

(iii) encroachment of fireplaces, chimneys, doorsteps, foundation footings, garage doors, utilities and other appurtenances or fixtures and the maintenance thereof by the Owner of the dominant tenement, which, in the construction of the structures upon the dominant tenement or from any reconstruction or modifications of such structures, project beyond the external surface of the outer walls of such structures.

13.8 Right to Grant and Transfer Easements. All or any part of each easement reserved to Declarant herein may be granted or transferred by Declarant to an Owner, the Association, a District, a Government Agency, or any other party.

13.9 Neighbors. Notwithstanding any other provisions herein, Declarant shall have the unilateral right to grant easements over, and/or other rights concerning, the Common Areas, to owners of properties adjacent to the Development, including, without limitation, to use streets, roadways, or infrastructure, and/or to accommodate the provisions of agreements of record between Declarant and neighboring owners. Nothing herein is intended or shall be applied to reduce or materially affect any Owner's use or enjoyment of such Owner's Lot.

ARTICLE XIV **INTEGRATED NATURE OF THE COVERED PROPERTY**

The Annexation Property and/or any other real property may be annexed to and become subject to this Declaration by any of the methods set forth hereinafter in this Article, as follows:

14.1 Development of the Covered Property. Declarant intends to sequentially develop the Annexation Property on a phased basis; *provided, however*, Declarant may elect not to develop all or any part of such real property, to annex such real property to this Declaration in increments of any size whatsoever, or to develop more than one such increment at any given time and in any given order. Moreover, Declarant reserves the right to subject all or any portion of the Annexation Property to the plan of this Declaration or one or more separate declarations of covenants, conditions and restrictions which subjects said property to the jurisdiction and powers of a homeowners association or other entity with powers and obligations similar to the Association and which is not subject to the provisions of this Declaration. Although Declarant shall have the ability to annex the Annexation Property as provided in this Article, Declarant shall not be obligated to annex all or any portion of such property, and such property shall not become subject to this Declaration unless and until a Supplemental Declaration shall have been so executed and recorded. The Owners of any property annexed to this Declaration shall have the right to the same access, use, and enjoyment of the Common Areas, including all easement rights thereto, as if such annexed property was part of the Initial Property. Notwithstanding any other provision herein, Declarant shall have the unilateral right to annex neighboring properties into this Declaration and/or establish reciprocal easements and/or other rights for such properties and the owners thereof. Nothing herein is intended or shall be applied to reduce or materially affect any Owner's use or enjoyment of such Owner's Lot.

14.2 Supplemental Declarations. A Supplemental Declaration shall be a writing in recordable form which annexes real property to the plan of this Declaration and which incorporates by reference some or all of the covenants, conditions, restrictions, easements and other provisions of this Declaration and shall contain such other provisions as set forth in this Declaration relating to Supplemental Declarations. Such Supplemental Declarations contemplated above may contain such complementary additions and modifications of the covenants, conditions and restrictions contained

in this Declaration (i) as may be necessary to reflect the different character, if any, of the Annexation Property, (ii) as may be required by any governmental authorities, (iii) as deemed appropriate by Declarant, or (iv) as may be appropriate in the development of the Annexation Property. Notwithstanding the foregoing, in the event of any direct conflict between the terms of any Supplemental Declaration and the terms of this Declaration, the terms of this Declaration shall control. Each Supplemental Declaration shall include, as applicable, exhibits depicting any Special Maintenance Areas located within the portion of the Annexation Property which is the subject of the Supplemental Declaration, including, without limitation, block walls, wrought iron fences, slopes, and/or Fuel Modification Zones which are to be maintained in any manner by the Association.

14.3 Annexation Without Approval and Pursuant to General Plan. All or any part of the Annexation Property may be annexed to and become subject to this Declaration and subject to the jurisdiction of the Association without the approval, assent or vote of the Association or its Members, provided that a Supplemental Declaration covering the portion of the Annexation Property to be annexed, shall be executed by Declarant and Recorded. The Recordation of said Supplemental Declaration shall constitute and effectuate the annexation of the said real property described therein, making said real property subject to this Declaration and subject to the functions, powers and jurisdiction of the Association, and thereafter said annexed real property shall be part of the Covered Property and all of the Owners of Lots in said annexed real property shall automatically be Members (and subject to the terms of this Declaration).

