

**MASTER DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
LINCOLN CROSSING  
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**MASTER DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
LINCOLN CROSSING**

This Master Declaration is made by LB/L SunCal Lincoln Crossing, LLC, a Delaware limited liability company ("**Declarant**").

**RECITALS**

A. Centex Homes, a Nevada general partnership ("**Centex**") is the owner of that certain real property located in the City of Lincoln, County of Placer, State of California, more particularly described in **Exhibit "A-1"**. KB Home North Bay Inc, a California corporation is the owner of that certain real property located in the City of Lincoln, County of Placer, State of California, more particularly described in **Exhibit "A-2"**. Morrison Homes, a Delaware corporation is the owner of that certain real property located in the City of Lincoln, County of Placer, State of California, more particularly described in **Exhibit "A-3"**. Collectively, the real property more particularly described in Exhibits "A-1", "A-2", and "A-3" are referred to herein as the "**Initial Covered Property**". Centex, KB Homes and Morrison Homes are "**Merchant Builders**", as defined in Section 1.37, below.

B. Declarant is the owner of, or holds options to acquire, land contiguous to the Initial Covered Property, which land is more particularly described in **Exhibit "B"** (the "**Annexable Property**"). Together, the Initial Covered Property and the Annexable Property are referred to herein collectively as the "**Overall Development**". The Overall Development comprises 1,069 acres, more or less.

C. Declarant desires to develop the Overall Development as a multi-phased planned development pursuant to this Master Declaration and the Lincoln Crossing General Development Plan, the Lincoln Crossing Specific Plan and the Development Agreement, as amended (collectively, the "**Entitlement Documents**"). Centex, KB Homes, and Morrison Homes are joining in the execution and Recordation of this Master Declaration to acknowledge and consent to the imposition of its equitable servitudes on the lands comprising the Initial Covered Property.

D. The Lincoln Crossing development is planned to include the Initial Covered Property and such portions of the Annexable Property as are from time-to-time annexed to the jurisdiction of the Lincoln Crossing Community Association, a California nonprofit mutual benefit corporation (the "**Master Association**") and subjected to this Master Declaration pursuant to the process of annexation described in Article 15, below. Article 15 also includes provisions empowering the Declarant to de-annex property from this Master Declaration under

certain terms and conditions (see Section 15.08, below). The Overall Development is planned to include 2,957 residential dwellings, approximately 43 acres of general commercial and business professional property, and approximately 306 acres of public parks, schools and open spaces. It is the present intention of the Declarant to Record this Master Declaration only against those portions of Lincoln Crossing that are designated for residential uses (other than apartments) or as Common Areas of the Master Association.

E. The Initial Covered Property, includes approximately 141 acres of land. The Overall Development will be subdivided into Parcels, which are planned to be annexed to Lincoln Crossing and sold in Phases to Merchant Builders, all as more particularly described in Recital G, below.

F. There are no Common Facilities in the Initial Covered Property that will be owned or maintained by the Master Association. However, the Overall Development will include a community recreational facility, to be known as the "Club at Lincoln Crossing" (the "Club"), that will be located in a subsequent Phase of the Overall Development. The Club Facilities will be conveyed in fee to the Master Association, free of all liens and encumbrances, concurrently with the Annexation of the Phase in which the Club Facilities are located. The Club Facilities are being acquired by the Master Association from the Declarant pursuant to an unsecured promissory note (the "Club Note") and the obligation of the Master Association to make timely payments of amounts due pursuant to the Club Note shall be a Common Expense of the Master Association. The Club will provide Owners of Residences and their tenants, guests and invitees with a range of recreational services and facilities that may include a swimming pool, children's pool, a spa, multi-purpose rooms, administrative offices, an information center, and a picnic area, all subject to change at the sole and absolute discretion of the Club Owner. Membership in the Club will be mandatory for all Owners of Residences.

G. Declarant intends to sell Parcels of the Overall Development to Merchant Builders who will then record final subdivision maps for such Parcels, annex such Parcels to Lincoln Crossing, develop Separate Interests in the Parcels, and sell those Separate Interests to third-party purchasers periodically as market conditions determine. Thereafter, Separate Interests and Common Facilities in the Annexable Property are planned to be similarly developed in Phases and annexed to Lincoln Crossing pursuant to one or more Declarations of Annexation which may include Supplemental Declarations containing additional and supplemental covenants, conditions and restrictions specifically affecting the real property included in the annexed Parcel(s) (see Sections 15.05 and 15.06, below). However, there is and can be no guarantee or assurance that the Overall Development will ever be fully or even substantially developed or completed in the manner envisioned by this Master Declaration and the Entitlement Documents.

H. Declarant has formed the Master Association for the benefit of all Owners, including the Declarant for so long as the Declarant owns any portion of the Overall Development (the "Members"). The Master Association shall have the powers and duties described in, or imposed by, the Governing Documents, which include the following principal purposes: (i) to acquire, own, operate and manage the Club and the Club Facilities; (ii) to pay all Master Association Common Expenses; and (iii) to serve as the agent and representative of the Members to administer and enforce all of the covenants, restrictions and equitable servitudes

imposed by this Master Declaration and any Supplemental Declaration that is subsequently Recorded against any property within the Overall Development.

I. By this Master Declaration, Declarant intends to establish and develop a common scheme and plan for development, possession, use, enjoyment, maintenance, repair, restoration and improvement of the Overall Development and the Separate Interests therein conveyed and to provide for establishment of one or more common interest Planned Developments, as defined herein, and which is also a master planned community pursuant to Regulation 2792.32 of the Real Estate Commissioner of the State of California, contained in Title 10, California Code of Regulations.

J. Notwithstanding the anticipated development of the Overall Development in accordance with the plan of phased development contemplated by this Master Declaration, nothing in this Master Declaration shall be construed or interpreted to commit Declarant to the development of any portion of the Overall Development in accordance with any present planning, or to the annexation of all or any part of the Overall Development to this Master Declaration, whether or not it is so developed. Accordingly, nothing contained herein shall obligate Declarant to refrain from the further subdivision or resubdivision of the lands comprising the Overall Development, and Declarant shall be free to so further subdivide or resubdivide. Nothing contained herein shall obligate Declarant to refrain from the further subdivision, resubdivision or reversion to acreage of portions of the Overall Development not theretofore annexed, and Declarant shall be free to so further subdivide or resubdivide, or revert those portions of the Overall Development. Declarant may develop commercial properties in a future Phase of the Overall Development.

K. In view of the foregoing, Declarant, by Recording this Master Declaration with the consent of Centex, KB Homes, and Morrison Homes as to the Initial Covered Property, hereby subject the lands comprising the Initial Covered Property to the covenants, conditions, restrictions, assessments, liens, easements, and equitable servitudes (collectively, the "equitable servitudes") set forth herein in order to cause this Master Declaration to run with the Initial Covered Property as well as any portion of the Annexable Property that is subsequently annexed to Lincoln Crossing. It is the further intent of the Declarant that from and after the date of Recordation of this Master Declaration, the equitable servitudes imposed by this Master Declaration shall be binding on all Separate Interests and Common Areas within Lincoln Crossing and on the Owners and Residents of such Separate Interests and Common Areas and their successors and assigns. By accepting deeds, leases, easements or other grants or conveyances to the aforementioned portions of Lincoln Crossing, the Owners, Residents and other transferees for themselves and their heirs, executors and administrators, trustees, personal representatives, successors and assigns, agree that they shall be personally bound by all of the provisions of this Master Declaration (including, but not limited to, the obligation to pay Assessments) hereinafter set forth except to the extent such persons are specifically excepted.

## **ARTICLE 1. DEFINITIONS**

1.1. "Annexable Property" means the real property more particularly described in Exhibit "B".

1.2. "Architectural Review Committee" means the committee created in accordance with Article 5, below.

1.3. "Articles" means the Articles of Incorporation of the Master Association filed in the Office of the California Secretary of State, as such Articles may be amended from time to time.

1.4. "Assessment" means any Regular Assessment, Special Assessment, Emergency Assessment or Special Individual Assessment made or assessed by the Master Association against an Owner and his or her Separate Interest in accordance with the provisions of Article 4, below. As more particularly described in Section 4.02(b), below, for some Owners, the Regular Assessment may include a General Assessment Component and a Cost Center Assessment Component.

1.5. "Board of Directors" or "Board" means the Board of Directors of the Master Association.

1.6. "Bylaws" means the Bylaws of the Master Association, as such Bylaws may be amended from time to time.

1.7. "City" means the City of Lincoln, State of California, and its various departments, divisions, employees and representatives.

1.8. "Club at Lincoln Crossing" or "Club" means and refers to the community recreational facility that is intended to serve the Owners of Residences within Lincoln Crossing and the tenants, guests and invitees of such Owners, in accordance with such rules and regulations regarding Club Facility use and operation as may be adopted from time to time by the Master Association.

1.9. "Club Charges" means and refers to the charges related to the Club to be paid by the Owners of Residences pursuant to this Master Declaration. Club Charges include Club Fees and Club Operating Costs (both as defined in the Operating Agreement). Club Charges are payable monthly by Owners of Residences for mandatory membership in the Club and for the right to use the facilities and amenities of the Club. Club Charges shall be established and budgeted in the manner described in Section 4.02(a), below, and shall be assessed by the Master Association against each Owner's Residence and shall be collected as a part of the Regular Assessments levied to operate and maintain the Master Association's Common Facilities.

1.10. "Club Facilities" means the land and improvements that are owned by, or are leased to the Master Association pursuant to the Club Lease, and any equipment and other amenities located in or upon the Club's lands and improvements.

1.11. "Club Note" means and refers to the unsecured promissory note between the Declarant and the Master Association pursuant to which the Master Association is acquiring the Club Facilities. The Club Note shall be in substantially the form attached hereto as Exhibit "E", with the amount of the purchase price to be set forth in the Club Note at such time as the Declarant's Costs of constructing the Club Facilities are known. "Declarant's Costs" shall be as defined in the Club Note. The Master Association, acting by and through its Board of Directors,

shall be obligated to execute and deliver to the Declarant the Club Note contemporaneously with the Declarant's conveyance of the Club Facilities to the Master Association. Club Charges, as defined in Section 1.09, above, will include the installment payments for the Master Association's purchase of the Club Facilities pursuant to the Club Note.

1.12. **"Common Area"** means all real property owned, controlled or maintained by the Master Association for the common use and enjoyment of the Owners. The Common Area to be owned by the Master Association at the time of the conveyance of the first Separate Interest to an Owner pursuant to a Department of Real Estate Public Report is described in Exhibit "C". Unless the context clearly indicates a contrary intent, any reference herein to the "Common Areas" shall also include any Common Facilities located thereon. If additional Common Areas are annexed to Lincoln Crossing, Exhibit "C" may be amended to include the new Common Area(s) by Recordation of a Declaration of Annexation or Supplemental Declaration. The Common Area shall include the Club Facilities at such time as the Club and the Club Facilities are acquired by the Master Association in fee and the Club and Club Facilities are annexed into Lincoln Crossing. The term "Common Area" does not include any Project Common Area, as defined in Section 1.46, below.

In addition to the Common Area described in Exhibit "C", as amended from time to time, the Master Association is obligated to maintain and repair certain portions of public property located within Lincoln Crossing, all as more particularly described in Sections 7.01(d) and (e), below.

1.13. **"Common Expense"** means any use of Common Funds by the Master Association that is authorized by Article 4, below or is otherwise necessary or appropriate to discharge the duties and responsibilities of the Master Association as set forth in Article 9 of the Master Association's Bylaws and includes, without limitation: (a) all expenses or charges incurred by or on behalf of the Master Association for the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common Area and Common Facilities, any property that the Master Association is obligated to maintain or repair as a Cost Center, as defined in Section 1.17, below (if any), and the landscape corridors and medians adjacent to certain public streets (as more particularly described in Article 7, below); (b) all expenses or charges reasonably incurred to procure insurance for the protection of the Master Association and its Board of Directors in accordance with Article 10, below; (c) any amounts reasonably necessary for reserves for maintenance, repair and replacement of the Common Areas and Common Facilities and any portions of any Separate Interests that the Master Association is obligated to maintain, repair, or replace as a Cost Center (if any), and for nonpayment of any Assessments; (d) the Master Association's obligations under the Club Note and other Club Charges; (e) expenses related to the provision of telecommunications services pursuant to Section 3.07(b)(vii)(E), below; and (f) the use of such funds to defray the costs and expenses incurred by the Master Association in the performance of its functions or in the proper discharge of its responsibilities as provided in the Governing Documents.

1.14. **"Common Facilities"** means the facilities, landscaping and improvements located on or within the Common Areas and owned or leased by the Master Association. Without limiting the foregoing, the Common Facilities include, or upon Annexation of future Common

Area property shall include, the Club Facilities, as well as all other real and personal property conveyed by Declarant or a Merchant Builder to the Master Association or owned by the Master Association for the use, enjoyment or benefit of the Owners and residents of Separate Interests in Lincoln Crossing. The term "Common Facilities" shall also include the streetscapes, median landscaping, entrance monumentation and sound walls that the Master Association is obligated to maintain pursuant to Article 7, below.

1.15. "**Condominium**" shall mean an estate in real property as defined in sections 783 and 1351(f) of the California Civil Code, or any similar California statute hereinafter enacted. Section 1351(f) provides that a Condominium consists of an undivided interest in common in a portion of the real property on which the Condominium Project is located coupled with a separate interest in a space called a "**Unit**", the boundaries of which are described on a recorded final Subdivision Map, parcel map or condominium plan.

1.16. "**Condominium Project**" shall mean a condominium project as defined in section 1351(f) of the California Civil Code, or any similar California statute hereinafter enacted, including all property annexed to such project, if such project is developed in phased increments.

1.17. "**Cost Center**" means a designation assigned by the Declarant or a Merchant Builder, with the consent of the Declarant, to a discrete portion of Lincoln Crossing (and to the Owners of Lots located in the designated Cost Center) for the purpose of expense accounting and the levy of a Cost Center Assessment Component of the Regular Assessment, all as more particularly provided in Sections 4.01(f) and 4.02(b)(ii), below. A Cost Center is likely to be created when the Master Association is maintaining property or Common Facilities located within the designated Cost Center that are fully or partially restricted to the use and enjoyment of Owners of Separate Interests within the Cost Center. For example, if a particular Phase was designed and planned to include private streets with gated entrances ("special amenities") and those special amenities were to be maintained by the Master Association, a Cost Center could be established, consisting of the Separate Interests within the Phase, to recoup the additional expense of those special amenities from the Owners of Separate Interests within the Phase. The term "**Cost Center Assessment Component**" is defined in Section 4.02(b)(ii), below. There are no Cost Centers in the Initial Covered Property.

1.18. "**County**" means the County of Placer, State of California, and its various departments, divisions, employees and representatives.

1.19. "**Declarant**" means LB/L SunCal Lincoln Crossing, LLC, a Delaware limited liability company, and its successors and assigns, if (i) such successors and assigns acquire any or all of Declarant's interest in a portion or all of the Overall Development for the purpose of purchase or sale, and (ii) the Declarant has expressly transferred or assigned to such successors or assigns its rights and duties as Declarant to such portion or all of the Overall Development. For any such successor or assignee to be deemed a Declarant under the terms of this Master Declaration, Declarant shall Record a certificate so designating said successor or assignee as a Declarant. Any assignment of Declarant rights shall identify those rights that are being assigned and those rights, if any, that are being retained by the Assignor Declarant.

A successor Declarant shall also be deemed to include the beneficiary under any deed of trust securing an obligation from a then existing Declarant encumbering all or any portion of the Development which beneficiary has acquired any such property by foreclosure, power of sale or deed in lieu of such foreclosure or sale.

So long as expressly consented to by LB/L SunCal Lincoln Crossing, LLC (or its successor who has been expressly granted this consent authority) there may be more than one Declarant at any given time; provided, however, that (i) the designation of co-Declarants shall be in the sole discretion of the Declarant; (ii) any designation may be of less than all special Declarant rights and privileges under this Declaration; and (iii) any person who is designated as a co-Declarant shall be a co-Declarant only with respect to those portions of the Overall Development owned by that co-Declarant and the rights and obligations of the Declarant with respect to the Master Association and its Members shall be exercised as agreed among the co-Declarants with the consent of the California Department of Real Estate. The Declarant shall also have the power and authority pursuant to this Master Declaration to transfer to one or more Merchant Builders certain rights and privileges reserved or granted to the Declarant hereunder without designating the Merchant Builder as a successor or co-Declarant; provided that the assignment of certain enumerated Declarant rights and privileges is set forth in a Declaration of Annexation or Supplemental Declaration Recorded in accordance with Article 15, below.

1.20. **"Declaration of Annexation"** means an instrument executed and Recorded pursuant to Section 15.05, below, that brings a portion or portions of the Annexable Property into Lincoln Crossing and which subjects such Annexable Property identified in the Declaration of Annexation to the covenants, conditions, restrictions and equitable servitudes of this Master Declaration, subject to any modifications effected by Recordation of a Supplemental Declaration applicable to such Annexed Property.

1.21. **"Design Guidelines"** means the architectural and landscape design and development guidelines and procedural rules of the Architectural Review Committee, adopted pursuant to Section 5.08, below.

1.22. **"Development Agreement"** means the Development Agreement dated December 14, 1999, by and between CSY Lincoln Crossing, L.P., a California limited partnership, and the City of Lincoln, Placer County, California, and any amendments or modifications thereto.

1.23. **"Eligible Holder"** shall mean any Institutional Holder, or an insurer or guarantor of a loan held by an Institutional Holder, who has provided the Master Association with a written request to be notified of the events described in Section 14.01, below, stating the name and address of such Eligible Holder and the address and legal description of the particular Separate Interest encumbered.

1.24. **"Emergency Assessment"** means an Assessment that the Master Association is authorized and empowered to impose under the limited circumstances defined in California Civil Code section 1366(b) and Section 4.05, below, as "emergency situations."

1.25. "Entitlement Documents" is a collective term that means and refers to the Lincoln Crossing General Development Plan, the Lincoln Crossing Specific Plan, as defined in Section 1.60, below, and the Development Agreement, as defined in Section 1.22, above, and as those documents may be amended, supplemented or modified from time to time.

1.26. "Governing Documents" is a collective term that means and refers to this Master Declaration and to the Articles, the Bylaws and the Community Rules, as defined in Section 3.08(a), below).

1.27. "Government Mortgage Agency" means the Federal Housing Administration, the Veterans Administration, the Federal Home Loan Mortgage Corporation, the Government National Mortgage Association, the Federal National Mortgage Association or any similar entity, public or private, authorized, approved or sponsored by any governmental agency to insure, guarantee, make or purchase mortgage loans.

1.28. "Improvement" is a term that is intended to define the construction and improvement projects that are subject to architectural review and approval pursuant to Article 5, below, and as so used herein the term includes, without limitation, any improvement or project undertaken or contemplated by an Owner (other than the Declarant or a Merchant Builder) within any portion of Lincoln Crossing involving the construction, installation, alteration or remodeling of any Residence, structure, storm drainage system, plan to alter any natural drainage course, garage, out-building, wall, retaining wall, fence, swimming pool, landscaping, landscape structure, patio awning, solar heating equipment, spa, antenna, television satellite reception equipment, utility line, or any other structure of any kind that is subject to architectural review and approval pursuant to Article 5, below. As used herein, "Improvement" does not include any work or project that is completely confined to the interior of a Residence unless the project will materially change the use of the Residence or any portion thereof, such as by converting a garage into a living or work area.

1.29. "Initial Covered Property" means the real property more particularly described in Exhibit "A".

1.30. "Institutional Holder" means any beneficiary of a deed of trust or mortgagee of a mortgage which encumbers a Separate Interest and which is a bank, savings and loan association, mortgage company, or any other entity chartered under federal or state laws, any corporation or insurance company, or any federal or state agency.

1.31. "Lincoln Crossing" means the real property described in Exhibit "A", together with any portion of the Annexable Property described in Exhibit "B" that is subsequently annexed to Lincoln Crossing in accordance with Article 15, below. At times herein, the lands comprising Lincoln Crossing that are subject to this Master Declaration are referred to herein as the "Development".

1.32. "Lot" means any parcel of real property designated by a number on any Subdivision Map for any portion of Lincoln Crossing and intended for development as a single family detached or multiplex dwelling and related improvements, excluding the Common Area and any open space parcel that may be designated as a Lot on a Subdivision Map. When



appropriate within the context of this Master Declaration, the term "Lot" shall also include the Residence and other Improvements constructed or to be constructed on a Lot.

1.33. "**Majority of a Quorum**" means the vote of a majority of the votes cast at a meeting or by written ballot when the number of Members attending the meeting in person or by proxy or the number of members casting written ballots within the prescribed balloting period equals or exceeds the quorum requirement for Member action, as specified by the Bylaws or otherwise by statute.

1.34. "**Master Association**" means the Lincoln Crossing Community Association, a California nonprofit mutual benefit corporation, and its successors and assigns. The Master Association is an "association" as defined in Civil Code section 1351(a) and its Members include, and are limited to, the Owners of Separate Interests in the Development.

1.35. "**Master Declaration**" means this instrument, as it may be amended from time to time, and/or supplemented or modified by Recordation of a Supplemental Declaration pursuant to Section 15.06, below.

1.36. "**Member**" means every person or entity that holds a membership in the Master Association by virtue of the ownership of a Separate Interest in Lincoln Crossing. Certain rights and privileges of membership can be suspended for violations of the Governing Documents in accordance with the disciplinary procedures set forth in Section 13.06, below (and any related Community Rules, as defined in Section 3.08(a), below) and the rights, preferences, and privileges of membership shall be terminated by the Member's conveyance of his or her ownership interest in the Separate Interest to which the membership is appurtenant.

1.37. "**Merchant Builder**" means a person or entity designated in writing as such by the Declarant, that acquires any portion of the Overall Development for the purpose of (i) development, improvement, and resale of the acquired property to the general public or (ii) in the case of portions of the Overall Development other than Lots, developing such property for sale, lease, short or long-term investment or occupancy. The instrument designating a person or entity as a "Merchant Builder" shall ordinarily be the Declaration of Annexation, so as to make the designation a matter of Record.

1.38. "**Mortgage**" means any security device encumbering all or any portion of the Overall Development, including any deed of trust. "**Mortgagee**" shall refer to a beneficiary under a deed of trust as well as to a mortgagee in the conventional sense.

1.39. "**Overall Development**" means the Initial Covered Property, as described in Exhibit "A" and the Annexable Property, as described in Exhibit "B". As portions of the Overall Development are annexed to the Initial Covered Property and subjected to this Master Declaration those annexed portions shall become part of Lincoln Crossing and the "**Development**" as defined herein.

1.40. "**Owner**" means any person, firm, corporation or other entity which owns a fee simple interest in any Separate Interest. The term "**Owner**" shall include the Declarant for so long as the Declarant owns any Separate Interest or real property within the Overall Development and, except where the context otherwise requires, the family, guests, tenants and

invitees of an Owner. Merchant Builders are also Owners as to the Separate Interests they own and improve.

1.41. **"Owner of Record"** means any person, firm, corporation or other entity in which title to a Separate Interest is vested as shown by the official records of the Office of the County Recorder.

1.42. **"Parcel"** means any separate plot of land within the Overall Development which is shown on any Recorded Subdivision Map, or shown on or described by a Recorded parcel map, lot line adjustment, re-subdivision or certificate of compliance, or the like, which is not a Separate Interest, Common Area, Project Common Area, or a separate plot to be dedicated to the City of Lincoln or other governmental agency. A Parcel might consist of (1) a large lot; (2) a plot of land designated by the Specific Plan for use, or actually used (a) for commercial purposes, including (i) bar and restaurant use, (ii) hotel and lodging use, and (iii) retail or office purposes, but excluding commercial Condominium Units shown upon any recorded condominium plan, or (b) as an apartment project which is neither a Condominium Project nor divided into Separate Interests for each dwelling unit; (3) a plot of land designated by the Entitlement Documents for use, or actually used, for recreation purposes (e.g., a racquet and swimming club, a health club or spa); or (4) a Condominium Project prior to recordation of the condominium plan. The term "Parcel" as used in this Master Declaration is not in any manner intended to be the same as, similar to, or interpreted in accordance with the term "parcel" as this term may be used in any Entitlement Documents or in any State, local or other zoning or land use ordinance, law, rule or regulation.

1.43. **"Phase"** means (i) one or more Separate Interests annexed or to be annexed to Lincoln Crossing that are collectively included within a single Public Report issued by the California Department of Real Estate; or (ii) one or more Parcels zoned for commercial or multi-family residential development for which a Public Report is not required.

1.44. **"Planned Development"** means a common interest development of the type described in section 1351(k) of the California Civil Code.

1.45. **"Project"** or **"Projects"** means one or more buildings, together with the Project Lot on which the building(s) is/are located, on any portion of Lincoln Crossing that is developed as a Condominium Project or a townhouse style Planned Development.

1.46. **"Project Common Area"** means any real property in Lincoln Crossing that is owned, leased, controlled or maintained by a Sub-Association and held by that Sub-Association as common area for the use, enjoyment or benefit of the members of that Sub-Association who are the Owners of Separate Interests in the Project, their tenants, lessees, guests and invitees.

1.47. **"Project Declaration"** means each Supplemental Declaration that is recorded in the Official Records of Placer County to create a Project within Lincoln Crossing.

1.48. **"Project Lots"** means any separately subdivided parcel of land within the Overall Development that may be further subdivided as provided herein, but not referring to any public or private streets within or adjacent to the Project.

1.49. **"Public Report"** means any subdivision Public Report issued by the California Department of Real Estate pursuant to Business & Professions Code section 11010.2 which pertains to any portion of the Development.

1.50. **"Residence"** means a Separate Interest in a Residential Subdivision, such as a single family or multiplex dwelling or a dwelling unit in a manor home or townhouse or Condominium Project. The term Residence shall not include a dwelling unit in an apartment project which is neither a Condominium Project nor divided into a Separate Interest for each dwelling unit.

1.51. **"Residential Subdivision"** means any development within the Overall Development consisting of detached single family or multi-plex dwelling, any residential Condominium Project, cluster home, townhouse, or any other type of residential subdivision or residential Planned Development. The term Residential Subdivision does not include an apartment project which is neither a Condominium Project nor divided into a Separate Interest for each dwelling unit.

1.52. **"Record", "Recording", "Recorded", and "Recordation"** means, with respect to any document, the recordation or filing of such document in the Office of the Placer County Recorder.

1.53. **"Regular Assessment"** means an Assessment levied against an Owner and his or her Separate Interest in accordance with Section 4.02, below.

1.54. **"Reserves"** means those Common Expenses for which Master Association funds are set aside pursuant to Article 4, below, and California Civil Code section 1365.5 for funding the periodic painting, maintenance, repair and replacement of the major components of the Common Areas and those portions of any Lot or Residence which the Master Association is obligated to maintain, repair and/or replace which would not reasonably be expected to recur on an annual or more frequent basis. The amounts required to properly fund Reserves shall be determined annually by the Board in accordance with the standards prescribed by maintenance cost guidelines prepared in accordance with California Civil Code sections 1365(a) and 1365.5(e) and prudent property management practices generally applied in "common interest developments" (as that term is defined in California Civil Code section 1351(c)) in the Placer County vicinity.

1.55. **"Separate Interest"** shall mean and include: (1) any numbered Lot shown on any final Recorded Subdivision Map for a Residential Subdivision other than a Condominium Project, or shown on or described by a final, recorded parcel map, lot line adjustment, re-subdivision, or certificate of compliance, or the like, for a Residential Subdivision, which separate Lot is intended to be improved with one single family or multiplex dwelling; and (2) any residential Condominium Unit shown upon any Recorded condominium plan within the Overall Development. Until and unless a Project Declaration is recorded creating a Project on a Project Lot, each Project Lot shall be an individual **"Separate Interest"**, as defined herein. The term Separate Interest shall not include any Common Areas, Project Common Areas or parcel dedicated to public uses, and shall not include any Lot, Parcel, or unit in a Condominium Project that is zoned for commercial purposes unless such commercial lot, commercial parcel, or unit in

a commercial Condominium Project is annexed to Lincoln Crossing and the Declaration of Annexation identifies the commercial lot, commercial parcel or unit in the commercial Condominium Project as a Separate Interest that is subject to Assessment by, and gives rise to membership in, the Master Association.

1.56. **"Special Use Fee"** means charges incurred by a member of the Club for special or additional services provided to such member, including the use of meeting rooms for special occasions. Special Use Fees are not a part of the Club Charges, and are not collected by the Master Association as a component of the Regular Assessment. Instead, Special Use Fees shall be collected by the Master Association from the Member who is incurring or engaging in the special use, activity or additional service prior to commencement of the special use, activity or additional service for which Special Use Fees are charged. A schedule of Special Use Fees shall be established and updated periodically by the Master Association.

1.57. **"Single Family"** means a group of one or more persons each related to the other by blood, marriage or legal adoption, or a group of persons who are not so related, but who maintain a common household in a Residence or dwelling unit in an apartment project in accordance with any applicable local ordinances or regulations restricting the number of person who may occupy a Residence or dwelling unit in an apartment project.

1.58. **"Special Assessment"** means an Assessment levied against an Owner and his or her Separate Interest in accordance with Section 4.03, below.

1.59. **"Special Individual Assessment"** means an Assessment levied against an Owner and his or her Separate Interest in accordance with Section 4.04, below.

1.60. **"Specific Plan"** means the Final Lincoln Crossing Specific Plan adopted by the City of Lincoln on May 22, 2001, by Resolution No 2001-71, as the Specific Plan may be amended from time to time.

1.61. **"Sub-Association"** means an incorporated or unincorporated association of Owners within Lincoln Crossing which is established pursuant to a Supplemental Declaration in order to own and/or maintain common areas and/or to provide maintenance and repair services to portions of Lots or Lot improvements or Project improvements within which the Sub-Association has jurisdiction. The membership of a Sub-Association shall be comprised of Owners of the Separate Interests located within the Sub-Association's jurisdiction. For example, any Condominium Project within Lincoln Crossing will be subject to a Supplemental Declaration which, among other things, must, by law, provide for a Sub-Association with jurisdiction within the Condominium Project.

1.62. **"Subdivider"** means any person or entity that acquires any part of the Overall Development for purpose of development and resale for which a Department of Real Estate Public Report is required pursuant to Business & Professions Code section 11010. The Declarant and any Merchant Builders are Subdividers, as so defined.

1.63. **"Subdivision Map"** means the final map or parcel map Recorded or filed with the Placer County Recorder for any portion of the Overall Development.

1.64. **"Subsidy Agreement"** means a contract between the Declarant or any Merchant Builder and the Master Association, in a form and content acceptable to the Department of Real Estate, documenting the terms of any program in which the Declarant or a Merchant Builder undertakes to subsidize the cost of operating and maintaining Common Areas or Common Facilities and/or the cost of providing services to the Owners and residents of Separate Interests, all as more particularly specified in Department of Real Estate Regulation section 2792.10.

1.65. **"Supplemental Declaration"** means any Declaration (as defined in California Civil Code section 1351(h)) which may be Recorded pursuant to Section 15.06, below, which supplements this Master Declaration and which may affect solely a Condominium Project, a commercial lot or parcel, or Lots within a particular Phase of the Lincoln Crossing common interest development. The term includes a Declaration of Annexation that adds Annexable Property to Lincoln Crossing or a separate instrument, identified as a Supplemental Declaration that is Recorded in accordance with Section 15.06 to supplement this Master Declaration. The Declarant or any Merchant Builder (with the consent of the Declarant) may Record a Supplemental Declaration with respect to any Phase of the Development at any time prior to the sale of a Separate Interest in that Phase to a third party pursuant to a Public Report.

1.66. **"Telecommunications Contract"** means a contract between the Master Association and a Telecommunications Service Provider as more particularly described in Section 3.07(b)(vii)(E), below.

1.67. **"Telecommunications Service Provider"** or **"Service Provider"** shall be as defined in Section 3.07(b)(vii)(E), below.

1.68. **"Telecommunications System"** means the Lincoln Crossing Fiber Broadband (LCFB) system that will be installed, maintained and operated by the Telecommunications Service Provider pursuant to the Telecommunications Contract.

1.69. **"Visible From Neighboring Property"** means, with respect to any given object, that the object is visible to a six-foot tall person standing at the finished floor elevation (or in the case of streets or open space the finished grade thereof) of the neighboring property, whether a Separate Interest, street or Common Area.

1.70. **"Voting Power"** means those Members who are eligible to vote for the election of directors or with respect to any other matter, issue or proposal properly presented to the Members for approval at any time a determination of voting rights is made. To be part of the Voting Power, a Member must be in good standing, as defined in the Bylaws and/or the Community Rules, as more particularly set forth in Section 3.08(a), below.

## ARTICLE 2.

### CREATION OF PLANNED DEVELOPMENT; PROPERTY SUBJECT TO LINCOLN CROSSING MASTER DECLARATION

2.1. Division of The Initial Covered Property Constituting Lincoln Crossing. Declarant, in order to establish Lincoln Crossing as a Planned Development, divides the Initial Covered Property into the following elements:

(a) the Lots which are shown, defined and described on the Subdivision Map for the Initial Covered Property that is described in **Exhibit "A"**; and

(b) the Common Area shown on the Subdivision Map or Subdivision Maps for the Initial Covered Property. The Common Area portion of the Initial Covered Property is more particularly described in **Exhibit "C"**.

2.2. Purpose of the Master Declaration. This Master Declaration and any Supplemental Declarations later recorded with respect to any Phase are declared and agreed to be in furtherance of a general plan for the subdivision, improvement and sale of the property comprising Lincoln Crossing and are established for the purpose of enhancing, perfecting and maintaining the value, desirability and attractiveness of Lincoln Crossing. This Master Declaration shall run with all separate interests and Common Areas within Lincoln Crossing for all purposes and shall be binding upon and inure to the benefit of Declarant, the Master Association, all Merchant Builders, all Owners and the tenants and lessees of Owners who occupy Separate Interests within Lincoln Crossing, and their successors in interest.

2.3. Modification of Entitlement Documents. Nothing in this Master Declaration shall be construed to prevent the Declarant from modifying any or all of the Entitlement Documents, or any portions thereof, or from re subdividing any or all of the Annexable Property, whether or not those actions increase or decrease the number of Separate Interests that are subject to Assessments, or from dedicating or conveying portions of the Overall Development (including, without limitation, streets or roadways) for uses other than as Separate Interests or Common Areas.

2.4. Authority of Declarant to Approve Boundary Line Adjustments. At any time within eight (8) years from the date that the first Separate Interest in a Phase is conveyed to an Owner other than Declarant, the boundaries of any Lot, Parcel or Common Area in that Phase may be altered by a lot line adjustment or other change reflected on a subsequently Recorded record of survey, parcel map, or Subdivision Map, provided that the altered boundaries are approved by Declarant and all Owners of the property whose property boundaries are directly affected by the boundary line adjustment. In the event a boundary line adjustment involves Common Area, the Board of Directors shall be authorized to grant approval on behalf of the Master Association. Any such alteration or boundary line adjustment shall be effective upon Recordation of the record of survey, parcel map, or Subdivision Map. Upon such Recordation, the boundaries of the altered Lot, Parcel, or Common Area shall be altered for purposes of this Master Declaration to conform to the boundaries as shown on the record of survey, parcel map, or Subdivision Map.

2.5. Property Rights in Common Area.

(a) Fee Title in Master Association. Declarant and each Merchant Builder (with respect to any Phase owned by the Merchant Builder which includes Common Area parcels) shall convey fee simple title to the Common Area located in each Phase to the Master Association, free of all encumbrances and liens, with the exception of current real property taxes (which shall be prorated as of the date of such conveyance) and any easements, conditions and reservations then of record, including those set forth in this Master Declaration. The conveyance

of Common Areas in any Phase shall be made prior to, or concurrent with, the first transfer or conveyance by Declarant or a Merchant Builder of a Lot in such Phase to a purchaser pursuant to a Public Report issued by the Department of Real Estate. The obligations imposed by this subparagraph (a) shall not apply to any conveyance of common areas, as defined in Civil Code section 1351(b), in a Phase of the Overall Development to a Sub-Association.

(b) Rights of Owners in Common Areas. The interest of each Owner in and to the use and benefit of the Common Areas and the Common Facilities shall be appurtenant to the Separate Interest owned by the Owner and shall not be sold, conveyed or otherwise transferred by the Owner separately from the ownership interest in the Separate Interest. Any sale, transfer or conveyance of the Owner's Separate Interest shall transfer the appurtenant right to use and enjoy the Common Area and Common Facilities. There shall be no judicial partition of the Common Area or any part thereof, and each Owner, whether by deed, gift, devise, or operation of law for his or her own benefit and for the benefit of all other Owners specifically waives and abandons all rights, interest and causes of action for a judicial partition of any ownership interest in the Common Area and does further covenant that no action for judicial partition shall be instituted, prosecuted or reduced to judgment. The rights of all Owners in the Common Area shall be further subject to the requirements and restrictions set forth in Section 2.06, below.

2.6. Owners' Nonexclusive Easements of Enjoyment. Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Area, including ingress and egress to and from the Owner's Separate Interest which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) Right of Master Association to Regulate Usage of the Club Facilities and Master Association Common Areas. The right of the Master Association to regulate the use of the Club Facilities and any other Common Areas and Common Facilities of the Association.

(b) Right of Master Association to Adopt Rules. The right of the Master Association to adopt Community Rules as provided in Section 3.08, below, regulating the use and enjoyment of the Common Areas and Common Facilities for the benefit and well-being of the Owners in common, and, in the event of the breach of such rules or any provision of any Governing Document by any Owner or tenant, to initiate disciplinary action against the violating Owner or Owner's tenant in accordance with Section 13.06, below. Such action may include the levying of fines and/or the temporary suspension of the voting rights and/or the right to use the Common Facilities, other than private roads, by any Owner and the Owner's tenants and guests.

(c) Right to Incur Indebtedness. The right of the Master Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Common Areas and Common Facilities. Member approval of the borrowing shall be required whenever the funding to amortize the obligation will be an assessment for which Member approval is required pursuant to either Section 4.02(c) or Section 4.03(b), below.

(d) Rights of Dedication. Subject to receipt of the approval (if required) of the Institutional Holders described in Article 14, below, the right of the Master Association to dedicate, release, alienate, transfer, or assign an interest in the Common Area (other than any

private roads) to any public agency, authority, utility or Telecommunications Service Provider for such purposes and subject to such conditions as may be approved by the Board of Directors. Notwithstanding the foregoing authority, no dedication shall be permitted that impairs the ingress and egress to any Separate Interest.

(e) Rights of Easement Holders. All easements affecting the Common Area which are described in Article 9, below.

(f) Rights of Use by Declarant and Merchant Builders. The right of Declarant and Merchant Builders (if such right is expressly granted to a particular Merchant Builder by the Declarant in writing) and its/their employees, sales agents, prospective purchasers, customers and representatives, to enter upon and to use the Common Areas and Common Facilities for development and sales activities in accordance with Sections 16.02 through 16.04, below, and any master marketing program promulgated by the Declarant for the benefit of the Merchant Builders, collectively. Such use shall not unreasonably interfere with the rights of use and enjoyment of the other Owners as provided herein.

## 2.7. Delegation of Use of Separate Interests.

(a) Delegation of Use, Generally. Any Owner may delegate, in accordance with the Community Rules, his or her right to use and enjoy the private roads (if any) and the Common Areas and Common Facilities to the Owner's tenants, lessees, contract purchasers and other persons residing in the Owner's Separate Interest. However, nothing herein shall be interpreted as permitting transfer to tenants, lessees or contract purchasers of an Owner's voting rights, which shall not be delegated separate and apart from a conveyance of the Owner's ownership interest in the Separate Interest to which the membership is appurtenant.

(b) Requirements That Must Be Observed In All Residential Leases. The following specific limitations shall apply to all leases or tenancies of a Separate Interest: (i) no Separate interest may be leased or rented for a period of less than ninety (90) days; (ii) the lease or rental must be to a Single Family; (iii) the lease or rental shall apply to not less than an entire Separate Interest, including its appurtenant rights (except voting rights in the Master Association which may not be transferred to a tenant or lessee); and (iv) any lease or rental shall be evidenced by a written lease or rental agreement which shall provide that the tenancy is subject to the terms of the Governing Documents and that any failure of the tenant to comply with the terms of any Governing Document relating to residential leases, property use restrictions or the use and enjoyment of any portion of the Common Areas and Common Facilities shall constitute a default under the lease or rental agreement and shall entitle the Owner to terminate the tenancy upon thirty (30) days' written notice. The Owner-lessor's right to terminate a lease or rental agreement on account of the tenant's violation of the Governing Documents shall in no way restrict the right of the Master Association, the Declarant, or any Owner to enforce the Governing Documents in accordance with Article 13, below, when the Owner's tenant is violating the Governing Documents.

(c) Discipline of Lessees. Subject to the due process requirements set forth in subparagraph (d) below, in the event that any tenant or lessee fails to honor the provisions of any Governing Document, the Master Association shall be entitled to take such corrective action



as it deems necessary or appropriate under the circumstances in order to preserve the quiet enjoyment of other Owners and Single Family occupants of Separate Interests in Lincoln Crossing. Without limiting the foregoing, the Master Association's actions in response to a tenant's violation of the Governing Documents may include the imposition of fines and penalties against the Owner-lessor of the Residence or suspension of the Owner-lessor's voting rights as a Member of the Master Association.

(d) Due Process Requirements for Disciplinary Action. Except for circumstances in which immediate corrective action is necessary to prevent damage or destruction to any portion of Lincoln Crossing or to preserve the rights of quiet enjoyment of other Owners or occupants of Separate Interests, the Master Association shall have no right to initiate disciplinary action against an Owner-lessor (or the Owner's lessee or tenant) on account of the misconduct of the Owner's lessee or tenant unless and until the following conditions have been satisfied: (i) the Owner-lessor has received written notice from the Board, the Master Association's management company or an authorized committee of the Board detailing the nature of the lessee's/tenant's alleged infraction or misconduct and advising the Owner-lessor of his or her right to a hearing on the matter in the event the Owner believes that remedial or disciplinary action is unwarranted or unnecessary; (ii) the Owner-lessor has been given a reasonable opportunity to take corrective action on a voluntary basis or to appear at a hearing, if one is requested by the Owner-lessor, and (iii) the Owner-lessor has failed to prevent or correct the tenant's objectionable actions or misconduct. Any hearing requested hereunder shall be conducted in accordance with Section 13.06, below.

2.8. Obligations of Owners. Owners shall be subject to the following:

(a) Owner's Duty to Notify Association of Tenants/Lessees and Contract Purchasers. Each Owner shall notify the secretary of the Master Association or the Master Association's property manager, if any, of the names of any contract purchaser, tenant or lessee residing in the Owner's Separate Interest. Each Owner, contract purchaser or tenant shall also notify the secretary of the Master Association of the names of all persons to whom such Owner, contract purchaser, tenant or lessee has delegated any rights to use and enjoy Lincoln Crossing and the relationship that each such person bears to the Owner, contract purchaser or tenant. A "contract purchaser" is a person who is a party, as the purchaser, to a contract to acquire a Separate Interest under terms that grant the purchaser an immediate right of occupancy, while deferring conveyance of fee title to the Separate Interest until such time as the contract seller has received full payment of the purchase price.

(b) Contract Purchasers. A contract seller of a Separate Interest must delegate his or her voting rights as a Member of the Master Association and his or her right to use and enjoy the Common Area and Common Facilities to any contract purchaser (as defined in subparagraph (a), above) in possession of the property. Notwithstanding the foregoing, the contract seller shall remain liable for any default in the payment of Assessments by the contract purchaser until title to the property sold has been transferred to the purchaser.

(c) Notification Regarding Governing Documents.

(i) As more particularly provided in California Civil Code section 1368, as soon as practicable before transfer of title or the execution of a real property sales contract with respect to any Separate Interest, the Owner thereof must give the prospective purchaser:

(A) a copy of the Governing Documents;

(B) a copy of the most recent documents distributed by the Master Association pursuant to California Civil Code section 1365 (see Article XII of the Bylaws);

(C) a true statement in writing from an authorized representative of the Master Association as to: (1) the amount of the Master Association's current regular and special assessments and fees; (2) any assessments levied upon the Owner's Separate Interest that are unpaid on the date of the statement and any monetary fines or penalties levied upon the Owner's Separate Interest and unpaid on the date of the statement; (3) information relating to late charges, attorneys' fees, interest, and costs of collection which, as of the date the statement is issued, are or may become a lien on the Separate Interest being sold ("**delinquency statement**");

(D) a copy or summary of any notice previously sent to the Owner pursuant to Civil Code section 1363(h), that sets forth any alleged violations of the Governing Documents that remain unresolved at the time of the request;

(E) a copy of the preliminary list of defects provided to each Member of the Master Association pursuant to Civil Code section 1375, unless the Master Association and the builder subsequently enter into a settlement agreement or otherwise resolve the matter and the Master Association complies with Civil Code section 1375.1

(F) a statement disclosing any change in the Master Association's current Regular and Special Assessments and fees which have been approved by the Board but have not become due and payable as of the date the information is provided.

(ii) Within ten (10) days of the mailing or delivery of a request for the information described in subparagraph (c)(i), above, the Master Association shall provide the Owner with copies of the requested items. The Master Association shall be entitled to impose a fee for providing the requested items equal to (but not more than) the reasonable cost of preparing and reproducing the requested items.

(iii) The provisions of this section, except for those provisions relating to the furnishing of a delinquency statement, shall not apply to any Owner who is subject to the requirements of California Business and Professions Code section 11018.1 (i.e., the obligation of Subdividers to provide prospective purchasers with a Department of Real Estate Public Report).

(d) Obligation to Provide Subsequent Purchasers with Information Relating to Builder Repair Rights and Obligations and Residence Maintenance Standards. Civil Code

section 912 requires home builders to provide their initial home buyers with certain documents enumerated in that Code section, including (i) copies of all maintenance and preventative maintenance recommendations that pertain to the Separate Interest that is being purchased; (ii) copies of all manufactured products maintenance, preventative maintenance, and limited warranty information relating to components of the Separate Interest; (iii) copies of the builder's limited contractual warranties; (iv) a written copy of Civil Code sections 895 et seq.; and (v) other documents provided by the builder to the initial home buyer with the original sale of the Separate Interest. Civil Code section 912(h) obligates the original home buyer to provide these documents to subsequent purchasers of the Separate Interest.

(c) Payment of Assessments and Compliance with Rules. Each Owner shall pay, when due, each Regular, Special and Special Individual Assessment levied against the Owner and his or her Separate Interest and shall observe, comply with and abide by any and all rules and regulations set forth in, or promulgated by the Master Association pursuant to, any Governing Document for the purpose of protecting the interests of all Owners, protecting the Common Area and Common Facilities and promoting the common welfare of the residents of Lincoln Crossing.

(f) Discharge of Assessment Liens. Each Owner shall promptly discharge any Assessment lien that may hereafter become a charge against his or her Separate Interest.

(g) Joint Ownership of Separate Interests. In the event of joint ownership of any Separate Interest, the obligations and liabilities of the multiple Owners under the Governing Documents shall be joint and several. Without limiting the foregoing, this subparagraph (g) shall apply to all obligations, duties and responsibilities of Owners as set forth in this Declaration, including, without limitation, the payment of all Assessments.

### ARTICLE 3. LINCOLN CROSSING COMMUNITY ASSOCIATION

3.1. Formation. The Lincoln Crossing Community Association is a California nonprofit mutual benefit corporation and is referred to in this Declaration as the Master Association. On or before the first close of escrow for the sale of a Separate Interest in each Phase to an Owner (other than a Merchant Builder), the Declarant shall convey fee simple title to any Common Area located in that Phase to the Master Association as provided in Section 15.04, below. Upon such transfer, the Master Association shall be charged with the duties and invested with the powers set forth in the Governing Documents, including, but not limited to, the ownership, control, maintenance and repair of the Common Area and Common Facilities.

3.2. Association Action; Board of Directors and Officers. With the exception of those matters requiring approval of Members under the Governing Documents or California law, the affairs of the Master Association shall be conducted and all corporate powers shall be exercised by its Board of Directors and such officers as the Board may elect or appoint. Except as otherwise provided in the Governing Documents or California law, all matters requiring the approval of Members shall be deemed approved if approved by a Majority of a Quorum of the Members.

3.3. Membership in the Master Association.

(a) Qualifications. Each Owner, including the Declarant and any Merchant Builder, shall be a Member of the Master Association. An Owner shall hold one membership in the Master Association for each Separate Interest that the Member owns. Sole or joint ownership of a Separate Interest shall be the only qualification for membership in the Master Association. Each Owner shall remain a Member of the Master Association until his or her ownership of, or ownership interest in, all Separate Interests in Lincoln Crossing ceases, at which time the Owner's membership in the Master Association shall automatically cease. Persons or entities who hold an interest in a Separate Interest merely as security for performance of an obligation are not Members. The voting rights associated with membership in the Master Association shall be as provided in Section 3.04, below, and in Article IV of the Master Association Bylaws.

(b) Members' Rights and Duties. Membership in the Master Association shall give rise to the rights, duties, and obligations set forth in the Governing Documents and any amendments thereto.

3.4. Membership Voting.

(a) Commencement of Voting Rights. Unless the sale of Separate Interests within Lincoln Crossing is subject to a Subsidy Agreement approved by the Commissioner of the California Department of Real Estate, which provides otherwise, voting rights attributable to the ownership of such Separate Interests shall not vest until Assessments against those Separate Interests have been levied by the Master Association. See Section 4.02(d), below.

(b) Classes of Membership. The Master Association shall have two (2) classes of voting membership, namely: Class A Members, who shall initially be all Owners except the Declarant and any Merchant Builder who is given Class B Membership rights by the Declarant to the Merchant Builder in a Declaration of Annexation or Supplemental Declaration. The voting rights and other privileges of the two classes of membership and the conversion of the Class B memberships into Class A memberships shall be as set forth in Article IV of the Bylaws.

In addition, the Declarant shall hold a Class C Membership, as also defined in Article IV of the Bylaws, which shall not constitute part of the voting power of the Master Association, but which shall give the Declarant the right to appoint a majority of the members of the Board of Directors for the term specified in Section 4.01(c), of the Bylaws. Only the original Declarant (i.e., LB/L SunCal Lincoln Crossing, LLC, a Delaware limited liability company) shall hold the Class C power of designation, unless that Declarant, by express written instrument, Recorded in the Official Records of Placer County, conveys the Class C Membership rights to a successor Declarant by a recorded instrument.

(c) Membership Voting Rights.

(i) No change in the ownership of a Separate Interest shall empower the new Owner(s) of the Separate Interest to exercise the voting rights of the Membership that is appurtenant to that Separate Interest until the Master Association has received written notice of such change. Each Class A Membership is entitled to one vote on any matter requiring Member approval, regardless of the number of persons who appear as Owners of Record with respect to

the Separate Interest to which the Class A Membership is appurtenant. If any Class A Member casts a vote representing a certain Membership, it will be deemed that he or she was acting with the authority and consent of all other co-Owners of the Separate Interest to which the Membership is appurtenant unless objection thereto is made, in writing, at the time the vote is cast. In the event that more than one vote is cast with respect to a particular Membership, the secretary of the Master Association or any inspector of elections appointed pursuant to California Corporations Code section 7614 may declare that the multiple votes are null and void.

(ii) Any mortgagee who acquires title to a Separate Interest pursuant to a judgment of foreclosure or a trustee sale shall automatically become entitled to exercise all voting rights which the Owner of the Separate Interest would otherwise have had.

(iii) If any lender to whom Declarant has assigned, or hereafter assigns, as security, all or substantially all of its rights under this Master Declaration, succeeds to the interests of the Declarant by virtue of said assignment, the absolute voting rights of the Declarant as provided herein shall not be terminated thereby, and such lender shall hold the Declarant's memberships and voting rights on the same terms as they were held by Declarant.

(iv) In the event an Owner has leased or rented his or her Separate Interest, the Owner shall retain the right to vote as a Member of the Master Association. The right to vote is not transferable or assignable except with a transfer of a fee simple interest in the Separate Interest to which the membership is appurtenant.

(d) Suspension of Voting Rights. Voting rights may be temporarily suspended under those circumstances described in Section 13.06, below.

(e) Intent of Provisions Imposing Limitations on Declarant Voting Rights. With the exception of any membership vote pursuant to Section 3.11, below (relating to the enforcement of bonded obligations), no provision of any Governing Document requiring approval of a prescribed majority of the voting power of the Master Association other than the Declarant or Merchant Builder is intended to preclude the Declarant or Merchant Builder from casting votes attributable to any Separate Interests owned by the Declarant or Merchant Builder. Instead, what is required is that the matter receive the approval of both (i) a bare majority of the Class B voting power and (ii) approval of the prescribed majority of the Class A voting power. Once the Class B membership has been converted to Class A membership, the intent is to require the approval of a bare majority of the total voting power of the Master Association as well as the approval of the prescribed majority of the total voting power of the Members of the Master Association other than the Declarant or Merchant Builder.

3.5. Assessments. The Master Association shall have the power to establish, fix and levy Assessments against its Members and to enforce payment of such Assessments, as more particularly provided in Article 4, below. Any Assessments levied by the Master Association against its Members shall be levied in accordance with, and pursuant to, the provisions of this Master Declaration and applicable provisions of the California Civil Code (see particularly California Civil Code sections 1366 through 1367.1).

3.6. Transfer of Memberships. Membership in the Master Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale of the Separate Interest to which it is appurtenant, and then, only to the purchaser. In the case of a sale, the membership appurtenant to the transferred Separate Interest shall pass automatically to the purchaser upon the Recordation of a deed evidencing the transfer of title. In the case of an encumbrance recorded with respect to any Separate Interest, the Mortgagee shall not possess any membership rights until the Mortgagee becomes an Owner by foreclosure or acceptance of a deed in lieu thereof. Tenants who are delegated rights of use pursuant to the rental or lease of a Residence (see Section 2.07, above) do not thereby become Members, although the tenant and his or her family and guests shall at all times be subject to the property use restrictions and enforcement/disciplinary provisions of the Governing Documents. If any Owner fails or refuses to transfer the membership registered in his or her name to the purchaser of his or her Separate Interest, the Master Association shall have the right to record the transfer upon its books and thereupon any other membership outstanding in the name of the seller shall be null and void.

3.7. Powers and Authority of the Master Association.

(a) Powers, Generally. The Master Association shall have the responsibility of owning, managing and maintaining the Common Areas and Common Facilities and discharging the other duties and responsibilities imposed on the Master Association by the Governing Documents for the benefit of its Members. In the discharge of those obligations, the Master Association shall have all of the powers of a California nonprofit mutual benefit corporation, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Governing Documents or applicable State or federal law. The Master Association shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of the Governing Documents, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Master Association for the peace, health, comfort, safety or general welfare of the Owners and residents of Lincoln Crossing. The specific powers of the Master Association and the limitations thereon are set forth in Article IX of the Bylaws.

(b) Specific Duties and Powers. In addition to its general powers and duties, the Master Association has the following specific powers and duties:

(i) Ownership and Maintenance of Common Areas. The power and the duty to accept, maintain and manage the Common Areas and Common Facilities.

(ii) Levy and Collect Assessments. The right, duty and power to levy and collect Assessments, including Regular Assessments, Special Assessments, Emergency Assessments and Club Charges.

(iii) Insurance. The power and the duty to maintain insurance in accordance with Article 10, below.

(iv) Rules and Regulations. The power, but not the duty to establish and modify rules and regulations in accordance with Section 3.08, below.

(v) Right of Entry. The power, but not the duty, to enter upon any Separate Interest or Common Area to inspect any portion thereof and to enforce the covenants and restrictions set forth in this Master Declaration and to enforce the Community Rules. The Master Association's right of entry may be exercised immediately and without prior notice to the Owner, tenant or lessee in case of an emergency originating in or threatening the Separate Interest where entry is required or any adjoining Separate Interests or Common Areas. The Master Association's work may be performed under such circumstances whether or not the Owner or his or her tenant or lessee is present. In all non-emergency situations involving routine repair and/or maintenance activities, the Master Association, or its agents, shall furnish the Owner or his or her tenant or lessee with at least twenty-four (24) hours prior written notice of its intent to enter the Separate Interest, specifying the purpose and scheduled time of such entry, and shall make every reasonable effort to perform its work and schedule its entry in a manner that respects the privacy of the persons residing on the Separate Interest. In any and all non-emergency situations involving access by the Master Association for purposes of enforcing the Governing Documents against an Owner in default, the Master Association's entry shall be subject to observance of the notice and hearing requirements imposed by Section 13.06, below. In no event shall the Master Association's right of entry hereunder be construed to permit the Master Association or its agents to enter any Separate Interest without the express permission of the Owner, tenant or lessee residing in the Separate Interest.

(vi) Borrowings. The power, but not the duty, to borrow money for purposes authorized by the governing Documents.

(vii) Contracts. The power, but not the duty, to enter into contracts, including the following:

(A) Contracts for Services. Contracts with Owners, Sub-Associations, or other persons that obligate the Master Association to provide services or to maintain improvements within Lincoln Crossing, however, any such contract shall provide that the Master Association is reimbursed for the costs of providing such services or maintenance;

(B) Community Services. Contracts to provide various community services to the residents of Lincoln Crossing, such as telecommunications services, association management services, and private patrol services.

(C) Club Facilities Acquisition and Club Note. The Master Association has the right and power to enter into an agreement with the Declarant to acquire the Club Facilities that calls for payment for those Club Facilities by the Association pursuant to the terms of the Club Note.

(D) Shared Maintenance Agreements. The Master Association has the right and power to enter into shared maintenance agreements, cost sharing arrangements, joint use agreements, or other appropriate contracts with Declarant, Merchant Builders, Sub Associations, and any other person, with regard to the use and maintenance of any real property of the Master Association, or any neighboring real

property or jointly used improvement or the cost of providing services to jointly to such parties.

(E) Contract for Telecommunications System. Notwithstanding anything in the Declaration to the contrary, the Board shall have the power to enter into, accept an assignment of, or otherwise cause the Master Association to comply with the terms and provisions of, a telecommunications services contract ("**Telecommunications Contract**"), with a Telecommunications Services Provider ("**Service Provider**"), pursuant to which the Service Provider shall serve as a provider of telecommunications services to each Separate Interest in Lincoln Crossing by implementing a Telecommunications System. The Telecommunications Contract shall specify a monthly fee to be charged to the Master Association by the Service Provider which shall be allocated to the Separate Interests as a Common Expense of the Master Association that is recoverable as part of the Regular Assessment. The Board shall only enter into, accept an assignment of, or otherwise cause the Master Association to comply with the terms and provisions of the Telecommunications Contract if the Board determines, in its sole discretion, that such action is in the best interests of the Master Association and that the terms and conditions of the Telecommunications Contract are acceptable to the California Department of Real Estate. Although not exhaustive, the Board shall consider the following factors in making such determination:

(1) Initial Term and Extensions. The initial term of the Telecommunications Contract shall not exceed five (5) years, and, if the Telecommunications Contract provides for automatic extensions, the length of each such extension shall also not exceed five (5) years.

(2) Termination. The Telecommunications Contract shall provide that: (A) at least six (6) months prior to the expiration of either the initial or any extended term of the Telecommunications Contract, the entire Membership of the Master Association may, without cause, by a sixty percent (60%) vote, prevent any automatic extension that the Telecommunications Contract may provide for, and thereby allow the Telecommunications Contract to expire, and (B) at any time, the Board may terminate the Telecommunications Contract if, in the sole discretion of the Board, the Service Provider fails to provide quality, state-of-the-art Telecommunications Services.

(3) Fees. Whether the monthly fee charged to the Master Association by the Service Provider, after allocation to the Separate Interests, represents a discount from the comparable retail fees charged by the Service Provider (or a comparable service provider) to separate interests that are comparable to the Separate Interests, within the general geographic area in which Lincoln Crossing is located, and, if so, the amount of such discount.

(4) Installation of Telecommunications Facilities. Whether the Service Provider is solely responsible for the installation, operation and maintenance, and the cost thereof, of all of the Telecommunications System



facilities (such facilities may include a building of six hundred (600) square feet or less and antenna structures) necessary to provide the services specified in the Telecommunications Contract to the Separate Interests.

(5) Removal of Telecommunications Facilities.

Whether the Service Provider has the right to remove the Telecommunications System facilities upon expiration or termination of the Telecommunications Contract.

(6) Compliance With Legal Requirements. The

Telecommunications Contract shall comply with any applicable City of Lincoln requirements, including, but no limited to, any applicable City of Lincoln Telecommunications Ordinances and Cable Television Franchise Ordinances, as well as any other State or federal laws or ordinances relating to such contacts and services.

(viii) Authority to Acquire and Dispose of Real and Personal Property in Connection with the Purposes of the Master Association. The Master Association may acquire by gift, purchase or otherwise own, hold, enjoy, lease, operate, maintain, convey, sell, transfer, mortgage, or otherwise encumber, dedicate for public use, or otherwise dispose of real and/or personal property in connection with the activities and operations of the Master Association; provided, however, that the Master Association shall not acquire or sell any real or personal property having an individual or aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Master Association for that fiscal year by purchase or lease without first obtaining the vote or written consent therefore from the Members representing a Majority of a Quorum of the voting power of the membership, excluding the vote of the Declarant and any Merchant Builders. This Member approval requirement shall not apply to (A) the Master Association's acquisition of real property or facilities pursuant to the annexation of subsequent Phases to Lincoln Crossing; or (B) to the acquisition of the Club Facilities by the Master Association, including, without limitation, execution and delivery of the Club Note.

(ix) Operation and Management of The Club at Lincoln Crossing. The Master Association has the power and the obligation to provide, and to hire all necessary personnel, and/or to contract with a management company to provide any or all of the community recreational facilities and services to be provided by the Master Association at the Club Facilities or at other recreational Common Facilities within Lincoln Crossing for the benefit of the Owners of Residences, their tenants, guests and invitees, and to amortize payment obligations under the Club Note through funds derived as Common Expenses collectable from the Owners of Residences as a component of the Regular Assessment.

(c) Association's Authority to Initiate Civil Code Section 896 Claims Concerning Alleged Defects in Common Facilities Construction. Subject to the provisions of this Declaration, (including, without limitation, the provisions of Section 13.08, below relating to construction defect disputes with the Declarants), the Master Association shall have the power, but not the duty, to initiate, defend, settle or intervene in mediation, arbitration, judicial or administrative proceedings on behalf of the Master Association in matters pertaining to: (i) the

application or enforcement of this Declaration; and (ii) damage to the Master Association Common Areas or Common Facilities; provided however that no representative of the Declarant serving as a Director of the Master Association shall vote on the initiation of any claim under California Civil Code section 895 et. seq., such that from and after the first annual meeting of the Master Association's membership, the Declarant shall have no control over the Master Association's ability to decide whether to initiate a claim under such statutory provisions. In the event that the Board has occasion to consider whether it is necessary and appropriate to initiate a claim, the affirmative vote of at least two (2) non-Declarant Directors shall be binding, so long as a quorum of the Board is present at any meeting where such a vote is taken. The Master Association and not the individual Members shall have the power to pursue any claims or other actions using the non-adversarial proceedings for construction defect resolution pursuant to Civil Code section 895 et. seq., (and any successor, statutes or laws) relating to alleged defects in any Common Facility or Common Area of the Master Association. Any recovery by the Master Association with respect to any damage to or defect in the Master Association Common Areas or Common Facilities shall be utilized solely for the purpose of paying for the costs of obtaining the recovery and for correcting such damage or defect.

In the event that any claim or other actions brought by the Master Association under California Civil Code section 895 et. seq., (or any successor statutes or laws) involving allegations of construction defects relating to the Master Association Common Areas or Common Facilities is not resolved pursuant to the non-adversarial procedures set forth in Civil Code sections 910-938 (or any successor statutes or laws), the Master Association shall not initiate further action or procedures against the Declarant pursuant to Section 13.08, below (Arbitration of Disputes) without first obtaining the consent of a Majority of a Quorum of the Members.

### 3.8. Community Rules.

(a) Rule Making Power, Generally. The Board may, from time to time and subject to the provisions of this Master Declaration, propose, enact and amend rules and regulations of general application to the Owners ("Community Rules"). The Community Rules may concern, but need not be limited to: (i) matters pertaining to use of the Common Area and Common Facilities and use of the Civil Facilities; (ii) architectural control and the rules of the Architectural Review Committee under Article 5, below (iii) regulation of pet ownership, parking, signs, collection and disposal of refuse and other matters subject to regulation and restriction under Article 8, below; (iv) collection of delinquent Assessments; (v) minimum standards of maintenance of landscaping or other Improvements on any Separate Interest; (vi) the conduct of disciplinary proceedings in accordance with Section 13.06, below, (vii) and any other subject or matter within the jurisdiction of the Master Association as provided in the Governing Documents.

Notwithstanding the foregoing grant of authority, the Community Rules shall not be inconsistent with or materially alter any provision of the Governing Documents or the rights, preferences and privileges of the Owners thereunder. In the event of any material conflict between any Community Rule and the provisions of any other Governing Document, the conflicting provisions contained in the other Governing Document shall prevail.

(b) Distribution of Rules. A copy of the Community Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. A copy of the Community Rules shall also be available and open for inspection by any Owner during normal business hours at the principal office of the Master Association.

(c) Adoption and Amendment of Rules. Community Rules may be adopted or amended from time to time by majority vote of the Board, provided, however, that no Community Rule or amendment thereto shall be adopted by the Board until at least thirty (30) days after the proposed rule or rule amendment has been: (i) published in the Master Association newsletter, if any, or otherwise communicated to the Members in writing; and (ii) posted in the principal office of the Master Association's principal office. The notice describing the proposed rule or amendment shall also set forth the date, time and location of the Board meeting at which action on the proposal is scheduled to be taken.

Any duly adopted rule or amendment to the Community Rules shall become effective immediately following the date of adoption thereof by the Board, or at such later date as the Board may deem appropriate. Any duly adopted rule or rule amendment shall be distributed to the Members by mail.

3.9. Breach of Rules or Restrictions. Any breach of the Design Guidelines as described in Section 5.08, below, or of any other Governing Document provision shall give rise to the rights and remedies set forth in Article 8, below.

3.10. Limitation on Liability of the Master Association's Directors and Officers.

(a) Claims Regarding Breach of Duty. No director or officer of the Master Association (collectively and individually referred to as the "**Released Party**") shall be personally liable to any of the Members, or to any other person, for any error or omission in the discharge of his or her duties and responsibilities or for his or her failure to provide any service required under the Governing Documents; provided that such Released Party has, upon the basis of such information as he or she possessed, acted in good faith, in a manner that such person believes to be in the best interests of the Master Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

Without limiting the generality of the foregoing, this standard of care and limitation of liability shall extend to such matters as the establishment of the Master Association's annual financial budget, the funding of Association capital replacement and reserve accounts, repair and maintenance of Common Areas and Common Facilities and enforcement of the Governing Documents.

(b) Other Claims Involving Tortious Acts and Property Damage. No person who suffers bodily injury (including, without limitation, emotional distress or wrongful death) as a result of the tortious act or omission of a volunteer member of the Board or volunteer officer of the Master Association shall recover damages from such Board member or officer if all of the following conditions are satisfied:

- Interests;
- (i) The Board member or officer owns no more than two (2) Separate Interests;
  - (ii) The act or omission was performed within the scope of the volunteer Board member's or officer's Association duties;
  - (iii) The act or omission was performed in good faith;
  - (iv) The act or omission was not willful, wanton, or grossly negligent;
  - (v) The Master Association maintained and had in effect at the time the act or omission occurred and at the time a claim is made general liability insurance with coverage of at least One Million Dollars (\$1,000,000).

The payment of actual expenses incurred by a Board member or officer in the execution of such person's Association duties shall not affect such person's status as a volunteer Board member or officer for the purposes of this section. The provisions of this subparagraph (b) are intended to reflect the protections accorded to volunteer directors and officers of Master Associations pursuant to California Civil Code section 1365.7. In the event said Civil Code section is amended or superseded by another, similar provision of the California statutes, this subparagraph (b) shall be deemed amended, without the necessity of further Member approval, to correspond to the amended or successor Civil Code provision.

(c) Absence of Responsibility by Master Association, the Declarant or Merchant Builders to Resolve Traffic/Noise Issues On Public Thoroughfares. Within and adjacent to the Overall Development, there are many public streets and thoroughfares either existing or contemplated in the Specific Plan. As the various development and other improvements of the Specific Plan and surrounding areas are created it is anticipated that the volume of traffic and noise associated with vehicles will increase. It shall not be the responsibility of the Master Association, the Declarant or any Merchant Builder to provide mitigation for such consequences of planned growth and development, such as the construction of perimeter walls, the planting of landscaping, etc.

