

servitudes, restrictions, covenants, and conditions in accordance with California Civil Code Section 1354, which are for the purpose of protecting the value and desirability of, and which shall constitute equitable servitudes on the Covered Property and which shall run with the Covered Property and be binding on and inure to the benefit of all parties having any right, title or interest therein, or in any part thereof, their heirs, successors and assigns.

ARTICLE I **DEFINITIONS**

Unless the context clearly indicates otherwise, the following terms used in this Declaration are defined as follows:

1.1 “**Alleged Defect**” shall mean any defect in the planning, design, engineering, grading, construction or other development thereof.

1.2 “**Annexation Property**” shall mean all of the real property described in *Exhibit “B”* to this Declaration.

1.3 “**Architectural Committee**” shall mean and refer to the committee or committees provided for in the Article hereof entitled “*Architectural Control.*”

1.4 “**Articles**” and “**Bylaws**” shall mean and refer to the Articles of Incorporation and Bylaws of the Association as the same may from time to time be duly amended.

1.5 “**Assessments**” The following meanings shall be given to the Assessments hereinafter defined:

1.5.1 “**Capital Improvement Assessment**” shall mean a charge against each Owner and such Owner’s Lot, representing a portion of the cost to the Association for installation or construction of any capital improvements on any of the Common Areas which the Association may from time to time authorize pursuant to the provisions of this Declaration.

1.5.2 “**Phase of Development Assessments**” shall mean those Assessments charged to and collected from certain Owners in accordance with Section 3.11 and Section 6.10 of this Declaration, for the purpose of financing the expenses incurred or to be incurred in connection with certain special services and/or facilities for such Owners.

1.5.3 “**Reconstruction Assessment**” shall mean a charge against each Owner and such Owner’s Lot representing a portion of the cost to the Association for reconstruction of any portion or portions of the Common Areas pursuant to the provisions of this Declaration.

1.5.4 “**Regular Assessment**” shall mean the amount which is to be paid by each Member to the Association for Common Expenses.

1.5.5 “**Reimbursement Assessment**” shall mean any charge designated as a Reimbursement Assessment in this Declaration, the Articles, Bylaws or Association Rules.

1.5.6 “**Remedial Assessment**” shall mean any charges and/or fines levied by the Association against a particular Owner who fails to comply with this Declaration, the Articles,

Bylaws or Association Rules, together with attorneys' fees and other charges payable by such Owner, pursuant to the provisions of this Declaration, plus interest thereon as provided for in this Declaration.

1.5.7 "Special Assessment" shall mean any charge designated as a Special Assessment in this Declaration, the Articles, Bylaws or Association Rules.

1.6 "Association" shall mean and refer to the Alberhill Ranch Community Association, a California nonprofit mutual benefit corporation, incorporated under the laws of the State of California (as described in Recital D hereof), its successors and assigns.

1.7 "Association Rules" shall mean rules adopted by the Association pursuant to the Article hereof entitled "*Duties and Powers of the Association.*"

1.8 "Board" shall mean the Board of Directors of the Association.

1.9 "Business Day" shall mean any day other than a Saturday, Sunday, or California or national holiday on which banks in the County are customarily closed.

1.10 "City" shall mean and refer to the City of Lake Elsinore, California.

1.11 "Common Areas" shall mean all real property and the improvements thereon owned or leased from time to time by the Association or over which the Association has an easement or license for maintenance and/or the common use and enjoyment of the Members. Common Areas may include any District Areas at such time (if ever) that such District Areas are no longer maintained and/or owned by a District or any successor entity. In such case, the Association shall undertake all necessary steps including without limitation, acquisition and assumed maintenance, in order to ensure that such District Areas remain available for access and use by the Members and such other Persons having rights thereto. The Common Areas shall also include any parks, open space, or similar areas which are intended, pursuant to the "Specific Plan" or the "Development Agreement" (as hereinafter defined), to be dedicated to and accepted by the City, County or any other governmental or quasi-governmental agency or authority ("Dedication Areas") but which, for any reason, are not accepted thereby. Upon the "Initial Sale Date" (as hereinafter defined), the Common Areas shall be that certain property described on *Exhibit "C"* attached hereto.

