

Section 11.8. *Designation of Common Elements.*

Master Declarant in recording this Master Declaration has designated certain areas of land as Common Elements intended for the common use and enjoyment of Owners for recreation and other related activities, as provided in this Master Declaration and other applicable documents. The Common Elements owned by the Master Association is not dedicated hereby for use by the general public.

Section 11.9. *Duty to Accept Property and Facilities Transferred by Master Declarant.*

The Master Association shall accept title to any Common Elements, including Improvements thereon, as well as personal property, equipment, and easements, transferred to the Master Association by the Master Declarant, together with responsibility to perform all duties and functions of the Master Association which are set forth in this Master Declaration or otherwise assumed by the Master Association. As of the date of recording of this Master Declaration, interests which are planned to be transferred by the Master Declarant to the Master Association are planned to consist only of fee simple title to Common Elements to be located in the property described on the attached Exhibit A and/or the Annexable Area and/or easements.

**ARTICLE 12.
USE EASEMENTS ON LOTS**

Section 12.1. *General Description of Use Easements.*

Each Residential Lot may have an Active Area and a Passive Area. If a Residential Lot includes a Passive Area, then such Passive Areas will be subject to a use easement as provided in this Article. That is, the Declarant intends to expand the general area for use and enjoyment of a Residential Lot by providing a Use Easement Premises for such Residential Lot so that the useable area of such Residential Lot will essentially be expanded to include the Passive Area of the Residential Lot next door. As a result, those Residential Lots which benefit from a Use Easement Premises will have an expanded use area for their general use, enjoyment, and improvement, all as provided in this Article.

Section 12.2. *Reservation of Use Easements.*

Declarant hereby reserves a perpetual, exclusive easement in accordance with this Article, on, over and across each Use Easement Premises for the benefit of the Residential Lot adjacent to such Use Easement Premises. Not all Residential Lots will be granted the benefit of a Use Easement Premises as provided herein, nor will all Residential Lots be burdened by having a Use Easement Premises located thereon. The listing provided on the attached Exhibit E, and the use easements, as shown on the Easement Grant and Reservation Map, constitute the plans for some of the Residential Lots in the Community, but the Declarant may change any of such designations as to Residential Lots owned by the Declarant which are listed on the attached Exhibit E and/or shown on the Easement Grant and Reservation Map. Notwithstanding the foregoing, at any time, from time to time, as to any Residential Lots owned by Declarant, Declarant may add, remove, or otherwise change the Use Easement Premises or the designations of "Active Area" or "Passive Area" applicable to such Residential Lot or Use Easement Premises, including without limitation

those listed on the attached Exhibit E and/or shown on the attached Easement Grant and Reservation Map, and/or may supplement the attached Exhibit E and/or the Easement Grant and Reservation Map.

Section 12.3. *Purpose of Use Easement Premises.*

The Owner of the Residential Lot that is immediately adjacent to a Use Easement Premises, and also the family members, tenants, guests and invitees of such Owner, shall have the right to use the adjacent Use Easement Premises in a manner that is consistent with this Declaration, to the exclusion of the Owner of the Residential Lot on which such Use Easement Premises is located, except as otherwise provided in this Master Declaration. Subject to compliance with all terms and provisions of this Master Declaration, including without limitation obtaining the prior written approval of the Architectural Review Committee as required, such permitted uses of the Use Easement Premises include those uses permitted by applicable zoning and also include, without limitation, grass, shrubs, plants, flowers, vegetables and trees, construction, location, and use of hot tubs, patios, dog houses, trellises, chairs, tables, patio furniture, fencing, and similar Improvements. The Use Easement Premises may be used as a general recreational, picnic, social and garden area, as though such Use Easement Premises were owned by the Owner of the Residential Lot with a right to use such Use Easement Premises; provided that such Use Easement Premises shall not be used in any manner, at any time, to unreasonably disturb the Owner of the Residential Lot on which the Use Easement Premises is located or such Owner's family members, tenants, guests or invitees, and nothing shall be attached to the exterior wall of the dwelling unit on such Residential Lot on which the Use Easement Premises is located.

Section 12.4. *Side Yard Fencing.*

Side yard fencing is not allowed on the side lot line between structures on those Residential Lots on which a Use Easement Premises is located. /

Section 12.5. *Right of Entry.*

The Owner of a Residential Lot on which a Use Easement Premises is located shall have the right at all reasonable times to enter upon the Use Easement Premises, including the right to reasonably cross over the Active Area that borders on the Use Easement Premises, for the purpose of performing work related to maintenance of the dwelling unit located on the Residential Lot on which the Passive Area is located.

Section 12.6. *Right of Drainage.*

The Passive Area shall have the right of drainage over, across and upon the Use Easement Premises for normal precipitation upon and irrigation of the Residential Lot on which the Passive Area is located, as long as such is done in accordance with the approved drainage plan, and the Owner of the Residential Lot adjacent to such Use Easement Premises shall not do or permit to be done any act which interferes with such drainage.

Section 12.7. *Right of Support.*

The Residential Lot on which the Passive Area is located shall have the right of lateral and subjacent support for the dwelling unit and all Improvements now or hereafter constructed upon such Residential Lot, and no use of the Use Easement Premises shall adversely affect such right of support.

Section 12.8. *Indemnity of Owner of Active Area.*

The Owner of the Passive Area shall indemnify and hold the Owner of the Active Area harmless from damage to any Improvements, shrubs, plants, flowers, vegetables, trees and other landscaping, to the extent the damages result from the right of access reserved to the Owner of the Passive Area onto the Use Easement Premises.

Section 12.9. *Indemnity of Owner of Passive Area.*

The Owner of the Active Area shall indemnify and hold the Owner of the Passive Area harmless from damage to any Improvements now or hereafter constructed, located or erected on the Residential Lot on which such Passive Area is located, and from any personal injury (including death), to the extent that any such damage or injury is caused by use of the Use Easement Premises by the Owner of the adjacent Active Area or by such Owner's family members, tenants, guests and invitees. The Owner of the Active Area shall acquire and keep in force adequate hazard and liability insurance covering the Use Easement Premises.

Section 12.10. *Maintenance of Easement Premises.*

The Owner of the Residential Lot which has the right to use a Use Easement Premises, as provided in this Article, shall be responsible for maintenance, repair and replacement of the Use Easement Premises, and of all improvements that are located thereon by or for the benefit of such Residential Lot, to the same extent as if the Use Easement Premises were a portion of such Residential Lot and owned by the Owner of such Residential Lot. The foregoing shall include, without limitation, watering of landscaping on the Use Easement Premises and maintenance, repair and replacement of any fence that lies on, or borders, the Use Easement Premises.

ARTICLE 13.

SECURITY INTERESTS IN CONDOMINIUM UNITS

Section 13.1. *Applicability of Article.*

Until and unless a Condominium Unit which is designated as a Residential Lot is included within the Community, this Article shall not apply. This Article shall become applicable upon, and only upon, subsection to this Master Declaration of any Condominium Unit which is designated as a Residential Lot.

Section 13.2. *Approval by Members and Security Interest Holders of First Security Interests on Residential Lots.*

Notwithstanding any provisions of this Master Declaration to the contrary, the Master Association shall not: