

The statement of decision of the Referee upon all of the issues considered by the Referee shall be 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 in the same manner as if the action had been tried by the court. 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 agree that they are waiving their right to a jury trial.

## ARTICLE VI

### ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessment. The Declarant, for and on behalf of itself and all Merchant Builders, hereby covenants, and each Owner of a Lot or Condominium, by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Master Association the following Assessments which are levied by the Master Association against such Owner's Lot or Condominium; (a) Regular Assessments; (b) Special Assessments; (c) Compliance Assessments; (d) Damage Reimbursement Assessments; (e) Special Benefit Assessments; and (f) such other assessments as the Master Association may periodically establish. The Regular, Special, Damage Reimbursement Assessments and Special Benefit Assessments, together with a reasonable late charge established by the Board in accordance with California law, 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 each such Assessment is made and shall also be the personal obligation of the Owner of such property at the time when the Assessment became due. Each

Compliance Assessment levied against an Owner, together with such reasonable late charge, interest, costs and reasonable attorneys' fees for the collection thereof, shall be the personal obligation of the Owner of the Lot or Condominium at the time such Assessment is levied. The personal obligation for any delinquent Assessments shall not pass to an Owner's successors in title, unless expressly assumed by them.

Section 2. Purpose of Regular Assessments: Levy and Collection. The Regular Assessments levied by the Master Association shall be used exclusively to fund the performance of the Master Association's powers and duties as set forth herein so as to promote the health, safety and welfare of the Owners and other residents within the Community. In no event may the Regular Assessments (or any other Assessments) levied by the Master Association be used to abate any nuisance arising from outside the boundaries of the Community, to fund any political campaigns or ballot measures whatsoever or to otherwise fund participation in, support for or opposition to any cause or activity pertaining to matters which are not exclusively within the Community. The Master Association, by and through its Board, shall levy and collect Assessments in an amount sufficient to cover all of the Common Expenses incurred by the Master Association in connection with the performance and execution of the powers and duties set forth in the Master Association Documents. The Master Association shall not levy, impose or collect Assessments, penalties or fees that exceed the amount reasonably necessary for the purpose(s) for which they were levied. Subject to any subsidy or maintenance agreement or other procedures approved by the DRE, Regular Assessments levied by the Master Association shall be adjusted at such time as the annexation of a subsequent Phase becomes effective. Regular Assessments may be collected on a monthly installment basis.

Section 3. Regular Assessments - Basis. Regular Assessments shall be levied equally against all Lots and Condominiums in the Community. Notwithstanding the foregoing, in

the case of a Re-Subdivided Lot, the Owner of such Lot shall be obligated to pay Assessments based upon the number of Lots that were merged and consolidated into the Re-Subdivided Lot even through only one (1) Dwelling may be constructed on such Lots. Regular Assessments may be reduced and abated in accordance with any maintenance or subsidy agreement entered into by the Master Association, or other arrangement approved by the DRE.

During the period the Community is being built out, Declarant and/or the Merchant Builders may annex one or more Phases into the Community in accordance with the provisions of this Master Declaration. Because Regular Assessments will typically change in amount each time a Phase is annexed into the Community and because the annexation of additional Phases might occur in quick succession, in order to facilitate the orderly annexation of Phases and to avoid the confusion and administrative burden which would result from multiple change in the amount of the Regular Assessments as additional Phases are annexed into the Community, Declarant, with the DRE's approval, has established a "Level Regular Assessment" procedure. Under this procedure Regular Assessments are fixed at a specified (i.e., level) amount for a grouping of Phases regardless of the fact that additional Phases are being annexed into the Community. The Level Regular Assessments levied by the Master Association will either temporarily accrue a surplus or permit a previously accrued surplus to be gradually depleted. The amount of the Level Regular Assessment is based upon the budget prepared by the Declarant and reviewed by the DRE. The amount of the Level Regular Assessment will be adjusted from time to time as required by the DRE.

