

**RECORDING REQUESTED BY  
AND  
WHEN RECORDED MAIL TO:**

SNOWSHOE SPRINGS  
ASSOCIATION  
c/o

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

**SECOND AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS OF SNOWSHOE  
SPRINGS**

**NOTICE**

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MEMBER DRAFT 9/30/2020

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2  
3 **SECOND AMENDED AND RESTATED DECLARATION OF**  
4 **COVENANTS, CONDITIONS AND RESTRICTIONS OF SNOWSHOE**  
5 **SPRINGS**  
6  
7

8 This Second Amended and Restated Declaration of Covenants, Conditions and  
9 Restrictions is made on the date set forth at the end of this document by  
10 Snowshoe Springs Association, a California nonprofit mutual benefit corporation  
11 (referred to in this document as the "Association").  
12

13  
14 **RECITALS OF BACKGROUND FACTS; DECLARATIONS**  
15

- 16 A. This Second Amended and Restated Declaration is made with reference to that  
17 certain FIRST RESTATED DECLARATION OF COVENANTS, CONDITIONS  
18 AND RESTRICTIONS FOR SNOWSHOE SPRINGS recorded December 17,  
19 2001, as Document No. 2001-22439, in the Official Records of Calaveras  
20 County, State of California (the "2001 Declaration").  
21
- 22 B. The 2001 Declaration establishes certain limitations, easements, covenants,  
23 restrictions, conditions, liens, and charges which run with, and are binding upon  
24 all parties having or acquiring any right, title, or interest in, that certain real  
25 property located in the County of Calaveras, State of California, and more  
26 particularly described as set forth in Exhibits A and B.  
27
- 28 C. THE MEMBERS, constituting at least a majority of the Total Voting Power of the  
29 Association, desire to amend, modify, and otherwise change the 2001  
30 Declaration pursuant to Article XV, Section 15.01 thereof, and DO HEREBY  
31 DECLARE that the 2001 Declaration shall be, and is hereby, AMENDED AND  
32 RESTATED IN ITS ENTIRETY as set forth in the within Second Amended and  
33 Restated Declaration of Covenants, Conditions and Restrictions of Snowshoe  
34 Springs.  
35
- 36 D. IT IS FURTHER HEREBY DECLARED that all of the real property described in  
37 Exhibits A and B constitutes a planned development within the meaning of  
38 Section 4175 of the California *Civil Code*.  
39
- 40 E. IT IS FURTHER HEREBY DECLARED that all of the real property described in  
41 Exhibits A and B is and shall be held, owned, operated, managed, conveyed,  
42 hypothecated, encumbered, leased, used, occupied, and improved subject to the  
43 following covenants, conditions, and restrictions set forth herein, all of which are  
44 declared and agreed to be in furtherance of a plan and purpose of protecting,  
45 preserving, and enhancing the value, desirability, and attractiveness of the said  
46 real property and every part thereof, and of fostering the development,

management, improvement, enjoyment, and sale of the said real property and any part thereof.

- F. IT IS FURTHER HEREBY DECLARED that all of the covenants, conditions, and restrictions set forth herein shall constitute enforceable equitable servitudes as provided in California *Civil Code* section 5975, shall constitute covenants that shall run with the said real property, and shall be binding upon and inure to the benefit of each Owner of any portion of the said real property or the owner or holder of any interest or estate therein and their heirs, successors, and assigns.

## ARTICLE 1 DEFINITIONS

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- 1.1 Additional Charges. "Additional Charges" shall mean all costs, fees, charges, and expenditures including, but not limited to, interest, late charges, attorney fees, recording and filing fees, and all other costs actually incurred by the Association in collecting and/or enforcing payment of Assessments.
- 1.2 Architectural Committee. "Architectural Committee" shall mean the committee, if any, appointed pursuant to Article 7 ("Architectural Approval").
- 1.3 Articles of Incorporation. "Articles of Incorporation" shall mean the Second Amended and Restated Articles of Incorporation of Snowshoe Springs Association, as they may be amended from time to time, and as filed with the Office of the Secretary of State of California.
- 1.4 Assessments. "Assessments" shall mean any or all of the following: Regular Assessments, Special Assessments, Reimbursement Assessments, and Enforcement Assessments.
- 1.5 Association. "Association" shall mean Snowshoe Springs Association, a California nonprofit mutual benefit corporation, its successors and assigns.
- 1.6 Board of Directors. "Board of Directors" or "Board" shall mean the governing body of the Association.
- 1.7 Bylaws. "Bylaws" shall mean the Second Amended and Restated Bylaws of the Association as they shall be duly adopted by the Board of Directors and the Members and any duly-adopted amendments thereof.
- 1.8 Civil Code. "*Civil Code*" shall mean the California *Civil Code* as amended from time to time.
- 1.9 Common Area. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners and Residents of the Development and the improvements thereon. The Common Area includes, without limitation, recreational facilities; open space land; trails; meadow and

lake; parking spaces; drainage structures and culverts; and pipes, valves, meters structures and equipment making up the water distribution system. The Common Area at the time of recordation of this Declaration consists of the real property described in Exhibit B.

1.10 Contract Purchaser / Contract Seller. "Contract Purchaser" and "Contract Seller" shall mean the purchaser and the seller, respectively, under an installment land contract in which title to the property is transferred after the final installment payment is made.

1.11 Corporations Code. "*Corporations Code*" shall mean the California *Corporations Code* as amended from time to time.

1.12 County. "County" shall mean the County of Calaveras.

1.13 Declaration. "Declaration" shall mean this Second Amended and Restated Declaration of Covenants, Conditions and Restrictions of Snowshoe Springs, recorded in the Office of the County Recorder of Calaveras County, State of California, and any duly-recorded amendments thereof.

1.14 Development. "Development" shall mean all the real property described in this Declaration comprising the Snowshoe Springs planned development and any additional real property as may hereafter be brought within the jurisdiction of the Association.

1.15 Dwelling. "Dwelling" shall mean a structure designed for human residential use and occupancy which is located upon a Lot.

1.16 Enforcement Assessment. "Enforcement Assessment" shall have the meaning set forth in Section 8.11 ("Enforcement Assessments").

1.17 First Mortgage / First Mortgagee. "First Mortgage" shall mean a Mortgage that has first priority over all other Mortgages. "First Mortgagee" shall mean the beneficiary under a First Mortgage.

1.18 Governing Documents. "Governing Documents" shall mean the Articles of Incorporation, Bylaws, Declaration, and Rules.

1.19 Individual Delivery / Individual Notice. "Individual Delivery" or "Individual Notice" shall mean delivery to a Member or Members by one (1) of the following methods, as provided in *Civil Code* section 4040:

- (a) By first-class mail with postage prepaid, registered or certified mail, express mail, or overnight delivery by an express service carrier, addressed to the recipient at such recipient's address last shown on the books of the Association; or

(b) By email, facsimile, or other electronic means if the recipient has consented, in writing or by email, to that method of delivery. The consent may be revoked, in writing or by email, by the recipient. Delivery by electronic transmission must also comply with *Corporations Code* sections 20 and 21. Among other things, Section 20 of the *Corporations Code* requires the Association to obtain consent from the person to whom the document is transmitted to receive it by means of electronic transmission as well as other technical requirements.

1.20 Lot. "Lot" shall mean any plot of land shown upon any of the Subdivision Map(s), with the exception of the Common Area. There are three hundred sixty-one (361) Lots in the Development.

1.21 Maintenance. "Maintenance" or to "maintain" (whether the term is capitalized or not) shall mean the act of caring for property and keeping it in its existing state, preserving it from failure or deterioration, including painting, caulking, cleaning, and minor, non-structural upkeep. In the case of landscaping, "maintenance" or to "maintain" shall mean practices necessary to promote healthy plant growth free of weeds or dead or dying trees and plants.

1.22 Majority of a Quorum. "Majority of a Quorum" shall mean a majority of the votes cast in any lawful vote or election by the Members in which the number of ballots cast equals or exceeds the number required to establish a quorum.

1.23 Member. "Member" shall mean an Owner.

1.24 Member in Good Standing. "Member in Good Standing" shall mean a Member of the Association who is current in the payment of all Regular Assessments and Special Assessments imposed in accordance with the Governing Documents, and who is in compliance with all of the provisions of the Governing Documents. A Member shall be deemed to be in Good Standing unless, after notice and an opportunity for hearing, pursuant to Article 13 ("Enforcement; Notice; Hearings"), the Board has found the Member to be not in Good Standing and has so notified the Member in accordance with *Civil Code* section 5855.

1.25 Mortgage / Mortgagee. "Mortgage" shall mean a duly-recorded deed of trust or mortgage in the conventional sense encumbering a Lot. "Mortgagee" shall mean a beneficiary under a Mortgage and shall also include an insurer or governmental guarantor of a Mortgage including, without limitation, the Federal Housing Administration and the Department of Veterans Affairs.

1.26 Owner. "Owner" shall mean the record owner, whether one (1) or more persons or entities, of the fee simple title to any Lot, including Contract Sellers but excluding Contract Purchasers, and excluding those persons having such interest merely as security for the performance of an obligation.

1.27 Prohibited Vehicle. See Section 5.17.1 ("Prohibited Vehicles").

- 1  
2 1.28 Regular Assessment. "Regular Assessment" shall have the meaning set forth in  
3 Section 8.7 ("Regular Assessment").  
4  
5 1.29 Reimbursement Assessment. "Reimbursement Assessment" shall have the  
6 meaning set forth in Section 8.10 ("Reimbursement Assessments").  
7  
8 1.30 Repair. "Repair" (whether the term is capitalized or not) shall mean the minor  
9 restoration of property that is torn, broken, or otherwise damaged, or has  
10 sustained wear, tear, or deterioration such that minor restoration is necessary.  
11  
12 1.31 Replacement. "Replacement" or to "replace" (whether the term is capitalized or  
13 not) shall mean substantial reconstruction, restoration, or substitution of the  
14 whole or a substantial part of property that has deteriorated or has been  
15 damaged or destroyed through usage or through hazard or catastrophe such that  
16 it is no longer useable or serviceable in its current condition. In the case of  
17 landscaping, "replacement" or to "replace" shall mean the removal and replanting  
18 of trees and other plants that are dead or dying or otherwise not serviceable.  
19  
20 1.32 Resident. "Resident" shall mean any person who resides on a Lot within the  
21 Development whether or not such person is an Owner.  
22  
23 1.33 Rules. "Rules" shall mean the policies, rules, and regulations governing the  
24 administration, management, operation, use, and occupancy of the  
25 Development, including the use of the Common Area and facilities, the personal  
26 conduct of Owners and Residents, members of their household, pets, tenants,  
27 invitees, and guests within the Development, enforcement of the Governing  
28 Documents, and any other matter that is within the jurisdiction of the Association,  
29 as adopted, published, or amended by the Board from time to time and subject to  
30 applicable law including *Civil Code* section 4340 and following.  
31  
32 1.34 Special Assessment. "Special Assessment" shall have the meaning set forth in  
33 Section 8.8 ("Special Assessments").  
34  
35 1.35 Subdivision Map. "Subdivision Map" shall mean any of those certain maps listed  
36 in Exhibit C.  
37  
38 1.36 Total Voting Power. "Total Voting Power" shall mean the total number of votes of  
39 all Members entitled to vote at a particular time, calculated on the basis of one  
40 (1) vote for each Lot.  
41  
42

## 43 **ARTICLE 2            HOMEOWNERS ASSOCIATION**

---

- 44  
45 2.1 Management and Operation; Bylaws. The Association is an "association" as  
46 defined in *Civil Code* section 4080 and as such shall have the power and the  
47 authority to manage and operate the Development in accordance with the



1 Governing Documents and the provisions of applicable law. The Association  
2 shall have all of the powers set forth in the Governing Documents together with  
3 general power to do any and all things that a nonprofit mutual benefit corporation  
4 may lawfully do under the laws of the State of California, subject only to the  
5 limitations upon the exercise of such powers as are expressly set forth in the  
6 Governing Documents. Provisions concerning the operation of the Association  
7 as a nonprofit mutual benefit corporation are set forth in the Bylaws.  
8

9 2.2 Legal Standing. To the fullest extent permitted by law, including *Civil Code*  
10 section 5980, the Association shall have standing to institute, defend, settle, or  
11 intervene in litigation, arbitration, mediation, or administrative proceedings in its  
12 own name as a real party in interest, and without joining with it the Owners, in  
13 matters pertaining to the following:  
14

- 15 (a) Enforcement of the Governing Documents,
- 16
- 17 (b) Damage to the Common Area,
- 18
- 19 (c) Damage to the separate interests that the Association is obligated to  
20 maintain, repair, or replace,
- 21
- 22 (d) Damage to a separate interest that arises out of, or is integrally related to,  
23 damage to the Common Area or separate interests that the Association is  
24 obligated to maintain, repair, or replace.  
25

26 2.3 Membership. Every Owner of a Lot shall be a Member of the Association and  
27 shall remain a Member thereof until such time as his or her ownership of such  
28 Lot ceases for any reason. Fee ownership of a Lot shall be the sole qualification  
29 for membership in the Association. Membership shall be appurtenant to and may  
30 not be separated from ownership of a Lot and shall not be transferred,  
31 encumbered, pledged, alienated, or otherwise hypothecated in any way, except  
32 in connection with the sale or encumbrance of the Lot to which it is appurtenant.  
33

34 2.4 Voting. Only Members shall be entitled to vote and, except pursuant to **Section**  
35 **5.18** ("Subdivision or Merger of Lots") in the event of subdivision or merger of  
36 Lots, only one (1) vote shall be cast for each Lot, as more particularly set forth in  
37 the Bylaws.  
38

39 2.5 Association Rules. Subject to applicable law, including *Civil Code* section 4340  
40 and following regarding notice and procedures, the Board shall have the power  
41 and the authority to establish, promulgate, amend, repeal, and enforce Rules.  
42  
43

## ARTICLE 3                      PROPERTY SUBJECT TO THIS DECLARATION

---

- 3.1 Legal Description. The property subject to this Declaration and to the jurisdiction of the Association is described in **Exhibits A and B**.
- 3.2 Classification of Property. The property subject to this Declaration is a planned development. All of the property subject to the Declaration is divided into the following categories:
- (a) Common Area, and
  - (b) Lots.
- 3.3 Ownership Interest; No Separate Conveyance. The ownership interest of each Owner shall include: (i) a designated Lot, (ii) a membership in the Association, and (iii) any exclusive easements appurtenant to such Lot and such other easements as are applicable, all as described in the Declaration or in the deed to the Lot. Membership and any such easements shall be appurtenant to and may not be separated from ownership of a Lot and shall not be transferred, encumbered, pledged, alienated, or otherwise hypothecated in any way, except in connection with the sale or encumbrance of the Lot to which it is appurtenant.
- 3.4 Undivided Interests Cannot Be Changed. The undivided interests in the Common Area established in the Declaration cannot be changed except with the approval of one hundred percent (100%) of the Owners or as provided in **Section 11.6** ("Revision of Documents") following condemnation of a portion of the Development.
- 3.5 New Capital Improvements. The Board of Directors shall have the power and authority to provide for the construction, installation, or acquisition of new capital improvements upon the Common Area (as distinguished from expenditures for the reconstruction or replacement of an existing improvement), provided that in any fiscal year expenditures for such new capital improvements shall not exceed twenty-five percent (25%) of the budgeted gross expenses of the Association for that fiscal year without the approval of a Majority of a Quorum; *provided, further*, that this limitation shall not apply to the expenditure of any funds accumulated in a reserve fund for capital replacement or new capital improvements so long as the expenditure is for the purpose for which the fund was established.
- 3.6 Dedication of Common Area. The Board of Directors shall have the power and authority to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility, for such purposes and subject to such conditions as may be agreed by the Owners; *provided, however*, that no such dedication or transfer shall be effective unless the terms of such dedication or transfer has been approved by at least two-thirds (2/3) of the voting power of the Members and their First Mortgagees.

1  
2 **ARTICLE 4                    MECHANIC'S LIENS, EASEMENTS**  
3

---

4 4.1 Mechanic's Lien Against Common Area. In the event there shall be filed against  
5 the Common Area a notice of mechanic's lien for, or purporting to be for, labor or  
6 materials alleged to have been furnished or delivered for any Owner within the  
7 Development or his or her Lot, such Owner shall forthwith cause such lien to be  
8 discharged by payment, bond, or otherwise. If the Owner fails to cause the lien  
9 to be discharged, the Board may send written notice to the Owner specifying that  
10 unless the Owner causes the lien to be discharged within five (5) days from the  
11 date of such notice, the Board may cause the lien to be discharged. Within such  
12 five-day period, and notwithstanding any other provisions of the Governing  
13 Documents concerning notice or hearing, the Owner shall be permitted a hearing  
14 before the Board regarding the validity of such lien and any offsets or defenses  
15 thereto. At that time, the Board shall determine whether the lien adversely and  
16 improperly affects and encumbers the rights and interests of the Association or  
17 the other Owners. If the Board of Directors determines that the lien does  
18 adversely and improperly affect and encumber such rights and interests and that  
19 adequate protection of such rights and interests has not been provided, the  
20 Board may cause the lien to be discharged by payment, bond, or otherwise. The  
21 Board shall have the right to levy a Reimbursement Assessment against the  
22 Owner responsible for causing the lien to be discharged in an amount equal to all  
23 amounts paid by the Association together with interest thereon at the legal rate  
24 and all costs and expenses paid or incurred in connection therewith, including  
25 reasonable attorney fees.  
26

27 4.2 Easements in General. In addition to all easements reserved and granted on the  
28 Subdivision Map, there are hereby specifically reserved and granted for the  
29 benefit of the Lots and Lot Owners in common and for each Lot and Lot Owner  
30 severally, and for the Association, as their respective interests shall obtain, the  
31 easements, reciprocal negative easements, secondary easements, and rights-of-  
32 way as particularly identified in this **Article 4**.  
33

34 4.3 Owner's Non-exclusive Easements of Enjoyment. Every Owner of a Lot shall  
35 have a non-exclusive easement of use of and enjoyment in, to, and throughout  
36 the Common Area of the Development. Each such non-exclusive easement shall  
37 be appurtenant to and pass with the title to every Lot, subject to the following  
38 rights and restrictions:  
39

- 40 (a) The right of the Board to establish and enforce Rules governing the use of  
41 the Common Area and facilities thereon;  
42  
43 (b) The right of the Board to charge reasonable admission and other fees for  
44 the use of any facilities situated upon the Common Area;  
45  
46 (c) The right of the Board to suspend an Owner's right to use the recreational  
47 facilities as provided in **Section 13.8** ("Imposing Sanctions");

- 1
- 2 (d) The right of the Board, as set forth in Section 4.4 ("Utility Easements"), to
- 3 grant and transfer utility easements and rights-of-way in, on, over, or
- 4 under the Common Area subject to such conditions as may be agreed to
- 5 by the Board;
- 6
- 7 (e) The right of the Board, as set forth in Section 4.5 ("Board's Power to Grant
- 8 Easements and Licenses to Owners"), to grant easements, licenses, and
- 9 rights-of-way upon the Common Area to Owners; and
- 10
- 11 (f) The right of the Association or its authorized agents, as provided in this
- 12 Declaration, to perform its obligations under this Declaration, including
- 13 obligations with respect to construction, maintenance, repair, or
- 14 replacement for the benefit of the Common Area or the Owners in
- 15 common.
- 16

17 4.4 Utility Easements. There are reserved and there shall exist easements over and

18 under the Development or any portion thereof for the purpose of constructing,

19 erecting, operating, or maintaining thereon, therein, or thereunder overhead or

20 underground lines, cables, wires, conduits, or other devices for electricity, cable

21 television, power, telephone and other purposes, public sewers, storm water

22 drains and pipes, water systems, sprinkling systems, water, heating and gas

23 lines or pipes, and any similar public or quasi-public improvements or facilities,

24 and for any other purposes deemed by the Board to be appropriate and not

25 inconsistent with the purposes and interests of the Association, together with the

26 right to grant and transfer the same and each purchaser, in accepting a deed to a

27 Lot, expressly consents thereto; *provided, however*, that no such easement or

28 rights-of-way may be granted or transferred if it would unreasonably interfere with

29 the use, occupancy, or enjoyment by an Owner or Resident of any Lot and any

30 existing exclusive easements over Common Area appurtenant thereto, if any,

31 without the consent of the Owner(s) affected.

