

Domain” shall additionally require the prior written approval of not less than sixty-seven percent (67%) of a quorum of the Class A Members.

17.1.6 An amendment or modification that requires the vote and written assent of the Members as hereinabove provided shall be effective when executed by the President and Secretary of the Association who shall certify that the amendment or modification has been approved as hereinabove provided, and when Recorded in the Official Records. The notarized signature of the Members shall not be required to effectuate an amendment of this Declaration.

17.1.7 Notwithstanding the foregoing, any provisions of this Declaration, or the Articles, Bylaws or Association Rules which expressly requires the approval of a specified percentage of the voting power of the Association for action to be taken under said provision can be amended only with the affirmative vote or written assent of not less than the same percentage of the voting power of the Association.

17.1.8 Notwithstanding the foregoing, any amendment or modification which impacts any of the rights of the Declarant contained herein shall not be effective unless approved by Declarant.

17.1.9 The Association, or any Owner, may petition the County superior court for an order reducing the percentage of the affirmative votes necessary to amend this Declaration. The petition shall describe the effort that has been made to solicit approval of the Association members in the manner provided in this Declaration. The Petition shall also describe the number of affirmative and negative votes actually received, the percentage of affirmative votes required to effect the amendment in accordance with this Declaration, and other matters the petitioner considers relevant to the court’s determination. The petition shall also contain as exhibits thereto, copies of all of the following: (1) the governing documents, (2) a complete text of the amendment, (3) copies of solicitation and notice materials utilized in the solicitation of owner approvals, (4) a short explanation of the reason for the amendment, and (5) any other documentation relevant to the court’s determination.

ARTICLE XVIII

WARRANTY; CIVIL CODE SECTIONS 910-938

18.1 Warranty. It is recognized that Declarant, as part of the conveyance of Lots to Owners or Common Areas to the Association, may include an express limited warranty (“Warranty”) which will apply to the Lot and all Improvements located thereon. Notwithstanding anything contained in this Article XVIII and Article XIX of this Declaration, any and all matters covered by a Warranty shall be handled in accordance with the provisions and procedures set forth in such Warranty, including, without limitation, any alternative dispute resolution provisions contained therein. Each Owner and the Association shall be required to follow the procedures and requirements set forth in the Warranty. Any and all matters and disputes not covered by a Warranty shall be handled in accordance with the provisions and procedures set forth herein.

18.2 Election To Opt Out Of Civil Code Sections 910-938 And Not To Be Subject To An Enhanced Protection Agreement. California law, at Civil Code Sections 895 through 945.5, (the “Construction Defects Law”) provides for standards of construction and functionality relating to certain portions of the Covered Property, as well as procedures for making claims, time limits for bringing certain actions, and various other obligations of a buyer and a builder of a residence.

Among other provisions in the Construction Defects Law are certain non-adversarial procedures intended to facilitate resolution of disputes between parties. As an alternative to these dispute resolution provisions set forth, the Construction Defects Law also allows the builder to use alternative non-adversarial contractual provisions to attempt to resolve these disputes. Further, the Construction Defects Law also allows the builder to elect to use an "enhanced protection agreement" in lieu of the standards set forth in the Construction Defects Law, under certain circumstances. DECLARANT HEREBY INFORMS ALL OWNERS AND THE ASSOCIATION THAT DECLARANT HAS ELECTED NOT TO ENGAGE IN, FOLLOW, NOR BE BOUND BY, THE NON-ADVERSARIAL PROVISIONS SET FORTH IN CHAPTER 4 OF THE CONSTRUCTION DEFECTS LAW, AND HAS ELECTED NOT TO BE SUBJECT TO AN ENHANCED PROTECTION AGREEMENT (AS DESCRIBED IN CALIFORNIA CIVIL CODE SECTIONS 901-906). INSTEAD, DECLARANT ELECTS TO USE SUCH ALTERNATIVE NON-ADVERSARIAL PROCEDURES AS ARE SET FORTH IN ANY APPLICABLE WARRANTY OR IN THE INITIAL PURCHASE AND SALE AGREEMENT AND JOINT ESCROW INSTRUCTIONS FOR EACH LOT ("INITIAL PURCHASE AGREEMENT").

18.3 No Additional Obligations; Irrevocability and Waiver of Right. Nothing set forth in this Section shall be construed to impose any obligation on Declarant to inspect, repair or replace any item or Alleged Defect for which Declarant is not otherwise obligated to do under applicable law, the Initial Purchase Agreement, or any Warranty provided by Declarant in connection with the sale of any Lot and/or the Improvements constructed thereon. The right of Declarant to enter, inspect, repair, and/or replace reserved hereby shall be irrevocable and may not be waived or otherwise terminated except by a writing, in recordable form, executed and Recorded by Declarant.

