

**15.11 Voting Rights of Institutional Mortgagees.** In the event of a default by an Owner in any payment due under the terms of any Institutional Mortgage held by an Institutional Mortgagee or the promissory note secured thereby, the Institutional Mortgagee or its representative shall have the right, upon giving written notice to such defaulting Owner and the Association and placing of record a notice of default, to exercise the voting rights of such defaulting Owner attributable to such Lot at any regular or special meeting of the Members held during such time as such default may continue. Any such Owner's voting rights shall be restored to him at such time as such default is cured.

**15.12 Notice of Destruction or Taking.** In the event that any Common Areas, or any portion thereof, is substantially damaged or is made the subject of any condemnation proceeding in eminent domain or is otherwise sought to be acquired by a condemning authority, the Board shall promptly notify any Institutional Mortgagee affected by such destruction, taking or threatened taking. As used herein, "substantially damaged" or "taking" shall mean damage or taking exceeding Ten Thousand Dollars (\$10,000). If requested in writing by an Institutional Mortgagee, the Association shall evidence its obligations under this Section in a written agreement in favor of such Institutional Mortgagee.

**15.13 Payment of Taxes or Premiums by Institutional Mortgagees.** Institutional Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Areas, unless such taxes or charges are separately assessed against the Owners, in which case the rights of Institutional Mortgagees shall be governed by the provisions of their Mortgages. Institutional Mortgagees may, jointly or singly, also pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Areas and Institutional Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association. Entitlement to such reimbursement shall be reflected in an agreement in favor of any Institutional Mortgagee which requests the same to be executed by the Association.

## **ARTICLE XVI** **DEVELOPMENT DISCLOSURES**

Each Owner, by acceptance of a deed to a Lot, acknowledges and understands each of the following disclosures:

**16.1 Mold.** There is, and will always be, the presence of certain biological organisms within the Lot (and the Improvements therein). Most typically, this will include the common occurrence of mold and/or mildew. It is important to note that mold and mildew tend to proliferate in warm, wet areas. As such, it is each Owner's responsibility to maintain his or her Lot so as to avoid the accumulation of moisture and/or mold and mildew. Such mitigation matters should include, without limitation, the frequent ventilation of the residence, removal of standing water on balcony, patio or deck areas, prompt repair of any leaks which permit water intrusion into the residence, and prompt repair of plumbing leaks within the residence (irrespective of who may have caused any such leaks). Each Owner also understands that the presence of indoor plants may also increase moisture and/or mold and mildew levels. Also, the propping of large pieces of furniture against wall surfaces may lead to mold or mildew accumulation. It is the responsibility of each Owner to monitor and maintain his or her Lot so as to mitigate and avoid the conditions which are likely to lead to the existence and/or growth of mold and/or mildew. In the event that mold does appear and/or grow within the residence, it is also the Owner's responsibility to promptly and

properly treat such mold to minimize the spreading thereof and/or unhealthy conditions likely to arise as a result thereof. Such measures frequently include, but are not limited to, cleaning mold-affected surfaces with chlorine bleach. Each Owner is responsible to learn how to clean any affected Improvements.

**16.2 Former Site of Clay Mining Operation.** The Covered Property was formerly used by Pacific Clay Products, Inc. to extract clay and other materials used in connection with the manufacturing of brick and other related products.

**16.3 Covered Property Adjacent to Brick Manufacturing Plant.** The Covered Property is located adjacent to a brick manufacturing plant owned by Pacific Clay Products, Inc. Such plant will continue in operation for the foreseeable future and will generate numerous impacts on the Development, including noise, dust, pollution, odors, traffic, *etc.*

**16.4 School Site.** It is currently contemplated that a public school will be built on a portion of the Development currently owned by Declarant. Notwithstanding the foregoing, nothing herein shall constitute assurance by Declarant that a public school shall actually be built thereon. Moreover, nothing herein shall constitute any indication as to when, if ever, a public school shall be built thereon. In the event that a public school is built upon such property, such public school shall also be attended by persons living outside of the Covered Property.