1.12 "Common Expenses" shall mean and refer to the actual and estimated costs of:

(a) maintenance, management, operation, repair and replacement of the Common Areas and all other areas on the Covered Property which are maintained by the Association;

(b) unpaid Assessments;

(c) maintenance of the Special Maintenance Areas;

(d) maintenance by the Association of areas within the public right-of-way of public streets in the vicinity of the Covered Property as provided in this Declaration or pursuant to agreements with the County or any other applicable governmental or quasi-governmental agency, district or authority;

(e) costs of management and administration of the Association, including, but not limited to, compensation paid by the Association to managers, accountants, attorneys and employees;

(f) the costs of utilities, trash pickup and disposal, graffiti removal gardening and other services which generally benefit and enhance the value and desirability of the Common Areas;

(g) the costs of electricity for any street lights in the Development;

(h) the costs of fire, casualty, liability, workmen's compensation and any other insurance covering the Common Areas;

(i) the costs of any other insurance obtained by the Association;

(j) costs of any fire prevention measures relating to the Common Areas;

(k) reasonable reserves as deemed appropriate by the Board, and the cost of any reserve study pursuant to California Civil Code Section 1365.5(e);

(l) the costs of bonding of the members of the Board, any professional managing agent or any other person handling the funds of the Association;

(m) taxes paid by the Association;

(n) amounts paid by the Association for discharge of any lien or encumbrance levied against the Common Areas or portions thereof;

(o) costs incurred by the Architectural Committee or any other committee established by the Board (including costs of any third-party consultants hired by the Architectural Committee or other committee to review plans, inspect Improvements, make recommendations, *etc.*); and

(p) other expenses incurred by the Association for any reason whatsoever in connection with the Common Areas, or the costs of any other item or items designated by this Declaration, the Articles, Bylaws or Association Rules, or in furtherance of the purposes of the Association or in the discharge of any duties or powers of the Association.

1.13 "County" shall mean and refer to the County of Riverside, State of California.

1.14 "County Recorder" shall mean the office of the county recorder of the County.

1.15 "Covered Property" shall mean and refer to the Initial Property and any other real property which shall become subject to this Declaration pursuant to the provisions of Article XIV herein.

1.16 "Declarant" shall mean and refer to Castle & Cooke Alberhill Ranch, LLC, a California limited liability company, its successors and assigns by merger, consolidation or by purchase of all or substantially all of its assets.

1.17 "Dedication Areas" shall have the meaning set forth in the definition of "Common Areas."

1.18 "Design Guidelines" shall have the meaning set forth in Section 5.1 hereof.

1.19 "Design Professionals" shall have the meaning set forth in Section 5.4 hereof.

1.20 "Developer Lots" shall mean and refer to all of the separate residential interests proposed in the Development that have not yet been conveyed to Retail Purchasers and are owned by the Declarant. For purposes of this Section only, and in no way limiting the rights of Declarant to modify the Development or the actual number of Lots within the Development, the total number of projected Developer Lots for the Development as of the date of this Declaration is nine hundred twenty-four (924).

1.21 "Development" shall mean and refer to the real property described on *Exhibits "A," "B,"* and *"C"* which is and/or becomes subject to this Declaration, and is commonly known as "Alberhill Ranch."

1.22 "Development Agreement" shall mean that certain Murdock Alberhill Ranch Development Agreement dated January 4, 1992, by and between the City of Lake Elsinore and Murdock Alberhill Ranch Limited Partnership, which was Recorded on September 14, 1993 as Instrument No. 359428 in the Official Records, as same has been or may be amended from time to time.

1.23 "Directors" shall mean and refer to the members of the Board.

1.24 "District(s)" shall mean and refer to such district(s) as is/are or may be established in conjunction with the City or the County, which is/are or may be responsible for the landscape, maintenance, repair and administration of certain portions of the Covered Property. Districts, if formed, will be funded through assessments levied against all of the properties within the boundary of such District.

1.25 "District Areas" shall mean those areas which are or will be maintained by a District. District Areas may include all or a portion of the Common Areas if the District agrees to assume the maintenance of such Common Areas. Pursuant to this Declaration, Declarant has the power to cause the transfer of certain Common Areas to a District in which case such Common Areas shall no longer be Common Areas within the scope of this Declaration but, instead, shall constitute District Areas. Notwithstanding any provision in this Declaration to the contrary, the District Areas shall not be subject to this Declaration unless and until the Association has assumed maintenance of such District Areas in accordance with this Declaration.

