

competence. Such persons shall be indemnified to the full extent allowed by the California Corporations Code without limitation.

Section 5.4. Taxes: Each Owner shall execute such instruments and take such action as may reasonably be specified by the Master Association to obtain separate real estate tax assessments of each Lot or Condominium. If any taxes or assessments may, in the opinion of the Master Association, nevertheless be a lien on the Association Property, or any part thereof, they may be paid by the Master Association, and each Owner shall be obligated to pay or to reimburse the Master Association for, as the case may be, the taxes and assessments assessed by the County Assessor or other taxing authority against the Association Property and attributable to his own Lot or Condominium and interest in the Association Property.

Section 5.5. Limitation on Certain Actions: Notwithstanding any contrary provision in this Master Declaration or in the Articles or Bylaws of the Master Association, the amount of Common Assessments levied in any fiscal year of the Master Association upon each Owner shall not be less than the amount reflected in the Final Subdivision Public Report for the First Subdivision per Lot or Condominium prior to the date on which Declarant has lost the power to appoint a Delegate to the Master Association, unless the consent of Declarant has first been obtained (in addition to any other vote, consent or approval required).

Section 5.6. Actions Without a Meeting: The Board may take actions and exercise those powers and duties specified in this Master Declaration or otherwise authorized by the Bylaws or statute without a meeting if all of the Directors consent in writing to the action to be taken. If the Board resolves by unanimous written consent to take an action, an explanation of the action taken shall be posted in a prominent place or places within the Common Area as the Directors may direct which is convenient to the Owners within three (3) days after the written consents of all Directors have been obtained.

ARTICLE VI

ASSESSMENTS

Section 6.1. Covenant To Pay: Declarant and any Participating Builder, for each Lot or Condominium owned by it, hereby agrees to pay, and each Owner of a Lot or Condominium by accepting a deed or other conveyance creating in such Owner the interest required to be deemed an Owner, whether or not it shall be so expressed in any such deed or

other conveyance, is deemed to agree to pay to the Master Association all Assessments as provided herein.

Section 6.2. Common Assessments: Sums sufficient to pay Common Expenses shall be assessed as Common Assessments against the Owners of Lots in the Subdivision for which the first Final Subdivision Public Report is issued by the California Department of Real Estate (hereinafter "DRE") in the amounts as set forth in the Master Association budget on file with the DRE. As Common Assessments commence with respect to additional Subdivisions annexed to the Properties pursuant to Article III hereof, the Common Assessments shall be revised, subject to the limitations of Section 6.2(c), below, in accordance with the combined budget of the Master Association filed with the DRE for the such additional Subdivisions annexed to the Properties.

(a) Equal Assessments. Those items of Common Expenses of the Master Association shall be assessed equally against all Owners, based upon the number of Lots or Condominiums owned by each Owner, or in the case of an Owner of a Lot developed as a multi-Family project for rental apartments, the number of apartment units located on such Lot.

(b) Basis of Maximum Common Assessment. Until the first day of the fiscal year immediately following conveyance of the first improved Lot or Condominium in the Properties to an Owner, the maximum Common Assessment under this Article shall be the amount set forth in the Final Subdivision Public Report issued for the First Subdivision of the Properties. Thereafter, the maximum Common Assessments shall be increased only in accordance with the following:

(i) The maximum Common Assessment may be increased by the Board without a vote of the Members in an amount no more than ten percent (10%) above the maximum Common Assessment for the previous year.

(ii) The maximum Common Assessment may be increased more than ten percent (10%) above the maximum Common Assessment for the previous year, only by the vote or written assent of both (1) Declarant, for so long as Declarant may appoint a Delegate to the Master Association and (2) a majority of the total voting power of the Members and a majority of the votes of Members other than the Declarant and any Participating Builders.

(iii) The Board shall not in any year levy a Common Assessment in excess of the maximum Common Assessment as such maximum may be annually increased pursuant to this section. The levy of a Common Assessment less than the maximum Common Assessment in one (1) year shall not affect the Board's right to levy a Common Assessment in the amount of the maximum Common Assessment in subsequent years. If the Board shall levy a Common Assessment in an amount of less than the maximum for any calendar year and thereafter, during such calendar year, determine that the important and essential functions of the Master Association cannot be funded by such lesser Common Assessment, the Board may, by majority vote, levy one or more supplemental Common Assessments. In no event shall the sum of the initial and supplemental Common Assessments for that year exceed the maximum Common Assessment.

