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HOMEOWNERS' ASSOCIATION**  
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**SECOND RESTATED**

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**OF**

**GRAEAGLE MEADOWS HOMEOWNERS' ASSOCIATION**

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**SECOND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF  
GRAEAGLE MEADOWS HOMEOWNERS' ASSOCIATION**

This Second Restated Declaration of Covenants, Conditions and Restrictions of Graeagle Meadows Homeowners' Association (the "Declaration") is made on the date hereinafter set forth by Graeagle Meadows Homeowners' Association, a California nonprofit mutual benefit corporation (the "Association").

**RECITALS**

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A. The Association is an "association", as that term is defined in California Civil Code Section 4080 [prior to January 1, 2014, see California Civil Code Section 1351(a)], which has been created to manage the that certain planned development located in the county of Plumas County, State of California, commonly known as Graeagle Meadows Homeowners' Association, which is more particularly described in Exhibit A, attached (the "Development").

B. In conjunction with the subdivision, Graeagle Associates, a joint venture, the prior declarant (collectively, the "Declarant"), executed an instrument entitled "Declaration of Restrictions of Graeagle Meadows Home Owners Association," which was recorded on August 15, 1975, in Volume 245, at Page 170 of the Official Records of Plumas County (the "Original Declaration"). The Original Declaration was amended and restated in an instrument entitled "Restated Declaration of Covenants, Conditions and Restrictions of Graeagle Meadows," which was recorded on October 28, 1992 in Volume 585, Page 378 in the Official Records of Plumas County (the "Restated Declaration"), which was amended in a document entitled "Amendments to the Declaration of Covenants, Conditions and Restrictions," which was recorded on November 22, 1996 in the Official Records of Plumas County (as amended, the "Restated Declaration").

C. The Restated Declaration established certain limitations, easements, covenants, restrictions, conditions, liens, and charges which run with and are binding upon all parties having or acquiring any right, title, or interest in the real property comprising the Development.

D. The "Declarant", as that term is defined in the Original Declaration, no longer owns any property within the Development.

E. At least a majority of the total voting power of the Association voted to amend, restate and supersede the Restated Declaration pursuant to Article 10 of the Restated Declaration.

**NOW, THEREFORE**, it is hereby declared as follows:

1. The Restated Declaration is hereby amended, superseded and restated to read in its entirety as set forth in this Declaration.

2. All of the real property comprising the Development constitutes a "planned development", as that term is defined in Civil Code Section 4175 [prior to January 1, 2014, see Civil Code Section 1351(k)].

3. All of the real property comprising the Development is held and owned and shall be held, owned, operated, managed, conveyed, hypothecated, encumbered, leased, used, occupied, and improved subject to the following covenants, conditions, and restrictions, all of which are declared and agreed to be in furtherance of a plan and purpose of protecting, preserving, and enhancing the value, desirability, and attractiveness of the Development and every part thereof, and of fostering the development, management, improvement, enjoyment, and sale of the real property comprising the Development and any part thereof.

4. All of the covenants, conditions, and restrictions set forth in this Declaration shall constitute enforceable equitable servitudes as provided in Civil Code Section 5975 [prior to January 1, 2014, see Civil Code Section 1354], shall constitute covenants that shall run with the real property comprising the Development, and shall be binding upon and inure to the benefit of each Owner of any portion of such real property or of any interest therein and their heirs, successors, and assigns.

## **ARTICLE 1 DEFINITIONS**

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1.1 Absolute Majority. "Absolute Majority" shall mean a majority of the Total Voting Power of the Association.

1.2 Additional Charges. "Additional Charges" shall mean all costs, fees, charges, and expenditures, including without limitation, interest, late charges, attorneys' fees, recording and filing fees, and all other costs actually incurred by the Association in collecting and/or enforcing payment of Assessments, fines, and/or penalties.

1.3 Architectural Rules. "Architectural Rules" shall mean the rules and regulations adopted by the Board pursuant to Section 9.3 of this Declaration.

1.4 Articles. "Articles" shall mean the Articles of Incorporation of the Association, as they may be amended from time to time, and as filed with the Office of the Secretary of State of California.

1.5 Assessment. "Assessment" shall mean a charge levied by the Association against an Owner and his or her Lot as provided in Article 6 of this Declaration. "Assessment" shall include any or all of the following:

1.5.1 Regular Assessments, which shall have the meaning set forth in Section 6.5 of this Declaration.

1.5.2 Enforcement Assessments, which shall have the meaning set forth in Section 6.8 of this Declaration.

1.5.3 Reimbursement Assessments, which shall have the meaning set forth in Section 6.7 of this Declaration.

1.5.4 Special Assessments, which shall have the meaning set forth in Section 6.6 of this Declaration.

1.6 Association. "Association" shall mean Graeagle Meadows Homeowners' Association, its successors and assigns.

1.7 Board of Directors. "Board of Directors" or "Board" shall mean the governing body of the Association.

1.8 Bylaws. "Bylaws" shall mean the Bylaws of the Association as they shall be adopted by the Board of Directors and Members and any duly-adopted amendments thereof.

1.9 Common Area. "Common Area" shall mean all of the property comprising the Development, excluding Lots, as defined herein, or more particularly described in this Declaration. The Common Area shall include, without limitation, trees, hedges, plants, lawns, shrubs and landscaping, fences, utilities, berms, pipes, lines, exterior lighting fixtures, buildings, structures, sidewalks, streets, and other facilities constructed or to be constructed. Title to the Common Area shall be held by the Association for the use, enjoyment, and benefit of the Members.

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 County. "County" shall mean Plumas County, California.

1.12 Declaration. "Declaration" shall mean this instrument, as it may be amended from time to time.

1.13 Development. "Development" shall mean all the real property described in Recital "A" of this Declaration as well as such other real property as may hereafter be brought within the jurisdiction of the Association.

1.14 Director. "Director" shall mean a member of the Board of Directors.

1.15 Due Diligence. "Due Diligence" shall mean a process of acquiring objective and reliable information prior to shaping a specific event or decision. It is usually a systematic research effort, which is used to gather the critical facts and descriptive information, which are most relevant to the making of an informed decision on a matter of importance.

1.16 Exclusive Use Common Area. "Exclusive Use Common Area" shall mean any portion of the Common Area the use of which is set aside, allocated, assigned, and restricted to the exclusive use or possession of the Residents of a particular Lot. While such Exclusive Use Common Area may be specifically referred to in the individual grant deed conveying a Lot, the failure of any such deed to make such reference shall not invalidate the exclusive rights set forth in this Declaration. Exclusive Use Common Area shall include, without limitation, assigned parking spaces, assigned storage spaces, carports, garages, enclosed yards, and patios and decks abutting a Residence.

1.17 Eligible First Mortgagee. "Eligible First Mortgagee" shall mean a Mortgagee of a First Mortgage who has requested notice by sending a written request to the Association, stating both its name and address and the Lot number or address of the Lot it has the mortgage on.

1.18 First Mortgage. "First Mortgage" shall mean a Mortgage which has priority under the recording statutes of the State of California over all other Mortgages encumbering a specific Lot in the Development.

1.19 Governing Documents. "Governing Documents" shall mean the Articles, Bylaws, Declaration, and Rules, and the policies and resolutions duly adopted by the Board and distributed to the Members.



1.20 Graeagle Meadows. "Graeagle Meadows" shall mean all of the real property, together with all improvements thereon, described in Exhibit "A" to this Declaration.

1.21 Good Faith. "Good Faith" shall mean actions and/or decisions for action based on honesty, fairness, and lawfulness of purpose and without any intent to defraud, act maliciously, or take unfair advantage.

1.22 Improvement. "Improvement" shall mean all structures and improvements including without limitation buildings, landscaping, paving, fences, and signs.

1.23 Lot. "Lot" shall mean the elements of a Lot that are not owned in common with the other Owners of Lots within the Development and are not Common Area.

1.24 Member. "Member" shall mean each person or entity who is a record owner of a fee or undivided fee interest in any Lot within the Development, except any such person or entity who holds an interest in a Lot merely as security for the performance of an obligation.

1.25 Member in Good Standing. "Member in Good Standing" shall mean a Member of the Association who is current in the payment of all dues, assessments, fines, penalties, and other charges imposed in accordance with the Governing Documents, and who is in compliance with all of the provisions of the Governing Documents, as more particularly set forth in the Bylaws.

1.26 Mortgage. "Mortgage" shall mean any duly recorded mortgage or deed of trust encumbering a Lot in the Development.

1.27 Mortgagee. "Mortgagee" shall mean a beneficiary under or holder of a deed of trust as well as a mortgagee under a Mortgage.

1.28 Negligence. "Negligence" shall mean an action or failure to behave with the level of care that someone of ordinary prudence would have exercised under the same circumstances. Negligence may also consist of omissions when there is some duty to act.

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

1.30 Party Wall. "Party Wall" shall mean any interior wall of a Residence located on a property line dividing any Lots, which wall is commonly used by any such Lot and the adjoining Lot.

1.31 Record. "Record" shall mean, with respect to any document, the recordation or filing of such document in the office of the County recorder.

1.32 Point of Origin. "Point of Origin" shall mean the first event that sets in motion the series of other events leading to the maintenance need. The "point of origin" of the maintenance need determines responsibility for damage repair and its costs.

1.33 Planned Development. "Planned Development" shall mean, pursuant to Civil Code Section 4175, " a real property development other than a community apartment project, a condominium project, or a stock cooperative, having either or both of the following features: (a) Common area that is owned either by an association or in common by the owners of the separate interests who possess appurtenant rights to the beneficial use and enjoyment of the common area; (b) Common area and an

association that maintains the common area with the power to levy assessments that may become a lien upon the separate interests in accordance with Article 2 (commencing with 5650) of Chapter 8." Graeagle Meadows is a Planned Development where the individually owned area is called the 'lot' and consists of a piece of land and everything on it. The exact physical location of each lot is shown on the recorded map for the project. Owners own their lots and the complete structures on them; however, the Graeagle Meadows Homeowner's Association has the right and responsibility for "exterior maintenance." Ownership where there are walls or fences that sit on the border of two or more lots is considered to be shared, unless the CC&Rs provide otherwise. Individuals actually own the residence or unit they live in and the land footprint beneath the structure, but common areas are owned jointly with the other members of the development or association.

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

1.35 Resident. "Resident" shall mean any person who resides in a Lot within the Development whether or not such person is an Owner as defined in Section 1.25 of this Declaration.

1.36 Rules. "Rules" shall mean the rules and regulations governing the use, occupancy, management, administration, and operation of the Development or any part thereof as adopted and published by the Board of Directors from time to time and shall include, without limitation, the election rules and the Architectural Rules.

1.37 Simple Majority. "Simple Majority" shall mean a majority of the votes of the Members: (a) represented and voting at a meeting at which a quorum is present, or (b) cast by written or secret ballot (in conformity with California Corporations Code Section 7513 or Civil Code Sections 5100 through 5125 [prior to January 1, 2014, see Civil Code Section 1363.03], respectively) in which the number of ballots received equals or exceeds the number required to establish a quorum.

1.38 Subdivision Map. "Subdivision Map" shall mean the maps described in Exhibit A, Graeagle Meadows Property Description, as recorded in the Office of the Plumas County Recorder.

1.39 Total Voting Power. "Total Voting Power" shall mean the total number of votes of all Members entitled to vote at a particular time, calculated on the basis of one vote for each Lot, excluding any Lots as to which an Owner is not then a Member in Good Standing.

### **Introduction & Description of Graeagle Meadows:**

Graeagle Meadows is a Planned Development and consists of one-hundred thirty-four (134) residential Lots, designated on the Map of Lots 1 through 134, inclusive, each of which contains a single-family attached dwelling structure.

The Common Area for Graeagle meadows consists of the total area outside the boundaries of the one-hundred thirty-four (134) residential Lots, including streets, walks, fenced yards, carports, maintenance buildings, storage facilities, patios, decks and open space. The Common Area is owed in fee, maintained and operated by the Association for the use, enjoyment and benefit of the Owners. The common Area shall be preserved primarily as open space and used for purposes incidental and ancillary to use of the residential Lots.

The Association may allow any Owner whose purchase did not include a carport or garage, at the personal expense of such Owner, to construct a carport or garage adjacent to their Lot upon a site to be approved by the Board. Any structure erected at the expense of the Owner shall be subject to the sole and exclusive use and enjoyment of such Owner, to include the right to convey or transfer the exclusive use and enjoyment thereof. Any Owner wishing to exercise this right shall submit to the Board for approval

complete architectural plans and specifications, to include design, dimensions and location of proposed addition. Any such addition shall conform in design and external color with existing Graeagle Meadows structures.

