

of any default of an Owner of any obligation hereunder which is not cured within sixty (60) days. Furthermore, the Association may provide such notice without receiving a request from an Institutional Lender.

**Section 5.14. Reserves.** The Association shall include within the annual assessment a reasonable amount (but not limited by the matters for which reserves may be collected as hereafter stated) to be collected as reserves for replacement, repair and/or maintenance of the Streets and other improvements situate upon or within the Common Area. In particular, the reasonable amount for such reserves shall be determined by the Board, to be collected and held as reserves against and for the future periodic maintenance, repair or replacement of all or any portion or portions of the Common Area, including, without limitation, the Common Area landscaping, or for such other purpose or purposes as shall be determined by the Board, in its reasonable discretion. Such portion of the annual assessment representing amounts collected as reserves, whether established pursuant to this section 5.14 or otherwise, shall be deposited by the Association in a separate interest bearing bank account, certificate (s) of deposit or in United States treasury bonds of appropriate maturity, to be held in trust by the Association until used for the purpose or purposes for which the same are established and shall be segregated from and not commingled with the general funds or any other funds of the Association. An annual audit or other financial report (in acceptable form and substance) shall be submitted to any governmental regulatory agency requiring same confirming the receipt by the Association of said reserve funds. This section shall not abrogate, modify, amend, or supercede the provisions of any other section of this Article.

## **ARTICLE VI ARCHITECTURAL CONTROL**

**Section 6.1. Establishment of Architectural Review Committee.** There is hereby established an Architectural Review Committee (the "ARC") which shall consist of three (3) or more persons designated and appointed by the Declarant. At such time as the Declarant no longer owns any Lot within the Property (or earlier at the option of the Declarant), the Declarant shall assign to the Association all rights, powers duties and obligations of the ARC, whereupon the Board shall appoint the members of the ARC and shall provide for the terms of the members of the ARC. Members of the ARC need not be officers, directors or Members of the Association.

**Section 6.2. ARC Authority.** The ARC shall have full authority to regulate the use and appearance the Property and all improvements constructed thereon to assure harmony of external design and location in relation to surrounding improvements and topography and to protect and preserve the value and desirability of the Property as a residential community. The power to regulate shall include the power to prohibit those exterior uses or activities deemed inconsistent with the provisions of this Declaration, or contrary to the best interests or the Association in maintaining the value and desirability of the Property as a residential community, or both. The ARC shall have authority to adopt, promulgate, rescind, amend and revise rules and regulations in connection with the foregoing; provided, however, such rules and regulations shall be

consistent with the provisions of this Declaration and, in the event the Board has not constituted itself as the ARC, such rules and regulations shall be approved by the Board prior to the same taking effect. Violations of the rules and regulations of the ARC shall be enforced by the Board, unless such enforcement authority is delegated to the ARC by resolution of the Board.

**Section 6.3. ARC Approval.** No building, fence, hedge, wall, walk, dock, pool, planting, sign, or enclosure or addition to any improvement located upon a Lot shall be constructed, erected, removed, planted or maintained nor shall any addition to, or any change or alteration thereof, be made until the plans and specifications showing the nature, kind, shape, height, materials, color scheme and location of same shall have been submitted to, and approved in writing by, the ARC. Any change in the exterior appearance of any improvement, including, without limitation, repainting in the same or different color, exterior refinishing, re-roofing, or the addition of architectural details, decorative sculptures or wrought iron grills, construction of fences or other enclosures, shall likewise require written approval of the ARC before any such work is commenced. The ARC shall have the right to refuse approval of plans, specifications or locations upon any grounds, including purely aesthetical considerations, which the ARC, in its sole and absolute discretion, deems appropriate.

**Section 6.4. Submissions of Plans and Specifications.** As part of the application process to the ARC, two (2) complete sets of plans and specifications (including the landscape plan) prepared by an architect or other person found to be qualified by the ARC and two (2) site plans shall be submitted for approval by written application on such form as may be provided, required or approved by the ARC. In addition, the anticipated commencement date and estimated time for completion shall be included in the application to the ARC. In the event the information submitted to the ARC is, in its opinion, incomplete or insufficient in any manner, it may request and require the submission of additional or supplemental information.

**Section 6.5. Standards.** No approval shall be given by the ARC pursuant to the provisions of this Article unless the ARC determines that such approval shall (i) assure harmony of external design, materials, and location in relation to surrounding improvements and topography within the Property; (ii) shall protect and conserve the value and desirability of the Property as a residential community; (iii) shall be consistent with the provisions of this Declaration; and, (iv) shall be in the best interests of the Association in maintaining the value and desirability of the Property as a residential community. The ARC may deny any application upon the ground that the proposed alteration will create an undue burden of maintenance upon the Association. In the event additional maintenance may be required, then the ARC shall require an agreed method of payment for such maintenance cost and require security for the payment of same. The ARC may condition the approval of any application upon the Owner providing reasonable security that the contemplated work will be completed substantially in accordance with the plans and specifications therefor submitted to the ARC.