**16.5 Public Park.** It is currently contemplated that a public park shall be built on a portion of the Development currently owned by Declarant. Notwithstanding the foregoing, nothing herein shall constitute assurance by Declarant that a public park will actually be built upon such property. Moreover, nothing herein shall constitute any indication as to when, if ever, a public park shall be built thereon. In the event that a public park is constructed, such public park shall also be accessed and enjoyed by persons living outside of the Covered Property. Such park will also generate certain impacts on the Development, including noise, traffic, light impacts, *etc.*

**16.6 Post Tension Slabs.** Concrete slabs for dwellings constructed in the Covered Property may be reinforced with a grid of steel cables installed in the concrete slab and then tightened to create extremely high tension. This type of slab is known as a "Post Tension Slab." Cutting into a Post Tension Slab for any reason (*e.g.*, to install a floor safe, to remodel plumbing, *etc.*) is very hazardous and may result in serious damage to the dwelling and/or personal injury. Each Owner, by acceptance of a deed to a Lot, shall be deemed to covenant and agree to verify with the Declarant whether that dwelling was constructed on a Post Tension Slab. If an Owner's dwelling was constructed on a Post Tension Slab, such Owner shall be deemed to further covenant and agree that such Owner: (1) shall not cut into or otherwise tamper with the Post Tension Slab; (2) shall not knowingly permit or allow any other person to cut into or tamper with the Post Tension Slab; (3) shall disclose the existence of the Post Tension Slab to any person who rents, leases or purchases the dwelling; and (4) shall indemnify and hold Declarant, and its partners, members, directors, officers, employees, contractors, consultants and agents, free and harmless from and against any and all claims, damages, losses or other liability (including attorneys' fees) arising from any breach of this covenant.

**16.7 Building Code.** The Improvements have been constructed pursuant to standards and requirements set forth in the edition of the Uniform Building Code applicable at the time the plans for the Improvements were submitted to the applicable governmental authority for approval. Under no circumstances shall Declarant be responsible to install, modify, or replace any

Improvements to bring same into compliance with any later version of the Uniform Building Code, nor shall Declarant be liable to any party as a result of the Improvements not complying in any respect with a later adopted or enacted version of the Uniform Building Code.

## **ARTICLE XVII** **AMENDMENT**

**17.1 Amendment Procedures.** This Declaration may be amended as follows:

**17.1.1** Notwithstanding any other provisions of this Declaration, Declarant reserves the right at any time to unilaterally make certain amendments to this Declaration, including any exhibits attached hereto, to amend same to add any necessary easements and/or use rights consistent with the overall development of the Property, and to make technical corrections, correct errors or omissions, or more precisely describe the actual sizes and locations of the areas or Improvements described herein including, without limitation, such adjustments to Lot lines, Common Area boundaries and/or any other matters as necessary to accommodate minor encroachments of Improvements in, to, on, over, under, along or across any Lot or Common Area, and each Owner by acceptance of a grant deed to its Lot, acknowledges, accepts, and takes subject to the possibility of such possible adjustments. Declarant shall effect such changes by preparing or causing to be prepared, and Recording or causing to be Recorded, a declaration in a form determined by Declarant or as part of any Supplemental Declaration.

**17.1.2** Notwithstanding any other provisions of this Declaration, at any time prior to the first (1st) anniversary of the Initial Sale Date, Declarant may unilaterally amend this Declaration by recording a written instrument which effects the amendment and is signed and acknowledged by Declarant. Notwithstanding any other provisions of this Declaration, at any time prior to the first (1st) anniversary of the recordation of a particular Supplemental Declaration, Declarant may unilaterally amend such Supplemental Declaration by recording a written instrument which effects the amendment and is signed and acknowledged by Declarant.

**17.1.3** Notwithstanding any other provisions of this Section, for so long as Declarant owns any portion of the Covered Property, Declarant may unilaterally amend this Declaration by recording a written instrument signed by Declarant in order to conform this Declaration to the requirements of VA, DRE, FNMA, GNMA or FHLMC then in effect.

**17.1.4** Until such time as there is a Class A Membership pursuant to this Declaration, amendments or modifications shall be effective when executed by Declarant and when Recorded in the Official Records. Thereafter as long as there is a Class B Membership, any amendments shall require the affirmative written consent or vote of a majority of a quorum of the voting power of the Association subject to the provisions herein regarding Declarant's rights and subject to the limitations herein. After the Class B Membership has been converted to Class A Membership, amendments to this Declaration may be enacted only by the vote or written assent of Members representing both a majority of a quorum of the voting power of the Association and a majority of a quorum of the voting power of the Association residing in Members other than the Declarant.

**17.1.5** In addition to the foregoing, any amendment or modification of the Articles hereof entitled "*Covenant for Maintenance Assessments,*" "*Nonpayment of Assessments,*" "*Architectural Control,*" "*Repair and Maintenance,*" "*Destruction of Improvements*" and "*Eminent*