## **ARTICLE 2 PROPERTY RIGHTS AND RIGHTS OF ENJOYMENT**

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2.1 Lot Ownership. Ownership of each Lot within the Development shall include: (a) a designated Lot, (b) a Membership in the Association, (c) the right to the exclusive use and possession of those portions of the Common Area assigned to such Lot as Exclusive Use Common Area as more fully described in Section 1.15 and Section 2.3, and (d) all applicable easements.

2.2 Owners Non-Exclusive Easements of Enjoyment. Every Owner of a Lot shall have a non-exclusive easement of use of and enjoyment in, to, and throughout the Common Area of the Development for ingress, egress, and support over and through the Common Area. Each such non-exclusive easement shall be appurtenant to and pass with the title to every Lot, subject to the following rights and restrictions:

2.2.1 The right of the Owner of a Lot to the exclusive use and possession of the Exclusive Use Common Area assigned to such Lot as specified in Section 1.15 and Section 2.3.

2.2.2 The right of the Board, as more particularly addressed in the Bylaws, to suspend an Owner's right to use the recreational facilities located on the Common Area for (a) any period during which any Assessment against such Owner's Lot remains unpaid, and (b) for violations of the Governing Documents by an Owner or any person or animal for whom an Owner is responsible.

2.2.3 The right of the Board of Directors to establish and enforce Rules governing the use of the Common Area and the facilities thereon including, without limitation, Rules (a) limiting the number of guests of Residents permitted to use the Common Areas and the facilities thereon at any one time, (b) limiting the hours of use of the Common Areas and the facilities thereon, (c) charging reasonable admission or fees for use of any recreational facilities, (d) regulating the use of the Common Areas and the facilities thereon for group activities, (e) regulating parking within the Common Area, and (f) regulating traffic within the Common Area.

2.2.4 The right of the Board, as set forth in Section 3.6 of this Declaration, to grant easements and rights of way in, on, over, or under the Common Area.

2.2.5 The right of the Board to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility.

2.2.6 The right of the Board to mortgage, pledge, encumber, or otherwise hypothecate the Common Area and facilities thereon as security for money borrowed and debts incurred by the Association.

2.2.7 The right of the Association and its authorized agents to perform the Association's obligations and exercise the Association's rights as specified in this Declaration.

2.2.8 The right of the Association to establish, construct, maintain, repair and replace facilities upon the Common Area which may be necessary or convenient in the discharge of the Association's duties and the exercise of its rights under the Governing Documents.

2.3 Exclusive Use Common Area. Without limiting the general application of Civil Code Section 4145 [prior to January 1, 2014, see Civil Code Section 1351(i)], and subject the limitations described in Section 2.2 above, the following shall be considered "Exclusive Use Common Area":

2.3.1 Assigned Parking and Storage Spaces. Owners have an exclusive easement for garage, carport, and/or storage space as designated and assigned by the Board. Owners having such an exclusive easement for parking and storage purposes shall keep his or her garage, carport, and/or storage space in a neat, clean, attractive and safe condition at all times.

2.3.2 Decks, Patios, Yards. Each Owner shall have an exclusive easement to use and enjoy that portion of the Common Area adjacent to his or her Lot that consists of an enclosed yard and/or patio or deck adjacent to the Residence. Each Owner shall keep his or her deck, yard, and/or patio in a neat, clean, and attractive condition at all times, including without limitation the removal of garbage or broken/unusable patio furniture. The Owner's obligations under this section shall not replace the Association's responsibility for the maintenance, repair and replacement of the decks, yards and patios in the Development according to Article 8 below.

2.4 Assignment of Use. Any Owner may assign his or her rights of use and enjoyment, including easements, in the Development to the members of his or her household, tenants, contract purchasers, guests and invitees, subject to the terms of the Governing Documents. 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 assigned all such rights exclusively to the tenants or contract purchasers of such Lot. Any rights of enjoyment assigned pursuant to this section are subject to suspension to the same extent that rights of Owners are subject to suspension as provided in the Governing Documents. An express purpose and intent of the provisions of this section is to limit the right of use and enjoyment of the Common Area to Residents and their guests. The Association may impose sanctions (including without limitation fines) against any Owner who fails to comply with the provisions of this section in accordance with Subsection 10.5.3.

2.5 Prohibition Against Severance. An Owner shall not be entitled to sever his or her Lot from his or her membership in the Association and shall not be entitled to sever his or her membership from his or her undivided interest in the Common Area. None of the component interests may be severally sold, conveyed, encumbered, hypothecated, or otherwise dealt with, and any violation or attempted violation of this provision shall be void.

2.6 Common Area Construction. Except as may be authorized by the Board, no person or entity, other than the Association or its duly-authorized agents, shall (a) construct, reconstruct, refinish, alter, or maintain any Improvement upon the Common Area, (b) make or create any excavation or fill upon the Common Area, (c) change the natural or existing drainage of the Common Area, or (d) plant, remove, or destroy any seed, plant material, tree, shrub, or other vegetation upon the Common Area. Notwithstanding the foregoing, Owners shall be permitted to add additional landscaping to their Exclusive Use Common Area without the approval of the Board, but the Owners shall be responsible for maintaining and caring for such additional landscaping, and for ensuring that such additional landscaping does not damage the Common Area.

2.7 Mechanic's Liens. In the event there shall be filed against the Common Area a Notice of Mechanic's Lien for, or purporting to be for, labor or materials alleged to have been furnished or delivered for any Owner within the Development or his or her Lot, such Owner shall forthwith cause such lien to be discharged by payment, bond, or otherwise. If the Owner fails to cause the lien to be discharged, the Board may send written notice to the Owner specifying that unless the Owner causes the lien to be discharged within five (5) days from the date of such notice, the Board may cause the lien to be

discharged. Within such five (5) day period, the Owner shall be permitted a hearing before the Board regarding the validity of such lien and any offsets or defenses thereto. At that time, the Board shall determine whether the lien adversely and improperly affects and encumbers the rights and interests of the Association or the other Owners. If the Board of Directors determines that the lien does adversely and improperly affect and encumber such rights and interests and that adequate protection of such rights and interests has not been provided, the Board may cause the lien to be discharged by payment, bond, or otherwise. The Board shall have the right to levy a Reimbursement Assessment against the Owner responsible for causing the lien to be discharged in an amount equal to all amounts paid by the Association together with interest thereon at the legal rate and all costs and expenses paid or incurred in connection therewith, including reasonable attorneys' fees.

### **ARTICLE 3 EASEMENTS**

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3.1 Easements in General. In addition to all easements reserved and granted in the Subdivision Map and the easement provided in Section 2.2, there are hereby specifically reserved and granted for the benefit of the Lots and Owners in common and for each Lot and Owner severally, and for the Association, as their respective interests shall exist, the easements and rights of way as particularly identified in this Article.

3.2 Owners' Easements for Party Wall. Each attached Lot that shares a Party Wall with the adjoining Lot and its Owner is declared to have an easement appurtenant, and the same is granted on, over, and upon such adjoining Lot for such Party wall, including the right to enter such adjoining Lot to service and maintain such easement and to service, maintain, repair, or replace the improvement constituting such Party Wall. Such entry shall be at reasonable times after prior notice of not less than forty-eight (48) hours, except that in case of emergency the right of entry shall be immediate. No Owner shall alter the shape, size, or construction or use of any materials different from those used in the initial construction of any such Party Wall without the written consent of the Association. Owners must provide entry to their Lots and Residences in accordance with this section regardless of whether they reside in the Development full-time or part-time, or may leave a key with a third party that shall be responsible for providing entry. In the event the Owner leaves a key with a third party that Owner shall still be ultimately responsible for ensuring entry is provided in a timely manner. If an Owner fails to provide access to the Owner's Lot and Residence, the Owner requiring access shall have the right to hire a locksmith to gain entry.

3.3 Owners' Easements for Utilities. Each attached Lot and its Owner is declared to have an easement appurtenant, and the same is granted on, over, under, and upon the adjoining Lot for utilities serving the Lot, including the right to enter such adjoining Lot to service, maintain, repair, or replace the utilities, including without limitation pipes, telephone wires, television or satellite cables, gas lines, broadband or other internet cables, meters, drains, electrical lines, components of septic systems, water lines, and HVAC systems. Such entry shall be at reasonable times after prior notice of not less than forty-eight (48) hours, except that in case of emergency the right of entry shall be immediate. No Owner shall alter, modify or interfere with utility lines serving other Lots without the written consent of the Owners of the affected Lots. Owners must provide entry to their Lots and Residences in accordance with this section regardless of whether they reside in the Development full-time or part-time, or may leave a key with a third party that shall be responsible for providing entry. In the event the Owner leaves a key with a third party that Owner shall still be ultimately responsible for ensuring entry is provided in a timely manner. If an Owner fails to provide access to the Owner's Lot and Residence, the Owner requiring access shall have the right to hire a locksmith to gain entry.

3.4 Easements of Encroachment. There shall be reciprocal appurtenant easements of encroachment as between each Lot and such portion or portions of the Common Area adjacent thereto and/or as between adjacent Lots due to the un-willful placement or settling or shifting of the

Improvements constructed, reconstructed, or altered thereon in accordance with the terms of the Declaration. Notwithstanding the preceding, in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an Owner, a tenant, or the Association. In the event that a structure on any Lot is partially or totally destroyed and then repaired or rebuilt in accordance with the provisions of the Declaration, the Owners of each Lot agree that minor encroachments over adjoining Lots and the Common Area shall be permitted and there shall be easements for the maintenance of the encroachments so long as they shall exist.

3.5 Utility Easements. Easements over and under the Development or any portion thereof for the installation, repair, maintenance, and replacement of (a) electric, telephone, water, gas, and sanitary sewer lines, components and lines of septic systems, meters, and facilities, (b) cable lines and facilities, (c) drainage facilities, (d) walkways, and (e) landscaping, as shown on the Subdivision Map, and as may be hereafter required or convenient to service the Development, are reserved by and shall exist in favor of the Association, together with the right to grant and transfer the same. The Association shall maintain all utility installations located in the Common Area except for those installations maintained by utility companies, public, private, or municipal.

3.6 Water Facilities Easement. The Graeagle Water Company is hereby granted an easement over the Development for the purpose of maintaining, repairing, and replacing water conveyance facilities and appurtenances that are owned by such agency within the Development. This provision shall not be repealed or amended without the prior written consent of the Graeagle Water Company.

3.7 Public Utility Easement. The Plumas-Sierra Rural Electric Cooperative, a public utility, is hereby granted an easement for service to the public over the Development for the purpose of using, installing, repairing, replacing and generally maintaining any and all electric lines, as it may from time to time deem necessary over, under, along and within the Development. This provision may not be repealed or amended without the prior written consent of the Plumas-Sierra Rural Electric Cooperative.

3.8 Easements Granted by Board. The Board shall have the power to grant and convey to any person or entity easements and rights of way, in, on, over, or under the Common Area for the purpose of (a) constructing, erecting, operating, or maintaining thereon, therein, or thereunder overhead or underground lines, cables, wires, conduits, or other devices for electricity, cable television and satellite, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes, and any similar public or quasi-public Improvements or facilities, and (b) for any other purposes deemed by the Board to be appropriate and not inconsistent with the purposes and interests of the Association. Each purchaser, in accepting a deed to a Lot, expressly consents to such easements and rights of way. No such easements may be granted if the easement would unreasonably interfere with the use, occupancy, or enjoyment by an Owner or Resident of any Lot or any Exclusive Use Common Area assigned to such Lot, without the consent of the Owner of such Lot.

3.9 Maintenance Easements. An easement is hereby granted to the Association, its officers, agents, employees, and to any management company selected by the Association to enter in, on or over the Common Area and any Lot to perform the duties of maintenance and repair of Lots or Common Area as required or provided for in this Declaration.

#### **ARTICLE 4 USE RESTRICTIONS**

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4.1 Residential Use. Except as specifically provided in Section 4.3, no Lot, or any portion thereof, shall be occupied or used for anything other than residential purposes.

4.2 Rental of Lots. The rental of Lots shall be subject to the restrictions in accordance with the provisions of this section.

4.2.1 Terms of Lease or Rental Agreement. Any lease or rental of any Lot shall be in writing and the written agreement shall expressly provide: (a) that it is subject to all provisions of the Governing Documents, (b) that the tenants or lessees of the Lot shall comply with all provisions of the Governing Documents, and (c) that any violation of any such provisions of the Governing Documents shall constitute a breach and default of the terms of such lease or rental agreement. No Owner may rent or lease less than the entire Lot.

4.2.2 Rules and Regulations. The Board shall have the discretion to create and amend rules and regulations to implement and enforce the provisions of this section, including additional requirements for the renting or leasing of Lots that are not inconsistent with the Governing Documents, including without limitation requiring Owners to provide the Association with specified information regarding tenants or lease terms.

