

- (e) On-site retaining walls, if required, shall be designed to protect the root system of any individual oak tree, except as provided in this Section or in the Riverside County LMS Conditions of Approval;
- (f) Redirection of surface runoff which results in increased soil moisture for an extended period of time within the drip line area of any individual oak tree shall be avoided. If unavoidable, a drainage system shall be designed to maintain the previous amount of soil moisture;
- (g) Sedimentation and siltation shall be controlled to avoid filling around the base of oak trees.
- (h) Redirection of surface runoff which results in decreased soil moisture for an extended period of time within the drip line area shall be avoided. If unavoidable, an irrigation system shall be designed to maintain the previous amount of soil moisture.
- (i) A construction zone at the interface with a protected zone shall be clearly delineated on the site in order to avoid impacts from construction operations and also to prevent the storage or parking of equipment outside the construction zone.
- (j) Dead or dying oak trees are necessary for the excavation of nest cavities by woodpeckers. Twelve species of birds use next cavities. It is important to the health of the habitat to retain dead and dying oak trees that are not a hazard to humans. Such oak trees shall be retained in place unless determined to pose a health or safety hazard in which case they shall be discarded at an approved on-site location identified by the consulting biologist for habitat enhancement.
- (k) On-site to on-site, or on-site to off-site relocation of oak trees will not constitute mitigation and is considered the same as removal for the purposes of these guidelines.
- (l) Replacement of oak trees with plantings of saplings or acorns is not required by these guidelines; however, replacement plantings may be used in addition to these guidelines when they are required by another agency or when it is determined to be biologically sound and appropriate to do so.

10.20. Compliance with Archaeological Environmental Constraints.

The Properties are subject to the archaeological resources restrictions set forth in County Archaeological Report No. PD-A-1764 ("Archaeological Report"), prepared with regard to the Properties August 30, 1990, on file at the County of Riverside Planning Department. The



Association, and each Owner whose Lot may be deemed to be subject thereto, shall comply with all restrictions and conditions set forth pursuant to the Archaeological Report.

10.21. Inside Installations.

No window in any Residence may be partially or completely covered, inside or outside, with aluminum foil, newspaper, paint, reflective tint or any other material the ARC deems inappropriate for such use; provided, however, that an Owner may use plain clean white sheets to cover windows for a period not to exceed six (6) months after the Close of Escrow pending the installation of drapes, curtains, shutters or other appropriate interior window coverings.

10.22. View Obstructions.

Each Owner acknowledges that (a) there are no protected views within the Properties, and no Lot is assured the existence or unobstructed continuation of any particular view, and (b) any construction, landscaping or other installation of Improvements by Declarant or other Owners may impair the view from any Lot, and the Owners hereby consent to such view impairment.

10.23. Solar Energy Systems.

Each Owner may install a solar energy system on his Lot which serves his Residence so long as (a) the design and location of the solar energy system meet the requirements of all applicable governmental ordinances and (b) said design and location receive the prior written approval of the ARC.

10.24. Installation of Front Yard Landscaping.

Declarant may install front yard landscaping. If not installed by Declarant, each Owner shall complete the installation of landscaping on the front yard of such Owner's Lot in accordance with a plan approved by the ARC within six (6) months after the Close of Escrow. Each Owner shall obtain all permits necessary and shall comply with all requirements of the County.

10.25. Rights to Disabled.

Subject to the provisions of Article VIII hereof, each Owner may modify his Residence and the route over the Lot leading to the front door of his Residence, at his sole expense, in order to facilitate access to his Residence by persons who are blind, visually impaired, deaf or physically disabled, or to alter conditions which could be hazardous to such persons, in accordance with California Civil Code Section 1360 or any other applicable law or ordinance.

