

## Declaration of Covenants, Conditions and Restrictions for Rio Crossing

### Architectural Control

**3.1 Design Review Committee-** A Design Review Committee shall be established to perform the duties and exercise the power and authority imposed on or granted to the Design Review Committee by the Community Documents. So long as the Declarant owns one or more Lots or any part of the Additional Property or holds an option to purchase any Lot or any part of the Additional Property, the Declarant shall have the sole right to determine the number of members on the Design Review Committee and to appoint and remove the members of the Design Review Committee. At such time as the Declarant no longer owns any Lot or part of the Additional Property, the Board shall determine the number of members on the Design Review Committee, and the member of the Design Review Committee shall be appointed and may be removed by the Board. The Declarant may at any time voluntarily surrender its right to appoint and remove the members of the Design Review Committee, and in that event the Declarant may require, for so long as the Declarant own any Lot or any part of the Additional Property or holds an option to purchase and Lot or any part of the Additional Property, that specified actions of the Design Review Committee, as described in a Recorded instrument executed by the Declarant, be approved by the Declarant before They become effective.

The Design Review Committee may not adopt, amend and repeal architectural guidelines, standards and procedures to be used in rendering its decisions. Such guidelines, standards and procedures may include, without limitation, provisions regarding: (a) the size and height of Residences; (b) architectural design, with particular regard to the harmony of the design with the surrounding structures and topography; (c) placement of Residences and other buildings; (d) landscape design, content and conformance with the character of the Property and permitted and prohibited plants; (e) requirements concerning exterior color schemes, exterior finishes and materials; (f) signage; (g) perimeter and screen wall design and appearance; (h) time periods for commencement and completion of any approved construction or modification; and (i) rules and regulations governing construction activities. Any adoption, amendment or repeal of the Design Guidelines after the Declarant no longer has the right to appoint the Design Review Committee must be approved by the Board.

The Design Review Committee may establish one or more subcommittees consisting of one or more members of the Design Review Committee and may delegate to such subcommittee or subcommittees the authority and power of the Design Review Committee to approve or disapprove and Construction or Modification within a specified portion of the Project.

**3.2 Approval Required-** No Construction or Modification shall be made or done without the prior written approval of the Design Review Committee; provided, however, that the provision of this Article do not apply to, and approval of the Design Review Committee shall not be required for, any Construction or Modification or any other work made by, or on behalf of, the Declarant.

Any Owner desiring approval of the Design Review Committee for any Construction or Modification shall submit to the Design Review Committee a written request for approval specifying in detail the nature and extent of the Construction or Modification which the Owner desires to perform. The request for approval must be accompanied by plans or specifications showing the nature, kind, color, shape, height, materials and location of the Improvements and such other information as may be required by the Design Guidelines. Any Owner requiring the approval of the Design Review Committee shall also submit to the Design Review Committee any additional information, plans and specifications which the Design Review Committee may request.

In the event that the Design Review Committee fails to approve or disapprove a complete application for approval

within forty-five (45) days after the application, together with any fee payable pursuant to Section 3.7 and all supporting information, plans and specifications requested by the Design Review Committee, have been submitted to the Design Review Committee, approval will not be required and this Section will be deemed to have been complied with by the Owner who requested approval of such plans. The approval by the Design Review Committee of any Construction or Modification shall not be deemed a waiver of the Design Review Committee's right to withhold approval of any similar Construction or Modification subsequently submitted for approval.

**3.3 Review of Plans-** In reviewing plans and specifications for any Construction or Modification, the Design Review Committee may consider any and all factors which the Design Review Committee, in its sole and absolute discretion, determines to be relevant including, but not limited to: (a) the harmony of the proposed Improvements with existing Improvements in the Project or with Improvements previously approved by the Design Review Committee but not yet constructed; (b) the location of the proposed Improvements in relation to existing topography, finish grade elevations, roads, Common Area and other structures; (c) the exterior design, finish materials and color of the proposed Improvements; and (d) compliance of the proposed Improvements with this Declaration and the Design Guidelines. The Design Review Committee may disapprove plans and specifications for any Construction or Modification even though the plans and specifications may be in substantial compliance with this Declaration and the Design Guidelines if the Design Review Committee, in its sole and absolute discretion, determines that the proposed Construction or Modification, or some aspect or portion thereof, is undesirable or unattractive.

