

Towers, Exhibit C Restriction Zones, etc. as established by Declarant and applicable to the annexed property).

ARTICLE 4. **GENERAL PROVISIONS**

4.1 **Enforcement.** The Master Association or any Owner shall have the right to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants and other provisions now or hereafter imposed by the provisions of this Custom Lot Declaration and any amendment hereto, including the right to prevent the violation of any such restrictions, conditions, covenants and other provisions, and the right to recover damages for such violation. Declarant (for so long as Declarant shall own any portion of the Covered Property) and a Merchant Builder (for so long as the Merchant Builder shall own any portion of the Covered Property), shall have the right, but not the obligation, to enforce, by proceedings at law or in equity, all restrictions, conditions, covenants and other provisions now or hereafter imposed by the provisions of this Custom Lot Declaration or any amendment hereto, including the right to prevent the violation of any such restrictions, conditions, covenants or other provisions and the right to recover damages for such violation.

4.2 **No Waiver.** Failure by the Master Association, Declarant, a Merchant Builder or any Owner to enforce any covenant, condition, or restriction herein contained, in any certain instance or on any particular occasion, shall not be deemed a waiver of such right for either that particular breach or any future breach of the same or any other covenant, condition or restriction.

4.3 **Severability.** Invalidation of any one or a portion of these covenants, conditions or restrictions, by judgment or court order, shall in no way affect any other provision hereof, all of which shall remain in full force and effect.

4.4 **Cumulative Remedies.** All rights, options and remedies of Declarant, a Merchant Builder, the Master Association or the Owners under this Custom Lot Declaration are cumulative, and no one of them shall be exclusive of any other. Declarant, a Merchant Builder, the Master Association and the Owners shall have the right to pursue any one or all of such rights, options and remedies or any other remedy or relief which may be provided by law, whether or not stated in this Custom Lot Declaration. The violation of any of the covenants, conditions or restrictions contained herein is hereby declared to be and shall constitute a nuisance, and every remedy allowed by law or equity against such nuisance may be pursued.

4.5 **Covenants to Run with the Land; Term.** The covenants, conditions and restrictions of this Custom Lot Declaration shall run with and bind the Covered Property and shall inure to the benefit of and be enforceable by the Master Association or any Owner (including Declarant), their respective legal representatives, heirs, successors and assigns, for a term of sixty (60) years from the date this Custom Lot Declaration is recorded, after which time said covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years, unless an instrument meeting the requirements for amendment to this Custom

Lot Declaration has been executed and recorded at least one (1) year prior to the end of such period agreeing to terminate all of said covenants, conditions and restrictions in whole.

4.6 Priority of Mortgage Lien. No breach of the covenants, conditions, restrictions or reservations shall affect, impair, defeat or render invalid the lien or charge of any bona fide Mortgage made in good faith and for value encumbering any Custom Lot, but all of said covenants, conditions, reservations and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure, a trustee's sale, or otherwise, with respect to a Custom Lot.

4.7 Construction. The Article and Section headings of this Custom Lot Declaration have been inserted for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

4.8 Number and Gender. Whenever the context of this Custom Lot Declaration requires the same, the singular shall include the plural and the masculine shall include the feminine and the neuter.

4.9 Notices. Any notice or other communication to be given to an Owner set forth herein shall be delivered as provided in the Section entitled "Notices" of the Article entitled "General Provisions" in the Master Declaration.

4.10 Effect of Custom Lot Declaration. This Custom Lot Declaration is made for the purposes set forth in the Recitals to this Custom Lot Declaration, and Declarant makes no warranties or representations, express or implied, as to the binding effect or enforceability of all or any portion of this Custom Lot Declaration, or as to the compliance of any of these provisions with public laws, ordinances and regulations applicable thereto. In the event of any inconsistency between this Custom Lot Declaration and the Master Declaration or the Design Guidelines, the provisions of this Custom Lot Declaration shall prevail.

4.11 Exhibits. All Exhibits attached hereto (or to a Supplementary Custom Lot Declaration) are hereby incorporated herein (or therein, as the case may be) by this reference.

4.12 Nonliability of Officials; Approval of Plan. To the fullest extent permitted by law, neither the Declarant, a Merchant Builder, the Board, the Design Review Committee, or any other committees of the Master Association or any member or consultant of Declarant, a Merchant Builder, the Board, the Design Review Committee or other committee shall be liable to the Master Association, a Sub-Association or any Owner for any damage, loss or prejudice suffered or claimed on account of any decision, approval or disapproval of plans or specifications (whether or not defective), course of action, act, omission, error, negligence, mistake or the like made in good faith which the Declarant, a Merchant Builder, the Board, the Design Review Committee or other committees or persons reasonably believed to be within the scope of their duties. Without limiting the generality of the foregoing, plans and specifications are not approved for engineering design, structural safety and/or conformance with building or other codes. By approving such plans and specifications neither the Design Review Committee, the members thereof, the Master Association, the Members, the Board of Directors nor Declarant

or any Merchant Builder assumes liability or responsibility therefore, or for any defect in any structure constructed or landscaping installed pursuant to such plans and specifications.

4.13 Amendments.

4.13.1 Until the transfer by Declarant of any portion of the initial Covered Property to an Owner (other than Declarant or a Merchant Builder) any amendment to this Custom Lot Declaration shall require only the written assent of Declarant. Any Supplementary Custom Lot Declaration may be amended by Declarant until the transfer of any portion of the property annexed therein to an Owner (other than Declarant or a Merchant Builder).

4.13.2 After the transfer of a Custom Lot as described in Section 4.13.1 above, any amendment to this Custom Lot Declaration or Supplementary Custom Lot Declaration shall require the affirmative assent or vote of:

(a) Declarant, until the approval of plans and specifications by the Design Review Committee for the construction of a Dwelling upon each Custom Lot in the Covered Property and the completion of construction of a Dwelling upon each Custom Lot in the Covered Property in conformance with the approved plans and specifications therefore, after which time Declarant's assent shall no longer be required;

(b) At least sixty-seven percent (67%) of the Owners within the Covered Property, excluding Declarant; and

(c) At least sixty seven percent (67%) of the Eligible Mortgage Holders (based upon one vote for each first Mortgage) on Custom Lots in the Covered Property.

4.13.3 An amendment or modification shall be effective only when (a) executed by Declarant, where applicable, (b) executed by the president and secretary of the Master Association who shall certify that the amendment or modification has been approved as herein provided by the Owners and First Mortgagees in the Covered Property, and (c) recorded in the Official Records of Orange County, California.

4.13.4 The foregoing provisions of this Section 4.13 are subject to Section 2.4.5 above wherein certain modifications to the Setback Areas, Building Envelopes, Garage areas, Maximum Allowable Square Footages and Buildable Pads are permitted. Said modifications shall not constitute an amendment to this Custom Lot Declaration notwithstanding the attached Exhibit A or any other provisions herein which establish such Setback Areas, Building Envelopes, Garage Areas, Maximum Allowable Square Footages and Buildable Pads.

4.14 Dispute Resolution. Any unresolved disputes relating to this Custom Lot Declaration shall be resolved as provided in the Section of the Master Declaration entitled "Resolution of Disputes" of the Article entitled "Powers and Duties of the Master Association" in the Master Declaration.

4.15 Attorneys' Fees. Should any Owner institute any action or proceeding against any other Owner, (a) to enforce or interpret this Custom Lot Declaration, (b) for damages

