

SECTION 8: ASSESSMENTS

8.01. Agreement to Pay: Personal Obligation. Declarant, and its successor in interest, if any, for each Lot owned by it, and each Owner, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, covenants and agrees to pay to the Association: (1) Regular Annual Assessments; (2) Special Assessments for capital improvements or unusual expenses to be established and collected as hereinafter provided (collectively "Assessments"); and, (3) Individual Charges levied against an individual Owner, to be established and collected as provided in this Declaration and in the other Project Documents.

All Assessments and Individual Charges, together with any late charges, interest, collection costs and reasonable attorney's fees incurred in collecting delinquent Assessments and Individual Charges, shall be the obligation of the Owner of such Lot at the time when the Assessments or Individual Charges fell due. If more than one person or entity was the Owner of a Lot at the time the Assessments or Individual Charges fell due, the obligation to pay each Assessment and Individual Charge shall be joint and several. The obligation for delinquent Assessments and Individual Charges shall not pass to any transferee unless expressly assumed by him/her. No Owner may exempt himself from liability for his/her Assessments or Individual Charges obligation by waiver of the use or enjoyment of any of the Project.

If an Owner has a dispute with the Association regarding an assessment levied by the Association, the Owner may pay the assessment under protest in accordance with the procedures set forth in Civil Code Section 1363.3 or any successor statute thereto.

8.02. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for paying the costs of and creating reserves for the costs of all obligations which the Association is authorized or obligated to perform as described in this Declaration.

8.03. Assessments of Vacant Lots. Notwithstanding the foregoing, Declarant and any other Owner of a Lot which does not include a structural improvement for human occupancy shall be exempt from the payment of that portion of any Assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and the use of the structural improvement. The exemption shall include, but shall not necessarily be limited to:

- a) Roof replacement;
- b) Exterior maintenance;
- c) Walkway and parking area lighting;
- d) Refuse disposal;
- e) Cable television; and,
- f) Domestic water supplied to living units.

Any exemption from the payment of assessments shall be in effect only until the earliest of the following events:

- a) A Notice of Completion of the structural improvements has been recorded;
- b) Occupation or use of the dwelling unit; or,
- c) Completion of all elements of the residential structures which the association is obliged to maintain.

8.04. Common Facility Assessment Exemption. The Declarant and any other Owner of a Lot may be exempted from the payment of that portion of any assessment which is for the purpose of defraying expenses and reserves directly attributable to the existence and use of a common facility that is not complete at the time assessments commence. Any exemption from the payment of assessments 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 into use.

8.05. Regular Annual Assessments and Special Assessments. The provisions of this Subsection entitled "Regular Annual and Special Assessments" are intended to comply with Civil Code Sections 1366(a) and (b) in effect as of January 1, 1997. If this section is amended in any manner, the provisions of this Subsection automatically shall be amended in the same manner, provided that if Section 1366(b) is repealed and no successor statute is enacted with respect to restrictions on assessments, the provisions of this Subsection shall remain in full force and effect.

Regular assessments shall be payable in equal monthly installments, due on the first day of each month, unless the Board adopts some other basis for collection.

8.06. Quorum. For the purposes of establishing "Assessments" above, a quorum means more than 50% of the Members of the Association. In addition, any meeting or election of the Association for purposes of complying with this Section and the Subsection above entitled "Regular Annual Assessments" shall be conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3, Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code.

8.07. Individual Charges. Individual charges may be levied against a Member as follows:

- a) As a monetary penalty imposed by the Association as a disciplinary measure for the failure of a Member to comply with the Project Documents, or;

- b) As a means of reimbursing the Association for costs incurred by the Association for the repair of damage to Common Areas and facilities for which the Member was responsible, or to otherwise bring the Member and his/her Lot into compliance with the Project Documents. Such individual charges (other than reasonable late charges, interest, costs of collection and reasonable attorneys' fees related to the collection of Assessments) are not enforceable through the lien provisions of the Project Documents. All individual charges shall comply with California Civil Code Section 1366 to the extent that it is applicable.

