

17.7 Reciprocal Cross-Easements Between Phases. Subject to the annexation of additional property as set forth in this Article:

a. Declarant hereby reserves for the benefit of and appurtenant to the Lots hereafter located in each Phase annexed to Phase 1, and their respective owners, nonexclusive easements to use the Common Property (other than Residences) in Phase 1 pursuant to and in the manner set forth in this Declaration, and to the same extent and with the same effect as each of the Owners of the Lot in each Phase annexed to Phase 1 owned a Lot in Phase 1; and

b. Declarant hereby grants, for the benefit of and appurtenant to each Lot in Phase 1 and their Owners, a nonexclusive easement to use the Common Property (other than the Residences) pursuant to and in the manner set forth in this Declaration to the same extent and with the same effect as if each of the Owners of a Lot in Phase 1 owned a Lot in each such Phase.

These reciprocal cross-easements shall be effective as to each Phase annexed to Phase 1 and as to Phase 1, only upon the first Close of Escrow and for the purchase and sale of a Lot in such Phase. Prior to the first Close of Escrow in Phase 1, neither Phase 1 nor the Phases annexed to Phase 1 shall be affected by these reciprocal cross-easements.

17.8 Failure to Annex Annexation Property. If any Annexation Property is not annexed as provided herein, and the real property within the Annexation Property requires ingress, egress and access over private streets, if any, in the Project, and access to and use of the Common Property within the Project, valid easements shall exist for reasonable vehicular and pedestrian traffic and for reasonable use of the Common Property, provided, however, that the owner(s) of said property shall be obligated to pay their equitable share of the cost of maintenance and repair of said private streets and facilities, and shall be subject to a lien or liens for the maintenance and repair costs, as may be provided in a separate agreement between the Association and the owner(s) of said property.

ARTICLE 18

GENERAL PROVISIONS

18.1 Enforcement.

a. Subject to Sections 1354, 1366.3(c) and 1375 of the California Civil Code, and Section 18.2 below, the Association and any Owner, Declarant and Merchant Builders (so long as Declarant or a Merchant Builder owns a Lot in the Project, or is entitled to annex any Annexation Property to the Project), shall have the right to enforce, by proceedings at law or in equity, all of the protective covenants now or hereafter imposed by the provisions of the Association management documents, or any amendments thereto, including, without limitation, the right to prosecute a proceeding at

law or in equity against the person or persons who have violated, or are attempting to violate, any of said Protective Covenants, to enjoin or prevent them from doing so, to cause said violation to be remedied and/or to recover damages for said violation. Failure by the Association or by any Owner to enforce any covenant, condition, restriction, limitation or other Protective Covenants contained in this Declaration shall in no event be deemed a waiver of the right to do so at a later time. Prior to filing a civil action by either the Association or by an Owner solely for declaratory relief or injunctive relief, or for declaratory relief or injunctive relief in conjunction with a claim for monetary damages (other than Assessments) related to enforcement of the Association management documents, the parties may be required to comply with the provisions of California Civil Code Section 1354. Failure to comply with the prefiling requirements of California Civil Code Section 1354 may result in the loss of the right to litigate regarding enforcement of the Association Management Documents. Any judgment rendered in any action or proceeding to enforce this Declaration shall include an award of reasonable attorneys' fees and costs to the prevailing party in the action or proceeding;

b. The result of every act or omission whereby any of the Protective Covenants contained in this Declaration or the provisions of the By-Laws are violated, in whole or in part, is hereby declared to be and constitutes a nuisance, and every remedy allowed by law or equity against a nuisance shall be applicable against every such result and may be exercised by any Owner, by the Association, or by its successors in interest;

c. The remedies herein provided for breach of the Protective Covenants contained in this Declaration or the provisions of the By-Laws shall be deemed cumulative, and none of such remedies shall be deemed exclusive;

