

ARTICLE I

DEFINITIONS

Section 1. "Annexable Property" shall mean and refer to that certain real property described in **Exhibit "B"** attached hereto, including any and all Improvements constructed thereon, all or any part of which may be annexed from time to time into the Community and made subject to this Master Declaration and to the jurisdiction of the Master Association by the Declarant (or by a Merchant Builder with Declarant's consent) as set forth in the Article herein entitled "Annexation of Additional Property." The Annexable Property consists of real property that Declarant and/or a Merchant Builder owns fee title to or an easement over, and also consists of real property that may be subject to various rights and/or obligations imposed by a Public Agency in connection with the development of the Community that are intended to be exercised and/or performed by the Master Association.

Section 2. "Articles" shall mean and refer to the Articles of Incorporation of Shady Canyon Community Association, as filed in the Office of the Secretary of State of the State of California, as such Articles may be amended from time to time.

Section 3. "Assessments" is used herein as a generic term to mean and refer to the following:

(a) "Regular Assessment" shall mean and refer to the annual charge against each Owner and his respective Lot or Condominium representing a portion of the Common Expenses of the Master Association.

(b) "Special Assessment" shall mean and refer to the charge against an Owner and his respective Lot or Condominium representing: (i) a portion of the cost of repairing or reconstructing any portion or portions of the Master Association Property or Maintenance Areas which have been damaged or destroyed by fire or other casualty; (ii) constructing or installing any capital Improvements to the

Master Association Property or Maintenance Areas; or (iii) taking any extraordinary action for the benefit of the Master Association Property, Maintenance Areas or the membership of the Master Association pursuant to the provisions of this Master Declaration.

(c) "Compliance Assessment" shall mean and refer to the charge against an Owner (or a Sub-Association) imposed by the Board after Notice and Hearing for: (i) the costs incurred by the Master Association to bring an Owner and his Lot or Condominium (or a Sub-Association and/or its Common Area) into compliance with this Master Declaration; and/or (ii) any amount due the Master Association based upon discipline imposed by the Board against an Owner in accordance with this Master Declaration for a violation of the Master Association Documents.

(d) "Damage Reimbursement Assessment" shall mean and refer to the charge against an Owner and his respective Lot or Condominium (or against a Sub-Association) representing a monetary penalty imposed by the Board after Notice and Hearing as a means of reimbursing the Master Association for all costs to repair any damage or destruction to the Master Association Property, Maintenance Areas and/or any Special Benefit Improvements which the Board reasonably determined was caused by the negligent or intentional acts or omissions of an Owner, the members of his family or his tenants, lessees or invitees (or a Sub-Association).

(e) "Special Benefit Assessment" shall mean and refer to the charge levied by the Master Association against an Owner and his respective Lot or Condominium to cover the Special Benefit Expenses which have been or will be incurred by the Master Association on behalf of the respective Special Benefit Area and which are allocable only to the Owners and their respective Lots and/or Condominiums within such Special Benefit Area.

Section 4. "Best Management Practices" shall mean and refer to those certain 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 Community. The structural Best Management Practices may include, without limitation, detention basins, retention basins, vegetated drainage swales, "V" ditches, bench drains, catch basins, catch basin media filters, inlet trash racks, drainpacs and other storm drain filtration devices, energy dissipaters, culverts, pipes, riparian (wetland) areas, efficient irrigation technology and related storm drain and water quality facilities constructed on the Master Association Property, Maintenance Areas and/or a Lot. The structural Best Management Practices also include temporary desilting basins constructed on the Custom Lots. The non-structural Best Management Practices generally require the Master Association, any Sub-Association and the Owners and other residents within the Community to be aware of the sensitive natural environment surrounding the Community and to take appropriate actions to control runoff from the Community. With respect to the Master Association, the non-structural Best Management Practices may include, among other things, (i) providing informational materials to the Owners and other residents within the Community 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 the landscaping on the Master Association 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 regularly scheduled basis maintenance consisting, at a minimum, of litter control, emptying of common trash

receptacles and sweeping of dumpster enclosures; (v) inspecting and cleaning as needed on a monthly basis (and more frequently during the rainy season [i.e., October 15 through April 15]) the catch basins located on the Master Association Property; and (vi) sweeping on-site paved areas on a regular basis and prior to the rainy season (i.e., no later than October 15 of each year). With respect to the Owners and other residents within the Community, the non-structural Best Management Practices 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 Community). The Best Management Practices are designed and intended to control runoff and must be implemented by the Master Association, any Sub-Association, and the Owners and other residents within the Community. The Best Management Practices may vary from tract to tract within the Community 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 Public Agency having jurisdiction regarding water quality for runoff waters from the Community in order to control runoff as the Community develops and runoff conditions change. Compliance by the Master Association, any Sub-Association, and the Owners and other residents within the Community with the Best Management Practices, as they may be modified from time to time, may be monitored and enforced by any Public Agency having jurisdiction regarding water quality for runoff waters from the Community.

Section 5. "Board" shall mean and refer to the Board of Directors of the Master Association.

Section 6. "ByLaws" shall mean and refer to the ByLaws of the Master Association which have been, or will be, adopted by the Board, as such ByLaws may be amended from time to time.

Section 7. "City" shall mean and refer to the City of Irvine, California.

Section 8. "Close of Escrow" shall mean and refer to the date on which a deed is recorded conveying a Lot or Condominium in the Community to a member of the general public as a retail buyer under the authority of a Final Subdivision Public Report issued by the DRE.

