

## ARTICLE X

### REPAIR AND MAINTENANCE

Section 1. Repair and Maintenance by the Master Association. In furtherance of the Article herein entitled "Powers and Duties of the Master Association," the Master Association shall maintain all Master Association Property and Maintenance Areas designated in this Master Declaration and in any Notice(s) of Annexation recorded for any subsequent Phase(s) of the Community in accordance with the Fuel Modification Zones Maintenance Guidelines, the Maintenance Guidelines, the Environmental Documents (as applicable) and with the maintenance standards set forth in Section 4 hereinbelow so as to keep the Master Association Property and Maintenance Areas in a neat, clean, safe and attractive condition at all times. Such maintenance shall include inspecting, monitoring, maintaining, repairing, painting, planting, restoring, replacing and making necessary Improvements to the Master Association Property and/or Maintenance Areas which include, without limitation, the following:

- (a) All common recreational amenities, subject to the terms and provisions of the Use Agreement;
- (b) All private streets (including, but not limited to, the Community Entry Facilities and the Residential Entry Facilities, curbs, gutters, entry and directional signs and monuments, walkways and exterior lighting fixtures), parkways, medians and rights-of-way, and all Improvements (including, but not limited to, landscaping and the related irrigation systems) located thereon, provided however, the Community Entry Facilities shall be subject to the Cost Sharing Agreement;
- (c) Fuel Modification Zones B, C and D (and any related irrigation systems) in accordance with the Fuel Modification Zones Maintenance Guidelines, which include, among other things, at least triennial inspections and

corrections of any deficiencies in the related irrigation system);

(d) Those portions of the Master Association Property located within the Conservation/Long Term Habitat Maintenance Areas, which shall be subject to an annual program (or more frequently if required by the Environmental Documents or a Public Agency) of trash removal therefrom;

(e) Those portions of the Master Association Property and/or Maintenance Areas located within the Invasive Plant Areas, which shall be subject to an annual program (or more frequently if required by the Environmental Documents or a Public Agency) of eradicating Invasive Exotic Plants therefrom;

(f) The structural Best Management Practices located on the Master Association Property and/or Maintenance Areas in accordance with the provisions of the Water Quality Management Plans;

(g) All common storm drain facilities, including, but not limited to, "V" ditches and bench drains, catch basins, detention basins, culverts and pipelines. (The Master Association shall also paint and maintain all signs and warnings [e.g. Drains to Ocean] installed by Declarant or a Merchant Builder on any catch basin or other drainage device regarding the disposal of Hazardous Materials or other pollutants therein);

(h) All private utility lines, connections and related facilities;

(i) The exterior surface(s) (i.e., the surface(s) facing a public or private street so as to be generally visible to the public and/or the residents within the Community [excluding all surfaces of any decorative metal which encloses in whole or in part an Owner's Lot or Condominium], the top and the structural integrity of all Master Association Walls;

(j) All common furnishings, equipment, vehicles and other personal property owned by the Master Association; and

(k) All other areas, facilities, equipment, and other Improvements as may from time to time be approved by the vote or written consent of a majority of the voting power of Members, other than Declarant and the Merchant Builders.

Section 2. Repair and Maintenance by a Sub-Association. Each Sub-Association shall maintain its Common Area and related Improvements (including, but not limited to, the Sub-Association Walls) in accordance with the Fuel Modification Zones Maintenance Guidelines, any maintenance guidelines applicable to the Sub-Association and the maintenance standards set forth in Section 4 below so as to keep same in a neat, clean, safe and attractive condition at all times. The members of a Sub-Association shall not amend any such Supplemental Declaration to terminate or modify the maintenance responsibilities of such Sub-Association without the prior written approval of the Board of the Master Association and the City. In the event that any Sub-Association shall permit any Common Area, or other area or Improvement which it is responsible to maintain, to fall into disrepair so as to create a dangerous, unsafe, unsightly or unattractive condition, the Board, after affording the board of directors of such Sub-Association Notice and Hearing, shall have the right, but not the obligation, acting through its employees, contractors and agents to correct such condition, and to enter upon such Common Area for the purpose of performing the necessary maintenance and repairs. The Sub-Association shall reimburse the Master Association for the cost thereof within thirty (30) days of receipt of demand for reimbursement. Such cost may be levied by the Master Association as a Compliance Assessment enforceable in the manner as set forth in this Master Declaration.

