

Section 24. **WAIVER.** The ASSOCIATION shall have the right to waive the application of one or more of these restrictions, or to permit a deviation from these restrictions, as to any LOT where, in the discretion of the BOARD, circumstances exist which justify such waiver or deviation. In the event of any such waiver or permitted deviation, or in the event any party fails to enforce any violation of these restrictions, such actions or inactions shall not be deemed to prohibit or restrict the right of the ASSOCIATION, or any other person having the right to enforce these restrictions, from insisting upon strict compliance with respect to all other LOTS, nor shall any such actions be deemed a waiver of any of the restrictions contained herein as same may be applied in the future. Notwithstanding the foregoing, so long as DEVELOPER owns any LOT, if any waiver or deviation of any restriction requires the consent of the ASSOCIATION, such consent shall be obtained from DEVELOPER and not from the ASSOCIATION, unless DEVELOPER voluntarily relinquishes this right at an earlier date.

Section 25. **EXCEPTIONS.** The foregoing use and maintenance restrictions shall not apply to DEVELOPER, or to any portion of the PROJECT while owned by DEVELOPER, or to the UNDEVELOPED PARCEL, and shall not be applied in a manner which would prohibit or restrict the development of any portion of the PROJECT and the construction of any UNITS and other improvements thereon, or any activity associated with the sale of any new UNITS by DEVELOPER. Specifically, and without limitation, DEVELOPER shall have the right to: (i) construct any buildings or improvements within the PROJECT, and make any additions, alterations, improvements, or changes thereto; (ii) maintain customary and usual sales, general office and construction operations on the PROJECT; (iii) place, erect or construct portable, temporary or accessory buildings or structures upon the PROJECT for sales, construction, storage or other purposes; (iv) temporarily deposit, dump, accumulate materials, trash, refuse and rubbish in connection with the development or construction of the PROJECT; and (v) post, display, inscribe or affix to the exterior of a UNIT or upon the PROJECT, signs and other materials used in developing, constructing, selling or promoting the PROJECT.

ARTICLE XI
GENERAL PROVISIONS

Section 1. **ENFORCEMENT.** In addition to any other remedies set forth herein and permitted by law, this DECLARATION may be enforced by DEVELOPER, or the ASSOCIATION, by any procedure at law or in equity against any person violating or attempting to violate any provision herein, to restrain such violation, to require compliance with the provisions contained herein, to recover damages, or to enforce any lien created herein. The expense of any litigation to enforce this DECLARATION, including attorneys' fees at both trial and appellate levels, shall be borne by the person against whom enforcement is sought, provided such proceeding results in a finding that such person was in violation of this DECLARATION. In addition to the foregoing, any OWNER shall have the right to bring an action to enforce this DECLARATION against any person violating or attempting to violate any provision herein, to restrain such violation or to require compliance with the provisions contained herein, but no OWNER shall be entitled to recover damages or to enforce any lien created herein as a result of a violation or failure to comply with the provisions contained herein by any person, and the prevailing party in any such action shall be entitled to recover its reasonable attorneys' fees at both trial and appellate levels.

Section 2. **CONFLICT WITH ARTICLES OR BY-LAWS.** In the event of any conflict between the ARTICLES and the BY-LAWS and this DECLARATION, this DECLARATION, the ARTICLES, and the BY-LAWS, in that order, shall control.

Section 3. **SPECIAL PROVISIONS REGARDING CABLE TELEVISION.** DEVELOPER reserves and shall have the right to grant a private cable television company and easement to provide cable television service to all of the UNITS within the PROJECT, on such terms and conditions as DEVELOPER may reasonably desire, provided however that the services charged by the cable company shall not be unreasonably compared to other cable television companies providing cable television in the county in which the PROJECT is located. In connection with such cable television services, the applicable agreement with the cable company may require each UNIT OWNER to subscribe for, at a minimum, basic cable television services offered by the cable company, and to pay such services either directly to the cable television company, or to the

ASSOCIATION. Any cable television agreement shall give each UNIT OWNER the right to elect not to subscribe to cable television in which case that UNIT OWNER'S assessment will be lowered if it includes an amount for cable television. The cable television agreement may also give the UNIT OWNERS the option to subscribe to additional channels or services in addition to the basic cable television service for an additional fee to be determined by the cable television company from time to time. When DEVELOPER no longer elects any member of the ASSOCIATION, thereafter all rights of DEVELOPER as set forth in this paragraph may be exercised by the ASSOCIATION.

Section 4. AUTHORITY OF ASSOCIATION AND DELEGATION. Nothing contained in this DECLARATION shall be deemed to prohibit the BOARD from delegating to any one of its members, or to any officer, or to any committee or any other person, any power or right granted to the BOARD by this DECLARATION including, but not limited to, the right to exercise architectural control and to approve any deviation from any use restriction, and the BOARD is expressly authorized to so delegate any power or right granted by this DECLARATION.

Section 5. PERFORMANCE OF ASSOCIATION'S DUTIES BY DEVELOPER. DEVELOPER shall have the right from time to time, at its sole discretion, to perform at DEVELOPER'S expense the duties and obligations required hereunder to be performed by the ASSOCIATION, and in connection therewith to reduce the budget of the ASSOCIATION and the ASSESSMENTS for COMMON EXPENSES payable by the OWNER, provided however that any such performance on the part of DEVELOPER may be discontinued by DEVELOPER at any time, and any such performance shall not be deemed to constitute a continuing obligation on the part of DEVELOPER.

Section 6. ACTIONS AGAINST DEVELOPER. The ASSOCIATION shall not institute any legal proceedings against DEVELOPER without the consent of 75% of the votes of the OWNERS.

Section 7. SEVERABILITY. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 8. AMENDMENT. The covenants and restrictions of this Declaration shall run with and bind the land for a term of thirty (30) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. This Declaration may be amended during the first thirty (30) year period by an instrument signed by the OWNERS of ninety percent (90%) or more of the LOTS, and thereafter by an instrument signed by the OWNERS of seventy-five percent (75%) or more of the LOTS. Notwithstanding the above, the DEVELOPER shall have the right, until June 30, 1990, to amend this Declaration to clarify any ambiguities or conflicts. Any Amendment must be recorded.

Section 9. FHA/VA APPROVAL. As long as there is Class B Membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: (a) ANNEXATION of additional properties not part of the UNDEVELOPED PARCEL, (b) dedication of COMMON OPEN SPACE, (c) mergers and consolidations, (d) mortgaging of COMMON OPEN SPACE, (e) except as set forth in Section 8 above, an amendment of this Declaration, and (f) dissolution of the ASSOCIATION.

Section 10. DEVELOPER AMENDMENT PRIVILEGE. Notwithstanding anything to the contrary set forth in Sections 8 and 9 of this Article XI, the DEVELOPER may amend any provision of this DECLARATION without the approval or joinder of the OWNERS or the ASSOCIATION, if required to do so by the Federal National Mortgage Association, the Federal Housing Administration, the Veterans Administration or any other similar governmental institutional lender which desires to hold a mortgage on all or any part of the PROJECT.