

## ARTICLE V

### **BOARD OF DIRECTORS:**

#### **NOMINATION, ELECTION, TERM OF OFFICE**

Section 1. Number and Qualifications of Directors. The affairs of the Master Association shall be managed by a Board consisting of either three (3) Directors or five (5) Directors. Except for the first Directors appointed by the Declarant, the Board shall consist only of Members who are in good standing with the Master Association, or an agent of Declarant or a Merchant Builder so long as Declarant is entitled to annex any portion of the Annexable Property into the Community. The Board shall initially consist of three (3) Directors who shall be appointed by the Declarant as soon as practicable after the incorporation of the Master Association, and shall hold office until Directors are elected by the Members at the first annual meeting of the Master Association as specified in these By-Laws.

Section 2. Qualifications for Candidates and Conduct of Directors Serving in Office.

(a) Qualifications for Candidates.

(1) Incumbent Candidates Seeking Re-election to the Board. To be qualified as a candidate for re-election to the Board, an incumbent candidate must satisfy all of the following requirements:

(i) Attended at least six (6) of the regular Board meetings, and at least half of any special Board meetings, during the preceding twelve (12) calendar months, and did not miss more than two (2) consecutive regular or two (2) consecutive special Board meetings;

(ii) Complied with every duly adopted action of the Board;

(iii) Complied with the terms and provisions of the Master Association Documents during the preceding term of office, or if, after Notice and Hearing, was found to be in violation of any of the terms and provisions of the Master Association Documents, commenced correcting such violation within five (5) days of the ruling and diligently pursued the correction of such violation to completion; and

(iv) Is current in the payment of all Assessments levied by the Master Association as of the date of the election, and was not in arrears in the payment of any Assessments levied by the Master Association for more than three (3) consecutive months during the preceding term of office.

(2) New Candidates Seeking Election to the Board. To be qualified as a candidate for election to the Board, a new candidate must satisfy all of the following requirements:

(i) Complied with the terms and provisions of the Master Association Documents for at least one hundred eighty (180) days immediately preceding the election, or if, after Notice and Hearing, was found to be in violation of any of the terms and provisions of the Master Association Documents, commenced correcting such violation within five (5) days of the ruling and diligently pursued the correction of such violation to completion; and

(ii) Is current in the payment of all Assessments levied by the Master Association as of the date of the election, and was not in arrears in the payment of any Assessments levied by the Master Association for more than three (3) consecutive months during the twelve (12) calendar months preceding the election.

(b) Conduct of Directors Serving in Office. Directors must satisfy the following requirements while they serve in office and the failure to satisfy any of these requirements shall be grounds for removal as provided in Section 8 below:

(1) Has not missed three (3) consecutive regular meetings of the Board or three (3) consecutive special meetings of the Board;

(2) Has attended at least seventy-five percent (75%) of all of the meetings of the Board held each year and has attend the entire meeting each time;

(3) Exhibits respect, professionalism and courteous behavior to all Owners, other Board members, committee members, vendors, the property manager and its staff, and to all other persons associated with or retained by the Master Association;

(4) Complies with the standards of conduct applicable to a director of a non-profit mutual benefit corporation under California law, and without limiting the foregoing, refuses any gain of any kind (including, without limitation, any money, services, products, gifts and gratuities of significant value) as determined by a majority vote of all other Directors who satisfy the requirements of this sub-section, which gain is offered in connection with such Director's service on the Board of Directors of the Master Association. A Director must disclose any offer of gain at an open meeting of the Board. Reimbursement of expenses associated with services to the Master Association do not constitute prohibited gain within the meaning of this subsection; and

(5) Except for Directors elected to the Board by the Declarant pursuant to its Class C membership rights, must be an Owner in "good standing" with the Master Association. (For purposes of these Bylaws, an Owner shall be deemed to be in good standing if such Owner (i) has not been in arrears in the payment of any Assessments levied by the Master Association for more than three (3) consecutive months during the preceding twelve (12) calendar months; and (ii) after Notice and Hearing, did not continue to be in willful violation of any of the terms or provisions of the Master Association Documents.)

Section 3. Nomination. Subject to the Declarant's Class C Membership rights, the nomination for election to the Board shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be an officer of the Master Association, and two (2) Members. The Nominating Committee shall be appointed by the Board prior to each annual meeting of the Master Association to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but no fewer than the number of vacancies that are to be filled. Nominations may be made from among Members and may also be made from among non-Members for so long as Declarant is entitled to annex any portion of the Annexable Property into the Community. Thereafter, nominations shall only be made from among Members. Pursuant to Section 7521 of the California Corporations Code, as same may be amended from time to time, any Member who submits to the Nominating Committee prior to the close of

nominations a petition signed by two percent (2%) of the voting power of the Class A Members shall be deemed nominated. Notwithstanding the foregoing, when a Lot or Condominium is owned by more than one person, although all such persons are Owners and Members of the Master Association, in no event may more than one (1) Owner of the same Lot or Condominium serve as a Director or officer at the same time as any other Owner of such Lot or Condominium.

The Board shall implement and enforce the fair election procedures set forth in the article entitled "The Master Association" set forth in the Master Declaration.

Section 4. Declarant's Class C Membership Rights. As more particularly set forth in the Master Declaration, Declarant is the Class C Member of the Master Association. The Class C membership is not considered part of the voting power of the Master Association and Declarant is not entitled to exercise any Class C vote except for the purpose of electing a majority of the Board of Directors of the Master Association until the election of the Board at the annual meeting of the Members immediately following the termination of the Class C Membership as provided above.

Section 5. Class A Members' Special Voting Rights. So long as the Class B or Class C memberships shall remain in effect, the Class A Members (other than Declarant and the Merchant Builders) shall be entitled to solely elect at least twenty percent (20%) of the members of the Board.

Section 6. Election of Directors and Terms of Office. The terms of office of the Directors shall be staggered: two (2) of the Directors terms shall expire at an annual meeting of the Members and the other Director's term shall expire at the following meeting. (If the Board elects to increase the number of Directors from three (3) to five (5) as provided in this Article, three (3) of the Directors' terms shall expire at an annual meeting of the Members, and the remaining two (2) Directors' terms shall expire at the following annual meeting of the Members). In accordance with the staggered terms of office, the Board which consists of three (3) Directors shall be elected as follows:

(a) Until the first annual meeting of Members, all of the Directors shall be appointed by Declarant and continue to serve pursuant to Declarant's appointments. Any Director so appointed by Declarant may be removed and replaced by Declarant until the first annual meeting of the Members.

(b) At the first annual meeting of the Members of the Master Association, the Class C Member shall elect two (2) Directors (“Class C Directors”) for a term of two (2) years, and the Class A Members shall elect one (1) Director (“Class A Director”) for a term of one (1) year. Any person serving as the Class A Director may be re-elected, and there shall be no limitation on the number of terms such Director may serve.

(c) At the second, fourth and every even numbered annual meeting of the Members of the Master Association thereafter, the Class A Members shall elect the Class A Director. The Class A Director so elected shall serve for a term of two (2) years.

(d) At the third, fifth and every odd numbered annual meeting of the Members of the Master Association thereafter until the Declarant’s Class C Membership has terminated as provided above, the Class C Member shall elect the two (2) Class C Directors. The Class C Directors so elected shall serve for a term of two (2) years.

(e) At the first odd numbered annual meeting of the Members of the Master Association which occurs after the Declarant’s Class C Membership has terminated (e.g., the ninth annual meeting of the Members), the Class A Members (including Declarant and the Merchant Builders) shall elect two (2) Directors to replace the Class C Directors. Each Director so elected shall serve for a term of two (2) years. From and after such annual meeting of the Members, all references herein to Directors and/or Class A Directors shall be synonymous.

(f) At the first even numbered annual meeting of the Members of the Master Association which occurs after the Declarant’s Class C Membership has terminated (e.g., the tenth annual meeting of the Members), all Class A Members (including Declarant and any Merchant Builders) shall elect one (1) Director to replace the Director whose term has expired. Each Director so elected shall serve for a term of two (2) years.

