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(Space Above For Recorder's Use)

**FOURTH AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
LAKE FOREST GLEN UNIT NO. 1 HOMEOWNERS ASSOCIATION**

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That certain Third Restated Declaration of Covenants, Conditions and Restrictions of Lake Forest Glen Unit No. 1 Homeowners Association, recorded in the Official Records of Placer County, California on June 15, 2010, as Document No. 2010-0044609-00, is hereby amended and restated in its entirety to read as follows:

### RECITALS

A. Lake Forest Glen Unit No. 1 (the "Subdivision") is a "planned development" as set forth in Civil Code section 4175 and is subject to the Davis-Stirling Common Interest Development Act (the "Act").

B. The original Declaration of Covenants, Conditions and Restrictions for Lake Forest Glen Unit No. 1 Homeowners Association was recorded at Book 1319, beginning at Page 184 in the Official Records of Placer County (the "Original Declaration").

C. The Original Declaration was subsequently amended and/or restated by the Amended Declaration of Covenants, Conditions and Restrictions, recorded at Book 1361, beginning at Page 542 in the Official Records of Placer County; the First Restated Declaration of Covenants, Conditions and Restrictions, recorded at Book 2096, beginning at Page 672 in the Official Records of Placer County; the Second Restated Declaration of Covenants, Conditions and Restrictions, recorded at Book 3412, beginning at Page 219; the aforementioned Third Restated Declaration of Covenants, Conditions and Restrictions ("Third Restated Declaration"); and all amendments and restatements thereto of the Official Records of Placer County, State of California.

D. The Original Declaration, as subsequently amended and restated, set forth a general plan for the development, maintenance, Improvement, protection, use, occupancy and enjoyment of the Development and to establish, adopt and impose covenants, conditions and restrictions upon the Development for the purpose of enforcing, protecting and preserving the value, desirability and attractiveness of the Subdivision and the Improvements erected thereon.

E. Lake Forest Glen Unit No. 1 Homeowners Association, a California nonprofit mutual benefit corporation (the "Association"), has been delegated and assigned the powers of administering and enforcing the Declaration, as such covenants, conditions and restrictions may be duly amended from time to time and to manage and maintain the Common Areas and Common Facilities of the Development in accordance with this Fourth Restated Declaration and the other Governing Documents of the Association.

F. Each and all of the covenants, conditions, restrictions, easements, reservations, liens and charges set forth in this Fourth Restated Declaration (which shall subsequently be referred to herein as the "Declaration") shall run with the land comprising the Subdivision, and shall inure to the benefit of and be binding upon the Association, the Owners of Lots in the Subdivision, and all subsequent Owners of all or any portion of any Lot or the Subdivision, together with their grantees, successors, heirs, executors, administrators, devisees and assigns.

G. A majority of the qualified Owners in Good Standing have voted to approve by secret written ballot in accordance with California Corporations Code section 7513 and California Civil Code section 4270 and 5100 *et seq.* to amend and restate, in its entirety, the

Third Restated Declaration and replace it with this Fourth Restated Declaration, all in accordance with the procedures for amendment set forth therein. In approving this Fourth Restated Declaration it was the intention of the Owners to amend, restate and replace the Third Declaration and all prior versions of the Declaration, in their entirety, with this Declaration, without, however, altering the priority of the Declaration in the chain of title to the Subdivision. The Owners' action to amend and restate the Third Restated Declaration as set forth herein, and the fact that the requisite percentage of affirmative votes required in the Third Restated Declaration was achieved, is attested to by the execution of this Declaration by duly authorized officers of the Association, as required by section 4270 of the California Civil Code. As so amended and restated, this Declaration shall run with the Subdivision, including all Lots and all Common Area, and shall be binding upon all parties having or acquiring any right, title or interest in the Subdivision, the Common Area, any Lot, or any portion thereof, and shall inure to the benefit and burden of each Lot and Owner thereof.

## **Article I. DEFINITIONS**

**Section 1.1** *Architectural Committee* or *Architectural Review Committee* means the committee that may be delegated the authority under Article V of this Declaration.

**Section 1.2** *Architectural Rules* means the Architectural Rules and Regulations adopted by the Board as may be amended from time to time.

**Section 1.3** *Articles* means the Amended and Restated Articles of Incorporation of the Association, which were filed on April 20, 1989 in the Office of the Secretary of State of California, as such Articles may be amended from time to time.

**Section 1.4** *Assessment* means any Regular, Special, Special Individual or Emergency Assessment made or assessed by the Association against an Owner and the Owner's Lot in accordance with the provisions of the Governing Documents.

**Section 1.5** *Association* means and refers to Lake Forest Glen Unit No. 1 Homeowners Association, a California nonprofit mutual benefit corporation, and its successors and assigns. The Association is an "association" as defined in California Civil Code section 4080.

**Section 1.6** *Association Rules* or *Rules* means the rules and regulations adopted by the Board of Directors of the Association, as the same may be amended, revised, repealed or in effect from time to time.

**Section 1.7** *Board of Directors* or *Board* means the Board of Directors of the Association.

**Section 1.8** *Bylaws* means the Bylaws of the Association, as they may be amended from time to time. Concurrently with this Declaration, the Association has circulated Fourth Restated Bylaws of the Association for approval of the membership to supersede and replace all prior versions of the Bylaws in their entirety.

**Section 1.9** *Common Area* means the entire Subdivision other than the residential Lots, including, without limitation, any Exclusive Use Common Area and the Common Facilities. The Common Area is managed by the Association.



**Section 1.10** *Common Expense* means any use of Association funds for any purpose as authorized by the Board in accordance with the Governing Documents and includes, without limitation: (a) all costs and expenses incurred by or on behalf of the Association for the management, administration, management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Subdivision and Common Area as incurred or as may be estimated from time to time by the Association's Board of Directors, including, without limitation, charges for garbage service; (b) any amounts reasonably required to be set aside as reserves for maintenance, repair and replacement of the Common Areas (including Common Facilities) and for nonpayment of any Assessments; and (c) the use of such funds to pay any costs or expenses incurred by the Association in the performance of its duties, functions, responsibilities or authority as determined by the Board in its business judgment as provided or as otherwise authorized in the Governing Documents.

**Section 1.11** *Common Facilities* means the trees, hedges, plantings, lawns, shrubs, landscaping, fences, utilities, streets, paths, walkways, stairs, parking areas, fire hydrants, pipes, lines, lighting fixtures, electrical, water, gas, telephone, Internet cables, buildings, structures, and other facilities constructed or installed, or to be constructed or installed, or currently located or located in the future within the Common Area and owned by the Association. The Common Facilities currently include, without limitation, pools, tennis courts, pickleball courts, children's playground, gazebo, walkways, and parking areas. The Common Facilities are part of the Common Area.

**Section 1.12** *Contract Purchaser* means the buyer or transferee of fee simple title of an interest in a Lot under a bona fide purchase and sale agreement or land sale contract with a current Member as seller or transferor.

**Section 1.13** *County* means the County of Placer, State of California, and its various departments, divisions, employees and representatives.

**Section 1.14** *Davis-Stirling* or the *Act* shall mean the Davis-Stirling Common Interest Development Act as effective January 1, 2014 (Civil Code section 4000 et seq.). In the event Davis-Stirling is further amended, then the Declaration, Bylaws and Governing Documents shall be deemed to reference the updated Davis-Stirling citations.

**Section 1.15** *Deck* means a deck associated with a Lot for the exclusive use of the Residence thereon.

**Section 1.16** *Declaration* means this instrument as it may be amended from time to time.

**Section 1.17** *Dwelling Unit* means a structure upon a Lot designed or arranged for use and occupancy as a single family residence.

**Section 1.18** *Exclusive Use Common Area* means that portion of the Common Area, the exclusive use of which is hereby set aside, allocated and restricted to particular Lot or Owner of a Lot, such as to the extent outside the boundaries of a Lot, the following: each Residence's Parking Area located directly in front of the Lot as may be further designated or delineated by the Board, space under and above the Deck attached to each Residence, space under the exterior

storage locker located at the side of the a Residence and the space under the front cement/wooden doorstep and wooden archway located in front of the front door of a Residence.

**Section 1.19** *Emergency Assessment* means and refers to an Assessment imposed by the Association's Board of Directors in order to provide funding to respond to and remedy an emergency situation as defined herein.

**Section 1.20** *Family* means one or more persons each related to the other by blood, marriage or legal adoption who maintain a common household in a Lot.

**Section 1.21** *Good Standing* means those Members who are eligible to vote with respect to any matter or action that requires the consent or approval of the Members. In order to be in Good Standing, a Member must be current in the payment of all Assessments levied against the Member's Lot and not be subject to any suspension of voting privileges as a result of any disciplinary proceeding conducted in accordance with the due process and disciplinary hearing procedures of the Declaration and applicable law.

**Section 1.22** *Governing Documents* refer collectively to this Declaration, the Articles, the Bylaws, and the Association Rules, and all amendments thereto.

**Section 1.23** *Improvement* means the construction, installation, alteration or remodeling of any and all structures and improvements, including, but not limited to, buildings, Residence, walls, paving, pavers, fences, garages, Decks, structures, patios, patio awnings, solar heating equipment, solar panels, accessory dwelling unit ("ADU") required by applicable Laws, junior accessory dwelling unit ("JADU") required by applicable Laws, spas, pools, antennas, utility lines, painting, room additions, sheds, greenhouses, any other structure of any kind, signs and landscaping; provided, however, that improvements to the interior of any Residence shall not be considered an Improvement, as defined herein, unless the interior improvement involves any structural alteration of, or intrusion into, a party wall, roof, or other load-bearing wall within the Residence.

**Section 1.24** *Laws* means all applicable federal, state, regional, County, municipal and local statutes, laws, ordinances, codes and regulations, including, without limitation, all County and Tahoe Regional Planning Agency zoning, building, use and other requirements.

**Section 1.25** *Lease* means any agreement (written or verbal) under which a person is permitted to occupy a Lot for compensation of any kind, including, without limitation, any fee, service, gratuity, money, exchange or other consideration. The verb "leasing" shall include the above arrangements where a person other than the Owner is allowed to use the Lot. Lease shall include long-term leases and Short-Term Rentals.

**Section 1.26** *Lessee* means any tenant or lessee under a Lease, including any Short-Term Rental.

**Section 1.27** *Lot* means each residential lot identified on the Map.

**Section 1.28** *Map* means that certain Map entitled “Map of Tract No. 186, LAKE FOREST GLEN UNIT NO. 1,” filed in the Office of the Recorder of Placer County, in Book J of Maps at Page 8.

**Section 1.29** *Majority of a Quorum* means the vote of a majority of the votes (more than 50%) cast at a meeting or by written ballot when the number of Members in Good Standing attending the meeting in person or casting written ballots equals or exceeds the Quorum requirement for the type of Member action as specified in the Bylaws or otherwise by statute.

**Section 1.30** *Member* means every Owner who holds a membership in the Association and whose rights as a Member are not suspended pursuant to the Governing Documents.

**Section 1.31** *Mortgage* means any security device encumbering all or any portion of the Subdivision, including any deed of trust.

**Section 1.32** *Mortgagee* shall refer to a beneficiary under a Mortgage.

**Section 1.33** *Office of the County Recorder* means the Official Records of Placer County, California, and any other recorded documents maintained by the Placer County Recorder’s office.

**Section 1.34** *Owner* means any person, firm, corporation, trust or other entity (including contract sellers, but excluding any person or entity holding such interest merely as security for the payment of a debt or the performance of an obligation) which holds a fee simple interest in any Lot.

**Section 1.35** *Parking Area* means any uncovered, exposed portion of the Common Area which has been established and designated by the Association for parking, including the over-flow lots and any parking designated as Exclusive Use Common Area for a particular Residence (space directly in front of a Residence), which shall be subject to all Association Rules.

**Section 1.36** *Party Wall* means any wall of a Residence located on the property line dividing any Residence from the adjoining Residence, and is shared by both Residences.

**Section 1.37** *Quorum* means at least twenty percent (20%) or more of the Members in Good Standing present at the meeting or returning a written ballot, except where Davis-Stirling, applicable law or the Governing Documents provide for a higher quorum, in which case at least the quorum of Members in Good Standing required thereunder shall be the Quorum.

**Section 1.38** *Record, Recorded, and Recording* mean, with respect to any document, the recordation or filing of such document in the Office of the County Recorder.

**Section 1.39** *Regular Assessment* means a regular Assessment levied against an Owner and his or her Lot in accordance with Section 4.2, below.

**Section 1.40** *Residence* means the single-family Dwelling Unit on a Lot.

**Section 1.41** *Short-Term Rental* means the Lease of a Lot for a period of thirty (30) days or less.

**Section 1.42** *Short-Term Renter* means a Lessee under a Short Term Rental and any Family or guests of the Short-Term Renter that are physically present at the Subdivision.

**Section 1.43** *Single Family Residential Use* means occupancy and use of a Lot for single family dwelling purposes in conformity with this Declaration and all applicable Laws. In no event shall a Lot be occupied by more individuals than permitted by applicable Laws, including, without limitation, Placer County Code as it pertains to Short-Term Rentals. Nothing herein contained shall preclude the use of a Residence as a family daycare home or group facility if such use is required to be allowed by the California Health and Safety Code Section 1597.40.

**Section 1.44** *Special Assessment* means a special Assessment levied against all Owners and their Lots in accordance with this Declaration.

**Section 1.45** *Special Individual Assessment* means a special Assessment levied against one or more individual Owners and his, her or their Lot(s) in accordance with this Declaration.

**Section 1.46** *Subdivision* means Lake Forest Glen Unit No. 1, including, without limitation, all Lots, Common Area and Common Facilities, as further described or depicted on the Map or on Exhibit A, attached hereto and incorporated herein by reference.

## **Article II. DECLARATION AND PROPERTY RIGHTS**

**Section 2.1** *Ownership Lots; Easements.* The interest of every Owner shall include a Lot, a membership in the Association appurtenant to said Lot, and any easements appurtenant to such Lot over the Common Area as described in this Declaration. In subjecting the real property comprising the Subdivision to this amended and restated Declaration, it is intended that such property should and will be held, conveyed, encumbered, hypothecated, leased, rented, used, occupied, and improved only in compliance with and subject to the provisions of this Declaration, which is hereby declared to:

(a) Be for the benefit and protection of the Subdivision and to enhance the desirability, value, and attractiveness of the Lots, Residences and Improvements comprising the Subdivision;

(b) Be for the benefit and burden of the Owners and the Lots;

(c) Run with the land and be binding on all parties having or acquiring any right, title, or interest in the Subdivision or any portion thereof;

(d) Inure to the benefit of every portion of the Subdivision and any interest therein;  
and

(e) Inure to the benefit of and be binding on each Owner or any successor in interest to an Owner who should subsequently obtain or hold an interest in any portion of the real property comprising the Subdivision.

(f) Each conveyance, transfer, sale, assignment, lease, or sublease made by any Owner of a Lot in the Subdivision shall be deemed to incorporate by reference all of the provisions of this Declaration, as may be further amended. All present and future Owners, tenants, and occupants within the Subdivision shall be subject to, and shall comply with, each and every provision of the Governing Documents, as the same shall be amended from time to time unless a particular provision of the Governing Documents is specifically restricted to one or more classes of persons (*e.g.*, Owners, Lessees, invitees). The acceptance of a deed to any Lot, the execution of a Lease, sublease, or contract of sale with respect to any Lot, or the entering into occupancy of any Residence shall make the provisions of this Declaration binding on such persons, and they shall thereafter be obligated to observe and comply with all Governing Documents.

**Section 2.2** *Owners' Nonexclusive Easements of Enjoyment.* The Association shall own, control and manage the Common Area. However, every Member shall have a nonexclusive right and easement of enjoyment in and to the Common Area, including ingress and egress to and from the Member's Lot and certain rights established by Association Rule to any Exclusive Use Common Area, all as subject to all applicable Laws, Governing Documents and Association Rules. Each such nonexclusive easement shall be appurtenant to and shall pass with the title to every Lot, subject to all Association Rules adopted by the Association concerning the Member's use of the Common Area and, in the event of a breach of the Association Rules or of any other Governing Document provision (including failure to pay any Assessment), to initiate disciplinary action against the violating Member in accordance with Section 13.6 of the Declaration. The interest of each Owner in and to the use and enjoyment of the Common Area and the Common Facilities shall be appurtenant to the Lot owned by the Owner and shall not be sold, conveyed, or otherwise transferred by the Owner separately from the ownership interest in the Lot. Any sale, transfer, or conveyance of such Lot, whether by deed, gift, devise, or operation of law, shall transfer the appurtenant right to use and enjoy the Common Area and Common Facilities. There shall be no judicial partition of the Common Area or any part thereof, whether by deed, gift, devise, or operation of law, and each Owner, for his or her own benefit and for the benefit of all other Owners, specifically waives and abandons all rights, interest, and causes of action for a judicial partition of any ownership interest in the Common Area and further covenants that no action for judicial partition shall be instituted, prosecuted, or reduced to judgment. The rights of all Owners in the Common Area shall be further subject to the requirements and restrictions set forth in the Governing Documents.

**Section 2.3** *Delegation of Use.*

(a) Delegation of Use and Leasing of Lots. Any Member may delegate his or her rights to use and enjoy the Common Area to his or her Family, Lessees or Contract Purchasers who reside in the Lot; provided, however, that any Lease may only be for Single Family Residential Use and the Member shall not retain such rights during any such delegation to Lessees or Contract Purchasers. Any Lease shall also be subject to the provisions of the Governing Documents all of which shall be deemed incorporated by reference into the Lease. Each Owner shall provide directly or through its property management company any Lessee with either a current copy of all Governing Documents or a link to the Association's web site to view the Governing Documents. The Owner shall be responsible for compliance by the Lessee with all of the provisions of the Governing Documents during the Lessee's occupancy and use of the Lot.

The Board shall have the right to impose monetary penalties or to temporarily suspend the use and enjoyment of the Common Area for the failure of an Owner to pay any Assessments when due under the Declaration, or to comply with any other Rules imposed upon such Owner, his or her Family, Lessees or guests, pursuant to the Governing Documents. The Board shall also have the authority to adopt Rules concerning Short-Term Rentals which may include regulations on, limitations, fees or other reasonable rules concerning the use of Common Facilities by Short-Term Renters and other issues reasonably related to the impacts or issues related to Short-Term Rentals on the Association, other Members and Common Facilities, including, without limitation, to limit the number of Short-Term Renters using the Common Facilities, to control and regulate use of the Common Facilities and to charge reasonable admission or other fees. Any Owner Leasing a Unit for Short-Term Rentals shall be required to comply with all Association Rules and all applicable Laws (including obtaining and complying with any permit required by the County). Owners who lease their Residence for Short-Term Rentals shall have the Lease managed and supervised by either an Owner who resides locally, or a reputable real estate management company with a locally situated physical office and management personnel. In no event shall a Residence be occupied by more persons than permitted by local fire ordinances or any other applicable laws, regulations and ordinances. This Declaration and Association Rules concerning Leasing and Short-Term Rentals are intended to protect, enhance, and maintain the Single-Family Residential atmosphere that exists within the Subdivision and to avoid an overburdening of the Common Area and Common Facilities.