1.26 "DRE" shall mean and refer to the California Department of Real Estate.

1.27 "DRE Approved Budget" shall mean and refer to that certain budget or budgets which have been or will be submitted to and approved by the DRE by Declarant which provides for either (i) a range in the amount of the Regular Assessments, or (ii) a level amount of Regular Assessments, over the course of the development of the Development.

1.28 "Dwelling" shall mean a residential structure constructed on a Lot.

1.29 "Exhibit" shall mean and refer to those documents so designated herein and attached hereto (as such Exhibits may be amended pursuant hereto) and each of such Exhibits is by this reference incorporated in this Declaration. As additional property is annexed pursuant to the Article entitled "*Integrated Nature of the Covered Property*" of this Declaration, applicable exhibits similar to the Exhibits attached to this Declaration shall be attached to such Supplemental Declarations pertaining to the annexed property, and each of such exhibits shall thereby be incorporated in this Declaration.

1.30 "Federal Agencies" shall mean and refer to collectively one or more of the following agencies and the following letter designation of such agencies shall mean and refer to respectively the agency specified within the parentheses following such letter designation: "VA" (United States Department of Veterans Affairs); "FHLMC" (Federal Home Loan Mortgage Corporation); "FNMA" (Federal National Mortgage Association); "GNMA" (Government National Mortgage Association); and "FCC" (Federal Communications Commission).

1.31 "Final Subdivision Public Report" shall refer to any report issued by the DRE pursuant to Section 11018.2 of the California Business and Professions Code or any similar statute hereafter enacted.

1.32 "Fuel Modification Zones" shall mean any areas within the Covered Property (a) which are subject to any minimum setback requirements which are intended to serve as defensible space for fire suppression forces and to protect structures from radiant and convective heat; (b) which must contain at all times permanently irrigated drought tolerant and fire resistant plant materials; or (c) which must contain a minimum width area in which natural vegetation is thinned to reduce the fuel load of a wild land area, or otherwise be maintained to reduce fire risk pursuant to applicable fire safety guidelines. Fuel Modification Zones in the Initial Property are depicted on *Exhibit "E"* attached hereto. Such Exhibit may be amended from time to time. Additional Fuel Modification Zones may be delineated in a Supplemental Declaration.

1.33 "Government Agency" shall mean the City, the County, municipal districts, and any other governmental or quasi-governmental agency or authority with jurisdiction over the Development.

1.34 "Improvements" shall mean 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.*), garages, carports, open parking areas, driveways, electro-mechanical entry gate systems and related equipment, entry monuments, pedestrian tunnels, street lights, landscaped parkways and medians, sidewalks, walkways, pavements, trails, fences, retaining walls, walls, footings, columns, gates, decorative or informative signs, mail kiosks, private utility lines and connections, private storm drains and sewer lines and laterals, antennas, landscaped slopes, all trees, all shrubs and other landscaping in the front and any exposed side yard, all shrubs and other landscaping in an enclosed rear yard which would be visible above the perimeter walls and/or fences, and all landscape irrigation systems. Improvements shall also mean and refer to all exterior modifications to a dwelling, including, but not limited to, (a) painting the exterior of any dwelling or other structure; (b) changing the roof material, windows or exterior doors of any dwelling or other structure; (c) building, constructing or erecting any room additions and/or demolishing or conducting any exterior remodeling; and/or (d) building, constructing, erecting or installing, as the case may be, any swimming pools, spas, tennis courts, guest houses, patio covers, decks, planters, gazebos, stairs, trellises, sunshades, screening walls, wind screens, awnings, screen doors, skylights,

poles, signs, solar heating, air conditioning and/or water softening or refining fixtures or systems. Improvements also include all amenities, fixtures and facilities constructed on the Common Areas (including, but not limited to, any recreational amenities, entry gate facilities, storm and water quality control facilities, landscaping, *etc.*).

1.35 “Initial Property” shall have the meaning set forth in Recital A hereof.

1.36 “Initial Sale Date” shall mean the date of the close of escrow of the first Lot in the Initial Property to a Retail Purchaser.

1.37 “Institutional Mortgagee” shall mean and refer to a First Mortgagee which is a bank or savings and loan association or established mortgage company, or other entity chartered under federal or state laws, any corporation or insurance company, any federal or state agency, or any other institution regulated by federal or state law.