Section 7. Increasing the Number of Directors. The Board may at any time vote to increase the number of Directors from three (3) to five (5). At such time as the Board shall vote to increase the number of Directors to five (5), the Board shall appoint the two (2) Directors to fill the two (2) vacancies until the next annual meeting, subject to the Declarant’s

Class C Membership rights if such Class C Membership has not terminated. At such next annual meeting, if Class C Membership has not terminated, Declarant, as the Class C Member, shall elect one (1) Director for a term lasting the same duration as the other Class C Directors, and the Class A Members shall elect the other Director for a term lasting the same duration as the other Class A Director. If, at the time of such annual meeting, the Class C Membership has terminated, then all Class A Members (including Declarant and the Merchant Builders) shall elect both Directors. The Director who received the highest number of votes shall serve for a term of two (2) years and the Director who received the second highest number of votes shall serve for a term of one (1) year. Thereafter, the terms of office for the Directors shall be staggered as provided in this Article.

Section 8. Removal. Subject to the provisions of Sections 4 and 5 above, at any duly noticed regular or special meeting, one (1) or more of the Directors may be removed, with or without cause, by a vote of Members, and a successor may then and there be elected to fill the vacancy so created, or may be elected at a duly noticed special meeting called for such purpose. Unless the entire Board is removed from office by the vote of the Members, an individual Director shall not be removed prior to the expiration of his term of office if the number of votes cast against his removal would be sufficient to elect the Director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of Directors authorized at the time of the most recent election of the Director were then being elected. A Director who has been elected to office solely by the votes of Members other than Declarant and the Merchant Builders, may be removed from office prior to the expiration of his term of office only by the vote of Members representing at least a simple majority of the voting power residing in Members, other than the Declarant and the Merchant Builders; and in the event of such removal the Director's successor shall be elected in accordance with the provisions of these Bylaws and shall serve the balance of the unserved term of his predecessor. All Directors elected by the Declarant pursuant to the Declarant's Class C Membership rights may only be removed by the Declarant.

Section 9. Vacancies. Subject to the provisions of Sections 4 and 5 above, vacancies on the Board caused by any reason, other than the removal of a Director by a vote of the Members of the Master Association, shall be filled by vote of the majority of the remaining Directors even though they may constitute less than a quorum. Each person so elected shall be a

Director and shall serve for the remainder of the term of the Director he replaces, or until a successor is elected at a duly noticed special meeting of the Master Association called for that purpose. In the event that a majority of the remaining Directors are unable to agree upon a successor within fifteen (15) days following the occurrence of a vacancy, subject to the provisions of Sections 4 and 5 above, a special election to fill the vacancy shall then be held in accordance with these Bylaws and the Master Declaration within not less than fifteen (15) days nor more than forty-five (45) days following the expiration of said fifteen (15) day period. Notice of a special meeting and election shall be given in accordance with the provisions of these Bylaws. Vacancies shall be deemed to exist in case of death, resignation, the Close of Escrow for the sale of the Director's Lot or Condominium in the Community or a judicial determination of mental incompetency.

Section 10. Compensation of Directors. No Director shall receive compensation for any services performed for the Master Association; provided, however, a Director may be reimbursed for his actual expenses incurred in the performance of his duties.

## **ARTICLE VI**

### **MEETINGS OF THE BOARD OF DIRECTORS**

Section 1. Regular and Special Meetings. Regular meetings of the Board shall be held monthly or as otherwise determined by the Board, but not less frequently than twice a year, and on such day and at such hour as may be fixed, from time to time, by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday. Notice of the time and place of a regular meeting shall be posted at a prominent place or places within the Master Association Property, shall be given by mail to any Owner had requested notification of board meetings by mail, at the address requested by such Owner, and shall be communicated to the Directors not less than four (4) days prior to the meeting, unless the time and place of the meeting is fixed by the Directors. Notice to the Directors may be given personally, by first class mail, by telephone, facsimile or other electronic transmission approved by the Board. Notwithstanding the foregoing, notice of a regular meeting need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting, or who attends the meeting without protest. Special meetings of the Board shall be held when called by the President of the Master Association or by two (2)