Section 3. Repair and Maintenance by Owners. Subject to the Master Association's maintenance obligations and a Sub-Association's maintenance obligations as referenced above, every

Owner shall maintain his respective Lot or Condominium (including any Landscape Easement Area appurtenant thereto) in accordance with the Fuel Modification Zones Maintenance Guidelines and the maintenance standards set forth in Section 4 hereinbelow so as to keep same in a neat, clean, safe and attractive condition at all times. Such maintenance shall include, but not be limited to, inspecting, maintaining, repairing, planting, painting, restoring, replacing and making necessary improvements to his Lot or Condominium, including, without limitation, the following:

(a) the Dwelling(s) and all related Improvements located on the Owner's Lot or within his Condominium;

(b) all walls and fences located on such Owner's Lot or Condominium (or on any Landscape Easement Area appurtenant thereto), including, but not limited to, (i) the interior surface of any Master Association Wall which encloses in whole or in part the Owner's private yard area or is otherwise located on the Owner's Lot or Condominium (including all surfaces of any decorative metal included as part of a Master Association Wall), and (ii) the interior surface of a "Party Wall" which encloses in whole or in part the Owner's private yard area and which such Owner shares with one or more Owners (together with a pro rata share of all costs of structural repairs to such "Party Wall") as more particularly set forth in Section 9 hereinbelow;

(c) any structural Best Management Practices located on the Owner's Lot or Condominium (e.g., a temporary desilting basin and related drain lines);

(d) all drainage facilities (including downspouts and rain gutters, yard drains and related drain lines, swales and other drainage devices), whether surface or subsurface located on the Owner's Lot or Condominium;

(e) all hardscape (including, but not limited to, patios, entry walkways, planters and driveways) located on the Owner's Lot or within his Condominium; and

(f) all landscaping, (including, but not limited to trees, shrubs, lawn and all other plantings) and the related irrigation systems located on the Owner's Lot or Condominium (and any Landscape Easement Area appurtenant thereto).

Section 4. Maintenance Standards. The Master Association shall maintain all Master Association Property and the Maintenance Areas, a Sub-Association shall maintain its Common Area and related Improvements as required herein and in the Supplemental Declaration, and each Owner shall maintain his respective Lot or Condominium in accordance with the provisions of the Master Association Documents, all applicable ordinances and regulations of the Public Agencies having jurisdiction over the Community and the following general maintenance standards:

(a) Lawn Maintenance. All lawn areas which are visible from a street shall be evenly cut, evenly edged, free of bare or brown spots and free of debris and weeds above the level of the lawn. All landscaped areas, other than such lawns which are visible from a street, shall be free of weeds, dead vegetation and debris.

(b) Tree Trimming. All trees and shrubs shall be trimmed so they do not impede pedestrian traffic along the streets. Trees shall be pruned so they do not contact Improvements constructed on an adjoining Lot or Condominium and shall be maintained so they do not have droppings or create other nuisances to adjoining Lots or Condominiums or the Master Association Property. All trees shall also be root pruned to eliminate exposed surface roots and damage to Dwellings, Master Association Walls, Sub-Association Walls, streets, sidewalks, driveways or other Improvements.

(c) Pavement Maintenance. All private streets, walkways and sidewalks shall be maintained so that they are safe for users. Significant pavement cracks, pavement distress, excessive slab settlement, abrupt vertical variations and debris shall be removed or repaired promptly.

(d) Fence Maintenance. All surfaces of any decorative metal included as part of a Master Association Wall (or a Sub-Association Wall) which is to be maintained by the Master Association (or a Sub-Association) or by an Owner shall be painted as needed to eliminate cracking, chipping, and oxidation, but in no event less frequently than every two (2) years. The brands of paint and colors which may be used are set forth in the Design Guidelines.

(e) Custom Lot Maintenance. The Owner of a Custom Lot shall maintain same in a neat, clean, safe condition, free of weeds and debris, prior to construction of a Dwelling.

(f) Public Nuisance. All Master Association Property, Maintenance Areas, Common Area, if any, and all Lots and Condominiums shall be maintained in such a manner as to avoid the reasonable determination that a public nuisance has been created by the lack of proper maintenance such as to be detrimental to public health, safety, or general welfare, or that such a condition of deterioration or disrepair cause harm or is materially detrimental to property values or Improvements within the boundaries of the Community.

(g) Irrigation Systems for Fuel Modification Zone B. The irrigation system for Fuel Modification Zone B (and any other area required by the Orange County Fire Authority) shall be inspected and any deficiencies corrected at least three times each year.

(h) Best Management Practices. The use of pesticides, fertilizers and other chemicals shall be in compliance with the Best Management Practices.

