

Development is located. However, such increase shall occur only if (i) the annexation of such additional Phases of Development is permitted by the DRE, and (ii) if a range of Assessments is elected, the amount of such increase is within the range of assessments approved by the DRE pursuant to the DRE Approved Budgets, increased at a rate of twenty percent (20%) compounded annually. If annexation of Common Areas results in an increase in the Regular Assessments which is permissible under the requirements of the preceding sentence, then the Association shall be obligated to collect such increased Regular Assessment. To facilitate the orderly payment of Regular Assessments during the development of the Development, the Board may establish and levy a median monthly Regular Assessment at an amount sufficient to defray the Common Expenses during the development of the Development. By accepting title to a Lot, each Owner consents to the Regular Assessment increases specified in this Section. Notwithstanding the foregoing provisions of this Section, or any other provisions of this Article III to the contrary, the Board may elect to establish assessments at an amount which will result in level Regular Assessments as additional Phases of Development are annexed hereto provided that such level Regular Assessments are established in accordance with the standards prescribed by the then-current DRE Operating Cost Manual or, if such Operating Cost Manual is no longer maintained by the DRE, pursuant to standards prescribed by comparable maintenance cost guidelines prepared in accordance with prudent property management practices for "common interest developments" (as defined in Section 1351(c) of the California Civil Code) consistently applied throughout the geographic region in which the Development is located.

ARTICLE IV **NONPAYMENT OF ASSESSMENTS**

4.1 Effect of Nonpayment of Assessments; Remedies of the Association. In the event any Assessment is not paid when due, such Assessment shall be deemed to be delinquent and in default. Each Owner vests in the Association or its assigns the right and power to bring all actions at law and in equity and exercise such other remedies provided herein against such Owner for the collection of delinquent Assessments. In the event an attorney or attorneys are employed for collection of any Assessment, whether by suit or otherwise, each Owner agrees to pay reasonable attorneys' fees and costs thereby incurred in addition to any other amounts due or any other relief or remedy obtained against such Owner. In addition to any other remedies herein or by law provided, the Association may enforce the obligations of the Owners to pay the Assessments in any manner provided by law or in equity, and without any limitation of the foregoing, by any or all of the following procedures:

(a) **Suspension of Rights; Monetary Penalties.** After a hearing by the Board (whether or not the delinquent Owner appears), upon ten (10) days prior written notice to the delinquent Owner, the Board may (a) suspend the voting rights of any Owner, (b) impose reasonable monetary penalties pursuant to a monetary penalty schedule established and posted by the Board, and/or (c) suspend such Owner's right to use the Common Areas for any period during which any Assessment against such Owner's Lot remains unpaid; *provided, however*, these provisions shall not operate or be construed to deny or restrict ingress or egress of any Owner to and from such Owner's Lot.

(b) **Enforcement by Suit.** By commencement and maintenance of a suit at law or equity against any Owner or prior Owner to enforce the Assessment obligation, such suit is to be maintained in the name of the Association. Any judgment rendered in any such action may include the amount of the delinquency, interest thereon at the maximum legal rate per annum from

the date of the delinquency, court costs and reasonable attorneys' fees, in such amount as the court may adjudge against the delinquent Owner or prior Owner.

(c) **Enforcement by Lien.** There is hereby created a "Claim of Lien," with power of sale, on each and every Lot to secure payment to the Association of any and all Assessments charged against any and all Lots pursuant to this Declaration (except Remedial Assessments), together with interest thereon at the maximum legal rate per annum from the date of delinquency, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. At any time after the delinquency, the Association may elect to file and record in the Official Records a Claim of Lien against the Lot of the defaulting Owner. Such Claim of Lien shall be executed and acknowledged by any officer of the Association, and shall contain substantially the following information:

- (i) the name of the delinquent Owner;
- (ii) the legal description of the Lot against which the Claim of Lien is made;
- (iii) the total amount of the delinquency, interest thereon, penalties, collection costs and reasonable attorneys' fees if then known (with any proper offset allowed);
- (iv) a statement that the Claim of Lien is made by the Association pursuant to this Declaration and that a lien is claimed against said Lot in an amount equal to the amount stated; and
- (v) the name and address of the trustee authorized by the Association to enforce the Claim of Lien by sale.