ARTICLE XI

11. Damage and Condemnation.



Damage to or destruction of all or any portion of the Common Area, or those portions of the Association Maintenance Areas which are not part of the Residences, and condemnation of all or any portion of the Common Area shall be handled in the following manner:

- (a) If the Common Area or such Association Maintenance Areas damaged or destroyed, the Association shall cause the Common Area and such Association Maintenance Areas to be repaired and reconstructed substantially in accordance with the original plans and specifications, and any restoration or repair of the Common Area and such Association Maintenance Areas shall be performed substantially in accordance with the original plans and specifications. If the cost of effecting total restoration of the Common Area and such Association Maintenance Areas exceeds the amount of insurance proceeds, then the Association shall levy a Reconstruction Assessment against the Lots and their respective Owners equal to the difference between the total restoration cost and the insurance proceeds.
- (b) Each Owner is liable to the Association for any damage to the Common Area or the Association Maintenance Areas which it is the responsibility of the Association to repair, but which is not fully reimbursed to the Association by insurance proceeds (including without limitation any deductible amounts under any insurance policies against which the Association files a claim for such damage) which may be sustained due to the negligence or willful misconduct of said Owner or the persons deriving their right and easement of use and enjoyment of the Common Area from said Owner, or of such Owner's family and guests. The Association may, after Notice and Hearing, (i) determine whether any claim shall be made upon the insurance maintained by the Association and (ii) levy against such Owner a Special Assessment equal to any deductible paid and the increase, if any, in the insurance premium directly attributable to the damage caused by such Owner or the persons for whom such Owner may be liable as described herein. If a Lot is jointly owned, the liability of its Owners is joint and several, except to the extent that the Association has previously contracted in writing with such joint Owners to the contrary. After Notice and Hearing, the cost of correcting such damage, to the extent not reimbursed to the Association by insurance, shall be a Special Assessment against such Owner.
- (c) If all or any portion of the Common Area 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 Association and deposited in the Operating Fund. No Owner may participate as a party, or otherwise, in any proceedings relating to such condemnation.



ARTICLE XII

12. Insurance.

12.1. 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 or by the Association on the Common Area or remaining portions of the Association Maintenance Areas for the full replacement cost thereof without deduction for depreciation or coinsurance, and may obtain insurance against such other hazards and casualties as the Association may deem desirable. The casualty insurance shall include earthquake coverage unless the Board is directed not to obtain earthquake coverage by a majority of the Association's voting power. The Association may also insure any other real or personal property it owns against loss or damage by fire and such other hazards as the Association may deem desirable, with the Association as the owner and beneficiary of such insurance. The policies insuring the Common Area and the Association Maintenance Areas must be written in the name of, and the proceeds thereof must be payable to the 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 Association shall keep a record of all claims made. Subject to Article XI(b) and XIII(d) hereof, the Association shall use insurance proceeds to repair or replace the property for which the insurance was carried. Premiums for all insurance carried by the Association are a Common Expense.

12.2. Insurance Obligations of Owners.

Each Owner is responsible for insuring his personal property and all other property and Improvements within his Residence for which the Association has not purchased insurance in accordance with Section 12.1 hereof. Each Owner is also responsible for carrying public liability insurance in the amount such Owner deems desirable to cover such Owner's individual liability for damage to person or property occurring inside such Owner's Residence or elsewhere upon such Owner's Lot. Such policies shall not adversely affect or diminish any liability under any insurance obtained by or on behalf of the 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 carrier by or on behalf of the Association occurs and the proceeds payable thereunder are reduced due to insurance carrier by any Owner, such Owner shall assign the proceeds of such insurance to the Association, to the extent of such reduction, for application by the Board to the same purposes as the reduced proceeds are to be applied.

12.3. Waiver of Subrogation.

All policies of physical damage insurance the Association maintains must provide, if reasonably possible, for waiver of: (a) any defense based on coinsurance; (b) any right of setoff, counterclaim, apportionment, proration or contribution due to other insurance not carried by the Association; (c) any invalidity, other adverse effect or defense due to any breach of warranty or condition caused by the 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; (d) 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; (e) notice of the assignment of any Owner of its interest in the insurance by virtue of a conveyance of any Lot; (f) any denial of an Owner's claim because of negligent acts by the Association or other Owners; or (g) prejudice of the insurance by any acts or omissions of Owners that are not under the Association's control. As to each policy of insurance the Association maintains which will not be voided or impaired, thereby, the Association hereby waives and releases all claims against the Board, the Owners, the Manager, Declarant, 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.