Decisions of the Design Review Committee may be based on purely aesthetic considerations. Each Owner acknowledges that determinations as to such matters are purely subjective and opinions may vary as to the desirability and attractiveness of certain Improvements. Each Owner agrees that the decision of the Design Review Committee shall be final on all matters submitted to it pursuant to this Declaration.

The approval required of the Design Review Committee pursuant to this Article 3 shall be in addition to, and not in lieu of, any approvals or permits which may be required under any federal, state or local law, statute, ordinance, rule or regulation.

The Design Review Committee, by resolution, may exempt certain Construction or Modifications from the application and approval requirements of this Article, provided such Construction or Modifications are undertaken in compliance with the requirements of such resolution. No approval shall be required to repaint the exterior of a structure in accordance with the originally approved color scheme or to rebuild in accordance with originally approved plans and specifications. Any Owner may remodel, paint or redecorate the interior of a Residence without approval so long as such activity does not affect the exterior appearance of the Residence.

**3.4 Variances-** The Design Review Committee may authorize variances from compliance with any provision of the Design Guidelines in circumstances where the design meets the intent of the provision sought to be varied and Where granting of the variance would enhance design innovation and excellence, or when circumstances such as topography, natural obstructions, hardship, or aesthetic or environmental considerations so require, and the Design Review Committee determines, in its sole discretion, that the objective of the particular requirement can still be achieved. No variance shall be effective unless in writing and signed by an authorized representative of the Design Review Committee. No variance may be contrary to this Declaration or estop the Design Review Committee from denying a variance in other circumstances including, without limitation, circumstances similar or identical to circumstances under which the Design Review Committee previously granted a variance. For purpose of this Section, the inability to obtain approval of any governmental agency, issuance of any permit, or the terms of any financing shall not constitute hardships.

**3.5 Construction of Improvements-** Upon receipt of approval from the Design Review Committee for any Construction or Modification, the Owner who had requested such approval shall proceed with the Construction or Modification approved by the Design Review Committee as soon as practicable and shall diligently pursue such Construction or Modification so that it is completed as soon as reasonably practicable and within such time as may be prescribed by the Design Review Committee.

**3.6 No Charges Without Approval-** Any Construction or modification approved by the Design Review Committee must be done or performed in accordance with the plans and specifications approved by the Design Review Committee. No change, deletion or addition to the plans and specifications approved by the Design Review Committee may be made without the prior written approval of the Design Review Committee.

**3.7 Review Fee-** The Design Review Committee shall have the right to charge a fee for reviewing requests for approval of any Construction or Modification, which fee shall be payable at the time the application for approval is submitted to the Design Review Committee. The fee charged by the Design Review Committee may include the actual or estimated fees or cost incurred or anticipated to be incurred by the Design Review Committee in consulting with, or having the application reviewed by, architects, engineers or other professionals. The Association may retain architects, engineers or other persons as deemed necessary to review applications or otherwise assist the Design Review Committee.

**3.8 New Construction-** All Improvements constructed on Lots shall be of new construction, and no buildings or other structures shall be removed from other locations on to any Lot.

**3.9 No Warranty-** The approval by the Design Review Committee of any Construction or Modification shall not be deemed a warranty or representation by the Design Review Committee as to the quality of such Construction or Modification or that such Construction or Modification conforms to any applicable building codes or other federal, state or local law, statute, ordinance, rule or regulation.

**3.10 Conditional Approval-** The Design Review Committee may condition its approval of plans and specifications upon the agreement by the Owner submitting such plans and specifications to furnish to the Association a bond or other security acceptable to the Design Review Committee in an amount determined by the Design Review Committee to be reasonably sufficient to: (a) assure the completion of the proposed Improvements or the availability of funds adequate to remedy any nuisance or unsightly conditions occurring as a result of the partial completion of such Improvement, and (b) repair and damage which might be caused to any Area of Association Responsibility as a result of such work. Provided there is no damage caused to any Area of Association Responsibility by the Owner or its agents or contractors, any such bond shall be released or security shall be fully refundable to the Owner upon the completion of the Improvements in accordance with the plans and specifications approved by the Design Review Committee and the Owner's written request to the Design Review Committee.

**3.11 Improvements to Areas of Association Responsibility-** If plans and specifications submitted to the Design Review Committee pertain to an Improvement which is within an Area of Association Responsibility so that the Association is responsible for the maintenance, repair and replacement of such Improvement, the Design Review Committee may condition its approval of the plans and specifications for the proposed Construction or Modification with respect to the Improvement on the agreement of the Owner to reimburse the Association for the future cost of the repair, maintenance or replacement of such Improvement.