4.2.3 Violations. Any Owner who violates the provisions of this Section may be subject, at the Board's discretion, to a fine of no less than fifty (\$50.00) dollars per day for each day that the Owner's Lot remains in violation. If the Association files legal action to gain an Owner's compliance with this section, the Association, as prevailing party, shall be entitled to recover all of its attorneys' fees and costs. Prior to the filing of any court action seeking declaratory or injunctive relief to enforce this provision (including either such action coupled with a claim for monetary damages not in excess of five thousand (\$5,000) dollars), the Association shall first comply with the provisions of Civil Code Sections 5900 *et seq.* [prior to January 1, 2014, see Civil Code Sections 1363.810 *et seq.*] relating to alternative dispute resolution.

4.2.4 Association's Enforcement Rights. In addition to all other remedies available, in the event a tenant's conduct involves damage or misuse of any Common Area, or constitutes a nuisance to Owners or Residents, the Association shall be entitled to maintain an eviction action against the tenant to the same extent as the Owner of the Lot with the Association being deemed a third party beneficiary of any lease or rental agreement involving any Lot within the Development. The Association's right to maintain an eviction action shall arise only in the event that the Owner has not prevented and/or corrected the actions of the tenant giving rise to the damage or nuisance and (a) the Association has given notice to the Owner detailing the nature of the infraction and the Owner has had a reasonable opportunity to take corrective action, or (b) the Owner has appeared before the Board, or a duly authorized committee thereof, to present arguments as to why eviction by the Association is not necessary. Any disciplinary action shall be prosecuted in strict compliance with the notice requirements and hearing procedures set forth in Civil Code Section 5855 [prior to January 1, 2014, see Civil Code Section 1363(h)], or comparable successor statute, and the Governing Documents.

4.2.5 Owner Responsibility. Each Owner renting a Lot shall be strictly responsible and liable to the Association for the actions of such Owner's tenant in or about all Lots and Common Area and for each tenant's compliance with the provisions of all Association Governing Documents. An Owner leasing a Lot shall advise his/her tenants that the Lot and all occupants thereof are bound by the Governing Documents.

4.2.6 Indemnification of Association. Every Owner of a Lot that is occupied by persons other than the Owner pursuant to a lease or otherwise, agrees to and shall indemnify and defend the Association, its officers, Directors, and agents and shall hold

them harmless from any cost, loss, claim, or damages of any kind, including but not limited to attorneys' fees arising out of the conduct or presence of the occupants of the Lot upon the Development, including any such arising or alleged to have arisen out of the enforcement or non-enforcement by the Association of the Governing Documents against such occupants. Without limiting the generality of the foregoing, all costs, including attorneys' fees incurred by the Association to enforce the Governing Documents against such occupants, including eviction as provided herein, shall be reimbursed to the Association by the Owner and may be assessed by the Association as a Reimbursement Assessment.

4.3 Restriction on Businesses. No business of any kind shall be established, maintained, operated, permitted, or conducted within the Development except:

4.3.1 Professional and Administrative Occupations; Telecommuting. Those professional and administrative occupations, and telecommuting activities, as may be permitted by, and which are conducted in conformance with, all applicable governmental ordinances provided that there is no external evidence thereof, and further provided that the Board may, in its complete discretion, prohibit the conduct of any such activities which the Board determines to be incompatible with the nature and character of the Development or which, in the Board's opinion, may or does otherwise negatively impact the quality of life and property values within the Development.

4.3.2 Business Permitted by Law. Those other businesses which by law must be permitted to be conducted within the Development. The Board shall have the discretion to determine whether or not an activity is a business for the purposes of this Section 4.3.

4.4 Offensive Conduct, Nuisances, Noise. No noxious, harmful, unlawful, or offensive activities shall be conducted upon or within any part of the Development, nor shall anything be done thereon which may be or become a nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to any Residents of the Development, or which shall in any way interfere with their use of the Common Area and facilities thereon or the use and enjoyment of their Lots or the Exclusive Use Common Areas assigned thereto. Without limiting any of the foregoing, no Resident shall permit noise, including without limitation the barking of dogs or excessively loud music, to emanate from the Resident's Lot or the Common Area, which would unreasonably disturb another Resident's enjoyment of his or her Lot or of the Common Area. Nothing in this section shall be construed to limit the Association's ability to discharge its duties in accordance with the Governing Documents or otherwise manage the Development.

4.5 Use of the Common Area. All use of the Common Area is subject to the Governing Documents. No alterations or additions to the Common Area shall be made except as authorized by the Board pursuant to Section 2.6. Except with respect to the parking of vehicles on specific portions of the Common Area and storing of firewood, nothing shall be placed, kept, stored, or parked on the Common Area without the prior written consent of the Board, except by the Association. Without limiting the foregoing, no Owner shall place rubbish, debris, or other unsightly or unsanitary materials on the Common Area. Each Owner shall avoid causing damage to the Common Area. Any disturbance or destruction of the Common Area that is a result of conduct by an Owner, Resident, his or her guests, or other invitees, shall be the sole responsibility of that Owner.

4.6 Hazards and Compliance with Laws. 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 obtained by the Association, or which will be in violation of any governmental statute, ordinance, rule, or regulation. Each Owner and Resident shall comply with all requirements of all federal,



state, and local governmental authorities and all laws, ordinances, rules and regulations applicable to his or her Lot.

4.7 Burning. There shall be no exterior fires except barbecue fires contained within receptacles designed for such purpose and located in open space areas away from residential buildings. No Owner or Resident shall permit any condition to exist on or in his or her Lot or Exclusive Use Common Area, including without limitation, trash piles or weeds, which create a fire hazard or violates a state or local fire regulation. Exterior gas or propane patio heaters are allowed in the Development.

4.8 Requirement of Architectural Approval. As addressed in greater detail in Article 9, construction, installation, modification, or alteration of buildings, interior structural components, outdoor structures, landscaping, and outdoor lighting are subject to approval of the Board.

4.9 Sports Apparatus. No sports apparatus, whether portable or fixed, including without limitation basketball standards, shall be erected, maintained or utilized within the Development. Notwithstanding the foregoing sentence, the Board of Directors shall have the discretion to allow sports apparatus within the Development, subject to duly-adopted Rules regulating the type and use of such sports apparatus. As used in this section, the term "sports apparatus" does not include bicycles, roller skates, roller blades or any other similar wheeled equipment, whether powered or unpowered, provided that the Board of Directors shall have the discretion to adopt Rules governing the use of such wheeled equipment.

4.10 Mailboxes and Exterior Newspaper Tubes. Except for those utilized by the Association in the conduct of its business and except for the cluster-style, grouped mailboxes which are the mail receptacles for the Lots, no newspapers tubes or free-standing mailboxes shall be erected or maintained within the Development.

4.11 Outside Drying and Laundering. No clotheslines or other clothes washing, drying, or airing facilities shall be maintained outside of the Lots in the Development.

4.12 Antennas. No outside mast, tower, pole, antenna or satellite dish shall be erected, constructed or maintained within the Development or on any Common Area except: (a) those erected, constructed or maintained by the Association, (b) those expressly approved by the Board of Directors, or (c) those specifically permitted by law. With respect to those masts, towers, poles, antennae and satellite dishes specifically permitted by law, they shall not be installed on the roof of any building unless other locations will not permit reasonable reception, and the Association shall have the authority to regulate their installation and maintenance to the greatest extent permitted by law. The Owner of each Lot shall be responsible for the repair and maintenance of any mast, tower, pole, antenna or satellite installed by him or her within the Development and shall indemnify and reimburse the Association for all costs and expenses associated therewith, including without limitation any increased costs incurred by the Association in the performance of its maintenance obligations as specified in Article 8.

4.13 Fences and Screens. No fences, awnings, ornamental screens, or screen doors of any nature shall be erected or maintained on or around any portion of any structure or elsewhere within the Development except as are authorized and approved by the Board as described in Article 9.

4.14 Interior Improvements. No Owner shall undertake any action or work to the interior of his or her Lot, including installation of wiring or machinery such as air conditioning or heating Lots, that will protrude from the interior of the Lot or will impair the structural soundness or integrity of the Owner's Lot or an adjoining Lot or impair any easement or hereditament or do any act or allow any condition to exist which will adversely affect the other Lots or their Owners.

4.15 Landscaping. Except in the Exclusive Use Common Area decks or patios appurtenant to Lots, no cutting, trimming, pruning, planting or gardening shall be done in any portion of the Common Area without the prior written consent of the Association. Should any Owner fail to comply with the restriction imposed by this provision, the Association may recover from such Owner the cost of restoring or replacing any such vegetation in the form of a Reimbursement Assessment. Owners may plant flowers or small vegetation in the area near the entrance to a Residence, subject the Association having the sole discretion to require the Owner to remove such flowers or vegetation if the Owner fails to maintain them, they become unsightly, or they cause or threaten to cause damage to the Common Area.

#### 4.16 Animals.

4.16.1 Household Pets. No animals, reptiles, rodents, birds, fish, livestock or poultry shall be raised, bred or kept in any Lot or other portion of the Development except that two (2) household pets, may be kept, provided that (a) pets are not kept, bred or maintained for any commercial purposes, (b) pets are maintained under reasonable control at all times and (c) pets are kept in conformance with any County ordinances. While in the Development, dogs must be restrained on a leash held by a responsible person capable of controlling it.

4.16.2 Owner's Responsibility for Pets. The owner of each pet and the Owner of the Lot where such pet resides or is visiting shall be responsible for immediately removing and disposing of any waste introduced to any portion of the Development by such pet. The Board shall have the power to impose fines and other sanctions for violations of provisions of the Governing Documents relating to pets, including without limitation fines for failure to remove and dispose of pet waste as required by this section. Each Owner, Resident, and any person bringing or keeping an animal within the Development shall be absolutely liable to the Association and all other persons for any injury or damage to persons or property caused by the animal brought upon or kept upon the Development by such person or by members of his or her household, tenants, guests, or invitees. Each Owner and Resident shall indemnify the Association and its officers, Directors, and agents against any and all claims, damages, losses, demands, liabilities, and expenses, including but not limited to attorneys' fees, arising out of or resulting from the presence or conduct of any animal brought upon or kept within the Development by the Owner or Resident, members of his or her household, guests, tenants, or invitees.

4.16.3 Pet Rules. The Board may adopt and enforce Rules in addition to the provisions of this section, including restrictions on size, prohibited breeds, and other regulations. The Association shall have the right to prohibit the keeping of any animal which constitutes, in the sole and exclusive opinion of the Board, a nuisance to any other person.

4.17 Trash Disposal; Storage of Materials. No trash, garbage, accumulated waste plant material, debris or other waste or refuse shall be permitted to accumulate on any portion of the Development except within appropriate disposal containers. All equipment, garbage cans, storage piles or trash piles shall be kept reasonably screened from view of other Lots and the Common Area. Littering of any kind, or dumping of large items, including but not limited to furniture, appliances, hazardous materials, and electronics shall not be permitted anywhere within the Development.

4.18 Signs. No sign of any kind shall be displayed to the public view from any portion of the Development except that this restriction shall not apply to:

4.18.1 Signs required by legal proceedings;

4.18.2 Signs which by law cannot be prohibited;

4.18.3 A single sign of customary and reasonable dimension and design, complying with any applicable Rules and reasonably located in a Lot advertising the Lot for sale or rent;

4.18.4 Signs required for traffic control and regulation of streets or open areas within the Development as installed or approved by the Board; and

4.18.5 Such other signs as the Board may, in its discretion, approve. The Board may adopt limitations on such signs including restrictions on the size of the signs, the duration of their posting, and their location.

It is the express purpose and intent of this section to permit the Association's regulation of signs within the Development to the greatest extent permitted by law.

4.19 Machinery and Equipment. No power equipment, workshops or major car maintenance of any nature shall be permitted within the Development without prior written approval of the Board. In deciding whether to grant such approval, the Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, and interference with radio or television reception and similar objections.

4.20 Vehicles and Parking.

4.20.1 Limitation on Types of Vehicles.

4.20.1.1 No commercial vehicle shall be permitted within the Development except for such limited times as are necessary for deliveries, the performance of maintenance, repair and replacement of Lots or other Improvements within the Development and other similar situations. The term "commercial vehicles" shall not include sedans or standard size pickup trucks and vans (with a payload capacity of three-fourth (3/4) ton or less) which are used for both business and personal uses, provided that any signs or markings of a commercial nature on such vehicles shall be unobtrusive and inoffensive as determined by the Board.

4.20.1.2 No trailer, camper, mobile home, recreational vehicle, motor home, or truck having carrying capacity of greater than 3/4 ton, or van having seating capacity in excess of ten (10) persons, boat, inoperable automobile or vehicle, or similar equipment as may be established by Rules adopted by the Association shall be permitted to be parked or remain in any area within the Development overnight, unless such vehicles or equipment can fit in a carport or garage. No unreasonably noisy or polluting vehicles shall be operated within the Development. No unregistered or unlicensed motor vehicles shall be operated or parked within the Development. The Board shall have the authority in its sole discretion, but not the obligation, to grant variances under this section in cases of hardship or unusual circumstances.