12.4. Liability and Other Insurance.

The 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 Association's activities or with respect to property the Association maintains or is required to maintain including, if obtainable, a cross-liability endorsement insuring each insured against liability to each other insured. The Association may also obtain Worker's Compensation insurance and other liability insurance as it may deem desirable, insuring each Owner, the Association, Board and Manager, against liability in connection with the Common Area and Association Maintenance Areas, the premiums for which are a Common Expense. The Board shall review all insurance policies at least annually and increase the limits in its discretion. The Board may also obtain such errors and omissions insurance, indemnity bonds, fidelity bonds and other insurance as it deems advisable, insuring the Board, the Association's officers and the Manager against any liability for any act or omission in carrying out their obligations hereunder, or resulting from their membership on the Board or on any committee thereof. However, fidelity bond coverage which names the Association as an obligee must be obtained by or on behalf of the Association for any person or entity handling Association funds, including, but not limited to, Association officers, directors, trustees, employees and agents and 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 Association's or 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 Annual Assessments on all Lots in the Properties, plus reserve funds. In addition, the Association shall continuously maintain in effect such casualty, flood and liability insurance and fidelity bond 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 Lot 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.

12.5. Notice of Expiration Requirements.



If available, each insurance policy the Association maintains must contain a provision that said policy may not be canceled, terminated, materially modified or allowed to expire by its terms, without ten (10) days' prior written notice to the Board and 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 XIII

13. Rights of Mortgagees.

Notwithstanding any other provision of this Declaration, no amendment or violation of the Declaration defeats or renders invalid the rights of the Beneficiary under any Deed of Trust upon one (1) or more Lots made in good faith and for value, provided that after the foreclosure of any such Deed of Trust such Lot(s) will remain subject to this Declaration. For purposes of this Declaration, "first Mortgage" means a Mortgage with first priority over other Mortgages or Deed of Trust on a Lot, and "first Mortgagee" means the Beneficiary of a first Mortgage. For purposes of any provisions of the Restrictions which require the vote or approval of a specified percentage of first Mortgagees, such vote or approval is determined based upon one (1) vote for each Lot encumbered by each such first Mortgage. In order to induce VA, FHA, FHLMC, GNMA and FNMA to participate in the financing of the sale of Lots, the following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Restrictions, these added provisions control):

- (a) Each Beneficiary, insurer and guarantor of a first Mortgage encumbering one or more Lots, upon filing a written request for notification with the Board, is entitled to written notification from the Association of:
 - (1) any condemnation or casualty loss which affects either a material portion of the Properties or the Lot(s) securing the respective first Mortgage; and
 - (2) any delinquency of sixty (60) days or more in the performance of any obligation under the Restrictions, including without limitation the payment of assessments or charges owed by the Owner(s) of the Lot(s) securing the respective first Mortgage which notice each Owner hereby consents to and authorizes; and
 - (3) a lapse, cancellation, or material modification of any policy of insurance or fidelity bond maintained by the Association.



- (b) Each Owner, including each first Mortgagee of a Mortgage encumbering any Lot which obtains title to such Lot pursuant to the remedies provided in such Mortgage, or by foreclosure of such Mortgage, or by deed or assignment in lieu of foreclosure, shall be exempt from any "right of first refusal" created or purported to be created by the Restrictions.
- (c) Each first Mortgagee of a first Mortgage encumbering any Lot which obtains title to such Lot pursuant to the remedies provided in such Mortgage or by foreclosure of such Mortgage, shall take title to such Lot free and clear of any claims for unpaid assessments or charges against such Lot which accrued prior to the time such Mortgagee acquires title to such Lot in accordance with Section 7.7.
- (d) All Beneficiaries, insurers and guarantors of first Mortgages, upon written request to the Association, shall have the right to:
 - (a) examine current copies of the Association's books, records and financial statements and the Restrictions during normal business hours; and
 - (b) receive written notice of all meetings of Owners; and
 - (c) designate in writing a representative who shall be authorized to attend all meetings of Owners.
- (e) 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 Common Area property and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for Common Area or Association Maintenance Areas property, and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.
- (f) All intended Improvements in any Phase of Development other than Phase 1 shall be substantially consistent with the Improvements in Phase 1 in structure type and quality of construction. The requirements of this Section 13(f) are for the benefit and may be enforced only by FNMA.
- (g) The Board may enter into such contracts or agreements on behalf of the Association as are required in order to satisfy the guidelines of VA, FHA, FHLMC, FNMA, GNMA or any similar entity, so as to allow for the purchase, insurance or guaranty, as the case may be, by such entities of first Mortgages encumbering Lots with Residences thereon. Each Owner hereby



