

1 | **BOARDMEMBER DRAFT 9/29/20151/24/2017**

2 |
3 | **EXHIBIT "A"**
4 |
5 |

6 | **AMENDED AND RESTATED ARTICLES OF INCORPORATION OF**
7 | **TAHOE DONNER ASSOCIATION**
8 |
9 |

10 | **ARTICLE 1 NAME**
11 | _____

12 | The name of the corporation is TAHOE DONNER ASSOCIATION (hereinafter
13 | called the "Corporation").
14 |
15 |

16 | **ARTICLE 2 ORGANIZATION, PURPOSE, AND POWERS**
17 | **OF THE CORPORATION**
18 | _____

19 | This Corporation is a nonprofit mutual benefit corporation organized under the
20 | Nonprofit Mutual Benefit Corporation Law. The purpose of this Corporation is to
21 | engage in any lawful act or activity, other than credit union business, for which a
22 | corporation may be organized under such law. This Corporation does not
23 | contemplate pecuniary gain or profit to the Members thereof, and the specific
24 | primary purposes for which it is formed are:
25 |

- 26 |
- 27 | (i) to provide for maintenance, protection, preservation, and architectural
28 | control and the suitability to the mountain environment of the residence
29 | Lots and Units, and to ensure the maintenance of the Common Area,
30 | including the attractiveness and value thereof, and the landscaping,
31 | structures, and facilities thereon, within that certain real property located in
32 | the Town of Truckee, County of Nevada, State of California, described in
33 | Exhibit B, attached hereto and incorporated herein by this reference.
34 |
 - 35 | (ii) to provide for the management, administration, and operation of the
36 | above-described property comprising Tahoe Donner a planned
37 | development and a common interest development and the business and
38 | affairs of the Corporation,
39 |
 - 40 | (iii) to promote the health, safety, welfare, and interests of all owners of
41 | property and residents within the above-described property and any
42 | additions thereto as may hereafter be brought within the jurisdiction of the
43 | Corporation, and to promote Tahoe Donner's relationship to the
44 | surrounding community, and

1
2 (iv) to take such action as in the judgment of the Board of Directors shall be
3 necessary or proper or incidental to the foregoing purposes of the
4 Corporation.
5

6
7 **ARTICLE 3 STATEMENT REQUIRED BY CIVIL CODE SECTION 4280 AND**
8 **CORPORATIONS CODE 7130(e)**
9

10 The Corporation is an association formed to manage a common interest
11 development under the *Davis-Stirling Common Interest Development Act*.

12
13 The business or corporate office of the Corporation is as follows:

14
15 11509 Northwoods Boulevard
16 Truckee, CA 96161
17

18 The physical location of the common interest development is:

19
20 11509 Northwoods Boulevard
21 Truckee, CA 96161
22

23 The Corporation does not have a managing agent as defined in *Civil Code*
24 section 4158(a).
25

26
27 **ARTICLE 4 MEMBERSHIP**
28

29 Every person or entity that is a record owner of a fee or undivided fee interest in
30 any Lot within the real property described in Article 2 hereof, which is subject by
31 covenants of record to assessment by the Corporation, including contract sellers,
32 shall be a Member of the Corporation. The foregoing is not intended to include
33 persons or entities who hold an interest merely as security for the performance of
34 an obligation. Membership shall be appurtenant to, and may not be separated
35 from, ownership of any Lot which is subject to assessment by the Corporation.
36

37
38 **ARTICLE 5 VOTING RIGHTS**
39

40 The Corporation shall have one (1) class of voting membership, comprised of all
41 Members, whose voting rights shall be as set forth in the Bylaws of the
42 Corporation.
43
44
45

1 **ARTICLE 6 BOARD OF DIRECTORS**
2

3 The affairs of this Corporation shall be managed by a Board of Directors. The
4 number of directors, their qualifications, and the manner of their selection shall
5 be as set forth in the Bylaws of the Corporation.
6

7
8 **ARTICLE 7 LIMIT ON POWERS; TAXATION**
9

10 This Corporation shall not, except to an insubstantial degree, engage in any
11 activities or exercise any powers which are not in furtherance of the primary
12 purposes of this Corporation. This Corporation is intended to qualify as a
13 Homeowners Association under the applicable provisions of Section 528 of the
14 United States *Internal Revenue Code* ("IRC") and of Section 23701t of the
15 *Revenue and Taxation Code* of the State of California ("R&TC"), as each may be
16 amended from time to time. No part of the net earnings of this Corporation shall
17 inure to the benefit of any private individual, except as expressly provided in IRC
18 Section 528 and R&TC Section 23701t with respect to the acquisition,
19 construction, or provision for management, maintenance, and care of the
20 Corporation property, and other than by rebate of excess membership dues,
21 fees, or assessments.
22

23
24 **ARTICLE 8 DISSOLUTION**
25

26 So long as there is any lot or parcel for which the Corporation is obligated to
27 provide management, maintenance, preservation, or control, the Corporation
28 shall not transfer all or substantially all of its assets or file a certificate of
29 dissolution without the approval of one hundred percent (100%) of the Members.
30 In the event of the dissolution, liquidation, or winding-up of the Corporation, upon
31 or after termination of the development in accordance with provisions of the
32 recorded declaration governing the property comprising the development, the
33 Corporation's assets remaining after payment, or provision for payment, of all
34 debts and liabilities of the Corporation shall be divided among and distributed to
35 its Members in accordance with their respective rights therein.
36

37
38 **ARTICLE 9 AMENDMENTS**
39

40 Any amendments to these Amended and Restated Articles of Incorporation shall
41 require the approval of the Board of Directors and the approval by the affirmative
42 vote or written consent of Members representing at least a majority of the total
43 voting power of the Corporation.
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ARTICLE 10 DEFINED TERMS

Capitalized terms appearing herein shall have the meaning set forth in the Bylaws.

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EXHIBIT B

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

A. Property other than Common Areas or Other Association Real Property:

UNIT 1 Lots 1 through 183 and Lots 185 through 499 inclusive of Tahoe Donner Unit 1, as shown on the Official Map thereof, filed in the office of the Nevada County Recorder on April 13, 1971 in Book 4 of Subdivisions Maps, Page 21.

UNIT 2 Lots 1 through 51, Lots 55 through 140, and Lots 142 through 427, inclusive of Tahoe Donner Unit 2, as shown on the Official Map thereof, filed in the office of the Nevada County Recorder on May 26, 1971 in Book 4 of Subdivision Maps, at Page 23. Lots 4, 23, 24, 25, 26, 27, 28, 424, 425, 426, and 427 are commercial lots. Lot 141 is privately owned and not part of Tahoe Donner Association.

UNIT 3 Lots 1 through 10, 16 through 256 and 260 through 549 inclusive of Tahoe Donner Unit 3, as shown on the Official Map thereof, filed in the office of the Nevada County Recorder on August 11, 1971, in Book 4 of Subdivision Maps, at Page 25. Lots 28, 29, 65, 66 and 79 are commercial lots.

UNIT 4 Lots 1 through 643, inclusive of Tahoe Donner Unit 4, as shown on the Official Map thereof, filed in the Office of the Nevada County Recorder on November 23, 1971, in Book 4 of Subdivision Maps, at Page 27.

UNIT 5 Lots 1 through 555, inclusive of Tahoe Donner Unit 5, as shown on the Official Map thereof, filed in the office of the Nevada County Recorder on August 23, 1972, in Book 4 of Subdivision Maps, at Page 36.

UNIT 6 Lots 1 through 640 inclusive of Tahoe Donner Unit 6, as shown on the Official Map thereof, filed in the office of the Nevada County Recorder, on May 10, 1972, in Book 4 of Subdivision Maps, at Page 34.

UNIT 7 Lots 1 through 356, inclusive of Tahoe Donner Unit 7, as shown on the Official Map thereof, filed in the office of the Nevada County Recorder, on August 23, 1972, Book 4 of Subdivision Maps, at Page 37.

UNIT 8 Lots 1 through 237 and 240 through 608, inclusive of Tahoe Donner Unit 8, as shown on the Official Map thereof, filed in the office of the Nevada County Recorder, on March 13, 1973, in Book 4 of Subdivision Maps, at Page 43.

1 UNIT 9 Lots 1 through 338 and Lots 342 through 654, inclusive of Tahoe Donner Unit 9,
2 as shown on the Official Map thereof, filed in the office of the Nevada County Recorder on
3 September 7, 1973, in Book 4 of Subdivision Maps, at Page 57.

4
5 UNIT 10 Lots 1 through 488 inclusive of Tahoe Donner Unit 10, as shown on the Official
6 Map thereof, filed in the office of the Nevada County Recorder on July 5, 1973, in Book 4 of
7 Subdivision Maps, at Page 55.

8
9 UNIT 11 Lots 1 through 170 and Lots 173 through 517 inclusive of Tahoe Donner Unit
10 11, as shown on the Official Map thereof, filed in the office of the Nevada County
11 Recorder, on January 3, 1973, in Book 4 of Subdivision Maps, at Page 41.

12
13 "TAHOE DONNER SKI BOWL CONDOMINIUMS", and the "TAHOE DONNER LODGE
14 CONDOMINIUMS", all real property lying within the unincorporated territory of Nevada
15 County, California, and situated in Section 1, Township 17 North, Range 15 East, M.D.B.
16 & M., and more particularly described as Lot 64 and a portion of Parcel R of Tahoe Donner
17 Unit 3 as said lot and parcel are so designated and shown on the Official Map thereof, filed
18 in the office of the Nevada County Recorder, on August 11, 1971, in Book 4 of Subdivision
19 Maps, at Page 25.

20
21 "TAHOE DONNER GOLF CLUB CONDOMINIUMS", as shown upon the Official Map
22 thereof, filed in the office of the Nevada County Recorder, on June 13, 1974, in Book 5 of
23 Subdivisions at Page 11.

24
25 UNIT 3 Lot 259, (the Nevada County maintenance site).

26
27 UNIT 10 Parcel B (proposed school site).

28
29 UNIT 11 Parcel K (fire station site).

30
31 B. Common Areas:

32
33 "Golf Course Facilities", Parcels 1 and 2, as shown on the Official Map thereof, filed in
34 the office of the Nevada County Recorder, on September 15, 1976, in Book 10 of Parcel
35 Maps, at Page 178.

36
37 "Marina", as described in the deed recorded with the Nevada County Recorder on April
38 30, 1976, as document No. 7664, in Book 789, at Page 686.

39
40 UNIT 1: Parcel A through N, inclusive and Lot 184 of Tahoe Donner Unit 1 as shown on
41 the Official Map thereof, filed in the office of the Nevada County Recorder, on April 13,
42 1971, in Book 4 of Subdivision Maps, Page 21.

1 UNIT 2: Parcels A through L, inclusive and Parcel N of the Tahoe Donner Unit No. 2 as
2 shown on the Official Map thereof, filed in the office of the Nevada County Recorder, on
3 May 26, 1971, in Book 4 of Subdivision Maps, Page 23.

4
5 "Trout Creek Condo Property" (formerly Lots 428 through 439 of Tahoe Donner Unit 2 as
6 shown on the Official Map thereof, filed in the office of the Nevada County Recorder on
7 May 26, 1971, in Book 4 of Subdivision Maps, at Page 23) and as further described in
8 the deed recorded November 22, 1988, series No. 88-31745.

9
10 "Northwoods Clubhouse Facilities" All property as shown on the parcel map recorded
11 with the Nevada County Recorder, on October 22, 1980, in Book 15 of Parcel Maps, at
12 Page 31. (This property includes former Lots 52, 53 and 54 of Tahoe Donner Unit 2.)

13
14 UNIT 3: A portion of Parcel R ("Ski Area Day Lodge") of Unit 3, as shown on the Official
15 Map thereof, filed in the office of the Nevada County Recorder, on August 11, 1971, in
16 Book 4 of Subdivision Maps, at Page 25.

17
18 Lots 28 and 79 ("Ski Area Parking Lots) of Tahoe Donner Unit 3, as shown on the
19 Official Map thereof, filed in the office of the Nevada County Recorder, on August 11,
20 1971, in Book 4 of Subdivision Maps, at Page 25.

21
22 "Maintenance Facility", Parcels 1, 2 and 3 as shown on the parcel map (formerly Tahoe
23 Donner Unit 3, Lots 257, 258 and Lots 172, 173 of Unit 11 as shown on the Official Map
24 thereof, filed in the office of the Nevada County Recorder, on August 11, 1971, in Book
25 4 of Subdivision Maps, at Page 25) filed in the office of the Nevada County Recorder,
26 on December 28, 1979, in Book 17 of Parcel Maps, at Page 38.

27
28 Parcels A through N inclusive and Parcels U and V, as shown on the Official Map of
29 Tahoe Donner Unit 3, filed in the office of the Nevada County Recorder, on August 11,
30 1971, in Book 4 of Subdivision Maps at Page 25.

31
32 Lots 11, 12, 13, 14 and 15 of Tahoe Donner Unit 3, as shown on the Official Map
33 thereof, filed in the office of the Nevada County Recorder, on August 11, 1971, in Book
34 4 of Subdivision Maps, at Page 25.

35
36 "Alder Creek Picnic Area" Parcels 1 and 2 as described in the deed recorded in the
37 office of the Nevada County Recorder on November 24, 1975, as document No. 21094,
38 in Book 767 at Page 637.

39
40 UNIT 4: Parcels A through M, inclusive of Tahoe Donner Unit 4, as shown on the
41 Official Map thereof, filed in the office of the Nevada County Recorder on November 23,
42 1971, in Book 4 of Subdivision Maps, at Page 27.

1 UNIT 5: Parcels A through H inclusive and Parcel L (Boat Storage Lot) within Tahoe
2 Donner Unit 5, as shown on the Official Map thereof, filed in the office of the Nevada
3 County Recorder on August 23, 1972, in Book 4 of Subdivision Maps, at Page 36.

4
5 UNIT 6: Parcels A through N, inclusive and Parcel P ("The Equestrian Center") located
6 within Tahoe Donner Unit 6, as shown on the official Map thereof, filed in the office of the
7 Nevada County Recorder, on May 10, 1972, in Book 4 of SUBDIVISION Maps, at Page 34.

8
9 UNIT 7: Parcels A through K inclusive and Parcel L ("The Campground") located within
10 Tahoe Donner Unit 7, as shown on the Official Map thereof, filed in the office of the
11 Nevada County Recorder, on August 23, 1972, Book 4 of Subdivision Maps, at Page
12 37.

13
14 UNIT 8: parcels A through H inclusive, Parcels J through Y inclusive and lots 238 and
15 239, located within Tahoe Donner Unit 7, as shown on the Official Map thereof, filed in
16 the offices of the Nevada County Recorder on March 13, 1973, in Book 4 of
17 Subdivision Maps, at Page 43.

18
19 UNIT 9: Lots 339, 340 and 341 and Parcels B through F, inclusive, Parcels H through N
20 inclusive, Parcel O, and Q through W, inclusive, located within Tahoe Donner Unit 9, as
21 shown on the Official Map thereof, filed in the office of the Nevada County Recorder on
22 September 7, 1973, in Book 4 of Subdivision Maps, at Page 57.

23
24 UNIT 10: Parcel A, and Parcels C through K inclusive, located within Tahoe Donner
25 Unit 10, as shown on the Official Map thereof, filed in the office of the Nevada County
26 Recorder on July 5, 1973, in Book 4, of Subdivision Maps, at Page 55.

27
28 UNIT 11: Parcels A through K inclusive and Parcel J located within Tahoe Donner Unit 11,
29 as shown on the Official Map thereof, filed in the Office of the Nevada County Recorder on
30 January 3, 1973, in Book 4 of Subdivision Maps, at Page 41.

31
32 C. Other Association Real Property:

33
34 "2,000 Acres", Parcels 1 and 2 as described in the deed recorded with the Nevada
35 County Recorder on July 7, 1982, series No. 82-15361
36 (A.P.N.: 16-060-12; 16-060-14; 16-060-15; 16-060-16; 17-020-05; 17-020-06; and 17-
37 020-27)

38
39 All the real property as described in the deed recorded in the Office of the Nevada
40 County Recorder on February 17, 2012, Document No. 20120004305.
41 (A.P.N.: 16-060-22 and 16-060-13, Euer Grant)

42
43 All the real property as described in the deed recorded in the Office of the Nevada
44 County Recorder on October 25, 2011, Document No. 20110025265.
45 (A.P.N.: 16-060-20 and 16-060-23, Euer Grant)

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All the real property as described in the deed recorded in the Office of the Nevada County Recorder on February 16, 2012, Document No. 20120004255. (A.P.N.: 17-020-34, Rosamond Grant)

Parcels One through Ten, inclusive, as described in the deed recorded in the Office of the Nevada County Recorder on June 4, 2010, Document No. 20100013062. (A.P.N.: 18-180-01, 02, 03; 18-200-02 thru 21; 18-210-02 thru 21; 18-220-02 thru 22; 18-230-02 thru 22; 18-240-02 thru 19; 18-250-02 thru 19; 18-260-02 thru 09, 11 thru 15, 20 and 22 thru 27; 18-270-02 thru 07, 09 thru 21 and 27; 18-280-02 thru 20, 22, 23 and 27; 18-290-02 thru 02, 10 thru 25; 18-320-06 thru 07, 10 thru 12, 14 thru 16, 20 thru 24, 26, 28, 31, 34 thru 37, 39, 40, 49, 50, 59, 60; 18-330-02, 03, 06, 08, 09, 10, 11, 13 thru 16, 20, 26 thru 30 and 34; 18-382-21, Sinclair Grant)

Tract One Parcels I, II and III, and Tract Two, as described in the deed recorded in the Office of the Nevada County Recorder on May 12, 2016, Document No. 20160009902. (A.P.N.: 16-060-02-000; 16-060-18-000; 16-060-17-000, Crabtree Canyon)

Parcels One and Two, as described in the deed recorded in the Office of the Nevada County Recorder on June 3, 2011, Document No. 20110013213. (A.P.N.: 18-101-10, McGlasham Springs)

BOARDMEMBER DRAFT 9/29/20151/24/2017

RECORDING REQUESTED BY
AND
WHEN RECORDED MAIL TO:

TAHOE DONNER ASSOCIATION
c/o

(SPACE ABOVE THIS LINE FOR RECORDER'S USE)

**AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
TAHOE DONNER ASSOCIATION**

NOTICE

If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the California *Government Code*. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

TAHOE DONNER ASSOCIATION

BOARDMEMBER DRAFT
9/29/20151/24/2017

AMENDED AND RESTATED
DECLARATION

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**AMENDED AND RESTATED DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS OF
TAHOE DONNER ASSOCIATION**

This Amended and Restated Declaration of Covenants, Conditions and Restrictions is made on the date set forth at the end of this document by TAHOE DONNER ASSOCIATION, a California nonprofit mutual benefit corporation (referred to in this document as the "Association").

RECITALS OF BACKGROUND FACTS; DECLARATIONS

- A. This Amended and Restated Declaration is made with reference to that certain FIRST RESTATED DECLARATION OF THE COVENANTS AND RESTRICTIONS OF TAHOE DONNER, dated December 31, 1991 and recorded on the 17th day of January 1991 in the Official Records of the County or Nevada, State of California (the "1991 Declaration").
- B. Two amendments to the 1991 Declaration were recorded on March 24, 2004, as Document No. 2004-0010863-00 and on August 09, 2010, as Document No. 20100018300, in the Official Records of the County or Nevada, State of California. The 1991 Declaration together with the two amendments is collectively referred to herein as the "1991 Declaration."
- C. The 1991 Declaration establishes 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, that certain real property located in the Town of Truckee and the County of Nevada, State of California, and more particularly described in Exhibit A, attached hereto and incorporated herein by this reference.
- D. THE MEMBERS, constituting at least a majority of the Members of the Association, desire to amend, modify, and otherwise change the 1991 Declaration, as amended, pursuant to ARTICLE XVI, SECTION 1 thereof, and DO HEREBY DECLARE that the 1991 Declaration as amended shall be, and it is hereby, AMENDED AND RESTATED IN ITS ENTIRETY as set forth in the within Amended and Restated Declaration of Covenants, Conditions and Restrictions of Tahoe Donner.

- 1
2 E. IT IS FURTHER HEREBY DECLARED that all of the real property described in
3 Exhibit A constitutes a planned development within the meaning of Section 4175
4 of the *California Civil Code* and a Condominium project within the meaning of
5 Section 4125 of the *California Civil Code*.
6
7 F. IT IS FURTHER HEREBY DECLARED that all of the real property described in
8 Exhibit A is and shall be held, owned, operated, managed, conveyed,
9 hypothecated, encumbered, leased, used, occupied, and improved subject to the
10 following covenants, conditions, and restrictions set forth herein, all of which are
11 declared and agreed to be in furtherance of a plan and purpose of protecting,
12 preserving, and enhancing the value, desirability, and attractiveness of the said
13 real property and every part thereof, and of fostering the development,
14 management, improvement, enjoyment, and sale of the said real property and
15 any part thereof.
16
17 G. IT IS FURTHER HEREBY DECLARED that all of the covenants, conditions, and
18 restrictions set forth herein shall constitute enforceable equitable servitudes as
19 provided in *Civil Code* section 5975, shall constitute covenants that shall run with
20 the said real property, and shall be binding upon and inure to the benefit of each
21 Owner of any portion of the said real property or the owner or holder of any
22 interest or estate therein and their heirs, successors, and assigns.
23
24

25 **ARTICLE 1 DEFINITIONS**

- 26
27 1.1 Additional Charges. “Additional Charges” shall mean all costs, fees, finer,
28 charges, and expenditures including, but not limited to, interest, late charges,
29 attorney fees, recording and filing fees, and all other costs actually incurred by
30 the Association in collecting and/or enforcing payment of Assessments.
31
32 1.2 Architectural Standards Committee. “Architectural Standards Committee” or
33 “ASC” shall mean the Committee, if any, appointed pursuant to Article 9
34 (“Architectural Approval”).
35
36 1.3 Articles. “Articles” shall mean the Amended and Restated Articles of
37 Incorporation of Tahoe Donner Association, as they may be amended from time
38 to time, and as filed with the Office of the Secretary of State of California.
39
40 1.4 Assessments. “Assessments” shall mean any or all of the following: Regular
41 Assessments, Special Assessments, Reimbursement Assessments, and
42 Enforcement Assessments.
43

- 1 1.5 Association. “Association” shall mean Tahoe Donner Association, a California
 2 nonprofit mutual benefit corporation, its successors and assigns.
 3
- 4 1.6 Board of Directors. “Board of Directors” or “Board” shall mean the governing
 5 body of the Association.
 6
- 7 1.7 Bylaws. “Bylaws” shall mean the Amended and Restated Bylaws of the
 8 Association as they shall be duly adopted by the Board of Directors and the
 9 Members and any duly-adopted amendments thereof.
 10
- 11 1.8 Civil Code. “Civil Code” shall mean the California *Civil Code* as amended from
 12 time to time
 13
- 14 1.9 Commercial Lot. “Commercial Lot” shall mean one of the fourteen (14) Lots
 15 within the Development zoned for commercial purposes. When any provision of
 16 this Declaration is intended to apply only to a Commercial Lot, that term is used.
 17
- 18 1.10 Common Area. “Common Area” shall mean the Common ~~Faculties~~Facilities, the
 19 Condominium Common Area, and the General Common Area, each as more
 20 particularly defined as follow:
 21
- 22 1.10.1 General Common Area. “General Common Area: shall mean all the
 23 real property and the improvements and facilities thereon (including the
 24 Common Facilities) owned by the Association for the common use and
 25 enjoyment of the Owners and Residents of the Development, but
 26 excluding the Lots. The Common Area includes, but is not limited to
 27 the land, paving, private streets, parking lots, driveways, trails,
 28 walkways, outdoor lighting, landscaping, irrigation, signage, fences,
 29 gates, walls and retaining walls, buildings and structures. The
 30 Common Area owned by the Association at the time this Declaration is
 31 recorded is described in Exhibit B, attached hereto and incorporated
 32 herein by this reference.
 33
- 34 1.10.2 Common Facilities. “Common Facilities” shall mean (i) all recreational
 35 facilities located within the Common Area, including the 18-hole golf
 36 course and driving range, the ski complex (including the downhill and
 37 cross-country ski ~~area~~,areas), cross-country warming huts, Donner
 38 Lake beach area and Beach Club Marina, Trout Creek recreational
 39 area and equestrian center, the Bike Works recreational facility, open
 40 spaces and trails, swimming pools, tennis courts, campgrounds, the
 41 Alder Creek picnic area, the Maintenance Facility, the mailboxes, the
 42 utilities, the boat storage area, the bike storage area, and the trailer
 43 and RV storage area; and (ii) the main clubhouse and recreational
 44 building, the maintenance building, and other facilities constructed or

1 installed or to be constructed or installed, or currently located within the
2 Common Area or upon Other Association Property and any other real
3 property leased by the Association.
4

5 1.11 Common Expenses. “Common Expenses” shall mean any use of Assessments
6 authorized by **Article 10** (“Assessments and Liens”) and includes, without
7 limitation (a) all expenses or charges incurred by or on behalf of the Association
8 for the management, maintenance, administration, insurance, operation, repairs,
9 additions, alterations or reconstruction of the Common Area, Common Facilities,
10 or Other Association’s Real Property, (b) all expenses or charges reasonably
11 incurred to procure insurance for the protection of the Association, (c) all amounts
12 reasonably necessary to fund reserves for the maintenance, repair, expansion
13 and replacement of the Common Area, Common Facilities, or Other Association’s
14 Real Property, and for nonpayment of any Assessments, and (d) the use of such
15 funds to defray the costs and expenses incurred by the Association in the
16 performance of its functions or in the proper discharge of the responsibilities of
17 the Board as provided in the Governing Documents.
18

19 1.12 Condominium. “Condominium” shall mean an estate in real property as defined
20 in *Civil Code* sections 783 and 4125, consisting of an undivided interest in all or
21 any portion of the Common Area together with a separate fee interest in a Unit
22 and any easements or other interests in the Project or any portion thereof
23 appurtenant to the Unit, as are described in the Declaration, in the Condominium
24 Plan, or in the deed conveying a Condominium.
25

26 1.13 Condominium Common Area. “Condominium Common Area” shall mean all of
27 the real property comprising a Condominium Project that is owned by all of the
28 Owners in common but excluding the Units and all/any real property owned or
29 held by the Association from time to time for the common use and enjoyment of
30 the Owners and Residents of a Condominium Project. Generally, the
31 Condominium Common Area of a Condominium Project includes the land and the
32 structures and improvements described in a Supplemental Declaration or in a
33 Condominium Map or Plan.
34

35 1.14 Condominium Lot. “Condominium Lot” or “Multi-Family Lot” shall mean any one
36 of the one hundred twenty-seven (127) Lots intended to be used for multi-family
37 residential purposes, including those Lots developed as a Condominium Project.
38 When any provision of this Declaration is intended to apply only to Condominium
39 Lots that term is used.
40

41 1.15 Condominium Maps. “Condominium Maps” or “Plans” shall mean a recorded plat
42 map or condominium plan which identifies the Condominium Project and
43 Condominium Common Area and each Separate Interest in the Condominium

1 Project. The Condominium Maps are listed in **Exhibit C**, attached hereto and
2 incorporated herein by this reference.

3
4 1.16 Condominium Project. “Condominium Project” shall mean any one (1) of the
5 Condominium Projects or apartment projects located within the Development.
6 On the day of the recording of this Declaration, there are one hundred eleven
7 (111) Condominium Projects within the Development. The Condominium
8 Projects subject to this Declaration and a Supplemental Declaration are identified
9 on **Exhibit D**, attached hereto and incorporated herein by this reference.

10
11 1.17 Contract Purchaser / Contract Seller. “Contract Purchaser” and “Contract Seller”
12 shall mean the purchaser and the seller, respectively, under an installment land
13 contract in which title to the property is transferred after the final installment
14 payment is made.

15
16 1.18 Corporations Code. “Corporations Code” shall mean the California *Corporations*
17 *Code* as amended from time to time.

18
19 1.19 County. “County” shall mean the County of Nevada.

20
21 1.20 Declaration. “Declaration” shall mean this Amended and Restated Declaration of
22 Covenants, Conditions and Restrictions of Tahoe Donner Association, recorded
23 in the Office of the County Recorder of Nevada County, California, and any duly-
24 recorded amendments thereof.

25
26 1.21 Development. “Development” shall mean all the real property described in this
27 Declaration comprising the Tahoe Donner planned development and any
28 additional real property as may hereafter be brought within the jurisdiction of the
29 Association.

30
31 1.22 Development Fund. “Development Fund” shall mean those funds held by the
32 Association for capital improvement projects approved by Members pursuant to
33 approval of a Development Fund Special Assessment as provided for in **Section**
34 **10.9.2**.

35
36 1.23 Development Fund Special Assessment. “Development Fund Special
37 Assessment” shall have the meaning set forth in **Section 10.9**

38
39 1.221.24 Dwelling. “Dwelling” shall mean a structure designed for human
40 residential use and occupancy which is located upon a Residential Lot or Unit.
41 The term “Dwelling” shall include a single-family residence (and any related
42 garages and outbuildings) or a Unit.

1 | 1.231.25 Enforcement Assessment. "Enforcement Assessment" shall have the
2 | meaning set forth in Section 10.11.

3 |
4 | 1.241.26 Excavation. "Excavation" shall mean any disturbance of the surface of the
5 | land (except to the extent reasonably necessary for planting) which destroys any
6 | vegetation or results in the removal of earth, rock, sand, or other natural
7 | substance.

8 |
9 | 1.251.27 Fill. "Fill" shall mean any addition of rock or earth materials to the surface
10 | of the land which increases the natural elevation of such surface by more than
11 | twenty-four inches (24").

12 |
13 | 1.261.28 Front Yard. "Front Yard" shall mean a yard extending across the front of
14 | the ~~a~~-Residential Lot between the side lot lines and extending from the front lot
15 | line to a line parallel to the front Residential Lot line at the nearest point on the
16 | front elevation of the Dwelling.

17 |
18 | 1.271.29 First Mortgage / First Mortgagee. "First Mortgage" shall mean a Mortgage
19 | that has first priority over all other Mortgages. "First Mortgagee" shall mean the
20 | beneficiary under a First Mortgage.

21 |
22 | 1.281.30 General Delivery / General Notice. "General Delivery" or "General Notice"
23 | shall mean delivery to a Member or Members by one (1) or more of the following
24 | methods, as provided in *Civil Code* section 4045:

- 25 |
26 | (a) By any method provided for delivery of an Individual Notice pursuant to
27 | *Civil Code* section 4040 which includes but is not limited to first-class mail
28 | or Express Mail or by overnight delivery by an express service carrier;
29 |
30 | (b) By inclusion in a billing statement, newsletter, or other document that is
31 | delivered by General Delivery;
32 |
33 | (c) By posting a printed document in a prominent location that is accessible to
34 | all Members, if the location has been designated for the posting of General
35 | Notices by the Association in the annual policy statement, prepared
36 | pursuant to *Civil Code* section 5310;
37 |
38 | (d) If the Association broadcasts television programming for the purpose of
39 | distributing information on Association business to its Members, by
40 | inclusion in the Association broadcast television programming.

41 |
42 | Notwithstanding the foregoing, if a Member has requested to receive General
43 | Notices by Individual Delivery, then all "General Notices" to that Member shall be
44 | delivered by "Individual Delivery."

1
2 | 1.291.31 Governing Documents. “Governing Documents” shall mean the Articles,
3 Bylaws, Declaration, and Rules.
4

5 | 1.301.32 Improvement. “Improvement” shall include, without limitation, any building
6 or addition, construction, installation, alteration, or remodeling of any Dwelling,
7 structure, building, garage, outbuilding, ~~tent~~, awning, shed, wall, retaining wall,
8 hedge or similar barrier, obstruction, stairway, parking area, deck, balcony,
9 screen, patio cover, ~~fencedog run~~, swimming pool, road, driveway, paving or
10 paving area, walkway, landscaping, decorative feature, play-structure, carport
11 cover, skylights, solar ~~heating~~ equipment, spa, antenna, pole, sign, utility line, or
12 any other structure of any kind.
13

14 | 1.311.33 Individual Delivery / Individual Notice. “Individual Delivery” or “Individual
15 Notice” shall mean delivery to a Member or Members by one (1) of the following
16 methods, as provided in *Civil Code* section 4040:
17

18 (a) By first-class mail with postage prepaid, registered or certified mail,
19 express mail, or overnight delivery by an express service carrier,
20 addressed to the recipient at such recipient’s address last shown on the
21 books of the Association, or
22

23 (b) By email, facsimile, or other electronic means if the recipient has
24 consented in writing to that method of delivery. The consent may be
25 revoked, in writing, by the recipient. Delivery by electronic transmission
26 must also comply with *Corporations Code* sections 20 and 21. Among
27 other things, Section 20 of the *Corporations Code* requires the Association
28 to obtain consent from the person to whom the document is transmitted to
29 receive it by means of electronic transmission as well as other technical
30 requirements.
31

32 | 1.321.34 Lot. “Lot” shall mean any plot of land shown upon any of the Subdivision
33 Maps with the exception of the Common Area. There are Commercial Lots,
34 Residential Lots, and Condominium Lots (containing apartment or condominium
35 Units). There are five thousand, nine hundred thirty (5,930) Lots in the
36 Development. There are fourteen (14) Commercial Lots; five thousand, seven
37 hundred eighty-nine (5,789) Residential Lots; and one hundred twenty-seven
38 (127) Condominium Lots. ~~[NOTE TO BOARD: 125 Condo Lots plus the Golf
39 Course Condos lot (1), and the Ski Bowl Condos and the Ski Logettes lot,
40 portion of Parcel R, (1) for a total of 127.]~~
41

42 | 1.331.35 Maintenance. “Maintenance” or to “maintain” (whether the term is
43 capitalized or not) shall mean the act of caring for property and ~~keeping it in its
44 existing state~~, preserving it from failure or deterioration, including, ~~but not limited~~

1 | ~~to, painting, caulking, cleaning, and minor, non-structural upkeep. In the case of~~
2 | ~~landscaping, “maintenance” or to “maintain” shall mean regular fertilizing,~~
3 | ~~irrigation, pruning, and other garden management practices necessary to~~
4 | ~~promote healthy plant growth free of weeds or dead or dying plants.~~

5 |
6 | 1.341.36 Majority of a Quorum. “Majority of a Quorum” shall mean a majority of the
7 | votes cast in any lawful vote or election by the Members in which the number of
8 | ballots cast equals or exceeds the number required to establish a quorum.

9 |
10 | 1.351.37 Member. “Member” shall mean an Owner of a Residential Lot or of a
11 | Condominium Lot. The term Member shall include members of the Member’s
12 | family. Owners of Commercial Lots are not Members of the Association.

13 |
14 | 1.361.38 Member in Good Standing. “Member in Good Standing” shall mean a
15 | Member of the Association who is current in the payment of all Assessments and
16 | Additional Charges imposed in accordance with the Governing Documents, and
17 | who is in compliance with all of the provisions of the Governing Documents. A
18 | Member shall be deemed to be in Good Standing unless, after notice and an
19 | opportunity for hearing, pursuant to Article 14 (“Enforcement; Notice; Hearings”),
20 | the Board has found the Member to be not in Good Standing and has so notified
21 | the Member in accordance with *Civil Code* section 5855.

22 |
23 | 1.371.39 Mortgage / Mortgagee. “Mortgage” shall mean a duly-recorded deed of
24 | trust or mortgage in the conventional sense encumbering a Condominium.
25 | “Mortgagee” shall mean a beneficiary under a Mortgage.

26 |
27 | 1.381.40 Other Association Property. “Other Association Property” shall mean
28 | those parcels of real property now owned or hereafter acquired by the
29 | Association which are not dedicated as Common Area. The real property
30 | comprising Other Association Property as of the date of recording of this
31 | Declaration are listed on Exhibit E, attached hereto and incorporated herein by
32 | this reference.

33 |
34 | 1.391.41 Owner. “Owner” shall mean the record owner, whether one (1) or more
35 | persons or entities, of the fee simple title to any ~~Lot~~Residential Lot (but not a
36 | Commercial Lot) or Unit, including Contract Sellers but excluding Contract
37 | Purchasers, and excluding those persons having such interest merely as security
38 | for the performance of an obligation. For the purpose of Section 10.1.2
39 | (“Assessments Are a Personal Obligation”), “Owner” shall include any principal,
40 | partner, managing member, member, or officer of any corporation, limited liability
41 | company, partnership or other entity that is a record owner of fee simple title to
42 | any Unit. Upon taking title to a Unit, Owners shall notify the Association of the
43 | identity of each such owner, principal, partner, managing member or officer, if

1 any, and shall provide the Association contact information for such persons, as
2 the Association deems appropriate.

3
4 | 1.401.42 Prohibited Vehicle. See Section 6.13.2 (“Prohibited Vehicles”).

5
6 | 1.411.43 Rear Yard. “Rear Yard” shall mean a yard extending across the rear of
7 the Residential Lot between the side lot lines and measured between the rear lot
8 line and parallel thereto within the Residential Lot.

9
10 | 1.421.44 Regular Assessment. “Regular Assessment” shall have the meaning set
11 forth in Section 10.7.

12
13 | 1.431.45 Reimbursement Assessment. “Reimbursement Assessment” shall have
14 the meaning set forth in Section 10.10.

15
16 | 1.441.46 Repair. “Repair” (whether the term is capitalized or not) shall mean the
17 minor restoration of property that is torn, broken, or otherwise damaged, or has
18 sustained wear, tear, or deterioration such that minor restoration is necessary.

19
20 | 1.451.47 Replacement. “Replacement” or to “replace” (whether the term is
21 capitalized or not) shall mean substantial reconstruction, restoration, or
22 substitution of the whole or a substantial part of property that has deteriorated or
23 has been damaged or destroyed through usage or through hazard or catastrophe
24 such that it is no longer useable or serviceable in its current condition. In the
25 case of landscaping, “replacement” or to “replace” shall mean the removal and
26 replanting of trees, shrubs, lawns, and other plants that are dead or dying or
27 otherwise not serviceable or the substitution of plants for hardscape or
28 substitution of hardscape for plants.

29
30 | 1.461.48 Resident. “Resident” shall mean any person who resides on a Residential
31 Lot or Unit within the Development whether or not such person is an Owner.

32
33 | 1.471.49 Residential Lot. “Residential Lot” shall mean any of the five thousand,
34 seven hundred eighty-nine (5,789) Lots located within the Development improved
35 or intended to be improved with a single-family, detached residential structure.
36 When any provision of the Declaration is intended to apply only to a Residential
37 Lot, that term is used.

38
39 | 1.481.50 Restricted Vehicle. See Section 6.13.1 (“Restricted Vehicles”).

40
41 | 1.491.51 Road. “Road” shall mean any vehicular way shown on the Subdivision
42 Maps as a road, street or court.

- 1 | 1.501.52 Rules. “Rules” shall mean the policies, rules, and regulations governing
2 | the administration, management, operation, use, and occupancy of the
3 | Development, including the use of the Common Area and facilities, the personal
4 | conduct of Owners and Residents, members of their household, pets, tenants,
5 | invitees, and guests within the Development, enforcement of the Governing
6 | Documents, and any other matter that is within the jurisdiction of the Association,
7 | as adopted, published, or amended by the Board from time to time and subject to
8 | applicable law including *Civil Code* section 4340 and following.
9 |
- 10 | 1.511.53 Separate Interest. Separate Interest shall mean a separately owned
11 | Residential Lot, or a separately owned undeveloped Condominium Lot, or a
12 | separately owned Condominium Unit on a Condominium Lot, but not a
13 | Commercial Lot.
14 |
- 15 | 1.521.54 Side Yard. “Side Yard” shall mean a yard, the width of which is the
16 | minimum required horizontal distance between any side lot line and a line parallel
17 | thereto on the Residential Lot, not including any portion of the required front yard
18 | or required rear yard.
19 |
- 20 | 1.531.55 Single-Family Residential Use. “Single-Family Residential Use” shall
21 | mean occupancy and use of a Residential Lot or Unit for single-family dwelling
22 | purposes in conformity with this Declaration and the requirements of applicable
23 | zoning laws or other state or local rules or regulations, including those limiting the
24 | number of occupants of a residential Dwelling.
25 |
- 26 | 1.541.56 Special Assessment. “Special Assessment” shall have the meaning set
27 | forth in Section 10.8.
28 |
- 29 | 1.551.57 Subdivision Maps. “Subdivision Maps” shall mean any of those certain
30 | maps listed in Exhibit F.
31 |
- 32 | 1.561.58 Supplemental Declaration. “Supplemental Declaration” shall mean a
33 | declaration of covenants, conditions and restrictions recorded in the Official
34 | Records of the County that is applicable to a Condominium Project located within
35 | the Development. Any such Supplemental Declaration, to the extent it contains
36 | additional equitable servitudes shall not detract from the covenants and
37 | restrictions contained in this Declaration.
38 |
- 39 | 1.571.59 Total Voting Power. “Total Voting Power” shall mean the total number of
40 | votes of all Members entitled to vote at a particular time, calculated on the basis
41 | of one (1) vote for each Residential Lot or Unit owned, excluding any Residential
42 | Lots or Units as to which an Owner is not then a Member in Good Standing.
43 |
- 44 | 1.581.60 Town. “Town” shall mean the Town of Truckee.

1
2 | 1.591.61 Unit. "Unit" shall mean the elements of a Condominium that are not
3 owned in common with the Owners of other Condominiums within the
4 Condominium Project, which Units are shown as separately designated and
5 numbered areas on the respective Condominium Maps or Plans. The boundaries
6 of each Unit and any appurtenances thereto, along with what is included within
7 each Unit, are described on the respective Condominium Plans or Maps for the
8 Condominium Projects. At the time that this Declaration is recorded, there are six
9 hundred sixty-eight (668) Units in the Project.
10

11 **ARTICLE 2 HOMEOWNERS ASSOCIATION**

13
14 2.1 Management and Operation; Bylaws. The Association is an "association" as
15 defined in *Civil Code* section 4080 and as such shall have the power and the
16 authority to manage and operate the Development in accordance with the
17 Governing Documents and the provisions of applicable law. The Association
18 shall have all of the powers set forth in the Governing Documents together with
19 general power to do any and all things that a nonprofit mutual benefit corporation
20 may lawfully do under the laws of the State of California, subject only to the
21 limitations upon the exercise of such powers as are expressly set forth in the
22 Governing Documents. Provisions concerning the operation of the Association
23 as a nonprofit mutual benefit corporation are set forth in the Bylaws.
24

25 2.2 Legal Standing. To the fullest extent permitted by law, including *Civil Code*
26 section 5980, the Association shall have standing to institute, defend, settle, or
27 intervene in litigation, arbitration, mediation, or administrative proceedings in its
28 own name as a real party in interest, and without joining with it the Owners, in
29 matters pertaining to the following:
30

- 31 (a) Enforcement of the Governing Documents,
- 32
- 33 (b) Damage to the Common Area,
- 34
- 35 (c) Damage to the Separate Interests that the Association is obligated to
36 maintain, repair, or replace,
- 37
- 38 (d) Damage to a Separate Interest that arises out of, or is integrally related to,
39 damage to the Common Area or Separate Interests that the Association is
40 obligated to maintain, repair, or replace.
- 41

42 2.3 Membership. Every Owner of Separate Interest shall be a Member of the
43 Association and shall remain a Member thereof until such time as his or her
44 ownership of such Separate Interest ceases for any reason. Fee ownership of a

1 Separate Interest shall be the sole qualification for membership in the
2 Association. Membership shall be appurtenant to and may not be separated from
3 ownership of a Separate Interest and shall not be transferred, encumbered,
4 pledged, alienated, or otherwise hypothecated in any way, except in connection
5 with the sale or encumbrance of the Separate Interest to which it is appurtenant.
6 Owners of Commercial Lots are not Members.
7

8 2.4 Voting. Only Members in Good Standing shall be entitled to vote and, only one
9 (1) vote shall be cast for each Separate Interest, as more particularly set forth in
10 the Bylaws.
11

12 2.5 Association Rules. Subject to applicable law including *Civil Code* section 4340
13 and following, regarding notice and procedures, the Board shall have the power
14 and the authority to establish, promulgate, amend, repeal, and enforce Rules.
15 The Association Rules may concern, but need not be limited to: (i) matters
16 pertaining to use of the Common Area and Common Facilities and Other
17 Association's Real Property by Owners, their tenants, guests and invitees, or any
18 other person(s) who have a right to use and enjoyment of such Common Area.
19 Common Facilities, and Other Association's Real Property; (ii) architectural
20 control and rules of the ASC under Article 9 ("Architectural Approval") of this
21 Declaration; (iii) the conduct of disciplinary proceeding in accordance with Article
22 13 of this Declaration; (iv) regulation of parking, pet ownership and other matters
23 subject to regulation and restrictions under Article 5 ("Use Restrictions for the
24 Development and Common Area"); (v) minimum standards for the maintenance
25 of improvements on a Commercial Lot, Condominium Lot and Residential Lot;
26 and (vii) any other subject or matter within the jurisdiction of the Association's as
27 provided in the Governing Documents.
28

29 2.6 Other Association's Real Property. As noted herein, the Association holds title to
30 certain parcels of real property, more particularly described in Exhibit E, which is
31 not encumbered as Common Area ("Other Association's Real Property"). The
32 use, enjoyment and development of the Other Association's Real Property shall
33 be in the sole discretion of the Board of Directors except that:
34

- 35 (a) Such use, enjoyment and development shall always be to the advantage
36 and in the best interests of the Association and its Members; and
37
38 (b) On the vote of a Majority of a Quorum of the Members, all or any portion of
39 the Other Association's Real Property can be designated as Common
40 Area. The minimum quorum for any vote of the Members hereunder shall
41 be fifty percent (50%) of the Total Voting Power and, in the event that the
42 Members approve the re-designation of any Other Association's Real
43 Property as Common Area, evidence of such action shall be made a
44 matter of record by recordation of an appropriate written instrument,

1 signed and acknowledged by the president and secretary of the
2 Association.
3
4

5 **ARTICLE 3 PROPERTY SUBJECT TO THIS DECLARATION**

6
7 3.1 Legal Description. The property subject to this Declaration and to the jurisdiction
8 of the Association is described in **Exhibit A**.
9

10 3.2 Classification of Property. The property subject to this Declaration is a planned
11 development and condominium project. All of the property subject to the
12 Declaration is divided into the following categories:
13

14 (a) General Common Area and Common Facilities,
15

16 (b) Condominium Units, and
17

18 (c) Commercial Lots, Condominium Lots, Multi-Family Lots, and Residential
19 Lots.
20

