004000259566 12:44pm 03/30/04

WHEN RECORDED MAIL TO:

121 4 A23 R27 15  
0.00 0.00 0.00 0.00 42.00 0.00 0.00 0.00

NORTHWOOD II COMMUNITY ASSOCIATION

c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, CA 92705  
Attn: Pam Hunt

WITH A CONFORMED COPY TO:

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel

16516 PH2 - M13

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND RESERVATION OF EASEMENTS  
FOR  
NORTHWOOD II  
(BELLA ROSA, PHASE 2, TRACT 16516)  
(MERCHANT BUILDER)**

THIS SUPPLEMENTAL DECLARATION is made on March 19,  
2004, by PULTE HOME CORPORATION, a Michigan corporation ("Merchant  
Builder").

**P R E A M B L E:**

A. Merchant Builder is the record owner of certain real property in the  
City of Irvine, County of Orange, State of California, described as:

Lots B and C of Tract 16516, as shown on a Subdivision  
Map on file in Book 853, Pages 43, et seq., of  
Miscellaneous Maps, and the "Units," "Maintenance  
Property," and "Common Area," as defined in and shown  
on the Condominium Plan for Bella Rosa -- Pulte Homes,  
Phase 2, recorded on 3-29-2004, ~~2004~~, as  
Instrument No. 2004000255216,  
which Condominium Plan covers Lots 1 and 2 of Tract  
16516, as shown on a Subdivision Map on file in Book

853, Pages 43, et seq., of Miscellaneous Maps, all in the Office of the Orange County Recorder.

The Units above are collectively referred to herein as the "**Residential Area.**"

B. Merchant Builder is the record owner (exclusive of public rights-of-way) of certain real property ("**Maintenance Property**") in the City of Irvine, County of Orange, State of California, described on Exhibit "1" attached hereto. The Residential Area and the Maintenance Property are collectively referred to hereinafter as the "**Annexed Territory.**"

C. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements ("**Declaration**") for Northwood II ("**Properties**"). The Declaration was recorded on December 23, 2003, as Instrument No. 2003-001510997, in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

D. Merchant Builder is a "**Merchant Builder**" as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Merchant Builder intends to improve and sell the Residential Area in the Annexed Territory to the public, and to provide for the maintenance of the Maintenance Property in the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

E. Pursuant to Article II of the Declaration, Merchant Builder now desires to add the Annexed Territory to the Properties subject to the Declaration as a portion of the Maintenance Association Delegate District which is described in the title of this Supplemental Declaration.

THEREFORE, MERCHANT BUILDER HEREBY DECLARES AS FOLLOWS:

1. **Definitions.** Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. **Annexation of Territory and Establishment of Comprehensive Plan.**

2.1 **Comprehensive Plan.** This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement and sale of Lots or Condominiums within the Annexed Territory and for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Annexed Territory and each Lot or Condominium therein.

2.2 **Annexation.** Merchant Builder hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3 **Phase of Development.** The Annexed Territory comprises a single Phase of Development of the Properties.

2.4 **Equitable Servitudes.** The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory and each Lot or Condominium therein, as a servient tenement, for the benefit of each and every other Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.5 **Covenants Appurtenant.** The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.

2.6 **Restrictions.** This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

2.7 **Membership.** The Owners of Lots or Condominiums in the Annexed Territory shall automatically become Members of the Northwood II Community Association (the "Maintenance Association" described in Article IV of the Declaration).

2.8 **Cost Center.** The Maintenance Property Improvements described on Exhibit "2 hereto, to the extent annexed to the Properties ("***Cost Center Improvements***") are part of a Cost Center. All costs associated with the ownership, maintenance and operation of the Cost Center Improvements shall be levied solely and equally among all Owners of Lots in the Annexed Territory and the Owners of Lots in other Phases of Development of the Properties which are added to the foregoing Cost Center through recordation of a Supplemental Declaration of Covenants, Conditions, Restrictions and Reservation of Easements.

---

### 3. **Land Classifications.**

3.1 **Residential Area.** The Residential Area (other than those portions, if any, comprising Maintenance Property owned as easements) in the Annexed Territory is hereby designated as Residential Area pursuant to Article II of the Declaration.

3.2 **Maintenance Property.** The Maintenance Property in the Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be

Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("**Multi-Phased Maintenance Property**") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("**Alternative Phase**").

3.2.1 **Title to Maintenance Property.** Merchant Builder hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the Declaration over their respectively owned Maintenance Property, if any, designated on **Exhibit "1"** hereto for easement ownership by the Maintenance Association, such easement to be effective upon the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on **Exhibit "1"** hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association prior to the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory, as further provided in Section 3.6.1 of the Declaration. The Maintenance Association shall also maintain the Public Property (as defined in the Declaration), if any, depicted on **Exhibit "1"** hereto.

3.2.2 **Commencement of Maintenance.** The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on Exhibit "1" hereto, concurrently with the commencement of Common Assessments in the Annexed Territory; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

3.2.3 **Relocation of Maintenance Property Easement.** Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("**Interim Easement Area**") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

4. **Assessment Obligations.** The rights and obligations of all Owners of Lots or Condominiums located in the Annexed Territory with respect to Maintenance Association assessments shall be as set forth in the Declaration and this Supplemental Declaration. All assessments provided for in the Declaration shall commence as to each Lot or Condominium in the Annexed Territory on first day of the first month following the month in which the first Close of Escrow occurs for the sale of a Lot or Condominium in the Annexed Territory.

5. **Architectural Committee Rules/Views.** The Board may but need not adopt and enforce supplemental Architectural Committee Rules which are solely applicable to the Annexed Territory; provided that such supplemental Architectural Committee Rules are first approved by Declarant pursuant to the Declaration. Such supplemental Architectural Committee Rules shall be in addition to any Architectural Committee Rules generally applicable to the Properties and may address design, color, siting and other matters within the jurisdiction of the Architectural Committee which are distinctive or unique to the Annexed Territory or the Condominium Project or Planned Development in which the Annexed Territory is located. There are no views in the Annexed Territory which are protected to any extent pursuant to the Declaration or this Supplemental Declaration, as further provided in the Declaration.

6. **Airport Influence Area.** The Properties are presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the Properties may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. Each Owner is advised to consider what airport annoyances, if any, are associated with the Properties before acquiring a Residence and to determine whether those annoyances are acceptable to such Owner.

7. **Miscellaneous Provisions.**

7.1 **Amendment and Duration.** Until the first Close of Escrow for the sale of a Lot or Condominium in the Annexed Territory, this Supplemental Declaration may be amended or terminated by Merchant Builder in the manner set forth in Article XII of the Declaration. Upon the first Close of Escrow in the Annexed Territory, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Section 2.3.6 of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

7.2 **Enforcement and Non-Waiver.** Reference is hereby made to the provisions of Section 12.5 of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

7.3 **Restrictions Construed Together.** All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration. Except as may be otherwise provided in this Supplemental Declaration or the Declaration, the rights and obligations of the Owners located in the Annexed Territory shall be the same as the rights and obligations of the other Owners now or hereafter affected by the Declaration.

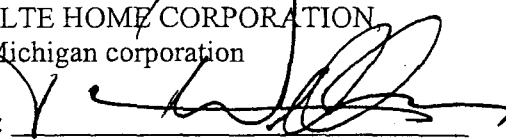
7.4 **Restrictions Severable.** Notwithstanding the foregoing Section 6.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

7.5 **Number/Captions.** As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.

*[SIGNATURES ON FOLLOWING PAGE]*




Merchant Builder has executed this Supplemental Declaration the day and year first written above.

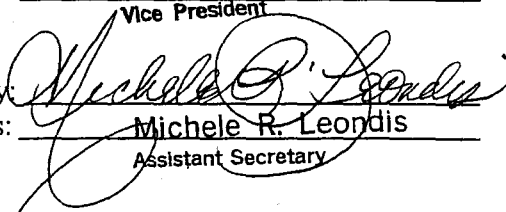
"MERCHANT BUILDER"  
PULTE HOME CORPORATION  
a Michigan corporation  
By:   
Its: ATTORNEY-IN-FACT

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

In accordance with Article II of the Declaration, Declarant approves the recordation of this Supplemental Declaration.

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

By:   
Its: THOMAS E. HEGGI  
Vice President


By:   
Its: Michele R. Leondis  
Assistant Secretary

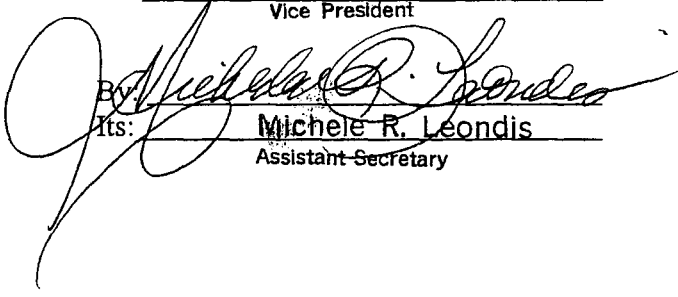
**SUBORDINATION**

The undersigned, as Beneficiary of the beneficial interest in and under that certain Deed of Trust dated recorded on January 29, 2004, in the Official Records of Orange County, California, as Instrument No. 2004-000069558, which Deed of Trust is between PULTE HOME CORPORATION, a Michigan corporation, as Trustor, FIRST AMERICAN TITLE INSURANCE COMPANY, as Trustee, and IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company, as Beneficiary, hereby expressly subordinates such Deed of Trust and its beneficial interests thereunder to the foregoing Supplemental Declaration, the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Northwood II described therein ("Declaration"), and to all easements to be conveyed to the Maintenance Association in accordance with the Declaration and the Supplemental Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Properties by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned will acquire title subject to the provisions of the Declaration and the Supplemental Declaration, which shall remain in full force and effect.

Dated March 22, 2004

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC, a  
Delaware limited liability company

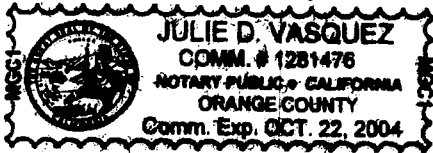
By:   
Its: THOMAS E. HEGGI  
Vice President

By:   
Its: Michele R. Leondis  
Assistant Secretary

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On MARCH 19, 2004, before me, JULIE D. VASQUEZ, a Notary Public, personally appeared TIM WECCMAN, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



(SEAL)

Julie D. Vasquez  
Notary Public

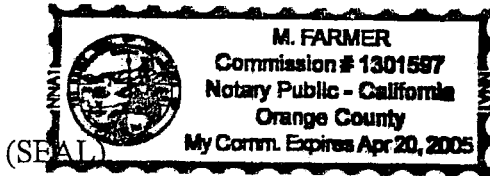
STATE OF CALIFORNIA

) ss.

COUNTY OF ORANGE

On March 23, 2004, before me, M. Farmer, Notary Public, personally appeared THOMAS E. HEGGI and MICHELE R. LEONDIS, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
M. Farmer, Notary Public

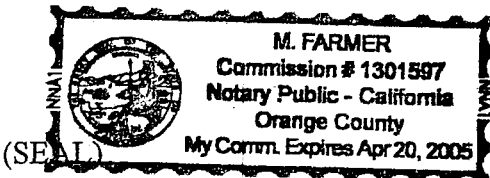
STATE OF CALIFORNIA

) ss.

COUNTY OF ORANGE

On March 23, 2004, before me, M. Farmer, Notary Public, personally appeared THOMAS E. HEGGI and MICHELE R. LEONDIS, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
M. Farmer, Notary Public

I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE  
NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT  
IS ATTACHED READ AS FOLLOWS:

NAME OF NOTARY: M. Farmer

DATE COMMISSION EXPIRES: April 20, 2005

COMMISSION NUMBER: 1301597

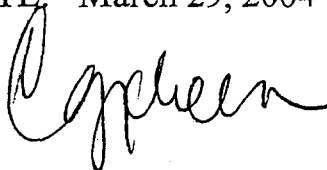
VENDOR NUMBER: NNA1

COUNTY WHERE BOND IS FILED: Orange

PLACE OF EXECUTION: IRVINE, CA.

DATE: March 29, 2004

By:



\_\_\_\_\_  
C. Green

I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE  
NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT  
IS ATTACHED READ AS FOLLOWS:

NAME OF NOTARY: Julie D. Vasquez

DATE COMMISSION EXPIRES: October 22, 2004

COMMISSION NUMBER: 1281476

VENDOR NUMBER: MGC1

COUNTY WHERE BOND IS FILED: Orange

PLACE OF EXECUTION: IRVINE, CA.

DATE: March 29, 2004

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

  
C. Green

EXHIBIT "1"

DESCRIPTION OF MAINTENANCE PROPERTY

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

PARCEL NO. 1

Lots B and C of Tract 16516, as shown on a Subdivision Map on file in Book 853, Pages 43, et seq., of Miscellaneous Maps, and the "Maintenance Property," as defined in and shown on the Condominium Plan for Bella Rosa – Pulte Homes, Phase 2, recorded on 3-29-2004, ~~2004~~, as Instrument No. 2004000255216, which Condominium Plan covers Lots 1 and 2 of Tract 16516, as shown on a Subdivision Map on file in Book 853, Pages 43, et seq., of Miscellaneous Maps, all in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Maintenance Property which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

PARCEL NO. 2

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not Applicable.

PARCEL NO. 3 [Public Property to be maintained by the Maintenance Association]

Not applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT "1" CONTINUED  
DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

Not applicable.



**EXHIBIT 2**

**DESCRIPTION OF COST CENTER IMPROVEMENTS**  
**(Bella Rosa, Phase 2, Tract 16309)**

The name of this Cost Center is the "Northwood II Cost Center." The Lots that benefit from the "Cost Center Improvements" described below and that are obligated to solely and equally bear all costs ("Cost Center Common Expenses") of owning, maintaining and operating the Cost Center Improvements, are all Residential Area Lots described in this Supplemental Declaration and all Lots designated as being part of the Northwood II Cost Center in any previous or future Supplemental Declaration of Covenants, Conditions and Restrictions annexing these lots to Northwood II under the Declaration.

The Cost Center Improvements for this Cost Center are described in the Association Budget as Northwood II Cost Center Expenses.

RECORDING REQUESTED BY  
CHICAGO TITLE COMPANY

Recorded in Official Records, County of Orange  
Tom Daly, Clerk-Recorder



36.00

2004000255216 02:59pm 03/29/04

121 4 C32 11

0.00 0.00 0.00 0.00 30.00 0.00 0.00 0.00

WHEN RECORDED PLEASE MAIL TO:  
THE KEITH COMPANIES, INC  
ATTN: SCOTT WILSON  
19 TECHNOLOGY DRIVE  
IRVINE, CA, 92618

**CONDOMINIUM PLAN  
BELLA ROSA - PULTE HOMES  
PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54**

UNITS 27 THROUGH 30 AND 47 THROUGH 54 COMMON AREA, AND MAINTENANCE PROPERTY, AS CREATED  
HEREIN FROM LOTS 1, AND 2, OF TRACT 16516 IN THE CITY OF IRVINE, COUNTY OF ORANGE, STATE OF  
CALIFORNIA, AS SHOWN ON THE MAP THEREOF FILED IN BOOK 853 AT PAGES 43 THROUGH 46,  
INCLUSIVE, OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

16516P2-M13-

**OWNERSHIP CERTIFICATE:**

WE THE UNDERSIGNED, BEING ALL PARTIES REQUIRED BY CALIFORNIA CIVIL CODE SECTION 1351(e) TO  
EXECUTE THIS CERTIFICATE, DO HEREBY CONSENT TO THE PREPARATION AND RECORDATION OF THE  
WITHIN CONDOMINIUM PLAN PURSUANT TO SAID SECTION 1351 (e)

PULTE HOME CORPORATION, A MICHIGAN CORPORATION

BY: 

PRINT NAME: JIM WELLMAN

PRINT TITLE: ATTORNEY-IN-FACT

**BENEFICIARY STATEMENT:**

The Irvine Community Development Company LLC, a Delaware Limited Liability Company,  
Beneficiary under a Deed of Trust recorded 1/29/04 as Instrument No. 2004000069558  
of Official Records and hereby consents to the recording of this condominium plan.

By: 

THOMAS E. HEGGI  
VICE PRESIDENT  
Irvine Community Development Company LLC,  
a Delaware Limited Liability Company

By: 

PRINT NAME: Michele R. Leondis

PRINT TITLE: Assistant Secretary

# BELLA ROSA - PULTE HOMES PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54 NOTARY ACKNOWLEDGEMENTS

STATE OF CALIFORNIA  
COUNTY OF ORANGE } SS

On THIS 20<sup>TH</sup> DAY OF FEB, 2004, before me, JULIE D. VASQUEZ,  
personally appeared TIM WELLMAN,  
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s)  
whose name(s) is/are subscribed to the within instrument and acknowledged to me that He/She/they  
executed the same in He/She/they authorized capacity(ies), and that by He/She/they signature(s) on  
the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the  
instrument.

My principal place of Business  
Is in ORANGE County.  
My commission Expires OCT. 22, 2004

WITNESS my hand and official seal.  
Julie D. Vasquez  
Notary Public in and for said State

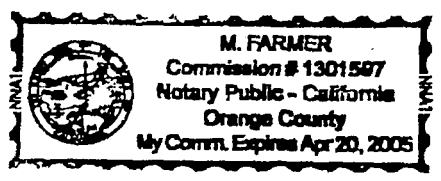


STATE OF California  
COUNTY OF Orange } SS

On THIS 23<sup>rd</sup> DAY OF March, 2004, before me, M. Farmer,  
personally appeared Thomas E. Heggi and Michele R. Leondo,  
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s)  
whose name(s) is/are subscribed to the within instrument and acknowledged to me that He/She/they  
executed the same in He/She/they authorized capacity(ies), and that by He/She/they signature(s) on  
the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the  
instrument.

My principal place of Business  
Is in Orange County.  
My commission Expires 4-20-05

WITNESS my hand and official seal.  
M. Farmer  
Notary Public in and for said State



I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE  
NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT  
IS ATTACHED READ AS FOLLOWS:

NAME OF NOTARY: M. Farmer

DATE COMMISSION EXPIRES: April 20, 2005


COMMISSION NUMBER: 1301597

VENDOR NUMBER:- NNA1

COUNTY WHERE BOND IS FILED: Orange

PLACE OF EXECUTION: IRVINE, CA.

DATE: March 29, 2004

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

C. Green

I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE  
NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT  
IS ATTACHED READ AS FOLLOWS:

NAME OF NOTARY: Julie D. Vasquez

DATE COMMISSION EXPIRES: October 22, 2004

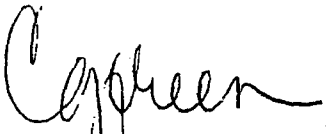
COMMISSION NUMBER: 1281476

VENDOR NUMBER: MGC1

COUNTY WHERE BOND IS FILED: Orange

PLACE OF EXECUTION: IRVINE, CA.

DATE: March 29, 2004

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

C. Green

# BELLA ROSA - PULTE HOMES

## PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54

### SURVEYOR'S STATEMENT:

I HEREBY CERTIFY THAT I AM A LICENSED LAND SURVEYOR OF THE STATE OF CALIFORNIA, THAT THIS CONDOMINIUM PLAN WAS PREPARED BY ME OR UNDER MY SUPERVISION AND THAT THIS CONDOMINIUM PLAN: (1) CORRECTLY REPRESENTS THE BOUNDARY OF THE LAND INCLUDED WITHIN THIS PROJECT; AND (2) SUBJECT TO MINOR VARIANCES AND SUBJECT ALSO TO THE NOTES AND DEFINITIONS HEREIN, SHOWS THE LOCATION OF THE UNITS TO BE BUILT.

*Scott M. Wilson*

MY LICENSE EXPIRES 12/31/05

**THE KEITH COMPANIES**  
19 TECHNOLOGY DRIVE  
IRVINE, CA 92618  
949.923.6000

**TKC**



DATE 2-16-04

### LEGEND:

ⓑ

-DENOTES PIPELINE EASEMENTS FOR SEWER AND WATER PURPOSES, DEDICATED TO THE IRVINE RANCH WATER DISTRICT PER TRACT 16309,845/12-27

**UNIT 31**

DENOTES THE UNIT NUMBER

MAINTENANCE AREA

-DENOTES THE ASSOCIATION MAINTENANCE AREA

### BASIS OF BEARINGS:

THE BEARINGS SHOWN HEREON ARE BASED ON THE GRID BEARING BETWEEN O.C.S. HORIZONTAL CONTROL STATION GPS NO. 6623 AND STATION GPS NO. 6503 BEING NORTH 62°37'46" EAST PER RECORDS ON FILE IN THE OFFICE OF THE ORANGE COUNTY SURVEYOR.

GPS #6623 (N=2196272.448, E=6098292.498, C.F.=0.99997151)

GPS #6503 (N=2202756.516, E=6110817.247, C.F.=0.99996389)

### BENCHMARK:

ORANGE COUNTY SURVEYOR BENCHMARK NO.

"3B-103-91"

AT THE INTERSECTION OF JEFFREY RD. AND THE ATCHISON TOPEKA AND SANTA FE RAILWAY, 55 FT. NORTHEASTERLY THE RAILWAY, 45 FT. NORTHERLY OF THE CENTERLINE OF JEFFREY RD., SET AT THE MOST WESTERLY CORNER OF A 4 FT. BY 4 FT. CATCH BASIN.

NAVD88/1991 ADJ. ELEV = 143.420

# BELLA ROSA - PULTE HOMES

## PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54

### NOTES AND DEFINITIONS

**Bella Rosa Phase 2.** *Bella Rosa Phase 2 means the real property described and shown as Units, Maintenance Property and Undivided Interest Common Area on this Condominium Plan*

**Condominium.** *Condominium means an estate in real property as defined in California Civil Code Section 1351(f). A Condominium consists of an undivided fee simple ownership interest in the Undivided Interest Common Area in a Phase of Development together with a separate ownership interest in fee in a Unit and all easements appurtenant thereto. The undivided fee simple interest in the Undivided Interest Common Area in a Phase of Development is appurtenant to each Unit in such Phase of Development and is a fraction having one (1) as its numerator and the number of Units in that Phase of Development as its denominator; and shall be held by the Owners of Condominiums in that Phase of Development as tenants-in-common.*

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

**Declaration.** *Declaration means the Declaration of Covenants, Conditions, Restrictions and Reservations of Easements for Northwood II, Recorded in Official Records of Orange County, California, as amended or restated.*

**Maintenance Association.** *Maintenance Association means Northwood II Community Association, a California nonprofit corporation (formed pursuant to the California Nonprofit Mutual Benefit Corporation Law), its successors and assigns. The Maintenance Association is an "association" as defined in Section 1351(a) of the California Civil Code.*

**Maintenance Property.** *Maintenance Property means real or personal property and Improvements which are owned in fee simple at any time by the Maintenance Association, or over which the Maintenance Association has an easement or encroachment permit for the use, care or maintenance thereof, for the common benefit, use and enjoyment of Owners. The Maintenance Property in Bella Rosa Phase 2 is shown on this Condominium Plan. Additional Maintenance Property in Bella Rosa Phase 2 may be shown or described in the Declaration*

**Merchant Builder.** *Merchant Builder means a Person who acquires a portion of the Properties for the purpose of developing such portion for resale to the general public; provided, however, that the term "Merchant Builder" shall not mean Declarant but shall include the Initial Merchant Builder. Pulte Home Corporation, a Michigan corporation, is the Initial Merchant Builder under the Declaration. Merchant Builder is a builder as described in California Civil Code Section 1375.*

**Phase of Development.** *Phase of Development means (i) Bella Rosa Phase 2, (ii) any portion of the Properties covered by a Supplemental Declaration for which a Public Report has been issued by the DRE, unless otherwise defined in such Supplemental Declaration, (iii) any portion of the Properties designated as a Phase of Development in a Recorded Supplemental Declaration (including all amendments thereto) governing such property, and (iv) if no Public Report is issued and there is no Phase of Development designation in the Supplemental Declaration for a portion of the Properties, then all of the real property annexed pursuant to that Supplemental Declaration shall be a Phase of Development.*

**Properties.** *Properties means Bella Rosa Phase 2, together with such portions of the Annexable Area which are annexed to the property which is subject to the Declaration pursuant to Article II thereof. The Properties are classified as a "common interest development" as defined in Section 1351(c) of the California Civil Code.*

# BELLA ROSA - PULTE HOMES

## PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54

### NOTES AND DEFINITIONS

**Undivided Interest Common Area.** *Undivided Interest Common Area means those certain volumes of airspace described in this Condominium Plan which shall be owned by Owners in each Phase of Development as tenants-in-common. For Bella Rosa Phase 2, the Undivided Interest Common Area consists of the volume of air space designated as undivided interest common area on this Condominium Plan, the lower boundary of which is a horizontal plane of an elevation of 203.5 feet above sea level, the upper boundary of which is a horizontal plane at an elevation of 253.5 feet above sea level, and the lateral boundaries of which are shown on Sheet 10.*