(iv) The provisions of Subsections 6.2(b)(i), (ii) and (iii), above, shall not limit assessment increases for (aa) the maintenance or repair of the Association Properties, including, but not limited to, the payment of insurance premiums, the payment of utility bills, the costs incurred in maintaining or repairing Improvements, and funding reserves, or (bb) addressing emergency situations; provided, the Board shall not increase the maximum Common Assessment in any year for any purpose more than twenty percent (20%) above the maximum Common Assessment for the previous year without the vote or written assent of a majority of the total voting power of the members other than the Declarant.

(c) Budget Estimate. The Board shall cause to be prepared an annual operating statement reflecting income and expenditures of the Master Association for each fiscal year, and shall cause to be distributed a copy of such statement to each Member as provided in the Bylaws. Not less than forty-five (45) nor more than sixty (60) days prior to the beginning of each fiscal year, and subject to the provisions of Section 6.2, above, the Board shall prepare and distribute to the Delegates of the Master Association, a written, itemized pro forma operating budget which shall include all of the following:

(i) The estimated revenue and expenses of the Master Association on an accrual basis.

(ii) The identification of the total cash reserves currently set aside.

(iii) The identification of the estimated remaining life of, and the methods of funding used to defray the future repair, replacement or addition

to, those major components which the Master Association is obligated to maintain.

(iv) A general statement addressing the procedures used for the calculation and establishment of those reserves to defray the future repair, replacement, or additions to those major components that the Association is obligated to maintain.

In calculating the Common Assessments of the Master Association for each fiscal year, the Board shall allocate the estimated expenses of the Master Association equally against all Owners in the Properties.

(d) Commencement of Common Assessments. Common Assessments shall commence as to each Lot or Condominium in any phase of a Subdivision for which a Final Subdivision Public Report has been issued (which may constitute only a portion of a phased Subdivision), upon the first day of the first month following the month in which escrow closes for the sale of the first Lot or Condominium in the phase in which such Lot or Condominium is located. Each such Lot or Condominium in such phase shall thenceforth be subject to a pro rata share of the then established Common Assessment for that Subdivision.

(e) Payment of Common Assessments. All Common Assessments shall be due and payable to the Master Association by the assessed Owners (including Declarant and any Participating Builders) during the fiscal year in monthly, or quarterly, or semi-annual installments, on or before the first day of each month, or in such other manner as the Board may designate in its sole and absolute discretion.

(f) Excess Assessments. At the end of any fiscal year of the Master Association, the Delegates may determine that all excess funds over and above the amounts used for the operation of the Properties shall be retained by the Master Association and used to reduce the following years' Common Assessment. Notwithstanding anything in the Articles or Bylaws to the contrary, if prior to dissolution of the Master Association the Master Association has not obtained tax exempt status from both the federal and state government, then upon dissolution of the Master Association, any amounts remaining shall be distributed to or for the benefit of the Members proportionately.

Section 6.3. Capital Improvement Assessments: Subject to the provisions of Section 6.5, below, the Board may levy, in any fiscal year, a Capital Improvement Assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a Capital Improvement upon the

Association Property, including fixtures and personal property related thereto. All Capital Improvement Assessments must be fixed at a uniform rate for all Lots or Condominiums, and they may be collected on a monthly basis.

Section 6.4. Reconstruction Assessments: Subject to the provisions of Section 6.5, below, in the case of damage by fire or other casualty to the Master Association Maintenance Areas and any other Association Property, and provided the proceeds of any insurance payable by reason thereof shall be inadequate to pay for the entire cost of repair, replacement or reconstruction of such property, the Board may levy a Reconstruction Assessment to make good any deficiency on each Owner and his respective Lot or Condominium in a proportion equal to the proportion in which such Owner is assessed Common Assessments. The collection of such Reconstruction Assessment shall be enforceable in the same manner as the collection of Common Assessments.