21 3.3 Residential Lot Ownership Interest; No Separate Conveyance. The ownership
22 interest of each Residential Lot Owner shall include: (i) a designated Residential
23 Lot; (ii) a Membership in the Association; and (iii) easements as are applicable,
24 all as described in this Declaration or, or on a Subdivision Map, or in the deed to
25 the Residential Lot. Membership and any such easements shall be appurtenant
26 to and may not be separated from ownership of a Residential Lot and shall not be
27 transferred, encumbered, pledged, alienated, or otherwise hypothecated in any
28 way, except in connection with the sale or encumbrance of the Residential Lot to
29 which it is appurtenant.
30

31 3.4 Condominium Unit Ownership Interest. Ownership of each condominium Unit
32 within the Project shall include: (i) a designated Unit; (ii) a Membership in the
33 Association, and, as provided for in a Supplemental Declaration, the respective
34 undivided interest as tenant in common in the Condominium Common Area as
35 set forth in a deed to the Unit; and (iii) any exclusive easements or easements
36 appurtenant to such Unit upon the Exclusive Use Condominium Common Area
37 and such other easements as are applicable, all as described in the Declaration,
38 in the deed to the Unit, or in the Condominium Map or Plan.
39

40 3.5 Limitation on Partition of General Common Area. There shall be no subdivision
41 or partition of the General Common Area, nor shall any Owner seek any partition
42 or subdivision of the General Common Area. Notwithstanding any provision to
43 the contrary contained in this Declaration and in order to provide for a means of
44 terminating the Development if this should become necessary or desirable upon

1 the occurrence of any of the conditions presently set forth in *Civil Code* section
2 4610 or as such conditions in the future may be set forth in any amendment
3 thereto or comparable provision of law, two-thirds (2/3) of the Owners of
4 Separate Interests shall have the right to petition the Superior Court having
5 jurisdiction to alter or vacate the Subdivision Maps under California *Government*
6 *Code* section 66499.21 and following, or any comparable provisions of law, and
7 to vest title to the General Common Area in the Owners as tenants in common
8 and order an equitable partition of the General Common Area in accordance with
9 the laws of the State of California. If any Separate Interest shall be owned by two
10 (2) or more co-tenants as tenants in common or as joint tenants, nothing
11 contained in this Declaration shall be deemed to prevent a judicial partition by
12 sale as between such co-tenants.
13

14 3.6 Notice of Airport in Vicinity [*Civil Code* section 4255(a)]. This property is
15 presently located in the vicinity of an airport, within what is known as an airport
16 influence area. For that reason, the property may be subject to some of the
17 annoyances or inconveniences associated with proximity to airport operations (for
18 example: noise, vibration, or odors). Individual sensitivities to those annoyances
19 can vary from person to person. You may wish to consider what airport
20 annoyances, if any, are associated with the property before you complete your
21 purchase and determine whether they are acceptable to you. As provided by
22 *Civil Code* section 4255(d), the preceding statement does not constitute a title
23 defect, lien, or encumbrance.
24

25 3.7 Annexation. Additional real property may be added to the Development upon the
26 approval of a majority of the Total Voting Power of the Association as to the
27 principal terms of such annexation. As used herein, the term Annexation shall
28 not include any acquisition of real property by the Association as Common Area
29 or Other Association's Real Property, [which property may be annexed into the](#)
30 [Development by approval of the Board](#).
31

32 3.7.1 Declaration of Annexation. For purposes of this **Section 3.7**,
33 "Declaration of Annexation" shall mean any instrument recorded in the
34 County which extends the provisions of this Declaration to all or a
35 portion of any additional real property. Any such Declaration of
36 Annexation shall (i) be executed by the Owner of the Real Property and
37 by the Association, (ii) extend the general plan and scheme of this
38 Declaration to such real property, and (iii) may contain such additions
39 to and modification of the covenants and restriction of this Declaration
40 as may be necessary to reflect the different character, if any, of the
41 added real property so long as the supplemental restrictions are
42 consistent with the general plan and scheme of this Declaration and all
43 applicable laws and governmental regulations. Any such Supplemental
44 Declaration may set forth use restrictions and the design and building

standards which shall apply to the annexed real property or may give blanket approval for development of that real property in accordance with specific architectural plans and drawings which are signed, dated, and incorporated by reference in the Supplemental Declaration.

3.7.2 Effect of Filing a Declaration of Annexation. The filing of a Declaration of Annexation shall constitute and effectuate the annexation of the additional real property described therein, and thereupon said real property shall become and constitute a part of the Development and shall be subject to and encompassed within this Declaration. Separate Interests within the annexed real property shall thereupon become subject to Assessment by the Association and to the functions, powers and jurisdiction of the Association, and the Owners of such Separate Interests shall automatically become Members of the Association.

3.7.3 Deannexation by the Board; Effect of Deannexation. Upon approval of the Board, the Association shall have the authority to deannex any Common Area sold by the Association. The filing of a declaration of deannexation shall constitute and effectuate the deannexation of the real property described therein, and thereupon said real property shall no longer constitute a part of the Development and shall no longer be subject to and encompassed within this Declaration.

3.8 Use of Development Fund for Capital Improvements. The Board of Directors shall have the power and authority to maintain a Development Fund for capital improvement projects for the Development. Such funds shall be raised pursuant to a Development Fund Special Assessment as set forth in **Section 10.9**. The Board of Directors shall have the power and authority to use the Development Funds to provide for the construction, installation, or acquisition of capital improvement projects without a vote of the Members, so long as the Development Funds are used for the purpose designated in an election for the Development Fund Special Assessment. Any proposal to use Development Funds for a capital improvement project or for a part of a capital improvement project shall be disclosed to the Members in the Annual Budget Report as set forth in the **Section 7.5 of the Bylaws**.

3.8.3.9 Transfer or Sale of Association's Property. Upon the approval of two-thirds (2/3) of the Total Voting Power of Members, the Board of Directors shall have the power and authority to dedicate, transfer, convey or sell the property of the Association so long as such action does not impede ingress to or egress from a Lot. The approval requirements of this **Section 3.9** shall not apply to grants of easements by the Association for utility purposes within the Common Area, so long as such easement grant does not impede the ingress to and egress from a Lot. ~~[NOTE TO BOARD: Previously in Bylaws at Art. IX 2 (d).]~~

1
2 | 3.93.10 New Capital Improvements. The Board of Directors shall have the power
3 and authority to provide for the construction, installation, or acquisition of new
4 capital improvements upon the Common Area (as distinguished from
5 expenditures for the reconstruction or replacement of an existing capital
6 improvement), provided that in any fiscal year expenditures for such new capital
7 improvements shall not exceed five percent (5%) of the budgeted gross
8 expenses of the Association for that fiscal year without the approval of a majority
9 of the Total Voting Power of the Association. No new recreational Common Area
10 Facility construction project shall be approved without the Board first adopting a
11 detailed budget of the total projected project construction costs. Expenditures
12 from the Association's capital replacement reserve fund or ~~capitol development~~
13 ~~fund~~Development Fund shall not be subject to the approval requirements of this
14 Section 3.10 so long as such expenditure is for the purpose for which the fund
15 was established. ~~[NOTE TO BOARD: Previously in bylaws at Art. IX 2(a)(i)~~
16 ~~and (ix).]~~

17
18 | 3.103.11 Mortgage Association's Property. Upon the approval of a Majority of a
19 Quorum of Members, the Board shall have the power and authority to pledge,
20 lien, mortgage, deed of trust, or otherwise hypothecate the General Common
21 Area and personal property owned by the Association.

22
23 | 3.113.12 Action to Terminate Operation of any Common Facility. Upon the approval
24 of a majority of the Total Voting Power of the Association, the Board shall have
25 the power to terminate the operation of any Common Facilities identified in
26 Section 1.10.2 ("Common Facilities"), or any other recreational facility not so
27 identified when the replacement cost of such unidentified facility is in excess of
28 five percent (5%) of the budgeted gross expenses of the Association for that
29 fiscal year in which the closure is scheduled. This Section 3.12 shall not apply to
30 any Board action to temporarily close a Common Facility for repairs,
31 rehabilitation, a failure to obtain liability insurance at a reasonable rate, health
32 and safety reasons, or the closure for the season(s) for which the facility was
33 intended and such authority shall remain matters within the sole discretion of the
34 Board. ~~[NOT TO BOARD: Previously in bylaws at Section 2(b) at pg. 23.]~~

35
36
37 **ARTICLE 4 MECHANIC'S LIENS; EASEMENTS**

38
39 4.1 Mechanic's Lien Against Common Area. In the event there shall be filed against
40 the Common Area a notice of mechanic's lien for, or purporting to be for, labor or
41 materials alleged to have been furnished or delivered for any Owner within the
42 Development or his or her Lot, such Owner shall forthwith cause such lien to be
43 discharged by payment, bond, or otherwise. If the Owner fails to cause the lien
44 to be discharged, the Board may send written notice to the Owner specifying that

1 unless the Owner causes the lien to be discharged within five (5) days from the
2 date of such notice, the Board may cause the lien to be discharged. Within such
3 five (5) day period, and notwithstanding any other provisions of the Governing
4 Documents concerning notice or hearing, the Owner shall be permitted a hearing
5 before the Board regarding the validity of such lien and any offsets or defenses
6 thereto. At that time, the Board shall determine whether the lien adversely and
7 improperly affects and encumbers the rights and interests of the Association or
8 the other Owners. If the Board of Directors determines that the lien does
9 adversely and improperly affect and encumber such rights and interests and that
10 adequate protection of such rights and interests has not been provided, the
11 Board may cause the lien to be discharged by payment, bond, or otherwise. The
12 Board shall have the right to levy a Reimbursement Assessment against the
13 Owner responsible for causing the lien to be discharged in an amount equal to all
14 amounts paid by the Association together with interest thereon at the legal rate
15 and all costs and expenses paid or incurred in connection therewith, including
16 reasonable attorney fees.

17
18 4.2 Easements in General. In addition to all easements reserved and granted on the
19 Subdivision Maps, there are hereby specifically reserved and granted for the
20 benefit of the Lots and Lot Owners in common and for each Lot and Lot Owner
21 severally, and for the Association, as their respective interests shall appear, the
22 easements, reciprocal negative easements, secondary easements, and rights-of-
23 way as particularly identified in this Article 4.

24
25 4.3 Separate Interest Owner's Non-exclusive Easements of Enjoyment. Every
26 Owner of a Separate Interest shall have a non-exclusive easement of use of and
27 enjoyment in, to, and throughout the Common Area of the Development. Each
28 such non-exclusive easement shall be appurtenant to and pass with the title to
29 every Separate Interest, subject to the following rights and restrictions:

- 30
31 (a) The right of the Board to establish and enforce Rules governing the use of
32 the General Common Area and Common Facilities thereon;
33
34 (b) The right of the Board to charge reasonable admission and other fees for
35 the use of any Common Facilities;
36
37 (c) The right of the Board to suspend an Owner's right to use the Common
38 Facilities as provided in Section 14.8 ("Imposing Sanctions");
39
40 (d) The right of the Board to limit the number of Owners or guests who may
41 use any Common Facilities;
42
43 (e) The right of the Board to implement, as a part of the Association Rules, a
44 recreational facility pass system to regulate the number of individuals that

1 have a right to use the Common Facilities based upon Ownership of a
2 Separate Interest and the terms and conditions of such usage, such
3 system can make reasonable distinctions between the user privileges of
4 Owners, tenants, guests and invitees, and subclasses of each, so long as
5 all classes of users similarly situated are treated fairly and equally. The
6 Board shall also have the authority to permit members of the public to use
7 recreational Common Facilities if the Board reasonably determines that
8 such usage will make the facility more cost effective and can be
9 accommodated without overburdening the Common Facility;

- 10
- 11 (f) The right of the Board, as set forth in **Section 3.9** (“Transfer or Sale of
12 Association’s Property”), to dedicate, transfer convey or sell the General
13 Common Area and Common Facilities owned by the Association;
- 14
- 15 (g) The right of the Board, as set forth in **Section 3.11** (“Mortgage
16 Association’s Property”), to pledge, lien, or mortgage property owned by
17 the Association as security for a loan;
- 18
- 19 (h) The right of the Association or its authorized agents, as provided in this
20 Declaration, to perform its obligations under this Declaration, including
21 obligations with respect to construction, maintenance, repair, or
22 replacement for the benefit of the Common Area or the Owners in
23 common.
24

25 4.4 Utility Easements. There are reserved and there exist easements for the
26 installation and maintenance of utilities and drainage facilities as shown on the
27 Subdivision Maps. There shall be no structures, plantings or other items
28 materials shall be placed or permitted to remain which may change or interfere
29 with the installation and maintenance of utilities, or which may damage, interfere,
30 or change the direction of flow of drainage facilities within the easement.
31

32 4.5 Maintenance of Easement Areas. No dwelling unit and/or other structure of any
33 kind shall be built, erected or maintained upon any such easement, reservations
34 and rights-of-way, at all times, be open and accessible to public and quasi-public
35 utility corporations, and other persons erecting, constructing, or servicing such
36 utilities and quasi-utilities, all of whom shall have the right of ingress and egress,
37 thereto and therefrom, and the right and privilege of doing whatever may be
38 necessary in, under and upon said locations for the carrying out of any purpose
39 for which said easements, reservations and rights-of-way were and hereby are
40 reserved and may hereafter be reserved.
41

42 4.6 Slope Control and Drainage Areas. There are reserved slope control areas and
43 drainage area as shown upon the Subdivision Maps. Within those slope control
44 areas no structure, planting, or other material shall be placed or permitted to

1 remain or other activities undertaken which may damage or interfere with
2 established slope ratios, create erosion or sliding problems, and within the
3 drainage areas no structure, planting, or other material shall be placed or
4 permitted to remain or other activities undertaken which or which may change the
5 directions of the flow of drainage channels without provisions for other Lots and
6 the Common Area.

7
8 4.7 Recreational Easements. There are recreational easements as are shown on the
9 Subdivision Maps. Within such easements, no structure of any kind shall be
10 placed or maintained, and no tree or vegetation shall be felled, cut, trimmed,
11 pruned or removed, except as may reasonably be required by the Association to
12 construct and maintain trails ~~and, to maintain defensible space, and maintain~~
13 park sites therein and/or for the construction and maintenance of public and
14 private utility ~~easement~~easements as shown on the Subdivision Maps. Such
15 easement shall be open and accessible to Members and their guests and invitees
16 and such other persons as may from time to time be designated by the
17 Association, for right-of-way and general park purposes, subject to reasonable
18 rules and regulations established by the Association.

19
20 4.8 Other Easements. Each Lot and its Owner(s), and the Association as to
21 Common Area, are hereby declared to be subject to easements, dedications, and
22 rights-of-way granted or reserved in, over and under the Development and each
23 Lot and Common Area as shown on the Subdivision Maps.

24
25 4.9 Priority of Easements. Whenever easements granted to the County are, in whole
26 or in part, coterminous with any other easements, the easements of the County
27 shall have and are hereby granted priority over said other easements in all
28 respects.

29
30 4.10 Board Authority to Grant Easements and Licenses. Notwithstanding any other
31 provisions of the Governing Documents, the Board shall have the power in its
32 discretion without approval vote of the Members to grant and convey licenses for
33 use, rights-of-way, and nonexclusive easements in, over, or under the Common
34 Area or any portion thereof to Owners, for such purposes as the Board deems to
35 be appropriate and not inconsistent with the purposes and interests of the
36 Association; provided, however, that approval of a majority of quorum of the
37 Members shall be required to grant an exclusive easement over Common Area to
38 any Member, other than any grant or conveyance to a Member described in Civil
39 Code section 4600(b).