3.11. Enforcement of Bonded Obligations. If any of the Common Area improvements within Lincoln Crossing have not been completed when the California Real Estate Commissioner issues a final subdivision public report for any Phase, and if the Master Association is the obligee under a bond or other arrangement ("bond") to secure performance of a commitment of the Declarant to complete such Common Area improvements, then the Board shall consider and vote on the question of action by the Master Association to enforce the obligations under the bond with respect to any improvements for which a notice of completion has not been filed within sixty (60) days after the completion date specified for that improvement in the "planned construction statement" appended to the bond. However, if the Master Association has given an extension in writing for the completion of any Common Area improvement, the Board shall consider and vote on the action to enforce the obligations under the bond only if a notice of completion has not been filed within thirty (30) days after the expiration of the extension.

If the Board fails to consider and vote on the action to enforce the obligations under the bond or decides not to initiate action to enforce the obligations under the bond, then on the

petition in writing to the Board signed by Members representing not less than five percent (5%) of the total voting power of the Master Association other than the Declarant, the Board shall call a special membership meeting for the purpose of voting to override the decision of the Board not to initiate action or to compel the Board to take action to enforce the obligations under the bond.

The meeting shall be called by the Board by fixing a date not less than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of said petition. Notice of the meeting shall be given to all Members entitled to vote in the manner provided in Section 5.04 of the Bylaws for notices of special membership meetings. At the meeting, the vote in person or by proxy of a majority of the Members entitled to vote (other than Declarant) in favor of taking action to enforce the obligations under the bond shall be deemed to be the decision of the Master Association and the Board shall then implement the Members' decision by initiating and pursuing appropriate action in the name of the Master Association.

#### ARTICLE 4. MASTER ASSOCIATION ASSESSMENTS

##### 4.1. Assessments Generally.

(a) Covenant to Pay Assessments. Declarant and each Merchant Builder, for each Separate Interest owned within Lincoln Crossing, and each Owner by acceptance of a deed therefore (whether or not it shall be so expressed in such deed), hereby covenants and agrees to pay to the Master Association: (i) Regular Assessments, which shall include an adequate reserve fund for the periodic maintenance, repair and replacement of the Common Areas and Common Facilities; (ii) Special Assessments; and (iii) Special Individual Assessments. Each such Assessment shall be established and collected as hereinafter provided. Regular Assessments may include a Cost Center Assessment Component if established in accordance with Section 4.01(f), below.

(b) Extent of Owner's Personal Obligation for Assessments. All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorneys' fees) for the collection thereof, shall be a debt and a personal obligation of the person who is the Owner of the Separate Interest at the time the Assessment is levied. Each Owner who acquires title to a Separate Interest (whether by conventional conveyance, at a judicial sale, trustee's sale or otherwise) shall be personally liable only for Assessments attributable to the Separate Interest that become due and payable after the date that the Owner acquires title. Accordingly, when a person acquires title to a Separate Interest, that new Owner has no personal liability for delinquent Assessments of prior Owners unless the new Owner expressly assumes the personal liability. However, if a person acquires a Separate Interest that is subject to a valid lien for delinquent Assessments and related costs of collection (i.e., the lien arising from the prior Owner's failure to make timely payment of his or her Assessments is not released prior to conveyance of the Separate Interest), the Master Association may continue to exercise its foreclosure remedies against the Separate Interest, regardless of the change of ownership, and/or the Master Association may pursue its collection remedies against the prior Owner, individually.

(c) Creation of Assessment Lien. All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorneys' fees) for the collection

thereof, shall be a debt of the Owner of the Separate Interest at the time they are levied and, if not paid prior to delinquency, may become a lien on the Owner's Separate Interest by the Master Association's recordation of a Notice of Delinquent Assessment in accordance with Civil Code §1367.1(d) and Section 4.10, below. Any lien for unpaid Assessments created pursuant to the provisions of this Article 4 may be subject to foreclosure as provided in Section 4.10(c), below. Certain Special Individual Assessments are prohibited by law from being recovered through the use of non-judicial foreclosure remedies.

(d) No Avoidance of Assessment Obligations. No Owner may exempt himself/herself or the Owner's Separate Interest from liability or charge for the Owner's share of any Assessment made against the Owner or his or her share of any Regular or Special Assessment made against the Owner's Separate Interest, by waiving or relinquishing, or offering to waive or relinquish, the Owner's right to use and enjoy all or any portion of the Common Area or Common Facilities or by the abandonment or non use of the Owner's Separate Interest.

(e) Improper Assessment. The Master Association shall not impose or collect an Assessment, penalty or fee which exceeds the amount necessary to defray the costs for which it is levied.

(f) Designation of Cost Centers. The Declarant in a Supplemental Declaration, shall have the power and authority to designate Separate Interests and Common Areas within Phases of the Overall Development as a Cost Center for purposes of expense accounting and the equitable allocation of Common Expenses in accordance with Section 4.02(b)(ii), below. A Cost Center is likely to be designated under any of the following circumstances: (i) when the Master Association will be responsible for maintaining, repairing or replacing a Common Facility or improvement that either disproportionately benefit some Owners (or is only available to some Owners) to the exclusion of other Owners; (ii) when the Master Association will be responsible for maintaining certain portions of Separate Interests that either disproportionately benefit some Owners (or is only available to some Owners) to the exclusion of other Owners; or (iii) when certain Owners of Separate Interests are receiving services from the Master Association that are in addition to, or significantly greater than, the services provided to other Owners or residents. Under those circumstances, the disproportionately or exclusively benefited Lots may be designated as a Cost Center and the Owners of those Lots will be obligated to pay a Cost Center Assessment Component (see Section 4.02(b)(ii), below) to defray the expenses incurred by the Master Association to provide the special benefits or services. Merchant Builders shall also have the right to designate Cost Centers in a Supplemental Declaration Recorded with respect to the Merchant Builder's Phase of the Overall Development so long establishment of the Cost Center is approved by the Declarant and that approval is evidenced by the Declarant's joinder in execution of the Supplemental Declaration establishing the Cost Center.

Ordinarily, a Cost Center shall be established whenever it is reasonable to anticipate that any Owner or group of Owners will derive as much as ten percent (10%) more than the Owners in general in the value of common service(s) supplied by the Master Association. For example, if a Phase was developed to include private streets accessed by a gated entrance and the Master Association was responsible for the repair, maintenance and eventual replacement of the streets and the gates and other entry features, the Separate Interests that are accessed by the private

roads and gated entrance could be designated as a Cost Center and the cost of the Master Association's obligations with respect to the private streets, gates and other entry features could be recovered from the Owners of those Separate Interests as a Cost Center Assessment Component.

There are no Cost Centers at the time of recordation of this Declaration. As portions of the Annexable Property are subjected to this Declaration, new Cost Centers within the annexed Phase may be designated in the Supplemental Declaration Recorded with respect to the annexed Phase which shall (i) identify the Separate Interests comprising the Cost Center; (ii) identify the Common Facilities, maintenance areas or other services that will exclusively or disproportionately benefit the Owners within the Phase; and (iii) provide for the allocation of Common Expenses attributable to the identified Common Facilities or services to Owners within the Cost Center as a Cost Center Assessment Component of their Regular Assessment. See Section 15.06, below.

#### 4.2. Regular Assessments.

##### (a) Preparation of Annual Budget; Establishment of Regular Assessments.

Not less than forty-five (45) days nor more than sixty (60) days prior to the beginning of the Master Association's fiscal year, the Board shall determine the estimated Common Expenses of the Master Association for that fiscal year by preparing and distributing to all Members a budget satisfying the requirements of Section 12.05 of the Bylaws. The budget shall consist of: (i) a base budget presenting the financial information required by Civil Code section 1365(a) with respect to the General Assessment Component of the Master Association's Common Expenses and (ii) if any Cost Centers have been established within any Phase, a separate Cost Center budget presenting the financial information required by Civil Code section 1365(a) that is pertinent to the Cost Center. The base budget shall be applicable to all Separate Interests and the Cost Center budget shall be applicable only to Separate Interests that are subject to assessment for the cost of operating, maintaining, repairing and/or replacing the improvements or maintenance areas that gave rise to creation of the Cost Center.

Subject to the Member approval requirements for certain Assessment increases, as specified in subparagraph (c) of this Section 4.02, the estimated Common Expenses reflected in the Master Association's budget shall be assessed against all Owners as the Regular Assessment for that fiscal year. If the Board fails to distribute the budget for any fiscal year within the time period specified in the first sentence of this subparagraph (a), the Board shall not be permitted to increase Regular Assessments for that fiscal year unless the Board first obtains the approval of the requisite percentage of the Members in accordance with Section 4.08, below.

##### (b) Components of the Regular Assessment; Cost Centers.

(i) General Assessment Component. The Common Expenses of the Master Association exclusive of Common Expenses budgeted to any Cost Center (the "**General Assessment Component**") shall be allocated among and charged to all the Owners according to the allocation formula set forth in subparagraphs (b)(i) and (ii) of this section. The General Assessment Component shall take into account the amount of contributions to be made pursuant to any Maintenance Contribution Agreement (Section 7.04(c), below) or a Subsidy Agreement

(Section 1.64, above) approved by the Department of Real Estate to defray Common Expenses included in the General Assessment Component.

(ii) Cost Center Assessment Component. If any Cost Centers are established, the expenses of operating, maintaining and replacing the included improvements or maintenance areas (including, without limitation, an adequate reserve fund for the maintenance, repairs and replacement of the Cost Center capital components, if any) shall be borne solely by the Owners within the designated Cost Center ("**Cost Center Assessment Component**").

Unless otherwise provided in a Supplemental Declaration, the Cost Center Assessment Component shall be allocated equally among all Separate Interests located within the Cost Center. The Cost Center Assessment Component shall take into account the amount of contributions to be made pursuant to any Maintenance Contribution Agreements (Section 7.04(c), below) or Subsidy Agreement (Section 1.64, above) which pertain to expense items identified as part of the Cost Center.

(c) Establishment of Regular Assessment; Member Approval Requirements for Certain Assessment Increases.

Unless Member approval is required as a prerequisite to the imposition of an increase in the annual Regular Assessment as stated in this subparagraph (c), the total Common Expenses estimated in the Master Association's budget (less projected income from sources other than Assessments) shall become the aggregate Regular Assessment for the next succeeding fiscal year. Subject to Section 4.05, below, ("**Emergency Assessments**"), the Master Association shall not levy, for any fiscal year, an annual Regular Assessment per Separate Interest which is more than twenty percent (20%) greater than the Regular Assessment levied in the immediately preceding fiscal year (the "**Maximum Authorized Regular Assessment**") without the prior approval of the Members in accordance with Section 4.08, below.

The Member approval provisions of Section 4.08, below, shall be applied separately to the General Assessment Component and the Cost Center Assessment Component, if any, of the Regular Assessment so that if an increase of more than twenty percent (20%) affects only a particular Cost Center, the required approval shall be of Members whose Separate Interests are located within the Cost Center and are therefore subject to the Cost Center Assessment Component. During the first fiscal year in which Regular Assessments are imposed, the Regular Assessment shall be determined by reference to the Regular Assessments disclosed in the budget of the Master Association filed with the Department of Real Estate at the time the Regular Assessments commence.

(d) Commencement Date for Regular Assessments. Regular Assessments shall commence as to each Separate Interest within a Phase upon the earlier to occur of (i) the date specified in a Notice of Commencement of Regular Assessments, Recorded by the Declarant or by a Merchant Builder with respect to the Phase (which date shall be after to the date of Recordation of this Declaration); or (ii) to the first day of the first month following the month in which the first Close of Escrow occurs for the sale of a Separate Interest in the Phase to a person other than the Declarant or a Merchant Builder. Each Separate Interest in the subject Phase shall thereafter be subject to its share of the then established annual Regular Assessment.



The first annual Regular Assessment shall be pro rated, if necessary, according to the number of months remaining in the fiscal year established in the Master Association's Bylaws.

If the Declarant or a Merchant Builder elects to commence to pay Regular Assessments on a Phase prior to the conveyance of any Lot in such Phase to an Owner under a Department of Real Estate Public Report, the Declarant/Merchant Builder shall have the voting rights as to the Separate Interests in such Phase upon commencement of the payment of Assessments. In no event shall any sale or leaseback to Declarant or a Merchant Builder of any Separate Interest in the Development being used as a model home, sales office, design center, construction office of similar purpose (collectively, a "Model Home") and which are not occupied by a homeowner cause the commencement of Assessments in a Phase for which assessments have not otherwise commenced in accordance with the provisions of this subparagraph (d).

(c) Allocation of Regular Assessment.

(i) Association Common Expenses. Except as otherwise provided in subparagraph (e)(ii), below, the total estimated Common Expenses, determined in accordance with subparagraph (a), above (other than Common Expenses designated as a Cost Center Assessment Component), shall be allocated among, assessed against, and charged to each Owner according to the ratio of the number of Separate Interests within Lincoln Crossing owned by the assessed Owner to the total number of Separate Interests subject to Assessment so that each Separate Interest bears an equal share of the total Regular Assessment. Cost Center Assessments shall be allocated among, assessed against, and charged to each Owner of a Separate Interest in the Cost Center according to the ratio of the number of Separate Interest in the Cost Center owned by the assessed Owner to the total number of Separate Interests within the Cost Center that are subject to the Cost Center Assessment so that each such Separate Interest bears an equal share of the total Cost Center Assessment Component.

(ii) Partial Exemption for Uncompleted Common Facilities. All Owners, including Declarant, shall be exempt from the payment of that portion of any Regular Assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and use of any Common Facility that is not completed at the time Assessments commence. The Assessment exemption provided by this subparagraph shall be in effect only until the earliest of the following events: (A) a notice of completion of the Common Facility has been Recorded; or (B) the Common Facility has been placed in use. Without limiting the foregoing, but rather as an example thereof, Common Expenses obligations under the Club Note shall not commence as to any Separate Interest until the date on which a Notice of Completion is filed with the County for the Club Facilities.

(iii) Annexation. After annexation of each Phase, the allocation, and Assessment of the Common Expenses in the Master Association's budget shall be reallocated equally among all Separate Interests within Lincoln Crossing, including those in the annexed Phase, in accordance with the allocation formulas set forth above.

(f) Assessment Roll. That portion of the estimated Common Expenses assessed against and charged to each Owner shall be set forth and recorded in an Assessment roll which shall be maintained and available with the records of the Master Association and shall be

open for inspection at all reasonable times by each Owner or his or her authorized representative for any purpose reasonably related to the Owner's interest as a an Owner or as a Member of the Master Association. The Assessment roll shall show, for each Separate Interest, the name and address of the Owner of Record, all Regular, Special and Special Individual Assessments levied against each Owner and his or her Separate Interest, and the amount of such Assessments which have been paid or remain unpaid. The delinquency statement required by Section 2.08(c)(i)(C), above, shall be conclusive upon the Master Association and the Owner of such Separate Interest as to the amount of such indebtedness appearing on the Master Association's Assessment roll as of the date of such statement, in favor of all persons who rely thereon in good faith.

(g) Mailing Notice of Assessment. No less than forty-five (45) days prior to the beginning of the next fiscal year, the Board of Directors shall mail to each Owner (including Declarant and the Merchant Builders with respect to any unsold or retained Separate Interests), at the street address of the Owner's Separate Interest, or at such other address as the Owner may from time to time designate in writing to the Master Association, a statement of the amount of the Regular Assessment for the next succeeding fiscal year.

(h) Failure to Make Estimate. If, for any reason, the Board of Directors fails to make an estimate of the Common Expenses for any fiscal year, then the Regular Assessment made for the preceding fiscal year, together with any Special Assessment made pursuant to Section 4.03(a)(i), below, for that year, shall be assessed against each Owner and his or her Separate Interest on account of the then current fiscal year, and installment payments (as hereinafter provided) based upon such automatic Assessment shall be payable on the regular payment dates established by the Board.

(i) Installment Payment. The Regular Assessment made against each Owner shall be due and payable in advance to the Master Association in equal monthly installments on the first day of each month or on such other date or dates as may be established from time to time by the Master Association's Board of Directors. Installments of Regular Assessments shall be delinquent if not paid within fifteen (15) days of the due date as established by the Board.

#### 4.3. Special Assessments.

(a) Purposes for Which Special Assessments May Be Levied. Subject to the membership approval requirements set forth in subparagraph (b) below, the Board of Directors shall have the authority to levy Special Assessments against the Owners and their Separate Interests for the following purposes:

(i) Regular Assessment Insufficient in Amount. If, at any time, the Regular Assessment for any fiscal year is insufficient in amount due to extraordinary expenses not contemplated in the budget prepared for said fiscal year, then the Board of Directors shall levy and collect a Special Assessment, applicable to the remainder of such year only, for the purpose of defraying, in whole or in part, any deficit which the Master Association may incur in the performance of its duties and the discharge of its obligations hereunder.

(ii) Capital Improvements. The Board may also levy Special Assessments for additional capital improvements within the Common Area (i.e., improvements

not in existence on the date of this Master Declaration that are unrelated to repairs for damage to, or destruction of, the existing Common Facilities). The Special Assessment power conferred hereunder is not intended to diminish the Board's obligation to plan and budget for normal maintenance, and replacement repair of the Common Area or existing Common Facilities through Regular Assessments (including the funding of reasonable reserves) and to maintain adequate insurance on the Common Area and existing Common Facilities in accordance with Article 10, below.

(b) Special Assessments Requiring Membership Approval. The following Special Assessments require prior membership approval in accordance with Section 4.08, below: (i) any Special Assessments which, in the aggregate, exceed five percent (5%) of the Master Association's budgeted gross expenses for the fiscal year in which the Special Assessment(s) is/are levied; and (ii) any Special Assessments imposed pursuant to subparagraph (a)(i) of this section when the Board has failed to distribute a budget to the Members within the time specified in Section 4.02(a), above. The foregoing Member approval requirements shall not apply, however, to any Special Assessment imposed to address any "emergency situation" as defined in Section 4.05, below.

(c) Allocation and Payment of Special Assessments. When levied by the Board or approved by the Members as provided above, the Special Assessment shall be divided among, assessed against and charged to each Owner and his or her Separate Interest (including the Declarant as to any unsold or retained Separate Interests) in the same manner prescribed for the allocation of Regular Assessments pursuant to subparagraph 4.02(e), above. The Special Assessment so levied shall be recorded on the Master Association's Assessment roll and notice thereof shall be mailed to each Owner.

Special Assessments for purposes described in subparagraph (a)(i) of this Section 4.03, above, shall be due as a separate debt of the Owner and a lien against his or her Separate Interest, and shall be payable to the Master Association in equal monthly installments during the remainder of the then current fiscal year. Special Assessments for purposes described in subparagraph (a)(ii) of this Section 4.03 shall be due as a separate debt of the Owner and a lien against his or her Separate Interest, and shall be payable in full to the Master Association within thirty (30) days after the mailing of such notice or within such extended period as the Board shall determine to be appropriate under the circumstances giving rise to the Special Assessment.

#### 4.4. Special Individual Assessments.

(a) Circumstances Giving Rise to Special Individual Assessments. In addition to the Special Assessments levied against all Owners in accordance with Section 4.03, above, the Board of Directors may impose Special Individual Assessments against an Owner in any of the circumstances described in subparagraphs (i) through (iii), below; provided, however, that no Special Individual Assessments may be imposed against an Owner pursuant to this Section 4.04 until the Owner has been afforded the notice and hearing rights to which the Owner is entitled pursuant to Section 13.06, below, and, if appropriate, has been given a reasonable opportunity to comply voluntarily with the Governing Documents. Subject to the foregoing, the acts and circumstances giving rise to liability for Special Individual Assessments include the following:

(i) Damage to Common Area or Common Facilities. In the event that any damage to, or destruction of, any portion of the Common Area or the Common Facilities is caused by the willful misconduct or negligent act or omission of any Owner, any member of his or her family, or any of his or her tenants, lessees, guests, servants, employees, licensees or invitees, the Board shall cause the same to be repaired or replaced, and all costs and expenses incurred in connection therewith (to the extent not compensated by insurance proceeds) shall be assessed and charged solely to and against such Owner as a Special Individual Assessment.

(ii) Expenses Incurred in Gaining Member Compliance. In the event that the Master Association incurs any costs or expenses to: (A) accomplish the payment of delinquent Assessments; (B) perform any repair, maintenance or replacement to any portion of Lincoln Crossing that the Owner is responsible to maintain under the Governing Documents but has failed to undertake or complete in a timely fashion; or (C) otherwise bring the Owner and/or his or her Separate Interest into compliance with any provision of the Governing Documents, the amount incurred by the Master Association (including reasonable fines and penalties duly imposed hereunder, title company fees, accounting fees, court costs and reasonable attorneys' fees) shall be assessed and charged solely to and against such Owner as a Special Individual Assessment.

(iii) Required Maintenance on Separate Interests. If any Separate Interest is maintained so as to become a nuisance, fire or safety hazard for any reason, the Master Association shall have the right to enter said Separate Interest, correct the condition and recover the cost of such action through imposition of a Special Individual Assessment against the offending Owner. Any entry on the property of any Owner by the Master Association shall be effected in accordance with Section 3.07(b), above.

(b) Levy of Special Individual Assessment and Payment. Once a Special Individual Assessment has been levied against an Owner for any reason described, and subject to the conditions imposed, in subparagraph (a) of this section, such Special Individual Assessment shall be recorded on the Master Association's Assessment roll and notice thereof shall be mailed to the affected Owner. The Special Individual Assessment shall thereafter be due as a separate debt of the Owner payable in full to the Master Association within thirty (30) days after the mailing of notice of the Assessment. As more particularly provided in subparagraph (c), below, only certain Special Individual Assessments may be collected through the use of lien and foreclosure remedies.

(c) Limitation on Right to Lien Separate Interests For Special Individual Assessments. With the exception of Special Individual Assessments imposed by the Board of Directors to recover reasonable late payment penalties for delinquent Assessments and/or charges to reimburse the Master Association for its reasonable costs (including attorneys' fees) of collecting delinquent Assessments, Special Individual Assessments shall not be recoverable through the imposition of a lien against the Owner's Separate Interest enforceable through foreclosure, but the same may be recovered by the Master Association through other legal processes. Special Individual Assessments relating to delinquent Assessments shall be subject to imposition of a lien and enforceable through foreclosure or sale under a power of sale for failure of an Owner to pay such Assessment, all as more particularly provided in Section 4.10, below.

4.5. Assessments to Address Emergency Situations.

(a) Authority of Board to Impose Emergency Assessments. The requirement of a membership vote to approve: (i) Regular Assessment increases in excess of twenty percent (20%) of the previous year's Regular Assessment; or (ii) Special Assessments which, in the aggregate, exceed five percent (5%) of the Master Association's budgeted gross expenses for the fiscal year in which the Special Assessment(s) is/are levied, shall not apply to Assessments necessary to address emergency situations ("Emergency Assessments"). For purposes of this section, an emergency situation is any of the following:

- (i) An extraordinary expense required by an order of a court.
- (ii) An extraordinary expense necessary to repair or maintain the Common Areas or Common Facilities where a threat to personal safety is discovered.
- (iii) An extraordinary expense necessary to repair or maintain the Common Areas or Common Facilities that could not have been reasonably foreseen by the Board in preparing and distributing the budget pursuant to Section 4.02(a), above; provided, however, that prior to the imposition or collection of an assessment under this subparagraph (C), the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. The Board's resolution shall be distributed to the Members together with the notice of assessment.

(b) Payment of Emergency Assessments. When levied by the Board the Emergency Assessment shall be divided among, assessed against and charged to each Owner and his or her Separate Interest (including the Declarant as to any unsold or retained Separate Interests) in the same manner prescribed for the allocation of Regular Assessments pursuant to Section 4.02(e), above. The Emergency Assessment so levied shall be recorded on the Master Association's Assessment roll and notice thereof shall be mailed to each Owner. An Emergency Assessment shall be due as a separate debt of the Owner and a lien against his or her Separate Interest, and shall be payable in full to the Master Association within thirty (30) days after the mailing of the notice of the Emergency Assessment or within such extended period as the Board shall determine to be appropriate under the circumstances giving rise to the Emergency Assessment.

4.6. Purpose and Reasonableness of Assessments. Each Assessment made in accordance with the provisions of this Master Declaration is hereby declared and agreed to be for use exclusively: (a) to promote the recreation, health, safety and welfare of individuals residing within Lincoln Crossing; (b) to promote the enjoyment and use of Lincoln Crossing by the Owners and their families, tenants, invitees, licensees, guests and employees; (c) to provide for the repair, maintenance, improvement, replacement and protection of the Common Area and the Separate Interests; and (d) for the payment of amounts due with respect to the Club, telecommunications services and such other purposes as set forth in this Master Declaration and the Bylaws. Furthermore, the assessments collected for payment of Club Charges shall be applied exclusively to that purpose, and the portion of assessments levied to pay the costs related to Cost Center(s) shall be used exclusively for the purposes for which they were levied.

Each and every Assessment levied hereunder is further declared and agreed to be a reasonable Assessment, and to constitute a separate, distinct and personal obligation of the Owner of the Separate Interest against which the Assessment is imposed that shall be binding on the Owner's heirs, successors and assigns; provided, however, that the personal obligation of each Owner for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them. Subject to the limitations imposed by Section 4.04, above, limiting the right of the Master Association to impose a lien as a remedy for collecting most Special Individual Assessments, the Master Association shall also be entitled to collect delinquent Assessments through lien and foreclosure, as more particularly provided in Section 4.10, below.

4.7. Exemption of Certain Property Within Lincoln Crossing From Assessments. The following real property subject to this Master Declaration shall, unless devoted to the use as a residential dwelling, be exempt from the Assessments and the lien thereof provided herein:

- (a) Any portion of Lincoln Crossing dedicated and accepted by a local public authority;
- (b) The Common Area and Common Facilities; and
- (c) Any Separate Interest owned by the Master Association.

4.8. Notice and Procedure for Member Approval Pursuant to Sections 4.02 and 4.03, Above. In the event that Member approval is required in connection with any increase or imposition of Assessments pursuant to Sections 4.02 and 4.03, above, the affirmative vote required to approve the increase shall be a Majority of a Quorum of the Members who are or may be liable for payment of the Assessment, as provided below. The quorum required for such membership action shall be a majority of the Members, and the required affirmative vote shall be at least (i) in the case of an increase in the General Assessment Component, a majority of the total Membership of the Master Association; and (ii) in the case of an increase in a Cost Center Assessment Component, a majority of the Members owning Separate Interests within the Cost Center that is subject to the increased Cost Center Assessment Component.

4.9. Maintenance of Assessment Funds.

(a) Bank Accounts. All sums received or collected by the Master Association from Assessments, together with any interest or late charges thereon, shall be promptly deposited in one or more insured checking, savings or money market accounts in a bank or savings and loan association selected by the Board of Directors. In addition, the Board shall be entitled to make prudent investment of reserve funds in FDIC insured certificates of deposit, money market funds or similar investments consistent with the investment standards normally observed by trustees. The Board and such officers or agents of the Master Association as the Board shall designate shall have exclusive control of said account(s) and investments and shall be responsible to the Owners for the maintenance at all times of accurate records thereof. The withdrawal of funds from Association accounts shall be subject to the minimum signature requirements imposed by California Civil Code section 1365.5 and Section 12.02 of the Bylaws. Any interest received on deposits shall be credited proportionately to the balances of the various

Assessment fund accounts maintained on the books of the Master Association as provided in subparagraph (c), below.

(b) Expenditure of Assessment Funds. Except as provided below, the proceeds of each Assessment shall be used only for the purpose for which such Assessment was made, and such funds shall be received and held in trust by the Master Association for such purpose. Notwithstanding the foregoing, the Board, in its discretion, may make appropriate adjustments among the various line items in the Board's approved general operating budget if the Board determines that it is prudent and in the best interest of the Master Association and its Members to make such adjustments. If the proceeds of any Special Assessment exceed the requirement of which such Assessment was levied, such surplus may, in the Board's discretion, be: (i) returned proportionately to the contributors thereof; (ii) reallocated among the Master Association's reserve accounts if any such account is, in the Board's opinion, under funded; or (iii) credited proportionately on account of the Owners' future Regular Assessment obligations.

(c) Separate Accounts; Commingling of Funds. To preclude a multiplicity of bank accounts, the proceeds of all Assessments may be commingled in one or more accounts and need not be deposited in separate accounts so long as the separate accounting records described herein are maintained. For purposes of accounting, but without requiring any physical segregation of assets, the Master Association shall keep a separate accounting of all funds received by it in payment of each Assessment and of all disbursements made therefrom; provided, however, that receipts and disbursements of Special Assessments made pursuant to Section 4.03(a)(i), above, shall be accounted for together with the receipts and disbursements of Regular Assessments, and a separate accounting shall be maintained for each capital Improvement for which reserve funds for replacement are allocated.

Unless the Master Association is exempt from federal or state taxes, all sums allocated to capital replacement funds shall be accounted for as contributions to the capital of the Master Association and as trust funds segregated from the regular income of the Master Association or in any other manner authorized by law or regulations of the Internal Revenue Service and the California Franchise Tax Board that will prevent such funds from being taxed as income of the Master Association.

(d) Reserve Funds. As more particularly provided in Article XII of the Master Association Bylaws, the Master Association Board is required by law to periodically identify the major components of Lincoln Crossing that the Master Association is obligated to repair, replace, restore or maintain which, as of the date of the study, have a remaining useful life of thirty (30) years or less. In the capital reserve analysis process, the Board is also obligated to identify the probable remaining useful life of the components identified in the study and to estimate the cost of repair, replacement, restoration, or maintenance of the components during and at the end of their useful life. The information developed in this capital reserve replacement analysis is then to be used by the Board as a component of preparing the annual budget of the Master Association. The Master Association The Board shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components which the Master Association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established. However, the Board may authorize the temporary transfer of

money from a reserve fund to the Master Association's general operating fund to meet short term cash flow requirements or other expenses, provided the Board has made a written finding, recorded in the Board's minutes, explaining the reasons that the transfer is needed, and describing when and how the money will be repaid to the reserve fund.

The transferred funds shall be restored to the reserve fund within one year of the date of the initial transfer, except that the Board may, upon making a finding supported by documentation that a temporary delay would be in the best interests of Lincoln Crossing, temporarily delay the restoration. The Board shall exercise prudent fiscal management in delaying restoration of these funds and in restoring the expended funds to the reserve account, and shall, if necessary, levy a Special Assessment to recover the full amount of the expended funds within the time limits required by this subparagraph (d). This Special Assessment is subject to the Member approval requirements of California Civil Code section 1366 and Section 4.03(b), above, if the aggregate amount of the Special Assessment exceeds five percent (5%) of the budgeted gross expenses of the Master Association for the year in which the Special Assessment is imposed. The Board may, at its discretion, extend the date the payment on the Special Assessment is due. Any extension shall not prevent the Board from pursuing any legal remedy to enforce the collection of an unpaid Special Assessment.

When the decision is made to use reserve funds or to temporarily transfer money from the reserve fund to pay for litigation, the Master Association shall notify the Members of that decision in the next available mailing to all Members pursuant to California Corporations Code section 5016, and of the availability of an accounting of those expenses. The Master Association shall make an accounting of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by Members at the Master Association's principal office.

(e) Limitations on Association's Authority to Assign or Pledge Assessment Obligations. The Master Association may not voluntarily assign or pledge its right to collect payments or Assessments, or to enforce or foreclosure a lien to a third party, except when the assignment or pledge is made to a financial institution or lender chartered or licensed under federal or state law, when acting within the scope of that charter or license, as security for a loan obtained by the Master Association. However, the restrictions imposed by this subparagraph (e) shall not restrict the right or ability of the Master Association to assign any unpaid obligations to a former Member to a third party for purposes of collection.

#### 4.10. Collection of Assessments; Enforcement of Liens.

(a) Delinquent Assessments. Installments of Regular Assessments (including the Club Charge Assessment) shall be delinquent if not paid within fifteen (15) days of the due date as established by the Board. Special Assessments, Special Individual Assessments and Emergency Assessments shall be delinquent if not paid within the times prescribed in Sections 4.03(c), 4.04(b) and 4.05(b), respectively. When an Assessment becomes delinquent, the amount thereof may, at the Board's election, bear interest at the maximum rate allowed by law commencing thirty (30) days after the due date until the same is paid. In addition to the accrual of interest, the Board of Directors is authorized and empowered to promulgate a schedule of reasonable late charges for any delinquent Assessments, subject to the limitations imposed by



California Civil Code sections 1366(c) and 1366.1 or comparable successor statutes. Once an assessment becomes delinquent, the Master Association may elect to one or both of the following remedies:

(b) Enforcement of Personal Obligation. The Master Association may bring a legal action directly against the Owner for breach of the Owner's personal obligation to pay the assessment and in such action shall be entitled to recover the delinquent assessment or assessments, accompanying late charges, interest, costs and reasonable attorneys' fees. Commencement of a legal action shall not constitute a waiver of any lien rights as described in subparagraph (c), below.

(c) Imposition and Enforcement of Assessment Lien; Limitations Thereon. Except as otherwise provided in Section 4.04, above, with respect to the limitation on the imposition of liens for Special Individual Assessments, the Master Association may impose a lien against the Owner's Separate Interest for the amount of the delinquent assessment or assessments, plus any reasonable costs of collection (including reasonable attorneys fees), late charges and interest by taking the following steps:

(i) At least thirty (30) days prior to recording a lien upon the Owner's Separate Interest to collect a delinquent assessment, the Master Association shall notify the Owner in writing by certified mail of the following (the "Pre-Lien Delinquency Notice"):

(A) A general description of the collection and lien enforcement procedures of the Master Association and the method of calculation of the amount, a statement that the Owner of the Separate Interest has the right to inspect the Master Association records, pursuant to section 8333 of the Corporations Code, and the following statement in 14-point boldface type, if printed, or in capital letters, if typed: **"IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION."**

(B) An itemized statement of the charges owed by the Owner, including items on the statement which indicate the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorneys' fees, any late charges, and interest, if any.

(C) A statement that the Owner shall not be liable to pay the charges, interest, and costs of collection, if it is determined the assessment was paid on time to the Master Association.

(D) The right of the notified Owner to request a meeting with the Board as provided in subparagraph (iv), below.

(ii) Any payments made by the Owner toward the delinquent assessment shall first be applied to the assessments owed; and only after the assessments owed are paid in full shall the payments be applied to the fees and the costs of collection, attorneys' fees, late charges or interest. When an Owner makes a payment, the Owner may request a receipt and the Master Association shall provide it. The receipt shall indicate the date of

payment and the Person who received it. The Master Association shall provide its Members with a mailing address for the overnight payment of Assessments.

(iii) An Owner may dispute the amounts claimed as due and owing in the Pre-Lien Delinquency Notice by submitting to the Board a written explanation of the reasons for his or her dispute. If the Owner wishes to submit an explanation, it must be mailed to the Master Association within fifteen (15) days of the postmark of the Pre-Lien Delinquency Notice. The Board shall respond in writing to the Owner within fifteen (15) days of the date of the postmark of the Owner's explanation.