**Unit.** *Unit means a separate interest in space, in accordance with Section 1351(f) of the California Civil Code. Each Unit is a separate freehold estate, as separately shown, numbered and designated in this Condominium Plan. Each Unit includes all earth, air and Improvements now or hereafter constructed within the boundaries of the Unit as described in this Condominium Plan, including buildings, yards, landscaping, fences, walls, and utility installations (subject to easements of record). The vertical and horizontal boundaries of each Unit shall be as described in the Condominium Plan. However, in interpreting deeds, declarations and plans, the following shall apply in the case of Improvements constructed or reconstructed at Unit boundaries in accordance with the Condominium Plan or the original plans for the Unit: (a) where a division wall separating two or more Units or a party wall is coterminous with a Unit boundary described in the Condominium Plan, then the lateral boundaries of such Units shall be deemed to extend to the center of the division wall or party wall as constructed; and (b) where the perimeter wall is coterminous with a Unit boundary described in the Condominium Plan, then the exterior finished surface of such wall shall be conclusively presumed to be a lateral boundary of the Unit. The foregoing shall apply to Improvements constructed or reconstructed in substantial accordance with the original plans for the Unit, and shall apply notwithstanding any description expressed in the deed, the Condominium Plan or Declaration, regardless of settling or lateral movements of Improvements, and regardless of minor variances between Unit boundaries shown in the Condominium Plan or deed and those of the Improvement. The Units included in Bella Rosa Phase 2 are depicted on this Condominium Plan and are numbered Units 27-30, inclusive, and Units 47-54.*

#### **NOTES:**

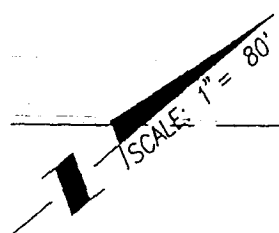
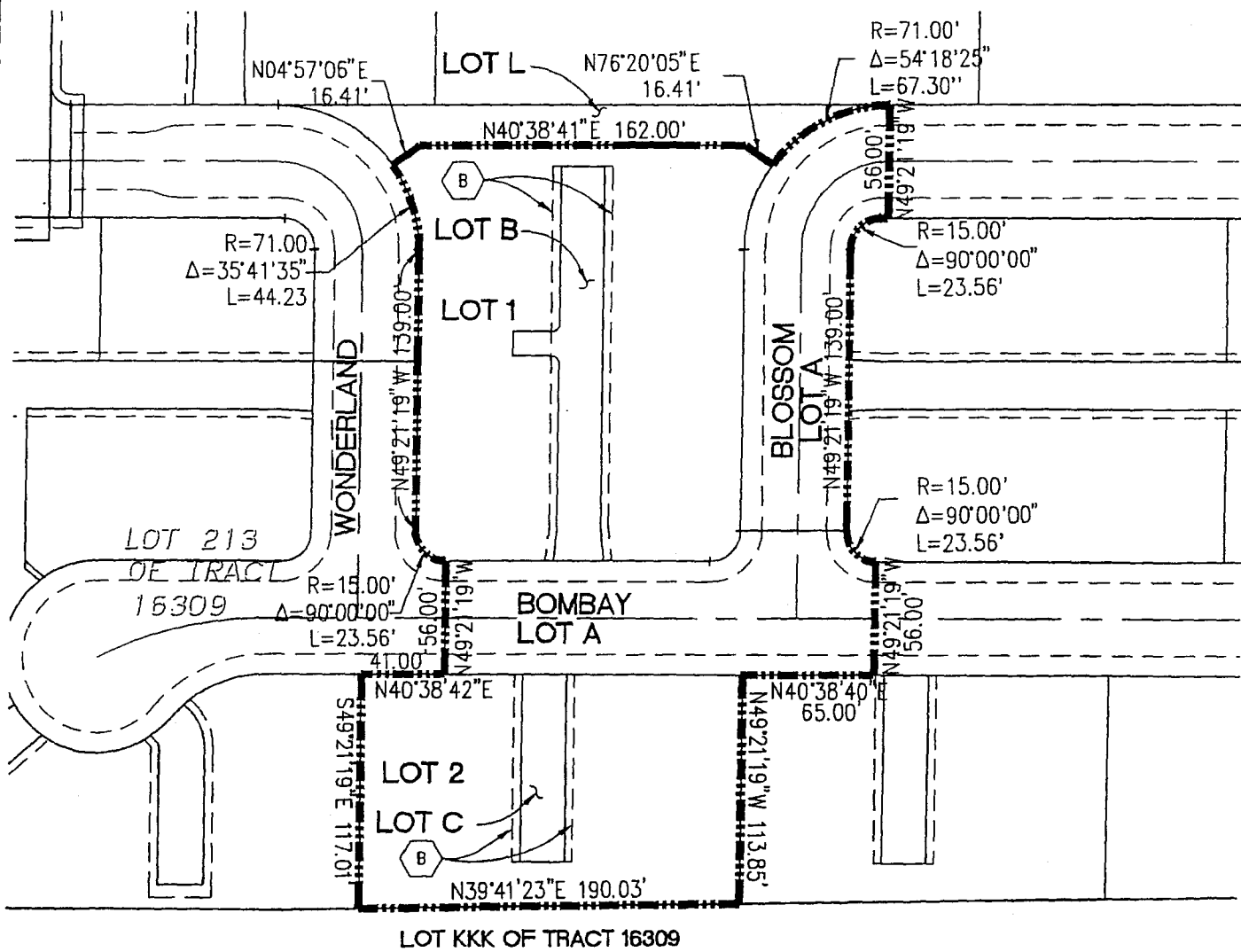
*Dimensions shown herein are not intended to be sufficiently accurate to use for computation of floor area or the air space volume in any or all of the Units. This Condominium Plan is prepared for diagrammatic purposes and is not intended to be used for sales purposes to determine square footage. The diagrammatic plans contained herein intentionally omit information with respect to any constructed improvements within the Condominium.*

*All capitalized terms in the Definitions and Notes sections of this Condominium Plan which are not defined herein shall have the meanings given them in the Declaration.*



# BELLA ROSA - PULTE HOMES PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54

## MAP LOT 1, AND 2 OF TRACT 16516



NOTES:

(B) DENOTES PIPELINE EASEMENTS FOR SEWER AND WATER PURPOSES, DEDICATED TO THE IRVINE RANCH WATER

**THE KEITH COMPANIES**  
 19 TECHNOLOGY DRIVE  
 IRVINE, CA 92618  
 949.923.6000

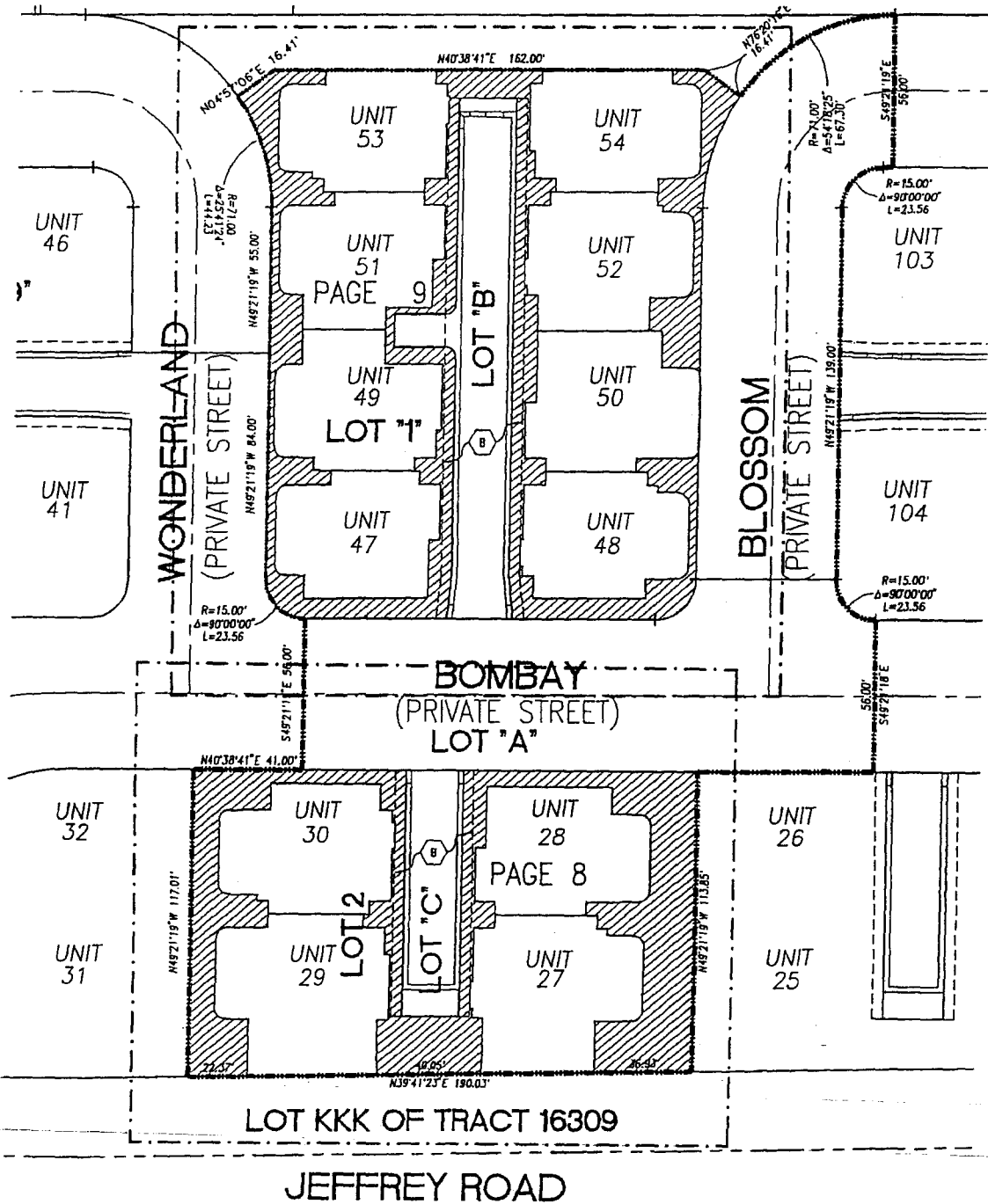


Job No.: 13774.00


Date: 10/03/03

# BELLA ROSA - PULTE HOMES PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54

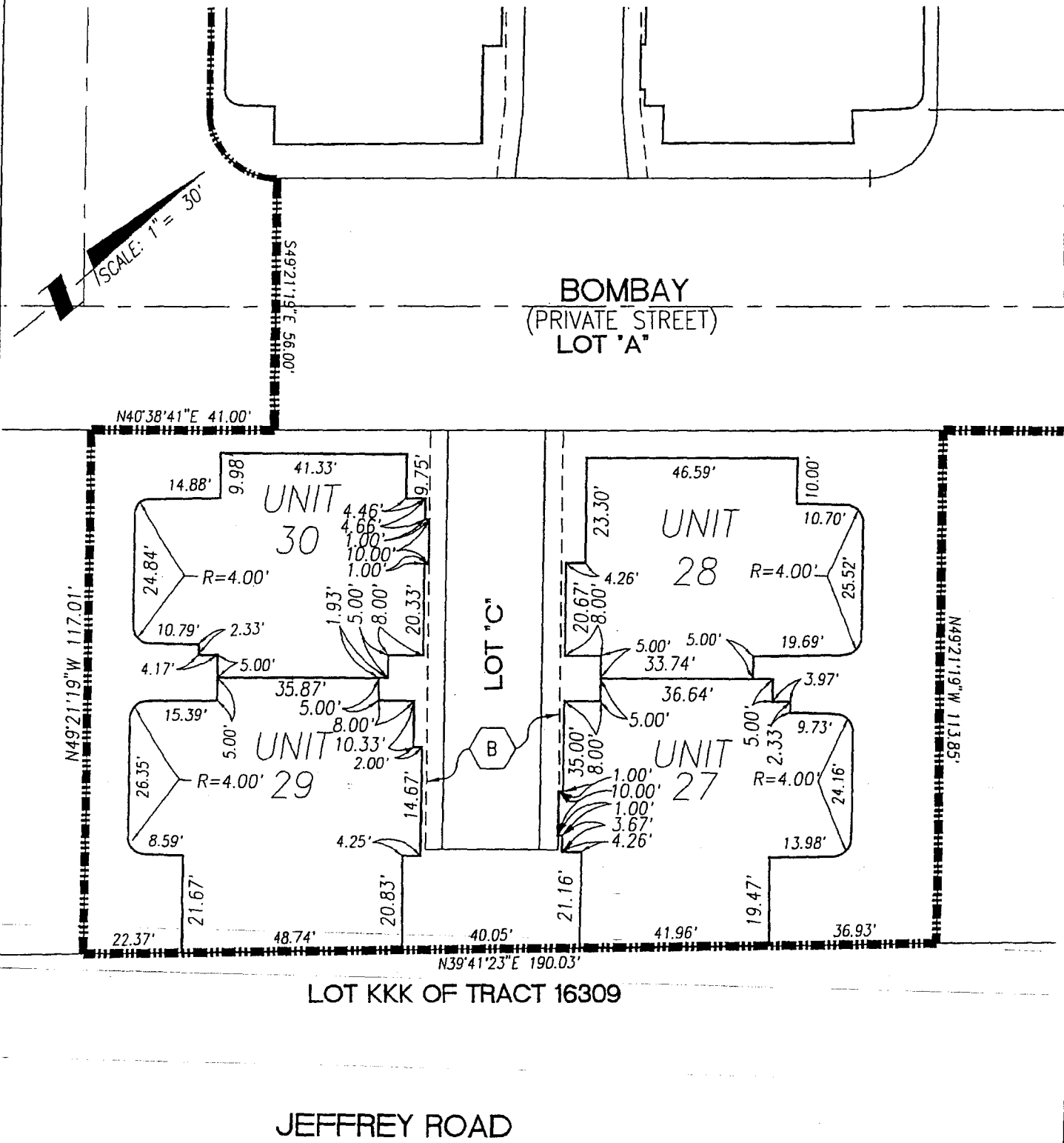
## UNIT AND MAINTENANCE PROPERTY LOCATION PLAN INDEX PAGE



 MAINTENANCE PROPERTY

<b>THE KEITH COMPANIES</b> 19 TECHNOLOGY DRIVE IRVINE, CA 92618 949.923.6000		
Job No.: 13774.00	Date: 10/03/03	

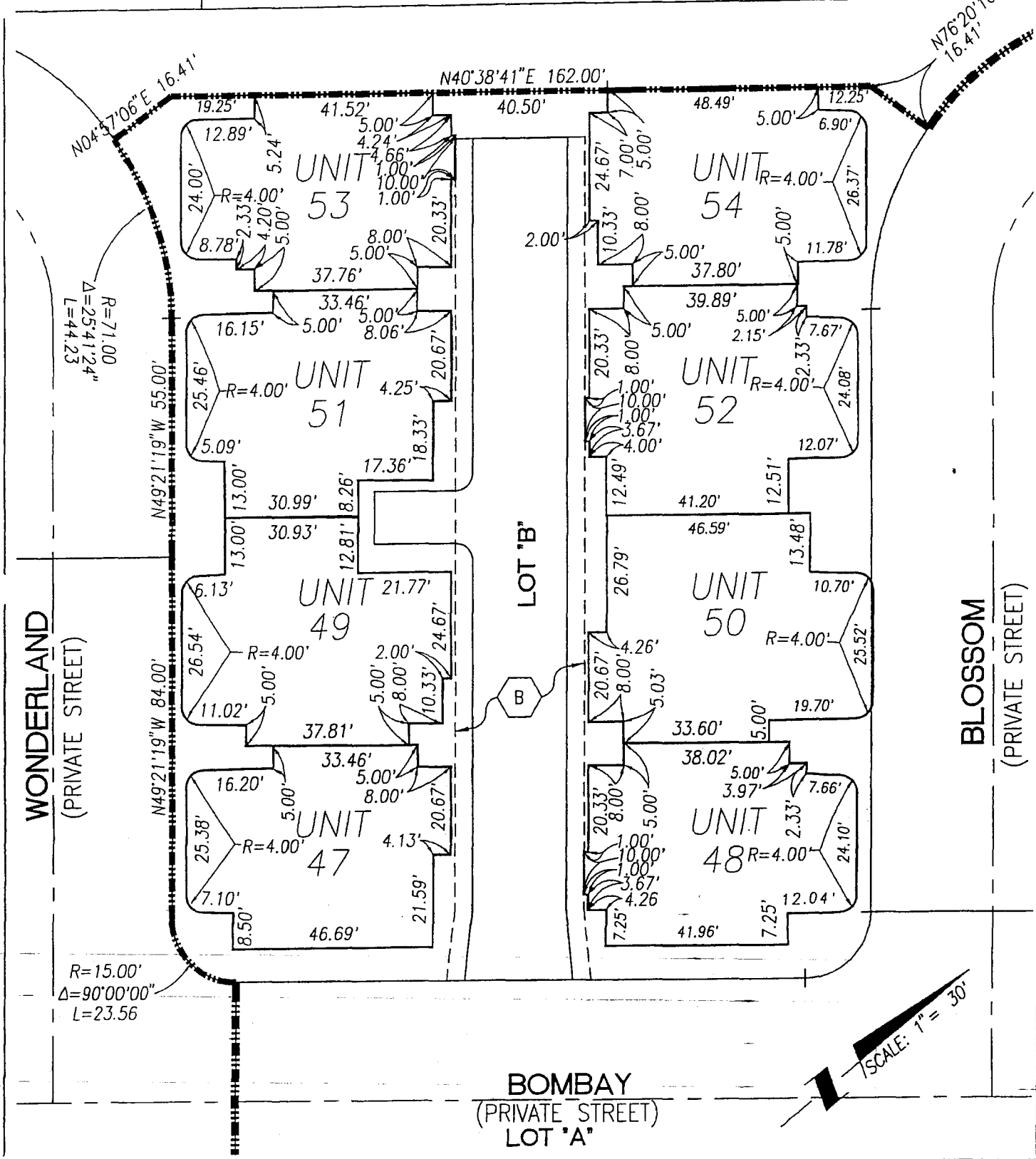
# BELLA ROSA - PULTE HOMES PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54



SEE PAGE 6 FOR EASEMENT NOTES  
 SEE PAGE 7 FOR INDEX MAP  
 SEE PAGE 10 FOR COMMON AREA PLAN  
 NOTE: ALL ANGLES 90° UNLESS OTHERWISE NOTED

<b>THE KEITH COMPANIES</b> 19 TECHNOLOGY DRIVE IRVINE, CA 92618 949.923.6000		
Job No.: 13774.00	Date: 08-05-03	

# BELLA ROSA - PULTE HOMES PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54

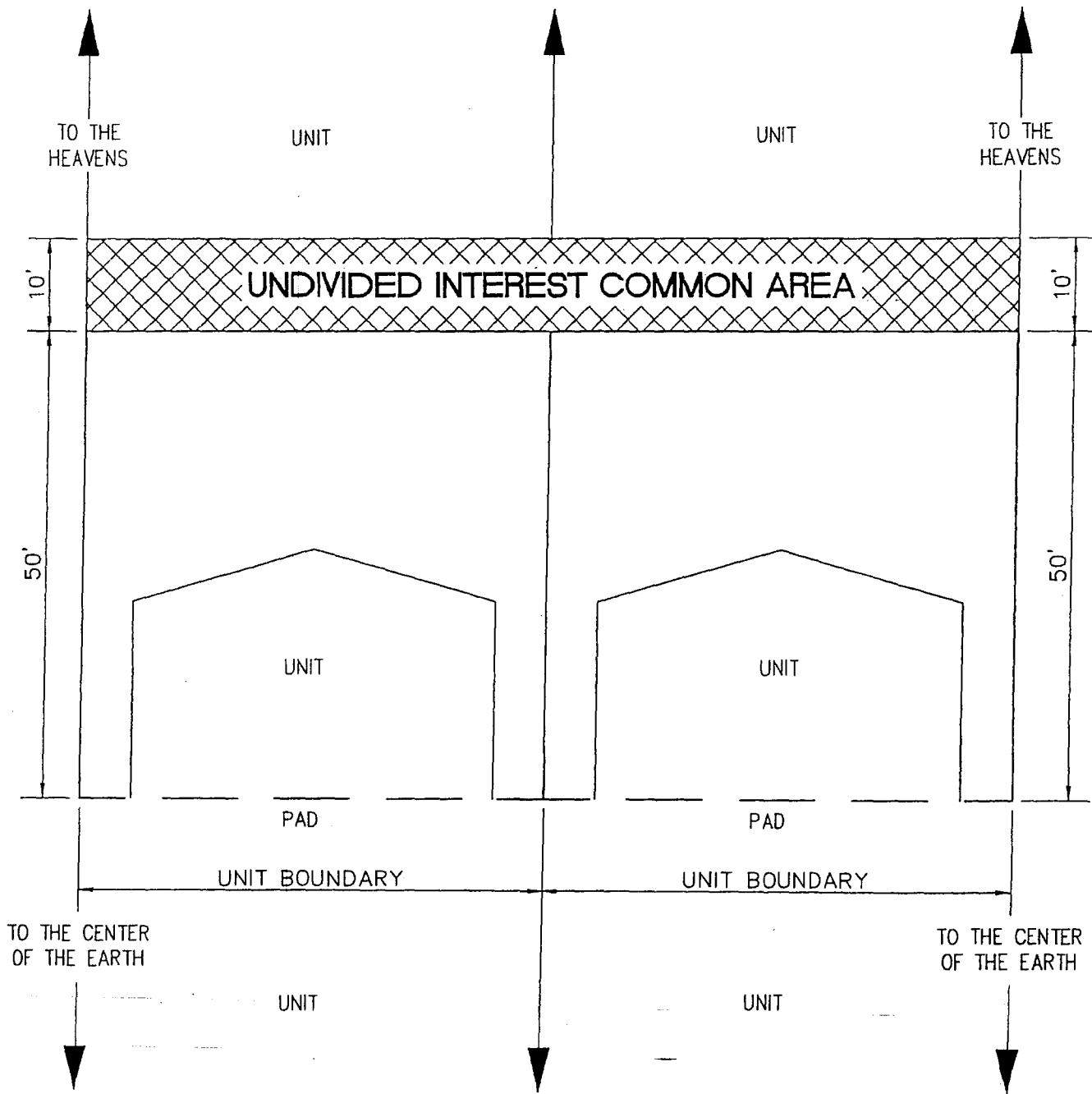


SEE PAGE 6 FOR EASEMENT NOTES  
 SEE PAGE 7 FOR INDEX MAP  
 SEE PAGE 10 FOR COMMON AREA PLAN  
 NOTE: ALL ANGLES 90° UNLESS OTHERWISE NOTED

<b>THE KEITH COMPANIES</b> 19 TECHNOLOGY DRIVE IRVINE, CA 92618 949.923.6000		
Job No.: 13774.00	Date: 08-05-03	

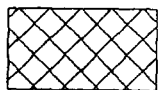
# BELLA ROSA - PULTE HOMES PHASE 2 CONDOMINIUM PLAN UNITS 27-30 AND 47-54

## UNDIVIDED INTEREST COMMON AREA PLAN



### TYPICAL SECTION

N.T.S.



UNDIVIDED INTEREST COMMON AREA

**THE KEITH COMPANIES**

19 TECHNOLOGY DRIVE

IRVINE, CA 92618

949.923.6000



Job No.: 13774.00

Date: 12/15/03

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:

CHICAGO TITLE COMPANY



51.00

2004000716390 04:21pm 08/06/04

104 27 D01 S12 14

0.00 0.00 0.00 0.00 39.00 0.00 0.00 0.00

WHEN RECORDED MAIL TO:

NORTHWOOD II COMMUNITY ASSOCIATION  
c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, CA 92705  
Attn: Pam Hunt

WITH A CONFORMED COPY TO:

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND RESERVATION OF EASEMENTS  
FOR  
NORTHWOOD II  
(BELLA ROSA, PHASE 5, TRACT 16516)  
(MERCHANT BUILDER)**

THIS SUPPLEMENTAL DECLARATION is made on July 19,  
2004, by PULTE HOME CORPORATION, a Michigan corporation ("Merchant  
Builder").

**P R E A M B L E:**

A. Merchant Builder is the record owner of certain real property in the  
City of Irvine, County of Orange, State of California, described as:

Lots D, H and I of Tract 16516, as shown on a Subdivision  
Map on file in Book 853, Pages 43, et seq., of  
Miscellaneous Maps, and the "Units," "Maintenance  
Property," and "Common Area," as defined in and shown  
on the Condominium Plan for Bella Rosa -- Pulte Homes,  
Phase 5, recorded on 8-6-04, 2004, as  
Instrument No. 2004000715139,  
which Condominium Plan covers Lots 9 and 10 of Tract  
16516, as shown on a Subdivision Map on file in Book

43818186A-M13

853, Pages 43, et seq., of Miscellaneous Maps, all in the Office of the Orange County Recorder.

The Units above are collectively referred to herein as the "*Residential Area.*"

B. Merchant Builder is the record owner (exclusive of public rights-of-way) of certain real property ("*Maintenance Property*") in the City of Irvine, County of Orange, State of California, described on Exhibit "1" attached hereto. The Residential Area and the Maintenance Property are collectively referred to hereinafter as the "*Annexed Territory.*"

C. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (as amended, the "*Declaration*") for Northwood II ("*Properties*"). The Declaration was recorded on December 23, 2003, as Instrument No. 2003-001510997, and amended by the First Amendment to Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II, recorded on March 26, 2004, as Instrument No. 2004-000251181, both in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

D. Merchant Builder is a "*Merchant Builder*" as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Merchant Builder intends to improve and sell the Residential Area in the Annexed Territory to the public, and to provide for the maintenance of the Maintenance Property in the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

E. Pursuant to Article II of the Declaration, Merchant Builder now desires to add the Annexed Territory to the Properties subject to the Declaration.

