

ARTICLE XI

DAMAGE OR DESTRUCTION OF IMPROVEMENTS

MAINTAINED BY THE MASTER ASSOCIATION

Section 1. Restoration of Damaged Master Association Property and/or Maintenance Areas. Except as otherwise provided in Section 2 hereinbelow, damage to or destruction of all or any portion of the Master Association Property and/or Maintenance Areas shall be handled in the following manner:

(a) Damage to the Master Association Property and/or Maintenance Areas - Sufficient Insurance Proceeds. In the event of damage to or destruction on the Master Association Property (excluding the Special Benefit Improvements) and/or Maintenance Areas and the insurance proceeds are sufficient to effect total restoration, the Master Association shall, as promptly as is practical, cause the same to be repaired and reconstructed in a good workmanlike manner to its condition prior to such damage or destruction.

(b) Damage to the Master Association Property and/or Maintenance Areas - Insufficient Insurance Proceeds. Subject to the provisions of Section 2 below, in the event of damage to or destruction of any of the Master Association Property (excluding the Special Benefit Improvements) and/or Maintenance Areas and the Master Association's insurance proceeds are insufficient to effect total restoration, the Master Association shall, as promptly as practical, cause such Master Association Property and/or Maintenance Areas to be repaired and reconstructed in a good workmanlike manner to its condition prior to the damage or destruction, and the difference between the Master Association's insurance proceeds and the actual costs shall be levied by the Master Association as a Special Assessment against each Lot and Condominium in

the Community on the same basis as Regular Assessments are levied against the Lots and Condominiums.

(c) Damage to the Special Benefit Improvements. In the event of damage to or destruction of the Special Benefit Improvements for a Special Benefit Area and the Master Association's insurance proceeds are sufficient to effect total restoration, the Master Association shall, as promptly as is practical, cause the same to be repaired and reconstructed in a good workmanlike manner to their condition prior to such damage or destruction. If the Master Association's insurance proceeds are insufficient to effect total restoration, the Master Association shall, as promptly as practical, cause such Special Benefit Improvements to be repaired and reconstructed in a good workmanlike manner to their condition prior to the damage or destruction, and the difference between the insurance proceeds and the actual cost shall be levied by the Master Association as a Special Assessment against all of the Owners of the Lot(s) and/or Condominium(s) within the affected Special Benefit Area.

Section 2. Election Not to Restore Damaged Master Association Property and/or Maintenance Areas. Notwithstanding the provisions set forth in Section 1(b) hereinabove, in the event that Delegates constituting a quorum have cast affirmative votes on behalf of the Owners (other than Declarant and the Merchant Builders) of at least sixty-seven percent (67%) of all Lots and Condominiums in the Community, and sixty-seven percent (67%) of the first Mortgagees (based upon one [1] vote for each first Mortgage owned) have given their prior written approval, the Master Association may elect not to rebuild or restore the Master Association Property and/or Maintenance Areas, and to disburse the available insurance proceeds to the general fund of the Master Association. The affected areas shall be cleared of all debris and shall be landscaped and irrigated so as to keep such areas in a

neat, clean, safe and attractive condition at all times. The cost thereof shall be paid for out of the available insurance proceeds prior to their distribution to the general fund of the Master Association.

Section 3. Election Not to Restore Special Benefit Improvements. In the event that Delegates constituting a quorum (i.e., Delegates representing more than fifty percent [50%] of the voting power of the Owners owning Lots or Condominiums within the affected Special Benefit Area) have cast affirmative votes on behalf of at least sixty-seven percent (67%) of the Owners (other than Declarant and the Merchant Builders) of the Lots or Condominiums within such Special Benefit Area, and sixty-seven percent of the first Mortgagees (based upon one [1] vote for each first Mortgage owned) have given their prior approval, the Master Association may elect not to rebuild and restore the damaged or destroyed Special Benefit Improvements; provided, however, unless the City shall also agree, at a minimum, the Master Association shall fully restore the pavement, curbs and gutters of the private street portion of a Special Benefit Improvements.

Section 4. Retention of Excess Insurance Proceeds in General Fund. In the event any excess insurance proceeds remain after restoring the destroyed Master Association Property (excluding the Special Benefit Improvements) and/or Maintenance Areas pursuant to this Article, the Board shall retain such sums in the general fund of the Master Association. In the event any excess insurance proceeds remain after restoring the Special Benefit Improvements, the Board shall retain such funds in a special fund for the benefit of the affected Special Benefit Area.

Section 5. Notice to Owners and Mortgagees. The Board shall, as soon as reasonably possible following any damage or destruction of Improvements in the Master Association Property and/or Maintenance Areas notify all Owners and holders, insurers and guarantors of first Mortgages on Lots and/or Condominiums in

accordance with the provisions of the Article herein entitled "Mortgagee Protection."

Section 6.      Damage by Owners. To the extent permitted by law, each Owner shall be liable to the Master Association for any damage to any of the Master Association Property and/or Maintenance Areas not fully reimbursed to the Master Association by insurance if the damage is sustained due to the negligence, willful misconduct, improper installation or maintenance of an Improvement by an Owner, the members of his family, his tenants, lessees and their respective guests or invitees. The Board shall have the right, after Notice and Hearing, as provided in the Bylaws, to levy a Damage Reimbursement Assessment for any damages so caused by or attributable to such Owner, including, without limitation, the costs of any increased insurance premiums resulting from such damage.

Section 7.      Use of Special Assessments. All amounts collected pursuant to Special Assessments as provided for in this Article shall only be used for the purposes set forth herein, and shall be deposited by the Board into a separate bank account to be held in trust for such purposes.

## ARTICLE XII

### CONDEMNATION

Section 1.      Distribution of Awards. Subject to the limitations set forth in the Article herein entitled "Mortgagee Protection," a condemnation award affecting any portion of the Community which is not apportioned among the Owners by court judgment, or by agreement between the condemning authority and each of the affected Owners in the Community, shall be distributed among the affected Owners (and their respective Mortgagees) based upon the affected Owners' ownership or other rights in the condemned portion of the Community. All first Mortgagees shall have the right to participate in any condemnation proceedings.