Section 4. Assessment Exemptions. Notwithstanding the commencement of Regular Assessments in accordance with the provisions of this Master Declaration. Declarant, each Merchant Builder and any Owner shall be exempt from the payment of that portion of any Assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and

approved by the Board only after the Board obtains the approval of Members constituting a quorum and casting a majority of votes at a meeting or election of the Master Association, conducted in accordance with Sections 7510, et seq., and Section 7613 of the Corporations Code; and

(c) The limitation on increases in Regular Assessments set forth in Subsection (b) above does not apply to increases in Regular Assessments related to emergency situations, which shall be deemed to include the following:

(1) Extraordinary expenses required by an order of a court of competent jurisdiction;

(2) Extraordinary expenses for the maintenance or repair of Master Association Property and/or Maintenance Areas that are necessary to remedy any dangerous condition in the Community that represents a threat of damage or injury to any person or property; and

(3) Extraordinary expenses necessary to repair or maintain the Master Association Property and/or Maintenance Areas that could not have been reasonably anticipated by the Board at the time the most recent Master Association budget was prepared. Notwithstanding the foregoing, in the event that the Board increases the Regular Assessment above twenty percent (20%) pursuant to this subparagraph (3), the Board shall distribute written notice concerning such increase to all Owners, together with a copy of a resolution adopted by the Board setting forth: (i) written findings as to the necessity of the extraordinary expenses; and (ii) the justification why said expenses were or could not have been reasonably foreseeable at the time the most recent budget was prepared.

The Board may fix the Regular Assessment at an amount not in excess of the maximum Regular Assessment. So long as Declarant and/or any Merchant Builder is offering Lots and/or Condominiums for sale

use of any portion of the Master Association Property and/or Maintenance Areas that are not complete at the time Assessments commence. This exemption shall only be in effect until the earlier of: (a) the recordation of a notice of completion for such portion of the Master Association Property and/or Maintenance Areas; or (b) the placement into use of such Master Association Property or Maintenance Areas.

Section 5. Limitations on Increases and Decreases in Regular Assessments. Subject to the limitations of California Civil Code Section 1366, as same may be amended from time to time, and further subject to the provisions regarding Level Regular Assessments set forth in Section 3 above, from and after the first day of the fiscal year immediately following the first Close of Escrow for the sale of a Lot or Condominium to an Owner, the Board may increase the maximum Regular Assessment subject to the following limitations:

(a) Increases in Regular Assessments for any fiscal year which are less than or equal to twenty percent (20%) above the maximum Regular Assessment for the immediately preceding fiscal year may be approved by the Board, provided that the Board shall: (1) comply with the provisions set forth in Section 1365(a) of the California Civil Code with respect to the distribution of the pro forma operating budget of the Master Association for the forthcoming fiscal year; or (2) obtain the approval of Members constituting a quorum, and casting a majority of votes at a meeting or at an election of the Master Association conducted in accordance with California Corporations Code Sections 7510, et seq., and Sections 7613, et seq. For purposes of this Section, a quorum means more than fifty percent (50%) of the Members of the Master Association;

(b) Increases in Regular Assessments for any fiscal year which are greater than twenty percent (20%) above Regular Assessments for the immediately preceding fiscal year may be

pursuant to a Final Subdivision Public Report, the Regular Assessment may not be decreased by ten percent (10%) or more without the prior express written consent of the Declarant and the DRE. Notwithstanding the foregoing, following the annexation of a subsequent Phase of the Community pursuant to the provisions set forth in this Master Declaration, the Regular Assessments may be automatically increased (or decreased) for all Lots and Condominiums in the Community on the first day of the month following the first Close of Escrow for the sale of a Lot or Condominium in said Phase without any approval of the Members of the Master Association to the amount approved by the DRE.