Section 9. "Common Area" shall mean and refer to any portion of the Community which: (a) is designated by Declarant (or by a Merchant Builder with Declarant's consent) as "Common Area" in a Supplemental Declaration (or in a Notice of Annexation if there is no Sub-Association); (b) shall be owned either by a Sub-Association or by certain Owners as tenants-in-common; and (c) shall be solely for the use and benefit of and/or shall be maintained at the sole cost and expense of (i) only the Owners of Lots within a Planned Development; or (ii) only the Owners of Condominiums within a Condominium Project.

Section 10. "Common Expenses" shall mean and refer to the actual and estimated costs to be paid by the Master Association for the common benefit of all Owners of Lots and Condominiums in the Community. Unless otherwise indicated, the Common Expenses shall include all costs and expenses incurred by the Master Association in connection with the following: (a) owning, insuring, maintaining, managing, operating, repairing and replacing all Master Association Property and Maintenance Areas (including, but not limited to, carrying out a program to eradicate Invasive Exotic Plants from the portions of the Master Association Property and Maintenance Areas located within the Invasive Plant Areas, removing trash from those portions of the Master Association Property located within the Conservation/Long Term Habitat Maintenance Areas, performing the duties set forth in any of the Conservation Easement Deeds to the extent applicable to the Master Association Property; and maintaining the structural Best Management Practices located on the Master Association Property and/or Maintenance

Areas, performing the non-structural Best Management Practices to the extent applicable to the Master Association and enforcing compliance by any Sub-Association and by the Owners and other residents within the Community with their respective Best Management Practices obligations as set forth in the Water Quality Management Plans); (b) managing and administering the Master Association, including, but not limited to, compensation paid by the Master Association to managers, accountants, budget preparers, attorneys, biologists, botanists and other consultants and any Master Association employees, and all general office and administrative costs and expenses incurred by the Design Review Committee (e.g., management fees, telephone expenses, postage, etc.); (c) providing utilities and other services to the Master Association Property and Maintenance Areas; (d) maintaining insurance coverage and fidelity bonds as provided for herein; (e) paying that portion of any Assessment attributable to Common Expenses not paid by the Owner responsible for payment; (f) paying taxes for the Master Association; (g) paying all reasonable out-of-pocket expenses actually incurred by the members of the Board of Directors and officers of the Master Association in performing their duties as provided herein (e.g., postage and photocopying); (h) enforcing the provisions of the Master Association Documents; and (i) paying for all other goods and services as reasonably required by the Master Association to perform its powers and duties as set forth herein. The Common Expenses shall also include adequate reserves as the Board shall determine to be appropriate for the repair and/or replacement of those elements of the Master Association Property and Maintenance Areas which must be repaired or replaced on a periodic basis, rather than on a regular annual basis. The Common Expenses do not include any actual or estimated costs to be paid by the Master Association for those Improvements to the Master Association Property which constitute Special Benefit Improvements and which are allocable as Special Benefit Expenses to the Owners of Lots and/or Condominiums within a Special Benefit

Area. Additionally, the Common Expenses do not include the direct costs and expenses incurred by the Master Association in connection with the review and approval by the Design Review Committee of plans and specifications for the Improvements proposed to be constructed on a Custom Lot. All of such direct costs (including, but not limited to, the fees paid to consultants engaged by the Design Review Committee to review proposed plans and specifications, the costs to duplicate an Owner's plans and specifications, etc.) shall be billed to the Owner of the respective Custom Lot.

Section 11. "Community" shall mean and refer to the Property, Master Association Property and all portions of the Annexable Property which are annexed in accordance with the provisions of this Master Declaration so as to be subject to this Master Declaration and to the jurisdiction of the Master Association.

Section 12. "Community Entry Facilities" shall mean and refer to those certain Improvements (including, but not limited to, private streets, gate houses, electro-mechanical entry gates, directories and telephonic equipment, street lights, decorative lighting, landscaping and related irrigation systems and decorative walls and fences) which have been or will be constructed by Declarant on the portions of the Master Association Property which serve as the entrances into the Community and to the Golf Course Property, and which will be maintained by the Master Association in accordance with the provisions of the Cost Sharing Agreement. The Community Entry Facilities are generally depicted in the Cost Sharing Agreement.

Section 13. "Condominium" shall mean and refer to a condominium as defined in Section 1351(f) of the California Civil Code, as same may be amended from time to time, consisting of a separate interest in a condominium unit, any and all easements appurtenant thereto and the respective undivided interest in Common Area.

Section 14. "Condominium Project" shall mean and refer to any portion of the Community which is developed by Declarant or a Merchant Builder as a condominium project as defined in Section 1351(f) of the California Civil Code, as the same may be amended from time to time. A Condominium Project may either constitute a Special Benefit Area, or may be subject to a Supplemental Declaration and to the jurisdiction of a Sub-Association.

Section 15. "Conservation Easement Deeds" shall mean and refer collectively to any and all conservation easement deeds now or hereafter recorded in the Official Records of Orange County, California, in favor of the State of California, acting by and through its Department of Fish and Game, a subdivision of the California Resources Agency, or other Public Agency, for the purpose, among others, of conserving and protecting habitat and ecosystems essential for the preservation of species of fish, wildlife and native plants, and which encumber any portion of the Master Association Property.