Section 6.5. Limitation on Assessments: The aggregate Capital Improvement Assessments collected in accordance with Section 6.3, above, and the Reconstruction Assessments collected in accordance with Section 6.4, above, in any fiscal year may not exceed five percent (5%) of the budgeted gross expenses of the Master Association for that fiscal year, unless such excess shall have been approved by the vote or written assent of both (a) Declarant, for so long as Declarant may appoint a Delegate to the Master Association and (b) a majority of the total voting power of the Members and a majority of the votes of Members other than the Declarant and any Participating Builders.

Section 6.6. Special Assessments: A Special Assessment may be levied against and collected from a particular Owner and his Lot or Condominium by a majority vote of the Board after Notice and Hearing, to reimburse the Master Association for certain costs or expenses that have been incurred by the Master Association or Declarant with respect to bringing the Owner and his Lot or Condominium into compliance with the terms of this Declaration or with respect to materials or services furnished to such Owner or his Lot or Condominium at his request or on his behalf as may be provided herein.

Notwithstanding the foregoing, a fine imposed by the Board pursuant to the provisions of Section 8.21 below, as a disciplinary measure for failure of an Owner to comply with the terms of this Master Declaration, or as a means of reimbursing the Master Association for costs incurred by the Master Association for which the Owner was allegedly responsible or in bringing the Owner and his Lot into compliance with the Master Declaration, shall not be levied or enforced as a Community Assessment nor shall the same become a lien against such Owner's Lot or Condominium enforceable by sale as provided in Section 6.9 below.

Section 6.7. Late Charges and Interest: If any installment of an Assessment, whether Common, Special, Reconstruction or Capital Improvement, assessed to any Owner is not paid within fifteen (15) days after it is due, the Owner may be required by the Board to pay a late charge of Ten Dollars (\$10.00) or ten percent (10%) of the full Assessment, whichever is greater. Any installment of a Common Assessment, Capital Improvement Assessment, Special Assessment or Reconstruction Assessment, together with the reasonable costs of collection and late charges, not paid within thirty (30) days after the due date of such installment shall accrue interest at the annual percentage rate of twelve percent (12%).

Section 6.8. Waiver of Enjoyment: No Member may exempt himself from personal liability for Assessments duly levied by the Master Association, nor release the Lot or Condominium owned by him from the liens and charges hereof, by any attempted waiver of enjoyment of the Master Association Maintenance Areas or any other Association Property and the facilities thereon or by abandonment of his Lot or Condominium.

Section 6.9. Unpaid Assessments as Liens: No action shall be brought to enforce any lien of any Assessment, whether Common, Special, Reconstruction or Capital Improvement, assessed to any Owner, until a Notice of Delinquent Assessment (hereinafter "Notice") has been recorded stating the amount of the Assessment or installment, as the case may be, the interest, late charges and costs which have accrued thereon, the legal description and street address of the Lot or Condominium against which it has been assessed, the name of the record Owner thereof and the name and address of any trustee authorized by the Board to enforce the lien by non-judicial sale. Such Notice shall be signed and acknowledged by an officer of the Master Association. Such assessment lien shall be prior to any declaration of homestead recorded after the recording of this Master Declaration. The lien shall continue until fully paid or otherwise satisfied. When all amounts stated in the Notice and all other assessments and costs which may have then accrued have been fully paid or satisfied, a further notice releasing the lien shall be recorded, upon payment by the defaulting Owner of a reasonable fee, determined by the Board, to cover the costs of preparing and recording such release. Such lien may be foreclosed in the same manner as is provided in the laws of the State of California applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner provided by law. No action shall be brought by the Board or by its agent to foreclose the assessment lien or to proceed under any power of sale thereunder, until thirty (30) days have elapsed after the date that the Notice is deposited in the United States Mail, certified or registered, postage prepaid, to the Owner of such Lot or Condominium. A certificate executed and acknowledged by an officer or duly authorized agent of the Master Association stating the indebtedness secured by the liens upon any Lot or Condominium

created hereunder shall be conclusive upon the Master Association and the Owners as to the amount of such indebtedness as of the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Owner upon request at a reasonable fee, as determined by the Board, to cover the cost of furnishing such certificate. Liens established pursuant hereto shall be junior to any assessment liens levied by any Sub-Association in the Properties under a Declaration of Annexation. Each assessment shall be payable in the amount specified in the Notice, and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that the Master Association, the Board, the Delegates, or Declarant is not properly exercising its duties and powers as provided in this Master Declaration.