14.4 Annexation Pursuant to Approval. Upon approval in writing of the Association, pursuant to a two-thirds (2/3) majority of the voting power of the Association residing in Members other than Declarant, any person who desires to add real property, other than the Annexation Property to the plan of this Declaration and to subject such property to the jurisdiction of the Association, may file of record a Supplemental Declaration. The provisions of this Section shall also apply to the Annexation Property subsequent to the expiration of the power of Declarant to annex such property without the approval of the Members as provided in this Article. The certificate of the President and the Secretary of the Association attached to any Supplemental Declaration recorded pursuant to this Section certifying that the required two-thirds (2/3) majority of the voting power of the Association residing in Members other than Declarant has approved the recordation of such Supplemental Declaration shall be deemed conclusive proof thereof.

14.5 Mergers or Consolidations. Upon a merger or consolidation of the Association with another association which merger or consolidation must be approved by two-thirds (2/3) of each class of Members, the Association's properties, rights and obligations may, by operation of law, be transferred to the surviving or consolidated association, or, alternatively, the properties, rights and obligations of another association may, by operation of the law, be added to the properties, rights and obligations of the Association as a surviving corporation pursuant to a merger. The surviving or consolidated association may administer the covenants, conditions and restrictions established by this Declaration within the Covered Property, together with the covenants, conditions and restrictions established upon any other property as one plan.

14.6 De-Annexation. Any portion of the Initial Property and/or any property annexed to the Covered Property by the Declarant, in accordance with the provisions of this Declaration, may be removed by Declarant as a portion of the Covered Property and from the jurisdiction of this Declaration and the Association at any time by the Recordation of an appropriate Declaration of Removal, provided that such removal shall take place before any Lot in the annexed parcel has been sold by Declarant to a Retail Purchaser. Any property which is removed by Declarant may be

annexed, at a future date, to the Covered Property in accordance with the provisions of this Declaration.

ARTICLE XV **RIGHTS OF LENDERS**

15.1 Filing Notice; Notices and Approvals. A Mortgagee shall not be entitled to receive any notice which this Declaration requires the Association to deliver to Mortgagees unless and until such Mortgagee, or its mortgage servicing contractor, has delivered to the Board a written notice stating that such Mortgagee is the holder of a Mortgage encumbering a Lot within the Covered Property. Such notice need not state which Lot or Lots are encumbered by such Mortgage, but shall state whether such Mortgage is a First Mortgage. Wherever the approval of all or a specified percentage of Mortgagees is required pursuant to this Declaration, it shall be deemed to mean the vote or approval of all or a specified percentage only of those Mortgagees which have delivered such notice to the Board. Notwithstanding the foregoing, if any right of a Mortgagee under this Declaration is conditioned on a specific written request to the Association, in addition to having delivered the notice provided in this Section, a Mortgagee must also make such request, either in a separate writing delivered to the Association or in the notice provided above in this Section, in order to be entitled to such right. Except as provided in this Section, a Mortgagee's rights pursuant to this Declaration, including, without limitation, the priority of the lien of Mortgages over the lien of Assessments levied by the Association hereunder shall not be affected by the failure to deliver a notice to the Board. Any notice or request delivered to the Board by a Mortgagee shall remain effective without any further action by such Mortgagee for so long as the facts set forth in such notice or request remain unchanged.

15.2 Priority of Mortgage Lien. No breach of the covenants, conditions or restrictions herein contained, nor the enforcement of any lien provisions herein, shall affect, impair, defeat or render invalid the lien or charge of any First Mortgage made in good faith and for value encumbering any Lot, but all of said covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise, with respect to a Lot except as otherwise provided in this Article.

15.3 Curing Defaults. A Mortgagee or the immediate transferee of such Mortgagee, who acquires title by judicial foreclosure, deed in lieu of foreclosure or trustee's sale shall not be obligated to cure any breach of the provisions of this Declaration which is non-curable or of a type which is not practical or feasible to cure. The determination of the Board made in good faith as to whether a breach is non-curable or not feasible to cure shall be final and binding on all Mortgagees.

15.4 Resale. It is intended that any loan to facilitate the resale of any Lot after judicial foreclosure, deed in lieu of foreclosure or trustee's sale is a loan made in good faith and for value and entitled to all of the rights and protections afforded to other Mortgagees.

15.5 Relationship with Assessment Liens.

(a) The lien provided for in the Article hereof entitled "*Nonpayment of Assessments*" for the payment of Assessments (excepting Remedial Assessments) shall be subordinate to the lien or any First Mortgage which was recorded prior to the date any such Assessment becomes due.