agrees that it will benefit the Association and its Members, as a class of potential Mortgage borrowers and potential sellers of their Lots, if such agencies approve the Properties as a qualifying subdivision under their respective policies, rules and regulations. Each Owner hereby authorizes this Mortgagees to furnish information to the Board concerning the status of any Mortgage encumbering a Lot.

ARTICLE XIV

14. Declarant Exemption

Declarant or its successors or assigns intends, but is not obligated, to construct Residences and develop all of the Lots in the Properties. The completion of that work and sale, resale, rental and other disposal of Lots is essential to the establishment and welfare of the Properties as a quality residential community. As used in this Article and its subparagraphs, the words "its successors or assigns" specifically do not include purchasers of Lots pursuant to transactions requiring the issuance of Final Subdivision Public Report. In order that such work may be completed and the Properties be established as a fully occupied residential community as rapidly as possible, no Owner nor the Association may do anything to interfere with, and nothing in this Declaration may be understood or construed to:

- (a) Prevent Declarant, its successors or assigns, or its or their contractors or subcontractors, from doing on any Lot owned by them whatever they determine to be necessary or advisable in connection with the collection of such, including without limitation altering of construction plans and designs as Declarant deems advisable in the course of development; or
- (b) Prevent Declarant, its successors or assigns, or its or their representatives, from erecting and maintaining on any portion of the Properties owned or controlled by Declarant, or its successors or assigns or its or their contractors or subcontractors, such structures as may be reasonably necessary to conduct the business of completing such work and establishing the Properties as a residential community and disposing of the same by sale, resale, lease or otherwise; or
- (c) Prevent Declarant, its successors or assigns, or its or their contractors or subcontractors, from conducting on any Lot, or any portion thereof, owned or controlled by Declarant, or its successors or assigns, the business of developing, altering, subdividing, grading and constructing Residences and other Improvements on the Properties as a residential community; and of disposing of Residences thereon by sale, lease or otherwise; or



- (d) Prevent Declarant, its successors or assigns or its or their contractors or subcontractors, from maintaining such sign or signs on any portion of the Properties owned or controlled by any of them as may be necessary in connection with the sale, lease or marketing of Lots and Residences in the Properties; or
- (e) Prevent Declarant, at any prior to acquisition of title to a Lot by a purchaser from Declarant, to establish on that Lot additional licenses, reservations and rights-of-way to itself, to utility companies, or to others as may from time to time be reasonably necessary to the proper development and disposal of the Properties; or
- (f) Prevent Declarant from unilaterally modifying its development plan for the Properties and the Annexable Territory, including without limitation designating and redesignating Phases and constructing Residences of larger or smaller sizes, values or of different types.

Declarant need not seek or obtain ARC approval of any Improvement Declarant constructs or places on the Properties. Declarant, in the exercise of its rights under this Article, may not unreasonably interfere with any other Owner's use of the Common Area. The Association shall provide Declarant with all notices and other documents to which a Beneficiary is entitled pursuant to this Declaration, provided that Declarant shall be provided such notices and other documents without making written request therefor. Commencing on the date on which Declarant no longer has an elected representative on the Board, and continuing until the later to occur of that date on which Declarant (i) no longer owns a Lot in the Properties or (ii) cannot unilaterally annex property to the Properties, the 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.

ARTICLE XV

15. General Provisions

All disputes arising under this Declaration, other than those described in Section 15.14 or regulated by Civil Code Section 1375, shall be resolved as follows:

15.1. Enforcement of Restrictions

- (a) Violations Identified by the Association. If the Board determines that there is a violation of the Restrictions, or the ARC determines that an Improvement