1.38 “Lot” shall mean and refer to (i) a lot shown on any final map filed for record and (ii) a parcel shown on any parcel map filed for record which is annexed to this Declaration, to the extent such lots and parcels are part of the Covered Property.

1.39 “Maintenance Requirements” shall have the meaning set forth in Section 18.6 hereof.

1.40 “Manufactured Products” shall have the meaning set forth in Section 18.5 hereof.

1.41 “Member” shall mean and refer to every “Person” (as hereinafter defined) who qualifies for Membership in the Association pursuant to the Article of this Declaration entitled “Membership,” including Declarant.

1.42 “Membership” shall mean the membership in the Association held by any Member.

1.43 “Mortgage” shall mean and refer to any duly recorded mortgage or deed of trust encumbering a Lot. A “First Mortgage” shall refer to a Mortgage which has priority over all other Mortgages encumbering a specific Lot.

1.44 “Mortgagee” shall mean and refer to the mortgagee or beneficiary under any Mortgage. A “First Mortgagee” shall mean the holder of a First Mortgage.

1.45 “Notice and Hearing” shall have the meaning ascribed to such term in the Bylaws.

1.46 “Official Records” shall mean the official records of the County.

1.47 “Owner” shall mean and refer to one or more persons or entities who are alone or collectively the record owner of a fee simple title to a Lot, including Declarant, or the vendee under an installment land sales contract, but excluding those having any such interest merely as security for the performance of an obligation. If a Lot is leased by Declarant for a term in excess of twenty (20) years and the lease, or memorandum thereof, is recorded, the lessee or transferee of the leasehold interest and not the Declarant shall be deemed to be the Owner. If fee title to a Lot is owned other than by Declarant, the Owner of the fee title and not the lessee or transferee of such Lot shall be deemed the Owner regardless of the term of the lease.

1.48 "Person" shall mean and refer to a natural individual, corporation, partnership, limited liability company, or any other entity with the legal right to hold title to real property.

1.49 "Phase of Development" shall mean the Initial Property and/or any portion of the Annexation Property that is subject to a Final Subdivision Public Report issued by the DRE annexing it to this Declaration.

1.50 "Phase of Development Common Areas" shall mean any portion of the Development to be maintained as Common Areas by the Association or a Project Association, but to be utilized solely by a select Owner or Owners of Lots within a particular Phase of Development (and the maintenance of which shall be funded through Phase of Development Assessments collected from such Owner(s)).

1.51 "Record" or "Recordation" shall mean recordation of any document or instrument in the Official Records.

1.52 "Retail Purchaser" shall mean any Owner of a Lot other than Declarant.

1.53 "Special Maintenance Areas" shall mean (1) those portions of the Development (including property owned by an Owner) which will be maintained by the Association, and (2) any other portions of the Development (including any property owned by the City) which pursuant to this Declaration or any other agreement (including, without limitation, any agreement between Declarant and the City with respect to the Development or any public rights-of-way within or in the vicinity of the Development) are contemplated or required to be maintained by the Association. Special Maintenance Areas may include parkway and street landscaping areas located within a public right-of-way within and adjacent to the boundaries, project monumentation, slopes, gates and/or walls/fencing located on individual Owners' Lots which are to be maintained by the Association in accordance with this Declaration. The initial Special Maintenance Areas are delineated on *Exhibit "D"* attached hereto and made a part hereof. Such Exhibit may be amended from time to time. Additional Special Maintenance Areas may be delineated in any Supplemental Declaration.

1.54 "Specific Plan" shall mean that certain Murdock Alberhill Ranch Specific Plan dated January, 1992, adopted by the City, as same has been or may be amended from time to time.

1.55 "Supplemental Declaration" shall mean those certain declarations of covenants, conditions and restrictions or similar instruments, annexing additional property extending the plan of this Declaration to such additional property as provided in the Article of this Declaration entitled "*Integrated Nature of the Covered Property.*"

1.56 "Unit" shall have the meaning set forth under the definition of "Lot" above.

1.57 "Warranty" shall have the meaning set forth in Section 18.1 hereof.

ARTICLE II MEMBERSHIP

2.1 Membership. Every Owner shall be a Member. The terms and provisions set forth in this Declaration, which are binding upon all Owners, are not exclusive, as Owners shall, in addition, be subject to the terms and provisions of the Articles, Bylaws, Design Guidelines, and