(iv) An Owner may also submit a written request to meet with the Board to discuss a payment plan for the delinquent assessment. This request must also be made within fifteen (15) days of the postmark of the Pre-Lien Delinquency Notice. The Master Association shall provide the Owner with the standards for payment plans, if such standards have been adopted. So long as a timely request for a meeting has been tendered, the Board shall meet with the Owner in executive session within forty-five (45) days of the postmark of the request for a meeting, unless there is no regularly-scheduled Board meeting within that period, in which case the Board may designate a committee of one or more Members to meet with the Owner.

(v) The amount of the Assessment, plus any costs of collection, late charges, and interest assessed in accordance with Civil Code section 1366 shall be a lien on the Owner's Separate Interest from and after the time the Master Association causes to be recorded with the County Recorder a Notice of Delinquent Assessment, which shall state the amount of the Assessment and other sums imposed in accordance with Civil Code section 1366, a legal description of the Owner's Separate Interest against which the Assessment and other sums are levied, the name of the record owner of the Owner's Separate Interest against which the lien is imposed. In order for the lien to be enforced by non-judicial foreclosure as provided in subparagraph (viii), below, the Notice of Delinquent Assessment shall state the name and address of the trustee authorized by the Master Association to enforce the lien by sale. The Notice of Delinquent Assessment shall be signed by any officer of the Master Association or by the person designated by the Master Association for that purpose and mailed in the manner set forth in Civil Code section 2924b to all record owners of the Owner's Separate Interest no later than ten (10) calendar days after recordation. Within twenty-one (21) days of the payment of the sums specified in the Notice of Delinquent Assessment, the Master Association shall record or cause to be recorded in the Office of the County Recorder a lien release or notice of rescission and provide the Owner a copy of the lien release or notice that the delinquent assessment has been satisfied.

(vi) For so long as any Separate Interests within the Development are being sold under authority of a Department of Real Estate Public Report, a Special Individual Assessment or other monetary charge imposed by the Master Association: (A) as a means of reimbursing the Master Association for costs incurred by the Master Association in the repair of damage to Common Area Improvements or landscaping for which the Owner or the Owner's guests or tenants were responsible; or (B) as a disciplinary measure for failure of an Owner to comply with the Governing Documents (except for reasonable late payment penalties, interest, and other reasonable costs of collection authorized by Civil Code section 1366) may not be characterized nor treated as an Assessment that may become a lien against the Owner's Separate

Interest enforceable by the sale of the interest under Civil Code sections 2924, 2924b and 2924c. Once the Master Association is no longer subject to the regulatory jurisdiction of the Department of Real Estate, a Special Individual Assessment or other monetary charge imposed by the Master Association as a means of reimbursing the Master Association for costs incurred in the repair of damage to Common Areas and Common Facilities for which the Owner or the Owner's guests or tenants were responsible may become a lien against the Owner's Separate Interest that is enforceable by sale of the Separate Interest in non-judicial foreclosure pursuant to Civil Code sections 2924, 2924b and 2924c.

(vii) A lien created pursuant to subparagraph (v), above, shall be prior to all other liens recorded against the Owner's Separate Interest subsequent to the Notice of Delinquent Assessment, except as described in Section 4.12, below.

(viii) Subject to the limitations of this Section 4.10(c), after the expiration of thirty (30) days following the recording of a Notice of Delinquent Assessment, the lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to Civil Code section 2934a. Any sale by the trustee shall be conducted in accordance with Civil Code sections 2924, 2924b and 2924c applicable to the exercise of powers of sale in mortgages and deeds of trusts. The fees of a trustee may not exceed the amounts prescribed in Civil Code sections 2924c and 2924d.

(ix) If it is determined that a lien previously recorded against a Separate Interest was recorded in error, the party who recorded the lien, within twenty-one (21) calendar days, shall record or cause to be recorded in the Office of the County a lien release or notice of rescission and provide the Owner with a declaration that the lien filing or recording was in error and a copy of the lien release or notice of rescission.

(x) If the Master Association fails to comply with the procedures set forth in this Section 4.10(c) prior to recording a lien, the Master Association shall recommence the required notice process. Any costs associated with recommencing the notice process shall be borne by the Master Association and not by the Owner.

The provisions of this Section 4.10(c) are intended to comply with the requirements of Civil Code section 1367.1 in effect as of January 1, 2003. If these sections are amended or modified in any manner, the provisions of this Section 4.10(c) automatically shall be amended or modified in the same manner. Civil Code section 1367.1 may have been amended by the State Legislature, and the Board should confirm the current statutory requirements.

4.11. Transfer of Separate Interest by Sale or Foreclosure. The following rules shall govern the right of the Master Association to enforce its Assessment collection remedies following the sale or foreclosure of a Separate Interest:

(a) Except as provided in subparagraph (b), below, the sale or transfer of any Separate Interest shall not affect any Assessment lien which has been duly Recorded against the Separate Interest prior to the sale or transfer, and the Master Association can continue to foreclose its lien in spite of the change in ownership.

(b) The Master Association's Assessment lien shall be extinguished as to all delinquent sums, late charges, interest and costs of collection incurred prior to the sale or transfer of a Separate Interest pursuant to a foreclosure or exercise of a power of sale by the holder of a prior encumbrance (but not pursuant to a deed in lieu of foreclosure). A "prior encumbrance" means any first Mortgage or other Mortgage or lien Recorded against the Separate Interest at any time prior to Recordation of the Master Association's Assessment lien (see Section 4.12, below).

(c) No sale or transfer of a Separate Interest as the result of foreclosure, exercise of a power of sale, or otherwise, shall relieve the new Owner of such Separate Interest (whether it be the former beneficiary of the first Mortgage or other prior encumbrance or a third party acquiring an interest in the Separate Interest) from liability for any Assessments which thereafter become due with respect to the Separate Interest or from the lien thereof.

(d) Any Assessments, late charges, interest and associated costs of collection which are lost as a result of a sale or transfer of a Separate Interest covered by subparagraph (b), above, shall be deemed to be a Common Expense of the Master Association collectible from the Owners of all of the Separate Interests, including the person who acquires the Separate Interest and his or her successors and assigns.

(e) No sale or transfer of a Separate Interest as the result of foreclosure, exercise of a power of sale, or otherwise, shall affect the Master Association's right to maintain an action against the foreclosed previous Owner personally to collect the delinquent Assessments, late charges, interest and associated costs of collection incurred prior to and/or in connection with the sale or transfer.

**4.12. Priority of Master Association Assessment Liens.** When a Notice of Delinquent Assessment has been Recorded, such notice shall constitute a lien on the Separate Interest prior and superior to all other liens except: (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto; and (b) the lien or charge of any first Mortgage of record (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value; provided, however, that such subordination shall apply only to the Assessments which have become due and payable prior to the transfer of such property pursuant to the exercise of a power of sale or a judicial foreclosure involving a default under such first Mortgage or other prior encumbrance.

**4.13. Unallocated Taxes.** In the event that any taxes are assessed against the Common Area, or the personal property of the Master Association, rather than being assessed to the Separate Interests, such taxes shall be included in the Regular Assessments imposed pursuant to Section 4.02, above, and, if necessary, a Special Assessment may be levied against the Separate Interests pursuant to Section 4.03, above, in an amount equal to such taxes to be paid in two installments, thirty (30) days prior to the due date of each tax installment.

**ARTICLE 5.**  
**ARCHITECTURAL APPROVAL OF IMPROVEMENT PROJECTS**

5.1. Establishment of Architectural Committee. The Declarant shall establish an Architectural Review Committee consisting of not less than three (3) nor more than five (5) persons.

5.2. Purpose of Architectural Review.

(a) Requirement of Architectural Review and Approval, Generally. The purpose of the Architectural Review Committee is to review all proposed additions of or alterations to Improvements, as defined in Section 1.28, above, (including, without limitation, landscaping) on developed Separate Interests and other areas of Lincoln Crossing after the Declarant or Merchant Builder has completed construction of the original Improvements thereon, to determine whether such additions are consistent with the provisions of this Master Declaration, the Rules and Regulations and the Design Guidelines and are otherwise beneficial to the enhancement of Lincoln Crossing. The Architectural Review Committee's scope of authority shall include: (a) approval of the Lot landscape plans, requests for new construction (other than the original construction as set forth above) or alterations to existing structures; (b) proposing amendments to the Design Guidelines for consideration and possible adoption by the Declarant or the Board in accordance with Section 5.08, below.

(b) Declarant and Merchant Builder Exemption. The Architectural Review Committee shall have no authority, power or jurisdiction over Separate Interests or Parcels within Lincoln Crossing owned by Declarant or by any Merchant Builder whose plans have been approved by the Declarant until such time as Declarant or an approved Merchant Builder conveys title to the Separate Interests or Parcels to a purchaser or other transferee. This exemption is not intended to apply to any design or improvement requirements or standards imposed on Separate Interest and/or common area improvements by the City of Lincoln.

(c) Modifications to Approved Plans Must Also Be Approved. Once a proposed Improvement has been duly approved by the Architectural Review Committee, no material modifications shall be made in the approved plans and specifications therefore and no subsequent alteration, relocation, addition or modification shall be made to the Improvement, as approved, without a separate submittal to, and review and approval by, the Committee. If the proposed modification will have, or is likely to have, a material affect on other aspects or components of the work, the Committee, in its discretion, may order the Owner and his or her contractors and agents to cease working not only on the modified component of the Improvement, but also on any other affected component.

In the event that it comes to the knowledge and attention of the Master Association, its Architectural Review Committee, or the agents or employees of either that an Improvement, or any modification thereof, is proceeding without proper approval, the Master Association shall be entitled to exercise the enforcement remedies specified in Section 5.12, below, including, without limitation, ordering an immediate cessation and abatement of all aspects of the Improvement by posting a stop work order or "red tag" at the site of the project until such time as proper Architectural Review Committee review and approval is obtained.

5.3. Composition of the Architectural Review Committee.

(a) Composition of the Committee, Generally. The composition of the Committee will evolve during the development of the Overall Development, as follows:

(i) The Declarant may appoint all of the members of the Architectural Review Committee and all replacements until the first anniversary of the issuance of the first Public Report.

(ii) Beginning with the first anniversary of the issuance of the first Public Report, the Declarant may appoint a majority of the members of the Architectural Review Committee. The remaining members of the Architectural Review Committee shall be appointed by members of the Master Association Board who are not holding office as a Declarant's representative.

(iii) At the earlier to occur of: (A) the closing of ninety percent (90%) of the Separate Interests planned for the Overall Development; or (B) the tenth (10th) anniversary of the original issuance of the original Public Report for the first Phase, the Committee shall become a committee of the Master Association and thereafter all members of the Committee shall be appointed by the Board of Directors of the Master Association.

(b) Qualifications for Appointment. The appointees of the Declarant need not be Owners or Residents of Lincoln Crossing and do not need to possess any special qualifications of any type, except such as the Declarant may, in its discretion, require. All persons appointed to the Architectural Review Committee by the Board must be Members of the Master Association and Residents of Lincoln Crossing.

(c) Terms of Office of Committee Members. With the exception of those Architectural Review Committee members appointed by the Declarant and unless the Master Association implements a system of staggered terms for Committee members, all members of the Architectural Review Committee shall serve for one year terms, subject to the right of the Board to reappoint incumbent Committee members to consecutive terms of office. During the period when the Declarant has the authority to appoint a majority of the members of the Committee, the Declarant shall appoint one Committee person as chair. Thereafter, the Committee members shall appoint one Committee member as chairperson. All members shall serve until the expiration of the term for which they were appointed or until they resign or are replaced.

(d) No Compensation for Services; Reimbursement of Expenses. Neither the members of the Architectural Review Committee nor its designated representatives shall be entitled to any compensation for services performed pursuant hereto. The Committee members shall be entitled to reimbursement for reasonable out-of-pocket expenses incurred by them in the performance of any Architectural Review Committee functions. Requests for reimbursement shall be supported by adequate documentation and shall be submitted to, and approved by, the Board of Directors. Nothing herein shall limit the right of the Master Association or the Declarant from retaining the services of a person or persons as employees or independent contractors (including an architect and/or engineer) with responsibility for assisting the Committee in such matters as: (i) the day-to-day administration of the process of architectural

review and approval, (ii) the intake and review of plans and specifications, (iii) communications with plan applicants, (iv) making recommendations to the Committee with respect to the approval, denial or modification of submitted plans and specifications, and (v) communications with Owners and contractors during the course of construction.

5.4. Architectural Review Committee Procedures. The procedures governing the operation of the Architectural Review Committee, including the right of an Owner or Resident to appeal a decision to the Board, shall be described in the Design Guidelines (see Section 5.08, below). The Committee shall not be obligated to begin its review of a proposal until a complete application is submitted. Any application for approval of swimming pools and other structural improvements must include grading and drainage plans and specifications and plans for structural improvements must show four (4) elevations. Finally, approval from the Architectural Review Committee must be obtained by an Owner prior the Owner's submission of the same Improvement project to the City of Lincoln for a building permit or other governmental approvals.

5.5. Prior Approval for Construction or Alterations. With the exception of structures designed and/or constructed by the Declarant or a Merchant Builder, prior written approval by the Architectural Review Committee shall be required of all new construction in Lincoln Crossing. In addition, no alteration to an existing Separate Interest or other structure previously approved by the Architectural Review Committee shall be constructed and no alteration of the established drainage or grading shall be made unless complete plans and specifications have been first submitted to and approved in writing by the Architectural Review Committee. All such changes, improvements and alterations should conform to and harmonize with the existing surroundings, Residences, landscaping and structures.

5.6. Basis for Approval of Improvements. When a proposed Improvement is submitted to the Architectural Review Committee for review by any Owner (other than the Declarant or a Merchant Builder) the Committee shall grant the requested approval only if the Committee, in its sole discretion, makes the following findings regarding the proposed project:

- (a) The Owner's plans and specifications conform to this Master Declaration and to the Design Guidelines in effect at the time such plans are submitted to the Committee;
- (b) The Improvement will be in harmony with the exterior design of other structures and/or landscaping within Lincoln Crossing;
- (c) The Improvement, as a result of its appearance, location or anticipated use, will not interfere with the reasonable enjoyment of any other Owner of his or her Separate Interest; and
- (d) The proposed Improvement(s), if approved, will otherwise be consistent with the architectural and aesthetic standards prevailing within Lincoln Crossing and with the overall plan and scheme of development within Lincoln Crossing.

While it is recognized that the Architectural Review Committee's determination will, of necessity, be subjective to some degree, the members of the Committee shall act reasonably and in good faith and shall consider such factors as the quality of workmanship and materials

proposed for the Improvement project, the harmony of its exterior design, finished materials and color with that of other existing structures, and the proposed location of the Improvement in relation to the existing topography, finished grade elevations, roads, Common Areas and other existing structures.

The approval by the Architectural Review Committee of any plans, drawings or specifications for any work of Improvement done or proposed, or for any other matter requiring the approval of the Architectural Review Committee under this Master Declaration, or any waiver thereof, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval by the same or some other Owner. Factors which may cause the Committee to reject a proposal previously approved at another site within Lincoln Crossing include (but are not limited to): (i) poor drainage, (ii) unique topography on the proposed site, (iii) visibility from roads, Common Areas or neighboring Separate Interests or Parcels, (iv) proximity to other Residences or Common Facilities, (v) changes in the Design Guidelines, and/or (vi) prior adverse experience with the proposed Improvement or disapproved component(s) or design thereof. Accordingly, the Committee shall be entitled to determine that a proposed Improvement or component thereof is unacceptable when proposed on a particular Separate Interest, even if the same or a similar Improvement/component has previously been approved for use at another location if factors such as drainage, topography, noise or visibility from roads, Common Areas or other Separate Interests or prior adverse experience with the product, the design or with similar Improvements mitigate against erection of the Improvement or use of a particular component thereof on the Separate Interest involved in the Owner's submittal.

In approving a request for construction of an Improvement, the Architectural Review Committee may condition approval upon the adoption of modifications in the plans and specifications or observance of restrictions as to location, noise abatement or similar mitigating conditions.

5.7. Time Limits for Approval or Rejection. Within thirty (30) days after submission of Improvement plans and specifications satisfying the requirements of the Design Guidelines, the Architectural Review Committee shall return one set of such plans to the applicant, with either written notice of approval or disapproval or with written suggestions of changes required or recommended for approval. If written suggestions of changes required for approval accompany the returned set of plans, the applicant may implement such changes to the plans and resubmit plans incorporating such changes for approval to the Committee within such time as the parties may agree. So long as the resubmitted plans comply in all material respects with the requested changes, the plans shall be deemed approved without further action of the Committee (other than a review by the Committee to confirm that the requested changes have been properly made). Otherwise the Committee shall have thirty (30) days to review any resubmitted plans. If no written notice of approval or disapproval is received by the applicant within thirty (30) days after the Owner's plans and specifications (or revisions thereto) are submitted to the Committee, the plans shall be deemed to have been approved as submitted.

5.8. Design Guidelines. In addition to the minimum construction standards and architectural review and approval procedures contained herein, Design Guidelines can be adopted to interpret and implement the provisions of this Article 5 and Article 6 (minimum



construction standards) provided that they are consistent with the Lincoln Crossing General Development Standards adopted by City of Lincoln Ordinance No. 702B. Until such time as the Architectural Review Committee is a committee of the Master Association (see Section 5.03(a)(iii), above) the adoption, amendment and repeal of Design Guidelines shall be in the sole and absolute discretion of the Declarant. Once the Committee is appointed solely by the Board, the Board, upon recommendation from the Architectural Review Committee may, from time to time, adopt, amend and repeal the Design Guidelines. The Design Guidelines may include and address such matters as the following:

(a) Review Procedures. The procedures for Architectural Review Committee review and approval of Owner submittals of proposed Improvement projects (including, without limitation, minimum requirements for plans, specifications and other requirements for submitting a complete application for project approval).

(b) Guidelines for Particular Projects or Approved Colors. Guidelines for the construction of Improvements, including, without limitation, architectural design, placement on Separate Interests, color schemes, exterior finishes and materials, pre-approved plans and specifications for commonly recurring minor projects such as trash enclosures, yard landscaping and fencing improvements. Guidelines can also address other features of typical improvement projects which are recommended or required for use. Without limitation, such Guidelines may include charts of approved colors.

(c) Identification of Projects Eligible for Expedited Review. The Guidelines can identify categories of Improvement projects or components of the plan review and approval process which can be administered by the Master Association staff or other designee of the Committee without the need for direct involvement by the Committee in order to expedite the processing of applications for approval. In the event that the Committee determines that certain project approvals or plan processing requirements can appropriately be administered by the Master Association staff or other Committee designee, such delegation and the scope thereof shall be specified in the Guidelines.

(d) Variations Procedures. The criteria and procedures for requesting variances from any property use restrictions or minimum construction standards that would otherwise apply to the proposed Improvement under the Governing Documents (see Section 5.13, below).

(e) Construction Site Maintenance. Minimum requirements for the maintenance, supervision and restoration of construction sites by Owners and their contractors. Without limiting the foregoing, the Guidelines may specifically regulate the activities of contractors and subcontractors (including, without limitation, hours of permitted construction activity), who shall be deemed to be the Owner's agents for purposes of rules enforcement and compliance matters.

(f) Landscape Requirements; Site Restoration. Minimum requirements for the landscaping of areas of the Separate Interest that are disturbed by construction activity, which require particular landscape Improvements or which encourage minimal use of landscape

irrigation in order to control drainage, limit runoff, avoid erosion and/or risk to native oaks, to otherwise enhance the appearance of the Separate Interest.

(g) Fees. Any requirements for the payment of inspection/plan processing fees and deposits to the Committee to assure the Owner's/contractor's proper and timely performance in accordance with the approved plans and specifications and the application, use and/or refund of such fees and deposits.

(h) Time for Completion of Projects. Uniform and reasonable time limitations for completion of approved Improvement projects or other duly noted compliance matters. Said rules may also include procedures to request an extension of the usual completion time in order to avoid hardship or to accommodate other factors beyond the Owner's reasonable control which have interrupted the progress of the Improvement project.

It is anticipated that different Design Guidelines may be adopted for each Phase provided that they are consistent with the Lincoln Crossing General Development Standards adopted by City of Lincoln Ordinance No. 702B, and that even within a single Phase, Design Guidelines may impose different conditions upon various Separate Interests or Parcels in light of Separate Interest topography, visibility or other factors. Design Guidelines shall be effective when they are adopted by the Committee; provided, however, that if Guidelines are proposed for a Phase or a townhouse or Condominium Project for which architectural review will be performed by an Architectural Review Committee, the Guidelines shall also be approved by the Declarant. Notwithstanding the foregoing, the Design Guidelines shall implement the provisions of this Master Declaration in a reasonable, uniform and nondiscriminatory manner and no Design Guideline shall be in derogation of the minimum standards required by this Master Declaration. In the event of any conflict between the Design Guidelines and this Master Declaration, the provisions of the Master Declaration shall prevail.

5.9. Fees for Plan Review; Deposits. As stated above, the Design Guidelines may include a reasonable processing fee to defray the costs of the Master Association in considering any requests for approvals submitted to it, which fee shall be paid at the time the request for approval is submitted. Requirements for reasonable deposits to assure the completion of Improvements in accordance with approved plans may also be required. Upon proper completion of Improvements in accordance with approved plans, any deposits shall be refunded to the Owner or other person who tendered the deposit without interest. Whether a project has been properly completed shall be a determination within the reasonable discretion of the Committee.

5.10. Proceeding With Work. Upon receipt of approval from the Architectural Review Committee, an Owner shall, as soon as practicable, satisfy all conditions thereof and diligently proceed with the commencement of construction and erection of the Improvement pursuant to said approval, said commencement to be, in all cases, within six (6) months from the date of such approval, and the project shall be diligently pursued to completion and shall be completed within one year following the commencement date unless additional time is granted at the time that the Owner's Improvement project is approved. If the Owner shall fail to comply with this section, any approval given pursuant to this article, shall be deemed revoked unless the Architectural Review Committee, upon written request of the Owner made prior to the expiration of the initial

six month period, extends the time for commencement or completion. No such extension shall be granted except upon a finding by the Architectural Review Committee that there has been no change in the circumstances upon which the original approval was granted and that the Owner has a bona fide intention and ability to complete the project within the time specified in the extension request.

5.11. Failure to Complete Work. Unless the Owner has been granted an extension of time to complete an approved Improvement project by the Architectural Review Committee, construction, reconstruction, refinishing or alteration of any Improvement project on an individual Separate Interest must be complete within one year after construction has commenced, except and for so long as such completion is rendered impossible or would result in great hardship to the Owner because of strikes, fires, national emergencies, natural calamities or other supervening forces beyond the control of the Owner or his or her agents. In the case of building Improvements, the requirements of this section shall be deemed to have been met if, within the one year construction period, the Owner has completed construction of the building's foundation and all exterior surfaces (including the roof, exterior walls, windows and doors).

If the Owner fails to comply with this section, the Architectural Review Committee shall notify the Board of such failure, and the Board shall proceed in accordance with the provisions of Section 5.12, below, as though the failure to complete the Improvement was a noncompliance with approved plans.

5.12. Enforcement of Architectural Review Requirements.

(a) Stop Work Orders. In addition to other enforcement remedies set forth in this Master Declaration, the Architectural Review Committee shall have the authority to order an abatement ("red tag") of any construction, alteration or other matter for which approval is required, to the extent that it has not been approved by the Committee or if it does not conform to the plans and specifications submitted to and approved by the Committee. If an Improvement project is red tagged, the Owner and his or her contractor shall cease all construction activity until such time as the issue giving rise to the red tag order is resolved. The red tag notice shall clearly state the reasons why the abatement has been ordered.

(b) No Waiver. No work for which approval is required shall be deemed to be approved simply because it has been completed without a complaint, notice of violation, or commencement of a suit to enjoin such work.

(c) Effect of Failure to Remedy Noncompliance. If the Owner fails to remedy any noticed noncompliance within thirty (30) days from the date of such notification, or if the Owner feels that the Improvement project has been red tagged without justification, the Committee shall notify the Board in writing of such failure. The Board shall then set a date on which a hearing before the Board shall be held regarding the alleged noncompliance. The hearing shall be conducted in accordance with Section 13.06, below.

(d) Attorneys' Fees and Costs. If any legal proceeding is initiated to enforce any of the provisions hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to the costs of such proceeding.

5.13. Variances. The Architectural Review Committee, in its sole discretion, shall be entitled to allow reasonable variances in any procedures specified in this Article or any minimum construction standards specified in Article 6, below, to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardships. Any grant of a variance shall be supported by a resolution of the Committee containing findings as to why the variance is justified under the circumstances presented. The Committee's resolution may also contain conditions which the applicant must honor if the variance is to remain in effect. The Design Guidelines may contain additional procedures and/or criteria relating to requests for approval of variances.

5.14. Compliance Certificate. Within thirty (30) days after written demand is delivered to the Architectural Review Committee by any Owner, the Architectural Review Committee shall provide the requesting Owner with a certificate, executed by any two of its members, certifying (with respect to any Separate Interest owned by the applicant Owner) that as of the date thereof, either: (a) all Improvements made and other work completed by said Owner comply with this Master Declaration; or (b) such Improvements or work do not so comply, in which event the certificate shall also identify the noncomplying Improvements or work and set forth with particularity the basis of such noncompliance. Any purchaser from the Owner, or from anyone deriving any interest in said Separate Interest through the Owner, shall be entitled to rely on the Committee's compliance certificate with respect to the matters therein set forth, such matters being conclusive as between the Master Association, the Committee, the Declarant, all Owners and any persons deriving any interest through them. The authority to issue Compliance Certificates can be delegated by the Committee to the Master Association's general manager or other authorized representative.

5.15. Non-liability for Approval of Plans. Architectural Review Committee approval of plans shall not constitute a representation, warranty or guarantee, whether expressed or implied, that such plans and specifications comply with good engineering design or with zoning or building ordinances, or other governmental regulations or restrictions. By approving such plans and specifications, neither the Architectural Review Committee, the members thereof, the Master Association, any Member thereof, the Members of the Board nor Declarant assumes any liability or responsibility therefore, or for any defect in the structure constructed from such plans or specifications. Neither the Architectural Review Committee, any member thereof, the Master Association, the Board nor Declarant shall be liable to any Member, Owner, occupant, or other person or entity for any damage, loss, or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; or (b) the construction or performance of any work, whether or not pursuant to the approved plans, drawings, and specifications.

5.16. Compliance With Governmental Regulations. Review and approval by the Architectural Review Committee of any proposals, plans or other submittals pertaining to Improvements shall in no way be deemed to constitute satisfaction of, or compliance with, any building permit process or any other governmental requirements, the responsibility for which shall lie solely with the Separate Interest Owner who desires to construct, install, or modify the Improvement.

5.17. Master Association Funding for Architectural Review Costs. It is anticipated that the Architectural Review Committee will require secretarial and administrative assistance, and that the Committee will incur out of pocket expenses in the performance of its responsibilities. The initial budget of the Master Association, submitted to and reviewed by the Department of Real Estate, contains projections of such costs. The Master Association shall provide the Committee with reasonably required secretarial and administrative assistance, or, at the option of the Board, shall reimburse the Committee therefore, and shall reimburse the Committee for out of pocket expenses incurred by the Committee in the performance of its responsibilities. The Committee shall remit to the Master Association all plan review and/or site inspection fees, if any, collected by the Committee.

#### ARTICLE 6. MINIMUM CONSTRUCTION AND IMPROVEMENT REQUIREMENTS

Unless a variance is requested from, and granted by, the Architectural Review Committee in accordance with Section 5.13, above, Improvements constructed on any Separate Interest shall conform to the following minimum construction standards:

6.1. Installation of Landscape Improvements. An Owner shall, within ninety (90) days after the closing of the purchase of his/her Lot, substantially complete all landscaping of his/her Separate Interest not otherwise installed by the Declarant or a Merchant Builder. The Architectural Review Committee may allow extensions of such period to account for weather conditions and seasonal constraints on landscape installation. In the event an Owner does not complete his/her landscaping within such ninety (90) day period (or in the event an extension is granted, prior to the expiration of such extension period), the Master Association shall be authorized to install landscaping (under a standard plan if the Owner has not obtained approval of a plan or if landscaping under the approved plan would be more costly) and charge such costs to Owner as Special Individual Assessment. The Design Guidelines can also impose limitations on the height of trees and other landscaping installed by Owners in yard areas, so as to avoid excessive shade, limb overhang, and other interferences with the quiet enjoyment by neighbors of their property.

6.2. Utility Installations. No lines, wires or cables for the communication or transmission of electrical current or power, including telephone, television, data transmissions, and radio signals, shall be erected, placed or maintained anywhere in or upon any Separate Interest unless the same shall be contained in underground conduits (including cable drawn through a conduit or pre-manufactured cable in duct) or cable concealed in, under or on buildings, cabinets or other structures initially approved by Declarant, or subsequently approved by the Architectural Review Committee. No provision of this Master Declaration shall be deemed to forbid the erection of temporary power or telephone structures incident to the construction of buildings or structures by the Declarant or any Merchant Builder or buildings and structures approved by the Architectural Review Committee.

6.3. Swimming Pools. In the event an Owner constructs a swimming pool, spa, pond, or other man-made body of water on the Separate Interest, such Owner must comply with any local ordinances governing the construction of fences or other pool enclosures and obtain Architectural Review Committee approval. The Architectural Review Committee shall review

the location and screening of pool cleaning pumps and apparatus. In areas without solid walls or fencing in rear yards of Separate Interests, pool equipment shall be screened with either landscaping or approved screening material if the equipment is Visible From Neighboring Property . Screening material shall not extend more than six inches (6") above the top of the equipment.

Reasonable efforts shall be made to locate pool equipment on a Separate Interest so as to minimize adverse noise impacts on neighboring Owners or residents, however, other factors such as the need to locate the equipment in reasonable proximity to the pool can also be considered. It is recognized that all pool and spa equipment produces some noise, as does use of the pool by residents and guests. Accordingly, noise associated with the use or operation of a swimming pool is not a basis, in and of itself, for denying approval to a pool improvement project. The Architectural Review Committee may grant waivers of the wall height requirements to the limited extent necessary to comply with minimum legal requirements for pool fence enclosures under applicable law.

6.4. Oak Trees. Some Separate Interests may have native oak trees or oak trees planted on or transplanted to the Separate Interest in conjunction with the initial construction activities of the Declarant or a Merchant Builder. Each Owner shall abide by the applicable tree preservation ordinances of the City of Lincoln as amended from time to time and by such specific landscaping restrictions as may be adopted by the Master Association which conform to such ordinances to protect oak trees. Such provisions may include, but shall not be limited to, provisions governing the type of landscaping around oak trees, provisions for minimum required maintenance of oak trees, provisions limiting landscape irrigation in the vicinity of oak trees and provisions restricting the removal of oak trees.

6.5. No Guarantee of Continued Views. Neither the Declarant, any Merchant Builder, the Master Association, the Architectural Review Committee, nor any Owner shall have any responsibility to create or preserve any view in any direction from any Separate Interest. Each Owner has acquired his or her Separate Interest subject to the possibility that the view from such Separate Interest existing at the time of purchase from the Declarant or a Merchant Builder may be altered by the acts or failure to act of other Owners in Lincoln Crossing, governmental or quasi-governmental agencies, action and Improvement projects undertaken by the Declarant or a Merchant Builder, or actions or Improvement projects undertaken by other Owners, including, but not limited to, Improvements or landscaping which may be constructed or installed on other Separate Interests or parcels in Lincoln Crossing or in any park site or Common Area of Lincoln Crossing.

6.6. Solar Heating Systems. Subject to limitations imposed by California law, the Architectural Review Committee shall be entitled to adopt, as part of the Design Guidelines, reasonable regulations regarding the installation of solar heating systems. These rules may include limitations on placement and design of such systems to the extent necessary to avoid an unsightly appearance from neighboring Separate Interests or Common Area.

6.7. Exterior Lighting and Fixtures. Fluorescent, mercury vapor, sodium, or amber vapor lights, or standards outdoor lights of the type used for security must be enclosed in a manner that directs the light in a specific area without causing a visual impairment to passing

motorist or a nuisance to neighboring Residences. The issue of whether a nuisance exists shall be determined by the Architectural Review Committee in its sole discretion.

6.8. Antennas, Aerials and Satellite Dishes. No person may install on the exterior of any Residence or in a yard any antenna or over-the-air receiving device except for an "Authorized Antenna." An Authorized Antenna is (i) an antenna designed to receive direct broadcast satellite service, including direct-to-home satellite service, that is one meter or less in diameter, or (ii) an antenna designed to receive video programming service, including multi-channel multipoint distribution service, instructional television fixed service, and local multipoint distribution service, and is one meter or less in diameter or diagonal measurement, (iii) an antenna designed to receive television broadcast signals, or (iv) an antenna used to receive and transmit fixed wireless signals. An Authorized Antenna may be mounted on a mast to reach the height needed to receive an acceptable quality signal, subject to local government agency permitting requirements for safety purposes.

6.9. No Interference with Drainage. There shall be no interference with the rain gutters, down spouts, or drainage systems originally installed by Declarant or a Merchant Builder, or any other interference with the established drainage pattern over any Separate Interest or Common Areas, unless an adequate alternative provision is made for proper drainage and the project is approved by the Architectural Review Committee. Any submittal for initial Improvements on a Lot or for additional Improvements which may affect drainage, shall include a drainage plan. Drainage plans shall conform to all applicable State laws and local ordinances pertaining to drainage. For purposes of this Section 6.09, "established" drainage is defined as the drainage pattern and drainage Improvements which exist at the time the Separate Interest or Parcel is conveyed to an Owner by the Declarant or a Merchant Builder. There shall be no violation of the drainage requirements of the City of Lincoln, notwithstanding any approval of the Architectural Review Committee, and if any Owner (other than the Declarant or a Merchant Builder) or his or her contractor alters established drainage courses to the detriment of neighboring Owners, neither the Master Association nor the Architectural Review Committee shall have any liability therefore. Instead, the responsibility to initiate appropriate corrective or remedial action and to properly engineer any alterations in established drainage courses will rest solely with the Owner who has altered the drainage course.

6.10. Patio Enclosures and Other Projects Involving Structures in Rear Yards. No non-enclosed structures such as gazebos, patio improvements or screening material shall be placed, assembled, constructed or otherwise maintained on any Separate Interest except as may be approved by the Architectural Review Committee. If a patio enclosure or structural project in a patio area or expansion of the patio surface, as constructed by the Declarant or any Merchant Builder, is sought by an Owner, notification shall be given by the Committee to the immediately adjacent Owners, however the decision of whether to approve or deny the project shall remain in the sole discretion of the Committee. The Design Guidelines may provide for a streamlined architectural review approval process if certain architectural review parameters are met for certain types of non-enclosed structures.