d. The failure of the Association or any Owner to enforce any of the Protective Covenants contained in this Declaration, the provisions of the By-Laws or any Rules or Regulations shall not constitute a waiver of the right to enforce the same thereafter;

e. A breach of the Protective Covenants contained in this Declaration or in the By-Laws shall not affect or impair the lien or charge of any bona fide Mortgage or deed of trust made in good faith and for value on any Lot; provided, however, that any subsequent Owner of such property shall be bound by said Protective Covenants and the By-Laws, whether or not such Owner's title was acquired by foreclosure, a trustee's sale or otherwise;

f. The Board, for and on behalf of the Association, may assess monetary penalties against an Owner as a Compliance Assessment and/or temporarily suspend said Owner's voting rights for the period during which any Assessment against said Owner's Lot remains unpaid; provided, however, the requirements for Notice and Hearing set forth in the By-Laws shall be followed with respect to the accused Owner before a decision to impose discipline is reached;

g. The Board, for and on behalf of the Association, may temporarily suspend an Owner's voting rights for a period not to exceed thirty (30) days for any infraction of the Association's Rules and Regulations; provided, however, the requirements for Notice and Hearing set forth in the By-Laws shall be followed with respect to the accused Owner before a decision to impose discipline is reached;

h. In addition to the above general rights of enforcement, the Public Agencies shall have the right, through its agents and employees, to enter upon any part of the Project for the purpose of enforcing the California Vehicle Code and its local ordinances, and is hereby granted an easement over the Project for that purpose; and

18.2 Dispute Notification and Resolution Procedures (Disputes with Declarant). Any disputes between the Association (or any Owners), Declarant or Merchant Builders, or any director, officer, partner, employee, manager, contractor, subcontractor or agent of Declarant or any Merchant Builders arising under this Declaration or the use or condition of the Project, and/or the construction and installation of any Improvements located thereon not otherwise subject to the provisions of California Civil Code Section 1375, shall be subject to the following claim resolution procedures:

a. Notice. Any person with a claim ("Claimant" herein) against Declarant or any director, officer, partner, manager, employer, subcontractor or agent thereof (collectively the "Declarant" for purposes of this Section), shall notify the Declarant in writing of the claim which shall describe the nature of the claim and the proposed remedy ("the Claim Notice").

b. Right to Inspect and Take Corrective Action. Within a reasonable period of time after receipt by Declarant or any Merchant Builder of the Claim Notice, which period shall not exceed sixty (60) days, Declarant and the Claimant shall meet at a mutually acceptable location within or approximate to the Project to discuss the claim. Declarant or any Merchant Builder, as applicable, shall have full access to the property that is subject to the claim for purposes of inspecting the property. The parties shall negotiate in good faith in an attempt to resolve the claim. If Declarant or a Merchant Builder elects to take any corrective action, Declarant or such Merchant Builder shall be provided full access to and through the Project to take and complete such corrective actions.

c. Nonbinding Mediation. If the parties cannot resolve the claim pursuant to the procedures described in subparagraph 18.2(b) above, then, if the parties agree, the matter may be submitted to nonbinding mediation pursuant to commercial mediation procedures adopted by the American Arbitration Association or any other entity offering mediation services that is mutually acceptable to the parties. No person who has any financial or personal interest in the Project may serve as the mediator, except by written consent of all parties. Within ten (10) days of the selection of the mediator, each party shall submit a brief memorandum setting forth its position with regard to the issues that remain unresolved. The parties pre-mediation memorandum may not be disclosed by