THEREFORE, MERCHANT BUILDER HEREBY DECLARES AS FOLLOWS:

1. **Definitions.** Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. **Annexation of Territory and Establishment of Comprehensive Plan.**

2.1 **Comprehensive Plan.** This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement and sale of Lots or Condominiums within the Annexed Territory and for the purpose of enhancing

and perfecting the value, desirability and attractiveness of the Annexed Territory and each Lot or Condominium therein.

2.2 **Annexation.** Merchant Builder hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3 **Phase of Development.** The Annexed Territory comprises a single Phase of Development of the Properties.

2.4 **Equitable Servitudes.** The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory and each Lot or Condominium therein, as a servient tenement, for the benefit of each and every other Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.5 **Covenants Appurtenant.** The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.

2.6 **Restrictions.** This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

2.7 **Membership.** The Owners of Lots or Condominiums in the Annexed Territory shall automatically become Members of the Northwood II Community Association (the "Maintenance Association" described in Article IV of the Declaration).

2.8 **Cost Center.** The Maintenance Property Improvements described on *Exhibit 2* hereto, to the extent annexed to the Properties ("***Cost Center Improvements***") are part of a Cost Center. All costs associated with the ownership, maintenance and operation of the Cost Center Improvements shall be levied solely and equally among all Owners of Lots in the Annexed Territory and the Owners of Lots in other Phases of Development of the Properties which are added to the foregoing Cost Center through recordation of a Supplemental Declaration of Covenants, Conditions, Restrictions and Reservation of Easements.

### 3. **Land Classifications.**

3.1 **Residential Area.** The Residential Area (other than those portions, if any, comprising Maintenance Property owned as easements) in the Annexed Territory is hereby designated as Residential Area pursuant to Article II of the Declaration.



3.2 **Maintenance Property.** The Maintenance Property in the Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("***Multi-Phased Maintenance Property***") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("***Alternative Phase***").

3.2.1 **Title to Maintenance Property.** Merchant Builder hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the Declaration over their respectively owned Maintenance Property, if any, designated on ***Exhibit "1"*** hereto for easement ownership by the Maintenance Association, such easement to be effective upon the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on ***Exhibit "1"*** hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association prior to the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory, as further provided in Section 3.6.1 of the Declaration. The Maintenance Association shall also maintain the Public Property (as defined in the Declaration), if any, depicted on ***Exhibit "1"*** hereto.

3.2.2 **Commencement of Maintenance.** The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on Exhibit "1" hereto, concurrently with the commencement of Common Assessments in the Annexed Territory; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

3.2.3 **Relocation of Maintenance Property Easement.** Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("***Interim Easement Area***") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

4. **Assessment Obligations.** The rights and obligations of all Owners of Lots or Condominiums located in the Annexed Territory with respect to Maintenance Association assessments shall be as set forth in the Declaration and this Supplemental Declaration. All assessments provided for in the Declaration shall commence as to each Lot or Condominium in the Annexed Territory on first day of the first month following

the month in which the first Close of Escrow occurs for the sale of a Lot or Condominium in the Annexed Territory.

5. **Architectural Committee Rules/Views.** The Board may but need not adopt and enforce supplemental Architectural Committee Rules which are solely applicable to the Annexed Territory; provided that such supplemental Architectural Committee Rules are first approved by Declarant pursuant to the Declaration. Such supplemental Architectural Committee Rules shall be in addition to any Architectural Committee Rules generally applicable to the Properties and may address design, color, siting and other matters within the jurisdiction of the Architectural Committee which are distinctive or unique to the Annexed Territory or the Condominium Project or Planned Development in which the Annexed Territory is located. There are no views in the Annexed Territory which are protected to any extent pursuant to the Declaration or this Supplemental Declaration, as further provided in the Declaration.

6. **Airport Influence Area.** The Properties are presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the Properties may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. Each Owner is advised to consider what airport annoyances, if any, are associated with the Properties before acquiring a Residence and to determine whether those annoyances are acceptable to such Owner.

7. **Miscellaneous Provisions.**

7.1 **Amendment and Duration.** Until the first Close of Escrow for the sale of a Lot or Condominium in the Annexed Territory, this Supplemental Declaration may be amended or terminated by Merchant Builder in the manner set forth in Article XII of the Declaration. Upon the first Close of Escrow in the Annexed Territory, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Section 2.3.6 of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

7.2 **Enforcement and Non-Waiver.** Reference is hereby made to the provisions of Section 12.5 of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

7.3 **Restrictions Construed Together.** All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration. Except as may be otherwise provided in this Supplemental Declaration or the Declaration, the rights and obligations of the Owners located in the

Annexed Territory shall be the same as the rights and obligations of the other Owners now or hereafter affected by the Declaration.

7.4 **Restrictions Severable.** Notwithstanding the foregoing Section 6.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

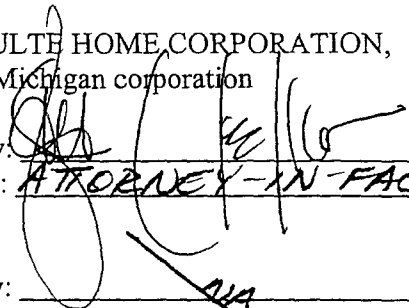
7.5 **Number/Captions.** As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.

*[SIGNATURES ON FOLLOWING PAGE]*

Merchant Builder has executed this Supplemental Declaration the day and year first written above.

"MERCHANT BUILDER"

PULTE HOME CORPORATION,  
a Michigan corporation


By:   
Its: ATTORNEY-IN-FACT

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

In accordance with Article II of the Declaration, Declarant approves the recordation of this Supplemental Declaration.

"DECLARANT"

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC, a  
Delaware limited liability company

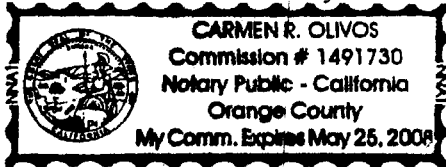
By:   
Its: THOMAS E. HEGGI  
Vice President

By:   
Its: Michele R. Leondis  
Assistant Secretary

STATE OF CALIFORNIA )  
 )  
COUNTY OF ORANGE ) ss

On JULY 19, 2004, before me, CARMEN OLIVOS, a Notary Public, personally appeared SAMIRA KELLER, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



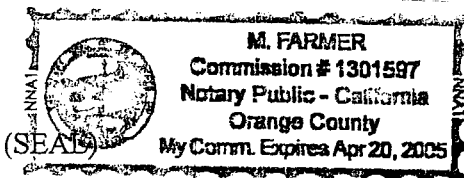
Carmen R. Olivos  
Notary Public

(SEAL)

STATE OF CALIFORNIA )  
 )  
COUNTY OF Orange ) ss

On July 28, 2004, before me, M. Farmer, a Notary Public, personally appeared Thomas E. Heggi & Michele R. Leondis, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
Notary Public

I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE  
NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT  
IS ATTACHED READ AS FOLLOWS:

NAME OF NOTARY: M. Farmer

DATE COMMISSION EXPIRES: April 20, 2005

COMMISSION NUMBER: 1301597

VENDOR NUMBER: nna1

COUNTY WHERE BOND IS FILED: Orange

PLACE OF EXECUTION: IRVINE, CA.

DATE: August 6, 2004

By:

  
\_\_\_\_\_  
C. Green

I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE  
NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT  
IS ATTACHED READ AS FOLLOWS:

NAME OF NOTARY: M. Farmer

DATE COMMISSION EXPIRES: April 20, 2005

COMMISSION NUMBER: 1301597

VENDOR NUMBER: nna1

COUNTY WHERE BOND IS FILED: Orange

PLACE OF EXECUTION: IRVINE, CA.

DATE: August 6, 2004

By:


  
\_\_\_\_\_  
C. Green

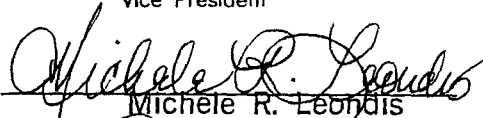
**SUBORDINATION**

The undersigned, as Beneficiary of the beneficial interest in and under those certain Deeds of Trust dated March 12, 2004, and May 24, 2004, recorded on April 2, 2004, and July 1, 2004, in the Official Records of Orange County, California, as Instrument No. 2004-000273867 and Instrument No. 2004-000602392, respectively, which Deeds of Trust are between PULTE HOME CORPORATION, a Michigan corporation, as Trustor, FIRST AMERICAN TITLE INSURANCE COMPANY, as Trustee, and IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company, as Beneficiary, hereby expressly subordinates such Deeds of Trust and its beneficial interests thereunder to the foregoing Supplemental Declaration, the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Northwood II described therein ("Declaration"), and to all easements to be conveyed to the Maintenance Association in accordance with the Declaration and the Supplemental Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Properties by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deeds of Trust, the undersigned will acquire title subject to the provisions of the Declaration and the Supplemental Declaration, which shall remain in full force and effect.

Dated July 28, 2004

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC, a  
Delaware limited liability company

By:   
Its: THOMAS E. HEGG  
Vice President

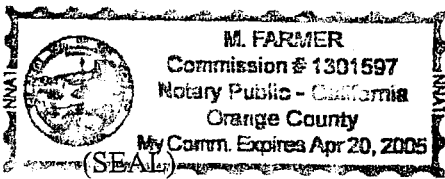
By:   
Its: Michele R. Leonidis  
Assistant Secretary



STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On July 28, 2004, before me, M. Farmer, a Notary Public, personally appeared Thomas E. Heggi + Michele R. Leondis, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~(is/are)~~ subscribed to the within instrument and acknowledged to me that ~~(he/she/they)~~ executed the same in ~~(his/her/their)~~ authorized capacit-~~(-y/-ies)~~, and that by ~~(his/her/their)~~ signature~~(s)~~ on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
Notary Public

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2004, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) ~~(is/are)~~ subscribed to the within instrument and acknowledged to me that ~~(he/she/they)~~ executed the same in ~~(his/her/their)~~ authorized capacit-~~(-y/-ies)~~, and that by ~~(his/her/their)~~ signature~~(s)~~ on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(SEAL)

EXHIBIT "1"

DESCRIPTION OF MAINTENANCE PROPERTY

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

PARCEL NO. 1

Lots D, H and I of Tract 16516, as shown on a Subdivision Map on file in Book 853, Pages 43, et seq., of Miscellaneous Maps, and the "Maintenance Property," as defined in and shown on the Condominium Plan for Bella Rosa – Pulte Homes, Phase 5, recorded on 8-6, 2004, as Instrument No. 2004000715139, which Condominium Plan covers Lots 9 and 10 of Tract 16516, as shown on a Subdivision Map on file in Book 853, Pages 43, et seq., of Miscellaneous Maps, all in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Maintenance Property which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

PARCEL NO. 2

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress, egress, use and maintenance over the following described real property:

Those portions of Lot A of Tract 16516, as shown on a Subdivision Map on file in Book 853, Pages 43, et seq., of Miscellaneous Maps, in the Office of the Orange County Recorder, which are adjacent to the Residential Area described in Preamble A of this Supplemental Declaration, which easements shall terminate on the conveyance of fee title to such lots to the Association.

PARCEL NO. 3 [Public Property to be maintained by the Maintenance Association]

Not applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT 2**

**DESCRIPTION OF COST CENTER IMPROVEMENTS**  
**(Bella Rosa, Phase 5, Tract 16516)**

The name of this Cost Center is the "Northwood II Cost Center." The Lots that benefit from the "Cost Center Improvements" described below and that are obligated to solely and equally bear all costs ("Cost Center Common Expenses") of owning, maintaining and operating the Cost Center Improvements, are all Residential Area Lots described in this Supplemental Declaration and all Lots designated as being part of the Northwood II Cost Center in any previous or future Supplemental Declaration of Covenants, Conditions and Restrictions annexing these lots to Northwood II under the Declaration.

The Cost Center Improvements for this Cost Center are described in the Association Budget as Northwood II Cost Center Expenses.

Recorded in Official Records, County of Orange  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:

42.00

2004000251181 03:54pm 03/26/04

WHEN RECORDED, MAIL TO:

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DIZDA, CAREY & STEINMAN (JRS)  
2 Park Plaza, Ste 1140  
Irvine, CA 92614

1104104-AC101A

(Space Above for Recorder's Use)

**FIRST AMENDMENT TO  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
AND RESERVATION OF EASEMENTS  
FOR  
NORTHWOOD II**

This First Amendment to Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Northwood II is made by IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company ("*Declarant*") and LENNAR HOMES OF CALIFORNIA, INC., a California corporation ("*Initial Merchant Builder*").

**P R E A M B L E:**

A. Declarant is the developer of a master planned residential development located in the City of Irvine, County of Orange, State of California known as "Northwood II" ("*Project*").

B. Initial Merchant Builder is the owner and builder of the "*First Subdivision*" of the Project which is described as follows:

Units 11 to 24, inclusive, 39 to 43, inclusive, Association Property, and Condominium Common Area, as shown on that certain Serissa Phase 1 Condominium Plan, Lots 1 and 2, Tract 16518, recorded on December 19, 2003, as Instrument No. 203001502905, in the Official Records of Orange County, California, together with Lot A of Tract No. 16518, as shown on a Subdivision Map Filed on November 24, 2003, in Book 851, at Pages 17 to 21, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

C. Declarant and Initial Merchant Builder have recorded a Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for the Project which was recorded on

December 23, 2003, as Instrument No. 2003-001510997, in Official Records of Orange County, California ("**Declaration**").

D. No escrows have closed for the sale of any Residences in the Project and Declarant and Initial Merchant Builder now wish to amend the Declaration as provided herein.

NOW, THEREFORE, Declarant and Initial Merchant Builder hereby declare as follows:

1. **Amendment of Sections 12.15 and 12.16.** Sections 12.15 and 12.16 are hereby deleted and replaced with the following:

**"12.15 Resolution of Disputes.**

**12.15.1 Utilization of Alternative Dispute Resolution Procedures.**

The Association, any Project Association, each Owner of a Lot or Condominium in the Properties, and Declarant, for and on behalf of itself and all of the "**Declarant Parties**" (as defined below), acknowledge and agree that the utilization of alternative dispute resolution ("**ADR**") procedures (including, without limitation, mediation, arbitration and judicial reference) pursuant to this Declaration in lieu of traditional civil litigation is in accordance with the philosophy and intent of the Federal Arbitration Act (9 U.S.C. Sections 1 through 16) which is designed to encourage the use of alternative methods of dispute resolution that avoid costly and potentially lengthy traditional court proceedings. Parties interpreting this Section 12.15 shall follow the federal court rulings which provide, without limitation, that the Federal Arbitration Act (i) is a congressional declaration of a liberal federal policy favoring arbitration agreements as an alternative dispute resolution procedure, notwithstanding substantive or procedural state policies to the contrary; (ii) requires that federal and state courts rigorously enforce agreements to arbitrate; (iii) requires the scope of this alternative dispute resolution agreement be interpreted broadly in favor of arbitration; and (iv) requires disputes over whether an issue is arbitrable be resolved in favor of arbitration. Specifically, this Section is to be interpreted in accordance with federal court rulings. References herein to California Code Sections are not intended to be, and shall not be interpreted to be, a waiver of rights created under the Federal Arbitration Act. For purposes of this Section, the term "**Declarant Parties**" means and collectively refers to the Declarant, its members, managers, and each of their respective members, managers, shareholders, directors, officers and employees, and the term "**Declarant Party**" refers to any of the foregoing individually.

**12.15.2 Authority of the Board of Directors Regarding Resolution of Disputes.** The Board, for and on behalf of the Association, is authorized and empowered to initiate, defend, join in, settle and pay costs and expenses incurred in connection with any legal proceedings (including any ADR proceedings), as the Board, in its sole discretion, deems appropriate in connection with any dispute between or among: (1) the Association and any Owner(s); (2) the Association and any Project Association; (3) the Association and any of the Declarant Parties; (4)

the Association and any other person or entity; (5) any Owner and any of the Declarant Parties; and (6) any Owner and another Owner. Such disputes may pertain to, among other things, (i) the interpretation and/or enforcement of the Restrictions; (ii) damage to any Improvements to the Maintenance Property; and (iii) damage to the Lots and/or Condominiums which arises out of, or is integrally related to, any damage to the Maintenance Property. The Board is also authorized and empowered to perform any act reasonably necessary to resolve any such dispute through ADR proceedings.

12.15.3 Disputes Between Declarant and A Merchant Builder. All disputes between Declarant and a Merchant Builder shall be resolved solely in accordance with the documentation whereby the Merchant Builder purchased property in the Community from Declarant.

12.15.4 Disputes Involving the Declarant, the Association, the Maintenance Property. Except where prohibited by law and except as otherwise expressly set forth herein, all disputes that involve in any way or to any extent the Declarant (excluding disputes between the Declarant and a Merchant Builder as Owners), the Association and/or the Maintenance Property shall be resolved in accordance with the judicial reference provisions set forth in subsection 12.15.7 below. Notwithstanding the foregoing, any disputes between the Association and any Owner (including Declarant and any Merchant Builder) regarding delinquent Assessments may be resolved as provided in Sections 6.10 through 6.14 of this Declaration (including, without limitation, the commencement of a civil action for judicial foreclosure of the assessment lien). Additionally, any dispute between the Association and the Declarant regarding the enforcement of a completion bond for the Maintenance Property shall be resolved in accordance with the instructions accompanying such completion bond and with the provisions of the Section of this Declaration entitled "Enforcement of Certain Bonded Obligations."

12.15.5 Disputes Between an Owner and A Merchant Builder for Alleged Defects in the Design and/or Construction of the Owner's Residence. All disputes between a Merchant Builder and an Owner (and/or a Project Association) arising from, relating to or in any way connected with alleged defects in the design and/or construction of the Owner's Residence or other Improvements to his Lot or Condominium (or the Common Area) shall be resolved in accordance with the dispute resolution provisions, if any, set forth in either: (i) the purchase and sale documentation between the Merchant Builder and the affected Owner; or (ii) any document recorded by the Merchant Builder on the affected Lot or Condominium (or the Common Area). In any event, all disputes that involve the Declarant, the Association, the Maintenance Property as provided in subsection 12.15.4 above shall be resolved in accordance with the judicial reference provisions set forth in subsection 12.15.7 below.

12.15.6 Conditions Precedent to Commencing Legal Proceedings for Certain Disputes.

(a) Disputes Subject to Section 1354 of the California Civil Code. With respect to all disputes subject to California Civil Code Section 1354, before commencing any legal proceedings to resolve such disputes, the Association and each Owner (including Declarant and each Merchant Builder as an Owner) covenant and agree to comply with the mandatory ADR procedures set forth in Section 1354. If the parties to such dispute are unable to resolve the dispute by the mandatory ADR proceedings, the parties shall resolve the dispute by judicial reference in accordance with the provisions of subsection 12.15.7 below.

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

(i) Compliance with Civil Code Section 1375. Subject to subsection 12.15.3 above, before commencing any legal proceedings against any of the Declarant Parties based upon a claim for damage to the Maintenance Property, or for damage to any Lot or Condominium or any Common Area in the Properties which is integrally related to any damage to the Maintenance Property, the Association, each Project Association and each Owner covenant and agree that the Association, Project Association and each Owner (notwithstanding that Section 1375 does not expressly apply to Owners by its terms) will comply with the provisions of California Civil Code Section 1375. If the parties to such dispute are unable to resolve the dispute in accordance with the procedures set forth in Section 1375, the parties shall resolve the dispute by judicial reference in accordance with the provisions of subsection 12.15.7 below. In all cases, each party shall be solely responsible for its own attorneys' fees.

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

alleged defects; and (6) the potential impact the proceedings may have on the marketability and availability of financing and/or insurance for Lots and/or Condominiums in the Properties.

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

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

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

(c) The parties shall be entitled to conduct all discovery as provided in the California Code of Civil Procedure, and the Referee shall oversee discovery and may enforce all discovery orders in the same manner as any trial court judge, with rights to regulate discovery and to issue and/or enforce subpoenas, protective orders or other limitations on discovery available under California law.

(d) The judicial reference proceedings shall be conducted in accordance with California law (including the rules of evidence), and in all regards the Referee shall follow California law as applicable at the time of the reference proceedings. The Referee may issue any remedy or relief, other than punitive damages, which the courts of the State of California



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

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

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

(g) Except where attorneys' fees are awarded as an element of sanctions or pursuant to a written agreement, the parties shall bear their own attorneys' fees in any proceedings conducted hereunder. In any dispute involving Declarant on the one hand, and the Association, a Project Association or an Owner on the other hand, the Association, Project Association or the Owner shall advance an amount equal to the cost of filing a civil action for the same claim in the appropriate state court in the County, and Declarant shall advance the initiation/filing fees in excess of the amount advanced by the Association, Project Association or the Owner. Unless otherwise agreed to by the parties or ordered by the Referee, all other costs and fees of the proceedings shall be advanced

equally by the parties to the proceedings. For all disputes not involving the Declarant, the initiation/filing fees and all other costs and fees of the proceedings shall be advanced equally by each party to the proceedings (unless otherwise agreed among the parties or ordered by the Referee). In all cases, the costs and fees (including, without limitation, the initiation/filing fees, but excluding attorneys' fees) of such judicial reference proceedings shall ultimately be borne as determined by the Referee in his discretion as the interests of justice dictate. The Referee may award litigation costs to the prevailing party.

12.16 WAIVERS; SEVERABILITY; AMENDMENTS TO SECTIONS 12.15 AND/OR 12.16.

12.16.1 WAIVER OF COURT AND JURY TRIAL. AS TO ALL DISPUTES SUBJECT TO THE ALTERNATIVE DISPUTE RESOLUTION PROVISIONS SET FORTH OR REFERENCED IN THIS SECTION, THE ASSOCIATION, ANY PROJECT ASSOCIATION, EACH OWNER AND THE DECLARANT PARTIES WAIVE ANY RIGHTS TO JURY TRIAL, APPEAL AND OTHER CIVIL LITIGATION PROCEEDINGS FOR SUCH DISPUTES, EXCEPT AS OTHERWISE EXPRESSLY SET FORTH OR REFERENCED HEREIN. IN THE EVENT ANY OF THE PROCEDURES SET FORTH OR REFERENCED HEREIN ARE DETERMINED TO BE INVALID OR UNENFORCEABLE, IN WHOLE OR IN MATERIAL PART, SUCH THAT THE RESOLUTION OF THE DISPUTE SHALL PROCEED BY WAY OF CIVIL LITIGATION PROCEEDINGS, THE ASSOCIATION, EACH PROJECT ASSOCIATION, EACH OWNER AND THE DECLARANT PARTIES NONETHELESS WAIVE THE RIGHT TO JURY TRIAL WITH RESPECT TO SUCH DISPUTE.

12.16.2 WAIVER OF PUNITIVE DAMAGES. AS TO ALL DISPUTES SUBJECT TO THE ALTERNATIVE DISPUTE RESOLUTION PROVISIONS SET FORTH OR REFERENCED IN THIS SECTION, THE ASSOCIATION, ANY EACH PROJECT ASSOCIATION, EACH OWNER AND THE DECLARANT PARTIES WAIVE ANY RIGHTS TO PUNITIVE OR EXEMPLARY DAMAGES.

12.16.3 Severability. If any provision of Sections 12.15 and/or 12.16 is for any reason held to be invalid, unenforceable or contrary to any public policy, law, statute and/or ordinance, then the remainder of the provisions shall not be affected thereby and shall remain valid and fully enforceable.

12.16.4 Amendments. The provisions of Sections 12.15 and 12.16 may not be amended without the prior express written consent of Declarant.

2. Description of Common Area. The description of the "Common Area" set forth in *Exhibit "H"* of the Declaration is hereby superseded in its entirety by the description set forth in *Exhibit "I"* hereto.

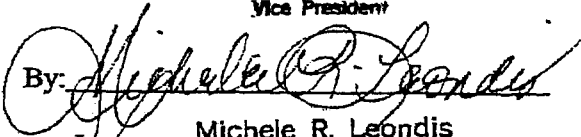
3. **Ratification.** Except as otherwise expressly provided herein, (a) all capitalized words and phases used in this First Amendment shall have the same meanings given them in the Declaration and (b) the Declaration is hereby ratified and confirmed by Declarant and Initial Merchant Builder.