4.20.1.3 Vehicles (e.g. cars, trucks, trailers, boats on trailers, golf carts, RVs) may not be parked overnight on roadways. No vehicle may be parked so that it blocks any roadway. Only one vehicle may be parked in any one defined parking space. Any vehicle that cannot be parked safely in designated parking areas is prohibited. Vehicles over 20 ft. in length or 8 ft. in height are prohibited at all times, except for a maximum of 24 hours to load or unload personal belongings. Vehicles may not be parked in carports or spaces not belonging to the Owner of

the vehicle or his/her landlord, except by specific permission of the Owner of the space. Repeated violations may lead to the imposition of a fine.

4.20.2 Garages and Carports. Each Owner shall keep his or her garage and/or carport in a neat and orderly condition with any storage areas completely enclosed. Garage doors shall be kept closed when not in use. Wood piles in carports do not need to be screened or enclosed.

4.20.3 Parking. Vehicles of guests shall only park in the spaces of the Owner the guest is visiting unless another Owner consents to such guests using that Owner's space(s). Owners shall only park in their assigned spaces, carports or garages unless another Owner consents to such Owner parking in his or her space(s), carport or garage. No vehicle shall be parked in a manner that blocks any roadway, that blocks any other Owner's parking space (or carport or garage), or otherwise interferes with any Owner's right to park and drive in the Development.

4.20.4 Operation of Vehicles. All vehicles within the Development shall be operated in a safe, prudent manner in conformance with all Rules adopted by the Board, which Rules may include, without limitation, traffic control regulations.

4.20.4.1 Vehicle Repair. Automobile repair or maintenance shall not be permitted anywhere within the Development. Car washing is permitted in the Development.

4.20.5 Parking Rules and Enforcement. In order to prevent or eliminate parking problems within the Development, or to further define and enforce the restrictions contained in this section, the Board shall have the authority to adopt further Rules regarding vehicles and parking within the Development as the Board may deem prudent and appropriate. Such authority and power shall include, without limitation:

4.20.5.1 The power and authority to cause the towing, at the vehicle owner's expense, of vehicles which are parked within the Development in violation of any of the provisions of the Governing Documents, provided that towing of vehicles of guests and other non-Residents of the Development shall be subject to the provisions of applicable law. Costs incurred by the Association relating to the towing and/or storage of any vehicle parked in violation of any provision of the Governing Documents shall be assessed as a Reimbursement Assessment against the Lot Owner responsible or whose household members, tenants, Contract Purchasers, or guests are responsible for the presence of such vehicle.

4.20.5.2 The power and authority to fix and impose fines for violations of this section in accordance with Section 11.5 of the Bylaws.

4.21 Window Coverings. All window coverings shall be maintained in good repair and condition at all times. All window coverings shall be subject to approval of the Board, pursuant to Article 9. In no event shall cardboard, aluminum foil, newspaper, bed sheets or similar materials be placed in windows.

4.22 Drainage. No Owner or Resident shall do any act or construct any Improvement which would interfere with the natural or established drainage systems or patterns within the Development.

4.23 Diseases and Insects. No Owner or Resident shall permit anything or condition to exist in his or her Lot which shall induce, breed, or harbor infectious plant diseases or noxious insects.

4.24 Compliance with Laws. Nothing shall be done or kept anywhere in the Development which violates any local, state or federal law, ordinance, statute, rule or regulation.

4.25 Variances. The Board shall be authorized to grant reasonable variances from the provisions of Article 4 of this Declaration upon written application from any Owner provided that the Board determines, in its sole discretion, that the specific application of the restriction to such Owner will (a) cause substantial undue hardship to the Owner, or (b) fail to further or accomplish the common plan for the Development as contemplated by this Declaration. The Board shall have the power to limit any variance granted in scope or duration or otherwise impose such specific requirements as the Board may, in its complete discretion, see fit to require. The Board shall follow the following procedures in acting on any request for a variance:

4.25.1 The Board, in its sole discretion, shall make an initial determination of whether or not the variance request on its face meets the requirements set forth in this section. Where the Board deems it appropriate, the Board may, but shall not be required to, obtain the input of the Architectural Control Committee in considering the variance request. If the Board determines that the variance request does not meet the requirements set forth in this section, the variance request shall be denied and the Board shall so notify the applicant within thirty (30) days of the Board's decision. If the Board determines that the variance request does on its face meet the requirements set forth in this section, the procedures set forth in the remainder of this section shall be followed.

4.25.2 Provided the Board determines that the variance request does on its face meet the requirements set forth in this section, the Board shall conduct a hearing on the variance within sixty (60) days of the receipt of the written request for a variance. No decision regarding the request for variance shall be made until the conclusion of the hearing.

4.25.3 After the conclusion of the hearing, the Board shall, in its sole discretion, either grant or deny the request for variance in accordance with the standards set forth in this section. As more fully discussed above, if the Board grants the variance request, the Board may impose such conditions as the Board deems appropriate and shall so notify the applicant within thirty (30) days of the Board's decision.

4.25.4 If the request for a variance is minor, such as a variance to keep a recreational vehicle overnight in the Development or other similar matters determined to be of minor significance, the Board may forego holding a hearing and make a decision on the variance by other method that complies with Civil Code Sections 4900 through 4955 [prior to January 1, 2014, see Civil Code Section 1363.05] or successor statute.

## **ARTICLE 5 HOMEOWNERS ASSOCIATION**

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5.1 Management and Operation. The Association shall manage and operate the Development in accordance with the applicable provisions of the Governing Documents and the applicable provisions of California law. The Association shall have all of the powers set forth in the Governing Documents together with general power to do any and all things that a nonprofit mutual benefit corporation may lawfully do under the laws of the State of California, subject only to the limitations upon the exercise of such powers as are expressly set forth in the Governing Documents.

5.2 Membership. Every Owner of a Lot within the Development shall be a Member of the Association and shall remain a Member thereof until such time as his or her Lot ownership ceases for any reason. Membership 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.

5.3 Voting. Only Members in Good Standing shall be entitled to vote, and only one vote shall be cast for each Lot owned, as more particularly set forth in the Bylaws.

5.4 Board of Directors. The affairs of the Association shall be managed by or under the direction of a Board of Directors. The number and qualifications of Directors shall be as established in the Bylaws, and the members of the Board shall be elected as provided in the Bylaws. The Board of Directors shall have all of the powers and duties set forth in any provision of the Governing Documents, including without limitation such powers and duties as may be expressly set forth in this Declaration.

5.5 Association Rules. The Board of Directors shall have the power and the authority to establish, promulgate, amend, repeal, and enforce such Rules as the Board deems necessary for the management and operation of the Development and the conduct of business and affairs of the Association. Such Rules may concern, without limitation, matters pertaining to: (a) use of the Common Area, including Exclusive Use Common Area, (b) pets, (c) signs, (d) collection and disposal of refuse, (e) minimum standards for maintenance of property, (f) use of recreation facilities, (g) parking and traffic regulations, (h) rental or leasing of Lots, and (i) election rules, (j) any other subject matter within the jurisdiction of the Association as provided in the Governing Documents or by law.

5.6 Manager and Other Personnel. The Board of Directors shall have the power and authority to employ a manager and such other persons or entities as the Board shall deem appropriate to assist it in managing the Development and conducting the business and affairs of the Association, as more particularly set forth in the Bylaws. If the Board employs a manager, the Board may empower the manager to act on behalf of the Association and the Board in the implementation and enforcement of the Governing Documents except where prohibited by law and provided that the activities and affairs of the Association shall be managed and all Association powers shall be exercised under the ultimate direction of the Board.

5.7 Assessments. The Board shall have the power and duty to levy and collect Assessments, as more particularly set forth in Article 6 of this Declaration.

5.8 Insurance. The Board shall procure and maintain liability insurance and property insurance as it shall deem proper and as more particularly set forth in the Bylaws.

5.9 Acquisition of Property. The Board acting on behalf of the Association shall have the power to acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, and maintain real or personal property in connection with the affairs of the Association.

5.10 Capital Improvements. The Board of Directors shall have the power and authority to provide for the construction, reconstruction, installation, or acquisition of capital Improvements upon the Common Area provided that incurring an aggregate expenditure for capital improvements to the Common Area in any fiscal year in excess of ten percent (10%) of the budgeted gross expenses for the Association for that fiscal year shall require the vote or written assent of at least fifty-one percent (51%) of the Association's Total Voting Power. For purposes of this section "capital improvement" shall mean an Improvement that did not previously exist in the Development or an existing Improvement that is being expanded beyond its original configuration.

5.11 Sale or Transfer of Association Property. The Board shall have the power to sell, transfer, lease, dedicate or otherwise dispose of the Association property provided that any sale during any fiscal year of Association property, having an aggregate fair market value greater than

ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year, shall require the vote or written assent of at least a Simple Majority.

5.12 Sale, Transfer or Dedication of Common Area to Public Agency or Utility. The Board of Directors shall have the power to dedicate, sell or transfer all or any part of the Common Area to a public agency, authority or utility.

5.13 Utilities. The Association shall acquire, provide and pay for water, sewer, garbage, electrical, gas, telephone and other necessary utility services for the Common Area and, to the extent not separately charged or metered, for the Lots.

5.14 Access. The Association its duly authorized agents or representatives shall have the right, after reasonable notice of not less than twenty-four (24) hours to the Owner thereof, to enter any Lot or the Exclusive Use Common Area assigned thereto for the purpose of performing the maintenance authorized herein or for any other purpose reasonably related to the performance by the Association or the Board of their responsibilities.

5.15 Limitation of Liability. Neither the Association or its Directors, officers, employees, agents or committee members (collectively and individually referred to as the "Released Party") shall be personally liable for damages or in equity to any of the Members, or to any other person, for any error or omission in the discharge of their duties and responsibilities or for their failure to provide any service required hereunder or pursuant to the Bylaws, even if such Released Party is negligent, provided that such Released Party has not acted in bad faith. This standard of care and limitation of liability shall extend, without limitation, to matters such as: (a) the establishment of the Association's annual financial budget, (b) the funding of Association reserve accounts, (c) the discharge of the Association's maintenance, repair and replacement obligations, (d) the enforcement of the Governing Documents, (e) the obtaining of insurance policies, and (f) to any other fiduciary duties or responsibilities imposed by law or the Governing Documents.

## **ARTICLE 6 ASSESSMENTS AND LIENS**

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6.1 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: (a) Regular Assessments, (b) Special Assessments, (c) Reimbursement Assessments, and (d) Enforcement Assessments levied by the Association as hereinafter provided, together with all Additional Charges. 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.

Each Assessment levied by the Association under this Article, together with all Additional Charges, shall be a separate, distinct, and personal debt and obligation of the Owner against whom it is assessed, and shall bind his or her heirs, devisees, personal representatives, successors, and assigns. Such obligation to pay Assessments and Additional Charges and the right and power of the Association to initiate all actions and procedures for collection shall run with the land, so that each successive Owner or Owners of Record of a Lot shall, in turn, become liable to pay all such Assessments and Additional Charges assessed during the time he or she is Record Owner of such Lot. After an Owner transfers of Record any Lot he or she owns, he or she shall not be liable for any Assessments levied thereafter with respect to such Lot. Such Owner shall remain personally liable, however, for all unpaid amounts due and owing at the time of transfer, together with Additional Charges accruing until time of collection. A Contract Seller of any Lot shall continue to be liable for all Assessments and Additional Charges until a conveyance by deed of such Lot is Recorded.

6.2 Creation of Lien. Each Assessment levied by the Association pursuant to this Declaration, together with all Additional Charges, shall be a charge upon the land and upon levy shall be secured by a continuing lien upon the property against which such Assessment is levied. The Association shall have a separate lien and a separate lien is hereby created upon each Lot to secure the payment of any such Assessments and Additional Charges as may be levied under this Declaration. The lien provided for herein shall continue to secure all Assessments and Additional Charges levied upon any Lot notwithstanding the transfer of Record title to such Lot, and any such transfer shall be subject to the Association's lien, provided that, prior to such transfer, a Notice of Delinquent Assessment has been Recorded as provided in this Declaration and by law. The priority of all such liens on each Lot shall be in inverse order so that upon the foreclosure of the lien for any particular charge on any Lot, any sale of such Lot pursuant to foreclosure of the lien will be made subject to all liens securing the respective monthly Assessments and Additional Charges on such Lot for succeeding months.

6.3 Purpose of Assessments. The Assessments levied by the Board shall be used exclusively for: (a) managing and operating the Development, (b) conducting the business and affairs of the Association, (c) promoting the recreation, health, safety, welfare, benefit, and interests of the Owners and Residents of the Development, (d) improving and maintaining the Common Area and, to the extent provided for in the Governing Documents or by law, the Lots situated within the Development, (e) enforcing the Governing Documents, and/or (f) otherwise benefitting the Owners.