Section 6. Special Assessments. Subject to the limitations set forth in California Civil Code Section 1366, as same may be amended from time to time, the Board may levy Special Assessments to defray the costs of any action or undertaking on behalf of the Master Association which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Master Association for that fiscal year; provided that the Board shall first obtain the approval of Members constituting a quorum and casting a majority of votes at a meeting or an election of the Master Association conducted in accordance with Sections 7510, et seq., and 7613 of the Corporations Code. (For purposes of this Section, a quorum means more than fifty percent (50%) of the Members of the Master Association.) The five percent (5%) limitation shall not apply to increases in Special Assessments related to an emergency situation which shall be deemed to include the following:

(a) Extraordinary expenses required by an order of a court of competent jurisdiction;

(b) Extraordinary expenses for the maintenance or repair of Master Association Property (excluding the Special Benefit Improvements) and/or Maintenance Areas that are necessary to remedy any dangerous condition in the Community

that represents a threat of damage or injury to any person or property; and

(c) Extraordinary expenses necessary to repair or maintain Master Association Property and/or Maintenance Areas that could not have been reasonably anticipated by the Board at the time the most recent Master Association budget was prepared. Notwithstanding the foregoing, in the event the Board levies any Special Assessment that exceeds the five percent (5%) limitation pursuant to this Section, the Board shall distribute written notice concerning said Special Assessment to all Owners, together with a copy of a resolution adopted by the Board setting forth: (1) written findings as to the necessity of said Special Assessment; and (2) the justification why said Special Assessment was not or could not have been reasonably foreseeable at the time the most recent budget was prepared.

Every Special Assessment shall be levied on the same basis as that prescribed for the levying of Regular Assessments. Notwithstanding the foregoing, Special Assessments levied by the Master Association in connection with the maintenance, repair or replacement of any Special Benefit Improvements shall be levied solely against the Owners of the Lots and/or Condominiums within the respective Special Benefit Area in accordance with the provisions of Section 7 below. Special Assessments may be collected on a monthly installment basis or on such other basis as the Board may determine.

Section 7. Special Benefit Assessments. The Board may levy Special Benefit Assessments against an Owner and his respective Lot or Condominium to cover Special Benefit Expenses incurred by the Master Association for a Special Benefit Area. As more particularly set forth in the Article herein entitled "Powers and Duties of the Master Association," the Board shall distribute to the Owners within each Special Benefit Area, concurrently with the distribution of the overall operating budget for the Master

Association, a pro forma operating budget and/or other pertinent financial statements for the respective Special Benefit Area, and shall set forth the amounts and payment schedule of the Special Benefit Assessments. Each Special Benefit Assessment shall be due thirty (30) days after such Assessment has been levied, and unless otherwise specified by the Board, shall be billed and collected monthly with the Regular Assessment levied against the respective Lot or Condominium. Increases in Special Benefit Assessments shall be subject to the same limitations set forth in the Section 5 hereinabove and the levy of Special Assessments relating to the maintenance, repair and/or replacement of Special Benefit Improvements shall be subject to the same limitations set forth in Section 6 hereinabove; provided however, the Board need only obtain approval from the Members of the Special Benefit Area constituting a quorum and casting a majority of votes at a meeting or election conducted in accordance with Section 7510 et seq. and 7613 of the California Corporations Code. For purposes of this Section, a quorum means more than fifty percent (50%) of the Members owning Lots or Condominiums within the respective Special Benefit Area.

Section 8. Compliance Assessments. A Compliance Assessment may not be characterized or treated as an Assessment which may become a lien against the Owner's Lot or Condominium enforceable by a sale in accordance with the provisions of Section 2924, 2924(b) and 2924(c) of the California Civil Code; provided, however, the foregoing shall not apply to any Compliance Assessment imposed against an Owner consisting of a reasonable late payment penalty for delinquent Assessments and/or charges to reimburse the Master Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in its efforts to collect delinquent Assessments. Compliance Assessments shall be due thirty (30) days after such Assessment is imposed.

Section 9. Damage Reimbursement Assessment. If, after Notice and Hearing, the Board determines that any maintenance or repairs to the Master Association Property or Maintenance Areas

are required as the result of damage or destruction thereto caused by the negligent or intentional acts of any Owner, the members of his family or his tenants, lessees or invitees (or of a Sub-Association), the Board may levy a monetary penalty against such Owner and his Lot or Condominium (or against such Sub-Association) as a means of reimbursing the Master Association for all costs to repair the damaged or destroyed Master Association Property or Maintenance Area. A Damage Reimbursement Assessment shall become a lien against the Owner's Lot or Condominium (or the Sub-Association's Common Area) which is enforceable by sale pursuant to Sections 2924, 2924 (b) and 2924 (c) of the California Civil Code, as same may be amended from time to time.