32

33 4.5 Board's Power to Grant Easements and Licenses to Owners. Notwithstanding

34 any other provisions of the Governing Documents, the Board shall have the

35 power in its discretion, without approval vote of the Members, to grant and

36 convey licenses for use, rights-of-way, and *non-exclusive* easements in, over, or

37 under the Common Area or any portion thereof to Owners, for such purposes as

38 the Board deems to be appropriate and not inconsistent with the purposes and

39 interests of the Association; *provided, however*, that approval of a majority of the

40 Total Voting Power of the Association shall be required to grant an *exclusive*

41 easement over Common Area to any Member, other than any grant or

42 conveyance to a Member described in *Civil Code* section 4600(b).

43

44

45

## ARTICLE 5            USE RESTRICTIONS

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- 5.1 Use of Common Area Generally. All use of Common Area is subject to the Governing Documents. Subject to the provisions of the Governing Documents, the Common Area shall be held, maintained, and used to meet the common interests of the Owners and the Residents, members of their household, tenants, and guests.
- 5.2 No Public Rights. There shall be no entitlement to public use of, access to, or other public rights in, the Development property. The Association reserves the right to prohibit entry on the Development property by any person whose presence is not authorized by the Governing Documents.
- 5.3 No Alteration of Common Area. Except as may be authorized by the Board, no person or entity other than the Association or its duly-authorized agents shall (i) construct, reconstruct, refinish, alter, or maintain any improvement upon the Common Area, (ii) make or create any excavation or fill upon the Common Area, (iii) change the natural or existing drainage of the Common Area, or (iv) plant, remove, or destroy any seed, plant material, tree, shrub, or other vegetation upon the Common Area.
- 5.4 No Obstruction of Common Area. The Common Area shall be kept free of rubbish, debris, and other unsightly or unsanitary materials. There shall be no obstruction of any part of the Common Area nor shall anything impair access to the Common Area. Each Owner shall avoid causing any damage to the Common Area.
- 5.5 Delegation of Use. Any Owner may delegate his or her rights of use and enjoyment, including easements, in the Development to the members of his or her household, tenants, Contract Purchasers, and guests, subject to the terms of the Governing Documents. It is the express purpose and intent of this **Section 5.5** to limit the right of use and enjoyment of the Common Area amenities to Residents of the Development and their accompanied guests. Upon the leasing or renting of a Lot, or upon occupancy of a Lot by a Contract Purchaser, the Owner shall be deemed to have delegated and assigned all such rights exclusively to the tenants or Contract Purchasers of such Lot. Any rights of enjoyment that have been delegated by an Owner are subject to suspension to the same extent that rights of Owners are subject to suspension as provided in the Governing Documents.
- 5.6 Residential Use. Except to the extent permitted in **Section 5.7** ("Restriction on Businesses"), Lots shall be occupied and used only for single family residential purposes in conformity with the requirements of applicable zoning laws or other state or local rules or regulations.



1     5.7     Restriction on Businesses.

2  
3     5.7.1     Types of Businesses Allowed. No business of any kind shall be  
4     established, maintained, operated, permitted, or conducted within the  
5     Development except: (i) professional, administrative, or clerical activity  
6     as may be permitted by applicable governmental ordinances without  
7     the requirement of a conditional use permit but only if such activity  
8     does not entail the presence of employees, patrons, clients, or vendors  
9     except on an infrequent basis; does not require storage of large  
10    amounts of bulky goods or inventory; there is no external evidence of  
11    such activity including but not limited to a significant increase in traffic  
12    within the Development; the activity complies with all applicable  
13    governmental ordinances; and the activity is merely incidental to the  
14    use of the Lot for residential purposes and (ii) certain care facilities  
15    that, by law, cannot be prohibited within the Development.

16  
17    5.7.2     Indemnification Regarding Business Activity. To the fullest extent  
18    permitted by law, every Owner or Resident who conducts or engages  
19    in any business, commercial endeavor, or profession within the  
20    Development, or whose tenant does so, agrees to and shall indemnify  
21    and defend the Association, its officers, directors, employees, and  
22    agents and shall hold them harmless from and against any cost, loss,  
23    claim, or damages of any kind, arising out of the conduct or presence  
24    of such activity, including but not limited to attorney fees, any claims for  
25    consequential damages, and any claims arising or alleged to arise out  
26    of the enforcement or non-enforcement by the Association of the  
27    Governing Documents, including but not limited to the restriction on  
28    business contained in this **Section 5.7**. Any amounts owed pursuant to  
29    this **Section 5.7.2** may be assessed as a Reimbursement Assessment.

30  
31    5.8     Compliance with Laws. Each Owner and Resident shall comply with all  
32    requirements of all federal, state, and local governmental authorities and all laws,  
33    ordinances, rules and regulations applicable to his or her Lot and Dwelling and  
34    the Common Area.

35  
36    5.9     Unlawful Conduct, Nuisances, Noise. No unlawful, noxious, harmful, or offensive  
37    activities shall be conducted upon or within any part of the Development, nor  
38    shall anything be done within the Development which may be or become a  
39    nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to  
40    any Resident of the Development, or which shall in any way interfere with  
41    Residents' use of the Common Area and facilities thereon or the use and  
42    enjoyment of their Lots or Dwellings. Without limiting any of the foregoing, no  
43    Resident shall permit noise, including but not limited to the barking of dogs, to  
44    emanate from the Resident's Lot that would unreasonably disturb another  
45    Resident's enjoyment of his or her Lot or of the Common Area. The Association  
46    shall not be obligated to enforce this **Section 5.9** when a dispute under the  
47    Declaration is solely between neighbors, does not involve Common Area, or is

not an emergency. In any violation or dispute involving neighbors, Residents shall take reasonable steps to work with each other to resolve their differences before reporting a violation or dispute to the Association. Resident's complaints to the Association about neighbors shall: (a) be in writing; (b) give as much detail as possible concerning the dispute; (c) provide specific information about what informal efforts to resolve the matter were undertaken by the complaining Resident(s); and (d) provide the name, address, phone numbers, and email address of the complaining Resident(s).

5.10 Conditions Affecting Insurance. Nothing shall be done, placed, or kept within the Development that will increase the rate of insurance or result in the cancellation of insurance under any insurance policy maintained by the Association, or which will be in violation of any governmental statute, ordinance, rule, or regulation. If any Owner or Resident, member of their household, tenant, invitee, or guest shall violate this Section 5.10, the Lot Owner shall be liable to the Association for any resulting increase in insurance premiums and any other damages, which may be assessed against the responsible Owner as a Reimbursement Assessment.

5.11 Requirement of Architectural Approval. As addressed in Article 7 ("Architectural Approval"), construction, installation, modification, or alteration of buildings, outdoor structures, and outdoor lighting are subject to prior architectural approval.

5.12 Animals.

5.12.1 No Commercial Purposes. No animals shall be kept, bred, or maintained within the Development for any commercial purpose.

5.12.2 Number of Pets. A reasonable number of common domestic household pets may be kept on each Lot subject to any Rules and County ordinances.

5.12.3 Control of Dogs. While in Common Areas each dog must be restrained on a leash held by a responsible person capable of controlling the dog. Any Owner or Resident may cause any unleashed dog within the Common Area to be removed to a pound or animal shelter under the jurisdiction of the County.

5.12.4 No Outside Feeding of Animals. There shall be no feeding of ducks, geese, deer, bears, coyotes or any other non-domesticated animals within the Development. In order to control feral cats, raccoons, vermin, and other stray animals within the Development, no animal food shall be kept or placed outside anywhere within the Development, except for approved bird feeders. Pet feeding stations may not be kept in a garage if the garage door is left open permitting animals to access the feeding station.

- 1           5.12.5   Responsibility for Pets. The owner of each pet shall be responsible for  
2           immediately removing and disposing of any waste introduced to any  
3           portion of the Development by such pet. Owners, Residents, tenants,  
4           and guests shall prevent their pets from soiling any portion of the  
5           Common Area and shall immediately clean up any mess left by their  
6           pet. No pets are allowed in the area surrounding Lake Snowshoe.  
7
- 8           5.12.6   Indemnification Regarding Pets. Each Owner, Resident, and any  
9           person bringing or keeping an animal within the Development shall be  
10          absolutely liable to the Association and all other persons for any injury  
11          or damage to persons or property caused by the animal brought upon  
12          or kept upon the Development by such person or by members of his or  
13          her household, tenants, invitees, or guests. To the fullest extent  
14          permitted by law, each Owner agrees to and shall indemnify and  
15          defend the Association, its officers, directors, employees, and agents  
16          and shall hold them harmless from and against any cost, loss, claim, or  
17          damages of any kind, arising out of or resulting from the presence or  
18          conduct of any animal brought upon or kept within the Development by  
19          the Owner, members of his or her household, tenants, invitees, or  
20          guests including but not limited to attorney fees, any claims for  
21          consequential damages, and any claims arising or alleged to arise out  
22          of the enforcement or nonenforcement by the Association of the  
23          Governing Documents, including but not limited to the restrictions on  
24          animals contained in this Section 5.12. Any amounts owed pursuant to  
25          this Section 5.12.6 may be assessed as a Reimbursement  
26          Assessment.  
27
- 28          5.12.7   Removal of Nuisance Pets. The Association shall have the right to  
29          prohibit the keeping of any animal which, after the responsible Owner  
30          or Resident has an opportunity for a hearing called by the Board  
31          pursuant to Section 13.12 ("Hearing Called by the Board; Executive  
32          Session; Open Meeting"), is found by the Board to be a nuisance.  
33
- 34          5.12.8   Pet Rules. The Board may adopt and enforce pet Rules in addition to  
35          the provisions of this Section 5.12.  
36
- 37   5.13   Trash Disposal. Trash, garbage, accumulated waste plant material, other waste  
38          and refuse, and recyclable waste shall be deposited only in containers provided  
39          for that purpose by the garbage collection service. Such containers shall be  
40          located in an appropriate area upon each Lot and concealed from view, except  
41          on the day of the week that garbage pick-up is to occur. No Owner or Resident  
42          shall permit or cause any garbage, trash, or other waste or refuse to be kept  
43          upon any portion of any Lot or elsewhere in the Development, except in such  
44          containers. Furniture, appliances, water heaters, construction or remodeling  
45          debris, and other bulky items must be properly disposed of off-site by the Owner  
46          or Resident at his or her sole expense.  
47



1 5.14 Construction Materials, Construction Debris. No portion of the Development  
2 shall be used for the storage or staging of building materials other than in  
3 connection with approved construction. All construction debris shall be picked up  
4 and deposited daily in an appropriate container provided by the Owner. No  
5 storage of construction materials or other personal property shall be permitted on  
6 any unimproved Lot unless (i) the unimproved Lot is being utilized as an  
7 incorporated storage yard area for the adjacent improved Lot; or (ii) the materials  
8 are being stored in connection with a pending construction project that has  
9 received proper Board's approval.

10  
11 5.15 Machinery and Equipment. Except as approved by the Board, no machinery or  
12 equipment of any kind shall be maintained or operated upon a Lot except as is  
13 customary and necessary in connection with approved construction.

14  
15 5.16 Signs, Banners, Flags. Only the following types of signs, posters, banners, or  
16 flags shall be displayed to the public view from any portion of the Development:

- 17  
18 (a) Signs required by legal proceedings;  
19  
20 (b) A noncommercial sign or poster no larger than nine (9) square feet in size  
21 or a noncommercial flag or banner no larger than fifteen (15) square feet  
22 in size, displayed upon a Lot or Dwelling, and limited to the fullest extent  
23 permitted by *Civil Code* section 4710;  
24  
25 (c) A single sign of customary and reasonable dimension and design,  
26 complying with the provisions of any applicable ordinance and the  
27 Architectural Rules, if any, and reasonably located on a Lot advertising a  
28 Lot for sale or rent;  
29  
30 (d) Other signs which by law cannot be prohibited;  
31  
32 (e) A flag of the United States, subject to City or County restrictions as to size  
33 and as to time, place, and manner of display, as provided in *Civil Code*  
34 section 4705;  
35  
36 (f) Political candidate and issue signs located on an Owner's Lot, provided  
37 such signs shall not be installed on a Lot more than thirty (30) days prior  
38 to the applicable election and must be removed the day after the  
39 applicable election. Political signs shall comply with clause (b) of this  
40 Section 5.16;  
41  
42 (g) Garage sale signs located temporarily on an Owner's Lot on the day of the  
43 garage sale and to be removed within twenty-four (24) hours after the end  
44 of the garage sale. Garage sale signs shall comply with clause (b) of this  
45 Section 5.16;  
46

- 1 (h) A single identification sign which has been approved by the Board or the  
2 Architectural Committee (if any) and the local fire authority located on a  
3 Lot identifying the physical address of the Lot and/or the names of the  
4 Residents;  
5  
6 (i) Signs approved by the Board as required for traffic control and regulation  
7 of streets or open areas within the Development; and  
8  
9 (j) Signs on the Common Area as approved by the Board for a purpose  
10 reasonably related to the affairs of the Association, including signs located  
11 at or near any entrance to the Development identifying the Development.  
12

13 5.17 Vehicles and Parking.

14  
15 5.17.1 Prohibited Vehicles. Unregistered, dilapidated or inoperable vehicles  
16 may not be brought into or stored in the Development.  
17

18 5.17.2 Parking. The primary parking facility for Residents of each Lot is the  
19 driveway or garage on the Lot. Vehicles shall not be parked anywhere  
20 within the Development except wholly within a driveway, garage or  
21 other designated parking area. Parking is not allowed at any time in  
22 designated fire lanes.  
23

24 5.17.3 Vehicle Repairs. No motor vehicles or boats shall be constructed,  
25 reconstructed, repaired, or serviced within the Development (other  
26 than minor emergency repairs to the extent necessary to move the  
27 vehicle to a repair facility).  
28

29 5.18 Subdivision or Merger of Lots. Without prior approval of the Board, no Lot may  
30 be subdivided for any reason other than to combine the portions of such divided  
31 Lot with an adjacent Lot or Lots for the purpose of creating a larger parcel to  
32 serve as the site for a single Dwelling. Any such divided Lot shall be tied by  
33 covenant or merged with the Lot or Lots to which it is being combined. In  
34 addition, without prior approval of the Board, two (2) or more Lots may not be  
35 combined for the purpose of creating a larger parcel to serve as the site for a  
36 single Dwelling. An irrevocable covenant to hold as one (1) parcel shall be  
37 recorded against any merged or combined Lots at the time of such combination  
38 or merger. Such combination or merger shall not reduce the number of Lots as  
39 defined in and for purposes of this Declaration and, in particular, Assessments  
40 and voting rights attributable to the divided, combined, or merged lots shall be  
41 allocated to the Owner(s) thereof, notwithstanding any other provision of the  
42 Governing Documents.  
43

44 5.19 Mobile Homes. No mobile homes, whether on a slab or foundation, shall be  
45 permitted on any Lot in the Development.  
46

1 5.20 Prohibition of Private Water Systems. No private water systems are allowed in  
2 the Development.

3  
4 5.21 Storage of Personal Property. Personal property on any Lot shall be stored  
5 neatly and shall be located entirely within the Owner's Dwelling, garage, other  
6 enclosed storage areas, or neatly stored in an appropriate screened location  
7 consistent with the intention of this restriction to avoid having stored materials  
8 become a visual or aesthetic nuisance to the Development.

9  
10 5.22 Mineral Exploration and Excavation. No work or exploration for any minerals or  
11 drilling for any minerals or mining of any minerals or quarrying of any rock,  
12 minerals, soil, or mineral of any nature shall be conducted on any Lot nor shall  
13 any excavation of any nature be made upon the Lots or any portion thereof,  
14 except in connection with the installation of utility services, drainage lines, or  
15 excavation incident to the grading and preparation of building sites and the  
16 construction of Dwellings thereon. Underground utility trenches shall be dug so  
17 as to minimize damage to adjacent natural vegetation.