6.4 Authority of the Board. The Board shall have the power and the duty to levy Annual and Special Assessments sufficient to meet the Association's obligations under the Governing Documents and applicable law.

6.5 Regular Assessment.

6.5.1 Calculation of Estimated Requirement. Not less than thirty (30) days nor more than ninety (90) days prior to the beginning of each fiscal year, the Board shall complete and distribute to all Owners an estimate of the net funds required by the Association for such fiscal year (including a reasonable amount allocated to contingencies and to a reserve fund for restoration, repair, and/or replacement of those components for which the Association is responsible and which must be repaired or replaced on a periodic basis) to manage, administer, operate, and maintain the Development; to conduct the affairs of the Association; and to perform all of the Association's duties in accordance with this Declaration.

6.5.2 Allocation of Regular Assessment. Regular Assessments shall be allocated and assessed equally among the Lots within the Development by dividing the amount by the number of Lots, so that each Lot bears an equal share of the Regular Assessment.

6.5.3 Payment of Regular Assessments. Unless the Board shall designate otherwise, Regular Assessments shall be levied on an annual basis and shall be paid in four (4) equal quarterly installments during the fiscal year, and each installment shall be due and payable on the first day of each quarter.

6.5.4 Increases in Regular Assessment. Pursuant to Civil Code Sections 5605 through 5610 [prior to January 1, 2014, see Civil Code Section 1366(b)], except as otherwise provided by law, the Board shall not increase the Regular Assessment for any fiscal year above the amount of the Regular Assessment for the preceding fiscal year by more than twenty percent (20%) unless California law provides for greater increases, except upon the affirmative vote or written consent of a majority of Owners voting on any such increase in the Regular Assessment, provided that a quorum is established. For purposes of the preceding sentence, a quorum shall mean more than fifty percent (50%)



of the Owners of the Association, notwithstanding any lower quorum requirement which may be set forth in the Bylaws. Any meeting or election of the Association for purposes of complying with Civil Code Sections 5600 through 5650 [prior to January 1, 2014, see Civil Code Section 1366] shall be conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3, Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code.

## 6.6 Special Assessments.

6.6.1 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.

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

6.6.3 Approval of Special Assessments. Except in the case of an emergency situation as defined in Civil Code Section 5610 [prior to January 1, 2014, see Civil Code Section 1366], 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, including reserve contributions, except upon the affirmative vote or written consent of a majority of the Members voting on any such Special Assessment, provided that a quorum is established. For purposes of the preceding sentence, 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. Any meeting or election of the Association for purposes of complying with Civil Code Section 5605 [prior to January 1, 2014, see Civil Code Section 1366] shall be conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3, Division 2 of Title 1 of the Corporations Code and Section 7613 of the Corporations Code.

6.7 Reimbursement Assessments. The Association shall levy a Reimbursement Assessment against any Owner and his or her Lot: (a) if a failure by such Owner, or any person or pet for whom the Owner is responsible, 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 Owner or his Lot into compliance, or (b) in the event that the Association has expended funds performing repairs as authorized by Section 8.7 of this Declaration or for any other reasons specifically authorized by the provisions of this Declaration. A Reimbursement Assessment shall include any costs, including attorneys' fees, incurred by the Association, including costs of collecting from an Owner any amount which the Owner is obligated to pay to the Association. A Reimbursement Assessment shall be due and payable to the Association when levied.

6.8 Enforcement Assessments. The Board may levy an Enforcement Assessment (and any fine imposed by the Board in accordance with the provisions of the Governing Documents shall be deemed to be such an Enforcement Assessment), for violation of any of the provisions of the Governing Documents. Any Enforcement Assessment shall be due and payable to the Association when levied.

6.9 Failure to Fix Assessments. The failure or omission by the Board to fix or levy any Regular Assessment provided for by the terms of this Declaration 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.

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

6.11 Delinquent Assessments. Any installment or other portion of an Assessment not paid within fifteen (15) days after its due date shall be delinquent and shall be subject to interest and late charges not to exceed the maximum rate permitted by law, as well as all other Additional Charges. The Association may Record a lien against an Owner's Lot for delinquent Assessments and all Additional Charges as provided in the Davis-Stirling Common Interest Development Act, Civil Code Sections 4000 *et seq.* [prior to January 1, 2014, see Civil Code Section 1350 *et seq.*]. The Board, on behalf of the Association, may enforce the payment of any delinquent Assessment plus Additional Charges by bringing an action at law against any Owner personally obligated to pay the same, and by foreclosing the lien against the Owner's Lot by judicial or non judicial foreclosure, except as prohibited by law. Except as prohibited by law, upon any delinquency in payment, the Association may, at its option, declare the entire balance of all sums then due or to become due from the Owner, immediately due and payable, which total sum may then be included in any lien, suit, action, or other procedure initiated to collect such sums, including all Additional Charges. The Board may, at its discretion, commence any lawful procedure for the collection of delinquent Assessments. The remedies provided in this Declaration for collection of delinquent Assessments shall be cumulative and not exclusive.

6.12 Power of Sale. Each Owner does hereby appoint the Association as trustee to enforce and to foreclose any lien which is established pursuant to the terms of this Declaration, by private power of sale, as provided in Division III, Part 4, Title 14, Chapter 2, Article 1, of the California Civil Code, and does further grant to the Board of Directors, on behalf of the Association, the authority and power to sell the Lot of such Owner in the event of any default in payment of any Assessments or Additional Charges levied against such Lot, for lawful money of the United States, to the highest bidder, to satisfy such lien, except as prohibited by law. The Association or any Owner may purchase the Lot at the sale.

6.13 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 Record, in the same manner as the Notice of Delinquent Assessment, a further certificate stating the satisfaction thereof and the release of the lien.

6.14 Priority. Except as otherwise expressly provided by law, the lien securing each of the Assessments provided for under this Article shall have priority as of the date of Recording of the Original Declaration applicable to the Development over all other liens and encumbrances applicable to the Lots. Notwithstanding the preceding, a lien for Assessments which have become due and payable prior to the sale of a Lot pursuant to a decree of foreclosure of a First Mortgage, or pursuant to a power of sale contained in any such First Mortgage, shall be subordinate to the lien of any First Mortgage Recorded against the Lot. Such foreclosure sale shall not relieve the Lot from liability for any Assessments and Additional Charges thereafter becoming due, or from the lien of any subsequent Assessment.

6.15 Owner Assignment of Rents. Each Owner hereby presently assigns to the Association, absolutely and regardless of possession of the Lot, all rents and other monies now due or which may hereafter become due under any lease, agreement or otherwise for the use of occupation of any or all parts

of a Lot owned by the Owner, now existing or hereafter made, for the purpose of collecting all Assessments due the Association pursuant to this Declaration which are in default. The Association hereby confers on each Owner the authority to collect and retain the rents and other monies derived from any such lease or agreement as they become due and payable, provided that the Association at its sole discretion, may revoke such authority at any time, upon written notice to the Owner of a default in the payment of any Assessment due hereunder. Upon revocation of such authority the Association may, pursuant to court order or by court appointed receiver, collect and retain such monies, whether past due and unpaid or current. The Association's rights under this section shall be subordinate to the rights of any First Mortgagee.

6.16 Association Funds. All Association accounts shall be maintained in one or more banks or other depositories selected by the Board, which accounts shall be clearly designated as belonging to the Association. The Assessments collected by the Association shall be properly deposited into such accounts. The Assessments collected by the Association shall be used for the purposes set forth in Section 6.3.

6.17 Waiver of Exemptions. Each Owner, to the extent permitted by law, does hereby waive, to the extent of any liens created pursuant to this article, the benefit of any homestead or exemption laws of the State of California in effect at the time any Assessment or installment thereof becomes delinquent or any lien is imposed pursuant to the terms of this Article.

6.18 Property Exempt From Assessments. The following property subject to this Declaration shall be exempt from the Assessments, Additional Charges, and liens created herein:

6.18.1 All property dedicated to and accepted by the County or other local public authority and devoted to public use.

6.18.2 Any Lot that is owned by the Association as a result of the Association having acquired such Lot through foreclosure. Such exemption shall be applicable only during the period in which the Association is the Owner of such Lot.

6.18.3 All Common Area.

## **ARTICLE 7 DAMAGE OR DESTRUCTION AND CONDEMNATION**

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### **7.1 Destruction.**

7.1.1 Minor Destruction Affecting Common Area. Notwithstanding Subsection 7.1.2, the Board shall have the duty to repair and reconstruct the Common Area without the consent of Members and irrespective of the amount of available insurance proceeds or other funds, in all instances of partial destruction where the estimated cost of repair and reconstruction does not exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. The Board may levy a Special Assessment for the cost of such repair and reconstruction to the extent insurance proceeds or other funds are unavailable.

### **7.1.2 Major Destruction Affecting Common Area.**

7.1.2.1 Destruction; Proceeds Exceed 85% of Reconstruction Costs. If there is a total or partial destruction of the Common Area, and if the available proceeds of the insurance carried pursuant to the Bylaws or other available funds are sufficient to cover not less than eighty-five percent (85%) of the costs of repair

and reconstruction, the Common Area shall be promptly rebuilt unless, within forty-five (45) days from the date of destruction, Members then holding at least seventy-five percent (75%) of the voting power of each class determine that repair and reconstruction shall not take place.

7.1.2.2 Destruction; Proceeds Less than 85% of Reconstruction Costs. If the proceeds of insurance carried pursuant to the Bylaws or other available funds are less than eighty-five percent (85%) of the costs of repair and reconstruction, repair and reconstruction shall not take place unless, within forty-five (45) days from the date of destruction Members then holding at least a majority of the voting power of Members of each class determine that repair and reconstruction shall take place.

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

7.1.2.4 Rebuilding Contract. If the determination is made to rebuild, the Board shall obtain bids from at least three (3) reputable contractors, and shall award the repair and reconstruction work to the most reasonable bidder. The Board shall have the authority to enter into a written contract with the contractor for the repair and reconstruction, and the insurance proceeds shall be disbursed to said contractor according to the terms of the contract. It shall be the obligation of the Board to take all steps necessary to assure the commencement and completion of authorized repair and reconstruction at the earliest possible date.

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

### 7.1.3 Destruction Affecting Lots.

7.1.3.1 Duty to Rebuild. If there is a total or partial destruction of a Lot, the affected Lot shall be promptly rebuilt by the Owner of that Lot and by the Association. The Association shall only be responsible for rebuilding portions of the Lot that the Association is responsible for maintaining pursuant to Article 8. The Owner shall be responsible for rebuilding all other portions of the Lot.

7.1.3.2 Rebuilding Procedure. All insurance proceeds for the damaged or destroyed Lot paid from insurance policies purchased by the Association shall be paid to the Board as trustee or to any insurance trustee provided for in Subsection 8.2.15.4 of the Bylaws to be held for the benefit of the Owner and Mortgagee(s) of the affected Lot as their interests shall appear.

If the Lot is to be rebuilt, the Board may levy a Special Assessment against all Lot Owners to cover the cost of rebuilding not covered by insurance proceeds or other funds, but only for the portion of the Lot that the Association is responsible for.

The Lot shall be rebuilt or repaired in substantial conformity to the exterior appearance, design and structural integrity of the Lot prior to the date of destruction. Notwithstanding the foregoing, any Owner of an affected Lot may apply to the Board for reconstruction of his Lot in a manner which will provide for an exterior appearance and/or design which is different from that which existed prior to the date of the destruction. Application for such approval shall be made in writing, together with full and complete plans, specifications, maps and working drawings showing the proposed reconstruction and the end result thereof. The Board shall grant such approval only if it finds that the reconstructed Lot will be compatible in exterior appearance and/or design with the other Lots in the Development, provides the structural support required to fulfill the Owners' Party Wall and roof support obligations and will not impose an unreasonable maintenance burden on the Association. Failure of the Board to approve or reject any such proposed change within sixty (60) days after the date of submission thereof shall be conclusively deemed a denial thereof.

When the insurance proceeds held by the Association or insurance trustee is sufficient to pay any portion of the costs of repair and reconstruction, the Owner and the Association shall obtain bids from at least three (3) reputable contractors, and shall award the repair and reconstruction work to the most reasonable bidder subject to the Board's written consent which shall not be unreasonably withheld. The Owner and the Association shall have the authority to enter into a written contract with the contractor for the repair and reconstruction, and the insurance proceeds held by the Association or insurance trustee shall be disbursed to said contractor according to the terms of the contract. It shall be the obligation of the Owner and the Association to take all steps necessary to assure the commencement and completion of the authorized reconstruction at the earliest possible date. When there is no damage to portions of the Lot maintained by the Association, the Board's written consent shall not be required for the Owner to select a contractor. Aside from the cost to repair or rebuild damaged or destroyed portions of the Lot that the Association is responsible for maintaining, the Owner of the damaged or destroyed Lot shall be solely responsible for all costs of rebuilding or repairing the Lot.