**Declarant:**

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC, a Delaware limited liability  
company

By: 

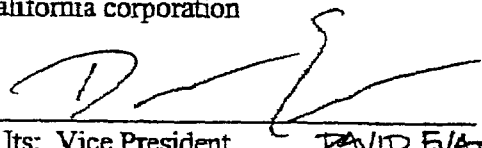
Its: THOMAS E. HEGGI  
Vice President

By: 

Its: Michele R. Leondis  
Assistant Secretary

**Initial Merchant Builder:**

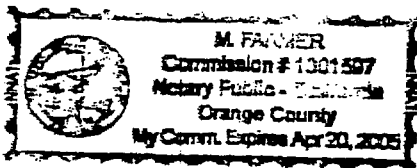
LENNAR HOMES OF CALIFORNIA, INC.,  
a California corporation

By:   
Its: Vice President DAVID EVANS

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On March 25, 2004, before me, M. Farmer, a Notary Public, personally appeared Thomas E. Hays and Nichelle R. Lumbis, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
Notary Public

(SEAL)

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On \_\_\_\_\_, 2004, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

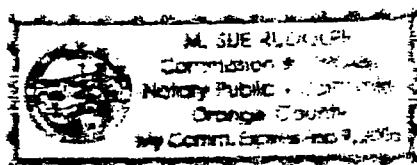
\_\_\_\_\_  
Notary Public

(SEAL)

STATE OF CALIFORNIA        )  
  ) ss  
COUNTY OF ORANGE        )

On March 25, 2004, before me, M. Sue Rudolph, Notary Public, personally appeared David Evans, personally known to me to be the persons whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



*M. Sue Rudolph*  
\_\_\_\_\_  
Notary Public

**EXHIBIT "1"**

**EXHIBIT "H" TO DECLARATION -  
DESCRIPTION OF COMMON AREA IN FIRST SUBDIVISION**

All that certain real property located in the City of Irvine, County of Orange, State of California, as described as follows: -

The "Association Property," as shown on that certain Serissa Phase 1 Condominium Plan, Lots 1 and 2, Tract 16518, recorded on December 19, 2003, as Instrument No. 203001502905, in the Official Records of Orange County, California, together with Lot A of Tract No. 16518, as shown on a Subdivision Map Filed on November 24, 2003, in Book 851, at Pages 17 to 21, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

## Government Code 27361.7

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

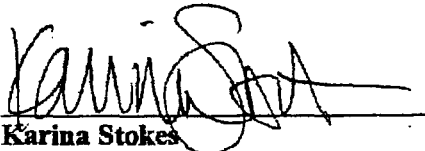
Name of Notary: M. FARMER  
Commission No.: 1301597  
County where bond is Filed: ORANGE  
Date commission Expires: APRIL 20, 2005  
Manufacturer/Vendor No.: NNA1

I certify under penalty of perjury that the illegible portion of the document to which this statement is attached reads as follows:

“”

Place of execution – Santa Ana

Date – MARCH 26, 2004



**Karina Stokes**  
**First American Title Company**

## Government Code 27361.7

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

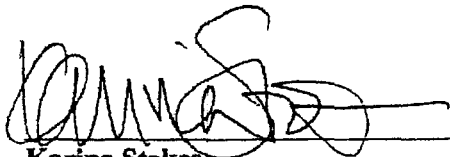
Name of Notary: M. SUE RUDOLPH  
Commission No.: 1290486  
County where bond is Filed: ORANGE  
Date commission Expires: FEBRUARY 9, 2005  
Manufacturer/Vendor No.: NNA1

I certify under penalty of perjury that the illegible portion of the document to which this statement is attached reads as follows:

“”

Place of execution – Santa Ana

Date – MARCH 26, 2004



**Karina Stokes**  
**First American Title Company**



Recorded in Official Records, County of Orange  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:



2004000279836 10:49am 04/05/04

WHEN RECORDED MAIL TO:

104 28 D01 13  
0.00 0.00 0.00 0.00 36.00 0.00 0.00 0.00

NORTHWOOD II COMMUNITY ASSOCIATION  
c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, CA 92705  
Attn: Pam Hunt

WITH A CONFORMED COPY TO:

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND RESERVATION OF EASEMENTS  
FOR  
NORTHWOOD II  
(SERISSA, PHASE 2, TRACT 16518)  
(MERCHANT BUILDER)**

THIS SUPPLEMENTAL DECLARATION is made on MARCH 30,  
2004, by LENNAR HOMES OF CALIFORNIA, INC., a California corporation  
(*"Merchant Builder"*).

**P R E A M B L E:**

A. Merchant Builder is the record owner of certain real property in the  
City of Irvine, County of Orange, State of California, described as:

Units 54 to 68, inclusive, 79 to 83, inclusive, Association  
Property, and Condominium Common Area, as shown on  
that certain Serissa Phase 2 Condominium Plan, Lots 3 and  
4, Tract 16518, recorded on April 2,  
2004, as Instrument No. 2004000278346  
(*"Condominium Plan"*), in the Official Records of Orange  
County, California, together with Lot B of Tract No.  
16518, as shown on a Subdivision Map Filed on November

70 019 70 -23

24, 2003, in Book 851, at Pages 17 to 21, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

The Units above are collectively referred to herein as the “*Residential Area.*”

B. Merchant Builder is the record owner (exclusive of public rights-of-way) of certain real property (“*Maintenance Property*”) in the City of Irvine, County of Orange, State of California, if any, described on *Exhibit “1”* attached hereto. The Residential Area, the other real property described in Preamble Paragraph A above and the Maintenance Property are collectively referred to hereinafter as the “*Annexed Territory.*”

C. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (“*Declaration*”) for Northwood II (“*Properties*”). The Declaration was recorded on December 23, 2003, as Instrument No. 2003-001510997, in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

D. Merchant Builder is a “*Merchant Builder*” as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Merchant Builder intends to improve and sell the Residential Area in the Annexed Territory to the public, and to provide for the maintenance of the Maintenance Property in the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

E. Pursuant to Article II of the Declaration, Merchant Builder now desires to add the Annexed Territory to the Properties subject to the Declaration as a portion of the Maintenance Association Delegate District which is described in the title of this Supplemental Declaration.

THEREFORE, MERCHANT BUILDER HEREBY DECLARES AS FOLLOWS:

1. **Definitions.** Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. **Annexation of Territory and Establishment of Comprehensive Plan.**

2.1 **Comprehensive Plan.** This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement and sale of Lots or Condominiums within the Annexed Territory and for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Annexed Territory and each Lot or Condominium therein.

2.2 **Annexation.** Merchant Builder hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3 **Phase of Development.** The Annexed Territory comprises a single Phase of Development of the Properties.

2.4 **Equitable Servitudes.** The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory and each Lot or Condominium therein, as a servient tenement, for the benefit of each and every other Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.5 **Covenants Appurtenant.** The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.

2.6 **Restrictions.** This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

2.7 **Membership.** The Owners of Lots or Condominiums in the Annexed Territory shall automatically become Members of the Northwood II Community Association (the "Maintenance Association" described in Article IV of the Declaration).

### 3. **Land Classifications.**

3.1 **Residential Area.** The Residential Area (other than those portions, if any, comprising Maintenance Property owned as easements) in the Annexed Territory is hereby designated as Residential Area pursuant to Article II of the Declaration.

3.2 **Maintenance Property.** The Maintenance Property in the Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("**Multi-Phased Maintenance Property**") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("**Alternative Phase**").

3.2.1 **Title to Maintenance Property.** Merchant Builder hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the

Declaration over their respectively owned Maintenance Property, if any, designated on *Exhibit "1"* hereto for easement ownership by the Maintenance Association, such easement to be effective upon the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on *Exhibit "1"* hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association prior to the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory, as further provided in Section 3.6.1 of the Declaration. The Maintenance Association shall also maintain the Public Property (as defined in the Declaration), if any, depicted on *Exhibit "1"* hereto.

**3.2.2 Commencement of Maintenance.** The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on *Exhibit "1"* hereto, concurrently with the commencement of Common Assessments in the Annexed Territory; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

**3.2.3 Relocation of Maintenance Property Easement.** Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("*Interim Easement Area*") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

**3.3 Common Area.** The "Common Area" (as defined in the Declaration) in the Annexed Territory consists of the "Association Property" described in the Condominium Plan and Lot B of Tract No. 16518.

**4. Assessment Obligations.** The rights and obligations of all Owners of Lots or Condominiums located in the Annexed Territory with respect to Maintenance Association assessments shall be as set forth in the Declaration and this Supplemental Declaration. All assessments provided for in the Declaration shall commence as to each Lot or Condominium in the Annexed Territory on first day of the first month following the month in which the first Close of Escrow occurs for the sale of a Lot or Condominium in the Annexed Territory.

**5. Architectural Committee Rules/Views.** The Board may but need not adopt and enforce supplemental Architectural Committee Rules which are solely applicable to the Annexed Territory; provided that such supplemental Architectural Committee Rules are first approved by Declarant pursuant to the Declaration. Such

supplemental Architectural Committee Rules shall be in addition to any Architectural Committee Rules generally applicable to the Properties and may address design, color, siting and other matters within the jurisdiction of the Architectural Committee which are distinctive or unique to the Annexed Territory or the Condominium Project or Planned Development in which the Annexed Territory is located. There are no views in the Annexed Territory which are protected to any extent pursuant to the Declaration or this Supplemental Declaration, as further provided in the Declaration.

6. **Airport Influence Area.** The Properties are presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the Properties may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. Each Owner is advised to consider what airport annoyances, if any, are associated with the Properties before acquiring a Residence and to determine whether those annoyances are acceptable to such Owner.

7. **Miscellaneous Provisions.**

7.1 **Amendment and Duration.** Until the first Close of Escrow for the sale of a Lot or Condominium in the Annexed Territory, this Supplemental Declaration may be amended or terminated by Merchant Builder in the manner set forth in Article XII of the Declaration. Upon the first Close of Escrow in the Annexed Territory, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Section 2.3.6 of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

7.2 **Enforcement and Non-Waiver.** Reference is hereby made to the provisions of Section 12.5 of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

7.3 **Restrictions Construed Together.** All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration. Except as may be otherwise provided in this Supplemental Declaration or the Declaration, the rights and obligations of the Owners located in the Annexed Territory shall be the same as the rights and obligations of the other Owners now or hereafter affected by the Declaration.

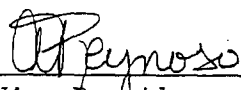
7.4 **Restrictions Severable.** Notwithstanding the foregoing Section 6.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

7.5 **Number/Captions.** As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.

Merchant Builder has executed this Supplemental Declaration the day and year first written above.

“MERCHANT BUILDER”


LENNAR HOMES OF CALIFORNIA,  
INC., a California corporation


By:   
Its: Vice President

In accordance with Article II of the Declaration, Declarant approves the recordation of this Supplemental Declaration.

“DECLARANT”

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC, a  
Delaware limited liability company

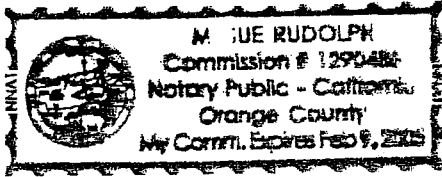
By:   
Its: THOMAS E. HEGGI  
Vice President

By:   
Its: Michele R. Leonidis  
Assistant Secretary

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On March 26, 2004, before me, M. Sue Rudolph, a Notary Public, personally appeared Anita Reynoso, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



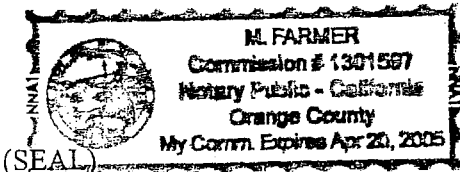
M. Sue Rudolph  
Notary Public

(SEAL)

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On March 31, 2004, before me, M. Farmer, a Notary Public, personally appeared Thomas E. Hegg & Michele R. Leonardis, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

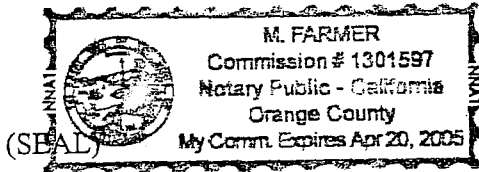


M. Farmer  
Notary Public

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On March 31, 2004, before me, M. Farmer, a Notary Public, personally appeared Thomas E. Heggi, personally known to me or proved to me on the basis of satisfactory evidence to be the person~~s~~ whose name~~s~~ (is/~~are~~) subscribed to the within instrument and acknowledged to me that (he/~~she/they~~) executed the same in (his/~~her/their~~) authorized capacit~~(-y/-ies)~~, and that by (his/~~her/their~~) signature~~s~~ on the instrument the person~~s~~, or the entity upon behalf of which the person~~s~~ acted, executed the instrument.

WITNESS my hand and official seal.

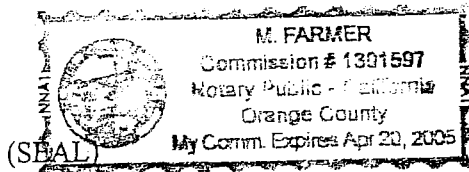


M. Farmer  
Notary Public

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On March 31, 2004, before me, M. Farmer, a Notary Public, personally appeared Michele R. Leonidis, personally known to me or proved to me on the basis of satisfactory evidence to be the person~~s~~ whose name~~s~~ (is/~~are~~) subscribed to the within instrument and acknowledged to me that (he/~~she/they~~) executed the same in (his/~~her/their~~) authorized capacit~~(-y/-ies)~~, and that by (his/~~her/their~~) signature~~s~~ on the instrument the person~~s~~, or the entity upon behalf of which the person~~s~~ acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
Notary Public



**EXHIBIT "1"**

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

PARCEL NO. 1

None.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Maintenance Property which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

PARCEL NO. 2

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not Applicable.

PARCEL NO. 3 [Public Property to be maintained by the Maintenance Association]

Not applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT "1" CONTINUED  
DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

None.

Government Code Sec. 27361.7

I certify under the penalty of perjury that the notary seal on the document to which this statement is attached reads as follows:

Name of Notary: M. Farmer  
Date Commission Expires: April 20, 2005  
Commission No.: 1301597  
Vendor No.: NNA1  
County Where Bond is Filed: Orange

.....  
Place of Execution: Orange, California  
Dated: April 2, 2004

North American Title Company

  
\_\_\_\_\_  
Cathy Boula

Government Code Sec. 27361.7

I certify under the penalty of perjury that the notary seal on the document to which this statement is attached reads as follows:

Name of Notary: M. Sue Rudolph

Date Commission Expires: February 9, 2005

Notary Phone Number: (949) 598-8694

Commission No.: 1290486

Vendor No.: NNA1

County Where Bond is Filed: Orange

.....  
Place of Execution: Orange, California

Dated: April 2, 2004

North American Title Company

  
\_\_\_\_\_  
Cathy Boula

Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:



48.00

2004000674307 01:33pm 07/26/04

WHEN RECORDED MAIL TO:

108 49 D02 S12 13

0.00 0.00 0.00 0.00 36.00 0.00 0.00 0.00

NORTHWOOD II COMMUNITY ASSOCIATION  
c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, CA 92705  
Attn: Pam Hunt

WITH A CONFORMED COPY TO:

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel

7001970-23

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND RESERVATION OF EASEMENTS  
FOR  
NORTHWOOD II  
(SERISSA, PHASE 3, TRACT 16518)  
(MERCHANT BUILDER)**

THIS SUPPLEMENTAL DECLARATION is made on JULY 14,  
2004, by LENNAR HOMES OF CALIFORNIA, INC., a California corporation  
(*"Merchant Builder"*).

**P R E A M B L E:**

A. Merchant Builder is the record owner of certain real property in the  
City of Irvine, County of Orange, State of California, described as:

Units 49 to 53, inclusive, 69 to 78, inclusive, and 84 to 88,  
inclusive, Association Property, and Condominium  
Common Area, as shown on that certain Serissa Phase 3  
Condominium Plan, Lots 5 and 6, Tract 16518, recorded on  
July 22, 2004, as Instrument No.  
2004000666844 (*"Condominium Plan"*),  
in the Official Records of Orange County, California,  
together with Lot C of Tract No. 16518, as shown on a

Subdivision Map Filed on November 24, 2003, in Book 851, at Pages 17 to 21, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

The Units above are collectively referred to herein as the “*Residential Area.*”

B. Merchant Builder is the record owner (exclusive of public rights-of-way) of certain real property (“*Maintenance Property*”) in the City of Irvine, County of Orange, State of California, if any, described on *Exhibit “I*” attached hereto. The Residential Area, the other real property described in Preamble Paragraph A above and the Maintenance Property are collectively referred to hereinafter as the “*Annexed Territory.*”

C. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (as amended, the “*Declaration*”) for Northwood II (“*Properties*”). The Declaration was recorded on December 23, 2003, as Instrument No. 2003-001510997, and amended by the First Amendment to Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II recorded on March 26, 2004, as Instrument No. 2004-000251181, both in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

D. Merchant Builder is a “*Merchant Builder*” as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Merchant Builder intends to improve and sell the Residential Area in the Annexed Territory to the public, and to provide for the maintenance of the Maintenance Property in the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

E. Pursuant to Article II of the Declaration, Merchant Builder now desires to add the Annexed Territory to the Properties subject to the Declaration.

THEREFORE, MERCHANT BUILDER HEREBY DECLARES AS FOLLOWS:

1. **Definitions.** Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. **Annexation of Territory and Establishment of Comprehensive Plan.**

2.1 **Comprehensive Plan.** This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement and sale of Lots or Condominiums within the Annexed Territory and for the purpose of enhancing

and perfecting the value, desirability and attractiveness of the Annexed Territory and each Lot or Condominium therein.

2.2 **Annexation.** Merchant Builder hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3 **Phase of Development.** The Annexed Territory comprises a single Phase of Development of the Properties.

2.4 **Equitable Servitudes.** The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory and each Lot or Condominium therein, as a servient tenement, for the benefit of each and every other Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.5 **Covenants Appurtenant.** The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.

2.6 **Restrictions.** This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

2.7 **Membership.** The Owners of Lots or Condominiums in the Annexed Territory shall automatically become Members of the Northwood II Community Association (the "Maintenance Association" described in Article IV of the Declaration).

### 3. **Land Classifications.**

3.1 **Residential Area.** The Residential Area (other than those portions, if any, comprising Maintenance Property owned as easements) in the Annexed Territory is hereby designated as Residential Area pursuant to Article II of the Declaration.

3.2 **Maintenance Property.** The Maintenance Property in the Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("**Multi-Phased Maintenance Property**") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("**Alternative Phase**").

3.2.1 **Title to Maintenance Property.** Merchant Builder hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the Declaration over their respectively owned Maintenance Property, if any, designated on *Exhibit "1"* hereto for easement ownership by the Maintenance Association, such easement to be effective upon the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on *Exhibit "1"* hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association prior to the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory, as further provided in Section 3.6.1 of the Declaration. The Maintenance Association shall also maintain the Public Property (as defined in the Declaration), if any, depicted on *Exhibit "1"* hereto.

3.2.2 **Commencement of Maintenance.** The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on *Exhibit "1"* hereto, concurrently with the commencement of Common Assessments in the Annexed Territory; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

3.2.3 **Relocation of Maintenance Property Easement.** Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("*Interim Easement Area*") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

3.3 **Common Area.** The "Common Area" (as defined in the Declaration) in the Annexed Territory consists of the "Association Property" described in the Condominium Plan and Lot C of Tract No. 16518.

4. **Assessment Obligations.** The rights and obligations of all Owners of Lots or Condominiums located in the Annexed Territory with respect to Maintenance Association assessments shall be as set forth in the Declaration and this Supplemental Declaration. All assessments provided for in the Declaration shall commence as to each Lot or Condominium in the Annexed Territory on first day of the first month following the month in which the first Close of Escrow occurs for the sale of a Lot or Condominium in the Annexed Territory.



5. **Architectural Committee Rules/Views.** The Board may but need not adopt and enforce supplemental Architectural Committee Rules which are solely applicable to the Annexed Territory; provided that such supplemental Architectural Committee Rules are first approved by Declarant pursuant to the Declaration. Such supplemental Architectural Committee Rules shall be in addition to any Architectural Committee Rules generally applicable to the Properties and may address design, color, siting and other matters within the jurisdiction of the Architectural Committee which are distinctive or unique to the Annexed Territory or the Condominium Project or Planned Development in which the Annexed Territory is located. There are no views in the Annexed Territory which are protected to any extent pursuant to the Declaration or this Supplemental Declaration, as further provided in the Declaration.

6. **Airport Influence Area.** The Properties are presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the Properties may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. Each Owner is advised to consider what airport annoyances, if any, are associated with the Properties before acquiring a Residence and to determine whether those annoyances are acceptable to such Owner.

7. **Miscellaneous Provisions.**

7.1 **Amendment and Duration.** Until the first Close of Escrow for the sale of a Lot or Condominium in the Annexed Territory, this Supplemental Declaration may be amended or terminated by Merchant Builder in the manner set forth in Article XII of the Declaration. Upon the first Close of Escrow in the Annexed Territory, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Section 2.3.6 of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

7.2 **Enforcement and Non-Waiver.** Reference is hereby made to the provisions of Section 12.5 of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

7.3 **Restrictions Construed Together.** All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration. Except as may be otherwise provided in this Supplemental Declaration or the Declaration, the rights and obligations of the Owners located in the Annexed Territory shall be the same as the rights and obligations of the other Owners now or hereafter affected by the Declaration.

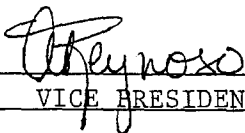
7.4 **Restrictions Severable.** Notwithstanding the foregoing Section 6.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

7.5 **Number/Captions.** As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.

Merchant Builder has executed this Supplemental Declaration the day and year first written above.

“MERCHANT BUILDER”


LENNAR HOMES OF CALIFORNIA,  
INC., a California corporation

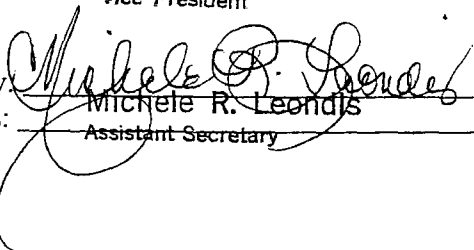
By:   
Its: VICE PRESIDENT

In accordance with Article II of the Declaration, Declarant approves the recordation of this Supplemental Declaration.

“DECLARANT”

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC, a  
Delaware limited liability company

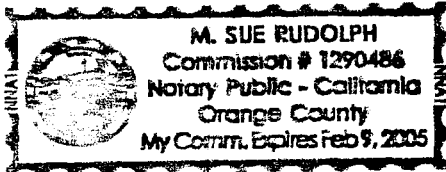
By:   
Its: THOMAS E. HEGGI  
Vice President

By:   
Its: MICHELE R. LEONDIS  
Assistant Secretary

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On JULY 14, 2004, before me, M. SUE RUDOLPH, a Notary Public, personally appeared ANITA REYNOSO, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



(SEAL)

A handwritten signature in cursive script that reads "M. SUE RUDOLPH".

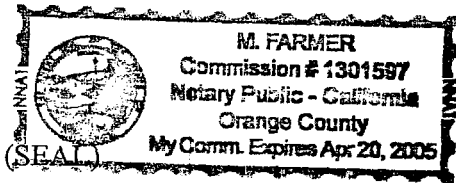
Notary Public

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

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On July 16, 2004, before me, M. Farmer, a Notary Public, personally appeared Thomas E. Heggi + Michele R. Leotis, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



(SEAL)

A handwritten signature in cursive script that reads "M. Farmer".


Notary Public


**SUBORDINATION**

The undersigned, as Beneficiary of the beneficial interest in and under that certain Deed of Trust dated March 15, 2004, recorded on July 1, 2004, in the Official Records of Orange County, California, as Instrument No. 2004-000603487, which Deed of Trust is between LENNAR HOMES OF CALIFORNIA, INC., a California corporation, as Trustor, FIRST AMERICAN TITLE INSURANCE COMPANY, as Trustee, and IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company, as Beneficiary, hereby expressly subordinates such Deed of Trust and its beneficial interests thereunder to the foregoing Supplemental Declaration, the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Northwood II described therein ("**Declaration**"), and to all easements to be conveyed to the Maintenance Association in accordance with the Declaration and the Supplemental Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Properties by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deed of Trust, the undersigned will acquire title subject to the provisions of the Declaration and the Supplemental Declaration, which shall remain in full force and effect.

Dated July 16, 2004

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC, a  
Delaware limited liability company

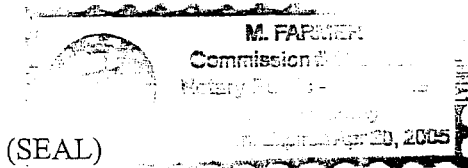
By:   
Its: THOMAS E. HEGG  
Vice President

By:   
Its: Michele R. Leondis  
Assistant Secretary

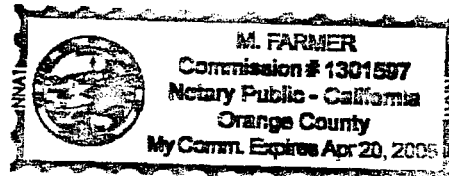
STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On July 16, 2004, before me, M. Farmer, a Notary Public, personally appeared Thomas E. Hegzi and Michele R. Leondis, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



M. Farmer  
Notary Public



STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On \_\_\_\_\_, 200\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(SEAL)

**EXHIBIT "1"**

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

**PARCEL NO. 1**

None.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Maintenance Property which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

**PARCEL NO. 2**

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not Applicable.

**PARCEL NO. 3** [Public Property to be maintained by the Maintenance Association]

Not applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT "1" CONTINUED  
DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

None.