40
41
42 **ARTICLE 5 USE RESTRICTIONS FOR THE DEVELOPMENT AND COMMON**
43 **AREA**
44

1 In addition to the restrictions established by law or the Rules of the Association
2 (consistent with this Declaration), the following restrictions are hereby imposed upon the
3 use of all of the Lots and Common Area of the Development.
4

5 5.1 Use Restrictions that Apply to the Development. The following restrictions apply
6 to all the property within the Development:
7

8 5.1.1 Unlawful Conduct, Nuisances, Noise. No illegal, noxious, or offensive
9 activities shall be conducted upon or within any part of the
10 Development, nor shall anything be done within the Development
11 which may be or become a nuisance, or cause unreasonable
12 annoyance to any Owner or Resident of the Development. Without
13 limiting any of the foregoing, no Owner or Resident shall permit noise,
14 including but not limited to the barking of dogs, the operation of
15 excessively noisy air conditioners, stereo amplifier systems, television
16 systems, motor vehicles (including snow mobiles), or power tools to
17 emanate from a Lot that would unreasonably disturb another Owner or
18 Resident's enjoyment of his or her Lot or a Member's enjoyment of the
19 Common Area.
20

21 5.1.2 Compliance with Laws. Each Owner and Resident shall comply with all
22 requirements of all federal, state, and local governmental authorities
23 and all laws, ordinances, rules and regulations applicable to his or her
24 Lot and Dwelling and the Common Area.
25

26 5.1.3 Conditions Affecting Insurance. Nothing shall be done, placed, or kept
27 within the Development that will increase the rate of insurance or result
28 in the cancellation of insurance under any insurance policy maintained
29 by the Association, or which will be in violation of any governmental
30 statute, ordinance, rule, or regulation. If any Owner or Resident, or his
31 or her tenant, invitee, or guest shall violate this **Section 5.1.3**, the Lot
32 Owner shall be liable to the Association for any resulting increase in
33 insurance premiums and any other damages, which may be assessed
34 against the responsible Owner as a Reimbursement Assessment.
35

36 5.1.4 Requirement of Architectural Approval. As addressed **Article 8**
37 ("Minimum Construction Standards") and in **Article 9** ("Architectural
38 Approval") any construction, installation, modification, or alteration of
39 buildings, outdoor structures, landscaping, and outdoor lighting on any
40 Lot shall be done in conformance with the minimum construction
41 standards and are subject to prior approval of the ASC unless a
42 variance has been granted by the Board in accordance with **Section**
43 **9.13.2** ("Non-approval of Variance") and **Section 9.14** ("Disapproval by
44 ASC; Reconsideration by Board").

1
2 5.1.5 Restriction on Further Subdivision and Severability. Except for
3 Condominium Lots, no Lot shall be further subdivided nor shall less
4 than all of any such Lot be conveyed by an Owner thereof. No Owner
5 of a Lot or Condominium within the Development shall be entitled to
6 sever that Residential Lot or Condominium from the Common Area
7 portion of the Development.

8
9 5.1.6 Additional Restrictions.

- 10
11 (i) there shall be no hunting or discharge of firearms ~~on~~
12 anyanywhere within the Development, including upon a Lot.
13
14 (ii) there shall be no water well on any Lot, unless (a) a permit has
15 been obtained from the ASC for the use of a water well thereon,
16 and (b) the location of, and facilities used in connection with
17 such well have been approved by the ASC.
18
19 (iii) there shall be no blasting or discharge of explosive upon any
20 Lot, without the express prior approval of the ASC.
21

22 5.2 Use of Common Area Generally. All use of Common Area is subject to the
23 Governing Documents. Subject to the provisions of the Governing Documents,
24 the Common Area shall be held, maintained, and used to meet the common
25 interests of the Owners and the Residents of each Separate Interest, their
26 tenants, and guests. Without limiting the generality of the foregoing:
27

28 5.2.1 No Public Rights. There shall be no entitlement to public use of,
29 access to, or other public rights in, the Common Area. The Association
30 reserves the rights to prohibit entry upon the Common Area by any
31 person whose presence is not authorized by the Governing
32 Documents.
33

34 5.2.2 No Alteration of Common Area. The Common Area shall be preserved
35 as open space except where improved for recreational purposes or
36 other ancillary purposes incidental to use of the Lots or administration
37 of the Association. No improvement, excavation, or work which in any
38 way alters any General Common Area or Common Facility from its
39 natural or existing state shall be made or done except by the
40 Association and then only in strict compliance with this Declaration.
41 Without limiting the foregoing, it is anticipated that the existing
42 Common Facilities will require future expansion in order to
43 accommodate increased Member usage as Dwellings are constructed
44 upon Separate Interests within the Development. The construction of

1 new capital improvements and the cessation of an existing Common
2 Facility are subject to the Member approval requirements of Section
3 3.10 (“New Capital Improvements”).

4
5 5.2.3 No Obstruction of Common Area. The Common Area shall be kept
6 free of rubbish, debris, and other unsightly or unsanitary materials.
7 There shall be no obstruction of any part of the Common Area nor shall
8 anything impair access to the Common Area. Each Owner shall avoid
9 causing any damage to the Common Area.

10
11 5.2.4 No Storage in the Common Area. No Owner shall be permitted to
12 install, maintain, keep, or store anything in the Common Area.

13
14 5.2.5 No Smoking in Common Facilities. For the safety of the property and
15 for the health, safety, and security of all Residents of the Development,
16 no smoking of cigarettes, pipes, electronic cigarettes or “e-cigarettes,”
17 personal vaporizers (PV), electronic nicotine delivery systems (ENDS),
18 cigars, or any other tobacco product, marijuana, or legal or illegal
19 substance shall be permitted anywhere in the Common Facilities,
20 whether indoors or outdoors. “Smoking” shall include the inhaling,
21 exhaling, burning, or carrying of any lighted cigarette, pipe, cigar, or
22 other tobacco product, electronic cigarettes or “e-cigarettes,” personal
23 vaporizers (PV), electronic nicotine delivery systems (ENDS),
24 marijuana, or illegal substance.

25
26 5.2.6 No Overnight Parking in Common Area. Except pursuant to an
27 overnight emergency parking permit issued by the Association, no
28 Owner or Resident, nor his or her tenant, invitee, or guest shall be
29 permitted to park overnight in any Common Area parking lot.

30
31 5.2.7 Delegation of Use of Common Area. Any Owner of a Separate Interest
32 may delegate his or her rights of use and enjoyment, including
33 easements, in the Development to tenants, Contract Purchasers, and
34 guests, subject to the terms of the Governing Documents. ~~It is the~~
35 ~~express purpose and intent of this Section 5.2.7 to limit the right of use~~
36 ~~and enjoyment of the Common Area amenities to Residents of the~~
37 ~~Separate Interests within the Development and their accompanied~~
38 ~~guests. [NOTE TO BOARD: Are guests required to be~~
39 ~~accompanied by the Resident when using Common Area~~
40 ~~amenities?]~~ Upon the leasing or renting of a Separate Interest, or
41 upon occupancy of a Separate Interest by a Contract Purchaser, the
42 Owner shall be deemed to have delegated and assigned all such rights
43 exclusively to the tenants or Contract Purchasers of such Separate
44 Interest. Any rights of enjoyment that have been delegated by an

1 Owner of a Separate Interest are subject to suspension to the same
2 extent that rights of such Owners are subject to suspension as
3 provided in the Governing Documents.
4
5

6 **ARTICLE 6 USE RESTRICTION FOR RESIDENTIAL LOTS AND**
7 **CONDOMINIUM LOTS**

8
9 ~~The Unless specifically stated otherwise within a specific section, the~~ provisions ~~of~~in this
10 Article ~~6 do~~6 shall not apply to the Commercial Lots.
11

12 6.1 Use of Residential Lots and Condominium Lots. Each Residential Lot shall be
13 conveyed as a separately designated and legally described fee simple estate and
14 each Condominium Lot shall be conveyed by reference to a recorded
15 Condominium Map or Plan and a Supplemental Declaration. Except for those
16 Lots owned by the Association, the additional use restrictions of this **Article 6**
17 apply to all Residential Lots, Condominium Lots, and Condominiums.
18

19 6.2 Development of Residential Lots and Condominium Lots. Each Residential Lot
20 shall be improved with a single-family Dwelling and each Condominium Lot shall
21 be improved with a Condominium Project or apartment project. As addressed
22 **Article 8** (“Minimum Construction Standards”) and in **Article 9** (“Architectural
23 Approval”) construction, installation, modification, or alteration of the structure(s),
24 landscaping, and outdoor lighting on any Residential Lot or Condominium Lot
25 shall be in conformance with the minimum construction standards and are subject
26 to prior approval of the ASC, unless a variance has been granted in accordance
27 with **Section 9.13** (“Variances”).
28

29 ~~6.3 Kitchens. No more than one (1) kitchen facility shall be installed or maintained~~
30 ~~within a Dwelling.~~
31

32 6.46.3 Residential Use. Except to the extent permitted in **Section 6.11** (“Restriction on
33 Businesses Conducted Within a Separate Interest”), Residential Lots and
34 Condominiums shall be occupied and used only for single-family residential
35 purposes in conformity with the requirements of applicable zoning laws or other
36 state or local rules or regulations.
37

38 6.56.4 Occupancy Limit. In no event shall a Dwelling be occupied by more individuals
39 than permitted by applicable law, zoning or other governmental regulations.
40

41 6.66.5 No Temporary Structures; No Camping. Except as provided for in **Section 8.1(i)**
42 (“No Temporary Structures”) and **Section 9.2.9** (“Storage Units; Temporary
43 Structures”), no temporary structures of any kind and no camping whether

1 | temporary or permanent shall be permitted on a Residential Lot or ~~on a~~
2 | Condominium Lot.

3 |
4 | 6.76.6 Outbuildings. In no event shall any outbuilding, shed, garage or similar structure
5 | be used for human occupancy, either temporarily or permanently.

6 |
7 | 6.86.7 Residential Lots and Condominiums Adjacent to the Golf Course. Each Owner of
8 | a Residential Lot and each Owner of a Condominium Lot adjacent to the golf
9 | course shall permit entrance upon the Residential Lot or Condominium Lot by
10 | golfers for the purpose of retrieving golf balls.

11 |
12 | 6.96.8 Access. Except for Lots owned by the Association, there shall be no access to a
13 | Residential Lot or a Condominium Lot anywhere along the perimeter of such
14 | ~~lot~~Lot, except from a designated street or road.

15 |
16 | 6.106.9 Tree Removal. ~~No tree with a diameter greater than four inches (4")~~This
17 | Section 6.9 shall ~~be destroyed, uprooted, cut down or removed from also apply to~~
18 | the Commercial Lots The removal of any Residential tree located upon a Lot or
19 | Condominium Lot without is subject to prior architectural approval as provided for
20 | in Article 9 ("Architectural Approval") and Section 9.3.4 ("Tree Removal"). No
21 | Owner may remove a tree located within the Common Area.

22 |
23 | 6.116.10 Animals:
24 | . This Section 6.10 shall also apply to the Commercial Lots.

25 |
26 | 6.11.16.10.1 No Commercial Purposes. No animals shall be kept, bred, or
27 | maintained within the Development for any commercial purpose.

28 |
29 | 6.11.26.10.2 Number of Pets. A reasonable number of common domestic
30 | household pets, consistent with applicable laws, zoning, or ordinances,
31 | may be kept on each Residential Lot or within a Unit. No other animals
32 | including livestock, horses, or poultry or any kind, may be kept, bred, or
33 | raised upon a Residential Lot or within a Condominium Lot/Unit.

34 |
35 | 6.11.36.10.3 Control of Pets. While in Common Areas pets must be caged,
36 | carried, or restrained on a leash held by a responsible person capable
37 | of controlling the pet. Any Owner or Resident may cause any
38 | unleashed dog within the Common Area to be removed to a pound or
39 | animal shelter under the jurisdiction of the City of Truckee or the
40 | County of Nevada. No pet shall be left chained or otherwise tethered
41 | within any portion of the Common Area.

42 |
43 | 6.11.46.10.4 No Outside Feeding of Animals. There shall be no feeding of
44 | ducks, geese, deer, or any other non-domesticated animals within the

1 Development. In order to control feral cats, raccoons, vermin, and
2 other stray animals within the Development, no animal food shall be
3 kept or placed outside anywhere within the Development, except for
4 approved bird feeders. Pet feeding stations may not be kept in a
5 garage if the garage door is left open permitting animals to access the
6 feeding station.
7

8 | 6.11.56.10.5 Responsibility for Pets. The owner of each pet shall be responsible
9 for immediately removing and disposing of any waste introduced to any
10 portion of the Development by such pet. Owners, their tenants, and
11 guests shall prevent their pets from soiling any portion of the Common
12 Area and shall immediately clean up any mess left by their pet.
13

14 | 6.11.66.10.6 Indemnification Regarding Pets. Each Owner, Resident, and any
15 person bringing or keeping an animal within the Development shall be
16 absolutely liable to the Association and all other persons for any injury
17 or damage to persons or property caused by the animal brought upon
18 or kept upon the Development by such person or by members of his or
19 her household, tenants, invitees, or guests. To the fullest extent
20 permitted by law, each Owner agrees to and shall indemnify and
21 defend the Association, its officers, directors, employees, and agents
22 and shall hold them harmless from and against any cost, loss, claim, or
23 damages of any kind, arising out of or resulting from the presence or
24 conduct of any animal brought upon or kept within the Development by
25 the Owner, members of his or her household, tenants, invitees, or
26 guests including but not limited to attorney fees, any claims for
27 consequential damages, and any claims arising or alleged to arise out
28 of the enforcement or nonenforcement by the Association of the
29 Governing Documents, including but not limited to the restrictions on
30 animals contained in this Section 6.10. Any amounts owed pursuant to
31 this Section 6.10.6 may be assessed as a Reimbursement
32 Assessment.
33

34 | 6.11.76.10.7 Removal of Nuisance Pets. The Association shall have the right to
35 prohibit the keeping of any animal which, after the responsible Owner
36 or Resident has an opportunity for a hearing called by the Board
37 pursuant to Section 14.12 ("Hearing Called by the Board; Executive
38 Session; Open Meeting"), is found by the Board to be a nuisance.
39

40 | 6.11.86.10.8 Pet Rules. The Board may adopt and enforce pet Rules in addition
41 to the provisions of this Section 6.10, including Rules pertaining to the
42 number and size of pets.
43

1 | 6.11.96.10.9 Horses. Horses shall only be permitted within those portions of the
2 | Common Area designated for equestrian use.

3 |
4 | 6.126.11 Restriction on Businesses Conducted Within a Separate Interest. ~~This~~
5 | ~~Section 6.12 is not applicable to the Commercial Lots.~~

6 |
7 | 6.12.16.11.1 Types of Businesses Allowed. No business of any kind shall be
8 | established, maintained, operated, permitted, or conducted within a
9 | Separate Interest except: (i) professional, administrative, or clerical
10 | activity as may be permitted by applicable governmental ordinances
11 | without the requirement of a conditional use permit but only if such
12 | activity does not entail the presence of employees, patrons, clients, or
13 | vendors except on an infrequent basis; does not require storage of
14 | large amounts of bulky goods or inventory; there is no external
15 | evidence of such activity including but not limited to a significant
16 | increase in traffic within the Development; the activity complies with all
17 | applicable governmental ordinances; and the activity is merely
18 | incidental to the use of the Separate Interest for residential purposes
19 | and (ii) certain care facilities that, by law, cannot be prohibited within
20 | the Development.

21 |
22 | 6.12.26.11.2 Indemnification Regarding Business Activity. To the fullest extent
23 | permitted by law, every Owner or Resident who conducts or engages
24 | in any business, commercial endeavor, or profession within the
25 | Development, or whose tenant does so, agrees to and shall indemnify
26 | and defend the Association, its officers, directors, employees, and
27 | agents and shall hold them harmless from and against any cost, loss,
28 | claim, or damages of any kind, arising out of the conduct or presence
29 | of such activity, including but not limited to attorney fees, any claims for
30 | consequential damages, and any claims arising or alleged to arise out
31 | of the enforcement or non-enforcement by the Association of the
32 | Governing Documents, including but not limited to the restriction on
33 | business contained in this Section 6.11. Any amounts owed pursuant
34 | to this Section 6.11.2 may be assessed as a Reimbursement
35 | Assessment.