## 7.2 Condemnation.

### 7.2.1 Condemnation Affecting Common Area.

7.2.1.1 Sale in Lieu. If an action for condemnation of all or a portion of the Common Area is proposed or threatened by any entity having the right of eminent domain, then on the unanimous written consent of all of the owners and subject to the rights of all Mortgagees, the Common Area, or a portion of it, maybe sold by the Board. Subject to Corporations Code Section 8724, the proceeds of the sale shall be distributed among the Lots on the same basis as their Regular Assessment obligations and between the Lot Owners and their Mortgagees as their respective interests shall appear.

7.2.1.2 Award. If the Common Area, or a portion of it, is not sold, but is instead taken, the judgment of condemnation shall by its terms apportion the award among the Owners and their respective Mortgagees. If the judgment of condemnation does not apportion the award, then the award shall be distributed as provided above.

7.2.2 Condemnation Affecting Lots. If an action for condemnation of all or a portion of, or otherwise affecting a Lot is proposed or threatened, the Owner and the Mortgagees of the affected Lot, as their respective interests shall appear, shall be entitled to the proceeds of any sale or award relating to the affected Lot.

If any Lot is rendered irreparably uninhabitable as a result of such a taking, the Lot shall be deemed deleted from the Development and the Owners and Mortgagees of the affected Lot, upon receiving the award and any portion of the reserve funds of the Association reserved for the Lot, shall be released from the applicability of the Governing Documents and deemed divested of any interest in the Common Area.

## **ARTICLE 8 MAINTENANCE OF PROPERTY**

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8.1 Association Responsibility. The Association shall have the following maintenance responsibilities:

8.1.1 Maintenance of Common Area. The Association shall maintain, or provide for the maintenance, repair and replace of all Common Area and all Improvements thereon, including, but not limited to:

8.1.1.1 The reconstruction, replacement, maintenance, painting or refinishing of any Common Facility or other Improvement upon Common Area as necessary in accordance with the original design, finish or standard of construction of such Improvement, including assigned parking spaces, storage areas, garage exteriors and doors, unenclosed portions of carports, pathways, and roads;

8.1.1.2 The maintenance, repair and replacement of septic tanks, leach fields, and septic lines, and that portion of the septic lines up to the connection to the residential buildings;

8.1.1.3 The maintenance, repair and replacement of fences, walks, streets, decks, patios, trellises, exterior lighting and other exterior Improvements made by the Association or part of the original construction of the Development and Lots;

8.1.1.4 Snow removal as is necessary from streets, parking areas, and walks;

8.1.1.5 Refuse removal at least weekly from the containers upon the Development, provided by the Association;

8.1.1.6 The maintenance and replacement of trees, shrubs, other vegetation, or ground cover and the planting of trees, shrubs, other vegetation, and ground cover upon any portion of the Common Area, including Exclusive Use Common Area; and

8.1.1.7 The placement and maintenance of such signs as the Association may deem necessary for the identification of the Development and of streets, the regulation of traffic, including parking, the regulation of the Common Area and Common Facilities.

8.1.2 Maintenance of Lots. The Association shall have limited maintenance, repair and replacement responsibilities with respect to Lots as specified below:

8.1.2.1 Paint and/or stain, caulk, maintain, repair and replace exterior wall surfaces, siding, roofs, skylights, and exterior trim of each Lot, and repair, maintain, repaint or re-stain fences and/or walls within the Development;

8.1.2.2 Components and structural elements of decks that are located adjacent to the Lots;

8.1.2.3 Maintain, repair and replace the roof of each Lot as necessary, including skylights; and

8.1.2.4 Underground sewer, water, electrical or gas lines under the Common Area only. The Association shall not be responsible for the risers and connecting lines between such service lines and the individual Residence.

8.1.3 Extended Projects. With respect to the residential Lots and the residential structures thereon owned by each Member, the Association shall manage the maintenance, repair or replacement in accordance with this section when such work requires multiple days, weeks or months to complete. These projects may involve the Unit's exterior (i.e. siding, roofs, painting, etc.) and/or Exclusive Use Area (i.e. decks/patio, landscaping, etc.) and in some situations, may be interior work. This section does not apply to emergency situations.

8.1.3.1 The Owner shall receive written notice from the Association a minimum of forty-five (45) days prior to the project being initiated that describes the planned maintenance, repair or replacement, scope of work, timeframe and projected completion date.

8.1.3.2 The Association shall manage extended work in coordination with the Owner to the extent the Owner plans to perform work simultaneously, such as the Owner replacing windows while the Association is replacing siding, so long as the acts or omissions by the Owner do not unreasonably delay or interfere with the Association's work.

8.1.4 Pest Control. The Association may provide pest control around the exteriors of the Residences. Where any maintenance or repair of a Lot, including the Residence and other Improvements thereon, is made necessary by the presence of wood-destroying pests or organisms, the Owner shall be solely responsible for such maintenance or repair. See Subsection 8.2.4, below, for Owners' responsibilities as to pest control on his or her Lot.

8.1.5 Written Maintenance Plan. The Association/Board of Directors shall develop a written maintenance, repair and replacement plan that is designed to notify Owners of the schedule of work for all Units and Common Area in the development. The plan shall be for one (1) to three (3) years. At the annual budget meeting the plan will be updated as (current) necessary priorities are set and budgets are formed. This modified plan and the yearly update will be available to Owners upon written request.

Based upon an annual inspection, the Board of Directors may reevaluate and update the maintenance plan. The Board of Directors shall have the discretion to deviate from the plan when appropriate, including without limitation for such purposes as revised recommendations from professionals, lack of funds, need for maintenance not provided for in the plan, or changes in circumstances due to weather or other natural causes. The maintenance plan shall, among other things:

8.1.5.1 Promote preventative maintenance by establishing routine scheduled work needed to properly protect all Units and the Common Area;

8.1.5.2 Prevent life and safety hazards;

8.1.5.3 Rely on the use of professionals to provide recommendations of repair and maintenance;

8.1.5.4 Identify locations in the Development where work will be performed and the estimated timing for such work; and

8.1.5.5 Prioritize projects based upon the need for maintenance/repairs, warranties, and the Association's operating and reserves funds.

## 8.2 Owner Responsibilities.

8.2.1 Except to the extent that specific maintenance, repair and replacement responsibilities with respect to the Lots are expressly and clearly assigned to the Association in Subsection 8.1.2 above, each Owner shall be responsible for the maintenance, repair and replacement of his or her Lot, the Residence, and all other Improvements thereon. Such maintenance, repair and replacement shall include, without limitation, the following:

8.2.1.1 Components and structural elements of the walls, floor, and foundation of the Residence, including interior portions of GLU-lams, and all other Improvements on the Lots, including without limitation the fireplaces, flues, chutes, and chimneys, but not including exterior siding or roofs;

8.2.1.2 Screen doors, exterior doors, and exterior door frames;

8.2.1.3 Glass surfaces, including windows or sliding glass doors;

8.2.1.4 Window screens;

8.2.1.5 Window panes, frames and hardware on doors;

8.2.1.6 Gutters and downspouts;

8.2.1.7 Foundations;

8.2.1.8 Solar devices installed by Owners, if any, including those installed on roofs;

8.2.1.9 Appliances, air conditioning and heating equipment, water heaters, plumbing and lighting fixtures, or other mechanical equipment servicing a particular Residence;

8.2.1.10 Utility lines and connections, including sewer, water, electrical, gas, plumbing, and telephone lines, which are located in/under a Lot and provide service to the Residence located upon that Lot, including portions of the septic line located upon his or her Lot up to the common connection (i.e., that connection that serves more than one unit) with the Association-maintained



septic line), and except those which are maintained by public or private utility companies or agencies;

8.2.1.11 Enclosed portions of carports, such as storage areas, and the interior and structural components of garages assigned to or belonging to the Owner, including without limitation garage door openers but not the door itself, and all utilities and fixtures within the garage;

8.2.1.12 Interior of Residences; and

8.2.1.13 Notwithstanding any other provision in the Governing Documents, any Improvements to a Lot or Common Area made, installed or constructed by the Owner, including without limitation landscaping, decks, and patios, unless the Association expressly assumes such maintenance responsibility.

8.2.2 Party Walls. Each Owner shall maintain, repair and replace all Party Walls in accordance with the following provisions:

8.2.2.1 General Rules of Law to Apply. Each wall which is built as part of the original construction of the Residences within the Development and placed on the dividing line between the Lots so as to provide a common wall between two separate Residences shall constitute a party wall. The general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

8.2.2.2 Sharing of Repair and Maintenance Cost. The cost of maintenance and repair of a party wall shall be shared by the Owners who make use of the wall in equal proportion to such use.

8.2.2.3 Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, however to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligence or willful acts or omissions.

8.2.2.4 Right to Contribution Rules with Land. The right of any Owner to contribution from any other Owner under this section shall be appurtenant to and run with the land and shall pass to such Owner's successors in title.

8.2.2.5 Party Wall Easements. In all cases where a structural wall constituting a portion of a single Residence, or a structural wall constituting a common wall for two Residences, is located upon the dividing line between adjacent Lots, the Owner of said adjoining Lot shall have reciprocal mutual nonexclusive easements for the maintenance of said wall, the reconstruction of said wall in the event of the partial or total destruction of the same, drainage associated with said wall or the Residence of which said wall is a part and an easement to accommodate the foundation and/or roof or eave encroachment as per the original design, plans and specifications which were the basis for the original construction of the Residence or Residences on said Lot or Lots. The Owner of a Lot having a structural wall situated on the boundary line between his or her Lot and the adjoining Lot shall not attach anything to the outside of the wall which

shall protrude across the boundary line into the adjoining Lot, and the Owner of the adjoining Lot upon which such a wall is situated shall not attach anything to the outside of said wall without the consent and permission of the Owner of the adjoining Lot upon which the Residence of which said wall is a part is situated.

8.2.3 Alterations to Original Construction. The Owner of each Lot shall be solely responsible for the maintenance, repair and replacement of any portion of the Lot or Common Area or the Improvements thereon, which were modified, added to or otherwise altered by other than the Association from its original construction when the Residence on the Lot was first built.

8.2.4 Pest Control. The Owner shall be responsible for pest control for his or her Lot and Residence. Where any maintenance, repair, or replacement on a Lot, including the Residence and other Improvements thereon, is made necessary by the presence of wood-destroying pests or organisms, the Owner shall be solely responsible for such maintenance, repair, or replacement.

8.2.4.1 The cost of temporary relocation during the repair and maintenance of the areas within responsibility of the Association shall be borne by the Owner of the separate interest affected.

8.3 Duty to Inspect. The Owner shall perform regular inspections of the Owner's Lot for any signs of water intrusion or water-related damage. Such inspections shall occur at least once per month during the rain and snow season, but may be bi-monthly during the months when rain and snow are unlikely or infrequent (i.e., May through the beginning of September). If an Owner notices any signs of water intrusion, such as the presence of moisture, mold, rotting wood or stained surfaces, the Owner shall report such damage to the Association immediately, but if immediate notice is not possible than within not more twenty-four (24) hours of discovery of the water intrusion. An Owner's failure to perform such inspections or to timely report signs of water intrusion will result in the Owner being solely responsible for the costs of any repairs as a result of any damage that may occur, even if the source of the water was in area maintained by the Association. Owners may coordinate with third-parties or other Owners to perform the inspections required by this section.

For the convenience of all Owners and to ensure regular inspections are performed timely, the Board may allow the Owner to provide the Association a form of access to the Lot in order for the Association to perform the inspections required by this section. A form of access may be a key, a garage door opener, or a code for an entry keypad. Owners must provide one of these forms of access to the Association's managing agent or other designated person if they want the Association to perform inspections of the Lot on their behalf, and must specify in writing when they request the Association perform the inspections.

By providing the Association with a form of access, the Owner agrees that the Association is not assuming any duty to secure the Owner's Lot or Residence, and that the Association offers no guarantees or promises regarding the security of the Owner's Lot or Residence. The Association only accepts forms of access as a convenience to the Owner and assumes no liability or responsibility with respect to that form of access or for any harm resulting from the use of that form of access. If any Owner does not agree to the terms of this section, the Owner shall withhold the form of access for the Lot and the Owner shall timely perform all inspections of the Lot for signs of water intrusion or water-related damage. The Board may withdraw its agreement to inspect a Lot at any time so long as the Owner is given sufficient notice to allow the Owner to resume the Owner's inspection responsibilities.