## 18 19 20 **ARTICLE 6 RENTING OR LEASING**

---

### 21 22 **6.1 Requirements for Renting.**

23  
24 6.1.1 Written Lease. An Owner renting his or her Lot shall do so pursuant to  
25 a written lease or rental agreement. The lease or rental agreement  
26 shall expressly provide:

- 27  
28 (i) for an initial term of at least thirty (30) days;
- 29  
30 (ii) that its terms are subject to all of the provisions of the  
31 Governing Documents;
- 32  
33 (iii) that failure of the tenant, members of the tenant's household,  
34 invitees, or guests to comply with applicable provisions of the  
35 Governing Documents shall constitute a default under the terms  
36 of such lease or rental agreement; and
- 37  
38 (iv) that in the event of any such default, the Association shall be  
39 entitled to maintain an eviction action against the tenant to the  
40 same extent as the Owner of the Lot, the Association being  
41 deemed to be a third party beneficiary under such lease or  
42 rental agreement, as provided in **Section 6.8** ("Association As  
43 Third Party Beneficiary").

44  
45 6.1.2 No Subletting. No subletting shall be permitted.  
46

6.1.3 Copy of Lease. An Owner renting his or her Lot shall file a copy of the signed lease or rental agreement with the Board.

6.1.4 Renter's Insurance. An Owner renting his or her Lot shall require the tenant to carry renter's insurance, as provided in Section 10.6 ("HO4 Renter's Policy").

6.1.5 Provide Governing Documents to Tenants. An Owner renting his or her Lot shall provide the tenant(s) with a copy of the Governing Documents, and any subsequent changes thereto.

6.1.6 Affidavit of Tenants. Upon request by the Association, the Owner shall cause all tenants and occupants to execute and submit to the Association an affidavit or certificate in a form prescribed by the Association, which includes the following and such other matters as are reasonably required by the Association: (i) that he/she/they have received copies of the Governing Documents, (ii) that he/she/they understand that the lease is expressly subject to all the provisions of the Governing Documents, and (iii) that he/she/they understand that the breach of any provision of the Governing Documents shall constitute a default under the lease.

6.1.7 House Sitters. The provisions of Section 6.1.5 (“Provide Governing Documents to Tenants”) and Section 6.1.6 (“Affidavit of Tenants”) shall apply with respect to any person occupying a Lot as a guest of the Owner, as a paid or unpaid house sitter, or in a similar capacity when no Owner is in residence.

6.1.8 Owner's Contact Information. An Owner renting his or her Lot shall provide the Association with contact information for the Owner or a representative of the Owner with authority to act on behalf of the Owner with respect to the Lot and the tenants, including telephone number, email address, mailing address, and such other contact information as the Association may require.

6.2 Notice of Non-Owner Occupants. Without limiting the generality of the provisions contained in Section 6.1 ("Requirements for Renting"), each Owner shall notify the Board and the Association's manager of the names of (i) any tenants or any Contract Purchasers occupying such Owner's Lot, and (ii) any guest, house sitter, or other person occupying the Lot when no Owner is in residence (whether or not such person is paying rent or is being compensated by the Owner). If requested by the Board, each Owner, tenant, or Contract Purchaser shall also notify the Board or the Association's manager of the names of all members of his or her household to whom such Owner, tenant, or Contract Purchaser has delegated any rights of enjoyment in the Development as provided herein and the relationship each such person bears to such Owner, tenant, or Contract Purchaser.

- 1  
2 6.3 No Transient Rentals. No Owner shall be permitted to lease, rent, or otherwise  
3 operate his or her Lot for transient or hotel purposes, which shall include, but is  
4 not limited to, rental for any period less than thirty (30) days or any rental (even if  
5 the term is longer than thirty days) where the Resident of a Dwelling is provided  
6 customary hotel services such as room service for food and beverage, maid  
7 service, periodic furnishing of clean bed linen and towels, laundry service, or  
8 bellboy services. This Section 6.3 shall not be deemed to permit an initial lease  
9 or rental term shorter than thirty (30) days as provided in Section 6.1.1(i)  
10 (“Written Lease”).  
11
- 12 6.4 Rental of Entire Lot. No Owner shall rent or lease less than the entire Lot except  
13 that an accessory dwelling unit as defined in California *Government Code*  
14 sections 65852.2 and 65852.22 may be rented separately from the principal  
15 Dwelling on the Lot. The preceding sentence is intended to prohibit the operation  
16 of a rooming house or similar operation within the Development. This Section  
17 6.4 is not intended to prohibit a resident Owner from sharing his or her Lot or  
18 Dwelling with a roommate or other person(s) with whom the Owner maintains a  
19 common household.  
20
- 21 6.5 No Vacation Clubs; No Time Share Arrangements. No Lot or Lots or any portion  
22 thereof shall be leased, subleased, occupied, rented, let, sublet, or used for or in  
23 connection with any time sharing agreement, plan, program or arrangement,  
24 including, without limitation, any so called “vacation license,” “travel club,”  
25 “extended vacation,” “home-exchange club,” any other membership or time  
26 interval ownership arrangement, or any time-share estate or time-share use as  
27 defined in Section 11212 of the California *Business and Professions Code*. The  
28 term “time sharing” as used herein shall be deemed to include, but shall not be  
29 limited to, any agreement, plan, program, or arrangement under which the right  
30 to use, occupy, or possess any Lot or Lots or any portion thereof or Dwelling  
31 thereon rotates among various persons, either corporate, partnership, individual,  
32 or otherwise, on a periodically recurring basis for value exchanged, whether  
33 monetary or like kind use privileges, according to a fixed or floating interval or  
34 period of time. This Section 6.5 shall not be construed to limit the personal use  
35 of any Lot or any portion thereof by its Owner and such Owner’s social or familial  
36 guests.  
37
- 38 6.6 Private Exchanges Permitted. Section 6.5 (“No Vacation Clubs; No Time Share  
39 Arrangements”) shall not be deemed to prohibit an Owner from entering into a  
40 private exchange arrangement with another person whereby the Owner will  
41 occupy the dwelling of the other party to the exchange for a defined temporary  
42 period and that other person will occupy the Owner’s Dwelling during the same  
43 period; provided that the exchange period shall not exceed ninety (90)  
44 consecutive days and only one (1) such exchange shall be permitted in any  
45 calendar year. Each Owner who enters into a private exchange arrangement  
46 shall provide written notice to the Board in advance of arrival of the guest(s),

1 which notice shall include the guest(s) name(s) and such other information as the  
2 Board shall require.

3  
4 6.7 Implementation. Upon request from the Board, each Owner then renting or  
5 leasing a Lot shall provide to the Board such information as the Board may  
6 reasonably require in order to implement the provisions of this Article 6 including  
7 but not limited to the names of the tenants and the members of the tenant's  
8 household and the duration of the lease and/or a copy of the signed lease.

9  
10 6.8 Association As Third Party Beneficiary. Notwithstanding the failure of an Owner  
11 to comply with the requirements of Section 6.1 ("Requirements for Renting") and,  
12 whether or not it is so stated in a written contract or other agreement between  
13 such Owner and such tenant, the Owner and the tenant of any Lot subject to this  
14 Declaration shall be conclusively deemed to have agreed that the Association is  
15 an intended third party beneficiary to the contract between the Owner and the  
16 tenant; that failure of the tenant, members of the tenant's household, tenant's  
17 invitees, or guests to comply with applicable provisions of the Governing  
18 Documents shall constitute a breach of the terms of the contract between the  
19 Owner and the tenant; and that the Association shall have the right but not the  
20 obligation to enforce the contract and to pursue every remedy available under the  
21 contract, under this Declaration including but not limited to the rights granted  
22 pursuant to Section 8.18 ("Assignment of Rents As Security for Payment"), or  
23 under the law. The power of the Association as provided in this Section 6.8 shall  
24 be exercised in good faith, in a reasonable and nondiscriminatory manner, and  
25 only after notice and opportunity for a hearing as provided in Article 13  
26 ("Enforcement; Notice; Hearings").

27  
28 6.9 Indemnification Regarding Tenant's Actions. Each Owner leasing or renting a  
29 Lot shall be strictly responsible and liable to the Association for the actions of  
30 such Owner's tenant(s) in or about all Dwellings, Lots, and Common Area and for  
31 each tenant's compliance with the provisions of the Governing Documents. No  
32 provision of any lease or rental agreement shall relieve the Lot Owner of his or  
33 her obligations pursuant to the Governing Documents. To the fullest extent  
34 permitted by law, every Owner of a Lot that is occupied by persons other than the  
35 Owner pursuant to a rental agreement or lease or otherwise, agrees to and shall  
36 indemnify and defend the Association, its officers, directors, employees, and  
37 agents and shall hold them harmless from and against any cost, loss, claim, or  
38 damages of any kind, arising out of the conduct or presence of the Residents of  
39 the Lot upon the Development, including but not limited to attorney fees  
40 (including attorney fees incurred to enforce the provisions of this Article 6 against  
41 the Owner of the Lot or any guest, tenant or other Resident of the Lot), any  
42 claims for consequential damages, and any claims arising or alleged to arise out  
43 of the enforcement or nonenforcement by the Association of the Governing  
44 Documents with respect to such Residents. Any amounts owed pursuant to this  
45 Section 6.9 may be assessed as a Reimbursement Assessment against the  
46 responsible Owner and his or her Lot.



## ARTICLE 7 ARCHITECTURAL APPROVAL

---

7.1 Prior Architectural Approval Required. No building, accessory dwelling unit, fence, hedge or similar barrier, wall, obstruction, deck, balcony, screen, patio cover, tent, awning, carport cover, septic system, improvement or other structure of any kind, no outdoor lighting, no mast, pole, tower, antenna, receiver, or transmitter to the extent restricted by Section 7.2.3 ("Satellite Dishes and Antennas"), and no landscaping shall be commenced, erected, planted, or installed within the Development, nor shall any exterior addition or change or alteration be made, until the plans and specifications showing the nature, kind, shape, color, height, size, materials, and location of the same have been submitted to and approved in writing by the Board. The requirement of architectural approval shall not apply to improvements made or constructed by or on behalf of the Association.

7.2 Some Common Architectural Concerns. This Section 7.2 enumerates some common areas of architectural concern. These are examples only and do not represent an exhaustive list of changes that require prior architectural approval. Nothing in this Section 7.2 shall be deemed to limit the generality of Section 7.1 ("Prior Architectural Approval Required").

7.2.1 Exterior Painting. Prior architectural approval shall not be required for repainting or refinishing a structure in its existing color scheme, like for like, if such colors have been previously approved.

7.2.2 Drainage Patterns. No excavation and no alteration or addition of any kind is permitted which alters or may alter existing drainage patterns of existing channels upon, under, and/or across the Development property or any portion thereof through which water in time of storms or otherwise naturally flows or through which water has been caused to flow artificially, without obtaining prior architectural approval.

7.2.3 Satellite Dishes and Antennas. No outside radio or television aerial, antenna, dish, wire, or other receiving or transmitting device shall be erected, constructed, or maintained on any Lot, except (i) those expressly approved by the Board or (ii) those that, by law, cannot be prohibited.

7.2.4 Masts, Poles, Towers, Other Projections. No outside mast, pole, tower, or projection of any type attached to any structure that extends above the roof of the structure (with the exception of chimneys and vent stacks) and no outside mast or pole shall be placed or permitted to remain without prior architectural approval.

7.2.5 Storage Units, Temporary Structures. No shed, tent, temporary structure, cargo container, temporary storage container ("PODS") shall

1 be erected, maintained, kept, or used anywhere within the  
2 Development without the prior architectural approval pursuant to this  
3 Article 7. Any approved temporary building shall be used only for  
4 purposes incidental to approved construction and shall be removed  
5 promptly upon completion of the work.

6  
7 7.2.6 Size and Height of Dwellings. No Dwelling having a ground-floor area  
8 of less than seven hundred fifty (750) square feet (exclusive of garage,  
9 open porches, terraces, stoops, and the like) shall be constructed or  
10 placed upon any Lot within the Development. The mean height of any  
11 Dwelling shall not exceed thirty-five feet (35'). No Dwelling shall be  
12 constructed on any Lot without prior architectural approval.

13  
14 7.2.7 Set-Back Requirements. No building, including a deck attached to a  
15 building, shall be erected on any Lot nearer than twenty feet (20') to  
16 the front property line, nor shall any building be erected on any Lot  
17 nearer than ten feet (10') to any side or rear lot line, without the prior  
18 written consent of the Association. A maximum eave encroachment of  
19 two feet (2') is allowed.

20  
21 7.2.8 Fences and Walls. No fence, boundary, wall, or hedge, other than an  
22 open sightless wire fence surrounding a tennis court, badminton court,  
23 and the like shall have a greater height than six feet (6'). No such  
24 fence, wall, or hedge situated within twenty feet (20') of any front  
25 property line shall be at a greater height than three feet (3'), nor shall  
26 any tight board fence be erected within twenty feet (20') of any front  
27 property line. No fence or wall shall be constructed on any Lot without  
28 prior architectural approval.

29  
30 7.2.9 Tree Removal. Only such trees and limbs thereof may be removed as  
31 are necessary for the construction of a Dwelling and appurtenant  
32 buildings, for the installation of utilities, and for the safety of any  
33 building located on any Lot; *provided, however*, that prior to any such  
34 removal, notice shall be given to the Association and the Association's  
35 written approval of the removal shall be obtained. After a Dwelling is  
36 constructed, no tree with a trunk diameter of eight inches (8") or more  
37 (measured three feet (3') above grade) shall be removed for any  
38 purpose without the prior written approval of the Board. With the  
39 exception of maintenance to conform to fire prevention requirements,  
40 tree crowning, drastic pruning, removal of diseased trees, and thinning  
41 to restore view or sunlight is subject to written approval of the Board.

42  
43 7.2.10 Septic Systems. Unless and until a sewer system becomes available  
44 and its use is approved by the Association in writing, sewage disposal  
45 systems shall be limited to septic tank and leaching systems.  
46 Individual sewage disposal systems shall be approved in writing by the  
47 Board and constructed in accordance with federal, state and local



requirements. Sewage disposal systems on Lots situated above roadways must be kept at least twenty-five feet (25') back from road cuts on embankments. Sewage disposal systems shall be kept at least one hundred feet (100') away from any spring. In approving a septic system, the Board may require Owners to present evidence that the installation of a septic system has been inspected and approved by the County.

7.2.11 Exterior Lighting and Fixtures. Outdoor lights must be enclosed in a manner that directs the light in a specific area without causing a visual impairment to passing motorists or a nuisance to neighboring properties. The issue of whether a nuisance exists shall be determined by the Board in its sole discretion.

7.2.12 Construction Vehicle Access. To preserve the natural vegetation on a Lot, construction vehicle access to the Lot shall be restricted to the area of the intended or actual driveway. In addition, the work area and heavy equipment movement on the Lot shall be limited to the footprint of the improvement being constructed and an additional area, not to exceed twelve and one-half feet (12½') outside the foundation footprint, unless a larger area exists without natural vegetation or the area will be incorporated in a landscape plan approved by the Board.

### 7.3 Architectural Rules.

7.3.1 In General. Subject to the requirements of *Civil Code* section 4340 and following, the Board may from time to time adopt, amend, and repeal rules and regulations to be known as "Architectural Rules." Architectural Rules shall set forth the standards for architectural review and guidelines for architectural design, placement of buildings and other structures, outdoor lighting, and landscaping, color schemes, exterior finishes and materials, and similar features which are recommended for use in the Development and may include restrictions on satellite dishes and solar energy systems consistent with applicable law; *provided, however*, that Architectural Rules shall not be in derogation of any minimum standards required by this Declaration.

7.3.2 Roofs. Any Architectural Rules concerning the installation or repair of a roof shall comply with applicable law including *Civil Code* section 4720, if it applies.

### 7.4 Advisory Architectural Committee.

7.4.1 Appointment. The Board may (but is not required to) appoint an Architectural Committee consisting of three (3) Members of the Association and at least one (1) of whom may be a director. In the

1 absence of a duly-constituted Architectural Committee, the Board shall  
2 perform the functions of the Architectural Committee.

3  
4 7.4.2 Recommendations to Board. If an Architectural Committee is  
5 appointed, it shall review all requests for approval and requests for  
6 preliminary consultation submitted in accordance with this **Article 7** and  
7 provide recommendations to the Board concerning the same. The  
8 Board has the authority to accept, modify, or reject the Architectural  
9 Committee's recommendations and shall make the final decision on all  
10 requests for approval.

11  
12 7.4.3 Architectural Committee Deliberations. Unless the Architectural  
13 Committee as constituted is subject to the open meeting requirements  
14 for Board meetings pursuant to *Civil Code* section 4900 and following,  
15 the deliberations of the Architectural Committee need not be  
16 conducted in open meetings.

17  
18 7.4.4 Other Duties. The Architectural Committee shall also have such other  
19 duties and responsibilities as may be assigned by the Board. The  
20 Architectural Committee members shall serve at the pleasure of the  
21 Board.

22  
23 7.5 Preliminary Consultation Prior to Submitting Application. Any Owner considering  
24 performing any work requiring prior approval may apply to the Board, or to the  
25 Architectural Committee if one is appointed, for preliminary consultation by  
26 submitting preliminary plans or drawings of the contemplated work in accordance  
27 with the Architectural Rules. The purpose of the preliminary consultation  
28 procedure is to allow an Owner considering making substantial improvements an  
29 opportunity to obtain guidance concerning design considerations before  
30 expending substantial sums for plans and other exhibits required to apply for  
31 actual approval. Within thirty (30) days after receiving a request for a preliminary  
32 consultation, the Board shall consider the preliminary information submitted and  
33 shall respond in writing to the Owner. The Board's response shall give the  
34 requesting Owner such direction concerning the form and substance of an  
35 approval application for the contemplated work as the Board deems proper or  
36 desirable for the guidance of the Owner. The issuance of a preliminary  
37 consultation response by the Board shall not under any circumstances be  
38 deemed approval of any contemplated work; nor, once an Owner submits a  
39 request for approval, shall it preclude the Board from requesting additional  
40 information about the proposed work based on the actual application.

41  
42 7.6 Written Request for Board's Approval. Any Owner proposing to perform any  
43 work that requires prior approval pursuant to this **Article 7**, shall submit to the  
44 Board (or the Architectural Committee if one is appointed) a written request  
45 setting forth the nature of the proposed work and furnishing such information and  
46 documentation as the Board may require depending on the nature and size of the  
47 proposed work including a County building permit if applicable. Such information

and documentation may include but is not limited to: (i) floor plans, (ii) color samples of exterior materials, (iii) specifications, (iv) building plans, (v) wall sections, (vi) exterior elevations, (vii) roof plans, (viii) landscaping plans (tree removal), (ix) graphics and exterior furnishings, and (x) the Owner's proposed construction schedule.