36 |
37 | 6.136.12 Signs, Banners, Flags. Only the following types of signs, posters,
38 | banners, or flags shall be displayed to the public view from any portion of the
39 | Development:

- 40 |
41 | (a) Signs required by legal proceedings;
42 |
43 | (b) A noncommercial sign or poster no larger than nine (9) square feet in size
44 | or a noncommercial flag or banner no larger than fifteen (15) square feet in

1 size, displayed upon a Lot or Dwelling, and limited to the fullest extent
2 permitted by *Civil Code* section 4710; ~~[NOTE TO BOARD: This~~
3 ~~includes political signs. This is the most restrictive provision~~
4 ~~allowed by law and it must be in the CC&Rs in order to be~~
5 ~~enforceable.~~

- 6
- 7 (c) A single sign of customary and reasonable dimension and design,
8 complying with the provisions of any applicable ordinance, if any, and
9 reasonably located on a Lot advertising a Lot for sale or rent;
- 10
- 11 (d) Other signs which by law cannot be prohibited;
- 12
- 13 (e) A flag of the United States, subject to any city or county restrictions as to
14 size and as to time, place, and manner of display, as provided in *Civil*
15 *Code* section 4705;
- 16
- 17 (f) A single identification sign which has been approved by the ASC (if any)
18 located on a Lot identifying the number or address of the Lot and/or the
19 names of the occupants;
- 20
- 21 (g) Signs on the Common Area as approved by the Board for a purpose
22 reasonably related to the affairs of the Association, including signs located
23 at or near any entrance to the Common Facilities.
- 24

25 | 6.146.13 Vehicles and Parking.

26

27 | 6.14.16.13.1 Restricted Vehicles. Restricted Vehicles shall not be kept or parked
28 anywhere within the Development except entirely inside a garage, or
29 entirely within a driveway, or in a public street, or in a Common Area
30 storage area. The following types of vehicles are Restricted Vehicles:
31 (i) campers, mobile homes, motor homes, recreational vehicles, (ii)
32 trailers, (iii) boats, (iv) snowmobiles, except those on a trailer, and (v)
33 commercial vehicles. The term "commercial vehicle" shall not include
34 any two-axle passenger vehicle or pickup truck no larger than one (1)
35 ton capacity that is used by a Resident both for business and for daily
36 personal transportation, provided that any signs or markings of a
37 commercial nature on such vehicle shall be unobtrusive and inoffensive
38 as determined by the Board (for example and not by way of limitation,
39 commercial information on a license plate holder or a dealership decal
40 or nameplate on a vehicle would be considered "unobtrusive") and
41 such vehicles shall be considered passenger vehicles.

42

43 | 6.14.26.13.2 Prohibited Vehicles. Prohibited Vehicles may not be brought or
44 kept within a Residential Lot or a Condominium Lot, except that they

1 | may be parked temporarily (~~4 // 6 //~~ eight (8) hours) for the purposes of
2 | loading or unloading. The following types of vehicles are Prohibited
3 | Vehicles: (i) double axel or dual rear wheel vehicles, (ii) flatbed or
4 | utility bed vehicles, (iii) box trailers, and (iv) vehicles with fixed
5 | advertising. The term “vehicles with fixed advertising” shall not include
6 | any two-axle passenger vehicle or pickup truck no larger than one (1)
7 | ton capacity that is used by a Resident both for business and for daily
8 | personal transportation, provided that any signs or markings of a
9 | commercial nature on such vehicle shall be unobtrusive and inoffensive
10 | as determined by the Board (for example and not by way of limitation,
11 | commercial information on a license plate holder or a dealership decal
12 | or nameplate on a vehicle would be considered “unobtrusive”) and
13 | such vehicles shall be considered passenger vehicles.
14 |

15 | 6.14.36.13.3 Definition of Commercial Vehicle. Commercial Vehicle shall mean
16 | (i) any vehicle that is classified as Class 3 and above by the United
17 | States Department of Transportation Vehicle Inventory and Use
18 | Survey, meaning any vehicle with a Gross Vehicle Weight Rating
19 | (GVWR) of more than ten thousand pounds (10,000 lb), (ii) any vehicle
20 | (including vehicles with a GVWR of ten thousand pounds or less)
21 | displaying signs or markings of a commercial nature, unless such signs
22 | or markings are small and unobtrusive as determined by the Board (for
23 | example and not by way of limitation, commercial information on a
24 | license plate holder or a dealership decal or nameplate on a vehicle
25 | would be considered “unobtrusive”), (iii) any vehicle that is equipped to
26 | carry more than ten (10) people, (iv) any vehicle equipped with a rack
27 | that is loaded with any construction materials, merchandise, supplies,
28 | or tools, (v) any pickup truck containing construction materials,
29 | merchandise, supplies, or tools that are visible. **[NOTE TO BOARD:**
30 | **(iv) & (v) are intended to reduce opportunities for theft in the**
31 | **community.]**
32 |

33 | 6.14.46.13.4 Parking. The primary parking facility for Residents of a Dwelling is
34 | the garage or driveway of a Dwelling or the designated parking space
35 | assigned to a Condominium. Each garage shall be used for parking
36 | the vehicles of the Residents of the Dwelling and shall not be used for
37 | any other purpose that interferes with the ability to park the number of
38 | vehicles the garage was designed to accommodate unless the number
39 | of vehicles of all Residents of the Dwelling is less than the number the
40 | garage was designed to accommodate. Vehicles shall not be parked
41 | anywhere within the Development except wholly within a garage or in a
42 | designated parking area. Parking is not allowed at any time in
43 | designated fire lanes. No vehicle shall be parked continuously in the
44 | streetCommon Facilities parking lots for longer than seventy-two

1 | (~~72~~twenty-four (24) hours unless previously approved by the
2 | Association.

3 |
4 | 6.14.56.13.5 Guest Parking. Common Area parking spaces may be used by
5 | Residents and their guests and invitees, subject to posted limitations
6 | and the Rules of the Association.

7 |
8 | 6.14.66.13.6 Vehicle Repairs. No motor vehicles or boats shall be constructed,
9 | reconstructed, repaired, or serviced within the Development (other than
10 | minor emergency repairs to the extent necessary to move the vehicle
11 | to a repair facility).

12 |
13 | 6.14.76.13.7 Parking Enforcement and Towing. The provisions of this **Section**
14 | **6.13** apply to all vehicles within the Development, including vehicles of
15 | guests and invitees. In addition to the provisions of this **Section 6.13**,
16 | the Board shall have the power and authority to adopt, promulgate, and
17 | enforce Parking Rules and shall have the power to impose fines and
18 | other sanctions for violations of provisions of the Governing Documents
19 | relating to vehicles and parking. Subject to the provisions of applicable
20 | law, including California *Vehicle Code* section 22658, the Board shall
21 | have the power and authority to cause the towing, at the vehicle
22 | owner's expense, of vehicles that are parked within the Development in
23 | violation of any of the provisions of the Governing Documents. Costs
24 | incurred by the Association relating to the towing and/or storage of any
25 | vehicle parked in violation of any provision of the Governing
26 | Documents shall be assessed as a Reimbursement Assessment
27 | against the Owner responsible or whose household member, Contract
28 | Purchaser, tenant, invitee, or guest is responsible for the presence of
29 | such vehicle. ~~[NOTE TO BOARD: State law imposes very specific~~
30 | ~~rules for towing by homeowner associations and failure to comply~~
31 | ~~can result in significant financial penalties to the association. If~~
32 | ~~your Association uses towing as a remedy for parking violations,~~
33 | ~~it is probably wise to have your towing rules and procedures~~
34 | ~~reviewed for compliance with the law; however, this is not~~
35 | ~~included in the scope of work for this governing document~~
36 | ~~update.]~~

37 |
38 | 6.156.14 Garages. Garages shall be maintained in a neat and orderly fashion and
39 | in such a manner as to permit the parking of the number of passenger vehicles
40 | the garage was designed to accommodate. No part of any garage shall be
41 | converted for other use without the substitution of another approved automobile
42 | garage space and prior architectural approval. Each garage door shall remain
43 | closed except during ingress or egress or when necessary to provide ventilation
44 | for individuals working in the garage area.

1
2 | 6.16.15 Requirements for Renting.

3
4 | 6.16.16.15.1 Written Lease. An Owner renting his or her Dwelling shall do so
5 pursuant to a written lease or rental agreement. The lease or rental
6 agreement shall expressly provide that its terms are subject to all of the
7 provisions of the Governing Documents. Each Owner leasing or
8 renting his or her Lot shall provide a copy of this Declaration and the
9 Rules of the Association to his or her tenant(s).

10
11 | 6.16.26.15.2 Owner's Contact Information. An Owner renting his or her Lot shall
12 provide the Association with contact information for the Owner or a
13 representative of the Owner with authority to act on behalf of the
14 Owner with respect to the Lot and the tenants, including telephone
15 number, email address, mailing address, and such other contact
16 information as the Association may require.

17
18 | 6.16.36.15.3 Indemnification Regarding Tenants' Actions. Each Owner leasing
19 or renting a Lot shall be strictly responsible and liable to the
20 Association for the actions of such Owner's tenant(s) in or about all
21 Dwellings, Lots, and Common Area and for each tenant's compliance
22 with the provisions of the Governing Documents. No provision of any
23 lease or rental agreement shall relieve the Lot Owner of his or her
24 obligations pursuant to the Governing Documents. To the fullest extent
25 permitted by law, every Owner of a Lot that is occupied by persons
26 other than the Owner pursuant to a rental agreement or lease or
27 otherwise, agrees to and shall indemnify and defend the Association,
28 its officers, directors, employees, and agents and shall hold them
29 harmless from and against any cost, loss, claim, or damages of any
30 kind, arising out of the conduct or presence of the occupants of the Lot
31 upon the Development, including but not limited to attorney fees
32 (including attorney fees incurred to enforce the provisions of this **Article**
33 **6** against the Owner of the Lot or any guest, tenant or other occupant
34 of the Lot), any claims for consequential damages, and any claims
35 arising or alleged to arise out of the enforcement or nonenforcement by
36 the Association of the Governing Documents with respect to such
37 occupants. Any amounts owed pursuant to this **Section 6.15.3** may be
38 assessed as a Reimbursement Assessment against the responsible
39 Owner and his or her Lot.

40
41 | ~~[NOTE TO BOARD: The following provision is consistent with Art. II, Section 3(a)~~
42 ~~of your existing documents. Please let us know if you want to retain it here.]~~
43

1 | 6.176.16 No Time Share Arrangements. No Lot shall be leased, subleased,
2 | occupied, rented, let, sublet, or used for or in connection with any time sharing
3 | agreement, plan, program or arrangement, including, without limitation, any so
4 | called “vacation license,” “travel club,” “extended vacation,” any other
5 | membership or time interval ownership arrangement, or any time-share estate or
6 | time-share use as defined in Section 11212 of the *California Business and*
7 | *Professions Code*. The term “time sharing” as used herein shall be deemed to
8 | include, but shall not be limited to, any agreement, plan, program, or
9 | arrangement under which the right to use, occupy, or possess any Unit or Units
10 | rotates among various persons, either corporate, partnership, individual, or
11 | otherwise, on a periodically recurring basis for value exchanged, whether
12 | monetary or like kind use privileges, according to a fixed or floating interval or
13 | period of time. This **Section 6.16** shall not be construed to limit the personal use
14 | of any Residential Lot of Unit or any portion thereof by its Owner and such
15 | Owner’s social or familial guests.
16 |

17 | 6.186.17 Trash Disposal. No trash, rubbish, garbage, accumulated waste plant
18 | material, other waste and refuse, and recyclable waste shall be allowed to
19 | accumulate upon the exterior of any Residential Lot or Condominium Lot. Any
20 | trash accumulated by an Owner or Resident outside of the Dwelling shall be
21 | deposited only in covered containers and facilities which shall be screened from
22 | view from any street, Lot, Dwelling, or Common Area, except on the day when
23 | containers are placed near the street for scheduled trash collection. Any
24 | extraordinary accumulation of trash, rubbish, garbage, waste, furniture,
25 | appliances, water heaters, construction or remodeling debris, and other bulky
26 | items must be properly disposed of off-site by the Owner or Resident at his or her
27 | sole expense and shall not be placed anywhere on the exterior of any Residential
28 | Lot or Condominium Lot.
29 |

30 | 6.196.18 Open Fires. This Section 6.18 shall also apply to the Commercial Lots.
31 | There shall be no open fires anywhere within the Development, except for fires
32 | contained within approved devices (such as approved covered fire pits and
33 | barbecues) —) or except by permit for authorized or controlled burns.
34 |

35 | 6.206.19 Storage. Except for neatly stacked fire wood, cut into lengths designed to
36 | accommodate a fireplace, there shall be no storage of personal property
37 | (including without limitation trailers and construction materials) upon a Residential
38 | Lot or Condominium unless the same is kept entirely within an enclosed storage
39 | area. Nothing shall be placed on top of or outside of such storage area.
40 |

41 | 6.216.20 Machinery and Equipment. Except as approved by the Board, no
42 | machinery or equipment of any kind shall be placed, operated, or maintained
43 | upon or adjacent to any Lot, except as is customary and necessary in connection

1 with the use, maintenance, or repair of a Dwelling or appurtenant structure, or
2 with approved construction.

3
4 | 6.226.21 Disease and Pests. No Owner or Resident shall permit anything or
5 condition to exist upon his or her Residential Lot or Condominium which shall
6 induce, breed, or harbor infectious plant diseases, rodents or noxious insects.

7
8 | 6.236.22 Mining and Drilling. Except for Lots owned by the Association, there shall
9 be no mining, quarrying, drilling, or refining operations permitted upon a
10 Residential Lot or Condominium Lot.

11 12 13 **ARTICLE 7 USE RESTRICTION FOR COMMERCIAL LOTS**

14
15 These provisions of this **Article 7** do not apply to the Residential Lots or to the
16 Condominium Lots [or the Common Area](#).

17
18 7.1 Commercial Lots. Commercial Lots shall be used solely for office and
19 professional purposes, ~~retain~~[retail](#) sales and service establishments, including
20 without limitation, gift shops, barber and beauty shops, clothing sales, food and
21 beverage sales, sporting goods sales, dry cleaners, laundromat, restaurants,
22 locksmiths, automobile [servicefuel](#) stations (including incidental automotive repair
23 services), real estate sales and rental, and mini-storage facilities. All
24 improvements on Commercial Lots shall be subject to Architectural Control as set
25 forth in **Article 8** ("Minimum Construction Standards") and **Article 9** ("Architectural
26 Approval").

27
28 7.1.1 Prohibited Uses. Notwithstanding any provision of any applicable
29 zoning ordinance of the [CountyTown](#) of [NevadaTruckee](#), California, or
30 any use permitted thereby, no Commercial Lot nor any part thereof
31 shall be used, and no building or other improvement shall be
32 constructed, maintained, or used, for: (i) automobile sales (new and
33 used), (ii) trailer or mobile home sales, (iii) automobile repair garages, (iv)
34 radio transmitter stations or towers, (v) escort or dating bureaus,
35 massage parlors, (vi) motels or hotels, (vii) automatic or self-service car
36 washes, (viii) movie theaters, (ix) auditoriums, pool or billiard halls,
37 skating rinks, (x) mortuary or funeral homes, (xi) plumbing, electrical,
38 heating and air conditioning or similar businesses which customarily
39 involve the exterior storage of materials or high volumes of traffic, and (x)
40 similar service establishments.