Section 10. Notice of Increase in Assessments. The Board shall provide notice by first class mail to the Owners of any increase in Regular, Special or Special Benefit Assessments not less than thirty (30) nor more than sixty (60) days prior to such increase becoming due.

Section 11. Date of Commencement of Regular Assessments: Due Dates. Subject to the terms of any maintenance and/or subsidy agreement entered into between the Master Association and Declarant (or a Merchant Builder), Regular Assessments shall commence as to all Lots and/or Condominiums within any Phase (including any prior Phase[s]) of the Community which are subject to this Master Declaration on the first day of the month after the first occupancy of a Dwelling in the Community. Thereafter, for each subsequent Phase, Regular Assessments shall commence on the first day of the month after the occurrence of either of the following events: (a) the first Close of Escrow for the sale of a Lot or Condominium to a bona fide purchaser in such subsequent Phase; or (b) the conveyance of any Master Association Property in such Phase to the Master Association. The first Regular Assessments shall be adjusted according to the number of months remaining in the fiscal year as set forth in the ByLaws.

The Board shall fix the amount of the Regular Assessment at least thirty (30) days in advance of each Regular Assessment period.

Section 12. Collection of Assessments. Except as otherwise provided in this Master Declaration, Regular and Special Assessments shall be levied at uniform rates for each Lot and Condominium in the Community. Special Benefit Assessments shall be levied equally against all Lots and Condominiums in the respective Special Benefit Area.

Section 13. Certification of Payment. The Master Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer or agent of the Master Association setting forth whether the Assessments on a specified Lot or Condominium have been paid. If a certificate states that Assessments have been paid, such certificate shall be conclusive evidence of such payment.

Section 14. Delivery by Owner. Each Owner of a Lot or Condominium shall, as soon as practicable prior to the transfer of title to such Lot or Condominium or the execution of an installment sales contract, as defined in California Civil Code Section 2985, as same may be amended from time to time, give to the prospective purchaser a copy of the Master Association Documents, a copy of the most recent financial statements, a true statement, in writing, from the Master Association Board as to the amount of the Master Association's Regular, Special and Special Benefit Assessments, as well as any delinquent Assessments (including late charges, interest, costs of collection and attorney's fees) which are or may be a lien upon the Owner's Lot or Condominium, and any changes in the Master Association's Assessments which have been approved by the Board, but have not become due and payable.

Section 15. Reserves. All amounts collected by the Master Association as reserves shall be deposited by the Board in a separate bank account for the purposes for which they were collected, and are to be segregated from and not commingled with the operating or any other funds of the Master Association. The

Board shall not expend funds designated as reserves for any purposes other than as permitted by Section 1365.5 of the California Civil Code, as same may be amended from time to time.

Section 16. Offsets and Waiver Prohibited. No Owner may waive or otherwise avoid liability for the Assessments provided for herein for any reason whatsoever, including, but not limited to, non-use of the Master Association Property or abandonment of his Lot or Condominium, nor shall any Owner be entitled to any offset against any Assessment provided for herein for any reason whatsoever, including, but not limited to, any expenditure made by such Owner for or on behalf of the Master Association.

Section 17. Exempt Property. The following property subject to this Master Declaration shall be exempt from the Assessments herein:

(a) All property dedicated to and accepted by any Public Agency;

(b) All property owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of California. However, no land or Improvements utilized for residential dwelling purposes shall be exempt from said Assessment;

(c) All Master Association Property; and

(d) All Common Area owned or controlled by a Sub-Association.

## ARTICLE VII

### NON-PAYMENT OF ASSESSMENTS:

#### REMEDIES OF THE MASTER ASSOCIATION

Section 1. Non-Payment of Assessments: Remedies of the Master Association. Any installment of a Regular, Special or Special Benefit Assessment, and any Damage Reimbursement or Compliance Assessment not paid within fifteen (15) days after the due date shall be deemed delinquent, and the Owner shall be