8.4 Compliance With Architectural Provisions. An Owner's right and responsibility for maintaining, repairing or replacing any portions of his or her Lot or Exclusive Use Common Area, shall

be subject to any applicable provisions of the Governing Documents relating to landscaping and architectural control, including Article 9.

8.5 Owner Failure to Maintain. The Board shall have the absolute discretion to determine whether any maintenance, repair, or replacement which is the responsibility of an Owner, is necessary to preserve the appearance and value of the property comprising the Development, or any portion thereof, and may notify an Owner of the work the Board deems necessary. Subject to the authority of the Board to authorize immediate emergency repairs as specified in Section 8.7, in the event an Owner fails to perform such work within thirty (30) days after notification by the Board to the Owner, the Board may, after written notice to the Owner and the right of a hearing before the Board, cause such work to be done and charge the cost thereof to the Owner as a Reimbursement Assessment.

8.6 Owner Liability. In the event the need for any maintenance, repair, or replacement by the Association is caused by the willful or negligent act or omission of an Owner, members of any Owner's household, or an Owner's tenants, Contract Purchaser, guests, invitees, or household pets, the cost of such maintenance, repair, or replacement, including the cost of materials, labor, supplies, and services shall be charged to, and paid by, such Owner in the form of a Reimbursement Assessment.

8.7 Authority for Entry of Lot. The Association or its agents may enter any Lot or Residence, whenever such entry is necessary, in the Board's sole discretion, in connection with the performance of any maintenance, repair, inspection, construction, or replacement for which the Association is responsible or which it is authorized to perform, including without limitation the authorization provided in Section 8.7. The Board may enter or may authorize the Association's agents to enter any Lot to effect emergency repairs where such repairs are necessary for safety reasons or to prevent or discontinue damage to the entered Lot, any other Lot or the Common Area. The cost of performing any such emergency repairs shall be charged to the Owner as a Reimbursement Assessment. Such entry shall be made with as little inconvenience to the Residents as practicable and only upon reasonable advance written notice of not less than twenty-four (24) hours, except in emergency situations. Owners must provide entry to their Lots and Residences in accordance with this section regardless of whether they reside in the Development full-time or part-time, or may leave a key with a third party that shall be responsible for providing entry. In the event the Owner leaves a key with a third party that Owner shall still be ultimately responsible for ensuring entry is provided in a timely manner. If an Owner fails to provide access to the Owner's Lot and Residence, the Association shall have the right to hire a locksmith to gain entry, the cost of which may be charged back to the Owner as a Reimbursement Assessment.

8.8 Association Liability and Point of Origin. Except as specifically provided in Section 8.1 and this section, the Association shall not be responsible or liable for any maintenance, repair, or replacement of a Lot or any Improvement thereon. When determining responsibility for damage repairs and investigation costs, the "Point of Origin" may be used. For normal repair and maintenance, the allocation of responsibility for repairs and maintenance in the Governing Documents determines whether the Association or the Owner is responsible for performing and paying for such normal maintenance or repairs. However, in cases involving repair or restoration resulting from damage, such as water damage, that is not covered by insurance, because of policy deductibles, exclusions, etc., the maintenance responsibility for the "Point of Origin" of the cause of the damage, may determine responsibility for the cost of the repairs, causal investigation, and any related testing or remediation work. The "Point of Origin" method for determining responsibility shall only be used when responsibility is not reasonably ascertainable by applying the terms of the Governing Documents to the circumstances of the damage and repairs. The "Point of Origin" method may be further defined by the Board in Rules adopted by the Board. As stated in Section 8.3, an Owner's failure to inspect and report water intrusion or damage will result in the Owner being responsible for the costs of repairs, regardless of the "Point of Origin."

8.9 Cooperative Maintenance Obligations. To the extent necessary or desirable to accomplish the Association's maintenance and repair obligations hereunder, individual Owners shall

cooperate with the Association and its agents and maintenance personnel in the prosecution of its work. Such cooperation shall include permitting access to an Owner's Lot to the extent necessary or convenient (as determined by the Board) for the Association to perform any of its responsibilities pursuant to the Governing Documents, including without limitation the investigation of the source of, or conduct of maintenance or repairs necessitated, by water leaks, overflows or similar incidents.

## **ARTICLE 9 ARCHITECTURAL CONTROL**

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9.1 Submission of Plans and Specifications. Except for Improvements made or constructed by or on behalf of the Association, no Improvement including without limitation buildings, fences, walls, obstructions, screens, awnings, or structures of any kind shall be commenced, erected, painted, or maintained within the Development, nor shall any exterior addition to or change or alteration therein be made, until the plans and specifications showing the nature, kind, shape, color, height, size, materials, and location of the same shall have been submitted to and approved in writing by writing by the Board as to: (a) quality of workmanship and design, (b) harmony of external design in relation the nature and character of the Development and the Improvements thereon, and (c) location in relation to surrounding structures, topography, finished grade elevation.

9.2 Review Committee. The Board shall act as the Architectural Review Committee, notwithstanding the authority of the Board to appoint an Architectural Review Committee that shall consist of at least three (3) Members to be selected by the Board, who serve at the pleasure of the Board.

9.3 Architectural Rules. The Board may, from time to time, adopt, amend, and repeal rules and regulations to be known as Architectural Rules. The Architectural Rules may interpret and implement the provisions of this article by setting forth the standards and procedures for review of approval requests and provide guidelines for architectural design, color schemes, exterior finishes and materials, and similar features which are recommended for use in the Development. The Architectural Rules shall not be in derogation of the minimum standards required by this Declaration. The Architectural Rules may also impose limits on the days and hours of construction and impose any other restrictions and regulations which the Board deems appropriate to limit the impact of construction activities on the Residents. In its discretion, the Board may grant variances from specific Architectural Rules subject to such terms and conditions as it deems appropriate.

9.4 Duties. It shall be the duty of the Board to consider and act upon proposals or plans submitted to it.

9.5 Application. Any Owner proposing to perform any work which requires prior approval pursuant to this article, shall apply for approval by notifying the Association, in writing, of the nature of the proposed work and furnishing such information and documentation as the Board may require.

9.6 Fees. The Board may charge a reasonable fee or fees for its review of architectural approval 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.

9.7 Grant of Approval. The Board shall grant the requested approval only if:

9.7.1 The Owner has complied with the provisions of Section 9.1 above;

9.7.2 The Board finds that the plans and specifications conform to this Declaration as it existed at the time such plans were submitted;

9.7.3 The Board finds that the plans and specifications conform to the Architectural Rules in effect at the time such plans were submitted, unless a variance is granted; and

9.7.4 The Board shall determine that the proposed Improvements would be consistent with the standards of the Development and the purposes of this Declaration as to: (a) quality of workmanship and design, (b) harmony of external design in relation the nature and character of the Development and the Improvements thereon, and (c) location in relation to surrounding structures, topography, finished grade elevation.

9.8 Form of Approval. All approvals and denials of requests for approval shall be in writing except as provided in Section 9.9. The Board may approve a request subject to the Owner's consent to any modifications made by the Board. If the Owner does not consent to the modifications, the request for approval shall be deemed denied in its entirety. Any denial of a request for approval shall include an explanation of why the request for approval was denied. Any denial of an application shall include an explanation of why the application was denied.

9.9 Time for Board Action. The Board shall act on a request for approval within forty-five (45) days from the date of receipt thereof. Any request for approval which has not been acted on by the Board within the preceding time frame shall be deemed denied. The Owner requesting approval shall have the burden of establishing the date of receipt of the request for approval by the Board by evidence in the form of either a copy of such request for approval date-stamped by the Association or by a return receipt provided by the U. S. Postal service acknowledging that such request for approval was delivered to the Association.

9.10 Commencement. Upon receipt of approval pursuant to this article, the Owner shall, as soon as practicable, satisfy all conditions thereof and diligently proceed with the commencement and completion of all installation, construction, reconstruction, refinishing, alterations, and excavations pursuant to such approval, commencement to occur, in all cases, within ninety (90) days from the effective date of such approval or upon such later date as the Board may in its discretion designate. If the Owner shall fail to comply with this paragraph, any approval previously given shall be deemed revoked unless the Board, upon written request of the Owner made prior to the expiration of the time for commencement, extends the time for such commencement. No such extension shall be granted except upon a finding by the Board that there has been no change in the circumstances upon which the original approval was granted.

9.11 Completion. The Owner shall, in any event, complete the installation, construction, reconstruction, refinishing, or alteration of any Improvement within one (1) year after commencing construction thereof (or in the case of projects under construction when this Declaration is Recorded, within one (1) year after the date of Recordation), except and for 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, or other supervening forces beyond the control of the Owner or his agents. If an Owner fails to comply with this section, the Board shall proceed in accordance with the provisions of Section 9.12, below, as though the failure to complete the Improvements was a non-compliance with approved plans.

9.12 Inspection. Inspection of work and correction of defects therein shall proceed as follows:

9.12.1 Upon the completion of any installation, construction, reconstruction, alteration, or refinishing of the exterior of any Improvements, or upon the completion of any other work for which approved plans are required under this article, the Owner shall give written notice thereof to the Board.

9.12.2 Within sixty (60) days after the receipt of such written notice, the Board may inspect such improvement to determine whether it was constructed, reconstructed, altered, or refinished to substantial compliance with the approved plans. If the Board finds that such construction, reconstruction, alteration, or refinishing was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such non-compliance within such sixty (60) day period, specifying particulars of non-compliance and shall require the Owner to remedy such non-compliance.

9.12.3 If the Owner fails to remedy such non-compliance upon the expiration of thirty (30) days from the date of such notification, the Board shall then set a date on which a hearing shall be held regarding the alleged non-compliance. The hearing shall be noticed and conducted in accordance with Subsection 8.1.4 of the Bylaws.

9.12.4 At the hearing the Owner, and, in the Board's discretion, any other interested person, may present information relevant to the question of the alleged non-compliance. After considering all such information, the Board shall determine whether there is a non-compliance, and, if so, the nature thereof. If a non-compliance exists, the Board shall require the Owner to remedy or remove the same within a period determined in the discretion of the Board. If the Owner does not comply with the Board's ruling within such period or within any extension of such period as the Board, in its discretion, may grant, the Board may: (a) remove the non-complying Improvement or remedy the non-compliance and all expenses incurred in connection therewith shall be assessed against the Owner as a Reimbursement Assessment, and/or (b) exercise any of the enforcement rights specified in Section 10.5.

9.12.5 If the Board fails to notify the Owner of any non-compliance within sixty (60) days after receipt of a notice of completion from the Owner, the improvement shall be deemed to be in accordance with the approved plans. The Owner shall have the burden of establishing the date of receipt on the notice of completion by the Board.

9.13 Waiver. The approval by the Board of any plans, drawings, or specifications for any work done or proposed, or for any other matter requiring the approval of the under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification, or matter subsequently submitted for approval.

9.14 Estoppel Certificate. Within thirty (30) days after written demand is delivered to the Association by any Owner, and upon payment to the Association of a reasonable fee as fixed from time to time by the Board, the Association shall Record an estoppel certificate, if permitted by the County, certifying (with respect to any Lot of such Owner) that as of the date thereof, either: (a) all Improvements made and other work completed by such Owner comply with this Declaration, or (b) such Improvements or work do not so comply, in which event the certificate shall also 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 him, shall be entitled to rely on such certificate with respect to the matters therein set forth, such matters being conclusive as between the Association and all Owners and such persons deriving any interest through them.

9.15 Liability. Neither the Board nor any member or representative thereof shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings, and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; (c) the development of any property within the Development; or (d) the execution and filing of an estoppel certificate pursuant to Section 9.14, whether or not the facts therein are correct; provided, however, that the Board or any member or representative thereof has acted in good faith on the

basis of such information as may be possessed by it or him. Every purchaser, by acquiring title to a Lot or portion thereof agrees not to bring any action or suit against the Board or its members or representatives seeking to recover any such damages. Without in any way limiting the generality of the foregoing, the Board or any member or representative thereof, may, but is not required to, consult with or hear the views of any Owner with respect to any plans, drawings, specifications, or any other proposal submitted to the Board.

9.16 Compliance With Governmental Requirements. The application to the Association, 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, the responsibility for which lies solely with the respective Owner, nor shall it constitute the assumption of any responsibility by or impose any liability on the Association or the Board or its members or representatives as to the accuracy, efficacy, or sufficiency of such proposals, plans or other submittals.

## **ARTICLE 10 ENFORCEMENT**

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10.1 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. In addition to any other remedies which may be available, such nuisance may be abated or enjoined by the Association, its officers, the Board or by any Owner. The Board shall not be obligated to take action to abate or enjoin a particular violation if, in the exercise of its discretion, the Board determines that acting to abate or enjoin such violation is not likely to foster or protect the interests of the Association and its Members as a whole.