41
42 7.1.2 Additional Prohibited Uses; Operations, and Nuisances. No use or
43 operation shall be made, conducted, or permitted on or with respect to

1 any Commercial Lot which is obnoxious to, or out of harmony with, the
2 environment of Tahoe Donner, including but not limited to the following:

- 3
- 4 (i) any use that may result in or causes a public or private
5 nuisance;
- 6
- 7 (ii) any use that may cause noise or sound that is objectionable due
8 to intermittence, beat, frequency, shrillness or loudness;
- 9
- 10 (iii) any use that may cause obnoxious odor;
- 11
- 12 (iv) any use that may cause, create or disburse noxious, toxic,
13 caustic or corrosive fuel or gas; (except that the Association may
14 approve the use of a Commercial Lot for a gas or filling Station);
- 15
- 16 (v) any use that may cause, create or disburse dust, dirt or fly ash
17 in excessive quantities;
- 18
- 19 (vi) any use that may cause unusual fire, explosion or other
20 damaging or dangerous hazard;
- 21
- 22 (vii) an airport or landing field;
- 23
- 24 (viii) a convent or monastery;
- 25
- 26 (ix) a fraternity or sorority house;
- 27
- 28 (x) a new single-family residence;
- 29
- 30 (xi) a multiple family residence;
- 31
- 32 (xii) a drug or alcohol care facility, including a methadone clinic, drug
33 rehabilitation center, work release center, or social services
34 center, or an institution or home for the treatment of the mentally
35 infirm;
- 36
- 37 (xiii) a jail farm, honor farm or detention facility used for the detention
38 or rehabilitation of law breakers or prisoners;
- 39
- 40 (xiv) a mobile home park;
- 41
- 42 (xv) a warehouse (other than mini-storage); *provided, however, that*
43 *any area for the storage of goods intended to be sold at any*

1 retail establishment on a Commercial Lot shall not be deemed to
2 be a warehouse;

3
4 (xvi) a manufacturing, assembling, distilling, refining, smelting,
5 agricultural, or mining operations;

6
7 ~~[NOTE TO BOARD: The following two sections were added for your
8 consideration.]~~

9
10 (xvii) the operation of a medical marijuana facility which dispenses,
11 permits the use of on the premises, sells, licenses the use of or
12 dispensing of, or dispenses marijuana or medical marijuana, and
13 no Owner or tenant may write a prescription for medical
14 marijuana;

15
16 (xviii) the cultivation or growing of any ~~plant, crop,~~ or vegetation;

17
18 (xix) a “secondhand” store, government “surplus” store or store
19 commonly referred to as a “discount house;”

20
21 (xx) a trailer court, junk yard, stock yard or animal raising facility
22 (other than a pet shop);

23
24 (xxi) for the installation or maintenance of a billboard or billboards;

25
26 (xxii) the drilling for, or removal of, subsurface substances;

27
28 (xxiii) the dumping, disposal, incineration or reduction of garbage or
29 refuse;

30
31 (xxiv) a fire or bankruptcy sale or auction house operation; or

32
33 (xxv) any use prohibited by or contrary to any applicable zoning
34 ordinance of the [CountyTown](#) of [NevadaTruckee](#), California, or
35 any local, state or federal law.

36
37 7.2 Vehicle Parking. No mobile home, travel trailer, truck, camper, boat, dune buggy,
38 house trailer, automobile, or similar vehicle shall be placed or kept upon any
39 Commercial Lot except within an enclosed building or structure which prevents
40 view thereof from outside such building or structure; *provided, however,* that
41 nothing contained herein shall prohibit the temporary parking of any commercial
42 vehicle in or on any loading or delivery area, truck ramp, or vehicle parking area
43 for the purpose of delivery of materials to any structure or business establishment
44 within any Commercial Lot; *and provided further,* however, that nothing contained

1 herein shall prohibit the temporary parking of any motor vehicle within motor
2 vehicle parking areas by any Owner, occupant, tenant, concessionaire or
3 permitted for purposes connected with or incidental to any permitted business or
4 use being made of any portion of the Property.
5

6 7.3 Outside Sales or Storage. All sales, display and storage shall be within an
7 enclosed building, and no portion of the Development shall be used for outside
8 sales, display or storage of any material or equipment of any nature whatsoever,
9 including, without limiting the generality of the foregoing, any building materials,
10 machines, tools, implements, furniture, landscaping materials, irrigation pipes or
11 apparatus; *provided, however,* that nothing contained herein shall prohibit use of
12 any portion of the Development for a nursery or garden shop. In the event any
13 portion of the Development is used for a nursery or garden shop, an outside
14 sales display and storage area will be permitted (provided the same is not
15 prohibited by any applicable zoning ordinance of the [CountyTown](#) of
16 [NevadaTruckee](#), California), which such area may be open for the sale, display
17 and storage of plants, shrubs and trees, provided that any such area for the sale,
18 display, or storage of other materials or equipment shall be enclosed by a fence
19 of a height and material approved by the ASC.
20

21 7.4 Noise Level. No activity shall be undertaken or permitted upon any portion of any
22 Commercial Lot which will cause any sound, whether intermittent, recurrent or
23 continuous, in excess of fifty-five (55) decibels (dbs) measured at any point on
24 any boundary line of said Lot.
25

26 7.5 Signs. The Association Rules may include uniform and non-discriminatory
27 regulations concerning the design, size and placement of signs on Commercial
28 Lots.
29
30

1
2 **ARTICLE 8 MINIMUM CONSTRUCTION STANDARDS**
3

4 Unless a variance is requested from, and granted by, the ASC in accordance with
5 Section 8.2 (“Minimum Construction Standards – Residential Lots”) or Section 8.3
6 (“Minimum Construction Standards – Condominium Lots”) or Section 8.4 (“Minimum
7 Construction Standards – Commercial Lots”), improvements constructed on any Lot
8 shall conform to the following minimum construction standards:
9

10 **8.1 Minimum Construction Standards Applicable to All Lots.**

11
12 (a) Setback Lines. All improvements shall be constructed in accordance with
13 applicable building line and setback provisions of applicable zoning
14 ordinances, in compliance with all laws, and in compliance with all setback
15 requirements prescribed herein.
16

17 (b) Second Kitchen. As provided for in Section 9.3.3 (“Kitchens”), no Owner
18 shall be permitted to install a second kitchen in a Dwelling without prior
19 architectural approval.
20

21 (b)(c) Waste Disposal. No outside toilet shall be constructed on any Lot, other
22 than temporary facilities used in connection with construction on the Lot.
23 All plumbing fixtures, dishwashers, toilets or sewage disposal systems
24 shall be connected to a sewage system.
25

26 (c)(e) Model Homes. No Owner of any Separate-Interest Lot or Condominium
27 Lot or Multi Family Lot shall build or permit the building thereon of any
28 structure that is to be used as a model or exhibit.
29

30 (d)(f) New Materials. All structures constructed on any Lot shall be constructed
31 with a substantial quantity of new materials and no used structure shall be
32 relocated or placed on any Lot.
33

34 (e)(g) Approval by ~~Environmental Control~~Architectural Standards Committee. No
35 building, fence, wall or other permanent structure or improvement shall be
36 erected, altered, or placed on any Lot until building plans, specifications
37 and a plot plan showing the location of structures on the Lots have been
38 submitted to the ASC for review and approval as described in **Article 8**
39 **(“Minimum Construction Standards”).**
40

41 (f)(h) Exterior Surfaces. No reflective finishes (other than glass) shall be used
42 on exterior surfaces ~~(other than surfaces of hardware fixtures)~~ of any
43 building structure erected on a Residential Lot. The Committee shall be
44 authorized to recommend to the Board approved colors and stains for

1 exterior finish of the Dwellings, such chart, once adopted by the
2 Association shall become a part of the Architectural Rules.

3
4 (g)(i) No Temporary Structures. No recreational vehicle, trailer, mobile home,
5 camper, tent, shack, used structures, structures of a temporary character
6 or other outbuildings (including garages, whether attached or detached)
7 shall be used on any Lot at any time as a residence. Notwithstanding the
8 foregoing, an Owner may apply to the ASC for approval of the use of a
9 trailer or mobile home as a temporary residence during a period of
10 construction so long as the temporary residence is serviced by a waste
11 disposal system and approved by the ASC.

12
13 (h)(i) Solar Heating Systems. Subject to limitations imposed by California law,
14 the ASC shall be entitled to recommend to the Board, reasonable
15 regulations regarding the installation of exterior solar heating systems,
16 which once adopted by the Association shall become a part of the
17 Architectural Rules. These rules may include limitations on placement and
18 design of such systems to the extent necessary to avoid an unsightly
19 appearance from neighboring Lots or Common Area.

20
21 (i)(k) Drainage. As provided in **Section 4.6** (“Slope Control and Drainage
22 Areas”), there are slope control and drainage areas on the Lots as shown
23 on the Subdivisions Map. No Owner shall do any work, construct any
24 improvement, place any landscaping or suffer the existence of any
25 condition whatsoever which shall alter or interfere with the drainage
26 pattern for the Owner’s Lot or any adjacent Lots or parcels or Common
27 Area as established in connection with the approval of the final subdivision
28 and parcel maps applicable to the Development by the CountyTown of
29 NevadaTruckee, except to the extent such alteration in drainage pattern is
30 approved in writing by the ASC, the CountyTown of NevadaTruckee, and
31 all other public authorities having jurisdiction. Plans and specifications
32 submitted by an Owner to the ASC in connection with the construction of a
33 Dwelling or commercial structure, or other major structural improvement,
34 shall include a drainage plan in sufficient detail to permit the ASC to
35 assess the impacts, if any, of the improvement on natural drainage
36 courses.

37
38 (j)(l) Modular and Prefabricated Housing: Mobile Homes. The use of modular
39 housing units or prefabricated housing units assembled off the building site
40 shall be subject to regulation by the ASC to the full extent permitted by
41 *Civil Code* section 714.5 or comparable superseding statute.

42
43 (k) ~~Air Pollution Controls. The ASC shall be empowered to develop~~
44 ~~reasonable regulations for the design of any fireplace, wood burning stove~~

1 ~~or other combustion system which is proposed for use in a structure in~~
2 ~~order to reduce smoke emissions, which regulations shall be adopted by~~
3 ~~the Association and become a part of the Architectural Rules.~~
4

5 8.2 Minimum Construction Standards -- Residential Lots.
6

- 7 (a) Minimum Square Footage. Every Dwelling constructed on a Residential
8 Lot shall contain a minimum of twelve hundred (1200) square feet of fully
9 enclosed floor area to be devoted to living purposes (exclusive of roofed or
10 unroofed porches, terraces, decks, garages, carports and other
11 outbuildings). Not less than nine hundred (900) square feet shall be
12 located on the first floor of the Dwelling. For purposes of the preceding
13 sentence, the first floor of a Dwelling shall be the floor with the principal
14 living space for any Dwelling with a basement or downstairs garage or
15 bedroom area.
16
- 17 (b) Height Limitations. No structure or improvement shall be constructed on
18 any Residential Lot having a height of more than two (2) stories; *provided,*
19 *however,* that the height of a structure or improvement may exceed two
20 stories if permissible by law and if the ASC determines that the proposed
21 height is compatible with the physical site involved and adjoining
22 properties; provided that the total height of the structure shall in no event
23 exceed thirty-five feet (35') measured from the building's mid-point on the
24 downhill slope.
25
- 26 (c) Setback Lines. No structure or improvement (other than a fence for which
27 a permit has been granted by the ASC) shall be constructed, erected,
28 placed or maintained upon any Residential Lot within the following
29 prescribed setback areas:
30
- 31 (i) a front yard setback area, the minimum depth of which shall be at
32 least twenty feet (20') measured from the front lot line of such
33 Residential Lot.
34
- 35 (ii) a side yard setback area, the minimum width of which shall be ten
36 feet (10') along any single inner side lot line of such Residential Lot.
37 The ten foot side yard setback is required in order to avoid snow
38 shedding from the Dwelling onto the adjacent Lot and to prevent a
39 row house appearance of adjoining Dwellings. The Committee
40 shall be entitled to permit exceptions to this side yard setback
41 requirement to a minimum of five feet (5'), without compliance with
42 the variance procedures specified in **Section 8.3**, below, when such
43 is deemed necessary to accommodate special circumstances which
44 would otherwise lead to burdensome costs to the Owner. Side yard

1 setbacks shall be measured from the eaves of the Dwelling roof,
2 rather than from the foundation.

3
4 (iii) a rear yard, the minimum depth of which, having an area equal to at
5 least twenty percent (20%) of the gross area of such Lot. The
6 resulting depth shall not in any case be less than twenty-five feet
7 (25').

8
9 (d) Paved Parking. Each Residential Lot which is improved after the effective
10 date of this Declaration shall have paved off-the-road parking facilities for
11 at least two (2) automobiles.

12
13 (e) Exterior Lighting. There shall be no exterior lighting of any sort either
14 installed or maintained on any Residential Lot, the light source of which is
15 visible from neighboring property or streets, except as permitted by the
16 Architectural Rules. In no event shall fluorescent, mercury vapor, sodium,
17 amber vapor or similar outdoor security lights be permitted. The ASC shall
18 establish Architectural Rules, as necessary or appropriate, to assure the
19 serene, peaceful and rural nature of the Tahoe Donner common interest
20 development, which Architectural Rules shall be adopted by the
21 Association.

22
23 (f) Roofing Materials. Natural wood or shingle roofing materials or
24 composition roofing materials shall not be permitted on any Lot within the
25 Development unless they are treated with fire retardant materials. The
26 use of other roofing materials, such as metal, tile, gravel or artificial
27 shingles or shakes that have the appearance of natural wood shingles
28 shall be permitted, subject to prior ASC approval of the appearance and
29 quality of the material.

30
31 (g) Siding Materials. The exterior walls of any Dwelling, garage or other
32 structure shall be finished with natural wood. Rock or stucco may be used
33 in combination with wood. Metal, Masonite or other manufactured siding
34 shall not be permitted. No siding composed in whole or part of artificial or
35 "fake" stones, stucco stones or manufactured used brick shall be permitted
36 unless an exception is granted by the ASC.

37
38 (h) Antenna, External Fixtures, Etc. No television or radio poles, antenna,
39 television satellite reception dishes, flag poles, clothesline, or other
40 external fixtures, except those approved by the ASC, shall be constructed,
41 erected or maintained on any Residential Lot. No wiring, insulation, air-
42 conditioning or other machinery or equipment, other than those approved
43 by the Committee, and their duplicate replacements shall be constructed,

erected or maintained on or within the exterior of any structure within the Development.

(i) Variance Authority of Committee. The Architectural Standards Committee shall have the power to grant variances from any of the provisions in this Section 8.2.

8.3 Minimum Construction Standards – Condominium Lots. Those Condominium Lots located within Tahoe Donner Unit Nos. 2, 3 and 6, which are subject to this Declaration and a Supplemental Declaration (as identified in Exhibit F attached hereto) shall be subject to the following minimum construction standards:

(a) Limitation of Number of Building Structures. Except as otherwise provided in the schedule set forth in this subparagraph (a), no more than two (2) apartment buildings or Condominium buildings shall be constructed on any multiple family Residential Lot zoned for six (6) or fewer Units.