Section 16. "Conservation/Long Term Habitat Maintenance Areas" shall mean and refer to those portions of the Master Association Property which are or will be subject to any of the Conservation Easement Deeds and to the Habitat Mitigation and Monitoring Plan for Shady Canyon Golf Course and Residential Development Project (as referenced in the Environmental Documents). The portions of the Master Association Property located in the initial Phases of the Community which are currently anticipated to be included within the Conservation/Long Term Habitat Maintenance Areas are generally depicted, for illustrative purposes only, on **Exhibit "D"** attached hereto. Portions of the Annexable Property which may be annexed as additional Master Association Property may also be included within the Conservation/Long Term Habitat Maintenance Areas. Due to the fact that as of the date of the recordation of this Master Declaration, the Declarant and applicable Public Agencies have not determined the location of all portions of the Conservation/Long Term Habitat Maintenance Areas,

the depiction on Exhibit "D" attached hereto is intended for illustration purposes only. The actual boundaries of the Conservation/Long Term Habitat Maintenance Areas will be determined prior to the recordation of the Conservation Easement Deeds. After the recordation of all of the Conservation Easement Deeds, the actual portions of the Master Association Property which are included within the Conservation/Long Term Habitat Maintenance Areas will be depicted on a map on file with the property manager for the Community.

Section 17. "Cost Sharing Agreement" shall mean and refer to that certain "Cost Sharing Agreement" by and between the Master Association and The Shady Canyon Golf Club, a California corporation, regarding the sharing of certain costs to insure, operate, maintain, repair and reconstruct the Community Entry Facilities as provided in said Agreement. A copy of the Cost Sharing Agreement is on file with the property manager for the Community.

Section 18. "County" shall mean and refer to the County of Orange, California, and to its various departments and divisions, and/or other applicable municipal agencies having jurisdiction over the Community.

Section 19. "Custom Lot" shall mean and refer to a plot of land as shown and described on a recorded final tract map or parcel map recorded in the office of the County Recorder for Orange County, California (as such plot of land may be adjusted from time to time by any lot line adjustment, parcel map or other governmental approval for the purpose of merging portions thereof into adjacent property) which is (a) subject to the Custom Lot Declaration, (b) originally sold by Declarant in an unimproved condition, and (c) improved or to be improved by the Owner with a custom Dwelling pursuant to plans and specifications approved by the Design Review Committee. A Custom Lot includes all easements appurtenant thereto, (including, but not limited to, any Landscape Easement Area).

Section 20. "Custom Lot Declaration" shall mean and refer to that certain "Custom Lot Declaration of Covenants, Conditions and Restrictions for Shady Canyon Irvine, California, recorded by Declarant on one or more Custom Lots, which imposes, among other things, design and architectural and landscape standards and restrictions for the Improvements to be constructed on Custom Lots.

Section 21. "Declarant" shall mean and refer to Irvine Community Development Company, a Delaware corporation, and to any person(s) or entity(ies) to whom the Declarant's rights hereunder shall be expressly assigned and/or the Declarant's duties hereunder shall be expressly delegated pursuant to a written assignment recorded in the Office of the County Recorder for Orange County. Any such assignment may be to all or any portion of the Community or Annexable Property and may include only certain specific rights and/or duties of the Declarant and may be subject to such conditions as Declarant may impose in its sole discretion.

Section 22. "Declaration of Annexation" shall mean and refer to a document recorded by Declarant or by a Merchant Builder for the purpose of annexing all or a portion of the Annexable Property into a Sub-Association in accordance with the provisions of a Supplemental Declaration, thereby subjecting such property to such Supplemental Declaration and to the jurisdiction of the Sub-Association.

Section 23. "Design Guidelines" shall mean those certain architectural standards, landscape standards, guidelines, procedures and criteria initially established by Declarant for the Community for: (i) the use by the Owner of a Custom Lot in the preparation of plans and specifications for Improvements to be built, constructed, erected, planted, or otherwise installed on his Custom Lot; (ii) the use by the Owner of a Production Lot or Condominium in the preparation of plans and specifications for Improvements to be built, constructed, erected, planted or otherwise installed on his Production Lot or Condominium; and (iii)

the use by any Sub-Association in the preparation of plans and specifications for Improvements to be built, constructed, erected, planted or otherwise installed on its Common Area. The Design Review Committee shall use the Design Guidelines as the basis for its review of all of the aforesaid plans and specifications. The Design Guidelines may be revised from time to time as provided in the Article herein entitled "Design Review." A copy of the Design Guidelines may be obtained from the Design Review Committee.

Section 24. "Design Review Committee" shall mean and refer to the committee formed by the Board pursuant to the Article herein entitled "Design Review" and pursuant to the ByLaws.

Section 25. "DRE" shall mean and refer to the California Department of Real Estate, which administers the sale of subdivided lands pursuant to Sections 11000, et seq., of the California Business and Professions Code (or any similar statute hereafter enacted).

Section 26. "Dwelling" shall mean and refer to the structure (including the garage and any related outbuildings) which are designed and constructed for human occupancy for residential purposes. As used in this Master Declaration, a Dwelling may be a detached single family home, an attached single family home or a Condominium.

Section 27. "Eligible Mortgage Holder" shall mean and refer to the holder, insurer or guarantor of a first Mortgage on a Lot or Condominium in the Community who has filed with the Master Association a written request for notice of certain information as provided in the Article herein entitled "Mortgagee Protection."