ARTICLE 7.  
MASTER ASSOCIATION AND OWNER MAINTENANCE RESPONSIBILITIES

7.1. Master Association Maintenance Responsibilities.

(a) Master Association Common Area Maintenance Obligations. Generally, The Master Association shall be solely responsible for all maintenance, repair, upkeep and replacement within the Common Area. No person other than the Master Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any Improvement upon, or shall create any excavation or fill or change the natural or existing drainage of any portion of the Common Area. In addition, no person shall remove any tree, shrub or other vegetation from, or plant any tree, shrub, or other vegetation upon the Common Area without express approval of the Master Association.

The Board shall manage the Common Areas in a manner consistent with the Design Guidelines and use a reasonably high standard of care in providing for the repair, management and maintenance of the Common Area so that Lincoln Crossing will reflect and maintain a high pride of ownership. The Board shall be the sole judge as to the appropriate maintenance of all Common Areas and other properties maintained by the Master Association.

Notwithstanding the foregoing, the Master Association shall have no responsibility to provide the services referred to in this subparagraph (a) to: (i) any Improvement which is accepted for maintenance by any state, local or municipal governmental agency or entity, (ii) any Sub-Association common area (but the Master Association shall have the right to enforce the maintenance thereof by such Sub-Association, as provided in Section 7.03(c), below), or (iii) the exposed surface of any Common Area fence which immediately adjoins and faces any Separate Interest, regardless of whether such fence is located on the common property line separating the Common Area from the Separate Interest or wholly or partially within the Common Areas immediately adjacent to such common property line. Such responsibility shall be that of the applicable agency, entity, Owner or Sub-Association.

(b) Commencement of Maintenance of Common Areas. Notwithstanding any conveyance of Common Areas to the Master Association, the Master Association's responsibility to maintain the Common Areas located in any Phase shall not begin until the later of the following events: (i) inspection and approval of such Common Areas by the Master Association, not to be unreasonably withheld or delayed, or (ii) commencement of Regular Assessments in such Phase; except that, if such Phase consists of only Common Area, subdivision (ii) shall be inapplicable. Prior to the commencement of the Master Association's maintenance responsibility, such maintenance shall be the responsibility of the Declarant or the Merchant Builder who has acquired the Phase which includes the Common Area from the Declarant for purposes of development and resale.

(c) Additional Maintenance/Repair Responsibilities Imposed by Supplemental Declarations or Declarations of Annexation. Supplemental Declarations and/or Declarations of Annexation may provide for additional Common Areas to be owned and maintained or simply maintained by the Master Association. In such cases, the Master Association shall accept and/or maintain the Common Areas described and provided for therein. The Master Association shall



maintain front yards of Separate Interests if so provided by any Supplemental Declaration or by any maintenance agreement between the Master Association and a Sub-Master Association. In the event that maintenance obligations or other services are performed by the Master Association which do not benefit all Separate Interests within Lincoln Crossing, a Cost Center shall be established for those obligations or services pursuant to Sections 4.01(f) and 4.02(b)(ii), above.

(d) Maintenance of Preserve Areas. The areas identified in Exhibit "D" shall be dedicated in fee to the City of Lincoln (the "Preserve Manager") as permanent public open space area or nature preserve areas (the "Preserve Areas"). The Preserve Areas shall be permanently maintained by the City of Lincoln, except that the maintenance of any protective fencing or walls installed by the Declarant or a Merchant Builder adjacent to any Preserve Area shall be the responsibility of the Master Association. Specific fencing is required by the terms of the federal wetlands permit for the project and for the protection of the Preserve Areas. As part of the original construction of homes, Declarant or Merchant Builders shall construct the required fencing (i.e. tubular steel fencing) along those portions of residential lots which border the Preserve Areas. The Master Association shall maintain the required fencing in good condition and repair, and when the fence is replaced, as directed by the Preserve Manager, it shall be replaced without exception with fencing of the same type and specification. The Preserve Manager's interests in the Preserve Areas and the Master Association's maintenance obligations with respect to protective fencing or walls, shall be subject to such restrictions as may be required by the Army Corps of Engineers pursuant to any covenants and restrictions Recorded with respect to the Preserve Areas. In addition, the Master Association's maintenance obligations shall be subject to the terms of any encroachment permit issued by the Preserve Manager. These provisions are expressly intended to benefit the Preserve Areas, and the Preserve Manager will have all enforcement rights provided by law, in equity and in this Declaration.

(e) Maintenance of Certain Public Areas of Lincoln Crossing. The Master Association shall also be responsible for the maintenance of landscaped areas along public roads, within public rights-of-way, and within Common Areas in Lincoln Crossing and the maintenance of median strips in any public roads within the Lincoln Crossing.

(f) Certain Continuing Rights of Declarant and/or Merchant Builders Following Commencement of Master Association Maintenance. Notwithstanding the foregoing, if the contractors or subcontractors of Declarant or a Merchant Builder are contractually obligated to maintain the landscaping or other Improvements within the Common Areas, the Master Association shall not interfere with the performance of such warranty or other contractual maintenance obligations. The maintenance performed by the contractors or subcontractors of Declarant or any Merchant Builder shall not postpone the commencement of Regular Assessments pursuant to this Master Declaration nor entitle either Declarant or a Merchant Builder to claim any offset or reduction in the amount of such Assessments. If a portion of the Common Area is dedicated to and accepted for maintenance by the District or some other governmental agency, then the Master Association may, in the Board's discretion, maintain the area if the District or the agency fails to maintain the area to a standard acceptable to the Master Association, or elects to abandon further maintenance of the area.

(g) Obligation of Master Association to Observe Requirements of Common Facility Maintenance Manuals. In the event that the Declarant prepares and provides the Master

Association with an Association Maintenance Manual applicable to the repair and maintenance of Master Association Common Areas and Common Facilities, the Master Association shall be obligated to comply with all of the maintenance obligations, recommendations and schedules set forth in the Manual, all as more particularly provided in Civil Code section 907. However the Board of Directors shall be authorized, from time to time, to make appropriate revisions to the Master Association's Maintenance Manual based on the Board's review thereof in order to update the Master Association Maintenance Manual to reflect current industry maintenance practices and recommendations, so long as such changes do not reduce the useful life or functionality items to which the Maintenance Manual pertains. So long as the Declarant owns any Lots in the Development, the Declarant shall also be entitled to make recommendations to the Board of Directors for the revision or supplementation of the Master Association Maintenance Manual. As used herein, "Maintenance Manual" refers to the manual or manuals which may be prepared by the Declarant or its agents and provided to the Master Association and to each Owner specifying obligations for maintenance of the Common Area and Common Facilities by the Master Association, as updated and amended from time to time.

## 7.2. Owner Maintenance Responsibilities.

(a) Maintenance of Lots and Residences, Generally. Except as otherwise specifically provided in Section 7.01, above, each Owner shall be responsible for the maintenance and repair of his or her Residence and Lot. Without limiting the generality of the foregoing, and except as may be provided in Supplement Declarations referred to above, each Owner's repair and maintenance obligations shall extend to and include:

(i) Painting, repairing, replacing and caring for roofs, fences, exterior building surfaces, exterior glass surfaces, exterior doors, and to maintaining all yard areas not expressly required to be maintained by the Master Association or a Sub Association;

(ii) Except for yard areas expressly required to be maintained by the Master Association as a Cost Center or by a Sub Association, weekly mowing, trimming, edging of lawns and other ground cover, removal of dead or dying plants and weeds;

(iii) Watering at intervals necessary to keep grass, shrubs and trees in an attractive condition and to maintain proper growth;

(iv) Maintenance of drainage facilities, except that maintenance of drainage from private streets shall be the responsibility of the Master Association or Sub Association, as the case may be, so as to cause the proper diversion of water into streets and natural drainage channels.

(b) Maintenance of Condominium Units. The responsibilities of Owners of Condominium Units with respect to the maintenance and repair of such Units and the allocation of maintenance and repair responsibilities as between the Project Sub-Association, on the one hand, and Condominium Unit Owners, on the other hand, shall be as set forth in the Project Declaration.

(c) Maintenance of Landscaping in Neighborhoods Without Maintenance Provided by the Master Association. All landscaping installed must be in accordance with

Lincoln Crossing Design Guidelines as adopted by the Architectural Review Committee. Certain plantings will be prohibited as defined by the Design Guidelines and as may be further prohibited by local governmental regulations. Approved landscaping after installation will be maintained as required to provide a neat and attractive appearance. If the landscaping plan as submitted and approved includes turf which is Visible From Neighboring Property, the Owner covenants to maintain such turf by properly watering and cutting and trimming the turf. Such Owner shall be responsible for removal of dead bushes, trees, flowers, plants and shrubs and removal of grass clippings, trash and debris. The Architectural Review Committee will be the sole and final judge as to whether or not landscaping after installation has met the approved criteria and whether or not it is, at any given time, maintained properly to the standards established by this Master Declaration and the Design Guidelines. The Master Association is entitled to require any Owner of a Separate Interest to landscape and/or maintain landscaped areas, or to maintain natural areas in their natural state on any right-of-way between the Owner's Separate Interest and a sidewalk, street, or path which is immediately adjacent to such Separate Interest.

7.3. Master Association Recovery of Costs of Certain Repairs and Maintenance.

(a) Master Association Maintenance Caused by Owner Negligence. If the need for maintenance or repair, which would otherwise be the Master Association's responsibility hereunder is caused through the willful or negligent acts of an Owner, his or her family, guests, tenants, or invitees, and is not covered or paid for by Master Association insurance policies or any liability insurance maintained by the responsible Owner, the cost of such maintenance or repairs shall be subject to recovery by the Master Association through the imposition of a Special Individual Assessment against the offending Owner in accordance with Section 4.04, above.

(b) Owner Defaults in Maintenance Responsibilities. If an Owner (or a Resident renting or leasing from an Owner) maintains, or fails to maintain his/her Separate Interest, so that it presents a public or private nuisance, or substantially detracts from the appearance or quality of the surrounding property, or in the event any portion of his/her Separate Interest is being maintained in a manner which violates this Master Declaration, the Design Guidelines or the Community Rules, the Board may by Resolution make a finding to such effect, specifying the particular condition or conditions which exist, and give notice to the offending Owner that unless corrective action is taken within fifteen (15) days, the Board may cause such action to be taken at said Owner's cost. If at the expiration of said fifteen (15) day period of time the requisite corrective action, including entry to the Owner's Separate Interest to perform the maintenance work (see Section 3.07(b)(v), above) has not been taken, the Board shall be authorized and empowered to cause such action to be taken and the cost thereof shall be a Special Individual Assessment (see Section 4.04, above). In the event the Master Association undertakes corrective action, the Master Association shall not be liable for damage, loss, personal injury or property damage caused by such action.

(c) Sub-Association Defaults in Maintenance Responsibilities. The same enforcement authority described in subparagraph (b), above, with respect to Owner defaults shall exist in favor of the Master Association with respect to any default by a Sub-Association (such as, for example, a business owners' association or a Condominium Project association formed

pursuant to Section 15.06(b), below) in the performance of maintenance or repair obligations imposed on the Sub-Association pursuant to any Supplemental Declaration. The costs and expenses incurred by the Master Association under such circumstances shall be reimbursed, in full, by the Sub-Association.

#### 7.4. Cooperative Maintenance Obligations.

(a) Cooperation Among Master Association and Owners; Generally. To the extent necessary or desirable to accomplish the Master Association's maintenance obligations hereunder, individual Owners shall cooperate with the Master Association and its agents and maintenance personnel in the prosecution of their respective maintenance activities.

(b) Cooperation Between the Master Association and the Preserve Manager. Pursuant to Section 7.01(d), above, the Master Association is obligated to maintain, repair, and as required, replace protective walls and fencing adjacent to the Preserve Areas. In the event that the Preserve Manager reasonably determines that the Master Association has defaulted in its obligations with respect to the Preserve Area maintenance, the Preserve Manager shall so notify the Master Association in writing. This notice shall describe, in reasonable detail, the nature of the Master Association's default and provide a reasonable time in which the Master Association can correct the condition or remedy the default. In the event that the Master Association fails to correct the condition or remedy the default in the time provided, the Preserve Manager shall have a right of entry to the Preserve Area for the purpose of performing the required maintenance, repair or replacement. The cost of any such corrective action on the part of the Preserve Manager shall be chargeable in full to the Master Association.

(c) Execution of Maintenance Agreements. Except as otherwise provided in this Master Declaration, neither Declarant nor any of its agents shall enter into any contract which would bind the Master Association or the Board for a period in excess of one year. Subject to this limitation on contract term, the Declarant may cause agreements, contracts, Master Declarations or other documents ("Maintenance Agreements") to be executed which impose on portions of the Overall Development not then annexed, obligations to make contributions with respect to certain Common Expenses. If any Maintenance Agreements terminate or expire or cease to apply to particular property, the Master Association shall have the power and the duty, at the request of the Owner theretofore obligated pursuant to the Maintenance Agreement to execute in recordable form an agreement and acknowledgment that the Maintenance Agreement has terminated, expired, or ceases to apply to a particular property, as the case may be.

The Master Association may also enter into Maintenance Agreements (for periods not to exceed one year) with the Declarant, and/or any local government agencies, if any, with jurisdiction over any portion of Lincoln Crossing in order to achieve economies of scale or to efficiently and cost effectively share maintenance equipment, maintenance personnel or contractors and other resources and to discharge responsibilities, if any, imposed on the Master Association by the Development Agreement.

#### 7.5. Drainage Structures, Ditches and Swales.

(a) All drainage structures, culverts, headwalls, rip-rap, and canals conveyed to or improved by the Master Association for the major collection of storm runoff and any natural drainage courses within Common Areas shall be maintained regularly by the Master Association.

(b) Except as provided in subparagraph (a), above, each Owner shall keep drainage courses, ditches and swales on his or her Lot free and clear of all obstructions, and shall, in cooperation with contiguous Owners (including the Master Association and the Declarant as to any contiguous Property owned by them), maintain all such drainage ditches, swales and culverts common to their Lots in good order.

(c) No Owner or resident shall alter or obstruct a natural drainage course, or materially add to the natural water volume of said drainage course without making adequate provisions with respect to neighboring Separate Interests and Common Areas. Any such alterations, obstructions, or additions to water volume shall be considered an Improvement that is subject to prior review and approval by the Architectural Review Committee. Any Owner or Resident who changes the existing grading or drainage shall be strictly liable for all costs and expenses of repairing such changes, and any costs, liabilities, damages or causes of action arising out of such changes.

## ARTICLE 8. PROPERTY USE RESTRICTIONS

In addition to the restrictions established by law or by the Community Rules and except insofar as the provisions of this Article 8 may be modified by Article 16 (relating to special rights reserved to the Declarant and to Merchant Builders), the following restrictions are hereby imposed on the use and enjoyment of Separate Interests, Common Areas and other parcels within Lincoln Crossing:

### 8.1. Use of Separate Interests Within the Lincoln Crossing Development.

(a) Single Family Residential Use: Declarant Exemption. All residential Lots and Project Lots within Lincoln Crossing shall be used solely for the construction of Residences or Units whose occupancy and use shall be restricted to Single Family Residential Use. In no event shall a Residence or Unit be occupied by more individuals than permitted by applicable laws, zoning ordinances, or other local governmental regulations. Notwithstanding the foregoing, Declarant and its successors or assigns and Merchant Builders shall be entitled to use Separate Interests owned by the Declarant, and by Merchant Builders as models, sales offices or construction headquarters for the purpose of constructing Residences or Condominium Projects and marketing those Separate Interests until such time as all Separate Interests owned by the Declarant or owned by the Merchant Builder in a particular Phase are sold. Except as otherwise provided in Section 16.02 below (relating to certain exemptions in favor of the Declarant and Merchant Builders), no recreational vehicle, trailer, mobile home, camper, tent, shack, used structures, structures of a temporary character, or other outbuildings shall be used on any Separate Interest at any time as a Residence.

(b) Compliance With Minimum Construction Standards. All Residences and Units and related structures erected on any Separate Interest shall conform to the minimum construction standards set forth in Article 6, above, and in the Design Guidelines unless a variance has been granted by the Architectural Review Committee in accordance with Section 5.13, above, or the standard is applicable only to one type of Separate Interest (such as residential Lots to the exclusion of Condominium Projects).

(c) Conveyance In Fee Simple. Each Separate Interest shall be conveyed as a separately designated and legally described fee simple estate, subject to this Master Declaration.

(d) Maintenance of Separate Interests. All Separate Interests and the Residences/Units and other improvements erected or placed thereon (including, without limitation, landscaping) shall be maintained in accordance with Section 7.02, above.

8.2. Household Pets. The following restrictions regarding the care and maintenance of pets shall be observed by each Owner and resident of Lincoln Crossing:

(a) Reasonable Number of Common Household Pets. A reasonable number of common household pets may be kept on each Separate Interest so long as the same are not kept, bred or maintained for commercial purposes. No other animals, livestock, or poultry of any kind shall be kept, bred or raised on any Separate Interest or in any Residence. Upon the written request of any Member, the Compliance Committee shall conclusively determine, in its sole and absolute discretion, whether, for the purposes of this section, a particular animal, bird, fowl, poultry, reptile or livestock is a generally recognized house or yard pet, whether such a pet is a nuisance, or whether the number of animals or birds on any such property is reasonable.

(b) Pet Facilities. Unless approved by the Architectural Review Committee, which may use general guidelines adopted by the Board, no structures for the care, housing or confinement of any pet on any Separate Interest shall be maintained so as to be Visible From Neighboring Property.

(c) Control of Pets Within Common Area. No pets shall be permitted upon Common Areas except as controlled on a leash or similar device held by its owner or his agent.

(d) No Tethering. No household pet shall be left chained or otherwise tethered in front of a Separate Interest or in the Common Area. Pet owners shall be responsible for the prompt removal and disposal of pet wastes deposited by their pets within the Overall Development.

(e) Responsibility of Pet Owners. Each person bringing or keeping a pet into or within Lincoln Crossing shall be solely responsible for the conduct of the owner's pets. The Master Association, its Board, officers, employees and agents shall have no liability (whether by virtue of this Master Declaration or otherwise) to any Owners, their family members, guests, invitees, tenants and contract purchasers for any damage or injury to persons or property caused by any pet.

(f) Additional Pet Rules and Regulations. The Board of Directors shall have the right to establish and enforce additional rules and regulations defining in a uniform and

nondiscriminatory manner, what constitutes a "reasonable number" of pets depending on their size, disposition and/or maintenance requirements and imposing standards for the reasonable control and keeping of household pets in, upon and around Lincoln Crossing to ensure that the same do not interfere with the quiet and peaceful enjoyment of other Owners and Residents of Lincoln Crossing. Furthermore, Supplemental Declarations applicable to a Condominium Project may impose additional or different rules, regulations and restrictions on the maintenance of pets in the Condominium Project so long as the rules, regulations and restrictions in the Supplemental Declaration are at least as restrictive as this Section 8.02.

8.3. Temporary Occupancy and Temporary Buildings. No trailer, basement of any incomplete building, tent, shack, garage or barn, and no temporary buildings or structures of any kind, shall be used at any time for a Residence, either temporary or permanent. Temporary buildings or structures used during the construction of improvements on any Separate Interest shall be removed promptly after the completion of construction. Notwithstanding the foregoing, the Declarant and any Merchant Builder with the permission of the Declarant may maintain temporary buildings adjacent to or near the construction sites for Separate Interests under construction for the purposes of supervising such construction until the Declarant or the Merchant Builder has completed its construction activities in the Phase or adjacent Phases where construction activity is ongoing. Declarant approval with respect to such activities or uses by Merchant Builders shall not be unreasonably withheld.

8.4. Separate Buildings, Storage Sheds, Firewood Storage and Other Outside Storage. Except as set forth for pet structures in Section 8.02, above, and except for firewood storage structures as set forth below, no separate enclosed buildings or structures, storage buildings or sheds, whether prefabricated, metal or of any other construction whatsoever, whether permanent or temporary, shall be placed, assembled, constructed or otherwise maintained on any Separate Interest in areas subject to prohibition of solid rear walls and fences, nor on any other Separate Interest in such manner as to be Visible From Neighboring Property. Any firewood storage structures in areas with open fences must be in side yards and all firewood storage structures in all areas must be approved by the Architectural Review Committee, subject to applicable zoning requirements and other local ordinances, and to size limitations and other regulations as may be adopted by the Board. Woodpiles or other material shall be stored in a manner so as not to attract rodents, snakes, and other animals and to minimize the potential fire danger.

Except as provided for herein, or in any Supplemental Declaration, no furniture, fixtures, appliances, or other goods and chattels not in active use shall be stored in any building or open area or on any Separate Interest in such manner that such material is Visible From Neighboring Property, provided, however, that in areas with open fencing firewood may be stored in side yards either in an approved storage structure or in a landscape-screened area as approved by the Architectural Review Committee.

8.5. Prohibition of Noxious Activities. No illegal, noxious or offensive activities shall be carried out or conducted upon any Separate Interest or Common Area nor shall anything be done within Lincoln Crossing which is or could become an unreasonable annoyance or nuisance to neighboring Owners. Without limiting the foregoing:

(a) Noise Activities. No Owner shall permit noise, including, but not limited to barking dogs, the operation of stereo amplifier systems, television systems, horns, whistles, firecrackers, bells or other sound devices, except wind chimes and security devices used exclusively for security purposes or power tools, to emanate from an Owner's Separate Interest or from activities within the Common Area, which would unreasonably disturb any other Owner's or tenant's enjoyment of his or her Separate Interest or the Common Area. Normal construction activities and parking in connection with the building of improvements on a Lot which are in accordance with applicable City of Lincoln ordinances shall not be considered a nuisance unless otherwise prohibited by this Master Declaration. The Board in its sole discretion shall have the right to determine the existence of any nuisance.

(b) Trash and Debris. No rubbish or debris of any kind shall be placed or permitted to accumulate upon or adjacent to any Separate Interest and no odors (excepting manure when used as a lawn fertilizer) shall be permitted to arise or emit therefrom, so as to render any such property or any portion thereof, or activity thereon, unsanitary, unsightly, offensive or detrimental to any other property (including Common Area) in the vicinity thereof or to the occupants of such other property.

(c) Outdoor Lighting. No lighting will be permitted which causes unreasonable glare to neighboring Owners or within the Common Area.

(d) Exterior Fires. No open fires shall be lighted or permitted within Lincoln Crossing, except for (i) fires in a contained outdoor fireplace or barbecue unit while attended and in use for cooking purposes (provided that such fireplace or unit is not located so as to direct an unreasonable amount of smoke onto a neighbor's property); (ii) fires within a safe and well-designed interior fireplace; or (iii) fires and burning related to the Declarant's or any Merchant Builder's construction and development activities, so long as such burning is in compliance with local governmental regulations.

(e) Diseases and Insects. No Owner shall permit any thing or condition to exist upon any Separate Interest which shall induce, breed or harbor infectious plant diseases or noxious insects.

8.6. Trash Containers and Collection. No garbage or trash shall be placed or kept on any Separate Interest, except in covered containers. In no event shall such trash containers be maintained on any Separate Interest so as to be Visible From Neighboring Property, unless the containers are placed adjacent to the street so as to be available for collection and then only for the day of collection. No outdoor incinerators shall be kept or maintained on any Separate Interest.

8.7. Clothes Drying Facilities. Outside clotheslines or other outside facilities for drying or airing clothes shall not be erected, placed or maintained on any Separate Interest so as to be Visible From Neighboring Property.

8.8. Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Separate Interest except: (a) such machinery or equipment as is usual and customary in connection with the use, maintenance or



construction (during the period of construction) of a building, appurtenant structures, or other improvements; (b) that which Declarant, the Master Association or a Merchant Builder may require for the operation and maintenance of any portion of Lincoln Crossing; (c) that used in connection with any business permitted under a Supplemental Declaration; or (d) any machinery used by a Resident in a hobby, provided such use does not interfere with neighboring Residents and is otherwise in compliance with the applicable provisions of this Master Declaration and/or local ordinances.

8.9. Sign Restrictions. No signs whatsoever (including, but not limited to, commercial, political and similar signs) which are Visible From Neighboring Property shall be erected or maintained on any Separate Interest except:

- (a) signs required by legal proceedings;
- (b) no more than one identification sign for individual Residences;
- (c) no more than one "for sale" or "for lease" sign for the individual Separate Interest on which the sign is located. In the case of Condominium Units, such signs shall only be permitted in the window of the Unit, unless otherwise authorized by the Project's Sub-Association;
- (d) other signs, such as open house or garage sale signs, or signs advising of the existence of security or surveillance services, or "no solicitation" signs, the nature, size, number, and location of which have been approved in advance and in writing by the Architectural Review Committee or are in accordance with written guidelines which may be developed and approved by the Committee;
- (e) signs of the Declarant or any Merchant Builder located on any Separate Interest, on any property owned by the Declarant or the Merchant Builder, or (in the case of the Declarant only) on any Common Area or on any other portion of the Overall Development; provided, however, that once a Separate Interest has been sold by the Declarant or a Merchant Builder to a third party, no signs permitted by this subparagraph (e) may be erected or maintained on the Separate Interest without the consent of its Owner. Signs of the kind identified in this subparagraph (e) shall conform to the Declarant's master marketing signage program;
- (f) signs posted by the Master Association on its Common Area; and
- (g) such other signs (including but not limited to builder signs, shopping center, apartment and business identification signs) which are in conformance with the requirements of (or approved by) the City of Lincoln and which have been approved in writing by the Architectural Review Committee as to size, quantity, colors, design, message content and location.

8.10. Restriction on Further Subdivision, Property Restrictions and Rezoning. No Lot shall be further subdivided or separated into smaller Lots by any Owner, and no portion less than all of any such Lot, nor any easement or other interest therein, shall be conveyed or transferred by any Owner, without the prior written approval of the Board, which approval must be

evidenced on the instrument creating the subdivision, easement or other interest. This provision shall not, in any way, limit Declarant or a Merchant Builder from subdividing or separating into Lots any property at any time owned by Declarant or a Merchant Builder and which has not previously been subdivided into Lots or from re subdividing the same.

No further covenants, conditions, restrictions or easements shall be recorded by any Owner, or other person against any Separate Interest without the provisions thereof having been first approved in writing by the Declarant and any covenants, conditions, restrictions or easements recorded without such approval being evidenced thereon shall be null and void. Other than applications by Declarant, no application for rezoning of any and no applications for variances or use permits shall be filed with any governmental authority unless the proposed use of the Separate Interest has been approved by the Declarant, for so long as the Declarant owns any portion of the Development or, thereafter, the proposed use of the Separate Interest has been approved by the Master Association Board and the proposed use otherwise complies with this Master Declaration and any applicable Supplemental Declaration.

8.11. Overhead Encroachments. No tree, shrub, or planting of any kind on any Separate Interest shall be allowed to impede vehicular or pedestrian traffic.

8.12. Vehicle and Parking Restrictions. The following vehicle and parking restrictions shall apply to Lincoln Crossing:

(a) Trucks, Trailers, Recreational Vehicles, Campers and Boats. No motor vehicle classified by manufacturer rating as exceeding one ton, recreational vehicle, mobile home, travel trailer, tent trailer, trailer, camper shell, detached camper, boat, boat trailer, or other similar equipment or vehicle may be parked, maintained, constructed, reconstructed or repaired on any Separate Interest or on any street in Lincoln Crossing so as to be Visible From Neighboring Property; provided, however, the provisions of this section shall not apply to pickup trucks of one ton or less capacity with camper shells not exceeding seven feet (7') in height measured from ground level and mini-motor homes and/or passenger vans not exceeding eight feet (8') in height and eighteen feet (18') in length which are parked as provided in subparagraph (c) below and are used on a regular and recurring basis for basic transportation. The provisions of this subparagraph (a) shall not apply to cleaning, loading or unloading and short-term parking (not to exceed forty-eight (48) consecutive hours) of non-commercial vehicles which shall be permitted for a cumulative period not to exceed one-hundred and twenty (120) hours in any calendar month. In no circumstances may vehicles be used for overnight occupancy within Lincoln Crossing.

(b) Motor Vehicle Maintenance/Inoperable Vehicles. No automobile, motorcycle, motorbike or other motor vehicle shall be maintained, constructed, reconstructed or repaired upon any Separate Interest, street or Common Area in Lincoln Crossing, and no inoperable vehicle may be stored or parked on any such Separate Interest or street, so as to be Visible From Neighboring Property, provided, however, that the provisions of this subparagraph (b) shall not apply to: (i) emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any improvement approved by the Architectural Review Committee; (ii) the parking of such vehicles

during normal business hours in areas designated for parking in a non-residential Land Use Classification; and (iii) vehicles parked in garages on Separate Interests.

(c) Parking of Vehicles. In order to maintain the aesthetic environment of Lincoln Crossing, on-street parking is prohibited over night, except for vehicles parking pursuant to the short-term parking exception described in subparagraph (a) above. Vehicles of all Owners, Residents and their guests and invitees, shall be kept in garages, and residential driveways on the Separate Interest or in other designated parking areas. Provided, however, this subparagraph (c) shall not be construed to permit the parking in the above described areas of any vehicle whose parking in Lincoln Crossing is otherwise prohibited or the parking of any inoperable vehicle.

(d) Application of Section to Declarant/Merchant Builder Vehicles. The restrictions imposed by this Section 8.12 with respect to limitations on the size and type of vehicles and the parking of vehicles shall not be applicable to vehicles that are associated with construction on a Lot or Parcels or vehicles associated with the sales and marketing activities of the Declarant or a Merchant Builder. However, no vehicles associated with such activities shall be parked so as to create a fire or safety hazard and other restrictions on vehicles and parking may be established as between the Declarant and a Merchant Builder by separate contractual arrangement

8.13. Health, Safety and Welfare. In the event additional uses, activities, and facilities are deemed by the Board to be a nuisance or to adversely affect the health, safety or welfare of Owners and Residents, the Board may make rules restricting or regulating their presence in Lincoln Crossing as part of the Community Rules or may direct the Architectural Review Committee to make rules or Design Guidelines governing their presence on Separate Interests. The Board may also provide for limited variances from use, activity and facility restrictions where necessary for reasons of health, safety and welfare.

8.14. No Obstruction of Common Area. There shall be no obstruction of the Common Area nor shall anything be stored by Owners or Residents in or upon the Common Area without the written consent of the Master Association. This restriction is not intended to limit the rights of the Declarant and Merchant Builders pursuant to Article 16, below.

8.15. Window Covers. Commonly accepted window coverings such as curtains, drapes, shutters, shades or blinds may be installed as window covers. No window shall be covered with aluminum foil, cardboard, bed sheets, newspaper or other not commonly accepted material.

8.16. Business Activities. No business or commercial activities of any kind whatsoever shall be conducted in any Residence or Unit or any portion of any Separate Interest without the prior written approval of the Board; provided, however, the foregoing restriction shall not apply to the activities, signs or activities of the Master Association in the discharge of its responsibilities under the Governing Documents, the activities of the Declarant in connection with the development, sale and marketing of Separate Interests within Lincoln Crossing or to the signage, development, sale and marketing activities of Merchant Builders which have been approved by the Declarant pursuant to Article 16, below. Furthermore, no restrictions contained

herein shall be construed in such a manner so as to prohibit any Owner from: (a) maintaining his or her personal library in his or her Residence; (b) keeping his or her personal business records or accounts therein; (c) handling his or her personal or professional telephone calls or correspondence therefrom; (d) engaging in other activities related to the resident's business profession that can be conducted from a Residence so long as the home or business activities generate no traffic, noise, or involve other employees or contractors in the Residence; (e) leasing or renting his or her Residence in accordance with Section 2.07, above; or (f) conducting any other activities on the Owner's Separate Interest otherwise compatible with residential use and the provisions of this Master Declaration which are permitted under applicable zoning laws or regulations without the necessity of first obtaining a special use permit or specific governmental authorization. The uses described in (a) through (f), above, are expressly declared to be customarily incidental to the principal residential use and not in violation of this Section 8.16.

8.17. Activities Affecting Insurance. Nothing shall be done or kept on any Separate Interest or within the Common Area which will increase the rate of insurance relating thereto without the prior written consent of the Master Association and no Owner shall permit anything to be done or kept on his or her Separate Interest or the Common Area which would cause any Improvements to be uninsurable against loss by fire or casualty or result in the cancellation of insurance on any Separate Interest or any part of the Common Area.

8.18. Variances. Upon application by any Owner, the Board of Directors shall be authorized and empowered to grant reasonable variances from the property use restrictions set forth in this Article 8, if specific application of the restriction will, in the sole discretion of the Board, either cause an undue hardship to the affected Owner or fail to further or preserve the common plan and scheme of development contemplated by this Master Declaration.

8.19. Enforcement of Property Use Restrictions. The objective of this Master Declaration shall be to promote and seek voluntary compliance by Owners and Residents with the environmental standards and property use restrictions contained herein. Accordingly, in the event that the Master Association becomes aware of a design review or property use infraction that does not necessitate immediate corrective action under Section 13.06, below, the Owner or Resident responsible for the violation shall receive written notice thereof and shall be given a reasonable opportunity to comply voluntarily with the pertinent Governing Document provision(s). Such notice shall describe the noncomplying condition, request that the Owner or Resident correct the condition within a reasonable time specified in the notice, and advise the Owner or Resident of his or her right to be heard on the matter.

8.20. Drilling and Mining Operations. No oil or natural gas drilling, refining, quarrying or mining operation of any kind shall be permitted upon any Lot or Common Area and no derrick, structure or equipment designed for use in drilling for oil or natural gas shall be erected, maintained or permitted on any Lot or Common Area.

## **ARTICLE 9. EASEMENTS**

9.1. Common Area Maintenance Easements. The Master Association shall have an easement in and to that portion of any Separate Interest or Parcel which adjoins the Common

Area for the limited purpose of access to and maintenance of the adjoining Common Area. The Master Association shall have easements for access over such portions of Separate Interests as are reasonably necessary for the Master Association to maintain the Common Areas, and no Owner shall interfere with the use of such easements by the Master Association or its agents or employees. The Master Association shall have easements for access over such portions of each Separate Interest are reasonably necessary for the Master Association to maintain drainage facilities to be maintained by the Owner, should the Owner fail to do so (which maintenance shall be at the sole cost and expense of the Owner), and to maintain drainage facilities to be maintained by the Master Association. No Owner shall interfere with the use of such easements by the Master Association or its agents or employees.