(b) Discipline of Lessees. Subject to subsection (c) below, in the event that any person delegated use rights under subsection (a) above fails to honor the provisions of any Governing Document, the Association shall be entitled to take such corrective action as it deems necessary or appropriate under the circumstances which may include the temporary or permanent suspension of privileges to use any Common Area and/or the imposition of fines and penalties against the Owner or delegee, which may include the temporary suspension of privileges to use the Common Area subject to the due process procedures for Owners only as described in (c) below.

(c) Due Process Requirements for Disciplinary Action of Owner. The Association shall provide a hearing to an Owner under Section 13.6 prior to taking disciplinary action against the Owner due to the actions of Family, guests, Lessees or Short-Term Renters, though the Owner shall remain responsible for all damages caused by such person(s) and the Association may fine or otherwise discipline the Owner at the hearing.

**Section 2.4** *Obligations of Owners.* Owners shall be subject to the following:

(a) Contract Purchasers. A contract seller of a Lot must delegate his or her voting rights as a Member of the Association and his or her right to use and enjoy the Common Area to any Contract Purchaser in possession of the Lot. Notwithstanding the foregoing, the contract seller/Owner shall remain liable for any default in the payment of Assessments by the Contract Purchaser until title to the Lot sold has been transferred to the Contract Purchaser.

(b) Notification to Prospective Purchasers Regarding Governing Documents. As more particularly provided in California Civil Code section 4525 et seq., as soon as practicable before transfer of title or the execution of a real property sales contract with respect to any Lot,

the Owner thereof must give the prospective purchaser certain information and documents as set forth therein.

(c) Payment of Assessments and Compliance with Rules. Each Owner shall pay when due all Assessments, including each Regular, Special, Emergency, and Special Individual Assessment, levied against the Owner and his or her Lot and shall observe, comply with and abide by any and all Association Rules.

(d) Discharge of Assessment Liens. Each Owner shall promptly discharge any Assessment lien that may hereafter become a charge against his or her Lot.

(e) Joint Ownership of Lots. In the event of joint ownership of any Lot, the obligations and liabilities of the multiple Owners under the Governing Documents shall be joint-and-several. Without limiting the foregoing, joint-and-several liability of all Owners shall apply to all obligations, duties and responsibilities of Owners as set forth in this Declaration, including, without limitation, the payment of all Assessments.

(f) Termination of Obligations. Upon the conveyance, sale, assignment or other transfer of ownership of a Lot to a new Owner, the transferor-Owner shall not be liable for any Assessments levied with respect to such Lot which become due after the date of Recording of the deed evidencing the transfer and, upon such Recording, all Association membership rights possessed by the transferor by virtue of the ownership of the Lot shall automatically cease.

### **Article III. ASSOCIATION**

**Section 3.1** *Association.* The Association is a California nonprofit mutual benefit corporation. The Association is charged with the duties and invested with the powers set forth in the Governing Documents, including, but not limited to own, control, regulate, maintain, replace, reconstruct, alter and/or repair of the Common Area.

**Section 3.2** *Association Action; Board of Directors and Officers.* With the exception of those matters requiring approval of Members under the Governing Documents or applicable Laws, the affairs of the Association shall be conducted by or under the direction of the Board of Directors and such officers as the Board may elect or appoint. Except as otherwise provided in the Governing Documents or applicable Laws, all matters requiring the approval of Members shall be deemed approved if approved by a Majority of a Quorum of the Members.

**Section 3.3** *Membership.*

(a) Qualifications. Each Owner of a Lot shall be a Member of the Association. An Owner shall hold one (1) membership in the Association for each Lot he or she owns. Sole or joint ownership of a Lot or interest in it shall be the sole qualification for membership in the Association. Each Owner shall remain a Member of the Association until his or her ownership of, or ownership interest, in all Lot in the Subdivision ceases, at which time the Owner's membership in the Association shall automatically cease. As set forth in the Bylaws, the Association may adopt Rules concerning who shall be the Member when an Owner is a legal entity (such as a living trust or limited liability company). Persons or entities who hold an

interest in a Lot merely as security for performance of an obligation, such as a Mortgagee, are not Members.

(b) Voting Rights of Members. Each Member in Good Standing of the Association shall be entitled to one vote for each Lot owned by said Member. When more than one person holds an interest in any Lot all such persons shall be Members, although in no event shall more than one vote be cast with respect to any Lot. An Owner must be a Member in Good Standing to vote. An Owner's voting rights may be temporarily suspended under those circumstances described in Section 13.6 of the Declaration, below.

**Section 3.4** *Transfer of Memberships.* Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale of the Lot to which it is appurtenant, and then only to the purchaser. In the case of a sale, the Membership appurtenant to the transferred Lot shall pass automatically to the purchaser upon Recordation of a deed evidencing the transfer of title. A Mortgagee does not have Membership rights until he or she becomes an Owner by foreclosure or deed in lieu thereof. Any attempt to make a prohibited transfer of a membership is void. If any Owner fails or refuses to transfer the Membership registered in his or her name to the purchaser of the Lot, the Association shall have the right to record the transfer upon its books and thereupon any other Membership outstanding in the name of the seller shall be null and void.

**Section 3.5** *Assessments.* The Association shall have the power to establish, fix and levy Assessments and to enforce payment of such Assessments as more particularly provided in the Declaration.

**Section 3.6** *Powers and Authority of the Association.*

(a) General Statement of Association Powers. The Association shall have the responsibility of managing, maintaining, operating, regulating, and, when necessary or desirable in the business judgment of the Board, repairing, altering, improving or replacing the Common Areas or Common Facilities of the Subdivision, and discharging the other duties and responsibilities imposed on the Association by the Governing Documents and applicable Laws. In the discharge of such responsibilities and duties, the Association shall have all of the powers of a nonprofit mutual benefit corporation organized under the laws of the State of California in operating and managing the Subdivision and in otherwise discharging its responsibilities for the benefit of its Members, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Governing Documents. The Association and its Board of Directors shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of the Governing Documents and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of the Members in common. The Association shall have the right to adopt Rules concerning the Common Area and the Common Facilities, including restrictions on use, use fees, limitations of use by Short-Term Renters, and other provisions as determined by the Association. The specific powers of the Association and the limitations thereon may be further enumerated as set forth in the Bylaws and Articles. The additional powers and rights described herein, are not intended to limit the general statement of Association authority, but rather to more particularly describe certain rights and



powers that are of particular importance to the proper discharge of the Association's responsibilities to the other Owners and the Subdivision.

(b) Association's Limited Right of Entry.

(i) Right of Entry. Generally. It is expressly agreed that the right of the Association, or its agents, when necessary, shall have the right to enter any Lot or Residence in order to:

(1) perform the Association's obligations under this Declaration, including its obligation to enforce the covenants and restrictions set forth herein and to maintain and repair the Common Areas and the exterior of Residences;

(2) to remove any Improvement which is erected or constructed on a Lot without first receiving proper Association approval pursuant to Article V, below;

(3) any obligations with respect to construction, maintenance and repair of adjacent Common Area or Common Facilities; or

(4) to make necessary repairs that an Owner has failed to perform which, if left undone, will pose a threat or nuisance to, or cause an unreasonable interference with, the Owners in common or any portions of the Subdivision which the Association is obligated to repair or maintain.

(ii) Limitations on Exercise of Right. The Association's right of entry pursuant to this subsection (b) shall be subject to the following:

(1) The right of entry may be exercised immediately and without prior notice to the Owner or delegee in case of an emergency originating in or threatening the Owner's Lot or the Common Area where immediate entry is required. The Association may enter under such circumstances whether or not the Owner is present or consents to such entry.

(2) In all non-emergency situations involving routine repair and/or maintenance activities, the Association or its agents shall furnish the Owner or delegee in occupation of the Lot with at least twenty-four (24) hours prior written notice of its intent to enter the Lot, specifying the purpose and scheduled time of such entry, and shall make every reasonable effort to perform its work and schedule its entry in a manner that respects the privacy of the persons residing in the Lot. For purposes of this subsection, "written notice" includes notice sent by U.S. Postal Service as set forth in Article XV, overnight delivery service, facsimile, email or other means of electronic transmission to the Owner so long as a record is created to confirm that the transmission has been received and that the recipient's email address or facsimile number is that of the Owner.

(3) In all non-emergency situations involving access by the Association for purposes of enforcing the Governing Documents against an Owner in default, the Association's entry shall be subject to observance of the notice and hearing requirements imposed by Section 13.6, below.

(c) Designation of Association as Attorney-in-Fact. The Association is hereby irrevocably appointed as the attorney-in-fact for the Owners of each and every Lot to, in the sole discretion of the Association: (i) manage, control and deal with the interest of such Owners in the Common Area so as to permit the Association to fulfill all of its duties and obligations hereunder and to exercise all of its rights hereunder; (ii) delegate management functions and responsibilities to a property manager or management company; (iii) deal with the Subdivision upon its destruction or obsolescence as hereinafter provided; and (iv) deal with and handle insurance claims and insurance proceeds, as provided in Article X of the Declaration, below, and condemnation and condemnation awards, as provided in Article XI of the Declaration, below. The acceptance by any person or entity of any interest in any Lot shall constitute an appointment of the Association as the Owner's attorney-in-fact as provided above.

### **Section 3.7** *Association Rules*

(a) Rule Making Power. The Board may, from time to time and subject to the provisions of this Declaration, propose, enact and amend Association Rules.

Notwithstanding the foregoing grant of authority, the Association Rules shall not be inconsistent with or materially alter any provision of the Governing Documents or the rights, preferences and privileges of the Owners thereunder. The Association Rules may concern, but need not be limited to: (1) matters pertaining to the maintenance, repair, management and use of the Common Area and Common Facilities by Owners, their Lessees (including Rules that distinguish between Owners, their Family and Short-Term Renters), guests and invitees, or any other person(s) who have rights of use and enjoyment of such Common Area and Common Facilities; (2) architectural control and the rules of the Architectural Committee; (3) the conduct of disciplinary proceedings; (4) regulation of parking (including to assign, rent, license or otherwise designate and control use of the unassigned parking spaces within the Common Area including the number and types of vehicles and length of allowable parking, distinguishing between short- and long-term parking, passenger vehicles and other types of recreational vehicles (e.g., RV's, travel trailers, snowmobiles/trailers, etc.)), pet ownership and other matters subject to regulation and restriction under the Governing Documents; (5) collection and disposal of refuse; (6) minimum standards for the maintenance of landscaping or other improvements on any Lot or Common Area; (7) matters relating, regulating and limiting Short-Term Rentals, including prohibiting Short-Term Rentals in any ADU or JADU that may otherwise be mandated by applicable Laws; and (8) any other subject or matter within the jurisdiction of the Association as provided in the Governing Documents. In the event of any material conflict between any Association Rule and the provisions of this Declaration or the Bylaws, the conflicting provisions contained in this Declaration or the Bylaws shall prevail. All Association Rules specified in Civil Code section 4340 shall only be adopted, amended and repealed (as the case may be) in good faith and in substantial compliance with this Declaration and California Civil Code sections 4350 through 4370, or any successor statute governing rule adoption. The Association shall adopt operating rules for elections as required by law (Civil Code section 5105 et seq.), but in the absence of such rule shall conduct all elections in accordance with the requirements of Davis-Stirling.

(b) Distribution of Rules. A copy of the Association Rules shall be mailed or otherwise delivered to each Owner when they are adopted, amended or repealed in accordance

with Davis-Stirling. Owners shall be obligated to provide a copy of the Association Rules, and all updates or a link to the Association's web site listing all of this information to their Lessees.

(c) Adoption of Other Association Rules. Any Association Rules other than those certain rules specified in Civil Code sections 4340 may be adopted, amended or repealed from time to time by majority vote of the Board, and the Association shall provide notice to all Owners of such actions.

(d) Breach of Rules or Restrictions. Any breach of the Association Rules or of any other Governing Document provision shall give rise to the rights and remedies of the Association set forth herein and the other Governing Documents, subject to the due process procedures as set forth in Section 13.6, below.

**Section 3.8** *Limitation on Liability of the Association's Directors and Officers.*

(a) Claims Regarding Breach of Duty. No director or officer of the Association (collectively and individually referred to as the "Released Party") shall be personally liable to any of the Owners or to any other person, for any error or omission in the discharge of his or her duties and responsibilities or for his or her failure to provide any service required under the Governing Documents; provided that such Released Party has, upon the basis of such information as he or she possessed, acted in good faith, in a manner that such person believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

Without limiting the generality of the foregoing, this standard of care and limitation of liability shall extend to such matters as the establishment of the Association's annual financial budget, the funding of Association capital replacement and reserve accounts, repair and maintenance of Common Areas and enforcement of the Governing Documents.

(b) Other Claims Involving Tortious Acts and Property Damage. No person who suffers injury (including, without limitation, bodily injury, emotional distress, wrongful death or property damage or loss) as a result of the tortious act or omission of a volunteer director or volunteer officer of the Association shall recover damages from such director or officer if all of the following conditions are satisfied:

- (i) The Board Member or officer owns no more than two Lots;
- (ii) The act or omission was performed within the scope of the volunteer director's or officer's Association duties;
- (iii) The act or omission was performed in good faith;
- (iv) The act or omission was not willful, wanton, or grossly negligent; and
- (v) The Association maintained and had in effect at the time the act or omission occurred and at the time a claim is made general liability insurance and individual liability of officers and directors of the association for negligent acts or omissions in that

capacity, provided both types of coverages are in the minimum amounts of at least One Million Dollars (\$1,000,000.00).

The payment of actual expenses incurred by a Board member or officer in the execution of such person's Association duties shall not affect such person's status as a volunteer Board member or officer for the purposes of this section. The provisions of this subsection (b) are intended to reflect the protections accorded to volunteer directors and officers of community associations pursuant to California Civil Code section 5800. In the event said Civil Code section is amended or superseded by another, similar provision of the California statutes, this subsection (b) shall be deemed amended, without the necessity of further Member approval, to correspond to the amended or successor Civil Code provision.

#### **Article IV. ASSESSMENTS**

##### **Section 4.1 Assessments Generally.**

(a) Covenant to Pay Assessments. Each Owner of one or more Lots, by acceptance of a deed or other conveyance therefor (whether or not it shall be so expressed in such deed or conveyance), covenants and agrees to pay to the Association any and all: (i) Regular Assessments; (ii) Special Assessments; (iii) Emergency Assessments; and (iv) Special Individual Assessments duly imposed in accordance with this Article.

(b) Extent of Owner's Personal Obligation for Assessments. All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorneys' fees) authorized under Davis-Stirling (see Civil Code § 5650(b)) for the collection thereof shall be a debt and a personal obligation of the person who is the Owner of the Lot at the time the Assessment is levied, which obligations shall be joint and several for Co-Owners. Each Owner who acquires title to a Lot shall be personally liable only for Assessments attributable to the Lot which become due and payable after the date that the person acquires title. Accordingly, when a person acquires title to a Lot, the new Owner shall not be personally liable for delinquent Assessments of prior Owners of the same Lot unless the new Owner expressly assumes the personal liability of a prior Owner. However, if the acquired Lot is conveyed subject to a valid lien for delinquent Assessments and related costs of collection (i.e., the lien is not removed from record prior to close of escrow in the sale of the Lot) or the new Owner has constructive or actual knowledge that there are Assessments owing concerning the Lot, the Association may continue to exercise its foreclosure remedies against the Lot, regardless of the change of ownership, and/or the Association may pursue its collection remedies against the prior Owner, individually.

(c) Creation of Assessment Lien. All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorneys' fees) for the collection thereof, shall be a charge on the Lot and may become a lien against the Lot. Any lien for unpaid Assessments created pursuant to the provisions of this Article may be subject to foreclosure to the extent and as provided in this Declaration and applicable Laws.

(d) No Avoidance of Assessment Obligations. No Owner may exempt himself/herself from personal liability for Assessments duly levied by the Association, nor release the Owner's Lot from the liens and charges hereof by waiver of the use and enjoyment of the Common Area

or any facilities thereon or by abandonment or non-use of his/her Lot or any other portion of the Subdivision.

(e) Improper Assessment. The Association shall not impose or collect an Assessment, penalty or fee which exceeds the amount necessary for the purpose or purposes for which it is levied.

**Section 4.2** *Regular Assessments.*

(a) Preparation of Annual Budget; Establishment of Regular Assessments. Not less than thirty (30) days nor more than ninety (90) days prior to the beginning of the Association's fiscal year, the Board shall estimate the total amount required to fund the Association's anticipated Common Expenses for the next succeeding fiscal year (including additions to any reserve fund established to defray the costs of future repairs, replacement or additions to the Common Areas) by preparing and distributing to all Members a budget satisfying the requirements of Davis-Sterling.

(b) Establishment of Regular Assessment by Board/Membership Approval Requirements. The total annual expenses estimated in the Association's budget (less the Association's income from sources other than Assessments) shall become the aggregate Regular Assessment for the next succeeding fiscal year; provided, however, that except as provided in Section 4.5 (emergency), below, the Board of Directors may not impose a Regular Assessment that is more than twenty percent (20%) greater than the Regular Assessment for the Association's immediately preceding fiscal year without the Members' prior approval in accordance with applicable Laws.

(c) Allocation of Regular Assessments. The total amount of the budgeted Common Expenses of the Association shall be allocated among, assessed against and charged to each Owner according to the ratio of the number of Lots owned by the assessed Owner to the total number of Lots that are subject to assessment so that each Lot in the Subdivision bears an equal share all Common Expenses of the Association.

(d) Assessment Roll. That portion of the estimated Common Expenses assessed against and charged to each Owner shall be set forth and recorded in an Assessment roll which shall be maintained and available with the records of the Association and shall be open for inspection at all reasonable times by each Owner or his or her authorized representative for any purpose reasonably related to the Owner's interest as a property Owner or as a Member of the Association. The Assessment roll (which may be maintained in electronic form) shall show, for each Lot that is subject to assessment, the name and address of the Owner of Record of each such Lot, all Regular, Special and Special Individual Assessments levied against each Owner and his or her Lot, and the amount of such Assessments which have been paid or remain unpaid.