18.4 Limitation on Declarant's Voting Rights. Notwithstanding any other provision in this Declaration to the contrary (including, without limitation, any provision which expressly or implicitly provides Declarant with control over Association decisions for any period of time), Declarant hereby relinquishes control over the Association's ability to decide whether to initiate any claim against Declarant with respect to any Alleged Defects in any Common Areas. The decision to initiate any such claims for Alleged Defects in any Common Areas shall, instead, rest with the majority of the Owners of Lots other than Declarant.

18.5 Manufactured Products. Each Owner, by acceptance of a deed to a Lot, acknowledges and understands that:

(a) There are certain appliances and other equipment included in or exclusively benefiting the Owner's Lot which are manufactured by third parties (*e.g.*, the dishwasher, heating, ventilation and air conditioning equipment, *etc.*) ("Manufactured Products");

(b) The only warranties for such Manufactured Products are those provided by the manufacturer; and

(c) The Owner shall be responsible for activating specific manufacturer's warranties, including, without limitation, by completing and submitting to the applicable manufacturers any registration cards included with the manufacturer's materials.

18.6 Preventative Maintenance Requirements. Each Owner, by acceptance of a deed to a Lot, acknowledges and agrees that Declarant, the Association, or any manufacturer of any

Manufactured Product(s) shall have the right to provide each Owner and the Association with any maintenance obligations, schedules, and/or practices (collectively, "Maintenance Requirements"). Each Owner shall be responsible to properly maintain such Owner's Lot (including all Manufactured Products therein) in accordance with the requirements of this Declaration and the Maintenance Requirements in accordance with California Civil Code Section 907. The Association shall be responsible to properly maintain all Common Areas in accordance with the requirements of this Declaration and the Maintenance Requirements in accordance with California Civil Code Section 907. Each Owner, by acceptance of a deed to a Lot, acknowledges that such Maintenance Requirements may be set forth in a Warranty and/or any homeowner's manual, operating instructions, and/or other owner's manual(s) provided by Declarant, the Association, and/or any manufacturer(s) of any Manufactured Product(s).

18.7 Similar Requirements of Civil Code Section 1375. California Civil Code Section 1375 sets forth a process which must be followed by homeowners' associations prior to filing complaints for damages against persons such as Declarant with respect to design and/or construction of common interest developments. Such process includes requirements to provide various notices and time to respond. To the extent that (i) the provisions hereunder are enforced by the Association, (ii) the provisions hereunder are substantially similar to such provisions in Section 1375 of the California Civil Code, and (iii) an action is subsequently commenced under Section 1375 of the California Civil Code, the Association shall be excused from performing the substantially similar requirements under Section 1375 of the California Civil Code.

18.8 No Impact on Code of Civil Procedure Section 411.35. California Code of Civil Procedure Section 411.35 requires that before claims for professional negligence may be filed against certain design professionals (*e.g.*, architects, engineers or land surveyors), the claimant's attorney must provide certification that (i) it has reviewed the applicable facts, consulted with experts, and concluded that there is a reasonable and meritorious cause for filing an action, or (ii) the attorney was unable to so consult with such experts (a) despite making at least three (3) good faith attempts, or (b) because of pending expiration of the applicable statute of limitations for filing of the claim. Nothing herein shall be interpreted to eliminate or abrogate the requirement to comply with Section 411.35 of the Code of Civil Procedure or to affect the liability of design professionals, including architects and architectural firms, for matters not covered by California Civil Code Section 895 *et seq.*

ARTICLE XIX

JUDICIAL REFERENCE OF DISPUTES AND WAIVER OF JURY TRIAL/LITIGATION

19.1 JUDICIAL REFERENCE. EXCEPT FOR ANY AND ALL CLAIMS, CONTROVERSIES, BREACHES OR DISPUTES (EACH A "DISPUTE") SUBJECT TO ANY APPLICABLE WARRANTY, ANY DISPUTE BY OR BETWEEN THE ASSOCIATION, ANY OWNER OR OWNERS, AND/OR ANY DEVELOPER PARTY ARISING FROM OR RELATED TO THIS DECLARATION, THE COMMON AREAS, ANY LOT, ANY DWELLING, THE SALE OF ANY LOT OR DWELLING, OR ANY TRANSACTION RELATED HERETO, WHETHER SUCH DISPUTE IS BASED ON CONTRACT, TORT, STATUTE, OR EQUITY SHALL BE HEARD AND DETERMINED BY A REFEREE AS PROVIDED BY THE CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 638 TO 645.1. THE VENUE OF ANY PROCEEDING SHALL BE IN RIVERSIDE COUNTY, CALIFORNIA (UNLESS CHANGED BY ORDER OF THE REFEREE). IN A JUDICIAL