(i) Invasive Exotic Plants. The Master Association as to any portion of the Master Association Property and/or Maintenance Area which is located within the Invasive Plant Areas and each Owner of a Lot or Condominium which is located (in whole or in part) within the Invasive Plant Areas shall not seed, plant or otherwise introduce any Invasive Exotic

Plants within the Invasive Plant Areas, and shall annually eradicate any such Plants which may have sprouted therein.

(j) Environmental Documents. The Master Association, any Sub-Association and each Owner shall maintain its respective property (e.g., Master Association Property, Maintenance Area, Common Area, Lot or Condominium) in compliance with the Environmental Documents.

Section 5. Preservation of Proper Drainage. The Master Association (as to the Master Association Property and Maintenance Areas) and each Sub-Association (as to its Common Area) and each Owner (as to his respective Lot or Condominium) shall maintain any structural Best Management Practices, any graded drainage swale and any other drainage facilities located thereon in a neat, clean, safe and proper operating condition at all times so as to assure proper drainage of surface waters. The Master Association, each Sub-Association and each Owner shall not perform any grading or build, construct, erect, plant or otherwise install any Improvements which would obstruct the structural integrity or proper operation of any structural Best Management Practices, drainage swale or other drainage facilities without the prior express written approval of the Design Review Committee and of any Public Agency having jurisdiction over drainage of surface waters within the Community.

Section 6. Annual Inspection by the Master Association. In addition to the inspection conducted as part of the reserve study pursuant to Section 1365.5(e) of the California Civil Code, as same may be amended from time to time, it shall be the duty of the Board to inspect the Master Association Property and Maintenance Areas at least once each calendar year and cause a report to the Members to be prepared in accordance with the following:

(a) Purpose of Inspection. The purpose of the inspection shall be to (i) determine whether the Master Association Property and Maintenance Areas are being

maintained adequately in accordance with the standards set forth in Section 4 hereinabove, (ii) identify the condition of such Master Association Property and Maintenance Areas, including the existence of any hazards or defects, and the need for performing additional maintenance, refurbishment, replacement or repair, and (iii) recommend preventive actions which may be taken to reduce potential maintenance costs to be incurred in the future.

(b) Scope of Inspection. All of the Master Association Property and Maintenance Areas shall be thoroughly inspected and tested, as applicable.

(c) Experts and Consultants. The Board may employ such experts and consultants as are necessary to perform the inspection and prepare the report required herein.

(d) Report to Owners. The Board shall cause a report of the results of the inspection to be prepared. The report shall be furnished to Owners within the time set forth for furnishing Owners with the budget. The report shall include at least the following:

(1) a description of the condition of the Master Association Property and Maintenance Areas, including a list of items inspected, and the status of maintenance, repair and need for replacement of any Improvements thereon;

(2) a description of all maintenance, repair and replacement planned for the ensuing fiscal year and included in the Master Association's budget (or budget for the respective Special Benefit Area);

(3) if any maintenance, repair or replacement is to be deferred, the reason for such deferral;

(4) a summary of all reports of inspection performed by any expert or consultant employed by the Board to perform inspections;

(5) a report of the status of compliance with the maintenance, replacement and repair needs set forth in the inspection report for the immediately preceding year; and

(6) such other matters as the Board deems appropriate.

Section 7. Compliance. If after prior Notice and Hearing, the Board determines that a Sub-Association or an Owner has failed to perform its respective maintenance obligations, the Board shall have the right, but not the obligation, acting through its agents and employees, to enter in and/or upon any Common Area or Lot or Condominium to perform such maintenance and repairs as may be reasonably required to bring same into compliance with the Protective Covenants set forth in this Master Declaration. The cost of such maintenance and repairs shall be levied by the Board as a Compliance Assessment against the respective Sub-Association or Owner as provided in this Master Declaration.

Section 8. Damage and Destruction Affecting a Lot or Condominium - Duty to Rebuild. In the event any Dwelling or other structure is damaged or destroyed by fire or other casualty, it shall be the duty of the affected Sub-Association (if applicable) or the duty of the Owner of the affected Lot or Condominium to repair or reconstruct any affected Dwelling in a manner which will restore it to the same (or better) condition and appearance as existed immediately prior to such damage or destruction, or as otherwise approved by the Design Review Committee. The affected Sub-Association or Owner shall be obligated to proceed with all due diligence hereunder, and shall promptly commence reconstruction within a reasonable time after the damage occurs, and shall complete such reconstruction as soon as reasonably possible thereafter.

Section 9. Party Walls.