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

10.3 Owners' Responsibility for Conduct of Others and Damages. Each Owner shall be fully responsible for informing members of his or her household and his or her tenants, contract purchasers, and guests of the provisions of the Governing Documents, and shall be fully responsible for the conduct, activities, any Governing Document violation of any of them, and for any damage to the Development or the Association resulting from the negligent or intentional conduct of any of them or any household pets. If a Lot is owned jointly by two or more persons, the liability of each Owner in connection with the obligations imposed by the Governing Documents shall be joint and several.

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

### 10.5 Rights and Remedies of the Association.

10.5.1 Cumulative. The Association, its Directors, officers, or agents, and any Owner shall have the right to enforce any and all provisions of the Governing Documents by any proceeding at law or in equity, or through the use of such other remedies as are available and deemed appropriate by the Board. Each remedy provided is cumulative and not exclusive.

10.5.2 Member Not In Good Standing. Upon a determination by the Board of Directors, after prior notice to the affected Member and an opportunity for a hearing, that the Member has violated any provision of the Governing Documents including a failure to

pay any Assessment when due, the Board may give notice in writing to such Member that he or she is deemed not to be a Member in Good Standing. Such Member shall be deemed to remain in that status until such time as the Board shall determine in writing that the violation which resulted in the Board's determination has been cured or remedied or, on some other basis as in the judgment of the Board is just and proper, that such Member shall again be deemed to be a Member in Good Standing of the Association. The Board may notify the Member within thirty (30) days of its decision that the Member is in Good Standing.

10.5.3 Imposition of Sanctions. In the event of a breach or infraction of any provision of the Governing Documents by an Owner, members of an Owner's household, or his or her tenants, Contract Purchasers, contractors, guests, pets or invitees, the Board shall have the power to impose sanctions against the Owner. Such sanctions may include, without limitation, the imposition of fines and/or the suspension of an Owner's rights as a Member, including an Owner's voting rights or an Owner's right to use the recreational or community facilities on the Common Area. Except as provided in Section 10.7 below, imposition of sanctions shall be effective only after the Board has held a hearing as provided in Subsection 8.1.4 of the Bylaws. The payment of any such fine may be enforced as an Enforcement Assessment as provided in Section 6.8 of this Declaration as well as in any manner permitted by law. Further, each Owner shall be obligated to pay Reimbursement Assessments levied by the Board for reimbursement of any costs incurred by the Association relating to violation of any provisions of the Governing Documents by such Owner, members of such Owner's household, or his or her tenants, Contract Purchasers, contractors, guests, pets or invitees.

10.5.4 Inadequacy of Legal Remedy. Except for the non-payment of any Assessment levied pursuant to the provisions of Article 6 of this Declaration, it is hereby declared that a remedy at law to recover damages for a default in the performance of any of the terms and provisions of any of the Governing Documents or for the breach or violation of any such provisions is inadequate and that the failure of any Owner or a member of the household of any Owner or an Owner's tenants, guests, or household pets or any other occupant or user of any of the property within the Development to comply with any provision of the Governing Documents may be enjoined in any judicial proceedings initiated by the Association, its Officers or Board of Directors, or by any Owner or by their respective successors in interest.

10.5.5 Limitation on Disciplinary Rights. The Association shall not have the power and authority to cause a forfeiture or abridgment of a Member's right to the full use and occupancy of his or her Lot as the result of the failure by such Owner, members of such Owner's household, or his or her tenants, guests, invitees or household pets to comply with any provision of the Governing Documents, except where such forfeiture or abridgment is the result of the judgment of a court of competent jurisdiction, a decision arising out of an arbitration proceeding, or a foreclosure or sale under private power of sale for failure of such Owner to pay Assessments levied by the Association pursuant to Article 6 of this Declaration. The provisions of this subsection shall not affect the Association's right to impose fines or monetary penalties or to suspend an Owner's membership rights, as provided in the Governing Documents.

10.6 Disciplinary Rules. The Board or a committee appointed by the Board for that purpose may adopt rules and regulations that further elaborate upon and refine procedures for conducting disciplinary proceedings and otherwise imposing sanctions upon Members of the Association for violation of provisions of the Governing Documents. Such rules, when approved and adopted by the



Board, shall be deemed to be a part of the Association Rules provided for in and constituting a part of the Governing Documents.

10.7 Emergency Situations. The following shall constitute emergency situations: (a) an immediate and unreasonable infringement of or threat to the safety of the Residents, (b) a traffic or fire hazard, or (c) a threat of material damage to or destruction of the Development or any portion thereof. Notwithstanding any other provisions of the Governing Documents, under circumstances involving conduct that constitutes an emergency situation, the Association may undertake immediate corrective action. Hearings with respect to such corrective action shall be held following the corrective action in accordance with Section 8.1.4 of the Bylaws.

10.8 Dispute Resolution. Compliance with Civil Code Sections 5925 through 5965 [prior to January 1, 2014, see Civil Code Sections 1369.510 through 1369.590] and Civil Code Sections 5900 through 5920 [prior to January 1, 2014, see Civil Code Sections 1363.810 through 1363.850] shall be required with respect to any dispute subject to such sections.

10.9 Non-Waiver. Failure to enforce any provision of the Governing Documents at any time shall not be deemed a waiver of the right to do so thereafter with respect to the same or any other violation of any provision of the Governing Documents.

10.10 Notices. Any notices required or given under this article shall conform to Subsection 8.1.4 of the Bylaws.

10.11 Costs and Attorneys' Fees. In the event the Association shall take any action to enforce any of the provisions of the Governing Documents or shall determine that any Member or members of his or her household or his or her tenants, Contract Purchasers, guests, invitees or household pets have violated any provision of the Governing Documents, and whether or not legal or judicial proceedings are initiated, the prevailing party shall be entitled to recover the full amount of all costs incurred, including attorneys' fees, in responding to such a violation and/or in enforcing any Governing Document provision. The remedies of the Association to recover the amount of such costs and attorneys' fees shall include, without limitation, the imposition of a Reimbursement Assessment as provided in Section 6.7 of this Declaration.

## **ARTICLE 11 MORTGAGEE PROTECTION**

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11.1 Mortgages Permitted. Any Member may encumber his or her Lot with Mortgages.

11.2 Subordination. Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to the rights of any First Mortgage that encumbers any Lot or other portion of Graeagle Meadows, made in good faith and for value, and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of such First Mortgage unless the First Mortgagee expressly subordinates his or her interest, in writing, to such lien.

11.3 Effect of Breach. No breach of any provision of this Declaration shall invalidate the lien of any Mortgagee made in good faith and for value, but all of the covenants, conditions and restrictions shall be binding on any Member whose title is derived through foreclosure sale, trustee's sale, or otherwise.

11.4 Non-Curable Breach. No Mortgagee who acquires title to a Lot by foreclosure or by deed in lieu of foreclosure or assignment-in-lieu of foreclosure shall be obligated to cure any breach of this Declaration that is non-curable or of a type that is not practical or feasible to cure.

11.5 Right to Appear at Meetings. Any Mortgagee may attend meetings of the Members and the Board.

11.6 Right to Furnish Information. Any Mortgagee may furnish information to the Board concerning the status of any Mortgage.

11.7 Right to Examine Books and Records, Etc. The Association shall make available to First Mortgagees current copies of the Governing Documents and the books, records and financial statements of the Association. "Available" means available for inspection, upon request, during normal business hours or under other reasonable circumstances.

Any First Mortgagee shall be entitled, upon written request and at its expense, to a financial statement for the immediately preceding fiscal year. Such financial statement shall be furnished by the Association within a reasonable time following such request.

11.8 Notice of Default. A First Mortgagee, upon request, shall be entitled to written notification from the Association of any default in the performance by the affected Member of any obligation under the Governing Documents which is not cured within sixty (60) days.

## **ARTICLE 12 AMENDMENT**

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12.1 Amendments by Members. This Declaration may be amended by the affirmative vote or written consent of Members representing at least an Absolute Majority. Any amendment of the Declaration shall be signed and acknowledged by the duly authorized officers of the Association and shall be Recorded.

12.2 Amendments by Board. The Board of Directors may, without the approval of the Members, amend any part of this Declaration to the limited extent necessary to comply with the lending requirements of any federally chartered lending institution or to comply with a mandatory change in applicable federal, state or local legislation.

Certain provisions of this Declaration reflect legal requirements prescribed by Federal law, California law, and other governmental statutes and regulations. In the event that any such laws, statutes or regulations are amended, revoked, or supplemented, the Board of Directors may, by the affirmative vote of a majority of the directors present at a meeting at which a quorum has been established, amend the Declaration to reflect the underlying law, statute or regulation. The purpose of this provision is to provide the Members with notice of current legal requirements which affect their rights and obligations as they pertain to their Lot and membership within the Association.

The Board of Directors may, by the affirmative vote of a majority of the directors present at a meeting at which a quorum has been established, restate the Declaration when it has been properly amended pursuant to this Article. Any such restatement shall supersede any prior declarations and amendments in their entirety, but shall not affect the priority of any previous declarations or amendments in the chain of title to all Lots within the Development as established by the initial date of recordation of the original declaration for the Development. Such restatement may also:

12.2.1 Add, delete, or rearrange the text of the Declaration to maintain consistency with any amendments including, but not limited to, altering the title and numbering of the restatement;

12.2.2 Delete material that is no longer legally effective;

12.2.3 Add text which indicates that the Board of Directors has authorized the restatement and otherwise describes the background of the Development and the restatement process, and

12.2.4 Correct any errors or inaccuracies in the Declaration, including but not limited to, the legal description of the properties in the Development.

## **ARTICLE 13 GENERAL PROVISIONS**

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

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

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

13.4 Number; Gender. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine, and neuter shall each include the masculine, feminine, or neuter, as the context requires.

13.5 Easements Reserved and Granted. Any and all easements referred to herein shall be deemed reserved or granted, or both reserved and granted, as appropriate, by reference to this Declaration in a deed to any Lot.

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

13.7 Annexation of Additional Property. Additional property may be annexed to the Development upon the approval of an Absolute Majority.

13.8 Term. The covenants, conditions, restrictions, limitations, reservations, grants of easement, rights, rights-of-way, liens, charges, and equitable servitudes contained in this Declaration shall run with and shall benefit and burden all of the real property subject to this Declaration, including without limitation the Lots and Common Areas, and shall inure to the benefit of and be binding upon the Owners, the Association, its Board of Directors and officers, and their respective agents and successors in interest, for a term of thirty (30) years from the date of recordation of this Declaration. Thereafter the term shall be automatically extended for successive periods of ten (10) years each, unless within the six (6) months prior to the expiration of the initial thirty (30) year term or any ten (10) year extension period a written instrument, approved by an Absolute Majority, terminating the effectiveness of this Declaration shall be Recorded.

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**IN WITNESS WHEREOF**, at least a majority of the total voting power of the Association

DATED: \_\_\_\_\_ 2014

**Graeagle Meadows Homeowners' Association,**  
a California nonprofit mutual benefit corporation

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(Print Name) \_\_\_\_\_, President

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(Print Name) \_\_\_\_\_, Secretary

## EXHIBIT A

### GRAEAGLE MEADOWS PROPERTY DESCRIPTION

Common Area lot "A" and residential lots 1-20, inclusive, as shown on that certain Map entitled "Graeagle Meadows Unit No. 1," recorded August 15, 1975, in Book 4 of Maps, at Page 58, in the Office of the Plumas County Recorder.

Common Area lot "C" and residential lots 21-34, inclusive, as shown on that certain Map entitled "Graeagle Meadows Unit No. 2," recorded July 22, 1976, in Book 4 of Maps, at Page 83, in the Office of the Plumas County Recorder.

Common Area lot "D" and residential lots 35-44, inclusive, as shown on that certain Map entitled "Graeagle Meadows Unit No. 3," recorded May 25, 1977, in Book 4 of Maps, at Pages 99 and 100, in the Office of the Plumas County Recorder.

Common Area lot "E" and residential lots 47-64, inclusive, as shown on that certain Map entitled "Graeagle Meadows Unit No. 4," recorded April 19, 1978, in Book 4 of Maps, at Pages 105 and 106, in the Office of the Plumas County Recorder.

Common Area lot "F" and residential lots 65-88, inclusive, as shown on that certain Map, entitled, "Graeagle Meadows Unit No. 5," recorded June 15, 1979, in Book 4 of Maps, at Pages 132 and 133, in the Office of the Plumas County Recorder.

Common Area lot "G" and residential lots 89-106, inclusive, as shown on that certain Map entitled "Graeagle Meadows Unit No. 6 (Phase I)," recorded May 12, 1980, in Book 4 of Maps, at Page 147, in the Office of the Plumas County Recorder.

Common Area lot "H" and residential lots 107-134, inclusive, as shown on that certain Map entitled "Graeagle Meadows Unit No. 6 (Phase II)," recorded January 8, 1981, in Book 5 of Maps, at Page 4, in the Office of the Plumas County Recorder.