(e) Mailing Notices of Assessments and Related Financial Disclosures. Not less than thirty (30) nor more than sixty (60) days prior to the beginning of the Association's fiscal year the Board of Directors shall provide notice to the Owners of Lots, at the street address of the Owner's Lot, or at such other address as the Owner may from time to time designate in writing to the Association, of the amount of the Regular Assessment for the next succeeding fiscal year.

This notice is in addition to the following notices which must also be distributed to the Members: (i) the written notice required by Civil Code section 5730 which provides Members with general information regarding assessments, foreclosure rights, payment of assessments and payment plans; and (ii) the form required by Civil Code section 5570 that provides summarized information regarding the amount of the current Annual Assessment, additional assessments that have already been scheduled to be imposed or charged, and the calculation of capital replacement reserve replacement needs and reserve account funding requirements. These budgets and disclosure documents shall be delivered to the Members by one of the methods authorized by Civil Code section 4040.

(f) Failure to Make Estimate. If, for any reason, the Board of Directors fails to make an estimate of the Common Expenses for any fiscal year, then the Regular Assessment made for the preceding fiscal year, together with any Special Assessment made pursuant to Section 4.3(a)(i), below, for that year, shall be assessed against each Owner and his or her Lot on account of the then current fiscal year, and installment payments (as hereinafter provided) based upon such automatic Assessment shall be payable on the regular payment dates established by the Board.

(g) Payment of Assessments. The Regular Assessment levied against each Owner and his or her Lot shall be due and payable to the Association in such installments as determined by the Board on such other date or dates as may be established from time to time by the Association's Board of Directors. Payment of Regular Assessments shall be delinquent if not paid within forty-five (45) days of the due date(s) as established by the Board.

#### **Section 4.3** *Special Assessments.*

(a) Purposes for Which Special Assessments May Be Levied. Subject to the membership approval requirements set forth in subsection (b) below, the Board of Directors shall have the authority, upon majority vote of the Board of Directors, to levy Special Assessments against the Owners and their Lots for the following purposes:

(i) Regular Assessment Insufficient in Amount. If, at any time, the Regular Assessment for any fiscal year is insufficient in amount due to extraordinary expenses not contemplated in the budget prepared for said fiscal year, then, the Board of Directors shall levy and collect a Special Assessment, applicable to the remainder of such year only, for the purpose of defraying, in whole or in part, any deficit which the Association may incur in the performance of its duties and the discharge of its obligations hereunder.

(ii) Capital Improvements. The Board may levy Special Assessments for capital Improvements, including repair, replacement, improvements or changes to the Common Area, including the Common Facilities. The Special Assessment power conferred hereunder is not intended to diminish the Board's obligation to plan and budget for normal maintenance, and replacement/repair of the Common Area through Regular Assessments (including the funding of reasonable reserves) and to maintain adequate insurance on the Common Areas. Typically, Special Assessments shall be imposed only to fund a specific capital Improvement project during a particular fiscal year. However, if the Board determines that a Special Assessment should be levied to fund a portion of a capital project that will, or is likely to, entail work and/or funding in

more than one fiscal year, this fact and a detailed disclosure of the intended scope and estimated costs of the project shall also be included in the Association's annual budget disclosures for the year in which the Special Assessment is imposed or, if the Special Assessment requires Member approval, in the solicitation materials distributed to the Members to vote on the proposal.

(b) Special Assessments Requiring Membership Approval. Special Assessments exceeding five percent (5%) of the budgeted gross expenses of the Association for that fiscal year require prior membership approval. The foregoing Member approval requirements shall not apply, however, to any Special Assessment imposed to address any "emergency situation" as defined in Section 4.5 below.

(c) Allocation and Payment of Special Assessments.

(i) When levied by the Board or approved by the Members as provided above, Special Assessments shall be divided among, assessed against and charged to each Owner and his or her Lot in the same manner prescribed for the allocation of Regular Assessments.

(ii) Any Special Assessment duly levied hereunder shall be recorded on the Association's Assessment roll and notice thereof shall be mailed to each Owner. Special Assessments for purposes described in subsection (a)(i) of this Section shall be due as a separate debt of the Owner and a lien against his or her Lot, and shall be payable to the Association in equal quarterly installments during the remainder of the then current fiscal year. Special Assessments for purposes described in subsection (a)(ii) shall be due as a separate debt of the Owner and a lien against his or her Lot, and shall be payable in full to the Association within thirty (30) days after the mailing of such notice or within such extended period as the Board shall determine to be appropriate under the circumstances giving rise to the Special Assessment. Special Assessments levied pursuant to subsection (a)(iii) above shall be due as a separate debt of each Owner and a lien against the Owner's Lots at such time as required by the repair or reconstruction of the Subdivision as determined by the Board, but in no event sooner than sixty (60) days following receipt of the Association's notice of levy of the Assessment.

#### **Section 4.4** *Special Individual Assessments.*

(a) Circumstances Giving Rise to Special Individual Assessments. In addition to the Special Assessments levied against all Owners, the Board of Directors may impose Special Individual Assessments against an Owner in any of the circumstances described in subsections (i) through (iv) below; provided, however, that no Special Individual Assessments may be imposed against an Owner pursuant to this Section until the Owner has been afforded the notice and hearing rights to which the Owner is entitled pursuant to Section 13.6, below, and, if appropriate, has been given a reasonable opportunity to comply voluntarily with the Governing Documents. Subject to the foregoing, the acts and circumstances giving rise to liability for Special Individual Assessments include the following:

(i) Damage to Common Areas. In the event that any damage to, or destruction of, any portion of the Common Area is caused by the willful misconduct or negligent act or omission of any Owner, any member of his or her Family, or any of his or her Lessees, Contract Purchasers, guests, servants, contractors, employees, licensees or invitees, the Board shall cause

the same to be repaired or replaced, and all costs and expenses incurred by the Association in connection therewith (to the extent not compensated by insurance proceeds) shall be assessed and charged solely to and against such Owner as a Special Individual Assessment.

(ii) Expenses Incurred in Gaining Member Compliance. In the event that the Association incurs any costs or expenses to: (A) accomplish the payment of delinquent Assessments; (B) perform any repair, maintenance or replacement to any portion of the Subdivision that the Owner is responsible to maintain under the Governing Documents but has failed to undertake or complete in a timely fashion; or (C) otherwise bring the Owner and/or his or her Lot into compliance with any provision of the Governing Documents, the amount incurred by the Association (including title company fees, accounting fees, court costs and reasonable attorneys' fees) shall be assessed and charged solely to and against such Owner as a Special Individual Assessment. The Association's Special Individual Assessment authority hereunder shall extend to the collection of any reasonable fines or penalties imposed against an Owner under the Governing documents.

(iii) Required Maintenance of Lots. If any Lot is maintained so as to become a nuisance, structural, fire or safety hazard for any reason, including without limitation, the accumulation of trash, the Association shall have the right to enter said Lot, correct the condition and recover the cost of such action through imposition of a Special Individual Assessment against the offending Owner. Any entry on to a Lot by the Association or its agents shall be undertaken under the terms and conditions of this Declaration.

(iv) Initiation Fee. Any individual or entity upon acquiring title to a Lot may be required to pay a reasonable initial assessment in an amount set by the Board from time-to-time, in addition to the annual assessments, to compensate the Association for its reasonable out-of-pocket administrative expenses in updating the Association's records.

(b) Levy of Special Individual Assessment and Payment. Once a Special Individual Assessment has been levied against an Owner for any reason described, and subject to the conditions imposed in subsection (a) of this Section, such Special Individual Assessment shall be recorded on the Association's Assessment roll and notice thereof shall be mailed to the affected Owner. The Special Individual Assessment shall thereafter be due as a separate debt of the Owner payable in full to the Association within thirty (30) days after the mailing of notice of the Assessment.

(c) Limitation on Right to Lien Lots for Special Individual Assessments. The right of the Association to collect certain delinquent Special Individual Assessments through the use of lien and foreclosure remedies is subject to the limitations set forth in Section 4.10(b)(ix), below. However Special Individual Assessments may be collected by the Association through the use of other legal processes, including, without limitation, an action in small claims court.

#### **Section 4.5** *Assessments to Address Emergency Situations.*

(a) Authority of Board to Impose Emergency Assessments. The requirement of a membership vote to approve Regular Assessment or Special Assessment increases shall not



apply to increases necessary address emergency situations under Civil Code section 5610 ("Emergency Assessments").

(b) Payment of Emergency Assessments. When levied by the Board the Emergency Assessment shall be divided among, assessed against and charged to each Owner and his or her Lot in the same manner prescribed for the allocation of Regular Assessments. The Emergency Assessment so levied shall be recorded on the Association's Assessment roll and notice thereof shall be mailed to each Owner. An Emergency Assessment shall be due as a separate debt of the Owner and shall be payable in full to the Association within thirty (30) days after the mailing of the notice of the Emergency Assessment or within such extended period as the Board shall determine to be appropriate under the circumstances giving rise to the Emergency Assessment. If an Emergency Assessment is not paid on or before the due date, the Assessment may be enforced in the manner provided in Section 4.10, below.

**Section 4.6** *Purpose and Reasonableness of Assessments.* Each Assessment made in accordance with the provisions of this Declaration is hereby declared and agreed to be for use exclusively: (a) to promote the recreation, health, safety and welfare of individuals residing within the Subdivision; (b) to promote the enjoyment and use of the Subdivision by the Owners and their Families, Lessees, invitees, licensees, guests and employees; (c) to provide for the repair, maintenance, replacement and protection of the Common Area; and/or (d) for such other purposes as determined by the Board as authorized by the Governing Documents. Each and every Assessment levied hereunder is further declared and agreed to be a reasonable Assessment, and to constitute a separate, distinct and personal obligation against each Owner and that Owner's Lot (with respect to which a separate lien may be created hereby) that shall be binding on the Owner's heirs, successors and assigns; provided, however, that the personal obligation of each Owner for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed or known (including actual or constructive notice) by them.

**Section 4.7** *Exemption of Certain Portions of the Subdivision from Assessments.* The following real property subject to this Declaration shall, unless devoted to the use as a residential dwelling, be exempt from the Assessments and the lien thereof provided herein:

- (a) Any portion of the Subdivision dedicated and accepted by a local public authority;
- (b) The Common Area; and
- (c) Any Lot owned by the Association.

**Section 4.8** *Notice and Procedure for Member Approval.* In the event that Member approval is required in connection with any increase or imposition of Assessments, the affirmative vote required to approve the increase shall be Majority of a Quorum of the Members. The Quorum required for such membership action shall be more than fifty percent (50%) of the Members. Any vote on an increase in the Regular Assessment or on the imposition of a Special Assessment that requires approval of the Members must be conducted by use of a secret ballot using the same procedures for the casting of ballots in the election of directors under the Bylaws except as otherwise provided by applicable Laws.

**Section 4.9** *Maintenance of Assessment Funds.*

(a) Establishment and Maintenance of Association Bank Accounts. All sums received or collected by the Association from Assessments, together with any interest or late charges thereon, shall be promptly deposited in one or more insured checking, savings or money market accounts in a bank or savings and loan association selected by the Board of Directors. In addition, the Board shall be entitled to make prudent investment of reserve funds in FDIC insured certificates of deposit, money market funds or similar investments consistent with the investment standards normally observed by trustees. The Board may consider the return on investment and the risk associated with the return in making the investment. The Board and such officers or agents of the Association as the Board shall have exclusive control of said account(s) and investments and shall be responsible to the Owners for the maintenance at all times of accurate records thereof. The withdrawal of funds from Association accounts shall be subject to the minimum signature requirements imposed by California Civil Code section 5510(a) and the Bylaws. Any interest received on deposits shall be credited proportionately to the balances of the various Assessment fund accounts maintained on the books of the Association as provided in subsection (b), below.

(b) Expenditure of Assessment Funds. Except as provided below, the proceeds of each Assessment shall be used only for the purpose for which such Assessment was made, and such funds shall be received and held in trust by the Association for such purpose. Notwithstanding the foregoing, the Board, in its discretion, may make appropriate adjustments among the various line items in the Board's approved general operating budget if the Board determines that it is prudent and in the best interest of the Association and its Members to make such adjustments. If the proceeds of any Special Assessment exceed the requirement of which such Assessment was levied, such surplus may, in the Board's discretion, be: (i) returned proportionately to the contributors thereof; (ii) reallocated among the Association's reserve accounts if any such account is, in the Board's opinion, underfunded; or (iii) credited proportionately on account of the Owners' future Regular Assessment obligations. In accordance with Civil Code section 5510(b), except for temporary transfers of monies from reserve funds that are permitted pursuant to subsection (d), below, the Board of Directors shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components of the Subdivision that the Association is obligated to repair, restore, replace or maintain and for which the reserve fund was established.

(c) Separate Accounts; Commingling of Funds. Except as otherwise provided in subsection (d), below, to preclude a multiplicity of bank accounts, the proceeds of all Assessments may be commingled in one or more accounts and need not be deposited in separate accounts so long as the separate accounting records described herein are maintained. For purposes of accounting, but without requiring any physical segregation of assets, the Association shall keep a separate accounting of all funds received by the Association in payment of each Assessment and of all disbursements made therefrom.

Unless the Association is exempt from federal or state taxes, all sums allocated to capital replacement funds shall be accounted for as contributions to the capital of the Association and as trust funds segregated from the regular income of the Association or in any other manner

authorized by law or regulations of the Internal Revenue Service and the California Franchise Tax Board that will prevent such funds from being taxed as income of the Association.

(d) Reserve Funds.

(i) Required Study of Reserve Account Requirements. As more particularly provided in the Bylaws, at least once every three (3) years, the Association Board is required by Civil Code section 5550-5560 to cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the major components of the Subdivision that the Association is obligated to repair, replace, restore, or maintain as part of a study of the Association's reserve account requirements. This three (3) year rolling study must also be reviewed annually by the Board and adjusted as appropriate.

(ii) Adoption of the Reserve Funding Plan. The reserve funding plan that is required pursuant to subsection (d)(i) above shall be adopted by the Board of Directors at an open meeting before the membership of the Association. The Association shall be obligated to provide its Members with a summary of the reserve funding plan adopted by the Board of Directors in accordance with Civil Code sections 5300(b)(3) and 5550-5560. This summary shall include notice to the Members that the full reserve study plan is available upon request. Upon receipt of a request from a Member, the Association shall provide that Member with a copy of the complete reserve plan.

(iii) Permitted Temporary Transfers of Reserve Funds. Notwithstanding the restrictions on the use of reserve funds set forth above, the Board may authorize the temporary transfer of money from a reserve fund to the Association's general operating fund to meet short term cash flow requirements or other expenses, provided that the Board complies with all applicable requirements of Davis-Stirling concerning the transfers of reserve funds (see Civil Code § 5515).

(e) Limitations on Association's Authority to Assign or Pledge Assessment Obligations. The Association may not voluntarily assign or pledge its right to collect payments or Assessments, or to enforce or foreclosure a lien to a third party, except when the assignment or pledge is made to a financial institution or lender chartered or licensed under federal or state law, when acting within the scope of that charter or license, as security for a loan obtained by the Association. However, the restrictions imposed by this subsection (e) shall not restrict the right or ability of the Association to assign any unpaid Assessments to a third party for purposes of collection.

**Section 4.10** *Collection of Assessments; Enforcement of Liens.* Installments of Regular Assessments shall be delinquent if not paid within fifteen (15) days of the due date as established by the Board. Special Assessments, Special Individual Assessments and Emergency Assessments shall be delinquent if not paid within the times prescribed herein. When an Assessment becomes delinquent, late charges shall be assessed at ten percent (10%) of the delinquent assessment. The Association may, in addition to said late charges, assess interest on unpaid delinquent assessments, commencing thirty (30) days after the assessment becomes due and continuing until paid, at the rate of twelve percent (12%) per annum or the highest rate permitted by law,

whichever is less. Once an assessment becomes delinquent, the Association may elect to apply one or both of the following remedies:

(a) Enforcement of An Owner's Personal Obligation to Pay Assessments. The Association may bring a legal action directly against the Owner for breach of the Owner's personal obligation to pay the Assessment and in such action the Association shall be entitled to recover the delinquent Assessment or Assessments, accompanying late charges, interest, costs and reasonable attorneys' fees. Commencement of a legal action shall not constitute a waiver of any lien rights as described in subsection (b), below.

(b) Imposition and Enforcement of Assessment Lien and Limitations Thereon. Except as otherwise provided in subsection (b)(ix), below (which imposes limitations on the right of the Association to utilize non-judicial foreclosure remedies to collect certain Special Individual Assessments), the Association may impose a lien against the Owner's Lot for the amount of the delinquent Assessments, plus any reasonable costs of collection (including reasonable attorney's fees), late charges and interest by taking the following steps (see Civil Code § 5660):

(i) Issuance of Delinquency Notice; Contents. At least thirty (30) days prior to recording a lien upon the Owner's Lot to collect a delinquent Assessment, the Association shall notify the Owner in writing by certified mail of the following (the "Delinquency Notice"):

(1) A general description of the collection and lien enforcement procedures of the Association and the method of calculation of the amount, a statement that the Owner of the Lot has the right to inspect the Association records, pursuant to section 5205 of the Civil Code, and the following statement in 14-point boldface type, if printed, or in capital letters, if typed: "IMPORTANT NOTICE: IF YOUR LOT IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION."

(2) An itemized statement of the charges owed by the Owner, including items on the statement which indicate the amount of any delinquent Assessments, the fees and reasonable costs of collection, reasonable attorneys' fees, any late charges, and interest, if any.

(3) A statement that the Owner shall not be liable to pay the charges, interest, and costs of collection previously levied by the Association if it is subsequently determined that the Assessment was paid on time.

(4) The right of the notified Owner to request a meeting with the Board as provided in Civil Code section 5665.

(5) The right to dispute the assessment debt by submitting a written request for dispute resolution to the Association pursuant to the Association's "meet and confer" program pursuant to Civil Code section 5900-5920.

(6) The right of the noticed Member to request alternative dispute resolution with a neutral third party pursuant to Civil Code sections 5925-5965 before the Association may initiate foreclosure against the Owner's Lot, except that binding arbitration

shall not be available if the Association intends to initiate a judicial foreclosure, rather than a non-judicial foreclosure.