Section 28. "Environmental Documents" shall mean and refer collectively to the following documents imposing environmental requirements on all or portions of the Community and which shall be complied with by the Master Association, any Sub-Association and/or the Owners, as the case may be: (i) Shady Canyon Section 1603 Streambed Alteration Agreement 5-247-98, as same may be amended from time to time; (ii) Shady Canyon Army Corps of

Engineers Nationwide Permit No. 9800-60000-RLK, as same may be amended from time to time; (iii) Habitat Mitigation and Monitoring Plan for Shady Canyon Golf Course and Residential Development Project dated November, 2000 prepared by Jones and Stokes pursuant to certain provisions of the above-referenced Streambed Alteration Agreement and Nationwide Permit, as same may be amended from time to time; (iv) the Minimization Measures under the Natural Communities Conservation Plan & Habitat Conservation Plan developed for the Central/Coastal Orange County Subregion pursuant to the California Natural Community Conservation Planning Act of 1991, as same may be amended from time to time; and (v) the Conservation Easement Deeds. Copies of the Environmental Documents are on file with the property manager for the Community.

Section 29. "FHLMC" shall mean and refer to the Federal Home Loan Mortgage Corporation (The Mortgage Corporation) created by the Emergency Home Finance Act of 1970, as amended from time to time, including any successors thereto.

Section 30. "FNMA" shall mean and refer to the Federal National Mortgage Association, a government-sponsored private corporation established pursuant to Title VIII of the Housing and Urban Development Act of 1968, as amended from time to time, including any successors thereto.

Section 31. "Fuel Modification Zones" is a generic term which shall mean and refer to all of the following:

(a) "Non-Combustible Zone (Zone A)" shall mean and refer to the twenty foot (20') minimum setback zone from the grade break to the nearest combustible structure which is intended to serve as the defensible space for fire suppression forces and to protect structures from radiant and convective heat. No combustible construction is allowed within this Zone; for example, metal patio covers and balconies may be constructed within this Zone and non-combustible equipment (e.g., pool equipment encased in non-combustible materials and natural gas barbecues) may be placed within this Zone, but

fire pits and charcoal burning barbecues are not permitted within this Zone.

(b) "Irrigated Zone (Zone B)" shall mean and refer to the fifty foot (50') minimum wide zone consisting of permanently irrigated landscaping. All landscaping within this Zone must be drought tolerant and fire resistant plant materials according to the Fuel Modification Zone Plant List dated June 18, 1997 (which is included within the Fuel Modification Zones Maintenance Guidelines) or must be approved by the Orange County Fire Authority. No combustible construction whatsoever is allowed within this Zone.

(c) "Thinning Zone (Zone C)" shall mean and refer to the fifty foot (50') minimum wide (horizontal width) thinning area in which all highly flammable species are removed and the remaining species will be pruned so that fifty percent (50%) of the original fuel load has been removed as directed by the Orange County Fire Authority. All dead and dying vegetation shall be removed. Debris and trimmings produced by thinning and pruning shall be removed unless otherwise permitted by the Orange County Fire Authority. If any large bare spots are exposed, they shall be replanted with plants approved by the Orange County Fire Authority.

(d) "Thinning Zone (Zone D)" shall mean and refer to the fifty foot (50') minimum wide (horizontal width) thinning zone in which all highly flammable species are removed and the remaining species will be pruned so that thirty percent (30%) of the original fuel load has been removed as directed by the Orange County Fire Authority. All dead and dying vegetation shall be removed. Debris and trimmings produced by thinning and pruning shall be removed from the Zone unless otherwise permitted by the Orange County Fire Authority.

Unless otherwise indicated herein, all references to the Fuel Modification Zones shall mean and refer to all four (4) of the above-referenced Zones; provided however, all references in this Master Declaration to maintenance of the Fuel Modification Zones by the Master Association shall mean and refer only to Zones B, C and D. The Master Association shall not have any duty to maintain or repair the Non-Combustible Zone (Zone A) which is located on an Owner's Lot or Condominium. The Fuel Modification Zones in this first Phase of the Community, if any, are generally depicted on "Exhibit "FMZ" attached hereto. Any Fuel Modification Zones included in a subsequent Phase of the Community shall be generally depicted on an Exhibit attached to the Notice of Annexation recorded for such Phase.

Section 32. "Fuel Modification Zones Maintenance Guidelines" shall mean and refer to the Fuel Modification Plan Guidelines for High Fire Hazard Areas which were developed by the Orange County Wildland/Urban Interface Task Force Subcommittee on Fuel Modification in July 1994, as the same may be amended from time to time by the Orange County Fire Authority ("OCFA"). A copy of the Fuel Modification Zones Maintenance Guidelines is attached hereto as **Exhibit "C."**

Section 33. "GNMA" shall mean and refer to the Government National Mortgage Association administered by the United States Department of Housing and Urban Development, including any successors thereto.

Section 34. "Golf Course Declaration" shall mean and refer to that certain "Declaration Establishing Covenants, Conditions and Restrictions, and Reservations and Grants of Easements Regarding Shady Canyon Golf Club" recorded, or to be recorded, by Declarant in the Official Records of Orange County, California on certain portions of the Golf Course Property and certain portions of the Property, Master Association Property and/or Annexation Property. The Golf Course Declaration,

establishes, among other things, an easement for the flight and impact of errant golf balls onto the "Burdened Property" (as defined and described in said Declaration). A copy of the Golf Course Declaration will be on file with the property manager for the Community.