the mediator to the other party without consent of the party submitting the same. The mediator shall have the right to schedule a pre-mediation conference and all parties shall attend unless otherwise agreed. The mediation shall be commenced within ten (10) days following the submittal of the pre-mediation memorandum. The mediation shall be held in Los Angeles County, California, or such other place as is mutually acceptable to the parties. The mediator shall have the discretion to conduct the mediation in such manner in which the mediator believes is most appropriate for concluding a settlement of the claim. The mediator may conduct joint and/or separate meetings with the parties and to make oral or written recommendations for settlement. The mediator shall not, however, have the authority to impose a settlement on the parties. Prior to the commencement of the mediation session, the mediator and all parties to the mediation shall execute an agreement pursuant to California Evidence Code 1152.5 in order to exclude any information, testimony, admission or evidence produced in conjunction with the mediation and any subsequent dispute resolution forum. The expenses for witness of either party shall be paid by the party producing such witnesses. If the mediation involves Declarant or a Merchant Builder, then Declarant or the Merchant Builder shall advance fees necessary to initiate the mediation. All other expenses of the mediation, including required traveling and other expenses of the mediator, and the expenses of any witnesses, or the cost of any proofs or expert advice produced at the direct request of the mediator shall be borne equally by the parties unless they agree otherwise.

d. Binding Arbitration. If the Association and the Owner or Owners have complied with the requirements of said subparagraphs a., b. and c. above and the parties cannot reach a full and final settlement of the claim alleged in the Claim Notice, then all unresolved claims shall be submitted to binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association. The arbitrator shall be an attorney or retired judge with experience in relevant real estate matters, and shall not have any relationship to the parties to the claim, or an interest in the Project. If the parties are unable to agree on an arbitrator within ten (10) days after either party initiates the arbitration, the arbitrator shall be selected by the American Arbitration Association. In selecting the arbitrator, the provisions of Section 1297.121 of the Code of Civil Procedure shall apply. An arbitrator may be challenged for any of the grounds listed therein or in Section 1297.124 of the Code of Civil Procedure, or such amending or companion statutes. The arbitrator shall apply California substantive law in rendering a final decision. The arbitrator shall have the power to grant all legal and equitable remedies and award compensatory damages. The parties agree to be bound by the decision of the arbitrator, which shall be final and non-appealable. Judgment upon the decision rendered by the arbitrator may be entered in any court having proper jurisdiction or application may be made to such court for judicial acceptance of the award and an order of enforcement. The parties shall share equally in all fees necessary to initiate the arbitration proceedings, but the cost of arbitration shall ultimately be borne as determined by the arbitrator. If, however, Declarant or a Merchant Builder is a party to the arbitration proceedings, then Declarant or such Merchant Builder shall advance the fees necessary to initiate the proceedings. In the absence of a determination by the arbitrator, the parties shall each bear equally the costs and fees incurred in the arbitration, and all of its own attorney fees and costs in connection therewith.

e. Exceptions to Mediation and Arbitration: Statutes of Limitation.

The procedures set forth in this Section 18.2 shall apply only to disputes and shall not apply to any action taken by the Association against Declarant, a Merchant Builder or any Owner for delinquent assessments, or in any action involving any surety bond posted by Declarant to secure its obligations for the payment of assessments or for the completion of the Common Property. Further, nothing in this Section 18.2 shall be considered to toll, stay, reduce or extend any applicable statutes of limitation; provided, however, that the Association or any Owner shall be entitled to commence a legal action which, in the good faith determination of the Board or an Owner, is necessary to serve the Association's or the Owner's rights under any applicable statute of limitations, provided that neither the Association nor an Owner shall take further steps in prosecuting the action until it has complied with the procedures set forth in Sections 18.2c and 18.2d herein.

f. Use of Award Proceeds. In order to assure that sufficient funds are available to effect the proper construction, reconstruction, rehabilitation, repair and/or replacement of Improvements within the Project, in the event any litigation, mediation, arbitration, judicial reference, settlement, administrative proceeding or other form of dispute resolution ("Proceeding") results in a settlement, award or monetary judgment ("Award") in favor of the Association against any contractor, subcontractor, architect, materialmen or any other person or entity, including Declarant or a Merchant Builder, involved in the planning, development, construction, sale and disposal of the Project, or any part thereof, the Award must be utilized by the Association solely and exclusively for the construction, reconstruction, rehabilitation, repair or replacement of those Improvements in the Project which were the subject of such proceeding, less costs of suit, including reasonable attorneys' fees, if any, as may be determined by the judge, arbitrator, mediator, referee or other person who administered the Proceeding. Notwithstanding the foregoing, such Award proceeds may be used for such other purposes as may be determined by the vote or written assent of (i) 75% of the total voting power of the Association, other than Declarant, and (ii) 75% of the Owners of those Lots, if any, where Improvements within such Lots require construction, reconstruction, rehabilitation, repair or replacement.