9.2. Utility Easements – Common Areas. A blanket easement is reserved and granted upon, across, over, and under the Common Area for utilities and the installation, replacement, repair, and maintenance of utilities including, but not limited to, water, sewer, gas, telephone, electricity, and cable television systems and the Telecommunications System facilities, provided that said blanket easement shall not extend upon, across, over, or under any Residence constructed on a Separate Interest. By virtue of this blanket easement, it shall be expressly permissible to erect and maintain the necessary facilities, equipment, and appurtenances on the Common Areas and to affix, repair, and maintain water and sewer pipes, gas, electric, telephone, and television wires, circuits, conduits and meters.

In the event any utility, quasi-utility company, public agency, cable television company, or similar entity furnishing a service covered by the general easement created herein requests a specific easement by separate Recordable document, Declarant and any Merchant Builder reserves and is hereby given the right and authority to grant such easement upon, across, over, or under any part or all of the Common Area without conflicting with the terms hereof; provided, however, that such right and authority in the Declarant or a Merchant Builder shall cease and terminate upon conveyance by Declarant of the last Separate Interest in the Overall Development to the first Owner thereof (other than Declarant or a Merchant Builder) and in the case of a Merchant Builder, upon conveyance of the last Separate Interest in the Phase of Lincoln Crossing that is being developed by the Merchant Builder. The easement rights provided for in this Section 9.02 shall in no way affect, avoid, extinguish, or modify any other easement(s) Recorded with respect to any portion of Lincoln Crossing.

9.3. Rights of Declarant and Merchant Builders Incident to Construction. An easement is reserved by and granted to Declarant and any Merchant Builder for access, ingress, and egress over, in, upon, under, and across the Common Area including, but not limited to, the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incidental to the Declarant's or the Merchant Builder's construction activities within Lincoln Crossing; provided, however, that no such rights or easements shall be exercised by Declarant or any Merchant Builder in such a manner as to unreasonably interfere with the occupancy, use, enjoyment, or access by any Owner, his or her family members, guests, or invitees, to or from that Owner's Separate Interest, or any Common Facility within the Common Area. The easement created pursuant to this section shall automatically terminate and be of no further force and effect upon closing of the sale of the last Residence constructed by or on behalf of the Declarant in the last Phase of the Overall Development or, in the case of a Merchant

Builder, on the closing of the sale of the last Residence constructed by or on behalf of the Merchant Builder in the Phase.

9.4. Maintenance of Walls and Fences, Improvements, and Easement. In the event the Declarant or a Merchant Builder has constructed a wall or fence on any Separate Interest which serves as a perimeter wall for any portion of Lincoln Crossing, or to separate the Separate Interest from the Common Area, an easement in perpetuity is granted by such Separate Interest Owner to the Master Association for the construction and location of such wall or fence on the Separate Interest, and the maintenance required for such wall or fence from time-to-time. An easement is reserved and granted in favor of Declarant, the Merchant Builder for the Phase in which the wall is located, and the Master Association, upon, over and across each Separate Interest adjacent to any boundaries of Common Area for reasonable ingress, egress, installation, replacement, maintenance, and repair of any wall, fence or other improvement which Declarant, any Merchant Builder or the Master Association may construct or cause to be constructed on or near any Common Area boundary.

9.5. Drainage Easements. There is hereby created a blanket easement upon, across, over and under Separate Interests and the Common Area for drainage of surface water, whether such water originates from surface streets, drainage basins, retention areas, neighboring Separate Interests or Common Area.

9.6. Utility Easements. There is hereby created a blanket easement in favor of Declarant, any Merchant Builder, the Master Association or any utility or service company providing service to any Separate Interest, upon, across, over and under each Separate Interest and Common Area for ingress to, egress from, and the installation, replacing, repairing and maintaining of, all utility and service lines and systems including, but not limited to, water, sewer, drainage, gas, telephone, electricity, cable television or Telecommunications System, as such utilities are installed in connection with the initial development of the Separate Interest and the construction of the Residence thereon.

Pursuant to this easement, a providing utility or service company may install and maintain facilities and equipment on the property and affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of buildings on the Separate Interests and other portions of Lincoln Crossing. Notwithstanding anything to the contrary contained in this section, no utility lines of the type described in the preceding paragraph may be installed or relocated on any Separate Interest or Common Area except as initially programmed and approved by the Declarant or a Merchant Builder, or, if requested after Recordation of a Supplemental Declaration, as approved by the Owner of the affected Separate Interest and the Architectural Review Committee.

9.7. Master Telecommunications Easement. Declarant reserves blanket easements ("Telecommunications Easements") over Lincoln Crossing for access and for purposes of constructing, installing, locating, altering, operating, maintaining, inspecting, upgrading, removing and enhancing Telecommunications System facilities for the benefit of Declarant, any Service Provider designated by Declarant, any Merchant Builder and the Master Association. Such easements are freely transferable by Declarant to any other person or entity, including, without limitation any Service Provider and their successors and assigns. Transfer of any portion

of Lincoln Crossing does not imply transfer of any appurtenant Telecommunications Easements nor the Telecommunications System. Exercise of Telecommunications Easements shall not unreasonably interfere with reasonable use and enjoyment of the lands comprising Lincoln Crossing by the Owners. If the exercise of any of the Telecommunications Easements results in damage to any portion of Lincoln Crossing, the holder of the Telecommunications Easements from which the damage resulted shall, within a reasonable period of time, repair such damage. If the Declarant has not transferred the Telecommunications Easements in a Phase to another person or entity before the first Close of Escrow for a Separate Interest in that Phase, then the Declarant hereby grants the Telecommunications Easements for that Phase to the Master Association, effective as of the first Close of Escrow for a Separate Interest in that Phase. Notwithstanding anything to the contrary in this Section 9.07, any Telecommunications Easements reserved hereunder, and the exercise of any of Declarant's rights concerning the Telecommunications System facilities hereunder, shall comply with any applicable City of Lincoln requirements, including any applicable Telecommunications Ordinance, and with all applicable State and Federal telecommunications laws and regulations. Except for the Service Provider(s) as defined in Section 3.07(b)(vii)(E), above, herein, which may also be a franchisee(s) of the City of Lincoln, none of the provisions of this Section 9.07 shall apply to any other utility and telecommunications franchisees of the City of Lincoln.

**9.8. Rights and Easements of Declarant and Merchant Builders.** For so long as the Declarant owns any Separate Interests for sale within Lincoln Crossing, the Declarant shall have easements and rights:

(a) To build, construct, modify and maintain any signs advertising the Overall Development and the sale of homes by Declarant on Common Area, provided such signs comply with applicable law, and do not unreasonably interfere with the use and enjoyment of the Common Area by Owners and Residents.

(b) For ingress, egress and the installation and maintenance of public utilities over, under and across the Common Areas for the purpose of maintaining an office for sales and/or resales of Separate Interests as provided in Article 16, below, and for Declarant's marketing activities in connection with such offices.

(c) Subject only to such contractual limitations or conditions as may be negotiated between the Declarant and a Merchant Builder, the easements and rights set forth in this Section 9.08 shall also run in favor of any Merchant Builder resale to the extent provided in Article 16, below, with respect to any Phase of the Overall Development acquired by the Merchant Builder for development.

**9.9. Easements of Encroachment.** Declarant, reserves for itself and grants to any Merchant Builder (with respect to the Phase or Phases that the Merchant Builder as acquired for development and resale), so long as the Declarant or the Merchant Builder owns any portion of the Overall Development (in the case of the Declarant) or the Phase(s) (in the case of a Merchant Builder), easements of encroachment, and for maintenance and use of any permitted encroachment, between each Separate Interest and any adjacent Common Area and between adjacent Separate Interests due to the unintentional placement or settling or shifting of the improvements constructed, reconstructed or altered thereon (in accordance with this Master

Declaration) to a distance of not more than three feet (3'), as measured from any point on the common Property boundary line along a line perpendicular to such boundary. In no event, however, shall an easement for encroachment exist if such encroachment occurred due to willful and knowing conduct by Declarant or a Merchant Builder.

9.10. Easements Deemed Created. All conveyances of Separate Interests hereafter made, whether by the Declarant or otherwise, shall be construed to grant and reserve the easements contained in this Article 9, even though no specific reference to such easements or to this Article 9 appears in the instrument of such conveyance.

## **ARTICLE 10. INSURANCE**

10.1. Insurance on Common Property. The Master Association shall maintain the following types of insurance, to the extent that such insurance is reasonably available, considering the availability, cost, and risk coverage provided by such insurance:

(a) Casualty Insurance. A policy of all risk property insurance covering all real property insurable improvements and personal property owned by the Master Association located on Common Area, with a "Replacement Cost Endorsement" providing that any claim shall be settled on a full replacement cost basis without deduction for depreciation. Such insurance as maintained by the Master Association pursuant to this subparagraph shall afford protection against such other risks as shall customarily be covered with respect to projects similar in construction, location, and use including, but not limited to, earthquake coverage and flood coverage.

(b) General Liability Insurance. A policy of commercial general liability insurance insuring the Master Association in an amount not less than Five Million Dollars (\$5,000,000) covering bodily injury, including death of persons, personal injury, and property damage liability arising out of a single occurrence, and such other risks as shall customarily be covered with respect to projects similar in construction, location, and use.

(c) Flood Insurance. If the Common Area or any portion thereof is located within an area identified by the Federal Emergency Management Agency ("FEMA") as having special flood hazards, and flood insurance coverage on improvements on the Common Area has been made available under the National Flood Insurance Program, then such a policy of flood insurance on the Common Area located therein in an amount at least equal to the lesser of:

(i) the maximum coverage available under the National Flood Insurance Program for all buildings and other insurable property located within a designated flood hazard area; or

(ii) one hundred percent (100%) of current replacement cost of all buildings and other insurable property located within a designated flood hazard area. To the extent Common Area Improvements are located in an area designed by FEMA as having special flood hazards, but the area has been modified through the land development process in a manner such that it is no longer located in such a FEMA area, but the FEMA maps have not been



updated to reflect such development modification, then the insurance requirements of this Section 10.01(c) may, with respect to such Improvements, be waived.

10.2. Other Insurance Maintained by the Master Association.

(a) Director's and Officer's Liability Insurance. To the extent such insurance is reasonably obtainable the Master Association shall maintain individual liability insurance for its directors and officers providing coverage for negligent acts or omissions in their official capacities. The minimum coverage of such insurance shall be at least One Million Dollars (\$1,000,000).

(b) Additional Insurance and Bonds. To the extent such insurance is reasonably obtainable, the Master Association may also purchase with common funds such additional insurance and bonds as it may, from time to time, determine to be necessary or desirable, including, without limiting the generality of this section, demolition insurance, flood insurance, and workers' compensation insurance. A policy or bond providing adequate fidelity coverage to protect against dishonest acts on the part of Officers, Directors, trustees, and employees and agents (including chartered club officers) of the Master Association and all others who handle or are responsible for handling funds of the Master Association. Such fidelity coverage or bonds shall name the Master Association as an additional insured or as an obligee and shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression. The Board shall purchase and maintain such insurance on personal property owned by the Master Association and any other insurance that it deems necessary or desirable.

10.3. Policy Terms. All policies of insurance shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of the Declarant or a Member of the Master Association, shall provide that the policies may not be canceled or substantially diminished or reduced in coverage without at least thirty (30) days prior written notice to the insured, as well as to any first mortgagee having previously requested such information in writing. Duplicate originals of all policies and renewals thereof, together with proof of payment of premiums, shall be delivered to any Eligible Holder upon written request.

10.4. Other Insurance to Be Maintained by Owners. The Master Association shall have the right, but not the obligation, to make arrangements with the Owners of Separate Interests within any Cost Center to obtain a master policy of fire and casualty insurance for all Residences located in such Cost Center. In that event, the premiums for such master policy shall be assessed equally against Owners in such Cost Center as part of Regular Assessments.

Except to the extent that the Master Association elects to obtain such a master policy of fire and casualty insurance, each Owner of a Separate Interest shall be responsible for obtaining his/her own policy of fire and casualty insurance with respect to such Separate Interest. Further, in any event, each Owner shall be responsible for obtaining his/her own insurance to cover: (i) furnishings, fixtures and personal property within such Owner's Residence; and, (ii) such Owner's personal liability for committing negligent or tortious acts while within Lincoln Crossing.

10.5. Notice of Loss to Eligible Holders. In the event that there shall be any damage to or destruction of the Common Area which shall be in excess of One Hundred Thousand Dollars (\$100,000), then timely written notice of any such damage or destruction shall be given by the Master Association to Eligible Holders who request such a notice in writing.

10.6. Annual Review of Association Insurance and Disclosure to Members. The Board shall review the adequacy of all insurance, including the amount of liability coverage and the amount of property damage coverage, at least once every year. At least once every three (3) years, the review shall include a replacement cost appraisal of all insurable Common Area Improvements without respect to depreciation. The Board shall adjust the policies to provide the amounts and types of coverage and protection that are customarily carried by prudent owners' associations operating in similar common interest developments in the greater Placer County region. In accordance with California Civil Code section 1365(e), annually the Master Association shall distribute to its Members a summary of the Master Association's property, general liability, and flood insurance (if any), such distribution to be made within sixty (60) days prior to the beginning of the Master Association's fiscal year.

10.7. Board's Authority to Revise Insurance Coverage. The Board shall have the power and right to deviate from the insurance requirements contained in this Article 10 in any manner that the Board, in its reasonable business discretion, considers to be in the best interests of the Master Association. If the Board elects to materially reduce the coverage from the coverage required in this Article 10, the Board shall make all reasonable efforts to notify the Members of the reduction in coverage and the reasons therefore at least thirty (30) days prior to the effective date of the reduction. The Master Association, and its directors and officers, shall have no liability to any Owner or Mortgagee if, after a good faith effort, the Master Association is unable to obtain any insurance required hereunder because the insurance is no longer available; or, if available, the insurance can be obtained only at a cost that the Board, in its sole discretion, determines is unreasonable under the circumstances; or the Members fail to approve any assessment increase needed to fund the insurance premiums.

## ARTICLE 11. DAMAGE OR DESTRUCTION

11.1. Damage or Destruction of Common Facilities; Bids and Determination of Available Insurance Proceeds. In the event any Common Facilities are ever damaged or destroyed, then, and in such event, as soon as practicable thereafter the Board of Directors shall: (a) obtain bids from at least two reputable, licensed contractors, which bids shall set forth in detail the work required to repair, reconstruct and restore the damaged or destroyed portions of the Common Facilities to substantially the same condition as they existed prior to the damage and the itemized price asked for such work; and (b) determine that amount of all insurance proceeds available to the Master Association for the purpose of effecting such repair, reconstruction and restoration.

11.2. Common Facilities; Sufficient Insurance Proceeds. Subject to the provisions of Section 11.01, above, if, in the event of damage to or destruction of any portion of any Common Facility, the insurance proceeds available to the Master Association are sufficient to cover the costs of repair, reconstruction and restoration, then the Master Association may cause such

facilities to be repaired, reconstruction and restored substantially the same condition in which they existed prior to the loss; provided, however, that in the event of a total destruction of the Common Facility, the Master Association shall not be obligated to restore the facility to its prior appearance and condition if the Board's opinion, architectural or design modifications to the Facilities will result in providing the Members with an improved facility available for substantially the same use and enjoyment as the destroyed facility.

**11.3. Common Facilities: Insurance Proceeds Insufficient in an Amount Exceeding Master Association Special Assessment Authority.** In the event that any Common Facility is totally or substantially damaged or destroyed or, if, in the event of damage to or destruction of only a portion of the Common Facilities, the insurance proceeds, capital replacement reserves and funds, if any, offered or contributed to the Master Association from any other source for the repair, replacement or major reconstruction of the damaged or destroyed facility are insufficient in an amount exceeding the dollar amount that the Board can raise without prior Member approval (see Sections 4.02 and 4.03, above), then the issue of whether repair or replacement of the Common Facility should be funded by a Special Assessment shall be presented to the Members for approval in accordance with Section 4.08, above. If such Assessment is approved, the Master Association shall levy such Special Assessment and proceed to make such repairs or reconstruction. If the Special Assessment is not approved, the insurance proceeds may, after first being used to clear and landscape damaged areas, be applied in accordance with the wishes of the Membership upon the approval of Members and Eligible Holders as set forth in Article 14, below, except that the proceeds shall not be distributed to the Owners, unless made jointly payable to Owners and the first Mortgagees, if any, of their respective Separate Interests.

The solicitation materials distributed to the Members in connection with any such vote shall include sufficient replacement cost and bid information to enable the Members to make an informed decision and the issue shall be presented on the ballot with the following alternatives: (a) to repair, reconstruct and restore the damaged or destroyed Common Facilities and specially assess all Owners for such additional funds as may be needed for such purpose (with the amount of the Special Assessment stated); or (b), in the alternative, not to repair, reconstruct or restore the damaged or destroyed Common Facilities but rather to utilize the insurance proceeds available for such reconstruction, together with any other sums otherwise available to the Master Association for such purpose, to demolish and remove the damaged or destroyed Improvements from the Common Area and to level and landscape the sites thereof and apply any balance of such proceeds and/or funds as the Members holding such voting power and their first mortgagees may determine.

**11.4. Damage or Destruction of Residences.**

(a) **Obligation to Rebuild.** If all or any portion of any Residence is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of said Residence to rebuild, repair or reconstruct said Residence in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty.

(b) **Architectural Review Committee Approval.** Any Owner whose Residence or other structural improvement(s) have been damaged or destroyed shall apply to the Architectural Review Committee for approval of plans for the reconstruction, rebuilding, or

repair of the damaged or destroyed Residence or structural improvement(s). Application for such approval shall be made in writing together with full and complete plans, specifications, working drawing and elevations showing the proposed reconstruction and the end result thereof. The Architectural Review Committee shall grant such approval only if the design proposed by the Owner satisfies the requirements for approval set forth in Section 5.06, above.

(c) Time Limitation for Reconstruction or Removal. The Owner or Owners of any damaged Residence(s) or other structural improvement(s) and the Architectural Review Committee shall be obligated to proceed with all due diligence hereunder to remove damaged structures (or portions thereof), prepare and process reconstruction plans and specifications and complete the repair and restoration work. At a minimum, whenever Owners are required to prepare and submit repair or reconstruction plans to the Architectural Review Committee, said submittal shall be made within sixty (60) days following the event and reconstruction shall commence within forty-five (45) days following receipt of approval from the Committee. Reconstruction shall be completed within the time provided in Section 5.10, above. For good cause (including, without limitation, delays caused by inclement weather or the processing of insurance claims) the Architectural Review Committee may waive or extend any of the deadlines imposed by this subparagraph (c).

11.5. Damage or Destruction of Separate Interests or Common Areas in Projects. The responsibilities of Owners of Separate Interests in any Condominium Project or townhouse style Planned Development and the Sub-Association with jurisdiction over the Project shall be as set forth in a Supplemental Declaration Recorded with respect to the Project Area.

## ARTICLE 12. EMINENT DOMAIN

12.1. Definition of Taking. The term "taking" as used in this article shall mean condemnation by eminent domain, or by sale under threat thereof, of all or part of the Common Area.

12.2. Representation by Master Association in Condemnation Proceeding. In the event of a taking, the Master Association shall represent all of the Members in an action to recover all awards, subject to the right of all Institutional Holders who have requested the right to join the Master Association in the proceedings. The Master Association is designated as the sole representative of the Members in all aspects of condemnation proceedings.

12.3. Award for Common Area. In the event of a taking of all or any part of the Common Area, the Master Association shall distribute the award from the taking authority after deducting therefrom fees and expenses related to the condemnation proceeding including, without limitation, fees for attorneys and appraisers and court costs. In the event that the taking is by judgment of condemnation and said judgment apportions the award among the Owners and their respective Institutional Holders, the Master Association shall distribute the amount remaining after such deductions on the allocation basis set forth in the judgment. In the event that the taking is by sale under threat of condemnation, or if the judgment of condemnation fails to apportion the award, the Master Association shall distribute the award among the Owners and Institutional Holders on a pro rata basis, with each Owner and Institutional Holder receiving an

equal share of such award for each Separate Interest owned by such Owner within Lincoln Crossing. Unless otherwise agreed to by the Institutional Holders, all amounts payable to an Owner shall be paid to the Institutional Holder.

12.4. Inverse Condemnation. The Master Association is authorized to bring an action in inverse condemnation. In such event, the provisions of this article shall apply with equal force.

12.5. Notice to Members. The Master Association, immediately upon having knowledge of any taking or threat thereof, shall promptly notify all Members.

### ARTICLE 13. BREACH AND DEFAULT

13.1. Remedy at Law Inadequate. Except for the nonpayment of any Assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Master Declaration are inadequate and that the failure of any Owner, tenant, occupant or user of any Separate Interest, or any portion of the Common Area or Common Facilities, to comply with any provision of the Governing Documents may be enjoined by appropriate legal proceedings instituted by Declarant, any Owner, the Master Association, its officers or Board of Directors, or by their respective successors in interest.

13.2. Nuisance. Without limiting the generality of the foregoing Section 13.01, the result of every act or omission whereby any covenant contained in this Master Declaration is violated in whole or in part is hereby declared to be a nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.

13.3. Costs and Attorneys' Fees. In any action brought because of any alleged breach or default of any Owner or other party hereto under this Master Declaration, the court may award to the prevailing party in such action such attorneys' fees and other costs as it may deem just and reasonable.

13.4. Cumulative Remedies. The respective rights and remedies provided by this Master Declaration or by law shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different default or breach or for the same or any different failure of any Owner or others to perform or observe any provision of this Master Declaration.

13.5. Failure Not a Waiver. The failure of Declarant, any Owner, the Master Association or its officers or agents to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Master Declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Declarant, the Master Association or the Board, or any of its officers or agents.

13.6. Rights and Remedies of the Master Association (Governing Document Enforcement).

(a) Rights Generally. Except as otherwise provided in Section 13.07 ("Assessment Collections"), in the event of a breach or violation of any Master Association Rule or of any of the restrictions contained in any Governing Document by an Owner, his or her family, or the Owner's guests, employees, invitees, licensees, or tenants, the Board, for and on behalf of all other Owners, may enforce the obligations of each Owner to obey such Rules, covenants, or restrictions through the use of such remedies as are deemed appropriate by the Board and available in law or in equity, including but not limited to the hiring of legal counsel, the imposition of fines and monetary penalties, the pursuit of legal action, or the suspension of the Owner's right to use recreation Common Facilities or suspension of the Owner's voting rights as a Member of the Master Association; provided, however, the Master Association's right to undertake disciplinary action against any of its Members shall be subject to the procedures set forth in this section.

The decision of whether it is appropriate or necessary for the Master Association to take enforcement or disciplinary action in any particular instance shall be within the sole discretion of the Master Association's Board or its duly authorized enforcement committee. If the Master Association declines to initiate action in any instance, any Owner shall have such rights of enforcement as may be available to the Owner pursuant to California Civil Code section 1354 or otherwise by law.

(b) Schedule of Fines. The Board may implement a schedule of reasonable fines and penalties for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate (such as fines for late payment of Assessments or illegally parked vehicles parked in violation of the Governing Documents, or violations of the architectural approval requirements and procedures of Article 5 of this Declaration). Once imposed, a fine or penalty may be collected as a Special Individual Assessment, subject to the limitation on the use of lien and foreclosure remedies stated in Section 4.04(c), above. In accordance with California Civil Code section 1363(g), any schedule of fines or monetary penalties adopted by the Master Association shall be distributed to each Member by personal delivery or first-class mail at the time the schedule is first adopted and thereafter whenever the schedule is changed.

(c) Definition of "Violation". A violation of the Governing Documents shall be defined as a single act or omission occurring on a single day. If the detrimental effect of a violation continues for additional days, discipline imposed by the Board may include one component for the violation and, according to the Board's discretion, a per diem component for so long as the detrimental effect continues. Similar violations on different days shall justify cumulative imposition of disciplinary measures. The Master Association shall take reasonable and prompt action to repair or avoid the continuing damaging effects of a violation or nuisance occurring within the Common Area at the cost of the responsible Owner.

(d) Limitations of Disciplinary Rights.

(i) Generally. The Master Association shall have no power to cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of his or her Separate Interest or Residence due to the failure by the Owner (or his or her family members, tenants, guests or invitees) to comply with any provision of the Governing Documents or of any duly enacted Community Rule except where the loss or forfeiture is the result of the judgment of a court of competent jurisdiction, a decision arising out of arbitration or a foreclosure or sale under a power of sale for failure of the Owner to pay Assessments levied by the Master Association, or where the loss or forfeiture is limited to a temporary suspension of an Owner's rights as a Member of the Master Association or the imposition of monetary penalties for failure to pay Assessments or otherwise comply with any Governing Documents so long as the Master Association's actions satisfy the due process requirements of subparagraph (iii), below.

(ii) Monetary Penalties. Monetary penalties imposed by the Master Association: (A) for failure of a Member to comply with the Governing Documents; (B) as a means of reimbursing the Master Association for costs incurred by the Master Association in the repair of damage to the Common Area or Common Facilities allegedly caused by a Member; or (C) in bringing the Member and his or her Separate Interest into compliance with the Governing Documents, may not be characterized nor treated as an Assessment which may become a lien against the Member's Separate Interest enforceable by a sale of the Separate Interest in nonjudicial foreclosure; provided, however, that this limitation on the Master Association's lien rights shall not apply to charges imposed against an Owner consisting of reasonable late payment penalties to reimburse the Master Association for the loss of interest and for costs reasonably incurred (including attorneys' fees) in the Master Association's efforts to collect delinquent Assessments.

(iii) Hearings and Summary Enforcement Rights. No penalty or temporary suspension of rights shall be imposed pursuant to this article unless the Member alleged to be in violation is given at least ten (10) days prior notice of the Board's intention to impose a penalty or discipline the Member (see subparagraph (iv), below). Notwithstanding the foregoing, under circumstances involving conduct that constitutes: (A) an immediate and unreasonable infringement of, or threat to, the safety or quiet enjoyment of neighboring Owners; (B) a traffic or fire hazard; (C) a threat of material damage to, or destruction of, the Common Area or Common Facilities; or (D) a violation of the Governing Documents that is of such a nature that there is no material question regarding the identity of the violator or whether a violation has occurred (such as late payment of Assessments or parking violations), the Board of Directors, or its duly authorized agents, may undertake immediate corrective or disciplinary action and, upon request of the offending Owner (which request must be received by the Master Association, in writing, within five (5) days following the Master Association's disciplinary action), or on its own initiative, conduct a hearing on the matter. If the Master Association acts on its own initiative to schedule a hearing, notice of the date, time and location of the hearing shall accompany the notice of disciplinary action. If the accused Owner desires a hearing, a written request therefor shall be delivered to the Master Association no later than five (5) days following the date when the fine is levied or other enforcement action is initiated. All notices and hearing schedules and procedures shall comply with Civil Code section 1363(h) and subparagraph (iv), below.

(iv) Conduct of Hearings and Notice. Disciplinary hearings may be before the Board or its duly appointed Covenants Committee and shall be scheduled at a date which is at least ten (10) days, but no more than thirty (30) days following the date that notice of the hearing is given to the Owner. The notice shall be given by either first-class mail or by personal delivery and shall set forth the date, time and location of the hearing, a general description of the violation and a notice that the Member has a right to attend the hearing and address the Board or its duly designated Covenants Committee.

If the Board or its Covenants Committee imposes discipline on a Member, the Board shall provide the Member with a written notification of the action taken, within fifteen (15) days following the Master Association's action. That notice shall be given either by personal delivery or by first-class mail. In no event shall the effective date of any disciplinary action commence sooner than five (5) days following conclusion of the hearing unless: (i) the hearing merely affirms summary disciplinary action initiated pursuant to the immediately preceding paragraph; or (ii) earlier commencement is necessary to preserve the quiet enjoyment of other residents or to prevent further damage to, or destruction of, the Development or any portion thereof.

(v) Rules and Procedures Regarding Disciplinary Proceedings. The Board, or an appropriate committee appointed by the Board to conduct and administer disciplinary hearings and related proceedings, shall be entitled to adopt rules that further elaborate and refine the procedures for conducting disciplinary proceedings. Such rules, when approved and adopted by the Board, shall become a part of the Community Rules. In addition, a Supplemental Declaration applicable to any Phase may address the allocation of enforcement responsibilities and jurisdiction as between the Master Association and its Compliance Committee and any Sub-Association with jurisdiction within the Phase.

(vi) Appointment of a Covenants Committee. Acting pursuant to Section 10.01 of the Bylaws, the Board of Directors may, but shall not be obligated to, establish a Covenants Committee to hear and decide cases involving alleged violations of the Governing Documents. If no committee is established, the Board shall perform this function. The Covenants Committee shall review written complaints from Owners, the Master Association's property manager, or the Design Review Committee (for violations other than those relating to specific Improvement projects, which shall remain within the jurisdiction of the Design Review Committee) of alleged violations of the Governing Documents or Community Rules, and, when determined appropriate, conduct hearings and make findings regarding the alleged violation(s).

The decisions of the Covenants Committee, if established, shall be appealable by the affected Owner(s) to the Board of Directors within ten (10) calendar days following receipt of the Committee's decision. The Board shall have the discretion to hear any appealed matter or decline to take the appeal and thus affirm the decision of the Covenants Committee. Any decision to decline an appeal shall be based on a reasonable determination from the record that the appeal lacks merit. Decisions of the Board shall be final. Procedures for appeal and the hearing of appeals from the Covenants Committee shall be set forth in the Community Rules.

(vii) Court Actions. Court actions to enforce the Governing Documents may only be initiated on behalf of the Master Association by resolution of the Board. Prior to the filing of any court action seeking declaratory or injunctive relief to interpret or enforce the



Governing Documents (including either such action coupled with a claim for monetary damages not in excess of Five Thousand Dollars (\$5,000)), the Master Association shall first comply with the provisions of California Civil Code section 1354 relating to alternative dispute resolution. The Master Association's notice and hearing procedures shall be drafted to satisfy these statutory requirements.

13.7. Assessment Collection Actions. The notice and hearing procedures set forth in Section 13.06 shall not apply to any actions by the Master Association or its duly authorized agents to collect delinquent assessments. Assessment collections shall be subject to Section 4.10, above, and any other notice, hearing and/or dispute resolution requirements or procedures as may be specifically applicable by law to Master Association assessment collection efforts.

13.8. Dispute Resolution Procedures Applicable to Declarant Disputes. With respect to the Claims involving the Parties described in subparagraph (a), below, this Section 13.08 sets forth a process of progressive dispute resolution that has as its objective the prompt resolution of disputed Claims without the necessity of resort by any Party to civil litigation.

(a) Description of Claims That Are Subject to This Section 13.08. The provisions of this Section 13.08 shall apply to the following claims, disputes or controversies (collectively "Claims") between the Master Association and/or any Owner or Owners, on the one hand, and the Declarant (including any director, officer, shareholder, partner, employee or agent of the Declarant) or any builder, developer, subcontractor, material supplier, individual product manufacturer, or design professional involved in the construction or design of Common Facilities within the Development, on the other hand, (collectively, the potential parties on either side of such Claims shall be collectively referred to in this Section 13.08 as the "Parties"). This Section 13.08 is not intended to apply to claims and disputes that may arise or exist between one or more Owners and any builder (including, without limitation, any Merchant Builder) arising out of or relating to the construction of Residences, Units and other improvements on Separate Interests in Lincoln Crossing (collectively, "Builder Disputes"), although the process for resolving Builder Disputes may be addressed in a Supplemental Declaration Recorded pursuant to Article 15, below.

(i) Claims Relating to Defects in Construction of Common Areas and Common Facilities. This category of Claims includes any Claims asserted by or on behalf of the Master Association or any Owner or Owners against any director, officer, shareholder, partner, employee or agent of the Declarant (collectively, the "Declarant Parties"), seeking recovery of damages relating to construction and/or violations of the functionality standards set forth in Civil Code sections 896-897 insofar as such claims pertain and are limited to the Common Areas and/or Common Facilities of Lincoln Crossing (those Claims are referred to herein as "Title 7 Claims") and/or any Claims by the Master Association that are subject to Civil Code sections 1375 -1375.1 (those Claims are referred to herein as "Calderon Claims");

(ii) Claims Covered by Warranty Contracts. This category of Claims includes any Claims asserted by or on behalf of the Master Association and any Owner or Owners against the Declarant or any Declarant Parties relating to alleged deficiencies in the quality of workmanship or materials in any Common Facility, its components, or the Development that are defined as "Covered Claims" in the Declarant's Warranty Agreement or

in any warranty provided by the manufacturer of a product that is installed in any Common Facility, such as windows, doors, roofs, plumbing products and fixtures, fireplaces, electrical fixtures, countertops, cabinets, paint, and appliances; and

(iii) Other Claims and Disputes Between the Master Association or any Owner or Owners and the Declarant. The third category of Claims that are subject to this Section 13.08 includes any other Claim asserted by or on behalf of the Master Association or any Owner or Owners against the Declarant and any Declarant Parties involving any alleged breaches of the Governing Documents of the Development (including, without limitations, claims alleging a breach of any covenants, conditions and restrictions or claims for fraud or breach of fiduciary duty, and any Claims involving alleged breaches of any other documents provided by the Declarant or any Declarant Parties to the Master Association or any Owner in connection with the purchase of a Residence in the Development or the conveyance of Common Facilities to the Master Association.

(b) Resort to Customer Service and Warranty Programs. If the Declarant has a customer service program in effect to respond to any Master Association or Owner complaints regarding matters that are identified as Claims, in subparagraph (a), above, the Master Association and the complaining Owners are encouraged to endeavor to resolve those Claims with the Declarant through the normal customer service procedures set forth in the customer service program or in any contractual, warranty, or other builder-generated document. As provided in Civil Code section 910(b) any requests that an Owner makes pursuant to such warranties or customer service procedures are in addition to, and shall not constitute satisfaction of, the notice requirements identified in subparagraph (c), below. The Master Association and all Owners are advised that if they wish to pursue Claims that are covered by any contractual warranty issued or provided by the Declarant or any manufacturer of a product or component included in any Common Facility of Lincoln Crossing, the provisions of the applicable contractual warranty are not affected by the provisions of this Declaration, including this Section 13.08. In other words, if an Owner desires to enforce a contractual warranty, the notice and dispute resolution provisions of the applicable warranty must be followed, rather than the procedures set forth below.

If the Claim cannot be resolved between the Parties through the customer service program process or applicable warranty procedures, the Claim shall first be subject to the applicable non-adversarial dispute resolution procedures identified in subparagraph (c), below, and if those procedures are unsuccessful in resolving the Claim to the satisfaction of the Parties, the Claim shall be decided through the arbitration procedure set forth in subparagraph (d), below. Alternatively, Declarant, an Owner or the Master Association may elect to resolve such Disputes through a small claims court proceeding.