7.7 Fees; Professional Consultants. The Board may charge a reasonable fee or fees for review of architectural or landscaping applications, drawings, plans, and specifications which may include the cost of retaining outside consultants including but not limited to architects, engineers, soils experts, or contractors.

7.8 Meetings. To the extent required by *Civil Code* section 4765 and as provided in *Civil Code* section 4900, an Owner's request for approval shall be considered by the Board in an open Board meeting. An Owner and, in the Board's discretion, other interested persons, may present information relevant to the requested approval.

7.9 Basis for Decisions; Good Faith. The Board's decisions shall be made in good faith and shall not be unreasonable, arbitrary, or capricious. It is recognized and intended that the Board will employ subjective criteria and judgments in its review of and determination concerning plans and proposals submitted to it. The Board shall make its decisions from the perspective of the interest of the Development as a whole in the fostering of the coherence, value, attractiveness and aesthetic compatibility of all architectural designs and features in the Development, after consideration of such factors the Board reasonably determines to be relevant and after reasonable investigation consistent with the scope and circumstances of the proposal submitted to the Board. The Board shall grant the requested approval only if:

(a) The Owner has submitted a complete application;

(b) The Board finds that the plans and specifications conform to this Declaration and to the Architectural Rules in effect at the time such plans were submitted to the Architectural Committee. The Board finds that the proposed work will, if approved, be consistent and compatible with the architectural and aesthetic standards prevailing within the Development and will be in harmony with the external design and appearance of other existing structures and improvements within the Development, and as to location with respect to topography and finished grade elevations; and

(c) The Board determines that the proposed work would be consistent with the standards of the Development and the purposes of this Declaration as to quality of workmanship and materials.

7.10 Decisions in Writing; Timely Decision; Reasonable Conditions. All approvals and rejections of requests for approval shall be in writing and shall be issued by the Board within sixty (60) days from the date of submission of a complete

1 application to the Board. Any approval may include such reasonable conditions  
2 as the Board may determine. If a request is rejected, the decision shall include  
3 an explanation of the Board's decision.  
4

5 7.11 Variances. The Board may, but is not obligated to, grant variances or  
6 adjustments in its discretion if necessary to overcome practical difficulties due to  
7 topography or other conditions unique to a particular Lot, avoid unnecessary  
8 expense, or prevent unnecessary hardship in the application of the provisions of  
9 the Declaration; *provided, however*, that such variance or adjustment does not  
10 violate the purpose or purposes intended to be served by the standard or criteria  
11 being waived in each instance and is in conformity with the intent and purposes  
12 of the Declaration; and *provided, further*, that no such variance shall constitute a  
13 waiver of such provision with respect to any future application whether for the  
14 same Lot or any other Lot. Any variance granted by the Board shall be noted in  
15 the written approval of the proposed work and may be required by the Board to  
16 be recorded in the County records.  
17

18 7.12 Failure of Board to Make Timely Decision. If the Board fails to act on a request  
19 for approval within the time specified in Section 7.10 ("Decisions in Writing;  
20 Timely Decision; Reasonable Conditions"), the Owner shall be entitled to invoke  
21 internal dispute resolution pursuant to *Civil Code* section 5910, discussed in  
22 Section 13.16 ("Internal Dispute Resolution").  
23

24 7.13 Failure to Obtain Required Approval. If any work that requires prior approval  
25 pursuant to this Article 7 is performed without such approval having been  
26 obtained, the Board shall be entitled to proceed in accordance with the provisions  
27 of Section 7.18 ("Failure to Remedy Non-conformity") as though the Board had  
28 given written notice of non-conformity with approved plans per Section 7.17  
29 ("Notice of Non-conformity").  
30

31 7.14 Commencement of Approved Work. Upon receipt of written approval, the Owner  
32 shall, as soon as practicable, satisfy all conditions of the approval and diligently  
33 proceed with the commencement and completion of all approved work.  
34 Commencement of the approved work shall occur, in all cases, within one (1)  
35 year from the date of such approval. In the case of original construction on a  
36 vacant Lot, "commencement of construction" shall mean at least the completion  
37 of grading and the pouring of all or substantially all foundations for any  
38 improvements. If the Owner fails to comply with this paragraph, any approval  
39 previously given shall be deemed revoked unless the Board, upon written  
40 request of the Owner made prior to the expiration of the time for commencement  
41 of the approved work, extends the time for such commencement. The Board  
42 shall not grant an extension of time for commencement of the work if the Board  
43 finds that there has been a material change in the circumstances upon which the  
44 original approval was granted.  
45

46 7.15 Completion; Extension of Deadline. The Owner shall complete all approved work  
47 within two (2) years after commencement thereof; except that in the case of

original construction on a vacant Lot or reconstruction after substantially total destruction of the improvements on a Lot, the construction or reconstruction shall be completed within thirty (30) months after commencement thereof. In the case of projects under construction when this Declaration is recorded, the construction or reconstruction shall be completed by the completion date specified in the project approval or, if no such completion date was specified, within two years (or in the case of original construction on a vacant Lot or reconstruction after substantially total destruction of the improvements on a Lot within 30 months), after the date of recordation. The date for completion may be extended as long as such completion is rendered impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, natural calamities, weather conditions or other supervening forces beyond the control of the Owner or his or her agents, provided the Owner notifies the Board of such occurrence within a reasonable time after becoming aware of it. If an Owner fails to comply with this Section 7.15, the Board shall be entitled to proceed in accordance with the provisions of Section 7.18 ("Failure to Remedy Non-conformity") as though the Board has given written notice of non-conformity with approved plans per Section 7.17 ("Notice of Non-conformity").

7.16 Notice of Completion; Inspection of Completed Work. Upon the completion of any work for which approval is required under this Article 7, the Owner shall give written notice of completion to the Board. The written notice shall include copies of all applicable permits, job cards, and building permit inspections. Within thirty (30) days after receiving notice of completion from the Owner, the Board or its duly-authorized representative may inspect such work to determine if it substantially complies with the granted approval and Owner shall cooperate with the Board to conduct such inspection. If the Board fails to notify the Owner of any non-conformity within such thirty-day period, the work shall be deemed to be in accordance with the granted approval. If the Owner fails to give notice of completion, the Board shall be entitled to proceed in accordance with the provisions of Section 7.18 ("Failure to Remedy Non-conformity") as though the Board has given written notice of non-conformity with approved plans per Section 7.17 ("Notice of Non-conformity").

7.17 Notice of Non-conformity. If the Board finds that the work was not done in substantial conformity with the granted approval, it shall notify the Owner in writing before the end of such thirty (30) day period set forth in Section 7.16 ("Notice of Completion; Inspection of Completed Work") specifying particulars of non-conformity and requiring the Owner to remedy the same within thirty (30) days from the date of the notice from the Board or such longer time as the Board may designate in the notice.

7.18 Failure to Remedy Non-conformity. If the Owner fails to remedy such non-conformity within the time specified in the notice of non-conformity the Board shall then, pursuant to the procedures set forth in Section 13.12 ("Hearing Called by the Board; Executive Session; Open Meeting"), set a date on which a hearing before the Board shall be held regarding the alleged non-conformity. If the Board

finds at such hearing that a substantial non-conformity exists, the Board may, in addition to any other remedy available under the Governing Documents or applicable law, order the Owner to remedy or remove such non-conformity. If the Owner thereafter fails to do so within the time specified by the Board, the Board may, in addition to any other remedy available under the Governing Documents or applicable law, remove or remedy the non-conformity and, in that event, all expenses incurred by the Association in connection therewith shall be assessed against the Owner as a Reimbursement Assessment.

7.19 Non-waiver. The approval by the Board of any plans, drawings, or specifications for any work done or proposed, or for any other matter requiring approval under this Article 7, shall not be deemed to constitute a waiver of the right to withhold approval of any similar plan, drawing, specification, or matter subsequently submitted for approval with respect to the same Lot or any other Lot.

7.20 Estoppel Certificate. Within thirty (30) days after written demand is delivered to the Association by an Owner, and upon payment to the Association of a reasonable fee (as fixed from time to time by the Board), the Board shall cause to be recorded an estoppel certificate certifying, with respect to specified improvements and other work performed by the requesting Owner upon a particular Lot owned by such Owner, that as of the date of the estoppel certificate, either: (i) the improvements and other work specified by the Owner and performed by the Owner are not in violation of the architectural approval requirements of this Declaration, or (ii) that certain or all of the specified improvements or other work are in violation of the architectural approval requirements, in which event the estoppel certificate shall identify the non-complying improvements or work and set forth with particularity the basis of such non-compliance. Any purchaser from the Owner, or from anyone deriving any interest in a Lot through the Owner, shall be entitled to rely on the recorded estoppel certificate with respect to the matters therein set forth, such matters being conclusive as between the Association and the Owner(s) and any persons deriving any interest through the Owner(s).

7.21 Disclaimer of Liability. Neither the Board, nor any committee, nor any member thereof shall be liable to the Association, to any Owner, or to any person deriving an interest through an Owner for any damage, loss, or prejudice suffered or claimed on account of: (i) the approval or disapproval of any plans, drawings, and specifications, whether or not defective; (ii) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; (iii) the development of any property within the Development; or (iv) the execution and filing of an estoppel certificate pursuant to Section 7.20 ("Estoppel Certificate") whether or not the facts therein are correct; *provided, however,* that the Board, committee, or such member has acted in good faith on the basis of such information as may be possessed by it or him or her. Without limiting the generality of the foregoing, the Board or any committee may, but is not required to, consult with or hear the views of the Association or any Owner with respect to any plans, drawings, specifications, or any other proposal



submitted for approval pursuant to this **Article 7**. Every purchaser, by acquiring title to a Lot or portion thereof agrees not to bring any action or suit against the Board, the committee, or its or their members seeking to recover any such damages.

- 7.22 Compliance with Governmental Requirements. The Owner of the Lot is required to obtain all permits and governmental authorizations, if any, required for any work done upon such Owner's Lot and such Owner must comply with all applicable zoning and building codes as well as other applicable laws and ordinances. The Owner of each Lot is solely responsible for complying with any applicable building permit process or other governmental requirements with respect to any work done upon the Owner's Lot. Submission of a request for approval by the Board and the review and approval of any proposals, plans, or other submittals shall in no way be deemed to be satisfaction of or compliance with any building permit process or any other governmental requirements, nor shall it constitute the assumption of any responsibility by or impose any liability on the Association, the Board, the Architectural Committee, or its or their members as to the accuracy, efficacy, or sufficiency thereof. When Architectural approval standards of the Association are more stringent than applicable governmental standards, the more stringent standards of the Association shall apply, notwithstanding the fact that governmental approval may have been obtained based on governmental standards that are less stringent than those of the Association.

## **ARTICLE 8                      ASSESSMENTS AND LIENS**

---

- 8.1 Covenant of Owner. Each Owner of a Lot within the Development, by acceptance of a deed or other conveyance thereof, whether or not it shall be so expressed in such deed or conveyance, shall be deemed to have covenanted and agreed to pay to the Association all: (i) Regular Assessments, (ii) Special Assessments, (iii) Reimbursement Assessments, and (iv) Enforcement Assessments levied by the Association as hereinafter provided, together with all Additional Charges.

8.1.1 Association's Power to Collect. Such deed or conveyance shall be deemed to vest in the Association the right and power to initiate all actions and procedures as the Board shall deem necessary or appropriate for the collection of such Assessments and Additional Charges and for the enforcement of the liens hereinafter provided for.

8.1.2 Assessments Are a Personal Obligation. Assessments levied by the Association pursuant to this Declaration, together with all Additional Charges, shall be a personal debt and obligation of the Owner against whom they are assessed, and shall bind his or her heirs, devisees, personal representatives, successors, and assigns.

- 1           8.1.3   Obligation Runs with the Land. The obligation to pay Assessments  
2           and Additional Charges and the right and power of the Association to  
3           initiate all actions and procedures for collection shall run with the land,  
4           so that each successive Owner or Owners of any Lot shall, in turn,  
5           become liable to pay all such Assessments and Additional Charges  
6           assessed that become due and payable during the time he or she is  
7           Owner of such Lot.  
8
- 9           8.1.4   Owner's Liability After Transfer. After an Owner transfers his or her  
10          ownership interest in any Lot, he or she shall not be liable for any  
11          Assessments levied thereafter with respect to such Lot. Such Owner  
12          shall remain personally liable, however, for all unpaid amounts due and  
13          owing at the time of transfer, together with Additional Charges accruing  
14          until time of collection. No assumption of personal liability by a  
15          successor Owner shall relieve any Owner from personal liability for  
16          delinquent Assessments. A Contract Seller of any Lot shall continue to  
17          be liable for all Assessments and Additional Charges until a  
18          conveyance by deed of such Lot is recorded in the Office of the County  
19          Recorder.  
20
- 21       8.2   Creation of Lien. Each Assessment levied by the Association pursuant to this  
22       Declaration, together with all Additional Charges, shall be a charge upon the land  
23       and upon levy shall be secured by a continuing lien upon the property against  
24       which such Assessment is levied. The Association shall have a separate lien  
25       and a separate lien is hereby created upon each Lot to secure the payment of  
26       any such Assessments and Additional Charges as may be levied under this  
27       Declaration.  
28
- 29       8.2.1   Lien Is Continuing. The lien provided for herein shall continue to  
30       secure all Assessments and Additional Charges levied upon any Lot  
31       notwithstanding the transfer of record title to such Lot, and any such  
32       transfer shall be subject to the Association's lien, provided that, prior to  
33       such transfer, a notice of delinquent assessment has been recorded as  
34       provided in the Declaration and by law.  
35
- 36       8.2.2   Priority of Association's Assessment Liens. The priority of all such  
37       liens on each Lot shall be in inverse order so that upon the foreclosure  
38       of the lien for any particular charge on any Lot, any sale of such Lot  
39       pursuant to foreclosure of the lien will be made subject to all liens  
40       securing Assessments and Additional Charges on such Lot that  
41       become due and payable subsequent to the lien being foreclosed  
42       upon.  
43
- 44       8.3   Purpose of Assessments. The Assessments levied by the Board shall be used  
45       exclusively to pay for the costs of management and operation of the  
46       Development, of conducting the business and affairs of the Association, to  
47       promote the recreation, health, safety, welfare, benefit, and interests of the



1 Owners and Residents in the Development, and for the improvement and  
2 maintenance, repair, and replacement of the Common Area, the water  
3 distribution system, and, to the extent provided for in the Governing Documents  
4 or by law, of the Lots situated within the Development or which, in the opinion of  
5 the Board, shall be deemed to be necessary or proper for the management of the  
6 Development or of the affairs of the Association, or the benefit of the Owners, or  
7 for the enforcement of the Governing Documents.  
8

9 8.4 Funds to Be Held in Association's Name. Unless otherwise determined by the  
10 Board, the Association shall maintain at least two (2) separate accounts in one  
11 (1) or more banks or other depositories selected by the Board, which accounts  
12 shall be clearly designated Snowshoe Springs Association operating account and  
13 Snowshoe Springs Association reserve account. The Assessments collected by  
14 the Association shall be properly deposited into such accounts. Withdrawal of  
15 funds from Association accounts shall be subject to the requirements of Section  
16 10.4 of the Bylaws ("Checks, Drafts, and Evidences of Indebtedness").  
17

18 8.5 Funds Held in Trust for Owners. The Assessments collected by the Association  
19 shall be held in trust by the Association for and on behalf of each Owner. Upon  
20 sale or transfer of any Lot by any Owner, the Owner's interest in the funds held in  
21 trust by the Association shall terminate and shall be deemed automatically  
22 transferred to the successor-transferee of such Owner.  
23

24 8.6 Authority of the Board to Levy Assessments. The Board shall have the power  
25 and the duty to levy Regular Assessments and Special Assessments sufficient to  
26 meet the Association's obligations under the Governing Documents and  
27 applicable law.  
28

29 8.7 Regular Assessment.  
30

31 8.7.1 Calculation of Estimated Requirement. Prior to the beginning of each  
32 fiscal year, the Board shall estimate the net funds required by the  
33 Association for such fiscal year to manage, administer, operate, and  
34 maintain the Development, the water system and one (1) year's supply  
35 of water; to conduct the affairs of the Association; and to perform all of  
36 the Association's duties in accordance with the Governing Documents,  
37 including a reasonable amount allocated to contingencies and to a  
38 reserve fund for restoration, repair, and/or replacement of those  
39 components for which the Association is responsible and which must  
40 be repaired or replaced on a periodic basis. The amount of estimated  
41 required funds shall constitute the Regular Assessment.  
42

43 8.7.2 Allocation of Regular Assessment. Except for those amounts charged  
44 by the Association for use of the Association's water distribution  
45 system, the Board shall allocate and assess the Regular Assessment  
46 equally among the Lots by dividing the amount by the number of Lots  
47 within the Development. The Association may impose a tiered rate

1 structure for water use, which may distinguish between improved and  
2 unimproved Lots. Owners of multiple Lots that have been used as a  
3 single homesite or have been legally merged to create a single Lot  
4 shall be responsible for payment of Assessments on each of the  
5 original Lots on the same basis as if the Lots were not used as a single  
6 homesite or were not merged.

7  
8 8.7.3 Payment of Regular Assessment. Unless the Board shall designate  
9 otherwise, Regular Assessments shall be levied on an annual basis  
10 and shall be paid in one (1) installment which shall be due on April 1,  
11 except that payment for excessive water use shall be due upon receipt.

12  
13 8.7.4 Notice of Regular Assessment. Not less than thirty (30) days and not  
14 more than ninety (90) days prior to the beginning of each fiscal year,  
15 the Board shall send to each Owner a notice of the amount of the  
16 Regular Assessment allocated to his or her Lot, except that if there is  
17 an increase in the Regular Assessment over the previous year, in  
18 compliance with *Civil Code* section 5615 the notice shall be provided to  
19 the Owner by Individual Delivery not less than thirty (30) days and not  
20 more than sixty (60) days before the due date of the increased Regular  
21 Assessment.