Section 35. "Golf Course Property" shall mean and refer to that certain real property generally depicted on Exhibit "B" attached hereto, which has been, or will be, improved with an eighteen (18) hole golf course, clubhouse, a maintenance facility, and related improvements and facilities, as same may be further improved or modified from time to time. The Golf Course Property also includes various appurtenant easements over portions of the Community as referenced herein, in the Cost Sharing Agreement and in the Golf Course Declaration.

Section 36. "Golf Course Property Owner" shall mean and refer to the record owner (or owners if more than one [1]) of fee title to, or an undivided interest in, the Golf Course Property.

Section 37. "Improvements" shall mean and refer to all structures and appurtenances thereto of every kind whatsoever, including, but not limited to, Dwellings, outbuildings (e.g., guest or caretaker units, sheds, etc.), tennis courts, swimming pools, spas and other recreational facilities, gazebos, barbecues, garages, carports, open parking areas, roads, driveways, private streets, gatehouses, electro-mechanical entry gate systems and related equipment, street lights, landscaped parkways and medians, sidewalks, walkways, pavement and other hardscape, trails, fences, screens, awnings, patio and balcony covers, stairs, decks, planters, trellises, sunshades, screening walls, wind screens, screen doors, skylights, poles, signs, retaining walls, walls (including Master Association Walls and Sub-Association Walls), footings, columns, gates, decorative or informative signs, mail kiosks, private utility lines and connections, private storm drains

and catch basins and sewer lines and laterals, antennas, signs, solar or wind-powered energy systems, water softener systems, heating and air conditioning systems, landscaped slopes, trees, shrubs, hedges, flowers and other landscaping and other landscaping and all landscape irrigation systems. Improvements shall also mean and refer to the following: (i) all exterior modifications to a Dwelling, (including, but not limited to, painting the exterior of any Dwelling or other structure; changing the roof material, windows or exterior doors of any Dwelling 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, change of drainage pattern or change of streambed; (iv) the clearing or removal of landscaping; (v) the modification of any amenities or facilities constructed on the Master Association Property, Common Areas and/or Maintenance Areas (including, but no limited to, any recreational amenities, entry gate facilities, private streets, storm and water quality control facilities, landscaping, etc.); and (vi) any change or alteration of any of the foregoing (including, without limitation, any change in exterior appearance, color or texture).

Section 38. "Invasive Exotic Plants" shall mean and refer to all species of plants listed on Lists A & B of the California Exotic Pest Council's List of "Exotic Pest Plants of Greatest Ecological Concern in California as of August 1996" (as same may be updated or amended from time to time) and shall also include African Sumac, California pepper trees and European olive trees. A copy of the list of Invasive Exotic Plants is on file with the property manager for the Community.

Section 39. "Invasive Plant Areas" shall mean and refer to certain portions of the Master Association Property and Maintenance Areas and to certain Lots (or portions thereof) within the Property and/or Annexable Property in which Invasive Exotic Plants are prohibited. The portions of the Master Association Property, Maintenance Areas and the Lots (or portions thereof) in the initial Phases of the Community which are located within the Invasive Plant Areas are depicted on **Exhibit "IPA"** attached hereto. Portions of the Annexable Property which are annexed as additional Master Association Property, Maintenance Areas, Lots and/or Condominiums may also be included within the Invasive Plant Areas and will be depicted on **Exhibit "IPA"** attached to the Notice of Annexation recorded for a subsequent Phase of the Community. A current copy of the Invasive Plant Areas is on file with the property manager for the Community.

Section 40. "Landscape Easement Area" shall mean a non-exclusive easement appurtenant to a Lot or Condominium on, over and across a certain portion of the Master Association Property immediately contiguous to such Lot or Condominium for the installation, maintenance, repair and replacement of landscaping (and related irrigation systems) and fences. The Landscape Easement Areas in this first Phase of the Community are generally depicted on **Exhibit "LEA"** attached hereto. The Landscape Easement Areas located in any subsequent Phase will be generally depicted on an Exhibit attached to the Notice of Annexation recorded for such Phase.

Section 41. "Lot" shall mean and refer to a plot of land as shown and described on a recorded final tract map or parcel map as such plot of land may be adjusted from time to time by a recorded lot line adjustment, parcel map or other governmental approval for the purpose of merging portions thereof into adjacent property. A Lot includes all easements appurtenant thereto (including, but not limited to, any Landscape Easement Area) and

also includes all Improvements (including the Dwelling [or Dwellings]) constructed thereon, if any. The term "Lot" as used in this Master Declaration, is a generic term which shall mean and refer to a Custom Lot as well as to a Production Lot. The term "Lot" shall not mean or refer to the Master Association Property or Common Area.

Section 42. "Maintenance Areas" shall mean and refer to the following areas (and any Improvements constructed thereon) shown on **Exhibit "MA"** which are not owned by the Master Association but which will be maintained by the Master Association and the costs and expenses of such maintenance included within the Common Expenses of the Master Association:

(a) certain real property (and all Improvements constructed thereon) located outside the boundaries of the Community (e.g., slopes, riparian areas, wetlands, detention basins and other storm and water quality control facilities, parkways, medians and rights-of-way); and

(b) certain Improvements located on a Lot or Condominium (excluding any Special Benefit Improvements) including, but not limited to, the following:

(1) the exterior surface(s) (i.e., the surface(s) facing a public and/or private street so as to be generally visible to the public and/or residents within the Community), the top and the structural integrity of a Master Association Wall;

(2) entry monuments; and

(3) landscaped areas.