(ii) Application of Payments. Any payments made by a delinquent Owner toward the delinquent Assessments that are in arrears shall first be applied to the Assessments that are owed at the time the payment is made; and only after the Assessments owed are paid in full shall the payments be applied to the fees and the costs of collection, attorneys' fees, late charges or interest. The Association must accept partial payments. When an Owner makes a payment, the Owner may request a receipt and the Association shall provide it. The receipt shall indicate the date of payment and the person who received the payment on behalf of the Association. The Association shall provide its Members with a mailing address for overnight payment of Assessments.

(iii) Pre-Lien Offer to Meet and Confer with the Owner or to Participate in ADR. Prior to recording a lien for delinquent assessments, the Association shall offer the Owner and, if so requested by the Owner, participate in dispute resolution pursuant to the Association's meet and confer program that is required by Civil Code sections 5900-5920.

(iv) Rights of Owners to Propose Payment Plans. An Owner may also submit a written request to meet with the Board to discuss a payment plan for the delinquent assessment. This request must also be made within fifteen (15) days of the postmark of the Delinquency Notice. The Association shall provide the Owners with the standards for payment plans, if such standards have been adopted. So long as a timely request for a meeting has been tendered, the Board shall meet with the Owner in executive session within forty-five (45) days of the postmark of the request for a meeting, unless there is no regularly scheduled Board meeting within that period, in which case the Board may designate a committee of one or more Members to meet with the Owner. Payment plans may incorporate any assessments that accrue during the payment plan period. Payment plans shall not impede an Association's ability to record a lien on the Owner's Lot to secure payment of delinquent assessments. Additional late fees shall not accrue during the payment plan period if the Owner is in compliance with the terms of the payment plan. In the event of a default on any payment plan, the Association may resume its efforts to collect the delinquent assessments from the time prior to entering into the payment plan.

(v) Association Assessment Lien Rights. Except as provided in subsection (ix), below (relating to certain Special Individual Assessments), the amount of the Assessment, plus any costs of collection, late charges, and interest assessed in accordance with Civil Code sections 5600-5650 shall be a lien on the Owner's Lot from and after the time the Association causes to be recorded in the Office of the County Recorder a Notice of Delinquent Assessment. The Notice of Delinquent Assessment shall state the amount of the Assessment and other sums imposed in accordance with Civil Code sections 5600-5650, a legal description of the Owner's Lot against which the Assessment and other sums are levied, and the name of the record owner of the Owner's Lot against which the lien is imposed. The itemized statement of the charges owed by the Owner that is required by subsection (b)(i)(B), of this Section 4.10 shall be recorded together with the Notice of Delinquent Assessment. The decision to record a lien for delinquent assessments shall be made only by the Board of Directors of the Association and may not be delegated to an agent of the Association. The Board shall approve the decision by a majority vote of the Board in an open meeting and the vote shall be recorded in the minutes of the meeting. If

the Association fails to abide by the pre-lien notice and other procedures set forth above, the Association must recommence the required notice process, with any resulting additional costs being borne solely by the Association.

In order for the lien to be imposed by non-judicial foreclosure as provided in subsection (vii), below, the Notice of Delinquent Assessment shall state the name and address of the trustee authorized by the Association to enforce the lien by sale. The Notice of Delinquent Assessment shall be signed by any officer of the Association or by the person designated by the Association for that purpose or if no one is designated, by the president of the Association. A copy of the recorded Notice of Delinquent Assessment shall be mailed by certified mail to every person whose name is shown as an Owner of the Lot in the Association's records, and the notice shall be mailed no later than ten (10) calendar days after its Recordation. Upon receipt of a written request by an Owner identifying a secondary address for purposes of collection notices, the Association shall send additional copies of any notices, including Notices of Delinquent Assessments and Notices of Default, to the secondary address that is specified.

(i) Priority of Assessment Liens. A lien created pursuant to subsection (v), above, or subsection (ix), below, shall be prior to all other liens recorded against the Owner's Lot subsequent to the Notice of Delinquent Assessment, except as described in Section 4.11, below.

(ii) Enforcement of Assessment Liens. Subject to the limitations of this Section 4.10(b) and in particular this subsection (vii), after the expiration of thirty (30) days following the recording of a Notice of Delinquent Assessment, the Association's lien may be enforced in any manner permitted by law, including sale by the court, sale by the trustee designated in the Notice of Delinquent Assessment, or sale by a trustee substituted pursuant to Civil Code section 2924(a). Any sale by the trustee shall be conducted in accordance with Civil Code sections 2924, 2924(b) and 2924(c) applicable to the exercise of powers of sale in mortgages and deeds of trust

The following specific limitations shall apply to the Association's authority to pursue foreclosure remedies as a means of collecting delinquent Assessments:

(1) The decision to initiate foreclosure of a lien for delinquent assessments that has been validly recorded shall be made only by the Board of Directors of the Association and may not be delegated to an agent of the Association. The Board shall approve the decision by a majority vote of the Board in an executive session and shall record the vote in the minutes of the next meeting of the Board that is open to attendance by the Members. The Board shall maintain the confidentiality of the Owner or Owners of the Lot to which the delinquent Assessment(s) pertains by identifying the matter in the minutes by the parcel number of the property, rather than the name of the Owner or Owners. A Board vote to approve foreclosure of a lien shall take place at least thirty (30) days prior to any public sale of the Lot in question.

(2) Prior to initiating a foreclosure for delinquent assessments, the Association shall offer the Owner and, if so requested by the Owner, participate in dispute resolution pursuant to the Association's meet and confer program that is required by Civil Code sections 5900-5920 and/or alternate dispute resolution with a neutral third party pursuant to Civil

Code sections 5925-5965. The decision to pursue dispute resolution or a particular type of alternative dispute resolution shall be the choice of the Owner, except that binding arbitration shall not be available if the Association intends to initiate judicial foreclosure, rather than non-judicial foreclosure.

(3) If the Board votes to commence foreclosure proceedings to collect delinquent assessments pursuant to this subsection (vii), the Board shall provide notice of that decision by personal service to an Owner of the Lot. In the absence of written notification by the Owner to the Association, the address of the Owner's Lot may be treated as the Owner's mailing address.

(4) Debts for Assessments, Regular or Special, may not be collected through the use of judicial or non-judicial foreclosure remedies until the delinquent assessment amount, exclusive of any accelerated assessments, late charges, fees, costs of collection, attorney's fees, and interest, equals or exceeds \$1,800.00 or the Assessments are more than twelve (12) months delinquent. Delinquent Assessments in a smaller amount may not be collected through the use of foreclosure remedies, but may be collected through the use of any of the following other means: (a) a civil action, including in small claims court; (b) by recording a lien on the Owner's Lot (subject to the restrictions on foreclosure of that lien); or (c) any other manner provided by law, other than judicial or non-judicial foreclosure.

(iii) Foreclosed Owner's Rights of Redemption. A non-judicial foreclosure by the Association of an Owner's interest in his or her Lot to collect a debt for delinquent Assessments shall be subject to a right of redemption. In addition to the requirements of Civil Code section 2924f, a notice of sale in connection with the Association's foreclosure of a Lot in the Subdivision shall include a statement that the property is being sold subject to the right of redemption created by Civil Code section 5715(b).

(iv) Limitation on Authority to Use Lien and Foreclosure Remedies to Collect Special Individual Assessments. As set forth in Civil Code Section 5725(b), a monetary penalty imposed by the Association as a disciplinary measure for failure to comply with the Governing Documents may not be characterized as an Assessment that may become a lien enforceable by the sale of the Lot under Civil Code Section 2924, 2924(b) and 2924(c).

(v) Obligation to Record Lien Releases. If it is determined that a lien previously recorded against a Lot was recorded in error, the party who recorded the lien, within twenty-one (21) calendar days, shall record or cause to be recorded in the Office of the County Recorder a lien release or notice of rescission and provide the Lot Owner with a declaration that the lien filing or recording was in error and a copy of the lien release or notice of rescission.

In addition, within twenty-one (21) days of the payment of the sums specified in the Notice of Delinquent Assessment, the Association shall record or cause to be recorded in the Office of the County Recorder a lien release or notice of rescission and provide the Owner with a copy of the lien release or notice that the delinquent Assessment has been satisfied.

(vi) Effect of Failure to Adhere to Statutory Lien and Foreclosure Procedures. If the Association fails to comply with the notice and other pre-lien procedures set forth in this

Section 4.10(b) prior to recording a lien, the Association shall recommence the required notice process prior to recording a lien. Any costs associated with recommencing the notice process shall be borne by the Association and not by the Owner.

The provisions of this Section 4.10(b) are intended to comply with the requirements of Davis-Stirling, as in effect on the date that this Declaration is recorded in the Office of the County Recorder. If these sections of the Civil Code are amended or modified in the future in a way that is binding on the Association and causes this Section to be in conflict with applicable law, the provisions of this Article IV automatically shall be amended or modified in the same manner such that the Board shall follow Davis Stirling to the extent Davis-Stirling is inconsistent with this Article IV.

**Section 4.11** *Priorities.* When a Notice of Delinquent Assessment has been Recorded, such notice shall constitute a lien on the Lot which is prior and superior to all other liens except: (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto (under current law association assessment liens are subordinate to other liens and encumbrances recorded prior to recordation of the Association's Notice of Delinquent Assessment); and (b) the prior lien or charge of any first Mortgage of record (meaning any Recorded Mortgage with first priority over other Mortgages) recorded prior to the imposition of the Assessment reflected in the Notice of Delinquent Assessment made in good faith and for value; provided, however, that such subordination shall apply only to the Assessments which have become due and payable prior to the transfer of such Lot pursuant to the exercise of a power of sale or a judicial foreclosure involving a default under such first Mortgage or other prior encumbrance.

**Section 4.12** *Unallocated Taxes.* In the event that any taxes are assessed against the Common Area, or the personal property, which is owned by the Association, rather than being assessed to the individual Lots, such taxes shall be included in the Regular Assessments imposed pursuant to Section 4.2, above, and if necessary, a Special Assessment may be levied against Lots within the Subdivision in an amount equal to such taxes to be paid in two installments, thirty (30) days prior to the due date of each tax installment.

**Section 4.13** *Waiver of Exemptions.* Each Owner, to the extent permitted by law, waives, to the extent of any liens created pursuant to this Article, the benefit of any homestead or exemption law of California in effect at the time any Assessment or installment thereof becomes delinquent or any lien is imposed.

## **Article V. ARCHITECTURAL REVIEW**

**Section 5.1** *Association Approval of Improvements.*

(a) Approval Generally. Prior to commencement of construction, alteration, placement or installation of any Improvement on a Lot within the Subdivision, the Owner planning such Improvement must submit to the Association's Architectural Review Committee (or to the Board if no Architectural Review Committee is created by the Board), a written request for approval. The Owner must submit an application to the Board of Directors, c/o the management company, if there is one, or as otherwise directed by the Association, on a form provided by the Association. The Architectural Review Committee shall be composed of three



(3) Members of the Association appointed by the Board of Directors. In selecting Members for the Architectural Review Committee, the Board of Directors shall try to select individuals whose occupations or education will provide technical knowledge and expertise relevant to matters within the Architectural Review Committee's jurisdiction. Architectural Review Committee members shall serve one (1) year terms subject to the Board of Directors' power to remove any Architectural Review Committee member and to appoint his or her successor. Neither the members of the Architectural Review Committee nor its designated representatives shall be entitled to any compensation for services performed pursuant hereto. If the Board of Directors establishes an Architectural Committee, it shall have those powers which are specifically designated by the Board of Directors in the resolution establishing the Architectural Review Committee. The Board of Directors will submit the application to the Architectural Review Committee, if any, within fifteen (15) days of its receipt. The Architectural Review Committee will tender its recommendation to the Board of Directors within thirty (30) days of the committee's receipt of the application. If there is no appointed committee, the Board shall have sixty (60) days to render a decision. In the event the Board of Directors determines that it needs additional information before approving or denying the application, the Board shall notify the Member applicant as soon as practical after making said determination. Upon obtaining the requested additional information, the Member applicant shall tender the information on an addendum application to the Board of Directors. Upon receipt of the addendum, the application process re-commences and is subject to the timetable set forth in paragraph one, above. The Owner's request shall include all documents and information as set forth in the Architectural Rules. Unless the Association's approval of the proposal is first obtained, no work on the Improvement shall be undertaken. The Board may adopt Rules concerning Improvements that may not require approval hereunder, such as landscaping on an Owner's exclusive use common area in accordance with the Rules.

(b) Application for Improvements. This Article V shall apply, without limitation, to the construction, placement, installation, alteration or remodeling of any Improvement on any Lot. Article V shall also apply to changes to the exterior of any Improvement. The Architectural Rules may, but need not, exempt certain types of Improvements from review and approval by the Architectural Review Committee. The application shall include, but is not limited to, the following information to the extent it is pertinent:

(i) A complete description of the proposed change; Any color modification shall include a color swatch and the brand of paint to be used;

(ii) Any structural change shall include competent drawings that are easily understood with to-scale measurements;

(iii) In the event a building permit is required by the governing authority, a copy of all plans required to be submitted for the permit process;

(iv) Any work that requires a building permit shall be performed only by a licensed professional or tradesman. Said professional or tradesman shall be approved by the Board of Directors or its designee(s) and shall provide proof of their license and worker's compensation and liability insurance prior to the commencement of any work; and

(v) All building permits or copies thereof shall be presented to the Board of Directors or its designee(s) prior to the commencement of any work.

(c) Modifications to Approved Plans Must Also be Approved. Once a proposed work of Improvement has been duly approved by the Architectural Review Committee, no material modifications shall be made in the approved plans and specifications therefore and no subsequent alteration, relocation, addition or modification shall be made to the work of Improvement, as approved, without a separate submittal to, and review and approval by, the Architectural Review Committee.

In the event that it comes to the knowledge and attention of the Association that a work of Improvement, or any modification thereof, is proceeding without proper approval, the Association shall be entitled to exercise the enforcement remedies specified in Section 5.8, below, including, without limitation, ordering an immediate cessation and abatement of all aspects of the work of Improvement until such time as proper review and approval is obtained.

So long as the Board continues to delegate the review and recommendation of approval of plans to an Architectural Review Committee, references herein to Association shall be construed to mean the Architectural Review Committee where appropriate. Further, the Owner-Applicant shall be entitled to appear before that Committee at which the Owner's proposal has been scheduled for review and consideration. The Owner shall be entitled to be heard on the matter and may be accompanied by his or her architect, engineer and/or contractor. Other Owners whose Lots may be affected by the proposed Improvement (in terms of aesthetics, view, noise or other considerations) shall also be entitled to attend the meeting. Reasonable notice of the time, place and proposed agenda for such meeting shall be communicated before the date of the meeting to any Owner-Applicant whose application is scheduled to be heard, and also to Owners with immediately adjacent Lots and Owners who have requested special notice of such hearings.

**Section 5.2 Architectural Rules.** The Board, or its duly constituted Architectural Review Committee, may adopt, amend, modify, or repeal rules and regulations known as "Architectural Review Committee Rules and Regulations" or "Architectural Rules." The Architectural Rules shall interpret and implement the provisions hereof and may set forth: (a) the standards and procedures for Architectural Review Committee review; (b) guidelines for architectural design, placement of any work of Improvement or color schemes, exterior finishes and materials and similar features which are recommended or required for use in connection with particular Improvement Subdivisions within the Subdivision; (c) the minimum required content for plans and specifications for proposed Improvements; (d) the criteria and procedures for requesting variances from any property use restrictions or minimum construction standards that would otherwise apply to the proposed Improvement under the Governing Documents; (e) the minimum design, construction or product standards or criteria for commonly requested Improvements; (f) a fee payable to the Association to offset the costs and expenses of the review process; and (g) a requirement that an Owner record in the Official Records a Renovation, Maintenance and Repair Agreement in a form prepared and approved by the Board against the Owner's Lot documenting the conditions of approval imposed by the Association on the Improvement, including, without limitation, an indemnity of the Association, that the Owner is solely responsible for the costs of maintenance, repair and replacement involving the Improvement, that the Owner shall comply

with applicable laws, that the Owner shall secure appropriate licensed and bonded contractors with insurance (naming the Association as an additional insured), and such other reasonable terms and conditions imposed by the Association in approving the Improvement (the "Improvement Agreement"). Notwithstanding the foregoing no Architectural Rule shall be in derogation of the minimum standards required by this Declaration or applicable Laws. The Architectural Rules shall not prohibit low water-using plants, prohibit artificial turf or prohibit or restrict water-efficient landscaping to the extent required to be allowed under Civil Code section 4735. In the event of any conflict between the Architectural Rules and this Declaration, the provisions of the Declaration shall prevail.

**Section 5.3** *Basis for Approval of Improvements.* Improvements may only be approved by the Board of Directors or its duly delegated Architectural Review Committee. When a proposed Improvement is submitted, the Board or the Architectural Review Committee shall approve the proposed Improvements only if the Board or its committee, in its sole discretion, makes the following findings regarding the Improvements:

- (a) The Owner's plans and specifications conform to this Declaration and to the Architectural Rules in effect at the time such plans are submitted;
- (b) the proposed Improvement(s), if approved, will otherwise be consistent with the architectural and aesthetic standards prevailing within the Subdivision and with the overall plan and scheme of development within the Subdivision;
- (c) the Improvement will be in harmony with the external design of other structures and/or landscaping within the Subdivision;
- (d) the Improvement, as a result of its appearance, location or anticipated use will not interfere with the reasonable enjoyment of any other Owner of his or her property; and
- (e) Owner has agreed to and will record the Improvement Agreement in the Official Records.

While it is recognized that the determination will, of necessity, be subjective to some degree, the members of the Board or its Committee shall act reasonably and in good faith and shall consider such factors as the quality of workmanship, and materials proposed for the Improvement Subdivision, and the material, adverse and unreasonable impacts the Improvement may have on other Owners (including whether such impacts may reasonably be avoided). Any decision on a proposed Improvement Subdivision shall be made in good faith and may not be unreasonable, arbitrary, capricious or in violation of any applicable laws. The Association shall be entitled to determine that a proposed Improvement or component thereof is unacceptable when proposed on a particular Lot, even if the same or a similar Improvement or component has previously been approved for use at another location within the Subdivision if factors such as drainage, topography or visibility from roads, Common Areas or other Lots or prior adverse experience with the product or components used in construction of the Improvement, design of the Improvement or its use at other locations within the Subdivision militate against erection of the Improvement or use of a particular component thereof on the Lot involved in the Owner's submittal. Furthermore, in spite of the discretion conferred on the Association pursuant to this

Article V, no decision regarding a proposed Improvement can be made or imposed that violates any governing provision of law (including, without limitation, the California Fair Employment and Housing Act) or a building code or other applicable law governing land use or public safety.