22  
23 8.7.5 Permitted Increase in Regular Assessment. Pursuant to *Civil Code*  
24 section 5605(b), except as otherwise provided by law, the Board shall  
25 not increase the Regular Assessment for any fiscal year above the  
26 amount of the Regular Assessment for the preceding fiscal year by  
27 more than twenty percent (20%) (or such other limitation on the  
28 increase as may be imposed by law), except upon the affirmative vote  
29 of a majority of Members voting on any such increase in the Regular  
30 Assessment, provided that a quorum is established. For purposes of  
31 the preceding sentence and to the extent required pursuant to *Civil*  
32 *Code* section 5605(c), a quorum shall mean more than fifty percent  
33 (50%) of the Members of the Association, notwithstanding any lower  
34 quorum requirement which may be set forth in the Bylaws.

35  
36 8.7.6 Revised Regular Assessment. Subject to the provisions of **Section**  
37 **8.7.5** ("Permitted Increase in Regular Assessment") or as otherwise  
38 permitted by law, if at any time during the course of any fiscal year, the  
39 Board determines the amount of the Regular Assessment to be  
40 inadequate, by reason of a revision of its estimate of either expenses  
41 or income or otherwise, the Board shall have the right, at a regular or  
42 special meeting of the Board, to revise the Regular Assessment for the  
43 balance of the fiscal year. To the extent required by *Civil Code* section  
44 5615, notice of any such increase shall be given to the Members by  
45 Individual Delivery and such revised Regular Assessment shall  
46 become effective on the first day of the next month that is at least thirty

(30) days and not more than sixty (60) days after the date of such notice.

8.7.7 Failure to Fix Regular Assessment. The failure or omission by the Board to fix or levy any Regular Assessment before the expiration of any fiscal year, for that fiscal year or the next fiscal year, shall not be deemed either a waiver or a modification in any respect of the provisions of this Declaration, or a release of any Owner from the obligation to pay Assessments or any installment thereof for that or any subsequent year, but the amount of the Regular Assessment fixed for the preceding fiscal year shall be the amount of the Regular Assessment for the ensuing fiscal year until a new Regular Assessment is levied.

## 8.8 Special Assessments.

8.8.1 Purpose of Special Assessments. If at any time during any fiscal year the Regular Assessment proves inadequate for any reason, including nonpayment of any Owner's share thereof or the unexpected repair, replacement, or reconstruction of improvements located in the Development, or if funds are otherwise required for any authorized activity of the Association, the Board may levy a Special Assessment in the amount of such actual or estimated inadequacy or cost.

8.8.2 Permitted Amount of Special Assessments. Except in the case of an emergency situation as defined in *Civil Code* section 5610, in any fiscal year the Board may not levy Special Assessments which, in the aggregate, exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year (or such other limitation on the amount as may be imposed by law), except upon the affirmative vote of a majority of the Members voting on any such Special Assessment, provided that a quorum is established. For purposes of the preceding sentence and to the extent required pursuant to *Civil Code* section 5605(c), a quorum shall mean more than fifty percent (50%) of the Members of the Association, notwithstanding any lower quorum requirement which may be set forth in the Bylaws.

8.8.3 Allocation of Special Assessments. Special Assessments shall be allocated and assessed among the Lots in the same manner as Regular Assessments.

8.8.4 Notice of Special Assessment. Upon the imposition of a Special Assessment or an increase in a Special Assessment, in compliance with *Civil Code* section 5615 notice thereof shall be given to each Owner by Individual Delivery, not less than thirty (30) days and not more than sixty (60) days prior to the due date of the Special Assessment.

8.8.5 Payment of Special Assessments; Cost of Payment Plans. Special Assessments shall be payable in a lump sum or in installments as may be determined by the Board with regard to each Special Assessment when it is imposed. If the Association incurs additional expenses because of a payment method selected by an Owner (for example, but not limited to, paying a Special Assessment in installments instead of in a lump sum), the Association may charge such expense to the Owner as an Additional Charge or as a Reimbursement Assessment. Nothing in this Section 8.8 shall be deemed to obligate the Association to offer or permit alternate payment plans.

8.9 Application of Surplus Funds (IRS Resolution). If, as of the end of any fiscal year, there is an excess of membership income over membership expenses as defined in Internal Revenue Code section 277 for the year ended, the Board shall determine, without the need for a Members' vote, whether such excess shall be applied to reserves and deposited in the Association's reserve account or shall be applied against the subsequent tax year's Member Assessments as provided in Internal Revenue Service Revenue Ruling 70-604. If the Board does not determine to so apply such excess membership income to reserves or to the subsequent year's Member Assessments, any other lawful disposition of such excess income shall be as determined by the vote of the Members.

8.10 Reimbursement Assessments. The Board, after notice and a hearing as provided for in Section 13.11 ("Notices: Content, Delivery") and Section 13.12 ("Hearing Called by the Board; Executive Session; Open Meeting"), may levy a Reimbursement Assessment against an Owner and his or her Lot:

- (a) To reimburse the Association for costs incurred to maintain, repair, or replace property (including property within a Lot) when such damage is due to the act or neglect of such Owner, his or her Contract Purchaser, or member of his or her household, pet, tenant, invitee, or guest, or as otherwise provided in the Governing Documents;
- (b) If the failure of such Owner, his or her Contract Purchaser, or member of his or her household, pet, tenant, invitee, or guest to comply with any provision of the Governing Documents has necessitated or resulted in an expenditure of funds by the Association to deal with such lack of compliance or to bring such person or the Lot into compliance;
- (c) To reimburse the Association for any costs of collecting from an Owner any amount the Owner is obligated to pay the Association.

Without limiting the generality of the foregoing, and to the fullest extent permitted by law, all costs including attorney fees, incurred by the Association to enforce Section 5.7 ("Restriction on Businesses"), Section 5.12 ("Animals"), Section 6.8 ("Association As Third Party Beneficiary"),

1           Section 6.9 ("Indemnification Regarding Tenant's Actions"), Section 8.18  
2           ("Assignment of Rents As Security for Payment"), and Section 13.6  
3           ("Injunctions"), or to defend any claim arising or alleged to arise from any  
4           of the foregoing sections, shall be reimbursed to the Association as a  
5           Reimbursement Assessment. Any Reimbursement Assessment shall be  
6           due and payable to the Association when levied.

7  
8   8.11 Enforcement Assessments. Subject to the requirements set forth in Section 13.8  
9           ("Imposing Sanctions"), the Board may levy an Enforcement Assessment (and  
10          any fine or monetary penalty imposed by the Board in accordance with the  
11          provisions of the Governing Documents shall be deemed to be such an  
12          Enforcement Assessment), for violation of any of the provisions of the Governing  
13          Documents. Any Enforcement Assessment shall be due and payable to the  
14          Association when levied.

15  
16 8.12 No Offsets. All Assessments levied by the Board shall be payable in the full  
17          amount specified, including any Additional Charges imposed as provided by the  
18          terms of this Declaration, and no offsets against any such amounts shall be  
19          permitted for any reason whatsoever, including without limitation a claim that the  
20          Association has failed to properly exercise its duties of maintenance or  
21          enforcement.

22  
23 8.13 Bad Checks. An Owner who writes a check to the Association on insufficient  
24          funds shall be charged a service fee in the amount permitted by *Civil Code*  
25          section 1719 and may be liable for damages to the Association in an amount  
26          equal to three (3) times the amount of the bad check, as provided by statute.

27  
28 8.14 Delinquent Assessments. Except for Assessments for excessive water use  
29          which shall be delinquent if not received within thirty (30) days of receipt, any  
30          installment or other portion of an Assessment not received within ninety (90)  
31          days after its due date shall be delinquent and, to the fullest extent permitted by  
32          law, including *Civil Code* section 5650(b), shall be subject to a late charge and,  
33          thirty (30) days after the due date, interest not to exceed the maximum rate  
34          permitted by law, as well as all other Additional Charges.

35  
36 8.15 Enforcement by Action at Law or Foreclosure. The Board, on behalf of the  
37          Association, may enforce the payment of any delinquent Assessment plus  
38          Additional Charges by bringing an action at law against any Owner personally  
39          obligated to pay the same, or by foreclosing the lien against the Owner's Lot by  
40          judicial or non-judicial foreclosure, to the fullest extent permitted by law. To the  
41          extent prohibited by *Civil Code* section 5725(b), the amount of an Enforcement  
42          Assessment may not become a lien that is enforceable by non-judicial  
43          foreclosure.

44  
45       8.15.1 Pre-lien Notice. At least thirty (30) days prior to recording a notice of  
46          delinquent assessment against a Lot to collect a debt that is past due,

1 the Association shall provide written notice to the Owner(s) of the Lot,  
2 as required by *Civil Code* section 5660 ("Pre-lien Notice").  
3

4 8.15.2 Prior to Recording a Lien. Prior to recording a notice of delinquent  
5 assessment, the Association shall comply with all applicable  
6 requirements imposed by law, including offering to participate in  
7 internal dispute resolution (Section 13.16 of this Declaration) or  
8 alternative dispute resolution (Section 13.17 of this Declaration) to the  
9 extent required pursuant to *Civil Code* section 5670 and making the  
10 decision to record a lien for delinquent Assessments at an open  
11 meeting of the Board, to the extent required pursuant to *Civil Code*  
12 section 5673.  
13

14 8.15.3 Owner's Right to Discuss Payment Plan. To the extent provided in  
15 *Civil Code* section 5665, an Owner may submit to the Board a written  
16 request to discuss a payment plan for a debt noticed in a pre-lien  
17 notice. If the Owner's written request is mailed to the Board (as  
18 evidenced by a postmark or receipt of mailing) within fifteen (15) days  
19 after the postmark on the pre-lien notice, the Board shall meet with the  
20 Owner within forty-five (45) days of the postmark date of the Owner's  
21 written request, unless there is not a regularly scheduled Board  
22 meeting within the period, in which case the Board, in its discretion,  
23 may hold a special meeting in executive session to meet with the  
24 Owner or may designate a committee of one (1) or more Board  
25 members to meet with the Owner.  
26

27 8.15.4 Delinquent Assessments of Less than \$1,800. To the extent provided  
28 in *Civil Code* section 5720(b), delinquent Assessments totaling less  
29 than Eighteen Hundred Dollars (\$1,800) that are less than twelve (12)  
30 months delinquent may not be collected by judicial or non-judicial  
31 foreclosure, but may be collected in any other manner provided by law  
32 including a civil action in small claims court to the extent provided in  
33 *Civil Code* section 5720(b)(1) or recording a lien as provided in *Civil*  
34 *Code* section 5720(b)(2). Prior to recording such a lien the Association  
35 shall offer to participate in internal dispute resolution (Section 13.16 of  
36 this Declaration) to the extent required by *Civil Code* section  
37 5720(b)(2).  
38

39 8.15.5 Notice of Delinquent Assessment. The amount of the past due debt  
40 noticed in the pre-lien notice shall be a lien from and after the  
41 recording of a notice of delinquent assessment. No later than ten (10)  
42 days after recordation, a copy of the notice of delinquent assessment  
43 shall be mailed by certified mail in compliance with *Civil Code* section  
44 5675 to every person whose name is shown as an Owner of the Lot in  
45 the Association records or in such manner and to such persons as may  
46 be required by applicable law.  
47



- 1           8.15.6   Initiating Foreclosure. As provided in *Civil Code* section 5700(a), no  
2           procedures shall be initiated to foreclose the lien securing any noticed  
3           past due debt under this Article 8 until after the expiration of thirty (30)  
4           days following the recording of a notice of delinquent assessment. To  
5           the extent required pursuant to *Civil Code* section 5705(b), the  
6           Association shall offer to participate in internal dispute resolution  
7           (Section 13.16 of this Declaration) or alternative dispute resolution  
8           (Section 13.17 of this Declaration). To the extent required by *Civil*  
9           *Code* section 5705(c), a decision to initiate foreclosure shall be made  
10          only by the Board in an executive session meeting.
- 11
- 12          8.15.7   Amount Due and Payable. Except with respect to the amount of any  
13          Enforcement Assessment, upon the recording of the notice of  
14          delinquent assessment referred to above, the Association may, at its  
15          option, declare the entire balance of all sums then due or to become  
16          due from the Owner, immediately due and payable, which total sum  
17          may then be included in any suit, action, or other procedure initiated to  
18          collect said sums, including all Additional Charges.
- 19
- 20          8.15.8   Notice of Initiating Foreclosure. To the extent required pursuant to  
21          *Civil Code* section 5705(d), the Association shall provide written notice  
22          of initiating foreclosure to the record Owner of the Lot, including notice  
23          by personal service to any resident Owner.
- 24
- 25          8.16   Power of Sale. Each Owner does hereby appoint the Association as trustee to  
26          enforce and to foreclose any lien which is established pursuant to the terms of  
27          this Declaration, by private power of sale, as provided in Division III, Part 4, Title  
28          14, Chapter 2, Article 1, (Section 2920 and following) of the *Civil Code*, and does  
29          further grant to the Board of Directors, on behalf of the Association, the authority  
30          and power to sell the Lot of such Owner in the event of any default in payment of  
31          any Assessments or Additional Charges levied against such Lot, for lawful  
32          money of the United States, to the highest bidder, to satisfy said lien. The  
33          Association, as trustee for the remaining Owners, or any other Owner, may  
34          purchase the Lot at said sale.
- 35
- 36          8.17   Right of Redemption. To the extent provided pursuant to *Civil Code* section  
37          5715(b), a non-judicial foreclosure to collect delinquent Assessments shall be  
38          subject to a right of redemption.
- 39
- 40          8.18   Assignment of Rents As Security for Payment. As security for the payment of all  
41          liens provided for under this Declaration, each Owner hereby gives to and  
42          confers upon the Association the right, power, and authority during the  
43          continuance of such ownership to collect the rents, issues, and profits of the  
44          Owner's Lot, reserving unto the Owner the right, prior to any default by such  
45          Owner in performance of that Owner's obligations under the Governing  
46          Documents in payment of any indebtedness to the Association, to collect and  
47          retain such rents, issues, and profits as they become due and payable. Upon

any such default, the Association may (i) instruct the tenant to pay rent to the Association as and when such rents become due or (ii) at any time upon ten (10) days' written notice to such Owner (either in person, by agent, or by a receiver to be appointed by a court, and without regard to the adequacy of any security for such indebtedness) in its own name sue for or otherwise collect such rents, issues, and profits, including those past due and unpaid, and in either event apply the same, less costs and expenses of operation and collection, including reasonable attorney fees, upon any such indebtedness, and in such order as the Association may determine or as required by applicable law. Owner waives the giving of any and all notices required by the laws of the State of California in order for the Association to exercise the rights provided by this **Section 8.18**. The collection of such rents, issues, and profits, and the application thereof as aforesaid, shall not cure or waive any default under the Governing Documents or invalidate any act done pursuant to this Declaration. The assignment of rents and powers described in this **Section 8.18** shall not affect, but shall in all respects be subordinate to, the rights and power of the holder of any First Mortgage on any Lot, or any part thereof, to do the same or similar acts.

8.19 Remedies Are Cumulative. The Board may commence any procedure for the collection of delinquent Assessments upon its own decision. The remedies provided in this Declaration for collection of delinquent Assessments shall be cumulative and not exclusive; that is, the Association may use one (1) or more or all of the available remedies to collect delinquent Assessments to the fullest extent permitted by law.

8.20 Partial Payments. The Association's acceptance of a partial payment, whether involuntary or voluntary, shall not prevent the Association from pursuing any or all of its available collection remedies.

8.21 Certificate of Satisfaction and Release of Lien. Upon payment in full of a delinquent Assessment, including any Additional Charges, or the satisfaction thereof, the Board shall cause to be recorded, in the same manner as the notice of delinquent assessment, a further certificate stating the satisfaction thereof and the release of the lien.

8.22 Subordination to Lien of First Mortgage. Except as otherwise expressly provided by law, the lien securing each of the Assessments provided for under this Declaration shall have priority as of the date of recordation of the notice of delinquent assessment as provided in **Section 8.15.5** over all other liens and encumbrances applicable to the Lots; *provided, however*, that such Assessment lien shall be subordinate to the lien of any First Mortgage recorded against the Lot prior to the date the notice of delinquent assessment was recorded; and *provided, further*, that such subordination shall apply only to the Assessments which have become due and payable prior to the sale of such property pursuant to a decree of foreclosure of any such First Mortgage, or pursuant to a power of sale contained in any such First Mortgage. Such foreclosure sale shall not relieve such property from liability for any Assessments and Additional Charges



1 becoming due after the sale of such property pursuant to a decree of foreclosure  
2 of any such First Mortgage, or pursuant to a power of sale contained in any such  
3 First Mortgage, nor from the lien of any subsequent Assessment, including  
4 Assessments levied against all Lots proportionately to compensate for the unpaid  
5 Assessments and Additional Charges, which shall constitute a lien upon the  
6 purchased Lot in accordance with this **Article 8**.

7  
8 8.23 Waiver of Exemptions. Each Owner, to the extent permitted by law, does hereby  
9 waive, to the extent of any liens created pursuant to this Declaration, the benefit  
10 of any homestead or exemption laws of the State of California in effect at the  
11 time any Assessment or installment thereof becomes delinquent or any lien is  
12 imposed pursuant to the terms of this Declaration.

13  
14 8.24 Property Exempt from Assessments. The following property subject to this  
15 Declaration shall be exempt from the Assessments, Additional Charges, and  
16 liens created herein:

- 17  
18 (a) All property dedicated to and accepted by the City or County or other local  
19 public authority and devoted to public use;  
20  
21 (b) Any Lot which is owned by the Association as a result of the Association  
22 having acquired such Lot through foreclosure; *provided, however*, that  
23 such exemption shall apply only during the period in which the Association  
24 is record Owner of such Lot; and  
25  
26 (c) All Common Area.