Upon such recordation of a duly executed original or copy of such Claim of Lien and mailing a copy thereof to said Owner, the lien claimed therein shall immediately attach and become effective. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a deed of trust by exercise of a power of sale contained therein or in the manner provided by law for the enforcement of a judgment as the laws of the State of California may from time to time be changed or amended. The Association shall have the power to bid at any foreclosure sale, trustee's sale or judgment sale and to purchase, acquire, lease, hold, mortgage and convey any Lot. Reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law. The proceeds of any foreclosure, trustee's or judgment sale provided for in this Declaration shall first be paid to discharge court costs, court reporter charges, reasonable attorneys' fees, title costs and costs of the sale, and all other expenses of the proceedings and sale, and the balance of the unpaid sales proceeds after satisfaction of such charges and unpaid assessments hereunder or any liens, shall be paid to the defaulting Owner. Any purchaser at such sale shall thereupon be entitled to a deed to the Lot and immediate possession of the Lot and shall have the right to apply to a court of competent jurisdiction for such orders as may be reasonable for the purpose of acquiring and possessing the Lot. It shall be a condition of such sale, and the deed so made shall provide, that the purchaser shall take the interest in the sold Lot subject to this Declaration. Upon the timely curing of any default for which a Claim of Lien was filed by the Association, the officers of the Association are hereby authorized to record an appropriate release of such lien in the Official Records.

4.2 Assignment of Rents. As security for the payment of all such liens, each Owner hereby gives to and confers upon the Association the right, power and authority, during the continuance of such ownership, to collect the rents, issues and profits of the Owner's Lot, reserving unto the Owner the right, prior to any default by such Owner in performance of such Owner's obligation under this Declaration, or the Bylaws or the Articles, to collect and retain such rents, issues and profits as they become due and payable. Upon any such default, the Association may, at any time, upon ten (10) days written notice to such Owner, then either in person, by agent or by a receiver to be appointed by a court of competent jurisdiction, and without regard to the adequacy of any security for such indebtedness, enter upon and take possession of such Owner's Lot or any part thereof, in its own name sue for or otherwise collect such rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorneys' fees, in payment of any indebtedness to the Association or in performance of any agreement hereunder, and in such order as the Association may determine. The entering upon and taking possession of said property, the collection of such rents, issues and profits and the application thereof as aforesaid, shall not cure nor waive any default hereunder or invalidate any act done pursuant to this Declaration.

The assignment of rents and powers described in the foregoing paragraph shall not affect, and shall in all respects be subordinate to, the rights and powers of the holder or beneficiary of any First Mortgage or deed of trust on any Lot or second Mortgage or deed of trust on any Lot if the holder or beneficiary of such second Mortgage or deed of trust is Declarant, to do the same or similar acts.

ARTICLE V **ARCHITECTURAL CONTROL**

5.1 Architectural Design Guidelines. In addition to, and not in limitation of, the architectural guidelines for the Covered Property set forth in the Specific Plan "Design Element," Declarant has adopted, or may adopt, guidelines setting forth general standards for the design and appearance of the Development (the "Design Guidelines"). The Design Guidelines may be different for each Phase of Development to accommodate the unique nature of, or revised development plans for, such Phase of Development. The Design Guidelines are intended to provide design professionals with standardized design vocabularies and materials intended to preserve the quality and overall appearance of the Development. However, in the event of any conflict between the Design Guidelines and this Declaration, this Declaration shall control. Notwithstanding any other provision herein, the Design Guidelines and the provisions of this Article V shall not apply to Declarant. The Design Guidelines shall not be amended, modified, changed, or waived in any manner, without the prior written approval of Declarant; *provided, however*, Declarant shall have the right at any time to relinquish to the Board its rights concerning the Design Guidelines in which case the Board shall have the right to unilaterally exercise same. Notwithstanding any other provision herein, no amendment to the Design Guidelines shall act to make any previously constructed or installed improvement or landscaping out of compliance with such amended Design Guidelines, provided that such improvement and/or landscaping was in compliance with the applicable Design Guidelines prior to such amendment to the Design Guidelines. Each prospective Owner should become familiar with the Design Guidelines applicable to the Lot such person intends to purchase before executing any agreement for the purchase of such Lot. The Architectural Committee shall maintain a copy of the Design Guidelines on file at all times, and the Architectural Committee shall provide each Owner with a copy of the Guidelines upon written request. The