Decisions on proposed Improvement shall be in writing, which shall include an explanation of why the proposed change was approved or not approved. Any applicant whose proposal is not approved by a Committee shall have the right to seek reconsideration by the Board of Directors at an open meeting of the Board. On an annual basis the Association shall provide the Members with notice of any requirements for Association approval of Improvements that are subject to this Article V. The notice shall describe the types of changes that require Association approval and shall include a copy of the procedure used to review and approve or disapprove proposed Improvements.

In approving a request for construction of an Improvement, the Association may condition approval upon the adoption of modifications in the Owner's plans and specifications or observance of restrictions as to noise abatement or similar mitigating conditions applicable to the Improvement and the Committee or Board, in its discretion, may condition approval on receipt of approval from other Lot owners whose Lots could potentially be affected by the Improvement.

**Section 5.4** *Time Limits for Approval or Rejection.* Within sixty (60) days after submission of plans and specifications satisfying the requirements of the Architectural Rules, the Association shall return one set of such plans to the applicant, with either written notice of approval or disapproval, with written suggestions of changes required for approval, or a request for more information. If written suggestions of changes required for approval accompany the returned set of plans, the applicant may implement such changes to the plans and within sixty (60) days resubmit plans incorporating such changes for approval to the Committee, which shall not unreasonably withhold its approval so long as the Owner has complied in all material respects with the requested changes. If no written notice of approval or disapproval, request for more information, or notification of a hearing date is received by the applicant within thirty (30) days after the owner's plans and specifications (or revisions thereto) are submitted to the Committee, then the applicant may make a written demand to the Board of Directors that its plans be approved within thirty (30) days (a "Demand"). If no response is received from the Committee or the Board of Directors within thirty (30) days after its receipt of applicant's Demand, then the plans shall be deemed to have been approved as submitted. Such response from the Association need not be an approval or denial, but may be a request for more time to review the Demand or scheduling of a hearing regarding the Demand.

**Section 5.5** *Proceeding with Work.* Upon receipt of approval from the Association, the Owner shall, as soon as practicable, satisfy all conditions thereof and diligently proceed with the commencement of construction pursuant to said approval, said commencement to be, in all cases, within six months from the date of such approval. If the Owner shall fail to comply with this paragraph, any approval given shall be deemed revoked unless the Board upon written request of the Owner made prior to the expiration of the initial period, extends the time for commencement or completion. No such extension shall be granted except upon a finding by the Board that there has been no change in the circumstances upon which the original approval was granted and that the Owner has a bona fide intention and ability to complete the Subdivision within the time specified in the extension request.

**Section 5.6** *Inspection of Work by Board or its Agents.* Inspection of the work relating to any approved Improvement and correction of defects therein shall proceed as follows:

(a) During the course of construction, representatives of the Board shall have the right to inspect the job site to confirm that the work of Improvement is proceeding in accordance with the approved plans and specifications.

(b) Upon the completion of any work of Improvement for which Board approval is required under this Article, the Owner shall give the Board a written notice of completion.

(c) Within thirty (30) days thereafter, the Board, or its duly authorized representative, may inspect the Improvement to determine whether it was constructed, reconstructed, altered or refinished in substantial compliance with the approval plans. If the Board finds that the Improvement was not erected, constructed or installed in substantial compliance with the Owner's approved plans, then within the 30-day inspection period the Board shall give the Owner a written notice of noncompliance detailing those aspects of the Subdivision that must be modified, completed or corrected. If the violation or nonconforming work is not corrected, the Association and its Board shall have the rights and remedies set forth in Section 5.8, below.

**Section 5.7** *Demand for Approval.* If for any reason the Board fails to notify the Owner of any noncompliance within thirty (30) days after receipt of the Owner's notice of completion, then the Owner may make a written demand to the Board of Directors for approval of its Improvement. The Board of Directors may delegate any such demand to the Committee. If no response is received from the Committee or the Board of Directors within thirty (30) days after its receipt of Owner's demand, then the Improvement shall be deemed to have been completed in substantial compliance with the approval plans unless the Owner knows of noncompliance and intentionally misleads the Committee or the Board with respect thereto. Such response from the Association need not be an approval or denial, but may be a request for more time to review the Demand or scheduling of a hearing regarding the Demand.

**Section 5.8** *Enforcement.*

(a) In addition to other enforcement remedies set forth in this Declaration, the Association or its Committee shall have the authority to order an abatement ("red tag") of any Improvement for which approval is required if Association approval is not obtained or if it does not conform to the plans and specifications submitted to and approved by the Association. If an Improvement Subdivision is red tagged, the Owner and his or her contractor shall cease all construction activity until such time as the issue giving rise to the red tag order is resolved. The red tag notice shall clearly state the reasons why the abatement has been ordered.

(b) No work for which approval is required shall be deemed to be approved simply because it has been completed without a complaint, notice of violation, or commencement of a suit to enjoin such work, and shall not constitute a waiver of the Association's rights or an estoppel against enforcement. If any legal proceeding is initiated to enforce any of the provisions hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to the costs of such proceeding.

(c) If the Owner fails to remedy any noticed noncompliance within thirty (30) days

from the date of such notification, or if the Owner feels that the Subdivision has been red tagged without justification, the Owner shall notify the Board in writing of such failure. The Board shall then set a date on which a hearing before the Board shall be held regarding the alleged noncompliance. The hearing shall be conducted in accordance with Section 13.6, below.

(d) The approval by the Association of any plans, drawings or specifications for any work of Improvement done or proposed, or for any other matter requiring the approval of the Association under this Declaration, or any waiver thereof, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval by the same or some other Owner. Different locations for Improvements, the size of the structure, proximity to other Lots or Common Areas and other factors may be taken into consideration by the Association in reviewing a particular submittal.

**Section 5.9** *Variances.* The Board, in its sole discretion, shall be entitled to allow reasonable variances in any procedures specified in this Article, or in any land use restrictions specified in Article VII, below, to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardships, provided all of the following conditions are met:

(a) If the requested variance will necessitate deviation from, or modification of, a property use restriction that would otherwise be applicable under this Declaration, the Board must conduct a hearing on the proposed variance after giving prior written notice to the Board and to all Owners of Lots located within the lesser of fifty (50) feet or two (2) Lots away from the Lot where the Improvement is proposed to be constructed or installed. The notice shall be mailed to the interested Owners at least fifteen (15) days prior to the date when the Board is scheduled to act on the requested variance. No decision shall be made with respect to the proposed variance until the 15-day comment period has ended.

(b) The Board must make a good faith written determination that the variance is consistent with one or more of the following criteria: (i) that the requested variance will not constitute a material deviation from any restriction contained herein or that the variance proposal allows the objectives of the violated requirement(s) to be substantially achieved despite noncompliance; (ii) that the variance relates to a requirement land use restriction or minimum construction standard otherwise applicable hereunder or promulgated in the Architectural Rules that is unnecessary or unduly burdensome under the circumstances; and (iii) that the variance, if granted, will not result in a material detriment, or create an unreasonable nuisance with respect, to any other Lot or Common Area within the Subdivision.

**Section 5.10** *Estoppel Certificate.* Within thirty (30) days after written demand is delivered to the Architectural Review Committee by any Owner, and upon payment to the Association of a reasonable fee (as established from time to time by the Board), the Board shall Record an estoppel certificate, executed by any two (2) of its members, certifying (with respect to any Lot owned by the applicant Owner) that as of the date thereof, either: (a) all Improvements made and other work completed by said Owner and any other structural components of the Owner's Lot comply with this Declaration; or (b) that the Lot does not so comply, in which event the certificate shall also identify the noncomplying structural components or Improvements and set forth with particularity the basis of such noncompliance. Any purchaser from the Owner, or from anyone deriving any interest in said Lot through the Owner, shall be entitled to rely on the

Association's estoppel certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, all Owners and any persons deriving any interest through them.

**Section 5.11** *Limitation on Liability.* Neither the Association, the Board, the Architectural Review Committee, nor any member thereof shall be liable to any Owner or any other person for any damage, loss or prejudice suffered or claimed on account of any mistakes in judgment, negligence or nonfeasance arising out of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any Improvement Subdivision, whether or not pursuant to approved plans, drawings specifications; (c) the development of any Lot or Common Area within the Subdivision; (d) issuance of an estoppel certificate pursuant to Section 5.10, above, whether or not the facts therein are correct.

**Section 5.12** *Compliance with Governmental Regulations.* All Improvements must comply with all applicable law, statutes, ordinances, codes, and requirements of all applicable regulatory authorities, and compliance is the responsibility and obligation of each Owner of a Lot. Review and approval by the Board or its Committee of any proposals, plans or other submittals pertaining to Improvements shall in no way be deemed to constitute satisfaction of, or compliance with, any building permit process or any other governmental requirements, the responsibility for which shall lie solely with the Owner who desires to construct, install, or modify the Improvement.

## **Article VI. ASSOCIATION AND OWNER MAINTENANCE RESPONSIBILITIES**

**Section 6.1** *Common Area/Common Facilities.* Except as otherwise set forth in this Declaration for damages caused by Owners, the Association shall be solely responsible for all maintenance, repair, upkeep and replacement of all portions of the Common Area and Common Facilities. No person other than the Association or its duly authorized agents shall construct, reconstruct, or alter any Improvement upon, or shall create any excavation or fill or change the natural or existing drainage of any portion of the Common Area without express approval of the Association. In addition, no person shall plant, install, trim, or remove any landscaping, tree, shrub or other vegetation from, or plant any landscaping, tree, shrub, or other vegetation upon the Common Areas without express approval of the Association.

**Section 6.2** *Exterior Maintenance.* Except as set forth in Section 6.3 of the Declaration or for damages caused by Owners, the Association shall provide for the exterior maintenance, repair and replacement within the Subdivision, including the Common Area and Common Facilities. On a Lot, the Association shall have limited maintenance, repair and replacement obligations to include only the exterior siding and roofs of Residences on Lot as well as the fences, Parking Area in front of each Lot, exterior siding and roof of outside storage units located at the end of the Residence, and front doorsteps and the entryway in front of the door. As set forth in Section 6.3 below, the Association's responsibility for exterior repair, maintenance and replacement **shall not include** any other aspects of a Lot or Residence, including, without limitation, any glass surfaces, screens, doors (to include front door, screen doors, exterior doors and storm doors), windows, window screens, window fixtures, glass doors, glass sliders, interior pipes running to exterior faucets, hose bibs, the exterior faucets, Decks (including the deck and any supporting structures), exterior light fixtures, and any utilities located on a Lot but subject to the

specific rules below (i.e., any plumbing, electrical, heating, gas lines and conduit servicing the Lot which starts at just outside the boundaries of the Lot). The Association is also not responsible for frozen or burst water pipes, fire place and all of its components, television, phone, internet wires and cables located on a Lot or in a Residence. The Association shall have the exclusive right and responsibility to landscape, maintain and repair the landscaping on each Lot in the Subdivision except that the landscaping on any Exclusive Use Common Area over which an exclusive easement has been granted to any Lot, shall be the responsibility of the Owner of said Lot but subject to the regulation and control of the Association as to design. The Association will be responsible for the areas associated with the following utilities **only** as specifically allocated to the Association as set forth below with the Owner responsible for the remainder on that Owner's Lot. To the extent a utility or other facility, or portion thereof, is not described below and serves an Owner's Lot, then as between the Association and the Owner, the Owner shall be responsible for utility.

(a) WATER - The water company (not the Association), is responsible for the water lines from the mains/laterals to each unit valve at the asphalt edge in front, usually at the common wall line. The Association will be responsible for the water line from the valve listed above to the Residences' exterior side of the foundation line (Lot). Owner is responsible for the connection after the exterior of the Lot to and within the Residence.

(b) ELECTRICAL - The electric company (not the Association), is responsible for each Residence's main Breaker. The Association is responsible for the Breaker and wires ( power ) to Residence's exterior side of Lot. Owner is responsible for the connection after the exterior of the Lot to and within the Residence.

(c) NATURAL GAS - The gas company is responsible to the meter and the meter itself. The Association is responsible from the meter to the exterior of the Lot. Owner is responsible for the connection after the exterior of the Lot to and within the Residence

(d) WASTE LINES - The waste company is responsible from the end of the lateral to the mains. The Association is responsible for the testing, maintenance, and repair of the waste (sewer) line from (i) the edge of the Lot, (ii) to the parallel lateral, and (iii) to the building end. Owner is responsible for the connection after the exterior of the Lot to and within the Residence.

(e) CABLE - The cable company is responsible for cable to exterior end of building utility box and extending to each individual unit in compliance with Architectural Standards. Owner is responsible for the connection after the exterior of the Lot to and within the Residence.

(f) PHONE - The phone company is responsible for the cable to exterior end of the building utility box and extending to each individual unit in compliance with Architectural Standards. Owner is responsible for the connection after the exterior of the Lot to and within the Residence.

**Section 6.3** *Owner Maintenance.* Except for those portions which the Association is expressly required to maintain hereunder, each Owner shall, at his sole cost and expense, maintain, repair and replace that Owner's Lot and Residence, including any Exclusive Use Common Area not otherwise specifically allocated to the Association under Section 6.2 above, keeping the same in



good condition and making all repairs as required. With the prior written consent of the Association, any Owner may perform for his Residence at his sole cost, any service that might otherwise be provided by the Association hereunder.

(a) The Owner shall be responsible for all repair, replacement and maintenance related to the Residence (other than roof and exterior siding), including any Owner-installed or Owner-modified features. Owner-installed or Owner-modified features are those which differ from the original construction (whether specifically set forth in a Recorded Improvement Agreement or not).

(b) The Owner is responsible for the maintenance, repair and replacement of all doors and door hardware. The Association may as a courtesy, paint the exterior doors during its regularly contracted painting schedule.

(c) The Owner is responsible for the maintenance, repair and replacement of all windows to include screens, screen and storm doors, door locks and hardware, any air conditioning units, window fixtures, glass doors, glass sliders, shutters, window boxes, Exclusive Use Common Area (other than as allocated to Association under Section 6.2), interior pipes running to faucets and hose bibs, the exterior faucets, Decks (and all supporting structures), interior plumbing, electrical, including exterior light fixtures, heating, fire place and all components, TV, phone, internet wires and cables and gas lines. Interior of outside storage units attached to the building and conduit servicing the Lot.

(d) The Owner is responsible to repair, replace and maintain all Decks (and supporting structures), as well as the structure that is parallel to the unit that connects the fence and the gate, and exterior structures according to Association standards.

(e) The Owner is responsible for the areas associated with the following utilities:

(i) WATER - The Owner is responsible for the water line within the Lot and throughout the interior of the Residence.

(ii) ELECTRICAL - The Owner is responsible for the wires to the Residence's interior sub-panel breakers and all Residence wiring.

(iii) NATURAL GAS - The Owner is responsible within the Lot.

(iv) WASTE LINES - The Owner is responsible for the waste lines within the Lot perimeter.

(v) CABLE - The Owner is responsible for the cable within the Lot perimeter.

(vi) PHONE - The Owner is responsible for the cable within the Lot perimeter.

(f) The Owner is responsible for everything under the Residence within the Lot perimeter. The Owner is also responsible for everything installed upon the Residence by the Owner as set forth in the Improvement Agreement.

(g) The Owner is responsible for the building of any additional storage unit attached to the archway at the front of the Residence, which must be done in accordance with the

Architectural Rules. This must be built according to the standards provided by the Architectural Committee and the Board.

**Section 6.4** *Party Wall.* Each wall which is built as a part of the original construction of the Residences in the Development and placed on the dividing line between the Lots shall constitute a party wall. To the extent not inconsistent with the provisions of the Section, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Notwithstanding any other provision of this Section, an Owner who by his negligent or willful act causes the party wall to be exposed to the element shall bear the whole cost of furnishing the necessary protection against such elements. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title. The cost of reasonable repair and maintenance of such a party wall shall be shared by the Owners who make use of the wall in proportion to such use. If a party wall is destroyed or damaged by fire or other casualty, any Owner who uses the party wall may restore it, and the other Owners who use it shall contribute to the cost of restoration in proportion to their use. However, the Owner who restores the wall and any other Owners may enforce a larger contribution from any Owner whose negligence or willful acts or omissions damaged the party wall. This allocation of financial responsibility is applicable whether there is insurance coverage or not. To the extent that the respective Owners are responsible for the insurance deductible, the financial responsibility for the payment of the deductible shall be allocated between the respective Owners pursuant to this section. Notwithstanding any other provision of this Declaration, an Owner who by his negligent or willful acts causes such party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements. Reciprocal easements are hereby established over, under, across and through each and all of the Lots and the Residences for the control, maintenance and repair of the utilities furnished to adjoining Lots and Residences so as to insure the use of such utilities by the respective Owners. The Owners of the respective Residences agree that if any portion of a Residence encroaches upon another Residence or Lot, a valid easement for the encroachment and for maintenance of same so long as it stands, shall and does exist. For example, if a fence has been improperly located on a boundary, an easement for encroachment shall exist. The term "party wall" as used in this Section shall also include fences, to the extent that any fence be placed on the boundary line between Lots. Notwithstanding any other provision of this Article, there shall be no right of contribution or indemnity as among Owners for costs or repair or restoration of party walls to the extent that such costs are covered by insurance, unless such insurance would be avoided by such waiver of rights of contribution and indemnity. In the event of any dispute arising concerning a party wall, or under the provisions of this Section, such dispute shall be submitted in writing to the Board of Directors of the Association. or in the event of an Architectural Committee for review by an independent arbitrator.

**Section 6.5** *Association Recovery of Costs of Certain Repairs and Maintenance.*

(a) Association Maintenance Necessitated by Owner Negligence. If the need for maintenance or repair, which would otherwise be the Association's responsibility hereunder is caused through the willful or negligent acts of an Owner, his or her Family, guests, tenants, or invitees, and is not covered or paid for by Association insurance policies or any liability insurance maintained by the responsible Owner, the cost of such maintenance or repairs shall be

subject to recovery by the Association through the imposition of a Special Individual Assessment against the offending Owner.

(b) Owner Defaults in Maintenance Responsibilities. If an Owner fails to perform maintenance functions for which he or she is responsible, the Association may give written notice to the offending Owner with a request to correct the failure within fifteen (15) days after receipt thereof. If the Owner refuses or fails to perform any necessary repair or maintenance, the Association may exercise its rights under the Declaration, to enter the Owner's Lot to perform the repair or maintenance so long as the Owner has been given notice and the opportunity for a hearing in accordance with Section 13.6, below.