(a) General Rules of Law to Apply. Each wall and fence (save and except any structural wall of a Dwelling and

any Master Association Wall) which is built as a part of the original construction by Declarant, a Merchant Builder or an Owner, and which is located on the property line or which serves as the effective boundary between two (2) or more Lots or Condominiums shall be deemed to be and treated as a "Party Wall." To the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

(b) Sharing of Repair and Maintenance. Unless covered by insurance maintained by the Master Association, the cost of reasonable structural repair and maintenance of a Party Wall shall be shared equally by the Owners of the Lots or Condominiums which share such common wall or fence. However, each Owner shall be solely responsible for maintaining the side of any Party Wall facing his Lot or Condominium.

(c) Destruction by Fire or Other Casualty. Unless covered by insurance maintained by the Master Association, if a Party Wall is destroyed or damaged by fire or other casualty, any Owner whose Lot or Condominium is affected thereby may restore it, and the Owner(s) of any other Lot(s) or Condominium(s) which is/are affected thereby shall contribute equally to the cost of restoration thereof, without prejudice, however, to the right of any such Owner to call for a larger contribution from the other Owner under any rule of law regarding liability for negligent or willful acts or omissions.

(d) Right of Contribution. The right of any Owner to contribution from any other Owner for work performed pursuant to this Master Declaration shall be appurtenant to and shall run with the land and shall be binding upon the Owners and their successors, assigns and grantees. Notwithstanding the foregoing, the duty and obligation to pay

contribution for work already performed pursuant to the provisions of this Master Declaration shall not run with the land or be binding upon (i) any first Mortgagee who obtains title pursuant to either a foreclosure under its Deed of Trust or by a deed in lieu of foreclosure, or (ii) any purchaser at a foreclosure sale.

Section 10. Reservation of Access Easement for Inspection and Repairs. Declarant hereby reserves unto itself and each Merchant Builder, and their respective successors and assigns, a nonexclusive easement for ingress, egress and access on, over and across those portions of the Community (including the Lots and Condominiums) as are reasonably necessary in Declarant's sole discretion to conduct inspections and tests, and to perform repairs as Declarant and/or a Merchant Builder may deem appropriate. Such access easement may be exercised by the Declarant, a Merchant Builder and/or their authorized agents and employees upon reasonable prior notice to the Master Association, a Sub-Association and/or an affected Owner, as the case may be and shall only be exercised during normal business hours. Such access easement shall be exercised with as little inconvenience as is practicable under the circumstances, and in the event that any damage is caused thereby, the Declarant or the Merchant Builder, as the case may be, shall repair the same at its sole cost and expense. Notwithstanding the foregoing, in the event of any emergency, such right of access shall be immediate.

Section 11. Golf Course Property Owner's Maintenance Rights. As more particularly set forth in the Golf Course Declaration, if the Master Association, Sub-Association, or any Owner, as the case may be, (the "Defaulting Party") shall fail to maintain any walls, fences, trees, hedges, barrier landscaping or other similar Improvements which are situated along the common boundary between the Golf Course Property and the Master Association Property, the Sub-Association Common Area or a Lot or Condominium and which are to be maintained by the Master

Association, Sub-Association or Owner, (as the case may be), the Golf Course Property Owner shall have the right, but not the duty, to maintain such Improvements at the sole cost and expense of the Defaulting Party. If the Golf Course Property Owner desires to perform any such maintenance, the Golf Course Property Owner shall first notify the Defaulting Party in writing and allow the Defaulting Party at least thirty (30) days from the date of the notice to perform such maintenance. If the Defaulting Party fails to commence such maintenance within said period and thereafter to diligently pursue same to completion, the Golf Course Property Owner shall have the right to enter the Master Association Property, Common Area or Lot or Condominium (as the case may be) on which the maintenance is required during reasonable business hours and perform such maintenance.

#### ARTICLE XI

##### DAMAGE OR DESTRUCTION OF IMPROVEMENTS MAINTAINED BY THE MASTER ASSOCIATION

Section 1. Restoration of Damaged Master Association Property and/or Maintenance Areas. Except as otherwise provided in Sections 2 and 8 hereinbelow, damage to or destruction of all or any portion of the Master Association Property and/or Maintenance Areas shall be handled in the following manner:

(a) Damage to the Master Association Property and/or Maintenance Areas - Sufficient Insurance Proceeds. Subject to the provisions of Section 6 below, in the event of damage to or destruction of any of the Master Association Property (excluding the Special Benefit Improvements) and/or Maintenance Areas and the insurance proceeds are sufficient to effect total restoration, the Master Association shall, as promptly as is practical, cause the same to be repaired and reconstructed in a good workmanlike manner to its condition prior to such damage or destruction.