The Maintenance Areas in this first Phase of the Community are generally depicted on **Exhibit "MA"** attached hereto, however, the Master Association Walls in this first Phase are generally depicted on **Exhibit "MAW"** attached hereto. Portions of the Annexable Property may be designated as additional Maintenance Areas and annexed into the Community by a Notice of Annexation recorded in

the office of the County Recorder in accordance with the provisions of the Article herein entitled "Annexation of Additional Property". Any additional Maintenance Areas (and Master Association Walls) included in any subsequent Phase will be generally depicted on the respective Exhibit(s) attached to the Notice of Annexation recorded on such Phase. Any depiction of the Maintenance Areas and Master Association Walls is merely for illustrative purposes only and the "as-built" conditions shall be controlling.

Section 43. "Maintenance Guidelines" shall mean and refer to those certain general guidelines regarding the ordinary and necessary maintenance, repair, replacement and/or restoration of the Master Association Property and Maintenance Areas. Among other things, the Maintenance Guidelines set forth suggested minimum maintenance levels, recommended intervals for regularly scheduled maintenance items and recommended scope of maintenance practices and procedures. The Maintenance Guidelines are expressly intended to be flexible and may be modified by the Board from time to time as it deems prudent to adjust to the maturation of and/or changing conditions within the Community. Declarant has provided both the Board and the property manager for the Community with a copy of the Maintenance Guidelines. In the event of a conflict between the Maintenance Guidelines and any provisions of the Environmental Documents, the provisions of the Environmental Documents shall control.

Section 44. "Master Association" shall mean and refer to Shady Canyon Community Association, a California nonprofit, mutual benefit corporation, in which all Owners shall be members.

Section 45. "Master Association Documents" shall mean and refer to the Articles, ByLaws, Master Declaration, all Notices of Annexation, the Custom Lot Declaration, all Supplementary Custom Lot Declarations, the Design Guidelines, the Maintenance Guidelines and all Rules and Regulations adopted by the Master Association, as such documents may be amended from time to time.

Section 46. "Master Association Property" shall mean and refer to: (a) all personal property now or hereafter owned by the Master Association; and (b) all real property, and all Improvements constructed thereon, which is owned in fee by the Master Association or over which the Master Association owns an easement (or which is leased to the Master Association) and which the Master Association is obligated to manage, operate, insure, maintain, repair, replace, reconstruct and/or restore as provided herein. The Master Association Property included in this first Phase of the Community is described and/or depicted on **Exhibit "MAP"** attached hereto. Portions of the Annexable Property may be designated as additional Master Association Property and annexed into the Community by a Notice of Annexation recorded in the office of the County Recorder in accordance with the provisions of the Article herein entitled "Annexation of Additional Property." Any depiction of the Master Association Property is merely for illustrative purposes only and the "as-built" condition shall be controlling. Portions of the Master Association Property may be improved with Special Benefit Improvements which will be maintained by the Master Association for the benefit of Owners of Lots and/or Condominiums within a Special Benefit Area. Any real property conveyed by the Declarant or a Merchant Builder to the Master Association for the use as a park shall be used solely for park purposes and may not be converted to any other use whatsoever without the express written consent of the City.

Section 47. "Master Association Walls" shall mean and refer to those certain walls, fences and pilasters originally constructed by Declarant or a Merchant Builder on the Master Association Property or on a Maintenance Area which are designated herein or in a Notice of Annexation by Declarant (or by a Merchant Builder with Declarant's consent) as a Master Association Wall, and as the result of such designation, will be maintained in whole or in part by the Master Association as provided herein. The Master

Association Walls included in this first Phase of the Community are generally depicted on Exhibit "MAW" attached hereto. Any Master Association Walls included in a subsequent Phase will be depicted on an Exhibit attached to the Notice of Annexation recorded on such Phase. All depictions of the Master Association Walls are for illustrative purposes only and the "as-built" condition shall be controlling.

Section 48. "Master Declaration" shall mean and refer to this "Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Shady Canyon," as the same may be restated and/or amended from time to time.

Section 49. "Member" shall mean and refer to every person or entity who holds a membership in the Master Association, as more particularly set forth in the Article herein entitled "The Master Association."

Section 50. "Merchant Builder" shall mean and refer to to any person or entity (other than the Declarant) who: (i) is designated by Declarant as a Merchant Builder; (ii) owns or acquires any portion of the Annexable Property for the purpose of developing five (5) or more Lots or Condominiums and reselling such Lots or Condominiums to the general public under the authority of a Final Subdivision Public Report issued by the DRE; and (iii) intends, with Declarant's consent, to annex such portion of the Annexable Property into the Community.

Section 51. "Mortgage" shall mean and include any mortgage, deed of trust or other conveyance of a Lot or Condominium to secure the performance of an obligation, which conveyance will be reconveyed upon the completion of such performance, including an installment land sales contract (as defined in Section 2985 through 2985.6 of the California Civil code, as same may be amended from time to time). The term "Deed of Trust," when used herein, shall be synonymous with the term "Mortgage."

Section 52. "Mortgagee" shall mean and refer to a person or entity to whom a Mortgage is made, and shall include the beneficiary of a Deed of Trust or the vendor under an installment land sales contract, as the case may be, and the assignees of a Mortgagee, beneficiary or vendor.