## 27 28 29 **ARTICLE 9 MAINTENANCE OF PROPERTY**

30  
31 9.1 Association's Responsibility for Common Area Generally. The Association has  
32 the exclusive right and responsibility to provide maintenance, repair, and  
33 replacement of the Common Area and all facilities, improvements, and trees and  
34 ground cover thereon, including but not limited to recreational facilities; open  
35 space land; trails; meadow and lake; parking spaces; drainage structures and  
36 culverts; and pipes, valves, fire hydrants, meters structures and equipment  
37 making up the water distribution system, and all other real and/or personal  
38 property that may be acquired by the Association, keeping such property in good  
39 condition and repair. Without limiting the generality of the foregoing:

- 40  
41 9.1.1 Landscaping; Janitorial; Painting. The Association shall specifically be  
42 responsible for providing lighting, landscaping, gardening (including  
43 periodic maintenance, as the Board deems necessary, of trees,  
44 shrubs, and other plants upon the Common Area), and janitorial  
45 services for the Common Area, as needed, and shall cause any and all  
46 other acts to be done which may be necessary to assure the  
47 maintenance of the Common Area in good condition and repair,

1 including painting of the exterior surfaces of any Common Area  
2 building(s) and such other portions of the Common Area as the Board,  
3 in its discretion, determines to be necessary.  
4

5 9.1.2 Common Area Utilities and Services; Water Distribution System. The  
6 Association shall pay all charges for utilities and services supplied to  
7 the Common Area. The Association shall maintain all water  
8 distribution system installations located in the Development, including  
9 mains and laterals through to and including the water meters for  
10 individual Lots, *except for* (i) those installations maintained by utility  
11 companies, public, private, or municipal and (ii) the water line and  
12 pressure regulating valve after the meter that serve a single Lot  
13 exclusively, which are the responsibility of the Lot Owner.  
14

15 9.1.3 Employees or Independent Contractors. The Association may perform  
16 its obligations and provide such services as the Board shall determine  
17 through employees of the Association or through independent  
18 contractors. In either case, Residents or Owners shall not interfere  
19 with or attempt to instruct any of such persons in the performance of  
20 their duties.  
21

22 9.2 Owner's Responsibility for Lots.  
23

24 9.2.1 Owner's Responsibility for Improvements on Lots. Each Owner shall  
25 be responsible for the maintenance, repair, and replacement of his or  
26 her Lot and Dwelling and all improvements thereon, keeping the same  
27 in a clean, sanitary, workable, and attractive condition.  
28

29 9.2.2 Water Lateral Lines. Each Owner shall be responsible for the  
30 maintenance, repair, and replacement of that portion of the water  
31 service lateral line and pressure regulating valve after the meter that  
32 serves the Owner's Lot exclusively per **Section 9.1.2** ("Common Area  
33 Utilities and Services; Water Distribution System").  
34

35 9.2.3 Owner's Cooperation. Each Owner and Resident shall cooperate with  
36 the Board and its agents in the performance of maintenance, repair, or  
37 replacement by the Association of any portion of Common Area or the  
38 Lots that is the Association's responsibility, including, by way of  
39 example only, servicing of water lines and meters.  
40

41 9.2.4 Compliance with Architectural Provisions. An Owner's right and  
42 responsibility for maintaining, repairing, or replacing any portions of his  
43 or her Lot shall be subject to any applicable provisions of the  
44 Governing Documents relating to landscaping and architectural control,  
45 including **Article 7** ("Architectural Approval").  
46

- 1 9.3 Wood Destroying Organisms. As provided in *Civil Code* section 4780(b), each  
2 Owner is responsible for and shall perform maintenance and repair of his or her  
3 Lot and Dwelling occasioned by the presence of wood destroying pests or  
4 organisms, including mold, decay, dry rot, and termites.  
5
- 6 9.4 Authority for Entry of Lot. The Association or its agents shall have the right to  
7 enter any Lot whenever such entry is necessary, in the Board's discretion, for  
8 purposes of inspection and/or in connection with the performance of any  
9 maintenance, repair, construction, or replacement for which the Association is  
10 responsible or which it is authorized to perform. Such entry shall be made with  
11 as little inconvenience to the Residents as practicable and only upon reasonable  
12 advance written notice of not less than twenty-four (24) hours, except that in  
13 emergency situations notice shall be given as the situation reasonably permits.  
14
- 15 9.5 Board's Discretion to Require Maintenance. The Board shall have the discretion  
16 to determine whether any maintenance, repair, or replacement that is the  
17 responsibility of an Owner is necessary to preserve the appearance and value of  
18 the property within the Development or any portion thereof and may notify an  
19 Owner of the work the Board deems necessary. In the event an Owner fails to  
20 perform such work within sixty (60) days after notification by the Board to the  
21 Owner, the Board may, after written notice to the Owner and the right of a  
22 hearing before the Board pursuant to Section 13.12 ("Hearing Called by the  
23 Board; Executive Session; Open Meeting"), cause such work to be done and  
24 charge the cost thereof to the Owner as a Reimbursement Assessment.  
25
- 26 9.6 Limitation of Association's Liability. In the case of damage to a Lot, any Dwelling  
27 or improvement thereon, or the contents thereof, arising or allegedly arising from  
28 the Association's performance of its maintenance, repair, or replacement  
29 obligations, the Association shall not be responsible or liable for such damage,  
30 except to the extent arising from the willful misconduct or gross negligence of the  
31 Association, its employees, contractors, or agents.  
32
- 33 9.7 Owner's Liability to Association for Negligent Damage. In the event the need for  
34 any maintenance, repair, or replacement performed by the Association is caused  
35 by the willful or negligent act or omission of an Owner or a Resident, a member  
36 of his or her household, pets, tenants, invitees, or guests, the cost of such  
37 maintenance, repair, or replacement not covered by insurance, including any  
38 applicable insurance deductible and the cost of materials, labor, supplies, and  
39 services shall be charged to, and paid by, the Owner of the Lot in the form of a  
40 Reimbursement Assessment.  
41  
42

## 43 **ARTICLE 10           INSURANCE**

---

- 44  
45 10.1 Insurance Coverage to Be Maintained by Association. The Association shall  
46 procure and maintain, as a common expense of all Owners, the types of  
47 insurance described in Section 10.2 ("Common Area Hazard Insurance to Be

Maintained by Association”), Section 10.3 (“General Liability Insurance to Be Maintained by Association”), and Section 10.4 (“Other Insurance to Be Maintained by Association”), if and to the extent such insurance, with the coverages described below, is available at a reasonable premium cost.

10.2 Common Area Hazard Insurance to Be Maintained by Association. The Association shall maintain a policy of fire and extended coverage insurance covering all of the Common Area and all furnishings, equipment, and personal property owned by the Association, with limits equal to one hundred percent (100%) of the full insurable replacement costs of the Common Area improvements exclusive of land, foundation, excavations, and other items normally excluded from coverage. The policy may contain a reasonable deductible and the amount of the deductible shall be added to the face amount of the policy in determining whether the insurance equals the replacement cost.

10.2.1 Policy Endorsements. The policy may include such endorsements as the Board, in its discretion, shall determine based on the character and replacement cost of the Common Area improvements from time to time, such as:

- (i) an agreed amount endorsement or its equivalent,
- (ii) an increased cost of construction endorsement or a contingent liability from operation of building laws endorsement or their equivalent,
- (iii) an extended coverage endorsement,
- (iv) coverage for costs of demolition,
- (v) glass coverage,
- (vi) coverage for loss or damage as a result of theft, vandalism, malicious mischief; coverage for equipment breakdown of any equipment required to run and operate the Development; and for sprinkler leakage; windstorm, or water damage,
- (vii) coverage to permit cash settlement covering full value of the improvements in case of partial destruction and a decision not to rebuild,
- (viii) coverage for demolition in the event of total or partial destruction and a decision not to rebuild, and
- (ix) maintenance fees receivable coverage in case of damage to a Lot by a covered peril and the Board is unable, after reasonable

1 effort, to collect assessments from the Owner of the affected  
2 Lot.

3  
4 10.3 General Liability Insurance to Be Maintained by Association. The Association  
5 shall maintain commercial general liability insurance insuring the Association, its  
6 officers and directors, its managers, agents, and the Owners against any liability  
7 incident to ownership, maintenance, and repair of the Common Area, but  
8 excluding the liability of an Owner incident to personal bodily injury and property  
9 damage occurring within that Owner's Lot or in any other Lot or upon the  
10 Common Area resulting from the negligence of that Owner. Limits of liability  
11 shall be set by the Board but shall in no event be less than Three Million Dollars  
12 (\$3,000,000).

13  
14 10.3.1 Scope of Coverage. Such liability insurance policy shall insure against  
15 bodily injury, death, or property damage occurring in, on or about any  
16 portion of the Common Area and, if available at a reasonable cost as  
17 determined by the Board, shall include:

- 18  
19 (i) water damage liability,  
20  
21 (ii) hired and non-owned vehicle coverage, theft and collision  
22 coverage,  
23  
24 (iii) liability for property of others,  
25  
26 (iv) off-premises employee coverage, and  
27  
28 (v) such other risks as are customarily covered in similar  
29 developments.

30  
31 10.3.2 Other Provisions. If available and at a reasonable cost as determined  
32 by the Board, such liability insurance policy shall:

- 33  
34 (i) name the Association as a first-named insured and Owners as  
35 named insureds, with policy benefits payable to the Association  
36 as trustee for the Owners or any of them;  
37  
38 (ii) contain a waiver of subrogation as to claims against the  
39 Association, the Board members, the Owners and members of  
40 the Owner's family who reside with such Owner, except in cases  
41 of arson or fraud;  
42  
43 (iii) contain a waiver of the defense of invalidity on account of the  
44 conduct of any Owner over which the Board has "no control;"  
45  
46 (iv) require that at least thirty (30) days' prior written notice be given  
47 to the Association by the insurer before cancellation except that

1 in the case of cancellation for nonpayment of premiums or for  
2 fraud the notice shall be given no less than ten (10) days prior to  
3 the effective date of the cancellation;  
4

5 (v) provide that in no event shall the insurance be brought into  
6 contribution with insurance purchased individually by Owners or  
7 their Mortgagees;  
8

9 (vi) exclude policies obtained by the individual Owners from  
10 consideration under any "other insurance" clause; and  
11

12 (vii) contain a provision requiring the insurer to defend lawsuits for  
13 which there is coverage under the policy even if the allegations  
14 are fraudulent, but authorizing the insurer to make such  
15 investigation and settlement of any claim or suit within the policy  
16 limit as it deems expedient.  
17

18 10.4 Other Insurance to Be Maintained by Association.  
19

20 10.4.1 Directors' and Officers' Insurance. The Association shall maintain  
21 directors' and officers' liability insurance with limits to be set by the  
22 Board but in no event less than One Million Dollars (\$1,000,000) or any  
23 higher applicable limit set forth in *Civil Code* section 5800, and  
24 containing a cross-liability endorsement and waiver of subrogation as  
25 to the Association, the officers, and the directors, and the agents and  
26 employees of any of them. Coverage for prior acts, to the extent  
27 obtainable, shall be included.  
28

29 10.4.2 Workers' Compensation Insurance. The Association shall maintain  
30 workers' compensation insurance to the extent necessary to comply  
31 with any applicable laws and may carry such insurance at any time as  
32 determined by the Board.  
33

34 10.4.3 Fidelity Bond. In accordance with *Civil Code* section 5806, the  
35 Association shall maintain a standard fidelity bond covering dishonest  
36 acts on the part of officers and directors of the Association, the  
37 manager, and any employees or volunteers who are responsible to  
38 handle funds of the Association, including computer fraud and funds  
39 transferred fraud. Such bond shall name the Association as obligee,  
40 shall be written in an amount which shall be determined by the Board  
41 but in no event less than the combined amount of the Association's  
42 reserves and total Assessments for three (3) months, and shall contain  
43 a waiver of any defense based on the exclusion of persons serving  
44 without compensation.  
45

46 10.4.4 Other Insurance. The Association may maintain at any time and from  
47 time to time any other insurance, including but not limited to

1 earthquake and/or flood insurance, and bonds as the Board may from  
2 time to time deem necessary or desirable.  
3

4 10.5 Insurance to Be Maintained by Owner. The insurance policies to be carried by  
5 the Association pursuant to Section 10.1 ("Insurance Coverage to Be Maintained  
6 by Association") are not intended to cover the Lots or the Dwellings, or liability of  
7 an Owner incident to ownership or use of his or her Lot or Dwelling or liability  
8 incident to an Owner's negligence upon the Common Area. Each Owner shall be  
9 responsible for procuring and maintaining hazard insurance on the Owner's Lot  
10 and Dwelling improvements, insurance against Owner liability incident to  
11 ownership or use of the Owner's Lot or Dwelling, liability incident to an Owner's  
12 negligence upon the Common Area, insurance on the contents of the Dwelling,  
13 and such other insurance as the Owner shall determine is adequate to cover  
14 such other risks as the Owner shall determine, including but not limited to loss of  
15 use, additional living expenses, loss of rental income, and loss assessment  
16 coverage. If an Owner fails to obtain any insurance he or she is obligated or  
17 permitted to obtain pursuant to this Declaration, nothing in this Declaration shall  
18 be construed to impose any obligation whatsoever on the Association to insure  
19 that which the Owner does not insure.  
20

21 10.6 HO4 Renter's Policy. Each Owner who rents or leases a Lot shall require the  
22 tenant to purchase and maintain in force during the tenancy an "HO4 Renter's  
23 Policy" or the equivalent with a minimum personal liability limit of Three Hundred  
24 Thousand Dollars (\$300,000). If a tenant fails to obtain any insurance he or she  
25 is obligated or permitted to obtain pursuant to this Declaration, nothing in this  
26 Declaration shall be construed to impose any obligation whatsoever on the  
27 Association to insure that which the tenant does not insure. Upon request from  
28 the Board, each Owner shall provide evidence of such tenant's insurance  
29 annually.  
30

31 10.7 Insurance Proceeds. Proceeds of all insurance policies owned by the  
32 Association shall be received by the Association and shall be distributed to the  
33 Association, the Owners, and their Mortgagees subject to the provisions of the  
34 Declaration as their interest may appear; *provided, however*, that whenever  
35 repair or reconstruction is required, the proceeds of any insurance received by  
36 the Association as a result of any loss shall be applied to such repair or  
37 reconstruction except to the extent of any excess insurance proceeds as  
38 provided in Section 11.2.4 ("Excess Insurance Proceeds").  
39

40 10.8 Responsibility for Payment of Deductible. Subject to the provisions of Section  
41 9.7 ("Owner's Liability to Association for Negligent Damage"), the amount of the  
42 deductible under any insurance obtained by the Association shall be borne solely  
43 by the Association. If an Owner is responsible for the payment of such  
44 deductible, the failure or refusal of the Owner's insurance carrier to pay or  
45 reimburse the deductible shall not relieve the Owner of his or her responsibility  
46 for the deductible.  
47



1 10.9 Owner's Liability for Conditions Affecting Insurance. As provided in Section 5.10  
2 ("Conditions Affecting Insurance"), the responsible Lot Owner shall be liable to  
3 the Association if anything is done, placed, or kept within the Development that  
4 increases the rate of insurance or results in the cancellation of insurance under  
5 any insurance policy maintained by the Association.  
6

7 10.10 Insurance Carriers. All insurance policies carried by the Association shall be  
8 written by companies that are not prohibited from doing business in the State of  
9 California.  
10

11 10.11 Annual Review of Policies. The limits and coverage of all insurance policies  
12 carried by the Association shall be reviewed at least annually by the Board and  
13 increased or decreased in its discretion.  
14

15 10.12 Coverage Not Available; Disclaimer. In the event any insurance policy or any  
16 endorsement listed in Section 10.2 ("Common Area Hazard Insurance to Be  
17 Maintained by Association"), Section 10.3 ("General Liability Insurance to Be  
18 Maintained by Association"), and Section 10.4 ("Other Insurance to Be  
19 Maintained by Association"), is for any reason not available, then the Association  
20 shall obtain such other or substitute policy or endorsement as may be available  
21 which provides, as nearly as possible, the coverage described above. The  
22 Association, and its directors and officers, shall have no liability to any Lot Owner  
23 or Mortgagee if, after good faith effort, it is unable to obtain or maintain the  
24 insurance required pursuant to Section 10.2, Section 10.3, and Section 10.4  
25 because the insurance is no longer available or, if available, can be obtained or  
26 maintained only at a cost that the Board in its sole discretion determines is  
27 unreasonable under the circumstances, or the Members fail to approve any  
28 Special Assessment or increase in the Regular Assessment needed to fund the  
29 insurance premiums. In accordance with *Civil Code* section 5810, as soon as  
30 reasonably practicable, the Association shall notify the Members by Individual  
31 Notice if any of the policies described in Section 7.5.9 of the Bylaws ("Summary  
32 of Association's Insurance Policies") have lapsed or been canceled, and are not  
33 immediately renewed, restored, or replaced, or if there is a significant change,  
34 such as a reduction in coverage or limits or an increase in the deductible for any  
35 of those policies. If the Association receives any notice of non-renewal of a  
36 policy described in Section 7.5.9 of the Bylaws and replacement coverage will  
37 not be in effect by the date the existing coverage will lapse, the Association shall  
38 immediately notify the Members by Individual Notice.  
39

40 10.13 Copies of Policies. Copies of all insurance policies (or certificates of insurance)  
41 and paid invoices showing that premiums have been paid shall be retained by  
42 the Association and shall be available for inspection by Owners at any  
43 reasonable time.  
44

45 10.14 Adjustment of Losses. The Board is appointed attorney-in-fact by each Owner to  
46 file all claims and to negotiate and agree on the value and extent of any loss  
47 under any policy carried by the Association pursuant to Section 10.2 ("Common



Area Hazard Insurance to Be Maintained by Association”), Section 10.3 (“General Liability Insurance to Be Maintained by Association”), and Section 10.4 (“Other Insurance to Be Maintained by Association”). The Board is granted full right and authority to compromise and settle any claims or enforce any claim by legal action or otherwise and to execute releases in favor of any insured.

10.15 Premiums. The costs of insurance obtained by the Association shall be a common expense of the Association, shall be included in the Regular Assessment, and shall be paid for out of the operating fund of the Association.

## **ARTICLE 11                      DAMAGE OR DESTRUCTION; CONDEMNATION**

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11.1 Emergency Repairs. Without waiting to obtain insurance settlements or bids, the Board may undertake such emergency repair work after a casualty to the Common Area or Common Area improvements as it may deem necessary or desirable under the circumstances including but not limited to mitigating or removing dangerous conditions and other actions that may be necessary to comply with applicable laws, ordinances, and regulations; and the Board may charge the operating account for the costs thereof.

11.2 Damage to Common Area. In the event of damage to or destruction of the Common Area or other property of the Association or any part thereof, then the following provisions shall apply:

11.2.1 Amount of Insurance Proceeds. The Board shall obtain a determination of the amount of available insurance proceeds that will be recovered from the Association’s insurance carrier(s).