**Section 6.6. Drainage.** All plans submitted to the ARC shall contain a drainage plan which shall be consistent with the master drainage plan and the Surface Water Management System for the Property or, in the alternative, contain an affirmative statement that none of the

work contemplated by the plans will have any effect on the existing drainage of the Lot. In all events, each Owner shall be and remain fully liable for any and all damage caused directly or indirectly by any change in the design of function of drainage on or from any Lot, or the grade of any Lot, in connection with the construction, installation or maintenance of any approved changes by the Owner. In the event of any change to the drainage design, function or grade, the Association may, but shall not be required to, restore the drainage design, function or grade and may charge the Owner for all reasonable costs incurred in connection therewith plus ten percent (10%), said charge to constitute a lien on the Property of such Owner. In connection with any such restoration, the Association may exercise powers granted to it under Section 5.5 of Article V.

**Section 6.7. Completion.** All improvements for which approval of the ARC is required and has been obtained pursuant to the terms and provisions of this Declaration shall be completed within the time period specified in such approval. In the event the improvements are not completed within the required time, the Association may, thirty (30) days following written notice from the ARC to the Owner, complete such improvements at the sole expense of the Owner in accordance with the plans and specifications previously approved by the ARC and may charge the Owner for the expenses incurred in connection therewith plus ten percent (10%), said charge to constitute a lien on the Property of the Owner. In connection with any such restoration, the Association may exercise powers granted to it pursuant to Section 5.5 of Article V.

**Section 6.8. Right of Entry.** There is specifically reserved to the Association and the ARC, the right of entry and inspection upon any Lot for the purpose of determining and/or correcting the existence of any activity or condition which violates the terms of any approval given by the ARC or the terms of this Declaration. The ARC is specifically empowered to enforce the provisions of this Declaration by any legal or equitable remedy, and in the event it becomes necessary to resort to litigation to enforce the terms of this Declaration, or to remove any improvements which have not been approved by the ARC or have not been constructed in conformity with approval granted by the ARC, the prevailing party shall be entitled to recover all costs, expenses and reasonable attorneys' fees in connection therewith. The Association shall indemnify and hold the ARC and its members harmless from any and all costs, expenses and liabilities, including reasonable attorneys' fees, incurred by virtue of service as a member of the ARC.

**Section 6.9. Violations.** In each instance where improvements have been constructed, or the construction thereof is substantially advanced, in such manner that the same violates the restrictions contained in this Declaration, including, activities carried out which are not consistent with plans and specifications approved by the ARC, the ARC (if it has knowledge of such violation) shall notify the Board in writing and the Board may thereafter direct the violating Owner to immediately remove any/or cure such violation. For purposes hereof, all Owners specifically consent and agree to comply with the provisions of this Section as of the time such Owner shall become vested with title to any portion of the Property.

**Section 6.10. Waivers.** The ARC shall have the right, but not the obligation, to grant waivers for minor deviations and infractions of the covenants, conditions and restrictions contained herein. The granting of any waiver may be given or withheld in the sole discretion of the ARC and any prior grant of a similar waiver shall not impose upon the ARC the duty to grant new or additional waivers for like or similar conditions.

**Section 6.11. Disclaimer of Liability.** The Association, the Declarant, the ARC and all officers, employees, directors or members thereof shall in no way be liable to any person or persons submitting plans and specifications for approval by reason of mistake in judgment, negligence or non-feasance arising out of, or in connection with, the approval, disapproval or failure to approve any such plans and specifications. Each person who submits plans and specifications for approval agrees, by submission thereof, that it will not bring any action or suit whatsoever against the Association, the Declarant, the ARC, or any officer, employee, director or member thereof.

## **ARTICLE VII ANNEXATION OF ADDITIONAL PROPERTY**

**Section 7.1. Annexation without Association Approval.** At any time prior to ten (10) years from the date hereof, Additional Property may be annexed, in whole or in part, by the Declarant and made subject to the governing provisions of this Declaration without the consent of Class "A" Members of the Association. The Lots and the improvements thereon, together with the rights and obligations of the Declarant and other Owners thereof, upon all or any portion of such Additional Property shall become subject to the provisions of this Declaration upon recording of an appropriate supplement or amendment hereto executed by the Declarant without the consent of the Class "A" Members.

## **ARTICLE VIII RIGHTS AND OBLIGATIONS OF THE ASSOCIATION**

**Section 8.1. Maintenance.** The Association, subject to the rights of the Owners set forth in this Declaration, shall be responsible for the exclusive management, control and maintenance of the Streets, and the Common Area (including Tract G) together with all improvements thereon (including furnishings and equipment related thereto), and shall keep the same in good, clean, substantial, attractive and sanitary condition, order, and repair.

**Section 8.2. Right of Entry.** The Association, through its employees, contractors and agents, is hereby granted a right of entry into and upon each Lot to the extent reasonably necessary to discharge the Association's performance of any duty imposed, or exercise of any right granted, by this Declaration, including, the discharge of any duty of maintenance or replacement, or both, imposed upon any Owner. Such right to entry shall be exercised in a peaceful and reasonable manner at reasonable times and upon reasonable notice whenever the circumstances permit. Entry into any improvement upon any Lot shall not be made without the consent of the Owner or occupant thereof except when such entry is reasonably necessary for the