(c) Notice of Actions Against Declarant and Compliance with Applicable Non-Adversarial Pre-Litigation Dispute Resolution Procedures. Prior to the initiation of any civil litigation or arbitration to resolve disputed Claims, the Parties to any Claim shall comply with the following provisions of the Civil Code, as subsequently amended from time to time, to the extent those provisions are applicable to the Claim:

(i) Civil Code section 1368.4 (which obligates Master Associations to notify their members prior to filing a civil action against the Declarant or other developer for alleged damage to the Common Areas or to those portions of any Separate Interests or Residences that the Master Association is obligated to repair, maintain or replace);

(ii) Civil Code sections 910 through 938 (which sets forth certain notice and non-adversarial pre-litigation dispute resolution procedures with respect to any Claims seeking recovery of damages relating to defects in the construction of residential improvements and common facilities in a common interest development). All notices of Claims made pursuant to Civil Code sections 910 et seq. with respect to Master Association Common Areas or Common Facilities must be in writing and delivered to the Declarant or the Declarant's agent for service. Declarant's agent for such notices shall be: LB/L SunCal Lincoln Crossing, I.L.C. a Delaware limited liability company, 5109 E. La Palma Avenue, Suite D, Anaheim, CA 92809; Attention Managing Member; and

(iii) Civil Code section 1375 (which sets forth certain notice and non-adversarial pre-litigation dispute resolution procedures prior to a Master Association's initiation of an action for damages against a builder of common interest development property).

The Notice requirements of this subparagraph (c) are in addition to any contractual notice requirements set forth in any limited warranty given to the Master Association by the Declarant or any manufacturer of a product installed in any Common Facility. Furthermore, to the extent the provisions of Civil Code sections 910 through 938, inclusive, are enforced and those provisions are substantially similar to provisions in Civil Code section 1375, Civil Code section 935 provides that the Parties shall be excused from performing the substantially similar requirements under section 1375 of the Civil Code ( see Civil Code section 935).

(d) ARBITRATION OF DISPUTES. THIS PROCESS INVOLVES WAIVER OF THE RIGHT TO A JURY TRIAL. BY EXECUTING THIS DECLARATION AND BY EXECUTING A DEED TO ANY PORTION OF THE PROPERTY, RESPECTIVELY, DECLARANT, EACH OWNER AND THE MASTER ASSOCIATION, AGREE TO BE BOUND BY THE PROVISIONS OF THIS SUBPARAGRAPH (d).

(i) Agreement to Arbitrate. The Master Association, each Owner and Declarant shall resolve any Claim not resolved as provided in subparagraph (b), above, exclusively through binding arbitration in the County. This arbitration provision shall apply to Claims of any kind or nature described in subparagraph (a), above, regardless of when the Claim first arose or the nature of the relief sought.

(ii) Rules. Claims shall be resolved in accordance with the construction industry arbitration rules of the AAA, the AAA's Supplementary Procedures for Consumer/Residential Construction Disputes (collectively, the "Rules") and the terms of this Agreement.

(iii) Preliminary Procedures. If state or federal law requires Declarant or Owner to take steps or procedures before commencing an action in court, then Declarant or Owner must take such steps or follow such procedures, as the case may be, before commencing

the arbitration. For example, any claims or disputes pursuant to California Civil Code section 895 et seq. as hereafter amended may be subject to the non-adversarial procedures set forth in California Civil Code sections 910 through 938, prior to the initiation of any arbitration or small claims court proceeding against Declarant. In addition, nothing contained herein shall be deemed a waiver or limitation of the provisions of California Civil Code sections 1368.4, 1375, 1375.05 or 1375.1.

(iv) Arbitrator. The dispute shall be heard and determined by a single neutral arbitrator. The arbitrator shall have expertise in the area of the dispute. Selection of the arbitrator shall comply with California Code of Civil Procedure sections 1297.121 and 1297.124. The arbitrator shall be selected according to the Rules, but in no event more than sixty (60) days from the date the administrator receives the claims. If the parties cannot mutually agree upon an arbitration agency, the dispute shall be referred to the local office of the AAA.

(v) Joinder. The parties may join other parties as provided in the Rules except that Owner may not join Owner's Claims against Declarant with the Claims of any other homeowners. The parties may include Declarant subcontractors and suppliers in the arbitration to the extent they involve Owner Claims.

(vi) Location. The venue of the arbitration may be in the Residence if Owner agrees, but otherwise shall be held in the County where the Residence is located unless the parties agree otherwise. The arbitration shall commence, be conducted and conclude promptly, in accordance with the Rules.

(vii) Award. The arbitrator is authorized to provide all recognized remedies available in law or equity for the Claims. The award of the arbitrator shall be in compliance with the statutes and case law of the state of California then in effect and shall be accompanied by detailed written findings of fact and conclusions of law. Any award rendered by the arbitrator may be confirmed, entered and enforced, in any court having jurisdiction.

(viii) Confidential. Except as may be required by law or for confirmation of the award, neither the parties nor the arbitrator may disclose the existence, content or results, of the arbitration hearing without the prior written consent of both parties.

(ix) Fees. Declarant will advance the fees and costs necessary to initiate and conduct the arbitration. If Declarant is the prevailing party in the arbitration, the arbitrator may, to the extent permitted by law and the Rules, direct Owner to reimburse Owner for up to one half of the fees Declarant has advanced. Each party shall bear their own attorney fees and costs.

(x) Small Claims Court. This provision shall not apply to any claim that can be properly brought by Owner without legal counsel in small claims court. However, any appeal from the small claims jurisdiction to a higher court shall be governed by this provision.

(xi) Statute of Limitations. The arbitration must be filed within the applicable warranty period or within the statute of limitations applicable to the Claim.

(xii) Conflict. In the event of a conflict between the arbitration procedures set forth in the Purchase Agreement and the dispute resolution procedures set forth in this Declaration of Conditions, Covenants and Restrictions applicable Claims, as defined in subparagraph (a), above, the dispute resolution procedures set forth in this Section 13.08 shall govern all disputes to which the Master Association is, or later becomes, a party.

(e) AGREEMENT TO ARBITRATION AND WAIVER OF JURY TRIAL.

(i) AGREEMENT TO ARBITRATION OF CLAIMS. BY EXECUTING THIS DECLARATION, DECLARANT AND BY ACCEPTING A DEED TO ANY PORTION OF THE PROPERTY, EACH OWNER AND THE MASTER ASSOCIATION AGREE TO HAVE ANY CLAIM, AS DEFINED IN SUBPARAGRAPH (a) OF THIS SECTION 13.08, DECIDED BY NEUTRAL ARBITRATION IN ACCORDANCE WITH THE FEDERAL ARBITRATION ACT AND THE CALIFORNIA ARBITRATION ACT PURSUANT TO SUBPARAGRAPH (d), ABOVE, TO THE EXTENT THE CALIFORNIA ARBITRATION ACT IS CONSISTENT WITH THE FEDERAL ARBITRATION ACT, AND OWNER AND DECLARANT ARE GIVING UP ANY RIGHTS DECLARANT, OWNER AND THE MASTER ASSOCIATION MIGHT POSSESS TO HAVE THE CLAIM LITIGATED IN A COURT OR JURY TRIAL. DECLARANT, OWNER AND MASTER ASSOCIATION ARE GIVING UP THEIR RESPECTIVE JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THIS SECTION 13.08. IF DECLARANT, ANY OWNER OR THE MASTER ASSOCIATION REFUSES TO SUBMIT TO ARBITRATION AFTER AGREEING TO THIS PROVISION, SUCH PARTY MAY BE COMPELLED TO ARBITRATE UNDER THE FEDERAL ARBITRATION ACT AND THE CALIFORNIA ARBITRATION ACT, TO THE EXTENT THE CALIFORNIA ARBITRATION ACT IS CONSISTENT WITH THE FEDERAL ARBITRATION ACT.

(ii) WAIVER OF JURY TRIAL. IN THE EVENT THE FOREGOING ARBITRATION PROVISIONS OF THIS SECTION 13.08 ARE HELD NOT TO APPLY OR ARE HELD INVALID, VOID OR UNENFORCEABLE IN THEIR ENTIRETY FOR ANY REASON, ALL CLAIMS SHALL BE TRIED BEFORE A JUDGE IN A COURT OF COMPETENT JURISDICTION WITHOUT A JURY. THE JUDGE IN SUCH COURT OF COMPETENT JURISDICTION SHALL HAVE THE POWER TO GRANT ALL LEGAL AND EQUITABLE REMEDIES AND AWARD COMPENSATORY DAMAGES. DECLARANT, BY EXECUTING THIS DECLARATION AND EACH OWNER AND THE MASTER ASSOCIATION BY ACCEPTING A DEED TO ANY PORTION OF THE DEVELOPMENT, HEREBY WAIVE AND COVENANT NOT TO ASSERT THEIR CONSTITUTIONAL RIGHT TO TRIAL BY JURY OF ANY CLAIMS, INCLUDING, BUT NOT LIMITED TO, CLAIMS RELATING TO CONSTRUCTION DEFECTS, MISREPRESENTATION OR DECLARANT'S FAILURE TO DISCLOSE MATERIAL FACTS. THIS MUTUAL WAIVER OF JURY TRIAL SHALL BE BINDING UPON THE RESPECTIVE SUCCESSORS AND ASSIGNS OF SUCH PARTIES AND UPON ALL PERSONS AND ENTITIES ASSERTING RIGHTS OR CLAIMS OR OTHERWISE ACTING ON BEHALF OF THE DECLARANT, ANY OWNER, OR THE MASTER ASSOCIATION, OR THE SUCCESSORS AND ASSIGNS OF ANY SUCH PARTIES.

(f) Final and Binding Award. The decision of the Arbitrator in a proceeding that is subject to this Section 13.08 shall be final and binding. A petition to confirm, vacate, modify or correct an award of the Arbitrators may be filed in any Court of competent jurisdiction in the County in which the Development is located, but the award may be vacated, modified or corrected only as permitted by the Federal Arbitration Act.

(g) Severability. In addition to and without limiting the effect of any general severability provisions of this Declaration, if the Arbitrator or any Court determines that any provisions of this Section 13.08 are unenforceable for any reason, that provision shall be severed and the proceedings agreed to in this Section 13.08 shall be conducted under the remaining enforceable terms of the section.

(h) Application of Award. Any proceeds awarded to the Master Association arising from any Claim by settlement, award or otherwise shall be applied in accordance with the provisions of Section 3.07(c) of this Declaration.

#### **ARTICLE 14. RIGHTS OF INSTITUTIONAL HOLDERS OF MORTGAGES**

The following provisions are for the benefit of Institutional Holders, Insurers and Guarantors of first mortgages on Separate Interests within Lincoln Crossing and shall apply notwithstanding any provision to the contrary set forth elsewhere in the Governing Documents. These provisions apply only to "Eligible Holders" as defined below.

14.1. Notices of Actions. Any Institutional Holder, Insurer or Guarantor of a first Mortgage who provides written request to the Master Association, stating the name and address of such Holder, Insurer or Guarantor and the address or legal description of the particular Separate Interest encumbered (thus becoming an "Eligible Holder"), will be entitled to timely written notice of:

- (a) any default by the Owner of such Separate Interest in the performance of such Owner's obligations under the Master Declaration, Articles or Bylaws which is not cured within sixty (60) days from the date of such default;
- (b) any condemnation proceedings affecting any portion of Lincoln Crossing ;
- (c) any substantial damage to or destruction of any portion of the Common Area;
- (d) any proposed termination of the Master Association;
- (e) any lapse, cancellation or material modification of any insurance policy maintained by the Master Association; or
- (f) any proposed action which would require the consent of Eligible Holders as further described in this article.

**14.2. Rights of Institutional Holders Upon Foreclosure.** Any Institutional Holder of a first Mortgage on a Separate Interest which comes into possession of that Separate Interest pursuant to judicial foreclosure or foreclosure by power of sale shall:

(a) acquire title in such Separate Interest free of any claims for unpaid assessments or charges against the Separate Interest accruing prior to the Institutional Holder's acquisition of title;

(b) not be obligated to cure any breach of this Master Declaration which is non-curable or of a type which is not practical or feasible to cure and which took place prior to acquisition of title to the Separate Interest by the Institutional Holder; and

(c) be exempt from any right of first refusal contained in this Master Declaration, or any amendment hereto, and such right of first refusal shall not impair the rights of an Institutional Holder to:

(i) foreclose or acquire title to a Separate Interest pursuant to the remedies provided in the Mortgage;

(ii) accept an assignment in lieu of foreclosure in the event of default by the mortgagor; or

(iii) sell or lease a Separate Interest acquired by the Institutional Holder.

**14.3. Consent of Eligible Holders.** The consent of Eligible Holders shall be required in order to take the following actions with respect to the Master Association and rights and obligations of Members and Institutional Holders:

(a) Any restoration or repair of the Common Area after a partial condemnation or damage due to an insurable hazard shall be substantially in accordance with this Master Declaration and the original plans and specifications unless the approval of the Eligible Holders of first encumbrances on Separate Interests to which at least fifty-one percent (51%) of the votes of the Owners of such Separate Interests, subject to encumbrances held by such Eligible Holders are allocated, is obtained.

(b) Any election to terminate the Master Association after substantial destruction or a substantial taking in condemnation shall require the approval of the Eligible Holders of first encumbrances on Separate Interests to which at least fifty-one percent (51%) of the votes of Owners of such Separate Interests, subject to first encumbrances held by such Eligible Holders, are allocated.

(c) Unless at least seventy-five percent (75%) of the Owners (other than Declarant) have given their prior written approval, the Master Association and the Owners shall not be entitled to:

(i) Change the pro rata interest or obligations of any Separate Interest for the purposes of levying assessments and charges or allocating distributions of hazard insurance proceeds or condemnation awards;

(ii) Partition or subdivide all or any part of the Common Areas;

(iii) By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this provision); or

(iv) Use hazard insurance proceeds for losses to any portion of the Common Area for other than the repair, replacement or reconstruction of such improvements, except as provided by statute.

14.4. Amendments to Documents. The following provisions contained in this section do not apply to amendments to the Bylaws or to this Master Declaration or termination of the Master Association that is necessitated as a result of destruction, damage or condemnation pursuant to subparagraphs (a) and (b) of Section 14.03, above.

(a) The consent of one hundred percent (100%) of the voting power of the Master Association and the approval of the Eligible Holders of first encumbrances on Separate Interest to which at least sixty-seven percent (67%) of the votes of Members owning Separate Interests subject to such encumbrances pertain, shall be required to terminate the Master Association.

(b) The consent of at least sixty-seven percent (67%) of Class A Members and the consent of the Class B Member and the approval of Eligible Holders of first encumbrances on Separate Interests to which at least fifty-one percent (51%) of the votes of Members whose Separate Interests are subject to such an encumbrance pertain, shall be required in order to amend any material provision of the Master Declaration, Bylaws, or Articles, or to add any material provisions thereto, which establish, provide for, govern or regulate any of the following:

(i) voting;

(ii) assessments, assessment liens or subordination of such liens;

(iii) reserves for maintenance, repair and replacement of the Common Area;

(iv) insurance or fidelity bonds;

(v) rights to use the Common Area;

(vi) responsibility for maintenance and repair of Lincoln Crossing;

(vii) expansion or contraction of Lincoln Crossing or the addition, annexation or withdrawal of property to or from the Master Association;



- (viii) boundaries of any Separate Interest or the Common Area;
- (ix) leasing of Separate Interests;
- (x) imposition of any right of first refusal or similar restrictions of the right of any Owner to sell, transfer or otherwise convey his or her Separate Interest;
- (xi) establishment of self-management by the Master Association where professional management has previously been required; or
- (xii) any provisions included in the Master Declaration, Bylaws or Articles which are for the express benefit of Institutional Holders, Guarantors or Insurers of first encumbrances on Separate Interests.

14.5. Additional Rights of Institutional Holders. Any Eligible Holder will, upon request, be entitled to:

- (a) inspect the books and records of the Master Association during normal business hours;
- (b) receive an annual audited financial statement of the Master Association within ninety (90) days following the end of any fiscal year of the Master Association; provided, however, that such audited statements shall be made available only if they have been prepared by the Master Association in the regular course of business; and
- (c) receive written notice of all meetings of Owners and be permitted to designate a representative to attend all such meetings.

14.6. Information. Any Institutional Holder is authorized to furnish information to the Board concerning the status of any loan encumbering a Separate Interest.

14.7. Priority of Mortgage Lien. No breach of the covenants, conditions or restrictions contained in this Master Declaration, nor the enforcement of any lien provisions created herein, shall affect, impair, defeat or render invalid the lien of any first Mortgage made in good faith and for value, but all of the covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title to a Separate Interest is derived through foreclosure, trustee's sale or otherwise.

14.8. Insurance. The Owners and the Master Association shall procure and maintain fire and liability insurance and such other insurance as may from time-to-time be required by Institutional Holders. All such insurance shall contain loss payable clauses naming the Institutional Holders which encumber a Separate Interest by a first Mortgage, as their interests may appear.

14.9. Special FNMA-FHLMC Provisions. So long as required by the Federal National Mortgage Association ("FNMA") and the Federal Home Loan Mortgage Corporation ("FHLMC"), the following provisions shall apply in addition to and not in lieu of the foregoing provisions contained in this article.

(a) Unless two-thirds (2/3) of the Institutional Holders of first encumbrances or Owners of Separate Interests subject to such encumbrances give their consent, the Master Association shall not:

(i) by act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area which the Master Association owns, directly or indirectly;

(ii) change the method of determining the obligations, assessments, dues or other charges which may be levied against an Owner;

(iii) by act or omission change, waive or abandon any scheme of regulations or enforcement thereof pertaining to the architectural design or the exterior appearance and maintenance of Lincoln Crossing and the Common area;

(iv) fail to maintain fire or extended coverage insurance, as required by this Master Declaration; or

(v) use hazard insurance proceeds for any Common Area losses for other than the repair, replacement or reconstruction of such property.

(b) The Master Association agrees to give written notice to the FNMA or FHLMC or its designated representative of any loss to, or taking of, the Common Area if such loss or taking exceeds Ten Thousand Dollars (\$10,000.00).

(c) If any loan secured by a Mortgage encumbering a Separate Interest is owned by the FNMA or FHLMC, its successors or assigns or is tendered to the FNMA or FHLMC, its successors or assigns for purchase, the Master Association and the Owners shall obtain and maintain in full force and effect all insurance coverages which may at any time be required by the FNMA or FHLMC, its successors or assigns and shall otherwise comply in all respects with all insurance requirements of the FNMA or FHLMC which may be in effect at any time.

14.10. Consent of Eligible Holders. An Eligible Holder which receives a written request to consent to an amendment or to any other action to which the Eligible Holders' consent is required or permitted by this Master Declaration, and which does not respond negatively within thirty (30) days after having received the request, shall be deemed to have consented to the amendment or other action.

14.11. Provision of Financial Statement. Upon request, the Master Association shall provide an audited financial statement for the immediately preceding fiscal year to any Eligible Holder, current copies of this Master Declaration, and the other Governing Documents of the Master Association.

**ARTICLE 15.**  
**ANNEXATION, SUPPLEMENTAL DECLARATIONS**

15.1. Annexations, Generally. Any or all of the Annexable Property, as defined in Section 1.01, above, may be annexed to Lincoln Crossing and made subject to this Master Declaration by any of the methods hereinafter set forth. In this Article 15, any reference to the "annexed property" or to an "Annexed Phase" shall mean that portion of the Annexable Property that is described in a duly Recorded Declaration of Annexation or Supplemental Declaration.

15.2. Declarant and Merchant Builder Unilateral Annexation Rights.

(a) Rights of the Declarant. Declarant submitted a plan of phased development for the Overall Development to the California Department of Real Estate that identifies the lands that are more particularly described in Exhibit "B" as Annexable Property that can be brought into the coverage of this Master Declaration and the jurisdiction and Membership obligations of the Master Association, following the Recordation of this Master Declaration with respect to the Initial Covered Property. Such annexation shall be in the sole option of the Declarant and shall not require the approval of either the Master Association, its Board or Members, so long as the plan for phased development includes at least the following elements:

(i) Proof satisfactory to the Commissioner of the Department of Real Estate that no proposed annexation will result in an overburdening of Common Facilities;

(ii) Proof satisfactory to the Commissioner that no proposed annexation will cause a substantial increase in Assessments against existing Owners of Separate Interests within Lincoln Crossing which was not disclosed in a Public Report under which such Owners purchased their interests in Lincoln Crossing;

(iii) Identification of the Phase proposed to be annexed and the total number of Separate Interests then contemplated by the Declarant for the Overall Development;

(iv) A written commitment by the Declarant to pay to the Master Association, concurrently with the closing of the escrow for the first sale of a subdivision interest in the Phase, an appropriate amount for reserves for replacement or deferred maintenance of Common Area improvements in the Phase necessitated by or arising out of the use and occupancy of Residences under a rental program conducted by the Declarant which has been in effect for a period of at least one year as of the date of closing of the escrow for the first sale of a Residence in the Phase.

(b) Rights of Merchant Builders. If a Merchant Builder acquires a Phase or other portion of the Overall Development pursuant to a large lot subdivision map with the intention of further subdividing the acquired real property into multiple Phases which include Separate Interests, the Merchant Builder shall enjoy the same rights of annexation as to the acquired real property as are conferred on the Declarant by subparagraph (a), above (and subject to the same conditions and limitations as bind the Declarant). Furthermore, if a Merchant Builder desires to annex property encumbered by a Supplemental Declaration, Declarant's prior

written consent to the Recordation of the Supplemental Declaration must be obtained. See Section 15.06, below.

15.3. Other Annexations. In addition to annexations effected by the Declarant pursuant to Section 15.02, above, annexations of other real property may be made by Declarant with the approval by vote or written consent of Members entitled to exercise not less than two-thirds (2/3rds) of the Voting Power of each class of membership of the Master Association. After the Class B membership has ceased, the affirmative vote of at least two-thirds of the voting power of Members other than Declarant shall be required to approve annexations pursuant to this Section 15.03. Upon obtaining the requisite approval of the Members pursuant to this section, Declarant shall Record a Declaration of Annexation and, if appropriate, a Supplemental Declaration, as more particularly described in Sections 15.05 and 15.06, below.

15.4. Conveyances of Common Area. Prior to the conveyance by Declarant or any Merchant Builder of any Separate Interest within a Phase annexed to Lincoln Crossing, fee simple title to any Common Area to be owned by the Master Association within such Phase shall be conveyed to the Master Association free and clear of any and all encumbrances and liens, except current real property taxes, which taxes shall be prorated to the date of transfer, and reservations, easements, covenants, conditions and restrictions then of Record, including those set forth in this Master Declaration.

15.5. Declarations of Annexation.

(a) Effect of Recordation of a Declaration of Annexation. Any annexation of portions of the Annexable Property to Lincoln Crossing authorized by this Master Declaration shall be made by Recording a Declaration of Annexation, or other similar instrument, with respect to the real property which is being annexed. The Declaration of Annexation shall be executed by the Declarant or the Owner thereof and shall extend this Master Declaration to such real property. Recordation of a Declaration of Annexation shall (i) cause the real property described in the Declaration of Annexation to be annexed to and become a part of Lincoln Crossing; (ii) subject the annexed real property to this Master Declaration, and thereby subjecting said real property to the covenants conditions and restrictions contained herein; (iii) subject the annexed real property to Assessment by the Master Association in accordance with Article 4, above; (iv) subject the annexed real property to the functions, powers and jurisdiction of the Master Association; and (v) confer upon the Owners of Separate Interests within the annexed real property the rights and obligations of Members of the Master Association, as set forth in this Declaration and the other Governing Documents.

(b) Contents of Declaration of Annexation. Any Declaration of Annexation shall include the following:

(i) Legal Description of the Annexed Property. A legal description of the property included in the annexed Phase, separately identifying Separate Interests and any Common Areas;

(ii) Statement Regarding Commencement of Assessments. A specified date on which Assessments shall commence for Separate Interests in the annexed Phase,

provided that the date specified may not be later than the first day of the first month following the month in which the first Separate Interest in the annexed Phase is conveyed to an Owner;

(iii) Declarant's Commitment Concerning Reserve Contributions Relating to Rental Programs. A written commitment by Declarant to pay to the Master Association, concurrently with the close of escrow for the first sale of a Separate Interest in an annexed Phase, appropriate amounts for reserves for replacement or deferred maintenance of Common Facilities in the annexed Phase necessitated by or arising out of the use and occupancy of Residences or Units under a rental program conducted by Declarant which has been in effect for a period of at least one (1) year as of the date of closing of escrow for the first sale of a Separate Interest in the annexed Phase;

(iv) Application of Equitable Servitudes. A statement that all of the covenants, conditions and restrictions of this Master Declaration shall apply to property within the annexed Phase in the same manner as if the annexed Phase was originally covered by this Master Declaration; provided, however, that additional or revised covenants, conditions and restrictions applicable to the annexed Phase (collectively, "supplemental restrictions"), may be imposed when, in the sole discretion of the Declarant, it is deemed necessary or appropriate and to impose supplemental restrictions in order to reflect differences in the nature, design or use of the Improvements to be constructed on Separate Interests or Common Areas in the annexed Phase.

Supplemental restrictions may not alter the general common plan or scheme created by this Master Declaration, revise any restriction imposed by a governmental entity as a condition of Subdivision Map approval (without the consent of that entity) or revoke, modify or add to the covenants, conditions and restrictions imposed by this Master Declaration with respect to the Initial Covered Property annexed to Lincoln Crossing prior the annexed Phase. If supplemental restrictions are considered necessary or appropriate for a particular Phase, they shall be set forth in a Supplemental Declaration attached to, or incorporated in, the Declaration of Annexation (see Section 15.06, below).

Portions or all of the Annexable Property may be annexed to Lincoln Crossing and become subject to this Master Declaration in accordance with this section. Although the present intention of the Declarant is to develop the Overall Development to include residential subdivisions with Common Areas and Common Facilities in conformance with a plan of phased development, nothing in this Master Declaration shall be construed or interpreted to commit Declarant to the development or annexation of any portion of the Annexable Property in accordance with any present planning.

#### 15.6. Supplemental Declarations.

(a) Authority to Record Supplemental Declarations. During the course of developing the Overall Development, it may become necessary or appropriate for Declarant or a Merchant Builder, with approval of the Declarant, to Record a Supplemental Declaration. Recordation of Supplemental Declarations by the Declarant (or by a Merchant Builder with the approval of the Declarant) for a particular Phase is hereby approved at any time prior to the sale of any Separate Interests in that Phase to a third party. In addition, if the Declarant conveys a

Phase to a builder of Condominium Project, cluster or townhome residences or conveys a commercial parcel to an Owner or developer who intends to construct, sell and/or lease offices or units in the business or commercial facility constructed or to be constructed on the parcel, the Declarant may join with such purchasers in Recording a Supplemental Declaration applicable to that Phase or commercial parcel. However, nothing herein shall require that any commercial parcel be subjected to this Master Declaration.

(b) Content of Supplemental Declarations. Any Supplemental Declaration shall describe the portion of the Annexable Property to which it is to apply, recite that the Supplemental Declaration is being Recorded pursuant to the authority conferred by this section and may include, without limitation:

(i) Description of Common Areas and Common Facilities. A description of any Common Areas (including all exclusive use common areas, as that term is defined in section 1351(i) of the California Civil Code) and Common Facilities within the annexed Phase;

(ii) Specification of Property Use Restrictions Applicable to the Annexed Property. Property use restrictions and design and building standards which shall apply solely to the Separate Interests (and any Improvements constructed thereon) within the annexed Phase, and/or property use restrictions and design and building standards which supplement amend or replace restrictions set forth in this Master Declaration so as to conform to the design or contemplated use of Improvements located or planned for construction within the annexed phase.

(iii) Separate Architectural Review. A separate Architectural Review Committee to perform design review and approval functions described in the Supplemental Declaration with respect to Improvement projects on Separate Interests in the annexed Phase (if different from those described in Article 5, above) or to perform the functions described in Article 5 in lieu of the Architectural Review Committee constituted in accordance with Section 5.03, above. If a particular Separate Interest is affected by a Supplemental Declaration that establishes a separate Architectural Review Committee, that committee shall have jurisdiction over the initial design and construction of any Improvements proposed for construction on such Separate Interest, as well as subsequent changes in exterior design or appearance; provided, however, that the Supplemental Declaration can provide that the committee's determination must also be ratified by the Architectural Review Committee organized pursuant to Section 5.03, above.

(iv) Supplemental or Separate Improvement Requirements. Supplemental Declarations may also include authorization for the adoption of separate or supplemental Improvement Requirements applicable to Improvement projects on Separate Interests located within the annexed Phase.

(v) Front Yard Maintenance. Provisions describing the nature and extent of the Master Association's duties and responsibilities if front yards or rear yards are to be maintained by the Master Association or a Sub Association;

(vi) Establishment of Sub Association(s). A Supplemental Declaration may, but need not, provide for the establishment of a Sub Association, to be comprised of Owners of Separate Interests within the area encompassed within the Supplemental Declaration; and

(vii) Designation of Cost Centers. A Supplemental Declaration may designate one or more Cost Centers within the annexed Phase by including the information described in Section 4.01(f), above.

(c) Supplemental Declarations for Commercial/Business Parcels. Without limiting the foregoing, in the event that any parcels zoned for commercial or business uses are annexed to Lincoln Crossing it is likely that a Supplemental Declaration will be recorded in connection with said annexation in order to (among other things) impose property use restrictions, landscape maintenance requirements and minimum construction standards that are appropriate for such commercial properties. Without limiting the foregoing, any such Supplemental Declaration for a business or commercial parcel may add or eliminate property use restrictions and/or minimum construction standards applicable to the covered Separate Interest or Parcel. Any Supplemental Declaration for a Commercially Zoned Parcel may also provide for a business owners' association with jurisdiction over the Parcel, as well as provisions permitting the annexation of other commercial/business Parcels to the Supplemental Declaration and the jurisdiction of the business owners' association.

15.7. Reconciling Conflicts Among Documents. This Master Declaration shall control if there is any conflict between any Declaration of Annexation or Supplemental Declaration and the provisions of this Master Declaration; provided, however, that to the extent that any provision hereof is expressly modified by a Supplemental Declaration, no conflict shall be deemed to exist; and, provided further, that this Master Declaration and any Supplemental Declaration shall be construed so as to be consistent with one another to the extent that the reconciliation of provisions is reasonably possible. However, the inclusion in any Supplemental Declaration of covenants, conditions, restrictions, rights, reservations, easements, equitable servitudes, limitations, liens or charges which are more restrictive or more inclusive than in the Governing Documents shall not be deemed to constitute a conflict with the provisions of this Master Declaration.

15.8. De Annexation and Amendment. Declarant has the right, at its sole option, to (a) amend a Declaration of Annexation or a Supplemental Declaration, or (b) remove from Lincoln Crossing any property described in a Recorded Declaration of Annexation or a Supplemental Declaration by executing and Recording a rescission of such document, so long as all of the following conditions are satisfied at the time of the execution of the amendment or rescission: (i) no Separate Interest in the annexed Phase encumbered by the Declaration of Annexation and/or Supplemental Declaration has been conveyed to an Owner; and (ii) Assessments have not commenced for any Separate Interest in such annexed Phase. If Common Areas in the previously annexed Phase have been conveyed to the Master Association, then in the event of a rescission, such Common Area shall be conveyed back to Declarant promptly after the rescission. In the event of an amendment, if the amendment is such that some portion of that Common Area within the annexed Phase theretofore conveyed to the Master Association is

excluded from the annexation, such portion shall be conveyed back to Declarant promptly after the amendment is adopted.

15.9. Taxes and Assessments. All taxes and other governmental assessments relating to any portion of the Overall Development that is annexed to Lincoln Crossing pursuant to Sections 15.02 and 15.03, above, covering any period prior to annexation of the Phase shall be paid or otherwise provided for by the Declarant.

15.10. Character of Common Area Improvements. The nature, design, quantity, quality and all other attributes of the Common Area, and the Common Facilities constructed or to be constructed within any annexed Phase, shall be determined in Declarant's sole and absolute discretion. The Master Association shall be unconditionally obligated to accept title to and maintenance responsibility for the Common areas and Common Facilities, if any, when such title and maintenance responsibility are tendered by Declarant alone or together with a Merchant Builder.

15.11. Infrastructure Improvements. All intended infrastructure improvements in Phases that are annexed to Lincoln Crossing pursuant to Sections 15.02 and 15.03, above, shall be substantially completed or bonded to the satisfaction of the local governmental agency with authority therefore and the Federal National Mortgage Association prior to annexation and shall be consistent with the initial improvements within the Initial Covered Property in terms of the quality of construction.

15.12. Effect of Annexation.

(a) Application of Master Declaration to Annexed Phase. The Recordation of a Declaration of Annexation shall constitute and effectuate the annexation of the Phase described therein, and thereupon the annexed Phase shall become and constitute a part of Lincoln Crossing, and be subject to, and encompassed within, the general plan and scheme of this Master Declaration, subject only to such modification in said general plan as may be imposed by the Declaration of Annexation or Supplemental Declaration applicable to the annexed Phase. Furthermore, and unless otherwise specifically provided in the Supplemental Declaration for the annexed Phase (as, for example, a Phase developed for commercial uses), Separate Interests within the annexed Phase shall thereupon become subject to Assessment by the Master Association (in accordance with the provisions of Article 5 relating to commencement of Assessment obligations) and to the functions, powers and jurisdiction of the Master Association. Once Assessments have commenced within a Phase, the Owners of Separate Interests within the annexed Phase shall automatically become Members of the Master Association and shall thereupon enjoy the rights, preferences and privileges of membership as set forth in the Governing Documents. Any Common Facilities (including private roads) which are included within the annexed Phase shall be conveyed to the Master Association, free of all liens and encumbrances, other than liens, rights of way or other encumbrances disclosed on the preliminary title report for the annexed Phase and approved by the Master Association. The conveyance of any Common Facilities in the annexed Phase to the Master Association shall occur immediately following Recordation of the Declaration of Annexation.



(b) Board's Obligation to Approve Budget Applicable to Phase. After a new Phase has been annexed, the Board of Directors or the Master Association shall approve a new budget, which is substantially based upon the operating budget accepted by the California Department of Real Estate in connection with the Public Report for that Phase, for the remainder of the current fiscal year for use upon commencement of Master Association Regular Assessments against Separate Interests within the annexed Phase.