11.2.2 Bids. The Board shall obtain such bids from responsible licensed contractors as the Board deems appropriate to restore the damaged or destroyed property to its condition immediately prior to such damage or destruction (including compliance with current building code and ordinance requirements and any modifications approved by the Board), including provision for a completion bond.

11.2.3 Sufficient Proceeds. If the insurance proceeds paid to the Association are sufficient to cover the costs of restoration, the Board shall contract with such contractor as the Board in its discretion shall determine and proceed to perform the restoration.

11.2.4 Excess Insurance Proceeds. Any excess insurance funds shall be deposited in the operating account of the Association.

11.2.5 Insufficient Proceeds; Decision Not to Repair. If the insurance proceeds, together with reserve funds, if any, allocated for replacement of the damaged or destroyed improvement, are insufficient to cover the

costs of repair or replacement of the property damaged or destroyed, the Association may levy a Special Assessment against the Members of the Association up to the maximum amount permitted without a Members' approval vote as provided in Section 8.8.2 ("Permitted Amount of Special Assessments") to cover the cost of the repair or replacement not covered by the insurance proceeds. If the sum of insurance proceeds, allocated reserve funds, and Special Assessment funds equals less than eighty-five percent (85%) of the cost of repair or replacement, the Members may elect not to cause such replacement or repair by the vote of two-thirds (2/3) of the Total Voting Power of the Association. In that event, the damaged Common Area shall be cleared and landscaped; *provided, however*, that there shall exist in such Common Area adequate vehicular and pedestrian rights-of-way for Owners to ensure legal access to each Owner's Lot and the costs thereof shall be paid from the insurance proceeds, any allocated reserve funds and, if necessary, the other funds of the Association. Any remaining insurance proceeds shall be used in the manner determined by the Board, provided that such use shall not be inconsistent with the purposes of the Association.

11.2.6 Alternative Repair Plan. If a decision not to rebuild is not approved pursuant to Section 11.2.5 ("Insufficient Proceeds; Decision Not to Repair"), the Board shall use such funds as are available to repair or stabilize the damaged Common Area according to such alternative plan as the Board shall deem appropriate under the circumstances.

### 11.3 Rebuilding or Repair of Improvements on a Lot.

11.3.1 Owner to Repair. If any Lot or any improvement on a Lot is damaged or destroyed by fire or other casualty, the Owner(s) of such Lot shall repair or rebuild the structures upon such Lot and restore such Lot to its condition prior to the damage or destruction, or to such other condition as shall have been approved in advance by the Board pursuant to Article 7 ("Architectural Approval").

11.3.2 Commencement and Completion of Repair. Repair or rebuilding shall be commenced and completed within the times specified in Section 7.14 ("Commencement of Approved Work") and Section 7.15 ("Completion; Extension of Deadline").

11.3.3 Insufficient Insurance Proceeds. In the event the insurance proceeds are insufficient to complete such work, the Lot Owner shall pay such additional sums as may be necessary to complete such rebuilding and repair.

11.3.4 Destruction; Failure to Timely Repair. In the case of total or substantially total destruction of a Dwelling, if restoration is not

commenced within one (1) year after the occurrence of the destruction, the Board may require that the foundation and other installations be removed and the Lot restored to a safe, orderly, and natural condition. Nothing in the preceding sentence shall be deemed to limit the right of the Association to otherwise enforce the obligation of an Owner to restore or rebuild the damaged structures and restore the Lot as provided in the first sentence of Section 11.3.1 ("Owner to Repair").

#### 11.4 Condemnation of Common Area.

11.4.1 Association to Represent Owners. If at any time all or any portion of any Common Area, or any interest therein, shall be taken for any public or quasi-public use under any statute, by right of eminent domain, or by private purchase in lieu of eminent domain, the Association shall represent the interests of all Owners in any proceedings relating to such condemnation to the extent such Owners have any interest in the Common Area.

11.4.2 Condemnation Award. The entire compensation or award in condemnation, to the extent such award is not apportioned among the Owners by court judgment or by agreement between the condemning authority and each of the affected Owners in the Development, shall be paid to the Association and shall be used in the manner determined by the Board, provided that such use shall not be inconsistent with the purposes of the Association.

#### 11.5 Condemnation of Lots.

11.5.1 Total Condemnation of Lot. If an entire Lot, or so much thereof as to render the remainder unfit for a Dwelling, is condemned or taken for a public or quasi-public use pursuant to any statute, by right of eminent domain, or by private purchase in lieu of eminent domain, the Owner's membership in the Association shall terminate as of the last day of the month in which the condemner obtains the right to possession, or upon the Owner vacating the Lot, whichever occurs last.

11.5.2 Partial Condemnation of Lot. If only a portion of a Lot is taken and the remainder is fit for a Dwelling, the Owner shall continue to be a Member of the Association.

11.5.3 Rights of Association. In any condemnation action involving an Owner's Dwelling or Lot, the Association shall have the right to seek compensation for any damages incurred by the Association.

11.6 Revision of Documents. In the event of (i) a partial or complete condemnation of the Common Area or the taking of all or a portion of the Common Area by right of eminent domain or by private purchase in lieu of eminent domain, (ii)

condemnation or taking of one (1) or more Lots, or (iii) a decision by the Association by affirmative act or failure to act, not to repair damaged Common Area, the Association shall have the power and authority to resurvey the remaining portion of the Development and to execute and record, on behalf of itself and the individual Owners, all necessary documents to show the altered status of the Development, including but not limited to, a revised Subdivision Map and an amended Declaration and readjustment of the percentages of undivided interest of the remaining Owners in the Development, if applicable.

- 11.7 Appraisals. Where the provisions of this **Article 11** require an independent appraisal of property, said appraisal shall be made by an experienced and qualified real estate appraiser certified in the State of California, which appraiser shall be selected by the Board.

## **ARTICLE 12            RIGHTS OF MORTGAGEES**

---

- 12.1 Mortgages Permitted. Any Owner may encumber his or her Lot with a Mortgage.
- 12.2 Subordination of Assessment Lien. Assessment liens shall be subordinate to the lien of First Mortgages to the extent provided in **Section 8.22** ("Subordination to Lien of First Mortgage").
- 12.3 Notice of Mortgage Default. Each Mortgagee of a Lot shall give the Association written notice of default by its mortgagor under the Mortgage within ten (10) days following recordation of a notice of default in accordance with the provisions of *Civil Code* section 2924b or any amendment or superseding statute.
- 12.4 Disclosures by Lenders. Any Mortgagee can furnish information to the Association, Board, or Members concerning the status of any Mortgage.
- 12.5 Mortgage Protection. No breach of any of the covenants, conditions and restrictions nor the enforcement of any lien provisions contained in this Declaration shall render invalid the lien of any First Mortgage made in good faith and for value on any Lot, but all of the covenants, conditions, and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure, trustee's sale or otherwise.

## **ARTICLE 13            ENFORCEMENT; NOTICE; HEARINGS**

---

- 13.1 Violations As Nuisance. Every act or omission constituting or resulting in a violation of any of the provisions of the Governing Documents shall be deemed to constitute a nuisance and, in addition to any other remedies which may be available, such nuisance may be abated or enjoined by the Association or its officers or Board of Directors or by any Owner; *provided, however*, that the Board

1 shall not be obligated to take action to abate or enjoin a particular violation if, in  
2 the exercise of its discretion, the Board determines that acting to abate or enjoin  
3 such violation is not likely to foster or protect the interests of the Association and  
4 its Members as a whole. Notwithstanding the preceding sentence and without  
5 limiting the generality of the proviso therein, nothing in the Governing Documents  
6 shall be deemed to impose upon the Association, the Board, or the officers,  
7 employees, or agents of the Association a duty to intervene in any physical  
8 dispute or altercation or any criminal or alleged criminal activity other than to  
9 notify law enforcement officials.

10  
11 13.2 Violation of Law Is a Violation of the Declaration. Any violation of a state,  
12 municipal, or local law, ordinance or regulation pertaining to the ownership,  
13 occupancy, or use of any property within the Development is hereby declared to  
14 be a violation of this Declaration and subject to any and all of the enforcement  
15 procedures set forth herein.

16  
17 13.3 Owner's Responsibility for Conduct and Damages. Each Owner shall be fully  
18 responsible for informing members of his or her household, Contract Purchasers,  
19 tenants, invitees, and guests of the provisions of the Governing Documents, and  
20 shall be fully responsible for the conduct, activities, and any Governing  
21 Document violation of any of them, and for any damage to the Development or  
22 the Association resulting from the negligent or intentional conduct of any of them  
23 or the conduct of any pet belonging to any of them. If a Lot is owned jointly by  
24 two (2) or more persons, the liability of each Owner in connection with the  
25 obligations imposed by the Governing Documents shall be joint and several; that  
26 is, each co-Owner individually shall be fully liable and responsible and all co-  
27 Owners collectively shall be fully liable and responsible. The foregoing  
28 provisions of this Section 13.3 are in addition to and shall not limit the generality  
29 of the provisions of Section 5.7.2 ("Indemnification Regarding Business Activity"),  
30 Section 5.12 ("Animals"), Sections 6.8 ("Association As Third Party Beneficiary"),  
31 Section 6.9 ("Indemnification Regarding Tenant's Actions"), and Section 7.21  
32 ("Disclaimer of Liability").  
33

34 13.4 No Avoidance. No Owner may avoid the burdens or obligations imposed by the  
35 Governing Documents through non-use of any Common Area facilities or by  
36 abandonment of his or her Lot.

37  
38 13.5 Enforcement Rights Are Cumulative. To the fullest extent permitted by law,  
39 including *Civil Code* section 5975, the Association, its directors, officers, or  
40 agents, and any Owner shall have the right to enforce any and all provisions of  
41 the Governing Documents by any proceeding at law or in equity, or, with respect  
42 to action by the Association, through the use of such other remedies (including  
43 self-help remedies that do not breach the peace or otherwise violate applicable  
44 law or this Declaration) as are available and deemed appropriate by the Board.  
45 Each remedy provided is cumulative and not exclusive.  
46



1 13.6 Injunctions. Except for the nonpayment of any Assessment levied pursuant to  
2 the provisions of this Declaration, it is hereby declared that a remedy at law to  
3 recover damages for a default in the performance of any of the terms and  
4 provisions of any of the Governing Documents or for the breach or violation of  
5 any such provisions is inadequate and that the failure of any Owner, Contract  
6 Purchaser, member of his or her household, tenant, invitee, guest, or household  
7 pets or any other Resident or user of any of the property within the Development  
8 to comply with any provision of the Governing Documents may be enjoined in  
9 any judicial proceedings initiated by the Association, its officers or Board of  
10 Directors, or by any Owner or by their respective successors in interest.  
11

12 13.7 Limitation on Association's Disciplinary Rights. To the extent provided in *Civil*  
13 *Code* section 4510, the Association shall not have the power and authority to  
14 cause a forfeiture or abridgment of an Owner's right to the full use and  
15 occupancy of his or her Lot as the result of the failure by such Owner, members  
16 of his or her household, Contract Purchaser, tenants, invitees, guests or pets to  
17 comply with any provision of the Governing Documents, except where such  
18 forfeiture or abridgment is the result of the judgment of a court of competent  
19 jurisdiction, a decision arising out of an arbitration proceeding, or a foreclosure or  
20 sale under private power of sale for failure of such Owner to pay Assessments  
21 levied by the Association pursuant to this Declaration and except to the extent of  
22 the Association's rights pursuant to Section 8.18 ("Assignment of Rents As  
23 Security for Payment"). The provisions of this Section 13.7 shall not affect the  
24 Association's right to impose other sanctions including imposing Enforcement  
25 Assessments as provided in Section 13.8 ("Imposing Sanctions").  
26

27 13.8 Imposing Sanctions. Upon an explicit finding and for reasons specified by the  
28 Board following a hearing called by the Board and conducted in accordance with  
29 this Article 13, the Board shall have the power to impose sanctions on a Member  
30 who is in default in the payment of any Assessment or Additional Charge levied  
31 by the Board or is found to be in violation of any provision of the Governing  
32 Documents. Sanctions may include loss of good standing, suspension of other  
33 rights, and/or monetary penalties (fines), as described below.  
34

35 13.8.1 Loss of Good Standing. The Board may suspend a Member's good  
36 standing for so long as the Member remains in default of such payment  
37 or until the violation is remedied. When a Member is not in good  
38 standing, the Member (or in the case of a Member that is not a natural  
39 person, its representative) shall be disqualified from serving on the  
40 Board.  
41

42 13.8.2 Suspension of Other Rights. The Board may suspend a Member's or a  
43 Resident's right to use Common Area recreational facilities or receive  
44 water service for so long as a Member remains in default of such  
45 payment, or for such period as may be specified by the Board if the  
46 violation involves misbehavior related to Common Area recreational  
47 facilities.

- 1  
2 13.8.3 Monetary Penalties (Fines). The Board may adopt a policy imposing  
3 monetary penalties or fines (which shall constitute Enforcement  
4 Assessments) pursuant to *Civil Code* section 5850. Such policy, if  
5 adopted, shall be distributed to the Members in the annual policy  
6 statement pursuant to *Civil Code* section 5310. Multiple fines may be  
7 imposed for multiple violations. The schedule of fines may be changed  
8 by the Board by a Rule change pursuant to *Civil Code* section 4360  
9 and following.
- 10  
11 13.8.4 Monthly Sanctions for Continuing Violations. In the case of a  
12 continuing violation, such as an uncorrected architectural violation  
13 where an Owner fails to remedy the violation after notice from the  
14 Board to do so, the Board may impose sanctions, including monetary  
15 penalties; such sanctions to remain in effect for a period of one (1)  
16 month or until the continuing violation is remedied, whichever occurs  
17 sooner. (By way of example and not limitation, a violation in the nature  
18 of parking every day in a prohibited parking space would *not* constitute  
19 a “continuing violation” but each instance would constitute a separate  
20 violation.) If the continuing violation has not been remedied within the  
21 one-month period, the Board may impose separate and successive  
22 sanctions for the continuing violation, provided the Board conducts a  
23 separate hearing, not more frequently than once a month, before  
24 imposing each successive sanction. The Board may limit the scope of  
25 such hearing to facts and circumstances occurring subsequent to the  
26 previous hearing relating to the subject continuing violation.
- 27  
28 13.8.5 Reimbursement Assessment Not a Sanction. The imposition of a  
29 Reimbursement Assessment pursuant to the Declaration does not  
30 constitute and shall not be deemed to be a sanction.
- 31  
32 13.9 Investigation of Complaints. Upon receipt of a written complaint from an Owner  
33 or a Resident regarding an alleged violation of the Governing Documents, the  
34 Board shall conduct an investigation of the allegations in the complaint and shall  
35 make relevant findings upon which the Board shall base a decision to pursue or  
36 not pursue the matter. If the Board decides not to pursue a matter, it shall notify  
37 the complaining party in writing stating the reason(s) for its decision.
- 38  
39 13.10 Written Notice of Violation. If the Board determines, whether on its own initiative  
40 or pursuant to a written complaint, that a violation of the Governing Documents  
41 exists or has occurred, it shall notify the responsible Owner(s) by written notice in  
42 compliance with Section 13.11 (“Notices: Content, Delivery”).
- 43  
44 13.11 Notices: Content, Delivery. Any notice of violation required or given under this  
45 Article 13 shall be in writing and shall comply with *Civil Code* section 5855 as to  
46 content and time of service and with *Civil Code* section 4040 as to method of  
47 service.



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- 13.11.1 Content of Notice of Violation. Any notice given by the Association to a Member shall comply with *Civil Code* section 5855 and shall, at a minimum, set forth a brief description of the act or omission constituting the alleged violation of the Governing Documents; a reference to the specific Governing Document provision or provisions alleged to have been violated; if applicable, a statement that the Member may request a hearing by the Board; the date, time, and location of any hearing called by the Board; and any sanction, disciplinary action, or other enforcement action being contemplated by the Board.
- 13.11.2 Delivery of Notice. Any notice may be given by any method provided for in *Civil Code* section 4040; *provided, however*, that (i) if notice is given by mail, it shall be sent postage prepaid by United States first-class mail and/or by certified mail, return-receipt requested; and (ii) if given by the Association to a Member, it shall be sent to the most recent address for the affected Member as shown on the records of the Association. Pursuant to *Civil Code* section 4050(b), if sent by United States mail, delivery of such is deemed complete upon deposit in the United States mail, postage prepaid. Pursuant to *Civil Code* section 4050(c), if such notice is sent by electronic means, delivery is deemed complete at the time of transmission.
- 13.11.3 Owner's Address for Notice. It shall be each Owner's responsibility to notify the Association in writing of any change in the Owner's address for the purpose of receiving notices from the Association. The fact that a different address appears on correspondence to the Association from an Owner shall not constitute such written notice, unless it is expressly stated that such address is a change of address for the purpose of receiving notice from the Association. Upon transfer of title to a Lot, the transferee shall be responsible for notifying the Association of such transfer. The notification shall set forth the address of the Lot, the names of the transferee and the transferor, and the date of sale or other transfer. Prior to receipt of such notification, any and all communications required or permitted to be given by the Association or the Board to the Owner of the Lot shall be deemed to be duly made and given to the transferee if duly and timely made and given to the person shown as the Owner of the Lot and at the address in the Association's records.
- 13.11.4 Notice to Co-Owners or Residents. Unless otherwise provided by law, when a Lot is owned by two (2) or more co-Owners or is occupied by two or more Residents, notice to one (1) Owner or to one Resident shall be deemed notice to all Owners or to all Residents, as the case may be.