18.3 Severability. Each of the provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof by judgment or court order, shall not affect the validity or enforceability of any other provision or provisions hereof, which shall remain in full force and effect.

18.4 Term. The Protective Covenants set forth in this Declaration shall run with and bind the Project, and shall inure to the benefit of the Association and be enforceable by the Board or the Owner of any land subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time said Protective Covenants shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed by a majority of the then Owners agreeing to terminate said Protective Covenants, in whole or in part, has been

recorded within one (1) year prior to the termination of the initial fifty (50) year term, or within one (1) year prior to the termination of any successive ten (10) year period.

18.5 **Construction.** The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and maintenance of the Project. The Article and section headings have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

18.6 **Singular Includes Plural.** Whenever the context of this Declaration may so require, the singular shall include the plural, and the masculine shall include the feminine and neuter.

18.7 **Amendments.**

a. **Amendments by Declarant.** Prior to the Close of Escrow for the sale of a Lot to a member of the public, in accordance with a Final Subdivision Public Report issued by the DRE, this Declaration may be amended, restated or terminated by an instrument executed by Declarant. Notwithstanding any other provisions of this Declaration, for so long as Declarant owns any portion of the Project or the Annexation Property, Declarant may unilaterally amend this Declaration to conform this Declaration to the requirements of DRE, VA, FHA, FNMA, FHLMC, the County and any other Public Agency asserting jurisdiction over the Project.

b. **Amendments by Association.** This Declaration may be amended only by an affirmative vote of Owners representing not less than sixty-seven percent (67%) of the Class A voting power and the Class B voting power of the Association. At such time when the Class B membership shall cease and be converted to Class A membership, any and all amendments to this Declaration shall be enacted by requiring the vote or written assent of Owners representing both: (a) sixty-seven percent (67%) of the total voting power of the Association, and (b) sixty-seven percent (67%) of the votes of Members, other than the Declarant; provided, however, that the percentage of the voting power necessary to amend a specific provision shall not be less than the percentage of affirmative votes prescribed for action to be taken under said provision. Any Owner or the Association may petition the Superior Court of the County for an order reducing the necessary percentage required under this section to amend this Declaration. The procedure for effecting this petition is set forth in Section 1356 of the California Civil Code, as the same may be amended, from time to time.

c. **Special Veto Rights of Declarant.** Notwithstanding anything in this section to the contrary, so long as Declarant is the owner of (i) one (1) or more Lots in the Project; or (ii) all or any portion of the Annexation Property, no amendment, restatement or revocation of all or any of the following sections shall be valid, binding and enforceable without the prior written approval of Declarant, which approval may be withheld at Declarant's reasonable discretion: Article 2, Article 3, Sections 3.4 and 3.5; Article 4; Article 7; Article 8; Article 9, Sections 9.1 and 9.2; Article 14; Article 16; Article 17; and Article 18, Sections 18.2 and this Section 18.7.

d. FNMA Requirements. In addition to the rights of first Mortgagees, as set forth in the Article herein entitled "Mortgagee Protection," in the event that the Federal National Mortgage Association ("FNMA") participates in the financing of Lots in the Project, the written consent of not less than fifty-one percent (51%) of the first Mortgagees who/which have requested the Association to notify them of any proposed action that requires the consent of a specified percentage of first Mortgagees shall be required for any amendment of a "material" nature. An amendment which affects or purports to affect any of the following is considered material:

- (1) The legal status of the Project as a common interest development;
- (2) Voting rights;
- (3) Increases in Regular Assessments that result in a raise from the then current Regular Assessments by more than twenty-five percent (25%), Assessment liens or the priority of Assessment liens;
- (4) Reductions in reserves for maintenance, repair and replacement of Improvements within the Common Property;
- (5) Responsibility for Common Property maintenance and repair;
- (6) Reallocation of interests in the Common Property or rights to use the Common Property;
- (7) Redefinition of any Lot boundaries;
- (8) Encroachment by Improvements into Common Property;
- (9) Expansion or contraction of the Project, annexation or de-annexation of additional property to or from the Project;
- (10) Convertibility of Lots into Common Property or Common Property into Lots;
- (11) Hazard insurance or fidelity bond requirements;
- (12) Leasing of Lots;
- (13) Restrictions on alienation, including, but not limited to, rights of first refusal;

(14) Any decision by the Association to establish self-management, if professional management was previously required by an eligible first Mortgagee or legal documents governing the Project;

(15) Restoration or repair of the Project (after damage or partial condemnation) in a manner other than as specified in this Declaration;

(16) Any action to terminate the legal status of the Project after substantial destruction or condemnation occurs; and

(17) Mortgagee protection provisions as set forth in that Article hereinabove entitled "Mortgagee Protection," and such other provisions in this Declaration for which the consent of Mortgagees shall be required or which are expressly for the benefit of Mortgagees, insurers or guarantors of Mortgagees.

In the event the Association is considering termination of the legal status of the Project for reasons other than the substantial destruction or condemnation of the Project, then sixty-seven percent (67%) of the first Mortgagees must agree to said termination.

Each first Mortgagee receiving a written notice of a proposed amendment or termination of this Declaration by certified or registered mail, with return receipt requested, shall be deemed to have approved the amendment or termination if the first Mortgagee fails to deliver a written response to the Association within thirty (30) days after the first Mortgagee receives the notice.

e. Recordation of Amendments. An amendment made in accordance with the provisions set forth hereinabove shall be effective when executed by the President and Secretary of the Association, who shall certify that the amendment has been approved by the membership and, where appropriate, by the first Mortgagees, in the percentages set forth hereinabove, and recorded in the Office of the County Recorder. Upon such recordation, the amendment shall be effective and binding upon all Owners and all Mortgagees, regardless of whether such Owner or such Mortgagee consented to such amendment. The Association shall maintain in its records a record of all votes and mortgagee consent solicitations and approvals or disapprovals for a period of least four (4) years following the recordation of the amendment.

18.8 Encroachments. None of the rights and obligations of the Owners created herein or by the deed shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner if said encroachment occurred due to the willful conduct of said Owner.

18.9 Notices. Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made

by registered or certified mail, it shall be deemed to have been delivered forty-eight (48) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the Residence of such person if no address has been given to the Association. If such notice is not sent by regular or certified mail, it shall be deemed to have been delivered when received. Such address may be changed, from time to time, by notice in writing to the Association.

18.10 Delivery of Association Documents to Prospective Purchasers. Each Owner of a Lot shall, as soon as practicable prior to the transfer of title to the Lot or the execution of a real property sales contract, as defined in California Civil Code, Section 2985, provide to the prospective purchaser:

- a. Copies of the Articles, By-Laws, Declaration and notice of annexation (if applicable);
- b. The Rules and Regulations;
- c. The Architectural Standards;
- d. A copy of the most recent financial statements of the Association distributed pursuant to California Civil Code Section 1365.5, as amended;
- e. A true written statement from an authorized Association representative stating the Association's current Regular and Special Assessments and fees, and showing the amounts of unpaid Assessments and charges against the interest being sold as of the date of the statement, as well as any late charges, interest or costs of collection which have been or may be enforced by a lien upon the Owner's interest in the Project; and
- f. Any change in the Association's then current Regular and Special Assessments and fees which have been approved by the Board, but have not become due and payable as of the date of this disclosure.