**Section 6.6** *Cooperative Maintenance Obligations.* To the extent necessary or desirable to accomplish the Association's maintenance obligations hereunder, individual Owners shall cooperate with the Association and its agents and maintenance personnel in the prosecution of its work, including, when reasonably required, permitting access by the Association, its agents and contractors, to the Owner's Lot to perform repair and maintenance work for which the Association is responsible hereunder.

**Section 6.7** *Wood Destroying Pests.* Notwithstanding any maintenance or repair obligation of the Association pursuant to this section, each Owner shall be responsible for maintenance, repair, eradication, treatment and/or temporary relocation necessitated by the presence of wood destroying pests or organisms on his or her Lot and Residence. Each Lot Owner shall be responsible for maintaining his or her Lot and Residence in a condition to avoid and deter the presence of wood destroying pests or organisms, including but not limited to, maintaining proper separation between earth and wood members. Each Lot Owner shall make routine annual inspections of his or her Lot and improvements thereon to identify and prevent conditions which may cause or promote the presence of wood destroying pests or organisms. In the event of infestation, each Lot Owner shall be responsible for repairing, eradicating and/or treating the infestation occurring on his or her Lot and any improvements thereon and for any costs or expenses of temporary relocation necessitated by such repair, eradication or treatment. The Association shall be responsible only for the repair and maintenance of the Common Area which may occasionally have the presence of wood destroying pests or organisms.

**Section 6.8** *Annual Inspection.* Notwithstanding the requirements of section 6.7, the Association may cause a visual inspection to be made of the Common Area and exterior portions of the Lots and Residence that the Association is required to maintain by an independent pest control company every year for the purpose of identifying the presence of wood destroying pests and organisms. If evidence of the same is apparent upon any Lot or Residence, the Association shall notify the Owner thereof of the existence of said condition and shall request the Owner to treat, eradicate or repair the condition. If the Owner fails to treat, eradicate or repair the condition, the Association shall in its discretion, perform the necessary treatment, eradication or repair, and the cost thereof shall be added to and become part of the assessment to which such Lot is subject after the written notice of said action and an opportunity to be heard is afforded to such Owner. The cost of any such repairs, eradication or treatment undertaken by the Association which affects more than one Lot or Residence shall be apportioned among the affected Lots or Residences on a pro rata basis, as determined by the Association.

## Article VII. USE OF PROPERTY AND RESTRICTIONS

In addition to such restrictions as may be established by law or made a part of the Association Rules (consistent with this Declaration) from time to time promulgated by the Board of Directors, the following restrictions are hereby imposed upon the use and enjoyment of the Subdivision (including, without limitation, the individual Lots):

**Section 7.1** *Single Family Residential Use.* The use of any Lot and Residence within the Subdivision is hereby restricted to Single Family Residential Use.

**Section 7.2** *Compliance with Law.* No Lot shall be used for any purpose which is in violation of any applicable Law, including all federal, state, Placer County, Tahoe Regional Planning Agency, or other governmental entity, statute, ordinance, code, rule, regulation nor order, including, but not limited to, all zoning and land use rules and regulations adopted by said governmental entities.

**Section 7.3** *Common Areas.* The Common Areas shall be preserved for the benefit of Members and other purposes incidental and ancillary to the use of Lots as determined by the Board. Such use shall be limited to the private use by Members, their tenants, families and guests for aesthetic and recreational purposes, subject to the provisions of the Governing Documents. No Improvement, excavation or work which in any way alters any Common Area or Common Facility from its natural or existing state on the date such Improvement, excavation or work shall be made or done except as approved by the Board.

**Section 7.4** *Architectural Review.* No construction or alteration of Improvements may be undertaken on a Residence without prior approval of the Architectural Committee. Additional utility or telecommunication lines shall not be installed without the prior consent of the Board.

**Section 7.5** *Prohibition of Noxious Activities.*

(a) No noxious or offensive activities shall be carried on within or conducted upon any portion of the Subdivision nor shall any things be done within any Lot that shall be or become an unreasonable annoyance or nuisance to the Subdivision or any Lot therein.

(b) Without limiting any of the foregoing, no Owner shall permit noise of any sort (including, but not limited to, barking dogs, the operation of air conditioners, stereo amplifier systems, television sets, motor vehicles and power tools) to emanate from an Owner's Lot or any portion of the Common Area which would unreasonably disturb other Owner's enjoyment of his/her Lot or the Common Area. Excessive noise levels may be determined in the sole discretion of the Board which may, but shall not be obligated to, rely on applicable governmental regulation dealing with such matters.

(c) No outside storage of building materials or construction equipment (except for a reasonable time during approved construction on site), unsightly debris or motor vehicles, other than residents' operating personal vehicles, shall be allowed on any lot. The Board shall have the right to impose more restrictive rules regarding storage on lots.

**Section 7.6** *Household Pets.* The following restrictions regarding the care and maintenance of pets or animals within the Subdivision shall be observed by all Owners, residents, tenants, guests and invitees:

(a) Only two household pets are allowed. Dogs or cats or other generally recognized house pets may be so maintained. Owners may keep dogs, cats or other household pets on a Lot in compliance with applicable law. However, no pets or other animals may be raised, bred or maintained for commercial purposes. No horses, livestock, or poultry of any kind shall be kept, bred or raised in any Lot.

(b) Notwithstanding subsection (a) above, no animals may be kept on any Lot or the Subdivision which result in an unreasonable annoyance or nuisance to other Owners.

(c) Subject to restrictions in the Rules, household pets may only be allowed on the Common Area when they are either (i) on leash and under the supervision and restraint of their handlers, or (ii) off leash provided that the handler must at all times be in the immediate vicinity of the dog(s), have the dog(s) in direct line of sight, and have the dog(s) under verbal or visual control of the handler at all times. The Association also has the right to require any Owner or other person to keep his or her dogs on leash at all times in the Common Area in the Association Rules.

(d) No household pet shall be left chained or otherwise tethered within the Common Area. Pet owners shall be responsible for the prompt removal and disposal of pet wastes deposited by their pets in the Subdivision.

(e) Each person bringing or keeping a pet on the Subdivision shall be solely responsible and liable for the conduct of that pet. The Association, its Board, officers, employees and agents shall have no liability (whether by virtue of this Declaration or otherwise) to any Owners, their family members, guests, invitees, tenants and contract purchasers for any damage or injury to persons or Subdivision caused by any pet.

(f) The Board may, in its sole discretion, prohibit keeping any animal within the Subdivision or Lot that constitutes a nuisance (whether due to its size, viciousness, unreasonable noise or otherwise) with respect to any other Owner(s).

(g) The Board of Directors shall have the right to establish and enforce additional Association Rules and impose standards for the reasonable control and keeping of household pets in, upon and around the Subdivision.

**Section 7.7** *Signs.* Advertising signs or billboards shall be displayed on the exterior of any Lot or posted within or upon any portion of the Common Area except that Owners may post on their Lot notices required by legal proceedings and a single "For Rent," "For Lease" or "For Sale" or "Vacation Rental" sign of reasonable dimensions subject to the Rules and Regulations adopted by the Board. Any other types of signs shall only be allowed in strict compliance with Davis-Stirling, such as under Civil Code section 4710 for noncommercial signs.

**Section 7.8** *Business Activities.* No business or commercial activities of any kind whatsoever shall be conducted in any Lot without the prior written approval of the Board; provided,

however, the foregoing restriction shall not apply to the activities, signs or activities of the Association in the discharge of its responsibilities under the Governing Documents. No mining, quarrying, oil drilling or any similar excavation, exploration or drilling activity shall be permitted upon any Lot. Furthermore, no restrictions contained herein shall be construed in such a manner so as to prohibit any Owner from: (a) maintaining his or her personal library in his or her Lot; (b) keeping his or her personal business records or accounts therein; (c) handling his or her personal or professional telephone calls or correspondence therefrom; (d) leasing or renting his or her Lot in accordance with the Governing Documents and applicable Laws; or (e) conducting any other activities on the Owner's Lot otherwise compatible with residential use and the provisions of this Declaration which are permitted under applicable zoning laws or regulations without the necessity of first obtaining a special use permit or specific governmental authorization so long as any such activity does not involve exterior signage or create customer or employee or independent-contractor traffic within the Subdivision. The uses described in (a) through (e), above, are expressly declared to be customarily incidental to the principal residential use of the Lot and not in violation of this section 7.8.

**Section 7.9** *Garbage.* No rubbish, trash, or garbage shall be allowed to accumulate within any Lots or the Common Area. Any trash accumulated by an Owner shall be stored entirely within appropriate covered disposal containers and storage boxes approved by the Architectural Review Committee and disposed of at least once each week. Garbage containers shall be secured and within appropriate structures so they cannot be opened or displaced by bears, dogs or other animals and in accordance with the Association Rules. The Association may maintain pay for communal dumpsters and may impose Rules on the use of Association-owned garbage facilities by Owners. Any extraordinary accumulation of rubbish, trash, garbage or debris (such as debris generated upon vacating of premises or during the construction of modifications and Improvements) shall be removed to a public dump or trash collection area by the Owner or tenant at his or her expense. The Association shall be entitled to impose reasonable fines and penalties for garbage and refuse that is disposed of in a manner inconsistent with this section.

**Section 7.10** *Wood and Storage Piles.* Storage piles of building materials are only allowed during active construction only and shall be reasonably screened and concealed from the view of other Lots and streets. Fireplace, woodstove and fire pit wood piles shall be neatly stacked and cut to fireplace length and placed in the area designated by the Board in the Association Rules. Piles are not allowed on vacant Lots except during active construction, and reasonable efforts shall be taken to maintain the Lot and all piles during active construction in a reasonably orderly and workmanlike manner in accordance with the Architectural Rules.

**Section 7.11** *Clotheslines/Appliances.* The Association may adopt reasonable Rules respecting clothesline and/or drying rack in the backyard of a Lot under Civil Code section 4753, if applicable. No clothes washers, clothes dryers, refrigerators, freezers, or other large appliances may be kept, stored, or operated on any exterior area on a Lot.

**Section 7.12** *Antennas and Similar Devices.* No Owner shall construct, install and/or operate a radio and/or television antenna or satellite dish except for television or Internet signal reception, or other signal reception or transmission device or related equipment without the consent of the Board, which the Board shall have the discretion to deny or withhold, subject to applicable Laws. As allowed by applicable Laws, the Board may enforce reasonable painting or other camouflage

requirements, provided such requirements do not impair reception or place an unreasonable financial burden on the Owner. The Board shall, in acting upon requests for approval of a satellite dish or other signal reception or transmission devices that are 36 inches or less in diameter comply with California Civil Code section 4725 and Federal Communications Commission regulations. The Board may adopt other Rules for installation and operation of any satellite dish or other signal reception or transmission devices that comply with California Civil Code section 4725 and the FCC Regulations. Members shall be responsible for the repair, replacement or maintenance associated with any antenna or dish. The Board has the authority to require that any contractor installing any antenna or satellite dish provide appropriate proof of liability and workers' compensation insurance prior to commencing work, and require that such contractor agree in writing to indemnify and defend the Association from any claims arising out of or in connection with his work.

**Section 7.13 *Machinery and Equipment.*** No power tools, machinery, or any other equipment of any kind shall be placed, operated or maintained within or adjacent to any Lot except such machinery or equipment as is usual or customary in connection with the use, maintenance or repair of a Single Family Residence on a Lot.

**Section 7.14 *Diseases and Pests.*** No Owner shall permit anything or condition to exist within his or her Lot which shall induce, breed, or harbor infectious plant diseases, rodents or noxious insects.

**Section 7.15 *Equipment.*** No power tools, machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual or customary in connection with the use, maintenance or repair of a private Residence or appurtenant structures within the Properties.

**Section 7.16 *Parking and Vehicle Restrictions.***

(a) Parking is restricted in the Common Area to those spaces designated on plans for the Subdivision. Inoperable or unused vehicles, commercial vehicles belonging to owners and/or residents, and vehicles displaying "for sale" signs may not be parked or stored on the Common Area.

(b) The Board shall have the authority to adopt and promulgate such Rules regarding parking, storage and operation within the Subdivision of vehicles, motorcycles, bicycles, motor vehicles, and anything other personal property, including but not limited to recreational-use vehicles or items (e.g., travel trailers, campers, pop ups, cab-over campers, commercial vehicles, boats, boat trailers, snowmobiles, snowmobile trailers, hauling trailers, water craft, jet skis, waver runners, off-road vehicles, four wheelers, dirt bikes, dirt bike trailers, and other similar items), as may be deemed prudent and appropriate. Such Rules may limit the number of vehicles or recreational vehicle/items that may be parked, including seasonal restrictions or total prohibitions, and the Rules may dictate the location for parking or storage of such vehicles or items for aesthetic considerations.

**Section 7.17 *Activities Affecting Insurance.*** Nothing shall be done or kept within any Lot which will increase the rate of insurance relating thereto without the prior written consent of the

Association and no Owner shall permit anything to be done or kept within his or her Lot or the Common Area which would cause any Improvements to be uninsurable against loss by fire or casualty or result in the cancellation of insurance on any Lot or any part of the Common Area.

**Section 7.18 *Drainage.*** No Owner shall do any act or construct any Improvements which would interfere with the natural or established drainage system or patterns within the Subdivision without the approval of the Board.

**Section 7.19 *Liability of Owners for Damage to Common Area.*** The Owner of each Lot shall be liable to the Association for all damages to the Common Area and/or Improvements thereon caused by such Owner, or any occupant of his Lot or guest, except for that portion of said damage, if any, fully covered by insurance of the Association. Liability of an Owner shall be established only after notice to the Owner and a hearing before the Board.

**Section 7.20 *Fires.*** There shall be no exterior fires whatsoever except in compliance with applicable Laws and the Association Rules. By way of example, and not limitation, charcoal briquette barbeque fires or fire pits of any type are not permitted on balconies or Decks under Applicable Laws because they are a fire hazard. If allowed by Applicable Laws, the Association Rules may permit gas barbeques or other similar equipment in the Association Rules. The Association may also in its discretion further prohibit any and all other exterior fires or any other exterior fire-related equipment (i.e., barbeque) by Association Rule even if permitted by Applicable Laws.

**Section 7.21 *United States Flags.*** Except as required for the protection of public health or safety, Members shall have the right to reasonably display the flag of the United States in the Member's Lot or Exclusive Use Common Area to the extent set forth in Civil Code section 4705. "Display of the flag of the United States" means a flag of the United States made of fabric, cloth, or paper displayed from a staff or pole or in a window, and does not mean a depiction or emblem of the flag of the United States made of lights, paint, roofing, siding, paving materials, flora, or balloons, or any other similar building, landscaping, or decorative component.

**Section 7.22 *Mailboxes.*** There shall be no exterior newspaper tubes or freestanding mailboxes.

**Section 7.23 *Decks and Patios.*** All Decks and patios must remain free of clutter and not be used for storage except for uses reasonably incident to a Deck or patio and approved by the Architectural Committee. No portable or built in hot tubs, saunas or fire pits of any type allowed on the Deck.

**Section 7.24 *Mineral Exploration.*** No Lot shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance or other mineral of any kind.

**Section 7.25 *Fences.*** No fences, hedges, or walls shall be erected or maintained on any Lot, unless approved by the Architectural Committee.

**Section 7.26 *Mining.*** No property within the Development shall be used in any manner to explore for or to remove any water, oil or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance of any kind.



**Section 7.27 *Temporary Structures as Residences.*** No structure of a temporary character, trailer, basement, tent, shack, garage, barn, or other out building shall be used on any lot at any time as a residence, either temporarily or permanently.

**Section 7.28 *Water Supply and Sewage Disposal Systems.*** No individual water supply or sewage disposal system shall be permitted on any Lot.

**Section 7.29 *Sight Distance at Intersections.*** No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between 2 feet and 6 feet above the roadways shall be permitted to remain on any corner lot within the triangular area formed by the street property lines and the line connecting them at points 30 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of the street property lines extended. The same sight-line limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines.

**Section 7.30 *Athletic Equipment.*** No basketball standard or fixed or portable sports apparatus of any kind shall be used, attached to any Residence, or erected on any Lot or within the Common Area. The Board may regulate or prohibit by Rule skateboarding, roller-skating, or in-line skating on the Common Area.

**Section 7.31 *Drones.*** The Board may regulate or prohibit by Rule the use of drones or similar equipment within the Subdivision or on or over the Common Area.

**Section 7.32 *Exterior Security Systems.*** The Association may adopt Rules to allow only certain types, uses and installations of any and all external security systems that have been approved by the Board and the Architectural Committee.

**Section 7.33 *First Amendment – Communication and Assembly Rights.*** The Board may regulate by Rule any gathering or communications with respect to common interest development living or for social, political or educational purposes. Any such Rules shall comply with Civil Code section 4515, which provides for certain rights to Members and certain limitations on the Association's authority to prohibit or regulate certain activities by Members or residents.

**Section 7.34 *Electric Vehicle Charging Station/EV-Dedicated TOU Meter.*** The Association may not prohibit or unreasonably restricts the installation or use of an electric vehicle charging station or EV-dedicated TOU meter within a Lot or in a designated parking space. The Association may adopt reasonable Rules concerning electric vehicle charging stations that complies with Civil Code section 4745 and section 4745.1.

**Section 7.35 *Solar System.*** Any request to install a solar energy system on any roof of any Residence shall comply in all respects with Civil Code section 4746, applicable Laws and provisions of the Architectural Rules pertaining to Improvements, including recordation of an Improvement Agreement. Without limitation, the Member installing the solar energy system shall be responsible for costs for damage to the common area, exclusive use common area, or separate interests resulting from the installation, maintenance, repair, removal, or replacement of the solar energy system, costs for the maintenance, repair, and replacement of solar energy

system until it has been removed and for the restoration of the common area, exclusive use common area, or separate interests after removal, and disclosing to prospective buyers the existence of any solar energy system of the owner and the related responsibilities of the owner under this section.

**Section 7.36** *ADU/JADU*. The Board may adopt Rules concerning ADUs and JADUs, and may prohibit them entirely, so long as all Rules are in compliance with Civil Code section 4751 and applicable Laws.

**Section 7.37** *Variances*. Upon application by any Owner, the Board of Directors shall be authorized and empowered to grant reasonable variances from the use restrictions set forth in this Article, if specific application of the restriction will, in the sole discretion of the Board, either cause an undue hardship to the affected Owner, or fail to further or preserve the common plan and scheme of development contemplated by this Declaration. In considering and acting upon any request for a variance, the Board shall follow the procedures set forth in Article V, above, for the granting of architectural variances.