8.08. Equal Division of Regular and Special Assessments. Regular and Special Assessments shall be levied against each Lot (and its Owner) equally, based on a fraction, the numerator of which is one and the denominator of which is the total number of Lots in the Project.

8.09. Commencement of Assessments and Individual Charges. The right to levy Assessments and Individual Charges shall commence as to all Lots in a Phase of the Project on the close of escrow for the first conveyance of a Lot in that Phase of the Project. Regular Assessments shall commence as to all Lots in a Phase of the Project on the first day of the month following the first conveyance of a Lot in that Phase under authority of a Public Report. Thereafter, Regular Assessments shall be levied on the first day of each month.

8.10. Assessment Lien. Each delinquent Assessment or installment, together with any late charge, interest, collection costs and reasonable attorneys' fees, shall be a charge and a continuing lien upon the Lot against which each Assessment is made, the lien to become effective upon recordation of a Notice of Delinquent Assessment, subject to any costs of collection (including attorney's fees), late charges, and interest, by taking the following steps:

- a) The Association shall notify the Owner in writing by certified mail of the fee and penalty procedures of the Association, shall provide an itemized statement of the charges owed by the Owner, including items on the statement which indicate the principal owed, any late charges and the method of calculation, any attorneys' fees, and the collection practices used by the Association, including the right of the Association to the reasonable costs of collection.

- b) After compliance with the notice requirements of "a" above, the Association may impose a lien against the Owner's Lot in the amount of the delinquent assessment or assessments, plus cost of collection, late charges and interest by recording a notice of delinquent assessment with the county recorder of

the county in which the Project is located. The notice shall state the amount of the assessment(s) and other sums imposed in accordance with Civil Code Section 1366 or any successor statute thereto, a legal description of the Owner's Lot in the Project against which the assessment(s) and other sums are levied, the name of the record owner of the Owner's Lot in the Project against which the lien is imposed, and, if the lien is to be enforced by nonjudicial foreclosure, the name and address of the trustees authorized by the Association to enforce the lien by sale. The notice shall be signed by any officer of the Association or an employee or agent of the Association authorized to do so by the Board and a copy mailed in the manner required by Civil Code Section 2924b to all record owners of the Owner's Lot in the Project no later than ten days after recordation.

Any payments made on the delinquent assessment(s) shall be applied first to the principal owed, and only after the principal owed is paid in full shall payments be applied to interest or collection costs. Upon payment of the sums specified in the Notice of Delinquent Assessment, the Association shall cause to be recorded with the county recorder of the county in which the Project is located a notice stating the satisfaction and release of the lien thereof.

After the expiration of 30 days following the recordation of the notice of delinquent assessment, the Board may enforce any assessment lien established hereunder by filing an action for judicial foreclosure or, if the notice of delinquent assessment contained the name and address of the trustee authorized by the Association to enforce the lien by nonjudicial foreclosure, by recording a notice of default in the form described in Civil Code Section 2924c(b)(1) to commence a nonjudicial foreclosure. Any nonjudicial foreclosure shall be conducted in accordance with the requirements of Civil Code Sections 2924, 2924b, 2924c, 2924f, 2924g and 2924h that apply to nonjudicial foreclosure of mortgages or deeds of trust. The sale shall be conducted by the trustee named in the notice of delinquent assessment or by a trustee substituted in accordance with the provisions of Civil Code Section 2934a. The Association may bid on the Lot at the sale and may hold, lease, mortgage and convey the acquired Lot.

If default is cured before the sale, including payment of all costs and expenses incurred by the Association, the Association shall record a notice of satisfaction and release of lien and, to the extent required by Civil Code Section 2924(c)(a)(2), a notice of rescission. In addition to the remedies described herein, the Board, pending the payment in full of all delinquent assessments and related charges, may suspend the voting rights of the Owner.

The provisions of this section are intended to comply with the requirements of Civil Code Sections 1366.3 and 1367 in effect as of January 1, 1997. If these sections are amended or rescinded in any manner the provisions of this Section automatically shall be amended or rescinded in the same manner. The Board is advised to confirm whether any changes have occurred.