Section 6.10. Mortgage Protection: Notwithstanding all other provisions hereof, no lien created under this Article VI nor any breach of this Master Declaration, nor the enforcement of any provision hereof or of any Declaration of Annexation hereto shall defeat or render invalid the rights of the Beneficiary under any recorded first deed of Trust upon a Lot made in good faith and for value; provided that after such Beneficiary or some other third party obtains title to such Lot by judicial foreclosure or by means of the powers set forth in such Deed of Trust, such Lot or Condominium shall remain subject to this Master Declaration and the payment of all Assessments accruing subsequent to the date such Beneficiary or other Persons obtain title.

Section 6.11. Marina Hills Maintenance Funds: The Board shall establish no fewer than two (2) separate accounts (the "Marina Hills Maintenance Funds") into which shall be deposited all monies paid to the Master Association, and from which disbursements shall be made, as provided herein, in the performance of functions by the Master Association under this Master Declaration. Each of the Marina Hills Maintenance Funds shall be established as separate trust savings or trust checking accounts at a banking institution. The Marina Hills Maintenance Funds shall include: (a) a Operating Fund for current expenses of the Master Association, and (b) a Common Area Reserve Fund for replacements, painting and repairs of the landscaping, Improvements and all other Association Property, to the extent necessary under the provisions of this Master Declaration. The Board shall not commingle any amounts deposited into any of the Marina Hills Maintenance Funds with amounts deposited into any other Marina Hills Maintenance Fund.

All amounts deposited into the Operating Fund and the Common Area Reserve Fund must be used solely for the common benefit of all of the Members for purposes authorized by this Master Declaration, as may be amended from time to time. Disbursements from the Operating Fund shall be made by the Board for such purposes as are necessary for the discharge of its responsibilities herein for the common benefit of all the

Members, other than those purposes for which disbursements from the Common Area Reserve Fund are to be used. Nothing in this Master Declaration shall be construed in such a way as to permit the Master Association to use any Assessments to abate any annoyance or nuisance emanating from outside the physical boundaries of the Properties. Nothing contained herein shall limit, preclude or impair the establishment of other funds by any Sub-Association pursuant to any additional conditions, covenants or restrictions or other provisions contained in any Declaration of Annexation which makes other properties subject to this Master Declaration, or the establishment of additional Marina Hills Maintenance Funds by the Master Association earmarked for specified purposes authorized by this Master Declaration. The Common Area Reserve Fund shall be funded by regularly scheduled monthly, quarterly, semi-annual or annual payments rather than by large Special Assessments.

Section 6.12. Amendments to Article VI: Amendments to this Article VI (but not this Section 6.12 which is covered by Section 11.2(b) of this Master Declaration and amendments to sections of other Articles which are referred to in this Article or which relate to this Article) shall only be effective upon the vote or written consent of both (a) Declarant, for so long as Declarant may appoint a Delegate to the Master Association, and (b) the majority of all Delegates to the Master Association and the majority of the votes of Master Association not attributable to property owned by the Declarant and any Participating Builders.

Section 6.13. Exemption From Assessments. Owners shall be exempt from the payment of that portion of any Common Assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and use of a residential structure which is not complete at the time the Common Assessment commences. Such exemption may include: (a) roof replacement; (b) exterior maintenance; (c) walkway and carport lighting; (d) refuse disposal, if any; (e) cable television; (f) domestic water supplied to living units, if any; and (g) insurance on uncompleted structures. Any such exemption from the payment of Common Assessments shall terminate upon the earlier of the recordation of the notice of completion of the residential structure, occupation or use of a structural improvement which is a dwelling unit, or completion of all elements of the residential structure which the Association is obligated to maintain.

Owner shall be exempt from the payment of that portion of any Common Assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and use of a common facility which at the time of the commencement of such Common Assessment is not complete. Any such exemption from the payment of Common Assessments shall terminate upon the earlier of the recordation of a notice of completion of the common facility or at such time as the common facility is placed into use.