## **Article VIII. EASEMENTS**

**Section 8.1** *Utility Easements Granted by Association*. The Association shall have the power to grant and convey to any third-party easements and rights-of-way in, on, over or under the Common Area for the purpose of constructing, erecting, operating or maintaining lines, cables, wires, conduits, or other devices for utilities, electricity, cable television, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkler systems, water, heating and gas lines or pipes, and any similar public or quasi-public Improvements or facilities. Each Owner, in accepting a deed to a Lot, expressly consents to such easements and rights of way and authorizes and appoints the Association as attorney-in-fact of such Owner to execute any and all instruments conveying or creating such easements or rights-of-way.

**Section 8.2** *Maintenance Easements*. An easement is hereby granted to the Association, their officers, agents, employees, and to any contractor selected by the Association to enter in or to cross over the Common Area and any Lot to perform the Association's duties of replacement, maintenance and repair provided for herein.

**Section 8.3** *Encroachment Easement*. Each Lot and its Owner shall have and is granted an easement over all adjoining Lots and the Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of structures, or any other cause as long as the encroachment remains. However, in no event shall a valid easement for encroachment exist in favor of an Owner if the encroachment occurred due to willful misconduct of the Owner. In the event a Residence is partially or totally destroyed, and then repaired or rebuilt, the Owner of each Lot agrees that minor encroachments over adjoining Lots and the Common Area shall be permitted and there shall be valid easements for the maintenance of the encroachments as long as they shall exist. Each Lot and its Owner shall have and is granted an easement, appurtenant to such Lot over each adjoining Lot or the Common Area, as the case may be, for overhanging roofs and eaves, fireplace structures, and other structural components as originally constructed by the Declarant or, if partially or totally

destroyed, as subsequently rebuilt or repaired in accordance with the original plans and specifications.

**Section 8.4** *Blanket Utility Easement.* There is hereby created a blanket easement upon, across, over and under all the Lot and the Subdivision for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones, drainage and electricity and the master television antenna or cable television system. By virtue of this easement it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment and underground facilities on the Common Area. Notwithstanding the foregoing, no sewer, electrical lines, water lines, or other utilities may be installed or relocated except as initially designed or thereafter approved by the Board of Directors. The easements provided for herein shall in no way affect any other recorded easement on the property.

**Section 8.5** *Other Easements.* Each Lot, its Owner and the Association, as the case may be, is hereby declared to be subject to all the easements, dedications and rights-of-way granted or reserved in, on, over and under the Subdivision and each Lot as shown on the Map, including, without limitation, those for drainage facilities and utilities. Within these easements that are on a Lot, no structure planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction of flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement area of each Lot and all Improvements related thereto shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible. The corresponding appurtenant easements described in the Declaration and Map shall automatically accompany the conveyance of any Lot, even though the description of the instrument of conveyance may refer only to the fee title to the Lot.

**Section 8.6** *Boundary Change.* An easement shall exist for use and maintenance as Common Area over any portion of a Lot which, because of a change in the boundary of a private structure, including a fence, wall, rear deck, paver, or dirt area at the time of original construction lies between that boundary and a Lot line abutting the Common Area.

**Section 8.7** *Common Wall or Party Wall Easements.* Each Residence that shares a Common Wall or Party Wall with an adjoining Residence and its Owner is declared to have an easement appurtenant on, over, and upon such adjoining Residence for such Common Wall or Party Wall, including the right to enter upon such adjoining Lot to service and maintain such easement and service, maintain, repair or replace the improvements constituting such Common Wall or Party Wall. Such entry shall be at reasonable times after prior notice, except that in case of emergency the right of entry shall be immediate. Except for any maintenance obligation or duty of the Association, each Lot and its Owner shall be responsible for the Common Wall or Party Wall which is located upon his or her Lot. No Owner shall alter the shape, size, or construction of, or use any materials different from those used in the initial construction of, any such Common Wall or Party Wall without the consent of the Association.

**Section 8.8** *Appurtenant Easements.* The corresponding appurtenant easements described herein shall automatically accompany the conveyance of any Lot, even though the description of

the instrument of conveyance may refer only to the fee title to the Lot. These appurtenant easements may not be conveyed separately from or severed from title to the Lot.

**Section 8.9** *Priority of Easements.* Wherever easements granted to the County are, in whole or in part, coterminous with any other easements, the easements of the County shall have and are hereby granted priority over said other easements in all respects.

#### **Article IX. INSURANCE**

**Section 9.1** *Insurance.* In addition to other insurance required to be maintained by the Subdivision Documents, the Association, through its Board, shall obtain from generally accepted insurance carriers, and maintain in effect at all times, the following insurance at common expense:

(a) Liability Insurance. To the extent such insurance is reasonably obtainable, the Association shall obtain and maintain comprehensive public liability insurance insuring the Association and each Owner against any liability incident to the ownership, use or maintenance of the Common Area, and other maintenance obligations, including if obtainable a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than \$5,000,000.00 (Five Million Dollars) covering all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance may include protection against water damage liability, liability for non-owned and hired automobiles, liability for property of others, and such other risks as a customarily covered with respect to Subdivisions similar in construction, location and use. Such policy may provide for a reasonable deductible.

(b) Fire, Casualty and Extended Coverage Insurance. The Association shall also obtain and maintain a policy of fire, casualty and extended coverage insurance of all Common Area and Common Facility improvements within the Subdivision that is reasonable under the circumstances. The Board, in its discretion, may obtain a policy of less than full replacement cost coverage if the Board, in its business judgment, determines that the premium for a full replacement cost coverage is too expensive and it is more appropriate for the Association to obtain a different level of coverage. Such decisions shall be communicated to the Owners and a Majority of the Voting Power of the Association may override the Board's decision to obtain a different insurance policy. The Board shall have no liability to the Members arising from alleged failure to obtain appropriate insurance so long as the Board exercises its business judgment and the directors shall be entitled to indemnity from the Association under Section 14.9 of the Bylaws and applicable law. Such Policy may provide for a reasonable deductible. The form, content, term of policy, its endorsements and the issuing company shall be consistent with good sound insurance coverage for properties similar in construction, location and use in the business judgment of the Board. The policy shall name as insured the Association for the benefit of the Owners, and all Mortgagees as their respective interests shall appear, and may contain a loss payable endorsement in favor of any trustee described below. This shall be redetermined on an annual basis.

(c) Intentionally Deleted.

(d) Other Insurance. The Board shall purchase and maintain worker's compensation insurance, to the extent that it is required by law, for all employees or uninsured contractors of the Association. The Board also shall purchase and maintain fidelity bonds or insurance which shall be in an amount for its directors, officers, and employees in an amount that is equal to or more than the combined amount of the reserves of the association and total assessments for three months. The association's fidelity bond shall also include computer fraud and funds transfer fraud. The Board shall also purchase and maintain insurance on personal property owned by the Association, and any other insurance that it deems necessary, that is required by any First Mortgagee or that is customarily obtained for Subdivision similar in construction, location and use, shall maintain fidelity bond coverage. If the association uses a managing agent or management company, the Association's fidelity bond coverage shall additionally include dishonest acts by that person or entity and its employees.

(e) Adjustment of Losses. The Board is appointed attorney-in-fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried hereunder. The Board is granted full right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

(f) Officer and Director Insurance. The Association shall purchase and maintain insurance in the minimum amount of \$1,000,000 of behalf of any Director, Officer, or member of a committee of the Association (collectively called "agents") against any liability asserted against or incurred by the agent in such capacity or arising out of the agents status as such, whether or not the Association would have the power to indemnify the agents against such liability under applicable law. This minimum liability limit shall be adjusted as necessary to maintain the civil liability protection for members of the Board of Directors and officers of the Association as established by California Civil Code §5800.

(g) Fidelity Bond Coverage. The Association shall, at a minimum, maintain fidelity bond coverage in accordance with California Civil Code §5806, and as otherwise required by law.

(h) Waiver of Subrogation. All insurance carried by the Association, or the Owners, shall contain provisions whereby the insurer waives rights of subrogation as to the Association, Directors, Officers, Declarant, Owners, occupants of Lots, their family, guests, agents and employees.

(i) Notice of Cancellation. All insurance carried by the Association shall require the insurer to notify any First Mortgagee requesting such notice at least 15 days prior to the effective date of any reduction or cancellation of the policy.

(j) Annual Review of Policies. All insurance policies shall be reviewed at least annually by the Board to ascertain whether the coverage contained in the policies is adequate. In the event any insurance policy, or any endorsement is for any reason not available, then the Association shall obtain such other or substitute policy or endorsement as may be available which provides, as nearly as possible, the coverage described above if available under commercially reasonable terms. In the event any insurance policy, or any endorsement thereof is for any reason not available, then the Association shall obtain such other or substitute policy or

endorsement as may be available that provides, as nearly as possible at a reasonable cost, the coverage herein described.

(k) Payment of Premiums. Premiums on insurance maintained by the Association shall be a Common Expense funded by Assessments levied by the Association.

(l) Individual Fire Insurance and other insurance. Each Owner shall obtain and maintain, at Owner's sole expense, fire and casualty coverage insuring all Improvements on the Lot or as otherwise may be required by the Owner's individual Mortgagee, or if no Mortgagee encumbers a Lot, fire and casualty coverage as may be determined by the Board, with respect to damage or destruction to improvements on the Owner's Lot. All such individually carried insurance shall also contain a waiver of subrogation rights by the carrier as to other Owners, the Association, Declarant, and First Mortgagee of such Lot. Each Owner shall also obtain an Owner's insurance policy to insure for liability, contents and replacement cost coverages with limits required by the Association. The Association may adopt Rules concerning the same, including requiring each Owner to provide a certificate of such coverage to the Association on an annual basis.

**Section 9.2** *Copies of Policies.* Copies of all insurance policies (or certificates thereof showing the premiums thereon have been paid) shall be retained by the Association and shall be available for inspection by Owners at any reasonable time.

**Section 9.3** *Required Notifications to Owners Regarding Insurance.* The Association shall provide its Members with a summary of the Association's property, general liability, earthquake, flood, and fidelity insurance policies not less than thirty (30) nor more than ninety (90) days prior to the beginning of the Association's fiscal year, which includes all of the following information about each policy in accordance with Davis-Stirling. The annual insurance summary shall also contain a statement, in at least 10-point bold face type that states as follows (as may be amended from time to time in Davis Stirling):

This summary of the Association's policies of insurance provides only certain information, as required by Civil Code section 5310(a)(7) and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any Association Member may, upon request and provision of reasonable notice, review the Association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association maintains the policies of insurance specified in this summary, the Association's policies of insurance may not cover your property, including personal property, or, real property improvements to or around your Lot, or personal injuries or other losses that occur within or around your Lot. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association Members should consult their individual insurance broker or agent for appropriate additional coverage.

## Article X. DAMAGE OR DESTRUCTION

### Section 10.1 *Destruction.*

(a) Minor Destruction Affecting Common Area. The Board shall have the duty to repair and reconstruct the Common Area without consent of Members and irrespective of the amount of available insurance proceeds or other funds, in all instances of partial destruction where the estimated cost of repair and reconstruction does not exceed 5% of the budgeted gross expenses of the Association for that fiscal year. The Board may levy a Special Assessment for the cost of such repairs and reconstruction to the extent insurance proceeds or other funds are unavailable.

(b) Major Destruction Affecting Common Area.

(i) Destruction; Proceeds Exceed 85% of Reconstruction Costs. If there is a total or partial destruction of the Common Area, and if the available proceeds of the insurance carried or other available funds are sufficient to cover not less than 85% of the costs of repair and reconstruction, the Common Area shall be promptly rebuilt unless, within 90 days from the date of destruction, Members holding at least 75% of the voting power of the Association determine that repair and reconstruction shall not take place.

(ii) Destruction; Proceeds Less than 85% of Reconstruction Costs. If the proceeds of insurance or other available funds are less than 85% of the costs of repair and reconstruction, repair and reconstruction shall not take place unless, within the 90 days from the date of destruction, Members then holding at least a Majority of a Quorum determine that repair and reconstruction shall take place. For purposes of this subsection, the Quorum shall be at least fifty percent of the Members in Good Standing. If repair and reconstruction is to take place, the Board shall execute, acknowledge and record in the office of the County Recorder not later than 120 days from the date of the destruction a certificate declaring the intention of the Members to rebuild.

(iii) Special Assessment to Rebuild. If the determination is made to rebuild pursuant to the above Sections, the Association may levy a Special Assessment against all Lot Owners to cover the costs of rebuilding not covered by insurance proceeds or other funds.

(iv) Rebuilding Contracts. If the determination is made to rebuild, the Board shall obtain bids from at least three reputable contractors, and shall award the repair and reconstruction work to the most reasonable bidder. The Board shall have the authority to enter into a written contract with the contractor for the repair and reconstruction, and the insurance proceeds shall be distributed to said contractor according to the terms of the contract. It shall be the obligation of the Board to take all steps necessary to assure the commencement and completion of authorized repair and reconstruction at the earliest possible date.

(v) Rebuilding Not Authorized. If the determination is made not to rebuild, then any insurance proceeds and any other funds held for rebuilding of the Common Area shall, subject to Corporation Code 8724, be distributed among the Lots on the same basis as their Regular Assessment obligation, and between the Lot Owner and his Mortgagee(s) as their interests shall appear.

## Article XI. CONDEMNATION

**Section 11.1** *Sale by Unanimous Consent or Taking.* If an action for condemnation of all or a portion of the Subdivision is proposed or threatened by any governmental agency having the right of eminent domain, then, on written consent of seventy-five (75%) percent of all of the Owners and all institutional Mortgagees, the Subdivision, or a portion of it may be sold and conveyed to the condemning authority by the Board or its designees acting as the attorney-in-fact of all Owners under an irrevocable power of attorney, which each Owner by accepting a deed to a Lot hereby grants and which shall be coupled with the interest of all other Owners, for a price deemed fair and equitable by the Board. However, an Owner in a condemnation proceeding is not precluded from obtaining private counsel to represent his or her interest. If the requisite number of Owners or institutional Mortgagees do not consent to a sale of all or a portion of the Subdivision, and the condemning authority institutes condemnation proceedings, the court shall fix and determine the condemnation award.

**Section 11.2** *Distribution and Sale Proceeds of Condemnation Award.*

(a) Total Sale or Taking. In the event of a total sale or taking of the Subdivision, meaning a sale or taking: (i) that renders more than fifty (50%) percent of the Lots uninhabitable (such determination to be made by the Board in the case of a sale and by the court in the case of a taking); or (ii) that renders the Subdivision as a whole uneconomical as determined by the vote or written consent of sixty-seven (67%) percent of those Owners and fifty-one (51%) percent of their respective institutional Mortgagees whose Lots will remain habitable after the taking, the right of any Owner to partition through legal action as described in Article XII, below, shall revive immediately. However, any determination that a sale or taking is total must be made before the proceeds from any sale or award are distributed. Accordingly, upon such determination, the legal status of the Subdivision as a planned development shall be terminated. The proceeds of any such total sale or taking of the Subdivision, together with the proceeds of any sale pursuant to a partition action, after payment of all expenses relating to the sale, taking or partition action, shall be paid to all Owners and to their respective Mortgagees in the proportion that the fair market value of each Lot bears to the fair market value of all Lots on the Subdivision. The fair market value of Lots shall be determined in the condemnation action, if such be instituted, or by a state certified appraiser.

(b) Partial Sale or Taking. In the event of a partial sale or taking of the Subdivision, meaning a sale or taking that is not a total taking as determined in Section 11.2(a), above, the proceeds from the sale or taking shall be paid or applied in the following order of priority and any judgment of condemnation shall include the following provisions as part of its terms:

(i) To the payment of expenses of the Association in effecting the sale or to any prevailing party in any condemnation action to whom such expenses are awarded by the Court to be paid from the amount awarded; then

(ii) To Owners and to their respective Mortgagees, as their interests may appear, of Lots on the Subdivision whose Lots have been sold or taken, an amount up to the fair market value of such Lots as determined by the Court in the condemnation proceeding or by an appraiser selected by the Board, less such Owner's share of expenses paid pursuant to this



subsection (b)(ii) (which share shall be based upon the ratio of the square footage of the floor area of his or her Lot to the total square footage of the floor area of the other sold or taken Lots). After such payment, the recipient shall no longer be deemed an Owner and the Board or individuals authorized by the Board, acting as attorney-in-fact of all Owners shall amend the Map (if necessary) and this Declaration to eliminate from the Subdivision the Lots so sold or taken and to adjust the undivided ownership interest of the remaining Owners in the Common Area based upon the ratio that each remaining Owner's undivided interest bears to all the remaining Owners' undivided interest in the Common Area; then

(iii) To any remaining Owner and to his or her Mortgagees, as their respective interests may appear, whose Lot has been diminished in value as a result of the sale or taking disproportionate to any diminution in value of all Lots, as determined by the Court in the condemnation proceeding or by an appraiser, an amount up to the total diminution in value; then

(iv) To all remaining Owners and to their respective Mortgagees, as their interest may appear, the balance of the sale proceeds of award in proportion to the ratio that the fair market value of each remaining Owner's Lot bears to the fair market value of all remaining Owners' Lots as of a date immediately prior to commencement of condemnation proceedings, as determined by the Court in the condemnation proceeding or by an appraiser.

## **Article XII. NON SEVERABILITY OF COMPONENT INTERESTS IN A LOT; PARTITION**

**Section 12.1** *Prohibition Against Severance.* Except as otherwise provided in Section 12.3, below, an Owner shall not be entitled to sever the Owner's Lot from the Owner's membership in the Association, and shall not be entitled to sever the Owner's Lot and membership from the Owner's undivided interest in the Common Area for any purpose. Similarly, no Owner can sever any exclusive easement appurtenant to the Owner's Lot over the Common Area from the Owner's Lot, and any attempt to do so shall be void.

**Section 12.2** *Conveyances.* Any conveyances of a Lot shall be presumed to convey the entire Lot. No Lot shall be further subdivided, split, divided or subject to a lot line adjustment without the prior approval of the Association in its sole discretion. However, nothing contained in this section shall preclude the Owner of any Lot from creating a co-tenancy or joint tenancy in the ownership of the Lot with any other person or persons.

**Section 12.3** *Suspension.* The right of partition is suspended pursuant to California Civil Code section 4610 (entitled "restrictions on partition") as to the Subdivision. Partition of the Subdivision can be had only upon a showing of one or more of the factors described in subsection (b) of said section 4610. Nothing in this Declaration shall prevent partition of a co-tenancy in a particular Lot.