1 13.12 Hearing Called by the Board; Executive Session; Open Meeting. To the extent  
2 required by *Civil Code* section 5855, whenever the Board determines to conduct  
3 a hearing, it shall notify the affected Owner(s) and/or Resident(s) in writing by  
4 Individual Delivery, at least ten (10) days before the Board meeting at which the  
5 matter will be considered. If the matter concerns Member discipline or the  
6 imposition of sanctions, the Board shall meet in executive session if requested by  
7 the Member, *unless* (and then only to the extent) applicable law requires that  
8 certain actions by the Board be conducted at an open meeting of the Board, such  
9 as *Civil Code* section 5673 concerning a decision to record a lien for delinquent  
10 Assessments. If the matter concerns compliance with architectural approval  
11 requirements, the hearing shall be conducted in open meeting pursuant to *Civil*  
12 *Code* section 4765. In the Board's discretion, other interested person(s) may  
13 attend a hearing and may present information relevant to the subject matter of  
14 the hearing. If a notified Owner or Resident fails to attend a noticed hearing, the  
15 Board may nevertheless conduct its deliberations and make a determination  
16 based on its own investigation and any other information supplied to it that the  
17 Board deems reasonably reliable.  
18

19 13.13 Owner's Request for Hearing. An Owner who has received a notice of violation  
20 sent pursuant to Section 13.10 ("Written Notice of Violation") or a notice of  
21 corrective action sent pursuant to Section 13.15 ("Enforcement by Association in  
22 Emergency Situations") or as otherwise provided in the Governing Documents,  
23 may request a hearing before the Board by submitting a written request to the  
24 Board. If an Owner requests a meeting to discuss a payment plan for a past due  
25 debt owed to the Association, the meeting shall be scheduled and conducted as  
26 provided in Section 8.15.3 ("Owner's Right to Discuss Payment Plan"). If the  
27 Owner is requesting a hearing concerning a notice of violation sent pursuant to  
28 Section 13.10 or a notice of corrective action sent pursuant to Section 13.15, the  
29 request for hearing must be submitted within ten (10) days after the date of such  
30 notice. The Board shall schedule a hearing at its next regular meeting that is at  
31 least five (5) days after its receipt of an Owner's request for hearing or, in the  
32 Board's discretion, at another time agreed by the Board and the Owner.  
33 Hearings shall be conducted in executive session or at an open meeting as  
34 provided in Section 13.12 ("Hearing Called by the Board; Executive Session;  
35 Open Meeting").  
36

37 13.14 Notice of Hearing Decisions. Within fifteen (15) days after a hearing is  
38 conducted, the Board shall notify the Owner or Resident in writing as to its  
39 decision. If the Board decides to impose sanctions, the notice shall describe the  
40 sanctions imposed and, if applicable, their effective dates.  
41

42 13.15 Enforcement by Association in Emergency Situations.  
43

44 13.15.1 Definition of Emergency Situation. For purposes of this Section 13.15,  
45 the following shall constitute emergency situations:  
46

- 1 (i) an immediate and unreasonable infringement of or threat to the  
2 safety or peaceful enjoyment of Residents of the Development,  
3  
4 (ii) a traffic or fire hazard,  
5  
6 (iii) a threat of material damage to or destruction of the  
7 Development or any portion thereof,  
8  
9 (iv) a violation of any provision of the Governing Documents that is  
10 of such a nature that there is no material question regarding the  
11 identity of the violator or whether the violation has occurred  
12 (such as parking violations).  
13

14 13.15.2 Immediate Corrective Action. Notwithstanding any other provisions of  
15 the Governing Documents, under circumstances that constitute an  
16 emergency, the Board or its duly-authorized agents may undertake  
17 immediate corrective action. The Board shall promptly thereafter send  
18 written notice of the corrective action to the affected Owner including  
19 notice of any Reimbursement Assessment assessed to the Owner for  
20 costs incurred by the Association in connection therewith. If the Owner  
21 requests a hearing pursuant to Section 13.13 ("Owner's Request for  
22 Hearing"), enforcement of any Reimbursement Assessment imposed  
23 by the Board shall be held in abeyance and shall be pursued only if  
24 affirmed by the Board at the hearing.  
25

26 13.16 Internal Dispute Resolution.  
27

28 13.16.1 Fair, Reasonable, and Expeditious Procedure. The provisions of  
29 Article 7 ("Architectural Approval") and of Section 13.9 ("Investigation  
30 of Complaints") through Section 13.15 ("Enforcement by Association in  
31 Emergency Situations") are intended to provide a fair, reasonable, and  
32 expeditious procedure for resolving disputes between the Association  
33 and any Member that are subject to *Civil Code* sections 5900 through  
34 5920 (which apply to, among other things, enforcement of applicable  
35 provisions of the *Corporations Code* and enforcement of the Governing  
36 Documents). The above-referenced provisions of the Declaration shall  
37 constitute the Association's "internal dispute resolution" process as  
38 required by *Civil Code* section 5905.  
39

40 13.16.2 Statutory Default Procedures. If the Association fails to comply with  
41 the Association's internal dispute resolution process, then the  
42 Association and the affected Member shall abide by the statutory  
43 default procedures provided in *Civil Code* section 5915, or successor  
44 statute. Any resolution so agreed upon by the parties thereto, that is  
45 not in conflict with the law or the Governing Documents, shall bind the  
46 parties and shall be judicially enforceable as provided in *Civil Code*  
47 section 5910.

1  
2 13.16.3 Alternative Dispute Resolution May Also Apply. If (a) the subject  
3 matter of the dispute (including, among other things, enforcement of  
4 applicable provisions of the *Corporations Code* and enforcement of the  
5 Governing Documents) and the remedy sought (including certain kinds  
6 of declaratory, injunctive, or writ relief, which may be in conjunction  
7 with certain limited monetary relief, but excluding small claims actions  
8 and excluding Assessment disputes) are subject to *Civil Code* sections  
9 5925 through 5965 and (b) the Association and the affected Member  
10 do not agree on a resolution through the foregoing internal dispute  
11 resolution process provided for in Section 13.16.1 ("Fair, Reasonable,  
12 and Expeditious Procedure"), then no party to the dispute may pursue  
13 a civil remedy that is subject to *Civil Code* sections 5925 through 5965,  
14 without first complying with the "alternative dispute resolution"  
15 (hereinafter, "ADR") procedures set forth in that statute and referenced  
16 in Section 13.17 ("Alternative Dispute Resolution Before Initiating  
17 Lawsuit").  
18

19 13.16.4 Annual Description of Internal Dispute Resolution Process. The  
20 Association shall annually provide the Members with a description of  
21 the internal dispute resolution process required by *Civil Code* section  
22 5920 as part of the annual policy statement prepared pursuant to *Civil*  
23 *Code* section 5310. Such description may consist of a copy of Article 7  
24 ("Architectural Approval") and Section 13.9 ("Investigation of  
25 Complaints") through this Section 13.16 ("Internal Dispute Resolution").  
26

27 13.17 Alternative Dispute Resolution ("ADR") Before Initiating Lawsuit.  
28

29 13.17.1 Annual Summary. As provided in *Civil Code* section 5965, the  
30 Association shall annually provide to its Members a summary of the  
31 provisions concerning ADR contained in *Civil Code* sections 5925  
32 through 5965 as part of the annual policy statement prepared pursuant  
33 to *Civil Code* section 5310. Such summary may consist of a copy of  
34 this Section 13.17. Such summary shall include the following  
35 language:  
36

37 "Failure of a member of the association to comply with the alternative  
38 dispute resolution requirements of Section 5930 of the Civil Code may  
39 result in the loss of the member's right to sue the association or  
40 another member of the association regarding enforcement of the  
41 governing documents or the applicable law."  
42

43 13.17.2 When ADR Applies. The requirements of this Section 13.17 apply to  
44 civil action or proceedings as defined in *Civil Code* section 5925(b)  
45 when the remedy sought is solely for declaratory, injunctive, or writ  
46 relief or if for the foregoing relief in conjunction with monetary damages  
47 not in excess of the jurisdictional amount for a small claims action as

1 stated in California *Code of Civil Procedure* sections 116.220 and  
2 116.221, all as provided in *Civil Code* section 5930(b). *Civil Code*  
3 sections 5925 through 5965 apply to disputes between Members as  
4 well as to disputes between the Association and a Member. The ADR  
5 requirements of this **Section 13.17** do not apply to Assessment  
6 disputes or to an action in small claims court.  
7

8 13.17.3 Statutory ADR Process. In accordance with *Civil Code* sections 5925  
9 through 5965, the Association or a Member may not file an  
10 "enforcement action" as defined in the statute unless the parties have  
11 endeavored to submit their dispute to "alternative dispute resolution" as  
12 the term is defined in *Civil Code* section 5925(a) and as the process is  
13 specified in *Civil Code* sections 5935, 5940, and 5945.  
14

15 13.18 Non-waiver of Enforcement. Failure to enforce any provision of the Governing  
16 Documents at any time shall not be deemed a waiver of the right to do so  
17 thereafter with respect to the same or any other violation of any provision of the  
18 Governing Documents.  
19

20 13.19 Costs and Attorney Fees. In an action to enforce the Governing Documents, the  
21 prevailing party shall, to the fullest extent permitted by law, including *Civil Code*  
22 section 5975, be entitled to recover the full amount of all costs including attorney  
23 fees incurred in responding to and/or in enforcing any Governing Document  
24 provision. Without limiting the generality of the foregoing, in the event an Owner  
25 pursuant to *Civil Code* section 4605 brings a civil action for violation of *Civil Code*  
26 section 4600 (concerning the granting of exclusive use of a portion of the  
27 Common Area to a Member) or pursuant to *Civil Code* section 4955, a civil action  
28 for violation of the Common Interest Open Meeting Act (*Civil Code* sections 4900  
29 through 4955) if the Association shall prevail in any such action, the Association  
30 shall be entitled to recover reasonable attorney fees except to the extent  
31 prohibited by law. The remedies of the prevailing party to recover the amount of  
32 such costs, expenses, and attorney fees shall include, but shall not necessarily  
33 be limited to, the imposition of a Reimbursement Assessment.  
34

## 35 **ARTICLE 14** **AMENDMENT**

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37  
38 14.1 Required Approval. This Declaration may be amended by the affirmative vote of  
39 Members representing at least a Majority of a Quorum of the Owners, provided  
40 that for purposes of voting to amend the Declaration a quorum shall mean at  
41 least fifty percent (50%) of the Total Voting Power of the Association; *provided,*  
42 *however,* that, upon advice of legal counsel licensed to practice law in the State  
43 of California including the drafting by legal counsel of appropriate amendatory  
44 provisions, the Board shall have the authority without the requirement of the  
45 Members' approval to amend any provision of the Declaration (i) to resolve any  
46 conflict between the Declaration and applicable law which may arise due to the  
47 enactment or amendment of a statute or due to a development in applicable case

1 law or (ii) to conform the provisions of the Declaration to changes in applicable  
2 statutory law that impose requirements that are non-discretionary in nature.

3  
4 14.2 Amendment Must Be Recorded. Any amendment of the Declaration shall be  
5 signed and acknowledged by the duly-authorized officer(s) of the Association and  
6 recorded in the Office of the County Recorder.

7  
8 14.3 Presumption of Validity. There will be a presumption subsequent to the  
9 recording of an amendment to this Declaration pursuant to Section 14.2  
10 (“Amendment Must Be Recorded”) that all votes and consents required to pass  
11 the same pursuant to Section 14.1 (“Required Approval”) were duly obtained in  
12 accordance with the Governing Documents and applicable law. Such  
13 presumption may be rebutted by an action commenced within one (1) year from  
14 the date the amendment is recorded. In the absence of any such action, such  
15 presumption shall thereafter become conclusive.

## 16 17 18 **ARTICLE 15 GENERAL PROVISIONS**

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19  
20 15.1 Headings. The headings used in this Declaration are for convenience only and  
21 are not to be used in interpreting the meaning of any of the provisions of this  
22 Declaration, or otherwise.

23  
24 15.2 Severability. The provisions of this Declaration shall be deemed independent  
25 and severable, and the invalidity or partial invalidity or unenforceability of any  
26 provision hereof shall not invalidate any other provisions hereof.

27  
28 15.3 Liberal Construction. The provisions of this Declaration shall be liberally  
29 construed to effectuate its purpose of fostering a plan of community ownership  
30 and occupancy and of management of the Development for the benefit of the  
31 community.

32  
33 15.4 Amendment to Referenced Statutes; Time for Performance. References in the  
34 Declaration to particular statutes, including sections of the *Civil Code* or the  
35 *Corporations Code*, shall be deemed to include any successor statute and any  
36 amendments to existing or successor statutes. Whenever this Declaration states  
37 a time for the performance of any act by the Association which by law (as it may  
38 exist from time to time) must be performed at or within a specified time, the time  
39 for the performance of such act shall be deemed to be the widest timeframe  
40 permitted under then-applicable law.

41  
42 15.5 Number; Gender. The singular shall include the plural and the plural the singular  
43 unless the context requires the contrary, and the masculine, feminine, and neuter  
44 shall each include the masculine, feminine, or neuter, as the context requires.

45  
46 15.6 Exhibits. All exhibits attached to this Declaration are incorporated by this  
47 reference as though fully set forth herein.



1  
2 15.7 Power of Attorney. To the extent necessary to carry out and enforce the  
3 provisions of this Declaration, an irrevocable power of attorney coupled with an  
4 interest is granted to the Association by the Owners and each of them.  
5

6 15.8 Term. The covenants, conditions, restrictions, limitations, reservations, grants of  
7 easement, rights, rights-of-way, liens, charges, and equitable servitudes  
8 contained in this Declaration shall run with and shall benefit and burden all of the  
9 real property subject to this Declaration, including without limitation the Lots and  
10 Common Areas, and shall inure to the benefit of and be binding upon the  
11 Owners, the Association, its Board of Directors and officers, and their respective  
12 agents and successors in interest, for a term of thirty (30) years from the date of  
13 recordation of this Declaration. Thereafter, the term shall be automatically  
14 extended for successive periods of ten (10) years each, unless within the six (6)  
15 months prior to the expiration of the initial thirty-year term or within six (6) months  
16 prior to the expiration of any ten-year extension period a written instrument,  
17 approved by Owners entitled to vote and holding at least a majority of the Total  
18 Voting Power of the Association, terminating the effectiveness of this Declaration  
19 shall be recorded in the Office of the County Recorder of Calaveras County,  
20 State of California.  
21  
22

23 IN WITNESS WHEREOF, we, the Members of SNOWSHOE SPRINGS  
24 ASSOCIATION, pursuant to the requisite approval, and by means of the  
25 signatures of the President and the Secretary, do hereby affirm, approve, and  
26 adopt the foregoing Second Amended and Restated Declaration of Covenants,  
27 Conditions and Restrictions of Snowshoe Springs Association, which Second  
28 Amended and Restated Declaration of Covenants, Conditions and Restrictions  
29 shall be recorded with the County Recorder of Calaveras County, State of  
30 California.  
31  
32

33 DATED: \_\_\_\_\_  
34  
35  
36  
37  
38

SNOWSHOE SPRINGS  
ASSOCIATION, a California nonprofit  
mutual benefit corporation

39 \_\_\_\_\_  
40 President's Name  
41  
42

43 \_\_\_\_\_  
44 Secretary's Name  
45



**EXHIBIT A**

**(Recital Paragraph B)**

**Legal Description of the Property Comprising the Development  
Subject to This Declaration**

All of the real property as shown on the "Map of Snowshoe Springs Subdivision No. 1" filed for record on May 20, 1957, in Volume 2 of Maps, Page 34, in the Official Records of Calaveras County, State of California.

All of the real property as shown on the "Map of Snowshoe Springs Subdivision No. 2" filed for record on August 6, 1958, in Volume 2 of Maps, Page 38, in the Official Records of Calaveras County, State of California.

All of the real property as shown on the "Map of Snowshoe Springs Subdivision No. 3" filed for record on January 18, 1960, in Volume 2 of Maps, Page 43, and as amended by the Certificate of Correction recorded February 20, 1970, in Book 292, Page 366, in the Official Records of Calaveras County, State of California.

All of the real property as shown on the "Map of Snowshoe Springs Subdivision No. 4" filed for record on June 19, 1961, in Volume 2 of Maps, Page 49, in the Official Records of Calaveras County, State of California.

All of the real property as shown on the "Map of Snowshoe Springs Subdivision No. 5" filed for record on March 18, 1963, in Volume 2 of Maps, Page 65, in the Official Records of Calaveras County, State of California.

All of the real property as shown on the "Map of Snowshoe Springs Subdivision No. 6-A" filed for record on June 21, 1965, in Volume 2 of Maps, Page 93, in the Official Records of Calaveras County, State of California.

**EXHIBIT B**

**(Recital Paragraph B and Section 1.9)**

**List of Common Area Lots**

APN 023-012-021	PORTION OF MEADOW (SOUTHERN) THAT JOINS KAROCK COURT
APN 025-008-031	LOCATION OF TANKS 1 & 2
APN 025-009-007	LOCATION OF TANK 4
APN 025-010-014	LOCATION OF TANK 3
APN 025-010-020	LOCATION OF BOARD CROSSING CONTROL
APN 025-011-022	PORTION OF MEADOW (NORTHERN)
APN 025-011-038	SPRING (E. SIDE OF SNOWSHOE THOMPSON)
APN 025-012-026	LOCATION OF TEEPEE & TOBOGGAN RUN
APN 025-012-034	PORTION OF MEADOW (CENTRAL)
APN 025-013-001	SNOWSHOE LAKE AREA
APN 025-025-003	PARCEL EAST OF LOT 363 AND ADJACENT TO SNOWSHOE LAKE
APN 023-013-014	LOT 420 ON MAP OF BIG TREES VILLAGE UNIT NO. 2

**EXHIBIT C**

**(Section 1.35)**

**List of Recorded Subdivision Maps  
for This Development**

“Map of Snowshoe Springs Subdivision No. 1” filed for record on May 20, 1957, in Volume 2 of Maps, Page 34, in the Official Records of Calaveras County, State of California.

“Map of Snowshoe Springs Subdivision No. 2” filed for record on August 6, 1958, in Volume 2 of Maps, Page 38, in the Official Records of Calaveras County, State of California.

“Map of Snowshoe Springs Subdivision No. 3” filed for record on January 18, 1960, in Volume 2 of Maps, Page 43, and as amended by the Certificate of Correction recorded February 20, 1970, in Book 292, Page 366, in the Official Records of Calaveras County, State of California.

“Map of Snowshoe Springs Subdivision No. 4” filed for record on June 19, 1961, in Volume 2 of Maps, Page 49, in the Official Records of Calaveras County, State of California.

“Map of Snowshoe Springs Subdivision No. 5” filed for record on March 18, 1963, in Volume 2 of Maps, Page 65, in the Official Records of Calaveras County, State of California.

“Map of Snowshoe Springs Subdivision No. 6-A” filed for record on June 21, 1965, in Volume 2 of Maps, Page 93, in the Official Records of Calaveras County, State of California.

“Map of Big Trees Village Unit No. 2” filed for record on March 4, 1968, in Book 3 of Subdivision Maps, Page 15, in the Official Records of Calaveras, County, State of California.