GOVERNMENT CODE 27361-7

I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE NOTARY  
ACKNOWLEDGEMENT  
ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS  
FOLLOWS:

NAME OF NOTARY: M. Sue Rudolph

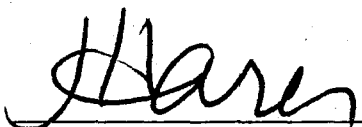
DATE OF COMMISSION EXPIRES: Feb. 9, 2005

COUNTY IN WHICH BOND IS FILED: Orange

COMMISSION #: 1290486

MANUFACTURER/VENDOR NO: NNAI

DATE: 7/26/04



JENNIFER HARER  
NORTH AMERICAN TITLE COMPANY

ORANGE, CA  
PLACE OF EXECUTION

---



GOVERNMENT CODE 27361-7

I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE NOTARY  
ACKNOWLEDGEMENT  
ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS  
FOLLOWS:

NAME OF NOTARY: M. Farmer

DATE OF COMMISSION EXPIRES: April 20, 2005

COUNTY IN WHICH BOND IS FILED: Orange

COMMISSION #: 1301597

MANUFACTURER/VENDOR NO: NNAI

DATE: 7/26/04



JENNIFER HARER  
NORTH AMERICAN TITLE COMPANY

ORANGE, CA  
PLACE OF EXECUTION

---

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Recorded in Official Records, Orange County  
Tom Daly, Clerk-Recorder

**RECORDING REQUESTED BY:**

NORTH AMERICAN TITLE COMPANY



36.00

2004000720121 03:46pm 08/09/04

**WHEN RECORDED MAIL TO:**

227 28 D01 11

0.00 0.00 0.00 0.00 30.00 0.00 0.00 0.00

NORTHWOOD II COMMUNITY ASSOCIATION  
c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, CA 92705  
Attn: Pam Hunt

**WITH A CONFORMED COPY TO:**

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC  
550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel

7001970-23

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND RESERVATION OF EASEMENTS  
FOR  
NORTHWOOD II  
(SERISSA, PHASE 4, TRACT 16518)  
(MERCHANT BUILDER)**

THIS SUPPLEMENTAL DECLARATION is made on July 23,  
2004, by LENNAR HOMES OF CALIFORNIA, INC., a California corporation  
("Merchant Builder").

**P R E A M B L E:**

A. Merchant Builder is the record owner of certain real property in the  
City of Irvine, County of Orange, State of California, described as:

Units 25 to 35, inclusive, and 44 to 48, inclusive,  
Association Property, and Condominium Common Area, as  
shown on that certain Serissa Phase 4 Condominium Plan,  
Lots 7 and 8, Tract 16518, recorded on August 3, 2004,  
2004, as Instrument No. 2004000703117  
("Condominium Plan"), in the Official Records of Orange  
County, California, together with Lot E of Tract No. 16518,

as shown on a Subdivision Map Filed on November 24, 2003, in Book 851, at Pages 17 to 21, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

The Units above are collectively referred to herein as the “*Residential Area.*”

B. Merchant Builder is the record owner (exclusive of public rights-of-way) of certain real property (“*Maintenance Property*”) in the City of Irvine, County of Orange, State of California, if any, described on *Exhibit “1”* attached hereto. The Residential Area, the other real property described in Preamble Paragraph A above and the Maintenance Property are collectively referred to hereinafter as the “*Annexed Territory.*”

C. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (as amended, the “*Declaration*”) for Northwood II (“*Properties*”). The Declaration was recorded on December 23, 2003, as Instrument No. 2003-001510997, and amended by the First Amendment to Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II recorded on March 26, 2004, as Instrument No. 2004-000251181, both in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

D. Merchant Builder is a “*Merchant Builder*” as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Merchant Builder intends to improve and sell the Residential Area in the Annexed Territory to the public, and to provide for the maintenance of the Maintenance Property in the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

E. Pursuant to Article II of the Declaration, Merchant Builder now desires to add the Annexed Territory to the Properties subject to the Declaration.

THEREFORE, MERCHANT BUILDER HEREBY DECLARES AS FOLLOWS:

1. **Definitions.** Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. **Annexation of Territory and Establishment of Comprehensive Plan.**

2.1 **Comprehensive Plan.** This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement and sale of

Lots or Condominiums within the Annexed Territory and for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Annexed Territory and each Lot or Condominium therein.

2.2 **Annexation.** Merchant Builder hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3 **Phase of Development.** The Annexed Territory comprises a single Phase of Development of the Properties.

2.4 **Equitable Servitudes.** The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory and each Lot or Condominium therein, as a servient tenement, for the benefit of each and every other Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.5 **Covenants Appurtenant.** The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.

2.6 **Restrictions.** This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

2.7 **Membership.** The Owners of Lots or Condominiums in the Annexed Territory shall automatically become Members of the Northwood II Community Association (the "Maintenance Association" described in Article IV of the Declaration).

### 3. **Land Classifications.**

3.1 **Residential Area.** The Residential Area (other than those portions, if any, comprising Maintenance Property owned as easements) in the Annexed Territory is hereby designated as Residential Area pursuant to Article II of the Declaration.

3.2 **Maintenance Property.** The Maintenance Property in the Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("**Multi-Phased Maintenance Property**") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("**Alternative Phase**").

**3.2.1 Title to Maintenance Property.** Merchant Builder hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the Declaration over their respectively owned Maintenance Property, if any, designated on *Exhibit "1"* hereto for easement ownership by the Maintenance Association, such easement to be effective upon the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on *Exhibit "1"* hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association prior to the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory, as further provided in Section 3.6.1 of the Declaration. The Maintenance Association shall also maintain the Public Property (as defined in the Declaration), if any, depicted on *Exhibit "1"* hereto.

**3.2.2 Commencement of Maintenance.** The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on *Exhibit "1"* hereto, concurrently with the commencement of Common Assessments in the Annexed Territory; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

**3.2.3 Relocation of Maintenance Property Easement.** Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("*Interim Easement Area*") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

**3.3 Common Area.** The "Common Area" (as defined in the Declaration) in the Annexed Territory consists of the "Association Property" described in the Condominium Plan.

**4. Assessment Obligations.** The rights and obligations of all Owners of Lots or Condominiums located in the Annexed Territory with respect to Maintenance Association assessments shall be as set forth in the Declaration and this Supplemental Declaration. All assessments provided for in the Declaration shall commence as to each Lot or Condominium in the Annexed Territory on first day of the first month following the month in which the first Close of Escrow occurs for the sale of a Lot or Condominium in the Annexed Territory.

5. **Architectural Committee Rules/Views.** The Board may but need not adopt and enforce supplemental Architectural Committee Rules which are solely applicable to the Annexed Territory; provided that such supplemental Architectural Committee Rules are first approved by Declarant pursuant to the Declaration. Such supplemental Architectural Committee Rules shall be in addition to any Architectural Committee Rules generally applicable to the Properties and may address design, color, siting and other matters within the jurisdiction of the Architectural Committee which are distinctive or unique to the Annexed Territory or the Condominium Project or Planned Development in which the Annexed Territory is located. There are no views in the Annexed Territory which are protected to any extent pursuant to the Declaration or this Supplemental Declaration, as further provided in the Declaration.

6. **Airport Influence Area.** The Properties are presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the Properties may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. Each Owner is advised to consider what airport annoyances, if any, are associated with the Properties before acquiring a Residence and to determine whether those annoyances are acceptable to such Owner.

7. **Miscellaneous Provisions.**

7.1 **Amendment and Duration.** Until the first Close of Escrow for the sale of a Lot or Condominium in the Annexed Territory, this Supplemental Declaration may be amended or terminated by Merchant Builder in the manner set forth in Article XII of the Declaration. Upon the first Close of Escrow in the Annexed Territory, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Section 2.3.6 of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

7.2 **Enforcement and Non-Waiver.** Reference is hereby made to the provisions of Section 12.5 of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

7.3 **Restrictions Construed Together.** All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration. Except as may be otherwise provided in this Supplemental Declaration or the Declaration, the rights and obligations of the Owners located in the Annexed Territory shall be the same as the rights and obligations of the other Owners now or hereafter affected by the Declaration.


7.4 **Restrictions Severable.** Notwithstanding the foregoing Section 6.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

7.5 **Number/Captions.** As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.

Merchant Builder has executed this Supplemental Declaration the day and year first written above.

“MERCHANT BUILDER”


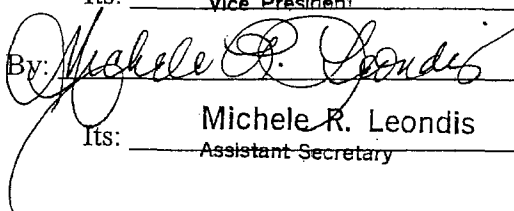
LENNAR HOMES OF CALIFORNIA,  
INC., a California corporation

By:   
David Evans  
Its: Vice President

In accordance with Article II of the Declaration, Declarant approves the recordation of this Supplemental Declaration.

“DECLARANT”

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC, a  
Delaware limited liability company

By:   
THOMAS E. HEGGI  
Its: Vice President  
By:   
Michele R. Leondis  
Its: Assistant Secretary

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On July 23, 2004, before me, M. Sue Rudolph, a Notary Public, personally appeared David Evans, personally known to me or ~~proved to me on the basis of satisfactory evidence~~ to be the person(s) whose name(s) (is/~~are~~) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/~~her~~/~~their~~) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



(SEAL)

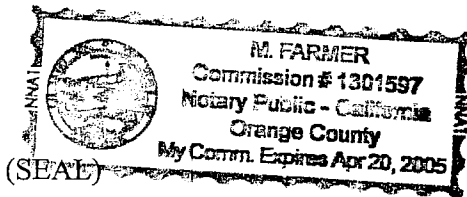
M. Sue Rudolph  
Notary Public.

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

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On July 28, 2004, before me, M. Farmer, a Notary Public, personally appeared Thomas E. Heggi and Michele R. Leonidis, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (~~is~~/~~are~~) subscribed to the within instrument and acknowledged to me that (he/~~she~~/they) executed the same in (his/~~her~~/their) authorized capacit(-y/-ies), and that by (his/~~her~~/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



(SEAL)

M. Farmer  
Notary Public

M. Farmer  
Commission # 1301597  
County: Orange County  
Commission Expires April 20, 2005  
NNA1



**SUBORDINATION**

The undersigned, as Beneficiary of the beneficial interest in and under those certain Deeds of Trust dated December 10, 2003, and June 1, 2004, recorded on January 14, 2004, and July 15, 2004, in the Official Records of Orange County, California, as Instrument No. 2004-000031087 and Instrument No. 2004-000639541, respectively, which Deeds of Trust are between LENNAR HOMES OF CALIFORNIA, INC., a California corporation, as Trustor, FIRST AMERICAN TITLE INSURANCE COMPANY, as Trustee, and IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company, as Beneficiary, hereby expressly subordinates such Deed of Trust and its beneficial interests thereunder to the foregoing Supplemental Declaration, the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Northwood II described therein ("**Declaration**"), and to all easements to be conveyed to the Maintenance Association in accordance with the Declaration and the Supplemental Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Properties by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deeds of Trust, the undersigned will acquire title subject to the provisions of the Declaration and the Supplemental Declaration, which shall remain in full force and effect.

Dated July 28, 2004

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC, a  
Delaware limited liability company

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


Its: THOMAS F. HEGGI  
Vice President  
By: Michele R. Leondis  
Its: Michele R. Leondis  
Assistant Secretary

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT**

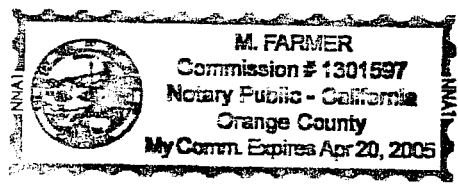
STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF ORANGE

On July 28, 2004, before me, M. Farmer, Notary Public, personally appeared THOMAS E. HEGGI and MICHELE R. LEONDIS, personally known to me (or proved to me on the basis of satisfactory evidence) to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

  
M. Farmer Notary Public in and for said State

(SEAL)



M. Farmer  
Commission # 1301597  
County: Orange County  
Commission Expires April 20, 2005  
NNA1

**EXHIBIT "1"**

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

**PARCEL NO. 1**

Lot E of Tract No. 16518, as shown on a Subdivision Map Filed in Book 851, at Pages 17 to 21, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Maintenance Property which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

**PARCEL NO. 2**

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not Applicable.

**PARCEL NO. 3** [Public Property to be maintained by the Maintenance Association]

Not applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT "1" CONTINUED  
DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

None.

Recorded In Official Records, Orange County  
Tom Daly, Clerk-Recorder

RECORDING REQUESTED BY:



39.00

2004000861326 04:30pm 09/24/04

WHEN RECORDED MAIL TO:

104 27 D02 12

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NORTHWOOD II COMMUNITY ASSOCIATION

c/o Transpacific Companies  
2020 East First Street, Suite 500  
Santa Ana, CA 92705  
Attn: Pam Hunt

WITH A CONFORMED COPY TO:

IRVINE COMMUNITY DEVELOPMENT  
COMPANY LLC

550 Newport Center Drive  
Newport Beach, CA 92660  
Attn: General Counsel

---

(Space Above for Recorder's Use)

**SUPPLEMENTAL DECLARATION OF COVENANTS, CONDITIONS,  
RESTRICTIONS AND RESERVATION OF EASEMENTS  
FOR  
NORTHWOOD II  
(SERISSA, PHASE 5, TRACT 16518)  
(MERCHANT BUILDER)**

THIS SUPPLEMENTAL DECLARATION is made on September 15,  
2004, by LENNAR HOMES OF CALIFORNIA, INC., a California corporation  
(*"Merchant Builder"*).

**P R E A M B L E:**

A. Merchant Builder is the record owner of certain real property in the  
City of Irvine, County of Orange, State of California, described as:

Units 1 to 10, inclusive, Association Property, and  
Condominium Common Area, as shown on that certain  
Serissa Phase 5 Condominium Plan, Lots 9 and 10, Tract  
16518, recorded on September 23, 2004, as Instrument  
No. 2004000853912 (*"Condominium  
Plan"*), in the Official Records of Orange County,  
California, which Condominium Plan covers Lots 9 and 10

of Tract No. 16518, as shown on a Subdivision Map Filed on November 24, 2003, in Book 851, at Pages 17 to 21, inclusive, of Miscellaneous Maps, in the Office of the Orange County Recorder.

The Units above are collectively referred to herein as the “*Residential Area.*”

B. Merchant Builder is the record owner (exclusive of public rights-of-way) of certain real property (“*Maintenance Property*”) in the City of Irvine, County of Orange, State of California, if any, described on *Exhibit “1”* attached hereto. The Residential Area, the other real property described in Preamble Paragraph A above and the Maintenance Property are collectively referred to hereinafter as the “*Annexed Territory.*”

C. The Annexed Territory is part of the Annexable Area as defined in that certain Declaration of Covenants, Conditions, Restrictions and Reservation of Easements (as amended, the “*Declaration*”) for Northwood II (“*Properties*”). The Declaration was recorded on December 23, 2003, as Instrument No. 2003-001510997, and amended by the First Amendment to Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for Northwood II recorded on March 26, 2004, as Instrument No. 2004-000251181, both in Official Records of Orange County, California. The Declaration is binding upon all Owners of Lots and Condominiums in the Properties presently covered by the Declaration.

D. Merchant Builder is a “*Merchant Builder*” as defined in the Declaration. In furtherance of the master development plan for the Properties as described in the Declaration, Merchant Builder intends to improve and sell the Residential Area in the Annexed Territory to the public, and to provide for the maintenance of the Maintenance Property in the Annexed Territory for the benefit of the Owners of all Lots and Condominiums in the Properties, subject to the provisions of the Declaration, this Supplemental Declaration and any amendments thereto.

E. Pursuant to Article II of the Declaration, Merchant Builder now desires to add the Annexed Territory to the Properties subject to the Declaration.

THEREFORE, MERCHANT BUILDER HEREBY DECLARES AS FOLLOWS:

1. **Definitions.** Except as otherwise expressly defined herein, the capitalized words and phrases in this Supplemental Declaration shall have the same meanings as defined in the Declaration.

2. **Annexation of Territory and Establishment of Comprehensive Plan.**

2.1 **Comprehensive Plan.** This Supplemental Declaration is hereby established in furtherance of the comprehensive plan for the improvement and sale of

Lots or Condominiums within the Annexed Territory and for the purpose of enhancing and perfecting the value, desirability and attractiveness of the Annexed Territory and each Lot or Condominium therein.

2.2 **Annexation.** Merchant Builder hereby declares that the Annexed Territory is a part of the Properties subject to the Declaration. The Annexed Territory is and shall be held, conveyed, hypothecated, encumbered, leased, occupied, built upon or otherwise used, improved or transferred in whole or in part, subject to this Supplemental Declaration, and the Declaration.

2.3 **Phase of Development.** The Annexed Territory comprises a single Phase of Development of the Properties.

2.4 **Equitable Servitudes.** The covenants, conditions and restrictions of this Supplemental Declaration and the Declaration are hereby imposed as equitable servitudes upon the Annexed Territory and each Lot or Condominium therein, as a servient tenement, for the benefit of each and every other Lot and Condominium within the Properties and the Maintenance Property, as the dominant tenements.

2.5 **Covenants Appurtenant.** The covenants, conditions and restrictions of this Supplemental Declaration shall run with, and shall inure to the benefit of and shall be binding upon all of the Annexed Territory, and shall be binding upon and inure to the benefit of all Persons having, or hereafter acquiring, any right, title or interest in all or any portion of the Annexed Territory, and their successive owners and assigns.

2.6 **Restrictions.** This Supplemental Declaration is recorded pursuant to Article II, Section 2.3 of the Declaration, and each of the provisions hereof shall be deemed a part of the Restrictions and may be enforced as provided in the Declaration for the enforcement of the other provisions thereof.

2.7 **Membership.** The Owners of Lots or Condominiums in the Annexed Territory shall automatically become Members of the Northwood II Community Association (the "Maintenance Association" described in Article IV of the Declaration).

### 3. **Land Classifications.**

3.1 **Residential Area.** The Residential Area (other than those portions, if any, comprising Maintenance Property owned as easements) in the Annexed Territory is hereby designated as Residential Area pursuant to Article II of the Declaration.

3.2 **Maintenance Property.** The Maintenance Property in the Annexed Territory is hereby designated, pursuant to Article II of the Declaration, to be Maintenance Property as defined in Article I of the Declaration. Portions of the Maintenance Property described herein ("*Multi-Phased Maintenance Property*") may also be designated for Maintenance Association ownership pursuant to a separately Recorded Supplemental Declaration in connection with another Phase of Development ("*Alternative Phase*").

3.2.1 **Title to Maintenance Property.** Merchant Builder hereby grants to the Maintenance Association a nonexclusive easement of access, ingress and egress, for use, maintenance, repair, replacement and other purposes set forth in the Declaration over their respectively owned Maintenance Property, if any, designated on *Exhibit "1"* hereto for easement ownership by the Maintenance Association, such easement to be effective upon the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory. No Owner or Project Association shall interfere with the exercise by the Maintenance Association of its rights under the easements granted herein or in the Declaration. The Maintenance Property, if any, designated on *Exhibit "1"* hereto for fee ownership by the Maintenance Association shall be conveyed to the Maintenance Association prior to the first Close of Escrow for the sale of a Lot or Condominium in the Residential Area of the Annexed Territory, as further provided in Section 3.6.1 of the Declaration. The Maintenance Association shall also maintain the Public Property (as defined in the Declaration), if any, depicted on *Exhibit "1"* hereto.

3.2.2 **Commencement of Maintenance.** The Maintenance Association shall become responsible for maintenance of the Maintenance Property, including any Public Property designated on *Exhibit "1"* hereto, concurrently with the commencement of Common Assessments in the Annexed Territory; provided that maintenance by the Maintenance Association of Multi-Phased Maintenance Property, if any, shall commence concurrently with the commencement of Common Assessments in the Annexed Territory or the Alternative Phase, whichever occurs first.

3.2.3 **Relocation of Maintenance Property Easement.** Any Maintenance Property comprising easements over real property (other than Public Property) the fee title to which has not been made subject to the Declaration ("*Interim Easement Area*") shall be subject to relocation, modification or termination in order to accommodate the final plan of development for the future Phase of Development in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to the Declaration. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any portion of the Properties.

3.3 **Common Area.** The "Common Area" (as defined in the Declaration) in the Annexed Territory consists of the "Association Property" described in the Condominium Plan.

4. **Assessment Obligations.** The rights and obligations of all Owners of Lots or Condominiums located in the Annexed Territory with respect to Maintenance Association assessments shall be as set forth in the Declaration and this Supplemental Declaration. All assessments provided for in the Declaration shall commence as to each Lot or Condominium in the Annexed Territory on first day of the first month following the month in which the first Close of Escrow occurs for the sale of a Lot or Condominium in the Annexed Territory.



5. **Architectural Committee Rules/Views.** The Board may but need not adopt and enforce supplemental Architectural Committee Rules which are solely applicable to the Annexed Territory; provided that such supplemental Architectural Committee Rules are first approved by Declarant pursuant to the Declaration. Such supplemental Architectural Committee Rules shall be in addition to any Architectural Committee Rules generally applicable to the Properties and may address design, color, siting and other matters within the jurisdiction of the Architectural Committee which are distinctive or unique to the Annexed Territory or the Condominium Project or Planned Development in which the Annexed Territory is located. There are no views in the Annexed Territory which are protected to any extent pursuant to the Declaration or this Supplemental Declaration, as further provided in the Declaration.

6. **Airport Influence Area.** The Properties are presently located in the vicinity of an airport, within what is known as an airport influence area. For that reason, the Properties may be subject to some of the annoyances or inconveniences associated with proximity to airport operations (for example: noise, vibration, or odors). Individual sensitivities to those annoyances can vary from person to person. Each Owner is advised to consider what airport annoyances, if any, are associated with the Properties before acquiring a Residence and to determine whether those annoyances are acceptable to such Owner.

7. **Miscellaneous Provisions.**

7.1 **Amendment and Duration.** Until the first Close of Escrow for the sale of a Lot or Condominium in the Annexed Territory, this Supplemental Declaration may be amended or terminated by Merchant Builder in the manner set forth in Article XII of the Declaration. Upon the first Close of Escrow in the Annexed Territory, this Supplemental Declaration may be amended or terminated only by complying with the requirements for amending or terminating the Declaration as set forth in Section 2.3.6 of the Declaration. Unless amended or terminated as provided herein, the provisions of this Supplemental Declaration shall continue and remain in full force and effect for so long as the Declaration remains in effect pursuant to Article XII of the Declaration.

7.2 **Enforcement and Non-Waiver.** Reference is hereby made to the provisions of Section 12.5 of the Declaration, which Section is hereby incorporated in this Supplemental Declaration by such reference as though set forth herein.

7.3 **Restrictions Construed Together.** All of the provisions of this Supplemental Declaration shall be liberally construed as part of the Restrictions to promote and effectuate the fundamental concepts of the Properties, as set forth in the Preamble of the Declaration. Except as may be otherwise provided in this Supplemental Declaration or the Declaration, the rights and obligations of the Owners located in the Annexed Territory shall be the same as the rights and obligations of the other Owners now or hereafter affected by the Declaration.

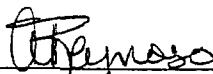
7.4 **Restrictions Severable.** Notwithstanding the foregoing Section 6.3, each of the provisions of this Supplemental Declaration shall be deemed independent and severable. The invalidity or partial invalidity of any provision hereof shall not affect the validity or enforceability of any other provision hereof.

7.5 **Number/Captions.** As used in this Supplemental Declaration, all words in the masculine, feminine, or neuter gender, or the singular or plural number shall be construed to include the others, wherever the context so requires. All captions or titles used in this Supplemental Declaration are intended solely for convenience of reference and shall not affect the interpretation of any of the terms or provisions of this Supplemental Declaration.

Merchant Builder has executed this Supplemental Declaration the day and year first written above.

“MERCHANT BUILDER”


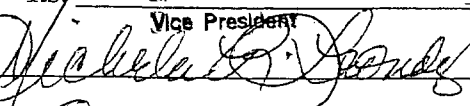
LENNAR HOMES OF CALIFORNIA,  
INC., a California corporation

By:   
Its: Vice President

In accordance with Article II of the Declaration, Declarant approves the recordation of this Supplemental Declaration.

“DECLARANT”

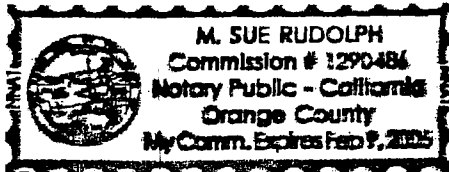
IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC, a  
Delaware limited liability company

By:   
Its: THOMAS E. HEGGI  
Vice President  
By:   
Its: Michele R. Leondis  
Assistant Secretary

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On September 15, 2004 before me, M. Sue Rudolph, a Notary Public, personally appeared Anita Reynoso personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



(SEAL)

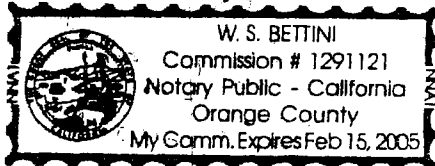
M. Sue Rudolph  
Notary Public

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

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On September 17, 2004, before me, W. S. Bettini, a Notary Public, personally appeared Thomas E. Haggi and Michele R. Leondis personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



(SEAL)

W. S. Bettini  
Notary Public

**SUBORDINATION**

The undersigned, as Beneficiary of the beneficial interest in and under those certain Deed of Trust dated August 17, 2004, recorded on September 1, 2004, in the Official Records of Orange County, California, as Instrument No. 2004-000794861, which Deed of Trust is between LENNAR HOMES OF CALIFORNIA, INC., a California corporation, as Trustor, FIRST AMERICAN TITLE INSURANCE COMPANY, as Trustee, and IRVINE COMMUNITY DEVELOPMENT COMPANY LLC, a Delaware limited liability company, as Beneficiary, hereby expressly subordinates such Deed of Trust and its beneficial interests thereunder to the foregoing Supplemental Declaration, the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Northwood II described therein ("**Declaration**"), and to all easements to be conveyed to the Maintenance Association in accordance with the Declaration and the Supplemental Declaration. By executing this Subordination, the undersigned agrees that should the undersigned acquire title to all or any portion of the Properties by foreclosure (whether judicial or nonjudicial), deed-in-lieu of foreclosure or any other remedy in or relating to the Deeds of Trust, the undersigned will acquire title subject to the provisions of the Declaration and the Supplemental Declaration, which shall remain in full force and effect.