**Section 12.4** *Power of Attorney.* Each Owner grants the Association an irrevocable power of attorney to sell the Subdivision for the benefit of the Owners when partition can be had pursuant to California Civil Code section 4610. Exercise of the power is subject to the approval of a Majority of the Members in Good Standing.

### Article XIII. BREACH OR DEFAULT

**Section 13.1** *Remedy at Law Inadequate.* Except for the nonpayment of any Assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration are inadequate and that the failure of any Owner, Lessee, occupant or user of any Lot, or any portion of the Common Area, to comply with any provision of the Governing Documents may be enjoined by appropriate legal proceedings instituted by any Owner, the Association, its officers or Board of Directors, or by their respective successors in interest.

**Section 13.2** *Nuisance.* Without limiting the generality of the foregoing section 13.1, the result of every act or omission whereby any covenant contained in this Declaration is violated in whole or in part is hereby declared to be a nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.

**Section 13.3** *Attorneys' Fees.* Reasonable attorneys' fees and costs shall be awarded to the prevailing party in any procedure to enforce the Governing Documents or a party's rights arising under the Governing Documents. Such enforcement procedures include an action brought in any Court of competent jurisdiction as well as any alternative dispute resolution procedure implemented pursuant to the Governing Documents or pursuant to California Civil Code sections 5975, and 5925-5965 (as such sections may be renumbered or revised from time to time).

**Section 13.4** *Cumulative Remedies.* The respective rights and remedies provided by this Declaration or by law shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different default or breach or for the same or any different failure of any Owner or others to perform or observe any provision of this Declaration.

**Section 13.5** *Failure Not a Waiver.* The failure of any Owner, the Board of Directors, the Association or its officers or agents to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Association or the Board, or any of its officers or agents.

**Section 13.6** *Rights and Remedies of the Association.*

(a) Rights Generally. In the event of a breach or violation of any Association Rule or of any of the restrictions contained in any Governing Document by an Owner, his or her Family, or the Owner's guests, employees, invitees, licensees, or Lessees, the Board, for and on behalf of all other Owners, may enforce the obligations of each Owner to obey the Association Rules, covenants, or restrictions through the use of such remedies as are deemed appropriate by the Board and available in law or in equity, including, but not limited to, the hiring of legal counsel, the imposition of fines and monetary penalties, the imposition of a Special Individual Assessment, the pursuit of legal action, the temporary suspension of the Owner's right to use the Common Areas, or suspension of the Owner's voting rights as a Member of the Association;

provided, however, the Association's right to undertake disciplinary action against its Members shall be subject to the conditions set forth in this Section.

The decision of whether it is appropriate or necessary for the Association to take enforcement or disciplinary action in any particular instance shall be within the sole discretion of the Association's Board or its duly authorized enforcement committee. If the Association declines to take action in any instance, any Owner shall have such rights of enforcement pursuant to California Civil Code sections 5975 or otherwise by law.

(b) Schedule of Fines. The Board may implement a schedule of reasonable fines and penalties for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate. Once imposed, a fine or penalty may be collected as a Special Individual Assessment, subject to the limitation on the use of lien and foreclosure remedies stated above.

(c) Definition of "Violation." A violation of the Governing Documents shall be defined as a single act or omission occurring on a single day. If the detrimental effect of a violation continues for additional days, discipline imposed by the Board may include one component for the violation and, according to the Board's discretion, a per diem component for so long as the detrimental effect continues. Similar violations on different days may justify cumulative imposition of disciplinary measures in the discretion of the Board.

(d) Limitations of Disciplinary Rights.

(i) Generally. The Association shall have no power to cause a forfeiture or abridgment of an Owner's right to the full use and enjoyment of his or her Lot due to the failure by the Owner (or his or her Family members, Lessees, guests or invitees) to comply with any provision of the Governing Documents or of any duly enacted Association Rule except where the loss or forfeiture is the result of the judgment of a court of competent jurisdiction, a decision arising out of arbitration or a foreclosure or sale under a power of sale for failure of the Owner to pay Assessments levied by the Association, or where the loss or forfeiture is limited to a temporary suspension of an Owner's rights as a Member of the Association or the imposition of monetary penalties for failure to pay Assessments or otherwise comply with any Governing Documents so long as the Association's actions satisfy the due process requirements of subsection (iii), below. A temporary suspension may not exceed six months in duration, provided, however, that it may continue for so long as the Violation remains ongoing or an Assessment remains unpaid.

(ii) Notice and Hearing Requirements for Disciplinary Actions. No disciplinary action, penalty or temporary suspension of rights shall be imposed pursuant to this Article unless the Owner alleged to be in violation is given at least ten (10) days prior notice by personal delivery or first-class mail, that the Board of Directors will be meeting to consider imposing such discipline. The notice shall include, at a minimum, the date, time, and place of the meeting, the nature of the alleged violations for which the Owner may be disciplined, and a statement that the Owner has a right to attend and address the Board at the hearing. The Board shall meet in executive session if requested by the Owner.

If disciplinary action is taken, the Board shall notify the accused Owner, in writing, either by personal delivery or first-class mail, of the Board's decision within fifteen (15) days following conclusion of the hearing.

In accordance with Civil Code section 5855(d), disciplinary action shall not be effective against an Owner unless the Board fulfills the requirements of this Section. Notwithstanding the foregoing, under circumstances involving conduct that constitutes: (A) an immediate and unreasonable infringement of, or threat to, the safety or quiet enjoyment of neighboring Owners; (B) a traffic or fire hazard; or (C) a violation of the Governing Documents that is of such a nature that there is no material question regarding the identity of the violator or whether a violation has occurred (such as late payment of Assessments or parking violations), the Board of Directors, or its duly authorized agents, may undertake immediate corrective or disciplinary action and, upon request of the offending Owner (which request must be received by the Association, in writing, within five (5) days following the Association's disciplinary action), or on its own initiative, conduct a hearing as soon thereafter as reasonably possible.

If the Association acts on its own initiative to schedule a hearing, notice of the date, time and location of the hearing shall accompany the notice of disciplinary action. If the accused Owner desires a hearing, a written request therefor shall be delivered to the Association no later than five (5) days following the date when the fine is levied.

The hearing shall be held no more than fifteen (15) days following the date of the disciplinary action or fifteen (15) days following receipt of the accused Owner's request for a hearing, whichever is later. Under such circumstances, any fine or other disciplinary action shall be held in abeyance and shall only become effective if affirmed at the hearing.

At the hearing, the accused shall be given the opportunity to be heard, including the right to present evidence and to present or question witnesses. The Board shall notify the accused Owner, in writing, of the Board's decision within five (5) business days following conclusion of the hearing. In no event shall the effective date of any disciplinary action commence sooner than five (5) days following conclusion of the hearing unless: (i) the hearing merely affirms summary disciplinary action initiated pursuant to the immediately preceding paragraph; or (ii) earlier commencement is necessary to preserve the quiet enjoyment of other residents or to prevent further damage to, or destruction of, the Lots or any portion thereof.

(e) Notices. Any notice required by this Article shall, at a minimum, set forth the date and time for the hearing, a brief description of the action or inaction constituting the alleged violation of the Governing Documents and a reference to the specific Governing Document provision alleged to have been violated. The notice shall be in writing and may be given by any method reasonably calculated to give actual notice, including electronic delivery by e-mail; provided, however, that if notice is given by U.S. Postal Service mail it shall be sent certified and sent to the last address of the Member shown on the records of the Association.

(f) Rules Regarding Disciplinary Proceedings. The Board, or an appropriate committee appointed by the Board to conduct and administer disciplinary hearings and related proceedings, shall be entitled to adopt rules that further elaborate and refine the procedures for conducting disciplinary proceedings, so long as such rules meet the minimum requirements of

section 5855 of the Civil Code. Such rules, when approved and adopted by the Board, shall become a part of the Association Rules.

**Section 13.7** *Court Actions.* Court actions to enforce the Governing Documents may only be initiated on behalf of the Association by resolution of the Board. Prior to the filing of any court action seeking declaratory or injunctive relief to interpret or enforce the Governing Documents (including such action coupled with a claim for monetary damages not in excess of Five Thousand Dollars (\$5,000)), the Association shall first comply with the provisions of California Civil Code sections 5925-5965 relating to alternative dispute resolution.

**Section 13.8** *Assessment Collection Actions.* The notice and hearing procedures set forth in Section 13.6, above, shall not apply to any actions by the Association or its duly authorized agents to collect delinquent assessments. Assessment collections shall be subject to the notice and procedural requirements imposed by Section 4.10, above, and any other notice, hearing and/or dispute resolution requirements or procedures as may be specifically applicable by law to community association assessment collection efforts.

#### **Article XIV. PROTECTION OF MORTGAGEES**

**Section 14.1** *Assessment Lien Subordinated.* Any lien created or claimed under the provisions of Article IV, above, shall be subject and subordinate to a lien of any first Mortgage given in good faith and for value. No such first Mortgagee who acquires title to any Lot, or to the Owner's interest therein, by judicial foreclosure or by exercise of power of sale contained in the Mortgage shall be obligated to cure any breach of this Declaration by a former Owner of such Lot or shall be liable for any unpaid Assessments made against the Lot which accrued prior to the date the Mortgagee acquired such title. No lien created or claimed under the provisions of Article IV, above, shall in any way defeat, invalidate or impair the rights of any Mortgagee under any such Recorded first Mortgage.

**Section 14.2** *Breach; Obligation After Foreclosure.* No breach of any provision of this Declaration by the Association or any Owner shall impair or invalidate the lien of any Recorded Mortgage made in good faith and for value and encumbering any Lot or the Owner's interest therein, but all of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes shall remain provided for or against any person who acquires title to or any beneficial interest in any Lot through foreclosure, trustee's sale or otherwise.

**Section 14.3** *Exchange of Information.* The Association shall, at the written request of any Mortgagee, insurer or guarantor, notify such party of:

(a) Any condemnation or casualty loss that affects either a material portion of the Subdivision or the Lot(s) securing the Mortgage;

(b) Any delinquency of sixty (60) days or more in the payment of Assessments or charges owed by the Owner(s) of the Lot(s) securing the Mortgage;

(c) A lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the Association; and

To be entitled to receive this information, the Mortgagee, insurer or guarantor must send a written request to the Association, stating both its name and address and the number or address of the Lot(s) securing the Mortgage. Any Mortgagee of any Lot is hereby authorized to furnish to the Board of Directors, upon written request by the Board therefor, the amount of any unpaid balance of any indebtedness secured by a lien of a Mortgage and the amount and due date of any delinquent payment or payments on such indebtedness.

**Section 14.4** *Declaration to Conform with Mortgagee Requirements.* It is the intent of this Article that this Declaration, the Articles of Incorporation, the Bylaws and the Subdivision in general, shall now and in the future meet all requirements of any institutional Mortgagee intending to secure its Mortgage by a Lot or necessary to purchase, guarantee, insure or subsidize any Mortgage of a Lot by the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Veterans' Administration.

#### **Article XV. NOTICES**

**Section 15.1** *Mailing Addresses.* Any communication or notice of any kind permitted or required herein shall be in writing and may be served, as an alternative to personal service by mailing the same as follows:

If to any Owner: To such address as the Owner may from time to time designate in writing to the Association.

If to the Association: To such address as the Association may from time to time designate in writing to the Owners.

Nothing in this Section 15.1 is intended to preclude the use of any other means of delivering notices to Members or Owners (other than by personal service or mail) if other methods of delivery are authorized by this Declaration for individual delivery or general delivery, by Civil Code Sections 4040-4050, or by other provisions of Davis-Stirling that reference Civil Code sections 4040-4050.

**Section 15.2** *Personal Service Upon Co-Owners and Others.* Personal service of a notice or demand to one of the co-owners of any Lot, to any general partner of a partnership which is the Owner of Record of any Lot, or to any officer or agent for service of process of a corporation, or to any member or manager of a limited liability company which is the Owner of Record of any Lot, shall be deemed delivered to all such co-owners, to such partnership, to such corporation, or to such limited liability company, as the case may be.

**Section 15.3** *Deposit in United States Mail.* All notices and demands served by mail shall be by first-class or certified mail, with postage prepaid, and shall be deemed delivered seventy-two (72) hours after deposit in the United States mail in the County.

#### **Article XVI. NO PUBLIC RIGHTS IN THE PROPERTY**

Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any portion of the Subdivision to the general public or for any public use or purpose whatsoever.

## Article XVII. AMENDMENT OF DECLARATION

**Section 17.1** *Requirements for Member Approval of Amendments.* Any amendment shall be approved by the vote or assent by written ballot of the holders of more than fifty percent (50%) of the Voting Power. Notwithstanding the foregoing, the percentage of the voting power necessary to amend a specific clause or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause. Any vote to amend any provision of this Declaration shall be conducted in accordance with the procedures pertaining to the use of secret ballots that are set forth in the Bylaws.

**Section 17.2** *Effective Date of Amendment.* The amendment shall be effective upon the Recordation of an instrument setting forth the terms thereof duly certified and executed by the president and secretary of the Association.

**Section 17.3** *Reliance on Amendments.* Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

## Article XVIII. GENERAL PROVISIONS

**Section 18.1** *Term.* The covenants, conditions, restrictions, limitations, reservations, grants of easement, rights, rights-of-way, liens, charges and equitable servitudes contained in this Declaration shall run with, and shall benefit and burden the Subdivision, the Lots and the Common Area as herein provided, and shall inure to the benefit of and be binding upon the Owners, the Association, its Board of Directors, officers and agents, and their respective successors in interest, for the term of sixty (60) years from the date of Recordation of this Declaration. After the expiration of the initial term, the term of this Declaration shall be automatically extended for successive periods of ten (10) years each unless, within six (6) months prior to the expiration of the initial 60-year term or any such 10-year extension period, a written instrument, approved by Owners entitled to vote and more than fifty percent (50%) of the Voting Power of the Association, terminating the effectiveness of this Declaration, is Recorded.

**Section 18.2** *Construction.*

(a) Restrictions Construed Together. All of the covenants, conditions and restrictions of this Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Subdivision as set forth in the Recitals of this Declaration. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision in a subsequent application or any other provision hereof.

(b) Restrictions Severable. Notwithstanding the provisions of subsection (a), above, the covenants, conditions and restrictions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

(c) Singular Includes Plural. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter, as the context requires.

(d) Captions. All captions or titles used in this Declaration are intended solely for convenience of reference and shall not affect the interpretation or application of that which is set forth in any of the terms or provisions of the Declaration.

(e) Exhibits. All exhibits to which reference is made herein are deemed to be incorporated herein by reference, whether or not actually attached.

(f) References to State Statutes. Any references in this Declaration to state statutes shall be to the referenced statute as in effect on the date that this Declaration is Recorded in the Official Records of the County. In the event that any referenced statute is subsequently amended or superseded, all such references shall thereupon mean and refer to the referenced statute as so amended, modified or superseded, so long as the amended statute continues to regulate or pertain to the same subject matter.

(g) Certification of Officers. Pursuant to Civil Code section 4270(a)(2), the undersigned declare under penalty of perjury that the following facts are true and correct of my own personal knowledge:

(i) Mark Pierpoint is the duly elected President of the Association;

(ii) Jessica Taff is the duly elected Secretary of the Association; and

(iii) The required percentage of Members gave their approval in a secret ballot election to amend the original Declaration by adopting this Fourth Amended and Restated Declaration to supersede and replace the prior Declaration in its entirety.

LAKE FOREST GLEN UNIT NO. 1 HOMEOWNERS ASSOCIATION,  
a California nonprofit mutual benefit corporation

Dated: \_\_\_\_\_, 202\_\_

By: \_\_\_\_\_  
Mark Pierpoint, President

Dated: December 22, 2023

By: \_\_\_\_\_  
Jessica Taff, Secretary



A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of Placer )

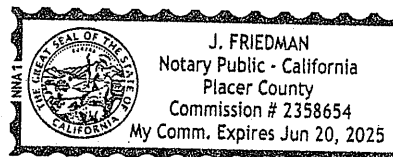
On December 22, 2023, before me, J. Friedman *Notary*, Notary Public, personally appeared Jessica Taff, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

*J. Friedman* (Seal)

NOTARY PUBLIC  
Commission No.: 2358654  
My Commission Expires: 06/20/2025



A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of )

On \_\_\_\_\_, \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_ (Seal)

NOTARY PUBLIC  
Commission No.:  
My Commission Expires:

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**Section 18.2** *Construction.*

(a) Restrictions Construed Together. All of the covenants, conditions and restrictions of this Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Subdivision as set forth in the Recitals of this Declaration. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision in a subsequent application or any other provision hereof.

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(d) Captions. All captions or titles used in this Declaration are intended solely for convenience of reference and shall not affect the interpretation or application of that which is set forth in any of the terms or provisions of the Declaration.

(e) Exhibits. All exhibits to which reference is made herein are deemed to be incorporated herein by reference, whether or not actually attached.

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(i) Mark Pierpoint is the duly elected President of the Association;

(ii) Jessica Taff is the duly elected Secretary of the Association; and

(iii) The required percentage of Members gave their approval in a secret ballot election to amend the original Declaration by adopting this Fourth Amended and Restated Declaration to supersede and replace the prior Declaration in its entirety.

LAKE FOREST GLEN UNIT NO. 1 HOMEOWNERS ASSOCIATION,  
a California nonprofit mutual benefit corporation

Dated: 3rd January, 2024

By: Mark Pierpoint  
Mark Pierpoint, President

Dated: \_\_\_\_\_, 202\_\_

By: \_\_\_\_\_  
Jessica Taff, Secretary

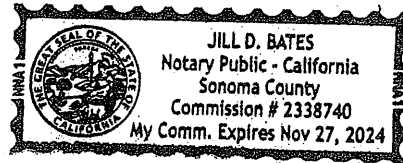
A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of )

On JANUARY 3, 2024, before me, JILL D. BATES, Notary Public, personally appeared MARK PEEPOINT, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.  
Jill D. Bates (Seal)  
NOTARY PUBLIC  
Commission No.:  
My Commission Expires:



A Notary Public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )  
County of )

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.  
\_\_\_\_\_  
(Seal)  
NOTARY PUBLIC  
Commission No.:  
My Commission Expires:

**EXHIBIT A**

(Legal Description of the Subdivision)

All that certain real property situated in unincorporated area commonly known as Tahoe City in the County of Placer, State of California, described as follows:

All Lots, common area and other property as depicted on that certain "Map of Tract No. 186, LAKE FOREST GLEN UNIT NO. 1," filed in the Office of the Recorder of Placer County, in Book J of Maps at Page 8.