The Association shall provide any Owner with copies of the items listed in the preceding paragraphs within ten (10) days of receiving the written request. The Board may charge a fee for this service not exceeding the Association's reasonable costs to prepare and reproduce the requested items.

18.11 Conflicts in Management Documents. In the event of any conflict between and/or among the provisions of any of the Association Management Documents for the Project, the Declaration shall be deemed to supersede the provisions of any conflicting documents (with the express exception of the Articles), including, without limitation, the By-Laws, Architectural Standards, and the Rules and Regulations, if any.

18.12 Attorneys' Fees. If any Owner defaults in making a payment of Assessments or in the performance or observance of any provision of this Declaration, and the Association has obtained the services of an attorney in connection therewith, the Owner covenants and agrees to pay to the Association any costs or fees incurred, including reasonable attorneys' fees, regardless of whether legal proceedings are instituted. In case a suit is instituted, the prevailing party shall recover the cost of the suit, in addition to the aforesaid costs and fees.

18.13 Violation as Nuisance. Every act or omission whereby any provision of this Declaration is violated in whole or in part is hereby declared to be a nuisance and every remedy allowed by law or in equity against a nuisance, either public or private, may be enjoined or abated by Declarant, any Owner or Owners, and/or the Association.

18.14 Exhibits. Any and all exhibits attached hereto shall be deemed and made a part hereof and incorporated by reference herein.

18.15 Indemnification of Corporate Agents. To the fullest extent permitted by and in accordance with the requirements and procedures of Section 7237 of the California Corporations Code, or any successor statutes, the Association shall reimburse, indemnify and hold harmless each present and future director, officer, employee or other agent of the Association (as the term "agent" is defined in said Section 7237) and each person, who, at the request of the Association, acts as a director, officer, employee or agent ("Association representative") from and against any loss, cost, liability and expense, including attorneys' fees, which may be imposed upon or reasonably incurred by an Association representative in such capacity.

18.16 Limitation on Liability of Officers, Directors and Committee Members. No Board member, ACC member, officer of the Association, Declarant or any Merchant Builder, or any agent of Declarant or a Merchant Builder, when acting in such capacity, shall be liable to any Owner or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of any such person or entity, provided that such person or entity has, upon the basis of such information as may be possessed by such person or entity, acted in good faith and without wilful or intentional misconduct.

18.17 Additional Covenants in Favor of VA/FHA. So long as there shall be a Class B Membership, the following actions shall require the prior approval of VA/FHA:

- a. annexation of deannexation of additional property to the Project;
- b. any merger or consolidation of the Association;
- c. any Special Assessment levied by the Board against Members of the Association; or
- d. any amendment to this Declaration. A draft of any amendment shall be submitted to VA/FHA for its approval prior to recordation of the amendment.

IN WITNESS WHEREOF, Declarant has executed this instrument on the day and year first above written.

"DECLARANT"

KAUFMAN AND BROAD OF
SOUTHERN CALIFORNIA, INC.
a California corporation

By:

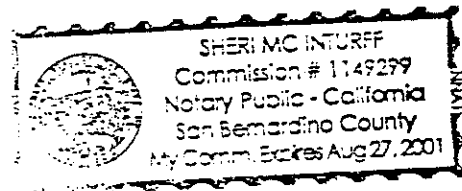
Patrick Long
Its: *V.P. Land Development*

STATE OF CALIFORNIA)
) ss.
COUNTY OF Los Angeles)

On Jan. 13, 192000, before me, the undersigned, a Notary Public in and for said State, personally appeared PATRICK LOY and _____, personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the persons whose names ~~are~~ subscribed to the within instrument and acknowledged to me that ~~they~~ ^{he} executed the same in ~~their~~ ^{his} authorized capacity, and that by ~~their~~ ^{his} signatures on the instrument, the persons or the entities upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.

Sheri McInturff
Signature of Notary Public



(SEAL)