Section 53. "Mortgagor" shall mean and refer to a person or entity who mortgages his or its Lot or Condominium to another (i.e., the maker of a Mortgage), and shall include a trustor of a Deed of Trust and the vendee under an installment land sales contract.

Section 54. "Notice and Hearing" shall mean and refer to written notice and the opportunity for a hearing before the Board of the Master Association, the Design Review Committee, or other tribunal created by the Board in the manner provided in the ByLaws, at which the affected Owner(s) shall have an opportunity to be heard in person or by counsel at such Owner's expense, in the manner provided herein and in the ByLaws before any decision is reached.

Section 55. "Notice of Annexation" shall mean and refer to that certain document recorded by Declarant (or by a Merchant Builder with Declarant's consent) for the purpose of annexing a portion of the Annexable Property into the Community in accordance with the provisions of this Master Declaration, thereby subjecting such portion of the Annexable Property to this Master Declaration and to the jurisdiction of the Master Association.

Section 56. "Owner" shall mean and refer to the record owner (or owners if more than one [1]) of fee title to, or an undivided interest in, any Lot or Condominium in the Community. The term "Owner" also includes the Declarant, all Merchant Builders offering Lots or Condominiums in the Community for sale pursuant to a Final Subdivision Public Report issued by the DRE, and the purchaser under an installment land sales contract (as described in Section 2985 through 2985.6 of the California Civil Code, as same may be amended, from time to time). The term "Owner" does not

include persons or entities who hold an interest in a Lot or a Condominium merely as security for the performance of an obligation.

Section 57. "Phase" shall mean and refer to: (a) the Property and Master Association Property described on **Exhibit "A"** and **Exhibit "MAP"** attached hereto; and (b) any portion of the Annexable Property which is annexed into the Community pursuant to a Notice of Annexation recorded in the Office of the County Recorder for Orange County, as provided in this Master Declaration.

Section 58. "Planned Development" shall mean and refer to any portion of the Community (other than a Condominium Project) that is developed by Declarant or a Merchant Builder as a planned development as defined in Section 1351(k) of the California Civil Code, as the same may be amended from time to time. A Planned Development may either be a Special Benefit Area or may be subject to a Supplemental Declaration and to the jurisdiction of a Sub-Association.

Section 59. "Production Lot" shall mean and refer to a Lot that has been improved by a Merchant Builder with a Dwelling, and any related Improvements, and that is originally sold by the Merchant Builder to a member of the general public under the authority of a Final Subdivision Public Report issued by the DRE.

Section 60. "Property" shall mean and refer to all of that certain real property described on **Exhibit "A"** attached hereto, and to all Improvements constructed thereon.

Section 61. "Public Agencies" shall mean and refer individually and/or collectively to any of the various federal, state and local governmental agencies having jurisdiction over all or any portion of the Community (including, but not limited to, the Department of the Army Corps of Engineers, the United States Fish and Wildlife Service, the State of California, the California Department of Fish and Game, the DRE, the Regional Water Quality

Control Board, the County, the Orange County Fire Authority, the Irvine Ranch Water District, and the City).

Section 62. "Re-Subdivided Lot" shall mean and refer to a parcel of land which: (i) consists of two (2) or more Lots; (ii) has been resubdivided by Declarant, by a Merchant Builder with Declarant's consent, or by an Owner with Declarant's consent so as to merge and consolidate such Lots into one larger parcel by the recordation of a subdivision map, record of survey or other instrument approved by the applicable Public Agencies; and (iii) which is a building site for one Dwelling. As more particularly set forth in this Master Declaration, a Re-Subdivided Lot shall be entitled to cast the number of votes and shall be obligated to pay Assessments equal to the original number of Lots that were consolidated into the Re-Subdivided Lot.

Section 63. "Rules and Regulations" shall mean and refer to the Rules and Regulations adopted by the Board pursuant to the ByLaws and this Master Declaration, as they may be amended from time to time.

Section 64. "Special Benefit Area" is used herein as a generic term to mean and refer to the following:

(a) "The Villas Special Benefit Area" shall mean and refer to all of the Production Lots located within Tract 16154 which are annexed into the Community. As more particularly set forth herein, if any or all of these Production Lots are annexed into the Community, the Master Association will incur Special Benefit Expenses for and on account of The Villas Special Benefit Improvements, and accordingly, all of the Production Lots in The Villas Special Benefit Area which are annexed into the Community will be subject to the levy of Special Benefit Assessments by the Master Association.

(b) "Other Special Benefit Area." Declarant (for so long as Declarant or any Merchant Builder owns any portion of the Annexable Property) and thereafter, the Board may

designate other portions of the Community as constituting a Special Benefit Area by reason of the significantly disproportionate use of certain Improvements or services by the Owners of two (2) or more Lots or Condominiums. Although the use of such Improvements or services must be significantly disproportionate, it need not be exclusive. In no event may the use of any street in the Community by the Owners of Lots or Condominiums that adjoin such street be the basis for the formation of a Special Benefit Area without the written consent of all Owners to be included in such Special Benefit Area. The Lots and/or Condominiums located within a Special Benefit Area shall be so designated by Declarant (or by the Merchant Builder with Declarant's consent) in the Notice of Annexation recorded for such Lots and/or Condominiums. Special Benefit Areas established by the Board shall be created by a written instrument recorded on all of the Lots and/or Condominiums in such Special Benefit Area in the Official Records of Orange County, California.