15.13. Amendment of Annexation Provisions. After the conversion of Class B membership to Class A membership and until such time as the Declarant no longer has any rights of unilateral annexation pursuant to Section 15.02, above, this article may not be amended without the written consent of the Declarant, unless at the time of the amendment all property constituting Annexable Property has been annexed to Lincoln Crossing.

**ARTICLE 16.  
DECLARANT AND MERCHANT BUILDER PRIVILEGES AND EXEMPTIONS**

16.1. Interest of the Declarant; Material Actions Requiring Declarant Approval. The Initial Covered Property, subject to this Master Declaration, constitutes a portion of the Overall Development, which Declarant is causing to be developed. Each Owner of a Separate Interest which is part of Lincoln Crossing acknowledges by acceptance of a deed or other conveyance therefore, whether or not it shall be so expressed in any such deed or other instrument, that Declarant has a substantial interest to be protected with regard to assuring compliance with and enforcement of, the covenants, conditions, restrictions and reservations contained in this Master Declaration and any amendments thereto and any Supplemental Declarations recorded pursuant to this Master Declaration. Notwithstanding any other provisions of the Governing Documents, until such time as Declarant is no longer entitled to unilaterally annex Property to Lincoln Crossing, the following actions, before being undertaken by the Members or the Master Association, shall first be approved in writing by Declarant:

(a) Specified Approvals. Any amendment or action requiring the approval of Declarant pursuant to this Master Declaration, and any amendment or action requiring the approval of first Mortgagees pursuant to this Master Declaration (the Master Association shall provide Declarant with all notices and other documents to which a Mortgagee is entitled pursuant to this Master Declaration, provided that Declarant shall be furnished such notices and other documents without making written request);

(b) Special Assessments. The levy of a Special Assessment for the construction of new facilities by the Master Association not originally included in the Common Areas;

(c) Service/Maintenance Reductions. Subject to Section 4.02 (c), above, regarding limitations on Regular Assessment increases without Member approval, any significant reduction of Common Area maintenance or other services or entering into contracts for maintenance or other goods and services benefiting the Master Association or the Common Area at contract rates which are fifteen percent (15%) or more below the reasonable cost for such maintenance, goods or services; or

(d) Design Guidelines. Any supplement or amendment to the Design Guidelines, including Design Guidelines applicable to a particular Phase within Lincoln Crossing (see Section 5.08, above).

16.2. Exemptions From Restrictions Otherwise Applicable. Nothing in the Governing Documents shall limit and no Owner, Sub-Association or the Master Association shall do anything to interfere with the right of Declarant and Merchant Builders, either directly or through their respective agents and representatives, to subdivide, re-subdivide, sell, resell, rent or re-rent any portion of Lincoln Crossing, or the right of Declarant or a Merchant Builder as to any Phase that a Merchant Builder is developing to complete excavation, grading, construction of Improvements or other development activities to and on any portion of Lincoln Crossing owned by Declarant or a Merchant Builder or to alter the foregoing and its construction plans and designs, or to construct such additional Improvements as Declarant or the Merchant Builder deems advisable in the course of development of Lincoln Crossing so long as any Separate Interest or any portion of the Overall Development is owned by Declarant or a Merchant Builder.

The rights reserved to the Declarant and to Merchant Builders pursuant to this Section 16.02 shall include, but shall not be limited to, carrying on by Declarant or any Merchant Builder and their respective agents and representatives of such grading work as may be approved by the City of Lincoln or other agency having jurisdiction, and erecting, constructing and maintaining on Lincoln Crossing such structures (including, without limitation, temporary sales and construction offices or trailers, sales offices or model homes), signs and displays as may be reasonably necessary for the conduct of its business of completing the work and disposing of the same by sale, lease or otherwise. Notwithstanding the foregoing, any signage, banners, model homes and other marketing programs or activities of a Merchant Builder within Lincoln Crossing must be approved in advance by the Declarant and said approval may be included in the documentation by which a Merchant Builder acquires a Phase from the Declarant for development and resale.

Each Owner, by accepting a deed to a Separate Interest, hereby acknowledges that any construction or installation by Declarant or by a Merchant Builder may impair the view of such Owner, and hereby consents to such impairment. Merchant Builders shall have the right to apply to the City of Lincoln for special use permits needed in connection with their Separate Interest sales activities.

16.3. Rights to Use Common Areas and Common Facilities in Connection With Development and Sales Activities. Declarant and any Merchant Builder who is given permission by the Declarant may enter upon the Common Area, for the benefit of Declarant, for the benefit of the authorized Merchant Builder, or for the benefit of portions of the Overall Development whether or not then annexed, or any combination of them, to complete the development, improvement and sale of Separate Interests and the construction of any landscaping or other Improvement to be installed on the Common Area, as well as the right of nonexclusive use of the Common Areas and the Common Facilities, without charge, for sales, display, access, ingress, egress, exhibition and occasional special events for promotional purposes, which right Declarant hereby reserves; provided, however, that such use rights shall terminate on the date on which Declarant or any authorized Merchant Builder no longer owns any Separate Interests within the Overall Development and Declarant's unilateral right to annex portions of the Overall

Development has expired. Such use shall not unreasonably interfere with the rights of enjoyment of the other Owners as provided herein and all direct costs and expenses associated with Declarant and/or Merchant Builder sales and promotional activities shall be borne solely by the sponsor of the activity or event. The rights reserved to the Declarant and to Merchant Builders by this section shall extend to any employee, sales agents, prospective purchasers, customers and/or representatives of the Declarant or any Merchant Builder.

16.4. Use of the Club by Declarant and Merchant Builders. After the Master Association acquires fee title to the Club and it becomes a part of the Common Area and a Common Facility of the Master Association, Declarant and the Merchant Builders, with the prior approval of the Declarant, shall have the right to use of the Club Facilities and services for and in connection with marketing of Separate Interests in the Overall Development, promotion and advertising of the Overall Development, public relations, and generally creating an interest among potential residents in becoming an Owner; provided, however, that such use shall not unreasonably interfere with the rights of Owners and their guests to use such facilities and receive such services.

16.5. Amendment of Plans. Subject to approval, as necessary, by the City of Lincoln, Declarant may, from time to time as it deems fit, amend its plans for the Overall Development, combine or split Separate Interests or Parcels, and apply for changes in any or all of the Entitlement Documents, changes in zoning, use and use permits, for any property within the Overall Development.

16.6. Right to Enforce Architectural Review and Approval Requirements. For so long as the Declarant has the right to appoint any members of the Architectural Review Committee, the Declarant shall have the right to initiate action to correct or prevent any activity, condition or Improvement that is not in substantial compliance with approved plans and specifications to the same extent as the Master Association if: (a) the Committee has issued a Notice of Noncompliance; and (b) the Master Association, after having a reasonable opportunity to do so, is unable or unwilling to initiate enforcement action. In the event that such action is initiated by the Declarant and it is later determined by an arbitrator or a court of competent jurisdiction that the Owner of the subject Separate Interest was, in fact, proceeding in violation of the approved plans and specifications, any reasonable costs incurred by the Declarant in initiating enforcement action, including reasonable attorneys fees, which are not the subject of an award of fees and/or costs against the offending Owner may be charged to the Master Association pursuant to Section 5.17, above. If a Supplemental Declaration establishes a separate design or architectural review committee with jurisdiction within the Phase covered by the Supplemental Declaration (see Section 15.06(b)(iii), above) and a Merchant Builder has authority to appoint any members of the separate committee, the Merchant Builder shall also enjoy the rights and powers conferred by this section with respect to architectural or design compliance within the Phase.

16.7. Grants and Relocations of Easements. Declarant shall have to right at any time prior to acquisition of title by a grantee to establish additional easements, reservations and rights-of-way to itself, its successors and assigns in any conveyance of the Overall Development or any portion thereof. Declarant or the organization for whose benefit easements, reservations and rights-of-way have been established shall have the right at any time to cut and remove any trees or branches or any other unauthorized object from such easements, reservations or rights-of-way.

Any Common Area comprising easements over real property the fee title to which has not been made subject to this Master Declaration ("**Interim Easement Area**") shall be subject to relocation, modification or termination by Declarant in order to accommodate the final plan of development for the future Phase in which the Interim Easement Area is located. Such relocation, modification or termination shall be set forth in the Recorded instrument annexing fee title to the Interim Easement Area to this Master Declaration and may include the reservation of easements of access, ingress and egress in favor the Master Association to permit access to Association facilities. Notwithstanding the foregoing, no such relocation, modification or termination shall prevent access to any Separate Interest or within Lincoln Crossing.

16.8. Termination of Any Responsibility of Declarant. In the event the Declarant conveys all of its rights, title and interest to any partnership, limited liability company, individual or individuals, corporation or corporations, in and to the Overall Development, and the acquiring person or entity is designated as a successor Declarant as to all the property conveyed, then and in such event, Declarant shall be relieved of the performance of any further duty or obligation hereunder, and such partnership, individual or individuals, corporation or corporations, shall be obligated to perform all such duties and obligations of Declarant. The provisions of this Article 16 shall not terminate any responsibility of Declarant for acts or omissions occurring prior to the conveyance to such partnership, individual or individuals, corporation or corporations. However, this shall not limit Declarant's right to enter into a contract or agreement dealing with such acts or omissions provided the contract or agreement is enforced by Declarant, if necessary.

16.9. No Amendment or Repeal. So long as Declarant owns any Separate Interests within the Overall Development,, the provisions of this Article 16 may not be amended or repealed without the consent of Declarant. In addition, as to Merchant Builders, no amendments may be made to this Article 16 which will adversely affect any Merchant Builder who owns property subject to this Master Declaration at the time the amendment or modification is proposed, unless such Merchant Builder consents, in writing, to the amendment.

## ARTICLE 17. NOTICES

17.1. Mailing Addresses. Any communication or notice of any kind permitted or required herein shall be in writing and may be served, as an alternative to personal service, by mailing the same as follows:

- |                  |   |
|------------------|---|
| If to Declarant: | LB/L SunCal Lincoln Crossing, LLC, a Delaware limited liability company,<br>5109 E. La Palma Avenue<br>Suite D, Anaheim, CA 92807 (or to such other address as Declarant may from time to time designate in writing to the Master Association). |
| If to any Owner: | To the street address of his or her Separate Interest or to such other address as he or she may from time to time designate in writing to the Master Association  |

for purposes of notice

If to the Master Association, at the principal office of the Master Association (or to such other address as the Master Association may from time to time designate in writing to the Owners)

17.2. Personal Service Upon Co Owners and Others. Personal service of a notice or demand to one of the co Owners of any Separate Interest, to any general partner of a partnership which is the Owner of Record of the Separate Interest, or to any officer or agent for service of process of a corporation which is the Owner of Record of the Separate Interest, shall be deemed delivered to all such co Owners, to such partnership, or to such corporation, as the case may be.

17.3. Deposit in United States Mails. All notices and demands served by mail shall be by first-class or certified mail, with postage prepaid, and shall be deemed delivered four (4) days after deposit in the United States mail in the County.

#### ARTICLE 18.

#### AMENDMENT OF MASTER DECLARATION AND TERMINATION

18.1. Amendment Before Close of First Sale. Before the close of escrow for the first sale of a Separate Interest in the Initial Covered Property to a purchaser other than Declarant, this Master Declaration may be amended or revoked in any respect by the execution of an instrument amending or revoking the Master Declaration signed by Declarant and any Mortgagee of record, provided the consent or approval of the Commissioner of the California Department of Real Estate is first obtained to the extent required by California law. The amending or revoking instrument shall make appropriate reference to this Master Declaration and shall be Recorded.

18.2. Amendment After Close of First Sale. After the close of escrow for the first sale of a Separate Interest in the Initial Covered Property to a purchaser other than Declarant, this Master Declaration may be amended or revoked in any respect upon compliance with the following provisions:

(a) Member Approval Requirements. Any amendment shall be approved by the vote or assent by written ballot of the holders of not less than a simple majority of the Voting Power of each class of Members. If a two class voting structure is no longer in effect in the Master Association because of the conversion of Class B membership to Class A membership, as provided in the Master Association's Bylaws, any amendment thereof will require the vote or assent by written ballot of both: (i) a simple majority of the total voting power of the Master Association; and (ii) a simple majority of the total Voting Power held by Members other than the Declarant.

Notwithstanding the foregoing, the percentage of the voting power necessary to amend a specific clause or provision of this Master Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause.

(b) Additional Approvals For Amendments to Particular Provisions.

(i) Mortgagee Approvals. Mortgagee approvals shall be required to amend any of the provisions described in Section 14.04(b), above.

(ii) Declarant Approvals. The following provisions may only be amended with the prior written consent of the Declarant for so long as the Declarant possesses rights of unilateral annexation of Annexable Property pursuant to Section 15.02, above: Any provision relating to the Club Note and its obligations as constituting a Common Expense that is included as a Regular Assessment obligation of each Owner of a Separate Interest and any provision that is for the specific benefit of the Declarant. Those sections are as follows: Recital F and J Sections 1.11, 1.13 (as that Section relates to the Club Note), 1.19, 2.06(f), 3.07(b)(vii)(C), 3.07(b)(vii)(E), 3.07(b)(viii), 3.07(b)(ix), 3.10(c), 4.02(e)(ii), 9.03, 9.07, 9.08, 13.08, Article 5, Article 6, Article 15, Article 16, this Section 18.02(b)(ii), and Section 20.05, below.

(iii) Approval by the City of Lincoln. No amendment to, or repeal of, any provision of Article 19 of this Master Declaration may be made without the prior written consent of the City of Lincoln.

(iv) Approval by the U.S. Army Corps of Engineers. No amendment to, or repeal of, any of the following provisions of this Master Declaration may be made without the prior written consent of the U.S. Army Corps of Engineers: 7.01(d), 7.04(b) or 19.05 or this Section 18.02(b)(iv).

(c) Right of Amendment of Requested by Governmental Mortgage Agency or Federally Chartered Lending Institutions. Anything in this article to the contrary notwithstanding, Declarant reserves the right to amend all or any part of this Master Declaration to such an extent and with such language as may be requested by Governmental Mortgage Agencies which require such an amendment as a condition precedent to such agency's approval of this Master Declaration, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of any Separate Interest or any portions thereof. Any such amendment shall be effectuated by the recordation, by Declarant, of a Certificate of Amendment duly signed by or on behalf of the authorized agents, or authorized officers of Declarant, as applicable, with their signatures acknowledged, specifying the Governmental Mortgage Agency, or the federally chartered lending institution requesting the amendment and setting forth the amendatory language requested by such agency or institution. Recordation of such a Certificate shall be deemed conclusive proof of the agency's or institution's request for such an amendment, and such Certificate, when recorded, shall be binding upon all of Lincoln Crossing and all persons having an interest therein.

18.3. Department of Real Estate. An amendment to this Master Declaration, Bylaws, or other governing instruments of the Master Association shall require immediate notification of the California Department of Real Estate in accordance with section 2800 of the Commissioner's Regulations so long as the Overall Development, or any portion thereof, is subject to an outstanding Final Subdivision Public Report.

18.4. Mortgagee Approval. Mortgagee approval of any proposed material amendment shall be required in accordance with Section 14.04(b), above.

18.5. Effective Date of Amendment. The amendment will be effective upon the Recording of a Certificate of Amendment, duly executed and certified by the President and Secretary of the Master Association setting forth in full the amendment so approved and that the approval requirements of Section 18.02(a) or (b), above, have been duly met. If the consent or approval of any governmental authority, Mortgagee, or other entity is required under this Master Declaration to amend or revoke any provision of this Master Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. For the purposes of recording such instrument, the President and Secretary of the Master Association are hereby granted an irrevocable power of attorney to act for and on behalf of each and every Owner in certifying, executing and recording said amendment with the Office of the Placer County Recorder.

18.6. Business and Professions Code Section 11018.7. All amendments or revocations of this Master Declaration shall comply with the provision of California Business and Professions Code section 11018.7 to the extent said section is applicable.

18.7. Reliance on Amendments. Any amendments made in accordance with the terms of this Master Declaration shall be presumed valid by anyone relying on them in good faith.

#### ARTICLE 19.

#### COMPLIANCE WITH REQUIREMENTS IMPOSED BY THE CITY OF LINCOLN

19.1. Notice Regarding Neighboring Farming Operations. The Declarant or Merchant Builder shall require and obtain a signed document from new home purchasers within Lincoln Crossing stating that they have been informed of the farming and turkey ranch operations at Aitken Ranch and that they will not hold the operator or the City of Lincoln responsible for any noise, odors, traffic or other impacts associated with the operation of the neighboring ranch. This requirement may be waived upon written consent issued by the City of Lincoln.

19.2. Air Pollution Restrictions. Both catalytic and non-catalytic stoves are prohibited within Lincoln Crossing. Wood-burning fireplaces must be EPA certified and shall only be used for recreational wood-burning and not as the primary source of heating the Residence.

19.3. City of Lincoln Design Review Board Approvals. The development of any Residence and any apartment project shall be subject to the review and approval process of the of Lincoln Design Review Board as set forth in the City of Lincoln's Municipal Code.

19.4. Archaeological Site Preservation. If any archaeological, cultural or historical resources, or artifacts or other features are discovered during the course of construction anywhere within Lincoln Crossing, work shall be suspended in that location until a qualified professional archaeologist assesses the significance of the discovery. The City of Lincoln Community Development Department shall be notified of any finds and appropriate measures agreed upon prior to the commencement of construction.

19.5. Fencing of Natural Open Space Areas. During the review of subdivision improvement plans or Design Review, the City of Lincoln Community Development Department shall review and approve the style and design of fencing proposed to be placed along Preserve Areas that adjoin residential rear-yards and side street yards of any Separate Interest. In

accordance with Section 7.01(d), maintenance of walls and fencing along the boundaries of Preserve Areas shall be the responsibility of the Master Association.

19.6. Restriction on Roof-Top Air-conditioning Systems. No roof-top air conditioner units allowed within Lincoln Crossing unless screening has been approved in writing by the City of Lincoln.

19.7. Hours of Permitted Construction Activity. The hours of construction of development activities within Lincoln Crossing shall be limited to weekdays from 7:00 am to 5:00 pm and Saturdays from 9:00 am to 5:00 pm and subject to the written approval of the Director of Public Works for any additional weekday and Saturday hours and for Sunday hours. This limitation of permitted hours of construction activity shall not apply to essentially quiet construction activities conducted within a completely enclosed Residence, Condominium Unit or other permitted structure.

## ARTICLE 20. GENERAL PROVISIONS

20.1. Term. The covenants, conditions, restrictions, limitations, reservations, grants of easement, rights, rights of way, liens, charges and equitable servitudes contained in this Master Declaration shall run with, and shall benefit and burden the Separate Interests and the Common Area as herein provided, and shall inure to the benefit of and be binding upon the Owners, Declarant, the Master Association, its Board of Directors, and its officers and agents, and their respective successors in interest, for the term of sixty (60) years from the date of the recording of this Master Declaration. After the expiration of the initial term, the same shall be automatically extended for successive periods of ten (10) years each unless, within six (6) months prior to the expiration of the initial sixty (60) year term or any such ten (10) year extension period, a written instrument, approved by Owners entitled to vote and holding at least a majority of the voting power of the Master Association terminating the effectiveness of this Master Declaration, is Recorded.

20.2. Construction.

(a) Restrictions Construed Together. All of the covenants, conditions and restrictions of this Master Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Overall Development as set forth in the Recitals of this Master Declaration. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision in a subsequent application or any other provision hereof.

(b) Restrictions Severable. Notwithstanding the provisions of subparagraph (a) above, the covenants, conditions and restrictions of this Master Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

(c) Singular Includes Plural. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter, as the context requires.



(d) Captions. All captions or titles used in this Master Declaration are intended solely for convenience of reference and shall not affect the interpretation or application of that which is set forth in any of the terms or provisions of the Master Declaration.

(e) Exhibits. All exhibits referred to herein are deemed to be incorporated herein by reference, whether or not actually attached.

(f) References to the Declarant and the Master Association. Any reference in this Master Declaration to the Declarant or the Master Association shall include any successors or assignees of such entities' rights and powers hereunder subject, however, to the limitation on the definition of Declarant's successors (see Section 1.19, above).

(g) References to Statutes and Regulations. This Master Declaration contains many references to California and federal statutes and/or regulations applicable to the Development, the Master Association and the Owners of Lots in the Development that are in effect as of the date that this Master Declaration is Recorded in the Official Records of Placer County, California. In the event that any statute or other law or regulation is subsequently amended in a way that renders the corresponding provision of this Master Declaration to be inconsistent or in conflict with the amended or revised statute or regulation, the provision of the Master Declaration shall be deemed to be automatically amended or rescinded to conform to the revised statutory or regulatory provision and the Board of Directors shall be authorized and empowered to execute, acknowledge and Record an amendment reflecting that change in this Master Declaration without necessity of further Member approval, so long as the necessity for the change is confirmed in a legal opinion provided to the Master Association's Board of Directors by its legal counsel.

20.3. Rule Against Perpetuities. If any interest purported to be created by this Master Declaration is challenged under the Rule against Perpetuities or any related rule of law, the interest shall be construed as becoming void and of no effect as of the end of the applicable period of perpetuities computed from the date when the period of perpetuities starts to run on the challenged interest; the "lives in being" for computing the period of perpetuities shall be: (a) those which would be used in determining the validity of the challenged interest; plus (b) those of the issue of the Board who are living at the time the period of perpetuities starts to run on the challenged interest.

20.4. Change of Circumstances. No change of conditions or circumstances shall operate to extinguish, terminate or modify any of the provisions of this Master Declaration.

20.5. Declarant's Disclaimer of Representations. Anything to the contrary in this Master Declaration notwithstanding, and except as otherwise may be expressly set forth in a recorded instrument with the County Recorder of Placer County, California, the Declarant makes no warranties or representations whatsoever that the plans presently envisioned for the complete development of Lincoln Crossing can or will be carried out, or that any land now owned or hereafter acquired by it is or will be subjected to this Master Declaration, or that any such land (whether or not it has been subjected to this Master Declaration) is or will be committed to or developed for a particular (or any) use, or that if such land is once used for a particular use, such use will continue in effect.

20.6. References to the Covenants in Deeds. Deeds to and instruments affecting any Lot may contain the covenants set forth in this Declaration or may incorporate this Master Declaration by reference; but regardless of whether any such reference is made in any deed or instrument, this Master Declaration shall run with the land, and be binding upon the grantee-Owner or other person claiming through any instrument and his/her heirs, executors, administrators, successors and assigns.

20.7. Counterparts. This Master Declaration may be executed in counterparts, each of which shall be deemed an original, but all of which, together, when signed by all of the parties hereto, shall constitute one and the same instrument.

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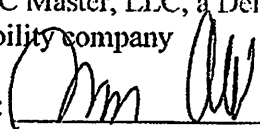
IN WITNESS WHEREOF, Lincoln Crossing, LLC, a California limited liability company, has executed this Master Declaration on the date listed below.

Dated: DEC 23, 2003.

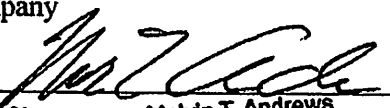
DECLARANT:

LB/L SUNCAL LINCOLN CROSSING, LLC,  
a Delaware limited liability company

By: SCC Master, LLC, a Delaware limited  
liability company

By:   
Bruce Elieff, Managing Member

LBREP Lakeside Lincoln Crossing, LLC, a  
Delaware limit, a Delaware limited liability  
company

By:   
Name: Melvin T. Andrews  
Title: Authorized Signatory

[Remainder of Page Intentionally Left Blank]

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF Orange )

On December 17, 2003, before me, Niki Whitney, personally appeared Bruce Elieff personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Niki Whitney

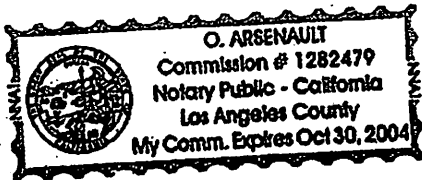


STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF Los Angeles )

On Dec 23, 2003, before me, O. Arsenault <sup>or</sup> Notary Public, personally appeared Melvin T. Andrews personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

*O. Arsenault*



**EXHIBIT "A-1"**

**Legal Description of the Initial Covered Property**

Lot 1 through Lot 79, inclusive, as shown on that Final Map entitled "Lincoln Crossing Village 1B, Phase 1" and filed in Book Y of Maps, at Page 95, of the Records of Placer County, California.

Lot 1 through Lot 21, inclusive, as shown on that Final Map entitled "Lincoln Crossing Village 1B, Phase 2" and filed in Book Y of Maps, at Page 96, of the Records of Placer County, California.

Lot 1 through Lot 33, inclusive, as shown on that Final Map entitled "Lincoln Crossing Village 1B, Phase 3" and filed in Book Z of Maps, at Page 16, of the Records of Placer County, California.

Lot 1 through Lot 33, inclusive, as shown on that Final Map entitled "Lincoln Crossing Village 1B, Phase 4" and filed in Book Z of Maps, at Page 17, of the Records of Placer County, California.

Lot 1 through Lot 45, inclusive, as shown on that Final Map entitled "Lincoln Crossing Village 1C, Phase 1" and filed in Book Y of Maps, at Page 97, of the Records of Placer County, California.

Lot 1 through Lot 68, inclusive, as shown on that Final Map entitled "Lincoln Crossing Village 1C, Phase 2" and filed in Book Y of Maps, at Page 98, of the Records of Placer County, California.

End of Description

## EXHIBIT "A-2"

### Legal Description of the Initial Covered Property

Lot 1 through Lot 49, inclusive, as shown on that Final Map entitled "Lincoln Crossing Village 2B, Phase 1" and filed in Book Z of Maps, at Page 5, of the Records of Placer County, California.

Lot 1 through Lot 48, inclusive, as shown on that Final Map entitled "Lincoln Crossing Village 2B, Phase 2" and filed in Book Z of Maps, at Page 6, of the Records of Placer County, California.

Lot 1 through Lot 54, inclusive, and Lot A as shown on that Final Map entitled "Lincoln Crossing Village 3A, Phase 1" and filed in Book Y of Maps, at Page 99, of the Records of Placer County, California.

Lot 1 through Lot 92, inclusive, Lot A, Lot B, and Lot C as shown on that Final Map entitled "Lincoln Crossing Village 3A, Phase 2" and filed in Book Z of Maps, at Page 7, of the Records of Placer County, California.

Lot 1 through Lot 46, inclusive, as shown on that Final Map entitled "Lincoln Crossing Village 3B, Phase 1" and filed in Book Z of Maps, at Page 8, of the Records of Placer County, California.

Lot 1 through Lot 36, inclusive, as shown on that Final Map entitled "Lincoln Crossing Village 3B, Phase 2" and filed in Book Z of Maps, at Page 9, of the Records of Placer County, California.

## EXHIBIT "A-3"

### Legal Description of the Initial Covered Property

Lot 1 through Lot 51, inclusive, as shown on that Final Map entitled "Lincoln Crossing Village 2A, Phase 1" and filed in Book Z of Maps, at Page 14, of the Records of Placer County, California.

Lot 1 through Lot 43, inclusive, as shown on that Final Map entitled "Lincoln Crossing Village 2A, Phase 2" and filed in Book Z of Maps, at Page 15, of the Records of Placer County, California.

Lot 1 through Lot 53, inclusive, and Lot A as shown on that Final Map entitled "Lincoln Crossing Village 1A, Phase 1" and filed in Book Z of Maps, at Page 11, of the Records of Placer County, California.

Lot 1 through Lot 38, inclusive, as shown on that Final Map entitled "Lincoln Crossing Village 1A, Phase 2" and filed in Book Z of Maps, at Page 12, of the Records of Placer County, California.

Lot 1 through Lot 15, inclusive, as shown on that Final Map entitled "Lincoln Crossing Village 1A, Phase 3" and filed in Book Z of Maps, at Page 13, of the Records of Placer County, California.

Lot 1 through Lot 24, inclusive, as shown on that Final Map entitled "Lincoln Crossing Village 1A, Phase 4" and filed in Book Z of Maps, at Page 19, of the Records of Placer County, California.



**EXHIBIT "B"**

**LEGAL DESCRIPTION OF THE ANNEXABLE PROPERTY**

Lot 4, Lot 1C-3, Lot 300, Lot 900, and Lot 901 as shown on that Final Map No. 2002-190 entitled "Lincoln Crossing Phase 1 – Large Lot Subdivision" and filed in Book Y of Maps, at Page 83, of the Records of Placer County, California, and Parcel Three as described in that Grant Deed recorded in Document No. 2002-71039 of the Official Records of the County of Placer, California.

End of Description

**EXHIBIT "C"**

**LEGAL DESCRIPTION OF THE COMMON AREA IN THE INITIAL COVERED  
PROPERTY**

Lot 601 through Lot 615, inclusive, as shown on that Final Map No. 2002-190 entitled "Lincoln Crossing Phase 1 – Large Lot Subdivision" and filed in Book Y of Maps, at Page 83, of the Records of Placer County, California.

End of Description

**EXHIBIT "D"**

**LEGAL DESCRIPTION OF OPEN SPACE AREAS TO BE DEDICATED IN FEE TO  
THE CITY OF LINCOLN AT THE TIME OF THE RECORDATION OF THIS  
MASTER DECLARATION IN THE OFFICIAL**

Records of Placer County, California

Lot 200, Lot 201, Lot 202, Lot 203, and Lot 204, as shown on that Final Map No. 2002-190 entitled "Lincoln Crossing Phase 1 – Large Lot Subdivision" and filed in Book Y of Maps, at Page 83, of the Records of Placer County, California.

End of Description

RECORDING REQUESTED BY, AND  
WHEN RECORDED, MAIL TO:

WEINTRAUB GENSHLEA CHEDIAK SPROUL  
Law Corporation  
Attn: Curtis C. Sproul, Esq.  
400 Capitol Mall, Suite 1100  
Sacramento, California 95851 0208



PLACER, County Recorder  
JIM MCCAULEY

DOC- 2004-0020312

Check Number 6971

Thursday, FEB 26, 2004 10:02:07

REC \$136.00:MIC \$3.00:AUT \$134.00

SBS \$133.00:

Ttl Pd \$406.00

Nbr-0001029663

rec/CC/1-134

(Space Above For Recorder's Use)

MASTER DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
LINCOLN CROSSING

CONSENTING PROPERTY OWNER:

The undersigned entity is the owner of record of the real property that is more particularly described as:

("Owner's Property"). By signing below, such owner hereby consents to the Recordation of this Master Declaration of Covenants, Conditions and Restrictions for Lincoln Crossing in the Official Records of Placer County, California against the Owner's Property.

CENTEX HOMES, a Nevada general  
partnership

By: Centex Real Estate Corporation, a  
Nevada corporation

Its: Managing General Partner

By: 

Name: Jack Hood

Title: Division President

RECORDING REQUESTED BY, AND  
WHEN RECORDED, MAIL TO:

02/26/2004, 20040020312

WEINTRAUB GENSHEA CHEDIÁK SPROUL  
Law Corporation  
Attn: Curtis C. Sproul, Esq.  
400 Capitol Mall, Suite 1100  
Sacramento, California 95851 0208

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(Space Above For Recorder's Use)

**MASTER DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
LINCOLN CROSSING**

**CONSENTING PROPERTY OWNER:**

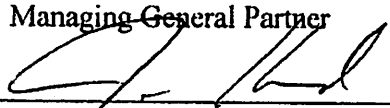
The undersigned entity is the owner of record of the real property that is more particularly described as:

("Owner's Property"). By signing below, such owner hereby consents to the Recordation of this Master Declaration of Covenants, Conditions and Restrictions for Lincoln Crossing in the Official Records of Placer County, California against the Owner's Property.

CENTEX HOMES, a Nevada general  
partnership

By: Centex Real Estate Corporation, a  
Nevada corporation

Its: ~~Managing General Partner~~

By:   
Name: Jack Hood  
Title: Division President

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF Placer )

On Feb. 13, 2004, before me, Jennifer A. Jurgens personally  
appeared Jack Hood personally known to me (or  
proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s)  
is/are subscribed to the within instrument and acknowledged to me that he/she/they  
executed the same in his/her/their authorized capacity(ies), and that by his/her/their  
signature(s) on the instrument the person(s), or the entity upon behalf of which the  
person(s) acted, executed the instrument.

WITNESS my hand and official seal.

*Jennifer A. Jurgens*

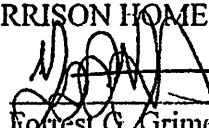


**CONSENTING PROPERTY OWNER:**

The undersigned entity is the owner of record of the real property that is more particularly described as \_\_\_\_\_, (“Owner’s Property”). By signing below, such owner hereby consents to the Recordation of this Master Declaration of Covenants, Conditions and Restrictions for Lincoln Crossing in the Official Records of Placer County, California against the Owner’s Property.

MORRISON HOMES, a Delaware corporation

By: \_\_\_\_\_

  
Forrest C. Grimes  
Vice President, Land Resources.

**CONSENTING PROPERTY OWNER:**

The undersigned entity is the owner of record of the real property that is more particularly described as \_\_\_\_\_, (“Owner’s Property”). By signing below, such owner hereby consents to the Recordation of this Master Declaration of Covenants, Conditions and Restrictions for Lincoln Crossing in the Official Records of Placer County, California against the Owner’s Property.

KB HOME NORTH BAY INC., a California corporation

By: \_\_\_\_\_  
Its: \_\_\_\_\_

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF Sacramento

On December 22, 2003, before me, Kristina Dittman, personally appeared Forrest G. Grimes personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.



A handwritten signature in black ink, appearing to read "Kristina Dittman", written over a horizontal line.



CONSENTING PROPERTY OWNER:

The undersigned entity is the owner of record of the real property that is more particularly described as \_\_\_\_\_, ("Owner's Property"). By signing below, such owner hereby consents to the Recordation of this Master Declaration of Covenants, Conditions and Restrictions for Lincoln Crossing in the Official Records of Placer County, California against the Owner's Property.

MORRISON HOMES, a Delaware corporation

By: \_\_\_\_\_  
Forrest G. Grimes  
Vice President, Land Resources.

CONSENTING PROPERTY OWNER:

The undersigned entity is the owner of record of the real property that is more particularly described as shown on Exhibit "A-2", ("Owner's Property"). By signing below, such owner hereby consents to the Recordation of this Master Declaration of Covenants, Conditions and Restrictions for Lincoln Crossing in the Official Records of Placer County, California against the Owner's Property.

KB HOME NORTH BAY INC., a California corporation

By: John A. Barnhart  
Its: NP Land Development

STATE OF CALIFORNIA )  
COUNTY OF Solano ) ss.

On Dec. 16, 2003, before me, Dianna L Stahl, personally appeared John A Barnhart personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Dianna L Stahl