Dated Sept 17, 2004

IRVINE COMMUNITY  
DEVELOPMENT COMPANY LLC, a  
Delaware limited liability company

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

Its: THOMAS E. HEGGI  
Vice President

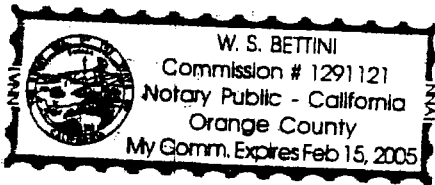
By: Michele R. Leondis

Its: Michele R. Leondis  
Assistant Secretary

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On September 17, 2004, before me, W.S. Bettini, a Notary Public, personally appeared Thomas E. Hegg and Michele R. Leondis, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



W. S. Bettini  
Notary Public

(SEAL)

STATE OF CALIFORNIA )  
 ) ss  
COUNTY OF ORANGE )

On \_\_\_\_\_, 200\_, before me, \_\_\_\_\_, a Notary Public, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) (is/are) subscribed to the within instrument and acknowledged to me that (he/she/they) executed the same in (his/her/their) authorized capacit(-y/-ies), and that by (his/her/their) signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public

(SEAL)

**EXHIBIT "1"**

**DESCRIPTION OF MAINTENANCE PROPERTY**

All that certain real property located in the City of Irvine, County of Orange, State of California, described as follows:

**PARCEL NO. 1**

Not Applicable.

NOTE: Parcel No. 1 excludes, for maintenance purposes, those portions, if any, of the above-described Maintenance Property which have been accepted for maintenance by a Local Governmental Agency (as defined in the Declaration).

**PARCEL NO. 2**

As provided in Section 3.2.1 of this Supplemental Declaration, the Maintenance Association shall have nonexclusive easements of access, ingress and egress, for use, maintenance, repair, replacement and other purposes, over those portions of the following described real property:

Not Applicable.

**PARCEL NO. 3** [Public Property to be maintained by the Maintenance Association]

Not applicable.

NOTE: Parcel No. 3 excludes, for ownership purposes, the Public Property areas, if any, shown on the attached drawings, although the Maintenance Association shall be responsible for maintaining such Public Property areas pursuant to the Declaration and this Supplemental Declaration.

**EXHIBIT "1" CONTINUED  
DRAWINGS DEPICTING MAINTENANCE PROPERTY EASEMENTS  
AND  
MAINTAINED PUBLIC PROPERTY**

None.

GOVERNMENT CODE 27361-7

I CERTIFY UNDER THE PENALTY OF PERJURY THAT THE NOTARY  
ACKNOWLEDGEMENT  
ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS  
FOLLOWS:

NAME OF NOTARY: M. Sue Rudolph

DATE OF COMMISSION EXPIRES: Feb 9, 2005

COUNTY IN WHICH BOND IS FILED: Orange

COMMISSION #: 1290486

MANUFACTURER/VENDOR NO: NNA1

DATE: 9/24/04



JENNIFER HARER  
NORTH AMERICAN TITLE COMPANY

ORANGE, CA  
PLACE OF EXECUTION

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# EXHIBIT C

— A PRIVATE COMMUNITY —

# NORTHWOOD

— ESTATES —

## Northwood Estates Standards and Guidelines

Ver 1.0 Adopted May 19, 2010

Ver 2.0 Adopted May 20, 2021

Ver 3.0 Adopted June 1, 2021

Ver. 4.0 Adopted January 4, 2022

Ver. 5.0 Adopted March 7, 2023

## **Leasing & Rental Enforcement Policy & Rules**

### **1. Basic Policy on Enforcement Regarding Preserving Residential Use of Dwellings.**

An objective of this Enforcement Policy is to promote the establishment of Northwood II (Estates) as a stable, rule-abiding community where people make their homes, and seek compliance by Members with the Association's governing documents and this goal. If any Member fails to comply with any of the terms of this Policy, the Association shall be entitled to pursue all available remedies at law and in equity to compel compliance and recover damages. The provisions and enforcement remedies set forth herein apply to the subject matter in this Policy, notwithstanding any other provisions and procedures set forth in the Association's Rules and Regulations.

The Owner of any rented Lot is ultimately financially and legally responsible for the conduct of any lessees, renters, family members, guests, invitees, or other occupants of and visitors to the Owner's Lot. The Owner is responsible for completing and authorizing the application for all vehicle transponders and key fob requests.

### **2. No Short-Term Rental of Lots for Less Than thirty one (31) Consecutive Days**

Any rental, lease, or other occupancy of a Lot for occupancy of a term of less than a period of thirty one (31) consecutive days is prohibited.

Therefore, each Owner is prohibited from entering into any oral or written agreement to rent, lease, or use a Lot for occupancy of a term of less than thirty one (31) consecutive days. Such prohibited conduct includes, without limitation, entering into an oral or written agreement to rent, lease, or use the Lot, which on its face or by its terms may provide for an occupancy term of at least thirty one (31) consecutive days, but which the Owner knows, or reasonably should know, the renter, lessee, occupant, or user of the Lot actually intends to occupy the Lot for a term of less than thirty one (31) consecutive days. Also, the Board may determine that any other occupancy of a Lot that is for less than a term of thirty one (31) consecutive days (irrespective of the terms of any oral or written agreement) is a violation of this Policy (excluding instances where an Owner owns a Lot as second home and the Owner periodically occupies the Lot for a term of less than thirty one (31) consecutive days).

### **3. No Rental of Lots for Transient or Hotel Purposes.**

Any rental, lease, or other occupancy of a Lot pursuant to which services normally associated with a hotel, such as meal service, maid/housekeeping service or excursions are provided constitutes an impermissible nonresidential use of the Lot for transient or hotel purposes.

Therefore, each Owner is prohibited from entering into any oral or written agreement to rent, lease or use a Lot for hotel or transient purposes. Such prohibited conduct includes, without limitation, entering into an oral or written agreement to rent, lease or use the Lot in connection with so-called “birth tourism” (*i.e.*, travel to the United States for the purpose of giving birth in the United States), Airbnb, VRBO, if rental, lease or use of the Lot is associated with services normally associated with a hotel, as described above.

#### **4. No Rental of Less than the Entire Lot.**

No Owner may rent or lease less than such Owner’s entire Lot. Therefore, arrangements such as excluding the garage or areas of the residence or the rental or leasing of multiple individual rooms or operating a Lot as a boarding house are prohibited.

#### **5. Minimum Requirements for Lease/Rental Agreements.**

Each Owner who leases his/her Lot shall do so by way of a written lease agreement. As noted above, each Owner is ultimately responsible for the conduct of the Owner’s tenants; thus, it behooves each Owner who leases his/her Lot to comply with this Policy and include provisions in the Owner’s lease agreement to minimize the Owner’s exposure to liability arising from the conduct of tenants and to include in the lease agreement all available remedies for action against tenants who violate any of the Association’s Declaration, Bylaws, Rules and Regulations, Policies, Design Guidelines, or any other governing documents (collectively, the “Restrictions”).

Therefore, in an effort to assist Owners with being empowered to take action against and evict, if necessary, tenants who violate the any provisions of the Restrictions, the Association requires each Owner who leases his or her Lot to include provisions in the lease agreement substantially in the form of the following:

(a) Lessee shall not assign the lease or any interest therein or sublet the premises or any part thereof, or permit the use or occupancy of the premises by any person other than Lessee and any persons identified in the Lease Agreement as permissible occupants.

(b) Lessee agrees that Lessee and all occupants of the premises shall be bound by and shall comply with all provisions of the Northwood II (Estates) Community Association (“Association”) Declaration of Restrictions (“Declaration”), Bylaws, Rules and Regulations, Policies, Design Guidelines, or any other governing documents

(collectively, the “Restrictions”), concerning the use and occupancy of the premises and the Association common area property, and that Lessee shall control the conduct of all other occupants, guests and others visiting or residing at the leased premises in order to ensure compliance with the Restrictions. Lessee acknowledges receipt of a copy of the Restrictions. Any violation of the Restrictions or attempt to assign or sublet the premises shall be a default under the Lease Agreement and this Lease Addendum, and Lessor shall have the right to terminate the Lease Agreement without liability and to evict the Lessee and all other occupants in accordance with California law.

(c) Lessee agrees that any failure by Lessee hereunder to comply with the terms of the Association’s governing documents shall be a material default under this Lease Agreement and shall be cause for immediate termination of the lease.

(d) Lessee agrees that any fines, penalties, or other charges levied against Landlord or Owner as a result of Lessee’s conduct or any persons’ conduct who is acting by and/or through Lessee, shall become a charge to Lessee and any failure of Lessee to pay such charges timely shall be a material default under the Lease Agreement and shall be cause for immediate termination of the lease.

Boarding houses in which two or more rooms are rented under two or more separate written or oral agreements, leases or subleases (or combination thereof), whether or not the owner, agent or rental manager resides within the residences, are prohibited. The rental shall apply to not less than an entire Residence, including its appurtenant rights (except voting rights in the Association that may not be transferred to a tenant or lessee).

#### **6. Notice To Association of Lease/Rental/Occupancy Agreements.**

Within seven (7) days after executing, or otherwise entering into, a lease, rental, or other agreement for the lease, rental, occupancy, or use of a Lot, the Owner shall provide the Association’s managing agent:

(a) The name of the lessee, renter, occupant, or user of the Lot and all other persons occupying the Lot, and a complete valid copy of the lease, rental, or other agreement evidencing the Owner’s permission for such lessee, renter, occupant, family member, guest, or other person, to occupy or use the Lot, and

(b) The name, mailing address, email address and telephone number of the lessee, renter, occupant, user of the Lot who can respond to any contact from the Association within two (2) hours.

The written tenant lease agreement must be submitted with signatures & dates from both the Owner and the Tenant. The Owner must show that the Tenant has been provided with, and acknowledges receipt of, a copy of the HOA rules and regulations.

Management will not be permitted to update the property access device profile in the Association's access management system for any owner or tenant resident without being provided the required documentation. This applies to requests for vehicle transponders and keyfobs which will not be provided without the owner's written request, written tenant lease as applicable, completed application & valid DMV registration per association rules.

## **7. Lease Administrative Fee**

Owner-landlords will be charged a monthly lease administrative fee of \$45.00 per month which will be used to reimburse the Association of the actual costs associated with rental activity. Rental activity increases the Associations administrative responsibilities. Property monitoring and administering rental activity requires the Association to conduct routine occupancy audits of the community, maintain and update tenant contact information, obtain and review individual lease agreements, and maintain a separate set of records of each rental unit. Apportioning these costs based on the responsibility of their creation is an equitable approach for the membership.

## **8. Move In or Out Hours**

Moving in or out of any dwelling and moving activity is restricted to 8:00 am to 8:00 pm daily. Noise nuisance from moving activity after hours is subject to violation &/or fines.

## **9 . Enforcement and Fine Schedule For Violations of This Policy.**

Any violation of the foregoing restrictions is considered an egregious breach of this Policy and violation of the residential use limitations contemplated hereunder. The fine schedule set forth herein shall control for any violations of this Policy, notwithstanding any other provision of the Restrictions. In developing the fine schedule for violations of this Policy, the Board considered that an Owner may receive a significant sum of money for leasing of a Lot in violation of this Policy.

Thus, in recognition of this fact, together with the strong policy of wishing to preserve the residential use of the Lots, and as a disincentive against violations, and to prevent an Owner from profiting from violating the Restrictions, the Board, in its discretion,

may levy a fine (as a monetary penalty) against an Owner for violations of this Policy in the amount of \$1,000.00 for the first offense, with the fine for each subsequent offense per the violation procedure and fine policy.

A fine in the amount of **\$200.00** will be imposed for each occurrence of failure to timely register a tenant with the Association’s managing agent as required above.

The foregoing fines shall be in addition to any other disciplinary action or remedies available to the Association (after providing the Owner notice and an opportunity for a hearing). The foregoing shall not be construed to limit or restrict the Association from immediately proceeding with filing legal action or pursuing other available enforcement action to remedy a violation. Failure to comply with any of the other provisions of this Policy (*e.g.*, the lease agreement requirements) shall subject the responsible Owner(s) to monetary fines in accordance with the Association’s regular Fine Schedule contained in the Rules and Regulations and/or all other the remedies provided under the Restrictions or otherwise authorized in law or in equity.

**Rental/Occupancy Violation Procedure and Fine Policy**

The Board of Directors has adopted the following violation procedure and fine policy for any **rental, lease or occupancy violations**, including, but not limited to, those which are less than thirty-one (31) consecutive days:

First Violation	Violation letter, notice of hearing, \$200 for failure to timely register a tenant
Second Violation	Violation letter, notice of hearing and fine of \$1,000
Third Violation	Violation letter, notice of hearing and fine of \$2,000
Fourth Violation	Violation letter, notice of hearing and fine of \$4,000
Additional Fines	Violation letter, notice of hearing and fine of \$4,000

The Board of Directors has adopted the following violation procedure and fine policy for violating **Residential Use CCR 7.1** (operating business from any lot prohibited):

First Violation	Violation letter, notice of compliance or hearing, fine of \$500 failure to comply
Second Violation	Violation letter, notice of hearing and fine of \$1,000

Third Violation	Violation letter, notice of hearing and fine of \$2,000
Fourth Violation	Violation letter, notice of hearing and fine of \$4,000
Additional Fines	Violation letter, notice of hearing and fine of \$4,000

The Board of Directors has adopted the following violation procedure and fine policy for all other violations:

First Violation	Violation letter, notice of compliance or hearing, fine of \$100 failure to comply
Second Violation	Violation letter, notice of hearing and fine of \$200
Third Violation	Violation letter, notice of hearing and fine of \$400
Fourth Violation	Violation letter, notice of hearing and fine of \$800
Additional Fines	\$200 increments up to \$800 per month

Notwithstanding the above, for more serious violations, which are within the sole discretion of the Board to decide, the matter may be immediately set for a hearing, and the matter may be referred to the Association's attorney for more immediate pursuit of appropriate legal action. HOA attorney fees for the violation process will be charged back to the homeowner.

The Board reserves the right to assess for damage to the common area or threat of life and safety in excess to the above policy.

**Parking and Vehicle Rules & Restrictions:**

1. All commercial (e.g., stake bed trucks, tank trucks, dump trucks, step vans, concrete trucks, limousines, horse trailers, taxis, etc.) vehicles are not permitted in the community except entirely parked within the garage with the door closed. Recreation type (e.g., motor homes, travel trailers, camper vans, boats, etc.) are prohibited vehicles & may only be kept entirely inside the garage with the door closed or in a side or rear yard on a pad built for that purpose and approved by the Architectural Committee. If a recreational vehicle is to be stored in the yard, it must be screened completely from view.



2. The garage door shall remain closed except for entry, exit, and for brief periods of loading or unloading.
3. Repairs or restorations of any kind, to any type of motor vehicle is not permitted in the community, except for emergency repairs thereto, and then only to the extent necessary to enable the vehicle to be moved to a proper repair facility.
4. No repair or restoration that may be considered a nuisance is permitted.
5. Parking in fire lanes is strictly prohibited. Bella Rosa and Serissa alleys/shared driveways are fire lanes. Vehicles parked in a fire lane are subject to immediate tow.
6. Residents must park two (2) vehicles in the garage before utilizing the street or driveway for parking. All garages must be maintained in such a way as to accommodate at least two (2) vehicles.
7. No business activity shall be conducted within, or from, any garage.
8. Each owner is responsible for advising their guests to abide by the parking restrictions.
9. Storage of vehicles is not permitted on the streets. A vehicle will be deemed to be stored when it has not shown "substantial" movement (at least 1/4 mile) for any 72 hour period.
10. Vehicles shall be parked in the same direction as traffic. Vehicles shall not be parked in a manner which blocks access to, or use of, any sidewalk, sidewalk access ramp or mailbox. Further, vehicles shall not be parked in a manner which causes an unreasonable risk of safety for pedestrians or drivers. For example, vehicles shall not be parked on street corners.
11. Vehicles parked on community streets shall not be covered.
12. Vehicles must park perpendicular within the boundaries on the driveway. Parking parallel to the garage door or parallel on any driveway is prohibited. Vehicles violating this rule are subject to fines or if in a fire lane immediate tow.
13. Vehicles may not park on the street blocking the entry to any driveway. Vehicles violating this rule are subject to fines or if in a fire lane immediate tow.
14. Vehicles that are parked beyond the driveway boundary blocking or over a pedestrian sidewalk are subject to citation and fine.

15. Vehicles blocking mail boxes during mail delivery service days/hours are subject to citation and fine.
16. Vehicles may not be parked further than 18” from the curb which is considered unsafe and is subject to citation, fines and in some cases towing.
17. Noise nuisance or loud exhaust vehicles are prohibited. Loud noise from any vehicle may not disturb residents.
18. All Owners are required to register their residents’ vehicles with the Association management and all resident vehicles are required to be equipped with transponders. This is to provide convenience for automatic opening of vehicle entry gates, to minimize entrance traffic for the guest keypad and for the Association to review resident vehicles for parking and safety. A resident is defined as a person occupying 21 days within a 90 period. For tenant/resident vehicles, the vehicle transponders will only be active during the start and end date of the written tenant agreement at which time they will expire, unless the owner communicates to management an existing lease with a monthly term or a valid written tenant lease extension is submitted.
19. Transponder requests exceeding more than four (4) total vehicle transponders per household requires Association and Board review. \*If approved the following chargeback schedule will be charged monthly to the owner’s ledger as follows:

5th vehicle	\$50 per month
6th vehicle	\$100 per month (+ \$50/month)
7th vehicle	\$200 per month (+ \$150/month)
8th vehicle	\$400 per month (+ \$350/month)
9th vehicle	\$800 per month (+ \$750/month)
10th vehicle	\$1600 per month (+ \$1550/month)

Residents exceeding more than four vehicles must fully utilize the garage for parking 2 vehicles prior to parking on street (homes without driveway) or driveway (homes with a driveway)

20. Transponder requests for CCR 7.4.1 Restricted type vehicles, which must be parked entirely inside of the garage with the door closed, require Association and Board review.
21. Northwood Estates parking rules will be enforced by the community's Violation Procedures, and failure to comply could result in fines, and, in some cases, the towing of the violating vehicle at the owner's expense. Vehicles parked in red curbs, fire lanes or blocking fire hydrants are subject to immediate towing and/or citation by the Irvine Police Department.
22. The speed limit in the community is 15 MPH.

**Parking & Vehicle Violation Procedure and Fine Policy**

The Board of Directors has adopted the following violation procedure and fine policy for **violating parking and vehicle rules for illegal parking in fire lanes, fire hydrants, or red curb (immediate tow) or handicapped parking without valid placard or license plate visible:**

First Violation	Violation letter, notice of hearing and fine of \$200
Second Violation	Violation letter, notice of hearing and fine of \$500
Third Violation	Violation letter, notice of hearing and fine of \$1000
Additional Violations	Violation letter, notice of hearing and fine of \$1500

The Board of Directors has adopted the following violation procedure and fine policy for **fraudulent use of access devices (vehicle transponders or keyfobs):**

Violation letter, notice of hearing and fine of \$500

The Board of Directors has adopted the following violation procedure and fine policy for **violating all other vehicle and parking rules:**

First Violation	Violation letter, notice of hearing and fine of \$50
Second Violation	Violation letter, notice of hearing and fine of \$100
Third Violation	Violation letter, notice of hearing and fine of \$200
Additional Violations	Violation letter, notice of hearing and fine of \$300

### **Pet Guidelines:**

The following rules are intended to supplement the restrictions set forth in Section 7.9 of the CC&Rs:

1. Pets must be on a leash or within an enclosed pet carrier at all times when in the common areas. All animals must be under control at all times.
2. Residents are responsible for any damage to the common areas caused by their pets. They may be assessed and/or penalized by the Board of Directors.
3. Pet owners must pick up after their pets on all community property including, but not limited to, all common areas, any adjacent streets and landscape and at all parks. Waste droppings must be deposited in an appropriate waste container. Any resident not complying with this provision may be subject to fines.
4. No person may allow an animal to bite, attack, endanger, or inflict injury on another person or animal, or chase or approach an individual in a menacing fashion.
5. An owner is subject to fines or penalties if any pet becomes a nuisance to other residents through barking, howling or other noise.
6. No person with a leashed pet may release the leash at any time. Pet leash must not exceed a maximum of 6 feet.

### **Pool Rules:**

1. Pool Hours:  
Sunday – Saturday: 6 am – 10 pm
2. A resident and/or homeowner shall be responsible to the Association for any damage caused by his or her guests. All guests must be accompanied by a resident at all times.

3. Residents are **limited to six (6) maximum guests per household** while using the pool area and must accompany guests at all times.
4. Pets are not permitted in the pool areas.
5. Glass or other breakable containers are not permitted in the pool areas.
6. A lifeguard is not provided; therefore, all persons using the pool do so at their own risk. Northwood Estates Community Association assumes no liability in this regard. Further rules are posted in the pool area and must be observed.
7. Children under the age of 14 must be accompanied by a competent adult (18 years of age or older) while in the pool area. No exceptions.
8. Music must be listened to on headphones in pool and recreational areas.
9. Diving into the pool is not permitted.
10. Flotation devices are to be utilized at your own risk and should not interfere with the utilization of the pool by other people. Flotation devices are not permitted in the spa.
11. Diapers are not permitted in the pool. Appropriate swimwear (waterproof diapers specifically designed for swimming) should be used.
12. Proper swimwear is required at all times. Denim is strictly prohibited in the pool.
13. Pool area tables, chairs and cabanas cannot be reserved for exclusive use by any person or group. Pool area furniture is used on a first come – first served basis. Please clean up your area when you leave and place lounge chair furniture back in place.
14. Running, rough play or ball throwing is not permitted in the pool area.
15. Common area BBQs may not be reserved or used exclusively by any person or group. Use should be **limited to 30 minutes** when others are waiting. When utilizing the BBQs, homeowners are responsible for cleaning up any mess or left over food from the grill and countertop areas.
16. Residents should be careful and use caution when using the BBQ. Fire can be dangerous and residents using the BBQ do so at their own risk.
17. Alcohol is strictly prohibited for persons under 21 years of age.

18. **Smoking is prohibited in pool, clubhouse, and park and picnic areas.**
19. Because of significant safety concerns, pool gates and restroom doors should be closed and locked at all times. Gates and doors should never be propped open.
20. Skateboarding, bicycling, rollerblading and the use of scooters, and similar motorized apparatus, is not permitted in the pool, clubhouse, and park and picnic areas.
21. Residents must use their assigned key fob to enter and sign in at the pool log to use the pool. No fence jumping. Individuals unable to show proof of residency or active keyfob access will be asked to leave.
22. Residents with amenity privileges in suspension status may not use Northwood Estates recreational facilities.

**Clubhouse Rules:**

1. The clubhouse may be rented up to four times a year. Rentals in excess of four times a year must be expressly approved by the Board. **A non-owner resident (homeowner's tenant) may only rent the clubhouse with the written approval of the homeowner.** The homeowner is ultimately responsible for damage caused by their tenant.

**2. Clubhouse Hours:**

Everyday	7am – 10pm
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3. The Association's recreational facilities may not be used for commercial purposes.
4. The homeowner or resident who reserved the clubhouse **MUST** sign the rental agreement and write two (2) separate checks for the non-refundable rental fee and the refundable security deposit. Rental and deposit amounts are detailed in the Clubhouse Rental Agreement.
5. The homeowner or resident who signed the rental agreement must be present at all times during the event/function. The renting party must supply a proof of insurance endorsement with a general liability provision of at least \$500,000,

which names Northwood II Community Association as an additional insured for the date of the event, and for all times the facility will be used.

6. **Only the homeowner or resident may sign the rental agreement** and is solely responsible for all guests at their function. Any damages, theft, or other acts of malicious mischief perpetrated by any guest is the responsibility of the homeowner. If damage is greater than security deposit, the Board has the power to assess the homeowner who had rented the clubhouse.
7. Alcohol is only to be served to persons over 21 years of age.
8. **Smoking is prohibited in the clubhouse, pool, and park & picnic areas.**
9. Pets are not permitted in the clubhouse and pool area.
10. Skateboarding, rollerblading bicycling and the use of scooters, or similar motorized apparatus is not permitted in the pool, clubhouse, and park and picnic areas.
11. Rental of the clubhouse does not include exclusive use of the library, pool, barbeque, or other common recreation areas.
12. Patio furniture may not be used or brought into the clubhouse.
13. Noise from any events given in the clubhouse must be kept to a reasonable level, and to a minimum.
14. Decorations are only permitted inside the clubhouse (balloons and banners) if they do not cause damage to the property. Nails, tacks, or tape that will damage or peel off paint are not to be used in putting up the decorations.
15. Live music (bands or DJ's) is not permitted.
16. Lights, heat / air conditioning, and all other appliances need to be turned off before leaving.
17. Refrigerator and freezer must be left clean and empty.
18. Maximum occupancy is 50 people.
19. All events, **including cleanup**, must end by 10:00pm (Sunday – Thursday) and 11:00pm (Friday and Saturday). Strictly enforced.