Section 65. "Special Benefit Expenses" shall mean and refer to the actual and estimated costs to be paid by the Master Association which are allocable only to the Owners of Lots or Condominiums within a Special Benefit Area. The Special Benefit Expenses attributable to a Special Benefit Area may include, without limitation, the costs and expenses incurred by the Master Association in connection with the following: (a) administering the Special Benefit Area, including compensation paid to budget preparers for determining the annual operating budget for the Special Benefit Area; (b) maintaining, painting, irrigating, repairing and/or replacing (as the case may be) the Special Benefit Improvements in accordance with the provisions of this Master Declaration; (c) obtaining and maintaining insurance coverage as provided herein for the Special Benefit Improvements; (d) providing utility services as reasonably required for the Special Benefit Improvements; (e) funding reasonable reserves, as deemed

appropriate by the Board, for the repair and replacement of those Special Benefit Improvements which must be repaired or replaced on a periodic basis rather than on a regular annual basis in accordance with the provisions of this Master Declaration; (f) unpaid Special Benefit Assessments; and (g) paying for all other goods and services designated by, or in accordance with other expenses incurred by the Master Association for the benefit of the Owners and the Lots or Condominiums located within a Special Benefit Area.

Section 66. "Special Benefit Improvements" is used herein as a generic term to mean and refer to those Improvements which shall be insured, operated, maintained, painted, irrigated, repaired, replaced and/or reconstructed (as the case may be) by the Master Association for the benefit of the Owners of Lots and/or Condominiums within a Special Benefit Area in accordance with the provisions of this Master Declaration. The Special Benefit Improvements located in each Phase of The Villas Special Benefit Area will be more particularly described in the Notice of Annexation recorded on such Phase. (Due to the fact that the Special Benefit Improvements will be located on real property which is either owned in fee by the Master Association or over which the Master Association owns an easement for access and maintenance, Special Benefit Improvements will constitute a portion of the Master Association Property.)

Section 67. "Sub-Association" shall mean and refer to any California non-profit mutual benefit corporation organized and established in connection with the development of a Condominium Project or Planned Development within the Community.

Section 68. "Sub-Association Documents" shall mean and refer to the documents identified in a Supplemental Declaration as constituting Sub-Association Documents, including, but not limited to, the Articles of Incorporation and ByLaws for a Sub-Association, the Supplemental Declaration, all Declarations of Annexation, any rules and regulations adopted by the Sub-Association, and any

amendments to any of the foregoing. In the event of any conflict between the provisions of the Sub-Association Documents and the Master Association Documents, the Master Association Documents shall control.

Section 69. "Sub-Association Walls" shall mean and refer to those certain walls, fences and/or pilasters originally constructed by Declarant or a Merchant Builder on or adjacent to the Master Association Property, the Common Area and/or a Lot or Condominium within a Sub-Association, that were designated by Declarant or a Merchant Builder in a Supplemental Declaration or Declaration of Annexation as constituting Sub-Association Walls and as the result of such designation will be maintained in whole or in part by the Sub-Association as provided herein and/or in the Supplemental Declaration. In the event a Sub-Association is responsible for maintaining the interior surface of a Master Association Wall, such interior surface will be deemed to be a Sub-Association Wall even though the Master Association is responsible for maintaining the exterior surface, the top and/or structural integrity of such Master Association Wall. There are no Sub-Association Walls in this first Phase of the Community. The Sub-Association Walls located in a subsequent Phase of the Community will be depicted on an Exhibit attached to a Supplemental Declaration or a Declaration of Annexation recorded on such Phase. All depictions of the Sub-Association Walls are for illustrative purposes only and the "as-built" condition shall be controlling.

Section 70. "Supplemental Declaration" shall mean and refer to any declaration of covenants, conditions and restrictions, and reservation of easements, or any similar document recorded by Declarant (or by a Merchant Builder with Declarant's consent) in connection with a Condominium Project or Planned Development developed within the Community. In the event of any conflict between the provisions of this Master Declaration and the provisions of a Supplemental Declaration, this Master Declaration shall control.

Section 71. "Supplementary Custom Lot Declaration" shall mean and refer to that certain document recorded by Declarant (or by a Merchant Builder with Declarant's consent) for the purpose of subjecting a portion of the Annexable Property to the provisions of the Custom Lot Declaration.

Section 72. "Use Agreement" shall mean and refer to that certain "Agreement Establishing Rights of Use and Maintenance and Cost Sharing Obligations for the Improvements to Lot 112 of Tract 15941" by and between the Declarant and the Master Association. A copy of the Use Agreement is on file with the property manager for the community.

Section 73. "Water Quality Management Plans" shall mean and refer to the Water Quality Management Plans prepared in compliance with applicable federal, state and local laws for the Community (or portions thereof) and approved by the applicable Public Agencies. The Water Quality Management Plans, include, among other things, the Best Management Practices that must be implemented by the Master Association, any Sub-Association, the Owners and/or other residents within the Community to control runoff from the Community. A copy of each approved Water Quality Management Plan is available in the office of the property manager for the Community.

Section 74. "Application of Definitions." Unless otherwise indicated or the context shall prohibit such application the aforesaid definitions shall be applicable throughout the Master Association Documents and to any restatements or amendments thereto.

ARTICLE II

INTRODUCTION TO SHADY CANYON

Section 1. "General Plan of Development."

(a) Phasing. Shady Canyon is a residential planned development, and as presently planned, will be developed by