20. All trash must be removed from the premises and not dumped in any containers located at the clubhouse, pool or park & picnic area. Failure to properly dispose of trash may result in the forfeiture of the security deposit.
21. Residents with amenity privileges in suspension status may not use Northwood II recreational facilities.

**Park and Picnic Area Rules:**

1. Park and Picnic hours:

Everyday	7am – dusk
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2. Only adults (18 years of age or older) or those under direct adult supervision are allowed to use the Community BBQ facilities. Residents should be careful and use caution when using the BBQ. Fire can be dangerous and residents using the BBQ do so at their own risk.
3. Use of the Northwood Estates Community Association property shall be subject to the provisions of the CC&Rs, and to any limitations imposed by any other Northwood Estates Community Association Documents.
4. The Park and Picnic area is for the use of Northwood Estates members and their accompanied guests, and **all cleanup shall be completed prior to leaving the area.**
5. The Park and Picnic area **may not be used for commercial purposes, other than those endorsed by Northwood Estates Community Association.**
6. Management reserves the right to close any of the facilities at any time in order to repair, clean, and maintain premises.
7. Portable barbecues, skateboarding, rollerblading, bicycling, motorized equipment (i.e. scooters), hitting golf balls & hard-baseballs, petting zoo animals and pony rides are prohibited at all times. Live music (bands and DJ's) is prohibited. Music must be listened to on headphones in recreational areas. Recorded music and stereos require prior management approval, and shall be kept to a minimum noise level.



8. Park and Picnic area reservations are available for any event and are required for parties utilizing a bounce house, and/or for parties with more than 10 guests, however, only for the purpose of precluding more than one event on any given date. Reservations do not preclude other Northwood Estates members from using the other areas of the facility. A non-refundable rental fee and a refundable damage deposit is required for all reservations. Rental fee and deposit amount are detailed in the Park & Picnic Area Rental Agreement. **Reservations may be made through property management, email [access@northwoodestates.org](mailto:access@northwoodestates.org)**. Refunds of the deposit will be made within thirty (30) days of the reservation date, provided there is no damage or cleanup as a result of your event. Please refer to the Northwood Estates Park and Picnic Rental Agreement for specific rental Rules and Regulations.
9. Residents who have made reservations, as described above, may procure a bounce house limited to a maximum of 15'x15' in size. An outlet is provided for this purpose. Generators are not allowed. Northwood Estates Community Association and the Management Company must be named additional insured by the bounce house company.
10. All common area BBQs may not be reserved or used exclusively by any person or group. Use should be **limited to 30 minutes** when others are waiting. When utilizing the BBQs, homeowners are responsible for cleaning up any mess or left over food from the grill and countertop areas.
11. Alcohol is strictly prohibited for persons under 21 years of age.
12. **Smoking is prohibited in the pool, clubhouse, and park and picnic areas.**

**Trash and Unsightly Items:**

1. All trash containers must be screened from view, and, therefore, may not be stored on driveways, in alleys, in front of side gates, or anywhere else they are visible from the street, sidewalk or other common area.
2. Trash containers may be exposed to the view of neighboring homes only when set out on the streets for pickup. Trash may not be exposed for more than twelve (12) hours before and after pickup.
3. Trash or unsightly items may not be kept, stored or left to accumulate on any portion of the community, except within an enclosed structure, or appropriately screened from view, as permitted by the Architectural Review Committee.
4. Weeds shall be regularly removed from the exterior portion of your home.

## **Signs:**

1. **Noncommercial Signs:** A noncommercial poster, flag or banner may be made of paper, cardboard, etc., and may be displayed from the yard, window, door, balcony or outside wall of the owners' separate interest, but may not be made of lights, roofing, siding, paving materials, flooring, balloons, or any other similar building, landscaping or decorating component, including the painting of architectural surfaces. Noncommercial signs and posters that are more than nine (9) square feet in size, and noncommercial flags or banners that are more than fifteen (15) square feet in size are prohibited.
2. **Commercial Signs Including Real Estate Signs:**
  - a. Please refer to Addendum A for Real Estate sign rules including "For Sale" signs and "Open House" signs.
  - b. Owners are permitted to have one sign advising of the existence of security services protecting their home
  - c. Commercial signs, other than those used for security services, lease or sale of the home, are not permitted. This includes signs identifying contractors working on your home.
3. All signs shall comply with the City of Irvine Municipal Codes regarding signs, and any other applicable governmental ordinances.
4. Signs erected in the Common Areas not complying with the Rules will be removed by a representative of the Northwood II Community Association and stored at a central location for pickup by the real estate agent or owner within a reasonable amount of time. Signs not picked up within a reasonable amount of time will be disposed of at the owner's expense.

## **General Items:**

1. Windows may not be covered by items such as cardboard, foil, bed sheets and newspapers.

2. For satellite dish installation and placement, please refer to and comply with the guidelines set forth in the Northwood Estates Community Association Notice of Satellite Dish Installation form.
3. Owners may not dump inappropriate materials in the drains. Toxic materials, paint, trash, cigarette butts or other hazardous waste items, etc., must be disposed of appropriately. Any owner violating this policy may be assessed for the removal and/or fined.
4. The established drain pattern may not be interfered with, unless an adequate alternative provision is made for proper drainage and first approved in writing by the ARC.
5. Each owner shall maintain all drainage facilities located within such owners unit or exclusive use property. It should be free and clear of debris which would interfere with the established drainage pattern within the community.
6. All alterations, color changes, or installations to the exterior of your home or lot must be approved by the Architectural Review Committee (“ARC”) prior to the start of the proposed project and must adhere to the Architectural Procedures and Guidelines for Northwood II.
7. Garage and/or yard sales are prohibited and are only permitted during designated community events approved by the Board of Directors.
8. Portable basketball hoops, and other sports apparatus, shall not be stored overnight in the street or other common areas. Stored apparatus must not be visible from the streets, sidewalks or other common areas.

#### **Holiday Decorations:**

1. Holiday decorations are permitted in your exclusive use area and on your home; however, decorations of any type are NOT permitted in the common area. The common area includes, but is not limited to, stairways, trees, bushes or other landscaped areas maintained by the Association, etc. Any decorations found in the common area will be removed at the owner’s expense.
2. Holiday lights may be placed on the wood fascia in your exclusive use area; however, you should use hooks intended for holiday lights.
3. Wreaths or other similar types of decorations may be placed on front doors and remain as long as they are attractive and in good condition.

4. All decorations are permitted up to one month prior to the holiday and must be removed within 15 days after the holiday. All holiday decorations celebrating holidays in December must be removed by January 15 of each year.

**General Violation Procedure and Fine Policy:**

The Board of Directors has adopted the following violation procedure and fine policy:

Warning	Warning letter outlining violation, 21 day cure time
First Violation	Violation letter, notice of hearing and fine of \$100
Second Violation	Violation letter, notice of hearing and fine of \$200
Third Violation	Violation letter, notice of hearing and fine of \$300
Additional Violations	\$100 increments up to \$800 per month

The Board reserves the right to assess for damage to the common area or threat of life and safety in excess to the above policy.

**Sign Rules Addendum A**

**Sub-Index**

**For Sale Signs**

**Open House Signs**

1. No sign or billboard of any kind shall be displayed to the public view on any portion of the Maintenance Property.
2. In accordance with Section 712 of the California Civil Code, an Owner may display on his/her Lot or Condominium or on real property owned by others with their consent, or both, signs which are reasonably located, in plain view of the public, are of reasonable dimensions and design, do not adversely affect public safety, including traffic safety, and which advertise the property for sale, lease or exchange, or advertise directions to the property or the Owner's or agent's telephone number.

3. All signs shall comply with the City of Irvine Municipal Codes regarding signs and any other applicable governmental ordinances.
4. Signs erected in Common Areas not complying with the Rules will be removed by a representative of the Northwood II Community Association and stored at a central location for pick up by the real estate agent or owner within a reasonable amount of time. Signs not picked up within a reasonable amount of time will be disposed of at the owner's expense.
5. All Owners shall comply with the following Maintenance Association's "For Sale" and "Open House" Sign Regulations as well as the requirements of Article VII, Section 8 of the Declaration.

### **"For Sale" Sign Regulation**

Article VII, Section 8 of the Declaration and the City of Irvine regulates all signs in Northwood II Community Association. Consistent with these regulations, the Board of Directors has approved the following standards for "For Sale" signs. Homeowners listing their homes with a real estate agent are responsible for ensuring that the agent complies with these standards. Signs deviating from these standards may be moved without notice from the Common Area. These regulations shall also apply to "For Lease" signs.

1. Residents (or their agents) wishing to advertise "For Sale" for purposes of selling their property must use a standard sign with restrictions on type, design, location, and quantity.
2. Signs are to conform to the following specifications:
  - (a) The total sign area shall be contained within a 18" x 24" area.
  - (b) The top of the sign shall not exceed 3' above ground level.
  - (c) Pole Color: Black
3. The sign must be professionally prepared on weather-resistant material.
4. Only one sign is permitted per dwelling unit. Brochure boxes, attached riders, sold signs, flags, banners, balloons and promotional paraphernalia are prohibited. Additionally, only the brokerage firm name or "For Sale by Owner" with a phone number may be included on the sign. The approved sign format and colors are on file and can be purchased at R.E.S.S. (Real Estate Signs and Supplies), 23252 Del Lago, Laguna Hills, CA 92653, (949) 855-1355, or such vendor(s) that may be designated in the future.
5. **The sign may be placed no further away from the dwelling unit than half the distance between the dwelling and the sidewalk.** For attached units, the sign must be placed in a landscape area other than the lawn if possible. No sign shall be

attached to the ground by means other than a conventional single vertical stake which shall not exceed 2" x 3" in diameter. Posts, pillars, frames, or similar arrangements are prohibited.

6. Signs are not permitted on Northwood Estates Community Association property except that a maximum of one "Open House" directional sign per change of direction may be placed at street intersections. However, in no case may there be more than one "Open House" directional sign per corner.
7. Property owners who fail to comply with this policy will be subject to enforcement in accordance with the Violation Enforcement Policy.

### **"Open House" Signage On Common Areas**

Article VII, Section 8 of the Master Declaration and the City of Irvine regulate all signs in Northwood Estates Community Association. Consistent with these regulations, the Board of Directors has approved the following standards for "Open House" signs. Homeowners listing their homes with a real estate agent are responsible for ensuring that the agent complies with these standards. Signs deviating from these standards may be moved without notice from the Common Area.

1. Residents (or their agents) wishing to advertise "Open House" for purposes of selling their property must use a standard sign with restrictions on type, location, and quantity.
2. Signs are to conform to the following specifications:
  - (a) The total sign area shall be contained within a 12" x 18" area.
  - (b) The top of the sign shall not exceed 3' above ground level.
  - (c) Pole Color: Black
3. The Owner of the sign shall identify the sign as his/hers with their initials in an area no larger than 2" x 3".
4. A maximum of one sign (in total) per change of direction may be placed at street intersections. At a four-way intersection there are four corners where only four signs may be placed.
5. Signs may not remain on Common Areas overnight.
6. Brochure boxes, attached riders, flags, banners, balloons and promotional paraphernalia are prohibited. Additionally, only "Open House" and a directional

arrow may be included on the sign. The approved sign format and colors are on file and can be purchased at R.E.S.S. (Real Estate Signs and Supplies), 23252 Del Lago, Laguna Hills, CA 92653, (949) 855-1355, or such vendor(s) that may be designated in the future.

7. "Open House" signage may be posted on Wednesdays, Saturdays, Sundays and Federal holidays only and at a frequency of two weekends per month maximum.
8. The Owner of the property for sale is solely responsible for adherence to these and all other Northwood II Community Association Rules and policies.
11. Property owners who fail to comply with this policy will be subject to enforcement in accordance with the Violation Enforcement Policy.

**NOTICE OF SATELLITE DISH INSTALLATION**

**Name:**

\_\_\_\_\_

**Date:** \_\_\_\_\_ **Address:**

\_\_\_\_\_

\_\_\_\_\_ **Lot #:** \_\_\_\_\_

**Home Phone:** \_\_\_\_\_ **Business Phone:**

\_\_\_\_\_ **Satellite Dish**

**Installation Policy:**

1. All satellite dish devices must not be larger than 36" in diameter.
2. All devices should be discreet in location and must be as far out of view as possible.
3. All cables and wires for the device must be properly secured to building and may not hang. All cables and wires should be strategically placed out of view and may be required to be painted to match the color of the surface it is attached to, if they are deemed inappropriate.
4. The ARC reserves the right to require additional modifications in order to ensure the device is in complete compliance.

**Satellite Dish Agreement:**

(Insert Your Name), have read the above satellite policy and for the Northwood Estates Community Association and agree to install the device per the requirements. The device will be installed on

\_\_\_\_\_

(Insert Install Date). I understand that if the satellite dish device CAN NOT be installed per the above policy, I must submit an application for architectural approval PRIOR to installation detailing the proposed installation.

I understand that after installation, if the device is not in FULL and COMPLETE compliance, I am 100% monetarily responsible for making all necessary changes to the installation in order to bring the device into compliance. I am also aware that any damage resulting from the installation is my responsibility to repair.

I understand if I sell my home, I am responsible for the removal of the satellite dish device and must repair any and all damage to the area where the dish was installed, including all areas of wiring, etc.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Please email application to [hello@northwoodestates.org](mailto:hello@northwoodestates.org)**

**Send check payments to:**

Northwood Estates Community Association

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Association Use Only

IN COMPLIANCE

NOT IN COMPLIANCE

Corrections Required:

\_\_\_\_\_

Signature:

\_\_\_\_\_  
Date: \_\_\_\_\_



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# EXHIBIT D

— A PRIVATE COMMUNITY —

# NORTHWOOD

— ESTATES —

## Northwood Estates Standards and Guidelines

Ver 1.0 Adopted May 19, 2010

Ver 2.0 Adopted May 20, 2021

Ver 3.0 Adopted June 1, 2021

Ver. 4.0 Adopted January 4, 2022

Ver. 5.0 Adopted March 7, 2023

## **Leasing & Rental Enforcement Policy & Rules**

### **1. Basic Policy on Enforcement Regarding Preserving Residential Use of Dwellings.**

An objective of this Enforcement Policy is to promote the establishment of Northwood II (Estates) as a stable, rule-abiding community where people make their homes, and seek compliance by Members with the Association's governing documents and this goal. If any Member fails to comply with any of the terms of this Policy, the Association shall be entitled to pursue all available remedies at law and in equity to compel compliance and recover damages. The provisions and enforcement remedies set forth herein apply to the subject matter in this Policy, notwithstanding any other provisions and procedures set forth in the Association's Rules and Regulations.

The Owner of any rented Lot is ultimately financially and legally responsible for the conduct of any lessees, renters, family members, guests, invitees, or other occupants of and visitors to the Owner's Lot. The Owner is responsible for completing and authorizing the application for all vehicle transponders and key fob requests.

### **2. No Short-Term Rental of Lots for Less Than thirty one (31) Consecutive Days**

Any rental, lease, or other occupancy of a Lot for occupancy of a term of less than a period of thirty one (31) consecutive days is prohibited.

Therefore, each Owner is prohibited from entering into any oral or written agreement to rent, lease, or use a Lot for occupancy of a term of less than thirty one (31) consecutive days. Such prohibited conduct includes, without limitation, entering into an oral or written agreement to rent, lease, or use the Lot, which on its face or by its terms may provide for an occupancy term of at least thirty one (31) consecutive days, but which the Owner knows, or reasonably should know, the renter, lessee, occupant, or user of the Lot actually intends to occupy the Lot for a term of less than thirty one (31) consecutive days. Also, the Board may determine that any other occupancy of a Lot that is for less than a term of thirty one (31) consecutive days (irrespective of the terms of any oral or written agreement) is a violation of this Policy (excluding instances where an Owner owns a Lot as second home and the Owner periodically occupies the Lot for a term of less than thirty one (31) consecutive days).

### **3. No Rental of Lots for Transient or Hotel Purposes.**

Any rental, lease, or other occupancy of a Lot pursuant to which services normally associated with a hotel, such as meal service, maid/housekeeping service or excursions are provided constitutes an impermissible nonresidential use of the Lot for transient or hotel purposes.

Therefore, each Owner is prohibited from entering into any oral or written agreement to rent, lease or use a Lot for hotel or transient purposes. Such prohibited conduct includes, without limitation, entering into an oral or written agreement to rent, lease or use the Lot in connection with so-called “birth tourism” (*i.e.*, travel to the United States for the purpose of giving birth in the United States), Airbnb, VRBO, if rental, lease or use of the Lot is associated with services normally associated with a hotel, as described above.

#### **4. No Rental of Less than the Entire Lot.**

No Owner may rent or lease less than such Owner’s entire Lot. Therefore, arrangements such as excluding the garage or areas of the residence or the rental or leasing of multiple individual rooms or operating a Lot as a boarding house are prohibited.

#### **5. Minimum Requirements for Lease/Rental Agreements.**

Each Owner who leases his/her Lot shall do so by way of a written lease agreement. As noted above, each Owner is ultimately responsible for the conduct of the Owner’s tenants; thus, it behooves each Owner who leases his/her Lot to comply with this Policy and include provisions in the Owner’s lease agreement to minimize the Owner’s exposure to liability arising from the conduct of tenants and to include in the lease agreement all available remedies for action against tenants who violate any of the Association’s Declaration, Bylaws, Rules and Regulations, Policies, Design Guidelines, or any other governing documents (collectively, the “Restrictions”).

Therefore, in an effort to assist Owners with being empowered to take action against and evict, if necessary, tenants who violate the any provisions of the Restrictions, the Association requires each Owner who leases his or her Lot to include provisions in the lease agreement substantially in the form of the following:

(a) Lessee shall not assign the lease or any interest therein or sublet the premises or any part thereof, or permit the use or occupancy of the premises by any person other than Lessee and any persons identified in the Lease Agreement as permissible occupants.

(b) Lessee agrees that Lessee and all occupants of the premises shall be bound by and shall comply with all provisions of the Northwood II (Estates) Community Association (“Association”) Declaration of Restrictions (“Declaration”), Bylaws, Rules and Regulations, Policies, Design Guidelines, or any other governing documents

(collectively, the “Restrictions”), concerning the use and occupancy of the premises and the Association common area property, and that Lessee shall control the conduct of all other occupants, guests and others visiting or residing at the leased premises in order to ensure compliance with the Restrictions. Lessee acknowledges receipt of a copy of the Restrictions. Any violation of the Restrictions or attempt to assign or sublet the premises shall be a default under the Lease Agreement and this Lease Addendum, and Lessor shall have the right to terminate the Lease Agreement without liability and to evict the Lessee and all other occupants in accordance with California law.

(c) Lessee agrees that any failure by Lessee hereunder to comply with the terms of the Association’s governing documents shall be a material default under this Lease Agreement and shall be cause for immediate termination of the lease.

(d) Lessee agrees that any fines, penalties, or other charges levied against Landlord or Owner as a result of Lessee’s conduct or any persons’ conduct who is acting by and/or through Lessee, shall become a charge to Lessee and any failure of Lessee to pay such charges timely shall be a material default under the Lease Agreement and shall be cause for immediate termination of the lease.

Boarding houses in which two or more rooms are rented under two or more separate written or oral agreements, leases or subleases (or combination thereof), whether or not the owner, agent or rental manager resides within the residences, are prohibited. The rental shall apply to not less than an entire Residence, including its appurtenant rights (except voting rights in the Association that may not be transferred to a tenant or lessee).

#### **6. Notice To Association of Lease/Rental/Occupancy Agreements.**

Within seven (7) days after executing, or otherwise entering into, a lease, rental, or other agreement for the lease, rental, occupancy, or use of a Lot, the Owner shall provide the Association’s managing agent:

(a) The name of the lessee, renter, occupant, or user of the Lot and all other persons occupying the Lot, and a complete valid copy of the lease, rental, or other agreement evidencing the Owner’s permission for such lessee, renter, occupant, family member, guest, or other person, to occupy or use the Lot, and

(b) The name, mailing address, email address and telephone number of the lessee, renter, occupant, user of the Lot who can respond to any contact from the Association within two (2) hours.

The written tenant lease agreement must be submitted with signatures & dates from both the Owner and the Tenant. The Owner must show that the Tenant has been provided with, and acknowledges receipt of, a copy of the HOA rules and regulations.

Management will not be permitted to update the property access device profile in the Association's access management system for any owner or tenant resident without being provided the required documentation. This applies to requests for vehicle transponders and keyfobs which will not be provided without the owner's written request, written tenant lease as applicable, completed application & valid DMV registration per association rules.

### **7. Lease Administrative Fee**

Owner-landlords will be charged a monthly lease administrative fee of \$45.00 per month which will be used to reimburse the Association of the actual costs associated with rental activity. Rental activity increases the Associations administrative responsibilities. Property monitoring and administering rental activity requires the Association to conduct routine occupancy audits of the community, maintain and update tenant contact information, obtain and review individual lease agreements, and maintain a separate set of records of each rental unit. Apportioning these costs based on the responsibility of their creation is an equitable approach for the membership.

### **8. Move In or Out Hours**

Moving in or out of any dwelling and moving activity is restricted to 8:00 am to 8:00 pm daily. Noise nuisance from moving activity after hours is subject to violation &/or fines.

### **9 . Enforcement and Fine Schedule For Violations of This Policy.**

Any violation of the foregoing restrictions is considered an egregious breach of this Policy and violation of the residential use limitations contemplated hereunder. The fine schedule set forth herein shall control for any violations of this Policy, notwithstanding any other provision of the Restrictions. In developing the fine schedule for violations of this Policy, the Board considered that an Owner may receive a significant sum of money for leasing of a Lot in violation of this Policy.

Thus, in recognition of this fact, together with the strong policy of wishing to preserve the residential use of the Lots, and as a disincentive against violations, and to prevent an Owner from profiting from violating the Restrictions, the Board, in its discretion,

may levy a fine (as a monetary penalty) against an Owner for violations of this Policy in the amount of \$1,000.00 for the first offense, with the fine for each subsequent offense per the violation procedure and fine policy.

A fine in the amount of **\$200.00** will be imposed for each occurrence of failure to timely register a tenant with the Association’s managing agent as required above.

The foregoing fines shall be in addition to any other disciplinary action or remedies available to the Association (after providing the Owner notice and an opportunity for a hearing). The foregoing shall not be construed to limit or restrict the Association from immediately proceeding with filing legal action or pursuing other available enforcement action to remedy a violation. Failure to comply with any of the other provisions of this Policy (*e.g.*, the lease agreement requirements) shall subject the responsible Owner(s) to monetary fines in accordance with the Association’s regular Fine Schedule contained in the Rules and Regulations and/or all other the remedies provided under the Restrictions or otherwise authorized in law or in equity.

**Rental/Occupancy Violation Procedure and Fine Policy**

The Board of Directors has adopted the following violation procedure and fine policy for any **rental, lease or occupancy violations**, including, but not limited to, those which are less than thirty-one (31) consecutive days:

First Violation	Violation letter, notice of hearing, \$200 for failure to timely register a tenant
Second Violation	Violation letter, notice of hearing and fine of \$1,000
Third Violation	Violation letter, notice of hearing and fine of \$2,000
Fourth Violation	Violation letter, notice of hearing and fine of \$4,000
Additional Fines	Violation letter, notice of hearing and fine of \$4,000

The Board of Directors has adopted the following violation procedure and fine policy for violating **Residential Use CCR 7.1** (operating business from any lot prohibited):

First Violation	Violation letter, notice of compliance or hearing, fine of \$500 failure to comply
Second Violation	Violation letter, notice of hearing and fine of \$1,000

Third Violation	Violation letter, notice of hearing and fine of \$2,000
Fourth Violation	Violation letter, notice of hearing and fine of \$4,000
Additional Fines	Violation letter, notice of hearing and fine of \$4,000

The Board of Directors has adopted the following violation procedure and fine policy for all other violations:

First Violation	Violation letter, notice of compliance or hearing, fine of \$100 failure to comply
Second Violation	Violation letter, notice of hearing and fine of \$200
Third Violation	Violation letter, notice of hearing and fine of \$400
Fourth Violation	Violation letter, notice of hearing and fine of \$800
Additional Fines	\$200 increments up to \$800 per month

Notwithstanding the above, for more serious violations, which are within the sole discretion of the Board to decide, the matter may be immediately set for a hearing, and the matter may be referred to the Association's attorney for more immediate pursuit of appropriate legal action. HOA attorney fees for the violation process will be charged back to the homeowner.

The Board reserves the right to assess for damage to the common area or threat of life and safety in excess to the above policy.

**Parking and Vehicle Rules & Restrictions:**

1. All commercial (e.g., stake bed trucks, tank trucks, dump trucks, step vans, concrete trucks, limousines, horse trailers, taxis, etc.) vehicles are not permitted in the community except entirely parked within the garage with the door closed. Recreation type (e.g., motor homes, travel trailers, camper vans, boats, etc.) are prohibited vehicles & may only be kept entirely inside the garage with the door closed or in a side or rear yard on a pad built for that purpose and approved by the Architectural Committee. If a recreational vehicle is to be stored in the yard, it must be screened completely from view.



2. The garage door shall remain closed except for entry, exit, and for brief periods of loading or unloading.
3. Repairs or restorations of any kind, to any type of motor vehicle is not permitted in the community, except for emergency repairs thereto, and then only to the extent necessary to enable the vehicle to be moved to a proper repair facility.
4. No repair or restoration that may be considered a nuisance is permitted.
5. Parking in fire lanes is strictly prohibited. Bella Rosa and Serissa alleys/shared driveways are fire lanes. Vehicles parked in a fire lane are subject to immediate tow.
6. Residents must park two (2) vehicles in the garage before utilizing the street or driveway for parking. All garages must be maintained in such a way as to accommodate at least two (2) vehicles.
7. No business activity shall be conducted within, or from, any garage.
8. Each owner is responsible for advising their guests to abide by the parking restrictions.
9. Storage of vehicles is not permitted on the streets. A vehicle will be deemed to be stored when it has not shown "substantial" movement (at least 1/4 mile) for any 72 hour period.
10. Vehicles shall be parked in the same direction as traffic. Vehicles shall not be parked in a manner which blocks access to, or use of, any sidewalk, sidewalk access ramp or mailbox. Further, vehicles shall not be parked in a manner which causes an unreasonable risk of safety for pedestrians or drivers. For example, vehicles shall not be parked on street corners.
11. Vehicles parked on community streets shall not be covered.
12. Vehicles must park perpendicular within the boundaries on the driveway. Parking parallel to the garage door or parallel on any driveway is prohibited. Vehicles violating this rule are subject to fines or if in a fire lane immediate tow.
13. Vehicles may not park on the street blocking the entry to any driveway. Vehicles violating this rule are subject to fines or if in a fire lane immediate tow.
14. Vehicles that are parked beyond the driveway boundary blocking or over a pedestrian sidewalk are subject to citation and fine.

15. Vehicles blocking mail boxes during mail delivery service days/hours are subject to citation and fine.
16. Vehicles may not be parked further than 18” from the curb which is considered unsafe and is subject to citation, fines and in some cases towing.
17. Noise nuisance or loud exhaust vehicles are prohibited. Loud noise from any vehicle may not disturb residents.
18. All Owners are required to register their residents’ vehicles with the Association management and all resident vehicles are required to be equipped with transponders. This is to provide convenience for automatic opening of vehicle entry gates, to minimize entrance traffic for the guest keypad and for the Association to review resident vehicles for parking and safety. A resident is defined as a person occupying 21 days within a 90 period. For tenant/resident vehicles, the vehicle transponders will only be active during the start and end date of the written tenant agreement at which time they will expire, unless the owner communicates to management an existing lease with a monthly term or a valid written tenant lease extension is submitted.
19. Transponder requests exceeding more than four (4) total vehicle transponders per household requires Association and Board review. \*If approved the following chargeback schedule will be charged monthly to the owner’s ledger as follows:

5th vehicle	\$50 per month
6th vehicle	\$100 per month (+ \$50/month)
7th vehicle	\$200 per month (+ \$150/month)
8th vehicle	\$400 per month (+ \$350/month)
9th vehicle	\$800 per month (+ \$750/month)
10th vehicle	\$1600 per month (+ \$1550/month)

Residents exceeding more than four vehicles must fully utilize the garage for parking 2 vehicles prior to parking on street (homes without driveway) or driveway (homes with a driveway)

- 20. Transponder requests for CCR 7.4.1 Restricted type vehicles, which must be parked entirely inside of the garage with the door closed, require Association and Board review.
- 21. Northwood Estates parking rules will be enforced by the community's Violation Procedures, and failure to comply could result in fines, and, in some cases, the towing of the violating vehicle at the owner's expense. Vehicles parked in red curbs, fire lanes or blocking fire hydrants are subject to immediate towing and/or citation by the Irvine Police Department.
- 22. The speed limit in the community is 15 MPH.

**Parking & Vehicle Violation Procedure and Fine Policy**

The Board of Directors has adopted the following violation procedure and fine policy for **violating parking and vehicle rules for illegal parking in fire lanes, fire hydrants, or red curb (immediate tow) or handicapped parking without valid placard or license plate visible:**

First Violation	Violation letter, notice of hearing and fine of \$200
Second Violation	Violation letter, notice of hearing and fine of \$500
Third Violation	Violation letter, notice of hearing and fine of \$1000
Additional Violations	Violation letter, notice of hearing and fine of \$1500

The Board of Directors has adopted the following violation procedure and fine policy for **fraudulent use of access devices (vehicle transponders or keyfobs):**

Violation letter, notice of hearing and fine of \$500

The Board of Directors has adopted the following violation procedure and fine policy for **violating all other vehicle and parking rules:**

First Violation	Violation letter, notice of hearing and fine of \$50
Second Violation	Violation letter, notice of hearing and fine of \$100
Third Violation	Violation letter, notice of hearing and fine of \$200
Additional Violations	Violation letter, notice of hearing and fine of \$300

### **Pet Guidelines:**

The following rules are intended to supplement the restrictions set forth in Section 7.9 of the CC&Rs:

1. Pets must be on a leash or within an enclosed pet carrier at all times when in the common areas. All animals must be under control at all times.
2. Residents are responsible for any damage to the common areas caused by their pets. They may be assessed and/or penalized by the Board of Directors.
3. Pet owners must pick up after their pets on all community property including, but not limited to, all common areas, any adjacent streets and landscape and at all parks. Waste droppings must be deposited in an appropriate waste container. Any resident not complying with this provision may be subject to fines.
4. No person may allow an animal to bite, attack, endanger, or inflict injury on another person or animal, or chase or approach an individual in a menacing fashion.
5. An owner is subject to fines or penalties if any pet becomes a nuisance to other residents through barking, howling or other noise.
6. No person with a leashed pet may release the leash at any time. Pet leash must not exceed a maximum of 6 feet.

### **Pool Rules:**

1. Pool Hours:  
Sunday – Saturday: 6 am – 10 pm
2. A resident and/or homeowner shall be responsible to the Association for any damage caused by his or her guests. All guests must be accompanied by a resident at all times.

3. Residents are **limited to six (6) maximum guests per household** while using the pool area and must accompany guests at all times.
4. Pets are not permitted in the pool areas.
5. Glass or other breakable containers are not permitted in the pool areas.
6. A lifeguard is not provided; therefore, all persons using the pool do so at their own risk. Northwood Estates Community Association assumes no liability in this regard. Further rules are posted in the pool area and must be observed.
7. Children under the age of 14 must be accompanied by a competent adult (18 years of age or older) while in the pool area. No exceptions.
8. Music must be listened to on headphones in pool and recreational areas.
9. Diving into the pool is not permitted.
10. Flotation devices are to be utilized at your own risk and should not interfere with the utilization of the pool by other people. Flotation devices are not permitted in the spa.
11. Diapers are not permitted in the pool. Appropriate swimwear (waterproof diapers specifically designed for swimming) should be used.
12. Proper swimwear is required at all times. Denim is strictly prohibited in the pool.
13. Pool area tables, chairs and cabanas cannot be reserved for exclusive use by any person or group. Pool area furniture is used on a first come – first served basis. Please clean up your area when you leave and place lounge chair furniture back in place.
14. Running, rough play or ball throwing is not permitted in the pool area.
15. Common area BBQs may not be reserved or used exclusively by any person or group. Use should be **limited to 30 minutes** when others are waiting. When utilizing the BBQs, homeowners are responsible for cleaning up any mess or left over food from the grill and countertop areas.
16. Residents should be careful and use caution when using the BBQ. Fire can be dangerous and residents using the BBQ do so at their own risk.
17. Alcohol is strictly prohibited for persons under 21 years of age.

18. **Smoking is prohibited in pool, clubhouse, and park and picnic areas.**
19. Because of significant safety concerns, pool gates and restroom doors should be closed and locked at all times. Gates and doors should never be propped open.
20. Skateboarding, bicycling, rollerblading and the use of scooters, and similar motorized apparatus, is not permitted in the pool, clubhouse, and park and picnic areas.
21. Residents must use their assigned key fob to enter and sign in at the pool log to use the pool. No fence jumping. Individuals unable to show proof of residency or active keyfob access will be asked to leave.
22. Residents with amenity privileges in suspension status may not use Northwood Estates recreational facilities.

**Clubhouse Rules:**

1. The clubhouse may be rented up to four times a year. Rentals in excess of four times a year must be expressly approved by the Board. **A non-owner resident (homeowner's tenant) may only rent the clubhouse with the written approval of the homeowner.** The homeowner is ultimately responsible for damage caused by their tenant.

**2. Clubhouse Hours:**

Everyday	7am – 10pm
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3. The Association's recreational facilities may not be used for commercial purposes.
4. The homeowner or resident who reserved the clubhouse **MUST** sign the rental agreement and write two (2) separate checks for the non-refundable rental fee and the refundable security deposit. Rental and deposit amounts are detailed in the Clubhouse Rental Agreement.
5. The homeowner or resident who signed the rental agreement must be present at all times during the event/function. The renting party must supply a proof of insurance endorsement with a general liability provision of at least \$500,000,

which names Northwood II Community Association as an additional insured for the date of the event, and for all times the facility will be used.

6. **Only the homeowner or resident may sign the rental agreement** and is solely responsible for all guests at their function. Any damages, theft, or other acts of malicious mischief perpetrated by any guest is the responsibility of the homeowner. If damage is greater than security deposit, the Board has the power to assess the homeowner who had rented the clubhouse.
7. Alcohol is only to be served to persons over 21 years of age.
8. **Smoking is prohibited in the clubhouse, pool, and park & picnic areas.**
9. Pets are not permitted in the clubhouse and pool area.
10. Skateboarding, rollerblading bicycling and the use of scooters, or similar motorized apparatus is not permitted in the pool, clubhouse, and park and picnic areas.
11. Rental of the clubhouse does not include exclusive use of the library, pool, barbeque, or other common recreation areas.
12. Patio furniture may not be used or brought into the clubhouse.
13. Noise from any events given in the clubhouse must be kept to a reasonable level, and to a minimum.
14. Decorations are only permitted inside the clubhouse (balloons and banners) if they do not cause damage to the property. Nails, tacks, or tape that will damage or peel off paint are not to be used in putting up the decorations.
15. Live music (bands or DJ's) is not permitted.
16. Lights, heat / air conditioning, and all other appliances need to be turned off before leaving.
17. Refrigerator and freezer must be left clean and empty.
18. Maximum occupancy is 50 people.
19. All events, **including cleanup**, must end by 10:00pm (Sunday – Thursday) and 11:00pm (Friday and Saturday). Strictly enforced.

20. All trash must be removed from the premises and not dumped in any containers located at the clubhouse, pool or park & picnic area. Failure to properly dispose of trash may result in the forfeiture of the security deposit.
21. Residents with amenity privileges in suspension status may not use Northwood II recreational facilities.

**Park and Picnic Area Rules:**

1. Park and Picnic hours:

Everyday	7am – dusk
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2. Only adults (18 years of age or older) or those under direct adult supervision are allowed to use the Community BBQ facilities. Residents should be careful and use caution when using the BBQ. Fire can be dangerous and residents using the BBQ do so at their own risk.
3. Use of the Northwood Estates Community Association property shall be subject to the provisions of the CC&Rs, and to any limitations imposed by any other Northwood Estates Community Association Documents.
4. The Park and Picnic area is for the use of Northwood Estates members and their accompanied guests, and **all cleanup shall be completed prior to leaving the area.**
5. The Park and Picnic area **may not be used for commercial purposes, other than those endorsed by Northwood Estates Community Association.**
6. Management reserves the right to close any of the facilities at any time in order to repair, clean, and maintain premises.
7. Portable barbecues, skateboarding, rollerblading, bicycling, motorized equipment (i.e. scooters), hitting golf balls & hard-baseballs, petting zoo animals and pony rides are prohibited at all times. Live music (bands and DJ's) is prohibited. Music must be listened to on headphones in recreational areas. Recorded music and stereos require prior management approval, and shall be kept to a minimum noise level.



8. Park and Picnic area reservations are available for any event and are required for parties utilizing a bounce house, and/or for parties with more than 10 guests, however, only for the purpose of precluding more than one event on any given date. Reservations do not preclude other Northwood Estates members from using the other areas of the facility. A non-refundable rental fee and a refundable damage deposit is required for all reservations. Rental fee and deposit amount are detailed in the Park & Picnic Area Rental Agreement. **Reservations may be made through property management, email [access@northwoodestates.org](mailto:access@northwoodestates.org)**. Refunds of the deposit will be made within thirty (30) days of the reservation date, provided there is no damage or cleanup as a result of your event. Please refer to the Northwood Estates Park and Picnic Rental Agreement for specific rental Rules and Regulations.
9. Residents who have made reservations, as described above, may procure a bounce house limited to a maximum of 15'x15' in size. An outlet is provided for this purpose. Generators are not allowed. Northwood Estates Community Association and the Management Company must be named additional insured by the bounce house company.
10. All common area BBQs may not be reserved or used exclusively by any person or group. Use should be **limited to 30 minutes** when others are waiting. When utilizing the BBQs, homeowners are responsible for cleaning up any mess or left over food from the grill and countertop areas.
11. Alcohol is strictly prohibited for persons under 21 years of age.
12. **Smoking is prohibited in the pool, clubhouse, and park and picnic areas.**

**Trash and Unsightly Items:**

1. All trash containers must be screened from view, and, therefore, may not be stored on driveways, in alleys, in front of side gates, or anywhere else they are visible from the street, sidewalk or other common area.
2. Trash containers may be exposed to the view of neighboring homes only when set out on the streets for pickup. Trash may not be exposed for more than twelve (12) hours before and after pickup.
3. Trash or unsightly items may not be kept, stored or left to accumulate on any portion of the community, except within an enclosed structure, or appropriately screened from view, as permitted by the Architectural Review Committee.
4. Weeds shall be regularly removed from the exterior portion of your home.

## **Signs:**

1. **Noncommercial Signs:** A noncommercial poster, flag or banner may be made of paper, cardboard, etc., and may be displayed from the yard, window, door, balcony or outside wall of the owners' separate interest, but may not be made of lights, roofing, siding, paving materials, flooring, balloons, or any other similar building, landscaping or decorating component, including the painting of architectural surfaces. Noncommercial signs and posters that are more than nine (9) square feet in size, and noncommercial flags or banners that are more than fifteen (15) square feet in size are prohibited.
2. **Commercial Signs Including Real Estate Signs:**
  - a. Please refer to Addendum A for Real Estate sign rules including "For Sale" signs and "Open House" signs.
  - b. Owners are permitted to have one sign advising of the existence of security services protecting their home
  - c. Commercial signs, other than those used for security services, lease or sale of the home, are not permitted. This includes signs identifying contractors working on your home.
3. All signs shall comply with the City of Irvine Municipal Codes regarding signs, and any other applicable governmental ordinances.
4. Signs erected in the Common Areas not complying with the Rules will be removed by a representative of the Northwood II Community Association and stored at a central location for pickup by the real estate agent or owner within a reasonable amount of time. Signs not picked up within a reasonable amount of time will be disposed of at the owner's expense.

## **General Items:**

1. Windows may not be covered by items such as cardboard, foil, bed sheets and newspapers.

2. For satellite dish installation and placement, please refer to and comply with the guidelines set forth in the Northwood Estates Community Association Notice of Satellite Dish Installation form.
3. Owners may not dump inappropriate materials in the drains. Toxic materials, paint, trash, cigarette butts or other hazardous waste items, etc., must be disposed of appropriately. Any owner violating this policy may be assessed for the removal and/or fined.
4. The established drain pattern may not be interfered with, unless an adequate alternative provision is made for proper drainage and first approved in writing by the ARC.
5. Each owner shall maintain all drainage facilities located within such owners unit or exclusive use property. It should be free and clear of debris which would interfere with the established drainage pattern within the community.
6. All alterations, color changes, or installations to the exterior of your home or lot must be approved by the Architectural Review Committee (“ARC”) prior to the start of the proposed project and must adhere to the Architectural Procedures and Guidelines for Northwood II.
7. Garage and/or yard sales are prohibited and are only permitted during designated community events approved by the Board of Directors.
8. Portable basketball hoops, and other sports apparatus, shall not be stored overnight in the street or other common areas. Stored apparatus must not be visible from the streets, sidewalks or other common areas.

#### **Holiday Decorations:**

1. Holiday decorations are permitted in your exclusive use area and on your home; however, decorations of any type are NOT permitted in the common area. The common area includes, but is not limited to, stairways, trees, bushes or other landscaped areas maintained by the Association, etc. Any decorations found in the common area will be removed at the owner’s expense.
2. Holiday lights may be placed on the wood fascia in your exclusive use area; however, you should use hooks intended for holiday lights.
3. Wreaths or other similar types of decorations may be placed on front doors and remain as long as they are attractive and in good condition.

4. All decorations are permitted up to one month prior to the holiday and must be removed within 15 days after the holiday. All holiday decorations celebrating holidays in December must be removed by January 15 of each year.

**General Violation Procedure and Fine Policy:**

The Board of Directors has adopted the following violation procedure and fine policy:

Warning	Warning letter outlining violation, 21 day cure time
First Violation	Violation letter, notice of hearing and fine of \$100
Second Violation	Violation letter, notice of hearing and fine of \$200
Third Violation	Violation letter, notice of hearing and fine of \$300
Additional Violations	\$100 increments up to \$800 per month

The Board reserves the right to assess for damage to the common area or threat of life and safety in excess to the above policy.

**Sign Rules Addendum A**

**Sub-Index**

**For Sale Signs**

**Open House Signs**

1. No sign or billboard of any kind shall be displayed to the public view on any portion of the Maintenance Property.
2. In accordance with Section 712 of the California Civil Code, an Owner may display on his/her Lot or Condominium or on real property owned by others with their consent, or both, signs which are reasonably located, in plain view of the public, are of reasonable dimensions and design, do not adversely affect public safety, including traffic safety, and which advertise the property for sale, lease or exchange, or advertise directions to the property or the Owner's or agent's telephone number.

3. All signs shall comply with the City of Irvine Municipal Codes regarding signs and any other applicable governmental ordinances.
4. Signs erected in Common Areas not complying with the Rules will be removed by a representative of the Northwood II Community Association and stored at a central location for pick up by the real estate agent or owner within a reasonable amount of time. Signs not picked up within a reasonable amount of time will be disposed of at the owner's expense.
5. All Owners shall comply with the following Maintenance Association's "For Sale" and "Open House" Sign Regulations as well as the requirements of Article VII, Section 8 of the Declaration.

### **"For Sale" Sign Regulation**

Article VII, Section 8 of the Declaration and the City of Irvine regulates all signs in Northwood II Community Association. Consistent with these regulations, the Board of Directors has approved the following standards for "For Sale" signs. Homeowners listing their homes with a real estate agent are responsible for ensuring that the agent complies with these standards. Signs deviating from these standards may be moved without notice from the Common Area. These regulations shall also apply to "For Lease" signs.

1. Residents (or their agents) wishing to advertise "For Sale" for purposes of selling their property must use a standard sign with restrictions on type, design, location, and quantity.
2. Signs are to conform to the following specifications:
  - (a) The total sign area shall be contained within a 18" x 24" area.
  - (b) The top of the sign shall not exceed 3' above ground level.
  - (c) Pole Color: Black
3. The sign must be professionally prepared on weather-resistant material.
4. Only one sign is permitted per dwelling unit. Brochure boxes, attached riders, sold signs, flags, banners, balloons and promotional paraphernalia are prohibited. Additionally, only the brokerage firm name or "For Sale by Owner" with a phone number may be included on the sign. The approved sign format and colors are on file and can be purchased at R.E.S.S. (Real Estate Signs and Supplies), 23252 Del Lago, Laguna Hills, CA 92653, (949) 855-1355, or such vendor(s) that may be designated in the future.
5. **The sign may be placed no further away from the dwelling unit than half the distance between the dwelling and the sidewalk.** For attached units, the sign must be placed in a landscape area other than the lawn if possible. No sign shall be

attached to the ground by means other than a conventional single vertical stake which shall not exceed 2" x 3" in diameter. Posts, pillars, frames, or similar arrangements are prohibited.

6. Signs are not permitted on Northwood Estates Community Association property except that a maximum of one "Open House" directional sign per change of direction may be placed at street intersections. However, in no case may there be more than one "Open House" directional sign per corner.
7. Property owners who fail to comply with this policy will be subject to enforcement in accordance with the Violation Enforcement Policy.

### **"Open House" Signage On Common Areas**

Article VII, Section 8 of the Master Declaration and the City of Irvine regulate all signs in Northwood Estates Community Association. Consistent with these regulations, the Board of Directors has approved the following standards for "Open House" signs. Homeowners listing their homes with a real estate agent are responsible for ensuring that the agent complies with these standards. Signs deviating from these standards may be moved without notice from the Common Area.

1. Residents (or their agents) wishing to advertise "Open House" for purposes of selling their property must use a standard sign with restrictions on type, location, and quantity.
2. Signs are to conform to the following specifications:
  - (a) The total sign area shall be contained within a 12" x 18" area.
  - (b) The top of the sign shall not exceed 3' above ground level.
  - (c) Pole Color: Black
3. The Owner of the sign shall identify the sign as his/hers with their initials in an area no larger than 2" x 3".
4. A maximum of one sign (in total) per change of direction may be placed at street intersections. At a four-way intersection there are four corners where only four signs may be placed.
5. Signs may not remain on Common Areas overnight.
6. Brochure boxes, attached riders, flags, banners, balloons and promotional paraphernalia are prohibited. Additionally, only "Open House" and a directional

arrow may be included on the sign. The approved sign format and colors are on file and can be purchased at R.E.S.S. (Real Estate Signs and Supplies), 23252 Del Lago, Laguna Hills, CA 92653, (949) 855-1355, or such vendor(s) that may be designated in the future.

7. "Open House" signage may be posted on Wednesdays, Saturdays, Sundays and Federal holidays only and at a frequency of two weekends per month maximum.
8. The Owner of the property for sale is solely responsible for adherence to these and all other Northwood II Community Association Rules and policies.
11. Property owners who fail to comply with this policy will be subject to enforcement in accordance with the Violation Enforcement Policy.

**NOTICE OF SATELLITE DISH INSTALLATION**

**Name:**

\_\_\_\_\_

**Date:** \_\_\_\_\_ **Address:**

\_\_\_\_\_

\_\_\_\_\_ **Lot #:** \_\_\_\_\_

**Home Phone:** \_\_\_\_\_ **Business Phone:**

\_\_\_\_\_ **Satellite Dish**

**Installation Policy:**

1. All satellite dish devices must not be larger than 36" in diameter.
2. All devices should be discreet in location and must be as far out of view as possible.
3. All cables and wires for the device must be properly secured to building and may not hang. All cables and wires should be strategically placed out of view and may be required to be painted to match the color of the surface it is attached to, if they are deemed inappropriate.
4. The ARC reserves the right to require additional modifications in order to ensure the device is in complete compliance.

**Satellite Dish Agreement:**

(Insert Your Name), have read the above satellite policy and for the Northwood Estates Community Association and agree to install the device per the requirements. The device will be installed on

\_\_\_\_\_

(Insert Install Date). I understand that if the satellite dish device CAN NOT be installed per the above policy, I must submit an application for architectural approval PRIOR to installation detailing the proposed installation.

I understand that after installation, if the device is not in FULL and COMPLETE compliance, I am 100% monetarily responsible for making all necessary changes to the installation in order to bring the device into compliance. I am also aware that any damage resulting from the installation is my responsibility to repair.

I understand if I sell my home, I am responsible for the removal of the satellite dish device and must repair any and all damage to the area where the dish was installed, including all areas of wiring, etc.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Please email application to [hello@northwoodestates.org](mailto:hello@northwoodestates.org)**

**Send check payments to:**

Northwood Estates Community Association

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Association Use Only

IN COMPLIANCE

NOT IN COMPLIANCE

Corrections Required:

\_\_\_\_\_

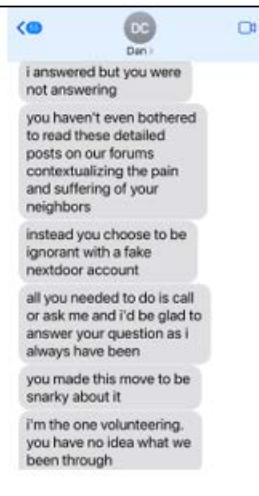
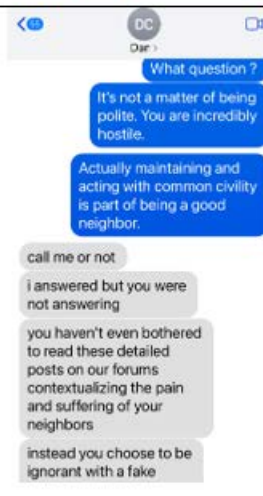
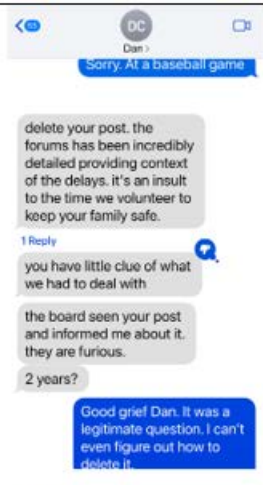
Signature:

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# EXHIBIT E



Dan was repeatedly calling me so I believe he meant to say "I called but you were not answering".