///

///

///

HH

HH

HH

HH

The maximum number of Units on each of the following Condominium Lots in Tahoe Donner Units 2, 3 and 6 shall be:

<u>Condominium Lots Within Unit 2</u>	<u>Maximum Number of Units on Each Lot</u>
1, 22, 311, 312, 313, 314	8 Units/Lots
15, 16, 17, 315, 316, 317	7 Units/Lots
9, 14, 18, 33, 439	6 Units/Lots
10, 11, 19, 20, 21, 32, 35, 36, 338, 337	5 Units/Lots
2, 3, 5, 6, 7, 8, 12, 13, 29, 30, 31, 37 through 51, 318 through 322, 325 through 335, 338 through 360, 428 through 438	4 Units/Lots
323, 324	3 Units/Lots
309	13 Units/Lots
34	42 Units/Lots
310	9 Units/Lot
<u>Condominium Lots Within Unit 3</u>	<u>Maximum Number of Units on Each Lot</u>
Lots 30, 31, 32, and 33	4 Units/Lots
Lot 34	69 Units/Lots
Lots 35, 36, 37, 38, 39 and 40	4 Units/Lots
<u>Condominium Lots Within Unit 6</u>	<u>Maximum Number of Units on Each Lot</u>
594	7 Units/Lots
593, 595, 598	6 Units/Lots
592, 596, 597, 599, 600, 601, 602	5 Units/Lots
603	4 Units/Lots

- 1 (b) Minimum Square Footage Requirements. Each Unit within each multi-
2 family building shall contain not less than six hundred fifty (650) square
3 feet of fully enclosed floor area to be devoted to living purposes (exclusive
4 of roof or unroofed porches, terraces, decks, garages, carports and other
5 out buildings).
6
- 7 (c) Height Limitations. The height of each multi-family building on each
8 Condominium Lot shall not exceed the height prescribed by the ASC.
9
- 10 (d) Parking. Each Condominium Lot shall have paved off-the-road parking
11 facilities for at least one and one-half (1.5) automobiles for each Unit in
12 any multi-family building(s) constructed on said Lot.
13
- 14 (e) Condominium Lot Combinations. Nothing contained herein shall prevent
15 or restrict a Lot Owner from combining contiguous Condominium Lots and
16 any buildings thereon with a Condominium Lot improved with more than
17 one (1) multi-family building, so long as the above provisions are complied
18 with on a combined basis.
19
- 20 (f) Compliance with Town and/or County Regulations. Any provisions of the
21 laws of the Town of Truckee of the County of Nevada in effect from time to
22 time, which are more restrictive than the provisions hereof, shall control.
23
- 24 (g) Application of Use Restriction. Each and every restriction set forth in
25 Sections 8.2(c) and (e), above, with respect to Residential Lots shall be
26 equally applicable to Condominium Lots and are incorporated herein by
27 this reference, except that the side yard setback on Condominium Lots
28 shall be five feet (5'), rather than ten feet (10').
29
- 30 (h) Variance Authority of Committee. The Architectural Standards Committee
31 shall have the power to grant variances from any of the provisions in
32 subparagraph (a), (b) or (d), above, under and pursuant to this Section
33 8.3.
34

35 8.4 Minimum Construction Standards - Commercial Lots.

- 36
- 37 (a) Site Development.
- 38
- 39 (i) Building Site. The building site areas shall be as permitted by any
40 applicable zoning ordinance of the CountyTown of NevadaTruckee,
41 California.
42
- 43 (ii) Number of Buildings. The number of buildings which may be
44 constructed on any Commercial Lot shall be in accordance with the

1 applicable zoning ordinance of the [CountyTown](#) of [NevadaTruckee](#),
2 California.

3
4 (iii) Building Height. Building height limit shall be compatible with the
5 physical site involved with a maximum height of twenty-five feet
6 (25') unless otherwise approved in writing by the ASC.

7
8 (iv) Yards. Front yard, side yard and rear yard requirements for the
9 location of any building upon any Commercial Lot shall be as set
10 forth in the applicable zoning ordinance of the [CountyTown](#) of
11 [NevadaTruckee](#), California.

12
13 (v) Setbacks. Setbacks shall be as shown and delineated on the
14 Subdivision Maps Recorded with respect to Tahoe Donner, or if not
15 so shown, as set forth in the applicable zoning ordinance of the
16 [CountyTown](#) of [NevadaTruckee](#), California.

17
18 (vi) Off-street Parking. The number of off-street parking spaces which
19 shall be provided shall be in accordance with the applicable zoning
20 ordinance of the [CountyTown](#) of [NevadaTruckee](#), California.

21
22 (vii) Minimum Square Footage. Location of Truck Ramps and Loading
23 Docks, Fuel Storage Tanks and Refuse Containers, Signs and
24 Exterior Characteristics. The minimum square footage of fully
25 enclosed floor area which shall be contained in any building
26 constructed, erected or placed upon any Commercial Lot, the
27 location of truck ramps and loading docks and areas in relation to
28 any main structure, the location of fuel storage tanks if located
29 apart from a main structure, the location of containers for storage
30 and disposal of refuse, the size, location, height, lighting and type
31 of signs which may be erected and maintained, and the exterior
32 architectural characteristics of each commercial building upon any
33 Commercial Lot, including without limitation elevations, exterior
34 surface materials, exterior colors and lighting, shall be as specified
35 and approved by the ASC.

36
37 (b) Construction and Alteration of Improvements; Change in Topography.

38
39
40 (i) Subdivision Maps. No tentative or final map of subdivision or
41 resubdivision of any Commercial Lot, or any amendment thereto,
42 shall be submitted for approval to any governmental agency of the
43 [CountyTown](#) of [NevadaTruckee](#), or recorded without the prior
44 written approval of the ASC; *provided, however*, that the signatures

1 of the members of the ASC on any such maps shall not be required
2 as a condition of recordation thereof.

3
4 (ii) General Prohibitions. No Owner or Occupant shall construct,
5 reconstruct, refinish, alter, or maintain any Improvement upon, or
6 erect, place, or maintain any sign upon, or install any utility line,
7 wire, or conduit in or upon, or make any excavation upon, or alter
8 the topography of, or cut or remove any tree upon, or do any act
9 which would affect the drainage of, any Commercial Lot without the
10 prior written approval of the ASC. The Tahoe Donner Association
11 shall have the right to remove any Improvement constructed,
12 reconstructed, refinished, altered, or maintained in violation hereof,
13 and the Owner shall reimburse said Association for all expenses
14 incurred in connection therewith.

15
16 (iii) Lighting.

17
18 Prohibition. There shall be no exterior lights or lighting systems,
19 including but not limited to lighted signs, erected, installed,
20 constructed, or maintained on any Commercial Lot without the prior
21 written approval of the ASC.

22
23 Height Limitation. No portion of any exterior light or lighting system
24 shall be in excess of twenty feet (20') from the surface of the ground.

25
26 Hooding Device. All such lights shall be hooded so that all light
27 therefrom is projected downward and inward toward the Lot or
28 building on which such lights are constructed.

29
30 (iv) Signs.

31
32 ASC Approval Required. No sign shall be constructed, erected,
33 placed, or maintained upon any Commercial Lot without the prior
34 written approval of the ASC.

35
36 Design. The design of all signs shall be an integral part of the
37 design of the building or structure involved and shall be compatible
38 with the physical site involved and with the Development.

39
40 Size. Signs will be limited in size as may from time to time be
41 prescribed by the ASC.

42
43 Rotation. Signs shall not rotate.
44

1 Materials. All signs shall be constructed of durable materials and
2 shall be mounted with bolts, fasteners, or clips of hot dipped
3 galvanized iron, stainless steel, aluminum, brass, or bronze.
4

5 Mounting. All letters or signs mounted on any exterior wall or any
6 structure so as to be exposed to the weather will be mounted three-
7 fourths of an inch (3/4") from such wall to permit proper dirt and water
8 drainage.
9

10 Installation and Lighting. All signs shall be installed in accordance
11 with the drawings approved by the ASC. Any penetration of a building
12 structure required for sign installation will be neatly sealed in a
13 watertight condition. Occupant will be fully responsible for the
14 operations of occupant's sign contractors.
15

16 Height. The height of any free-standing sign shall be compatible
17 with the physical site involved with a maximum height of twenty feet
18 (20') unless otherwise permitted by the ASC.
19

20 Roof Signs. Roof signs or any signs extending above the roof line
21 are prohibited.
22

23 Loading Docks and Service Areas. All loading docks, truck ramps
24 and service areas shall be screened so as not to be visible from
25 other property in the vicinity, including lots, roads and Common
26 Areas. Such screening shall have an opaque finish and be of a
27 material and of a height acceptable to the ASC.
28

29 Utilities. The ASC may, if it finds it necessary or desirable for the
30 environment of the Development, require that all utility lines, wires,
31 pipes and conduits, including without limitation all electrical and
32 telephone lines and cables, be constructed and installed
33 underground; *provided, however,* that said requirement shall not
34 apply to any outlet thereof, or means of access thereto, or any
35 sewer pumping plant, or electrical generator or transformer, or to
36 any utility line or facility which must, of necessity, be installed above
37 ground.
38

39 Roofs. All roofing materials shall be approved by the ASC.
40

41 Antennae. No exterior antenna of any type, or other exterior,
42 structure or device for sending or receiving electromagnetic waves,
43 shall be erected, constructed, placed or maintained on any
44 Commercial Lot without the prior written approval of the ASC.

1
2 Ground Areas. All ground areas not covered by any building or
3 other structure shall be either paved or landscaped. All roadways,
4 driveways, truck ramps, loading and delivery areas and vehicle
5 parking areas shall be paved with a hard-surfaced impermeable
6 material acceptable to the ASC. All paved areas shall be
7 maintained and kept clean, reasonably clear of snow and free of oil
8 and other extraneous matter.

9
10 Building Materials. All structures on any Commercial Lot shall be
11 constructed substantially of new materials, and no used structure
12 shall be placed on any Commercial Lot without the prior written
13 approval of the ASC.

14
15 Occupancy. No structure shall be used or occupied until the same
16 has been substantially completed in accordance with its plans and
17 specifications.

18
19 (c) Variance Authority of Committee. The Architectural Standards Committee
20 shall have the power to grant variances from any of the provisions in this
21 Section 8.4.

22
23
24 **ARTICLE 9 ARCHITECTURAL APPROVAL**

25
26 9.1 Prior Architectural Approval Required. No exterior Improvement, no outdoor
27 lighting, no mast, pole, tower, antenna, receiver, or transmitter to the extent
28 restricted by Section 9.2.7 (“Satellite Dishes and Antennas”), no outdoor painting,
29 and no landscaping shall be commenced, erected, planted, placed, maintained or
30 installed within the Development, nor shall any exterior addition or change or
31 alteration of an Improvement be made, until the plans and specifications showing
32 the nature, kind, shape, color, height, size, materials, and location of the same
33 have been submitted to and approved in writing by the ASC. The requirement of
34 architectural approval shall also apply to certain interior additions as provided for
35 in this Declaration or pursuant to Architectural Rules adopted by the Association.
36 The requirement of architectural approval shall not apply to improvements made
37 or constructed by or on behalf of the Association.

38
39 9.2 Some Common Architectural Concerns. This Section 9.2 enumerates some
40 common areas of architectural concern. These are examples only and do not
41 represent an exhaustive list of changes that require prior architectural approval.
42 Nothing in this Section 9.2 shall be deemed to limit the generality of Section 9.1
43 (“Prior Architectural Approval Required”). ~~[NOTE TO BOARD: The purpose of~~

1 ~~this section is to provide greater clarity on what alterations in your~~
2 ~~development require approval. The items below are based on our review of~~
3 ~~your current CC&Rs, as well as our experience with issues that sometimes~~
4 ~~come up in community associations which we think may apply to Tahoe~~
5 ~~Donner. Because these provisions are very specific to your community, it~~
6 ~~is important to review them carefully and let us know if some of them are~~
7 ~~not applicable or if there are additional provisions relating to alterations~~
8 ~~which should be included.]~~
9

10 9.2.1 Exterior Painting. Prior architectural approval shall not be required for
11 repainting or refinishing a structure in its existing color scheme, like for
12 like, if such colors have been previously approved. ~~[NOTE TO~~
13 ~~BOARD: Do you want to expressly exempt repainting in existing~~
14 ~~color scheme?]~~
15

16 9.2.2 Decorative Features. Planter boxes, hanging plants, trellises,
17 fountains, sculptures, and similar feature are generally acceptable;
18 however, the Board may in its reasonable discretion limit the use of
19 such decorative features if such features are found to be aesthetically
20 offensive, overbearing, or incompatible with surrounding elements.
21

22 9.2.3 Mailboxes; Newspaper Tubes. Mailboxes shall comply with all
23 applicable postal regulations and Architectural Rules, if any. There
24 shall be no free-standing exterior mailboxes or newspaper tubes.
25

26 9.2.4 Outside Drying and Laundering. No outside clothesline shall be
27 permitted, erected, or maintained on any Lot in a manner which is
28 visible from a neighboring Lot or Common Area.
29

30 9.2.5 Drainage Patterns. No excavation and no alteration or addition of any
31 kind is permitted which alters or may alter existing drainage patterns of
32 existing channels upon, under, and/or across the Development
33 property or any portion thereof through which water in time of storms or
34 otherwise naturally flows or through which water has been caused to
35 flow artificially, without obtaining prior architectural approval.
36

37 9.2.6 No Installations on Roof. Absolutely no installation of any kind,
38 including but not limited to skylights, solar panels, antennas, or air-
39 conditioning equipment, shall be placed or installed upon any roof
40 without obtaining prior architectural approval.
41

42 9.2.7 Satellite Dishes and Antennas. No outside radio or television aerial,
43 antenna, dish, wire, or other receiving or transmitting device shall be
44 erected, constructed, or maintained on any Lot, except (i) those

1 expressly approved by the ASC or (ii) those that, by law, cannot be
2 prohibited. It is the intention of this **Section 9.2.7** to restrict outside
3 radio or television aerials, antennas, dishes, wires, and other receiving
4 or transmitting devices in the Development to the ~~fullest~~ extent
5 permitted by law and to authorize the Board to adopt and implement
6 Rules regarding the same. ~~[NOTE TO BOARD: Detailed provisions
7 concerning satellite dishes depend on site-specific conditions,
8 including the style of architecture, the location and orientation of
9 the buildings, surrounding buildings and landscaping, etc.
10 Accordingly, we recommend that they be contained in Rules
11 rather than in the CC&Rs. We are happy to assist the Board with
12 this if requested; however, it is not within the scope of this
13 governing document update project.]~~

14
15 9.2.8 Masts, Poles, Towers, Other Projections. No outside mast, pole,
16 tower, or projection of any type attached to any structure that extends
17 above the roof of the structure (with the exception of chimneys and
18 vent stacks) and no outside mast or pole shall be placed or permitted
19 to remain without prior architectural approval.

20
21 9.2.9 Storage Units; Temporary Structures. No shed, ~~tent~~, temporary
22 structure, cargo container, temporary storage container (“PODS”) shall
23 be erected, maintained, kept, or used anywhere within the
24 Development without the prior architectural approval pursuant to this
25 **Article 9**. Any approved temporary building shall be used only for
26 purposes incidental to approved construction and shall be removed
27 promptly upon completion of the work. ~~[NOTE TO BOARD: Your
28 current documents do not address structures & containers
29 outside the Dwelling. Do you want to add the limitations in this
30 section to your documents?]~~

31
32 9.3 Architectural Rules.

33
34 9.3.1 In General. Subject to the requirements of *Civil Code* section 4340
35 and following, the Board may from time to time adopt, amend, and
36 repeal rules and regulations to be known as “Architectural Rules.”
37 Architectural Rules shall set forth the standards for architectural review
38 and guidelines for architectural design, placement of buildings and
39 other structures, outdoor lighting, and landscaping, color schemes,
40 exterior finishes and materials, and similar features which are
41 recommended for use in the Development and may include restrictions
42 on satellite dishes and solar energy systems consistent with applicable
43 law; *provided, however*, that Architectural Rules shall not be in
44 derogation of any minimum standards required by this Declaration.

1
2 9.3.2 Roofs. Any Architectural Rules concerning the installation or repair of
3 a roof shall comply with applicable law including *Civil Code* section
4 4720, if it applies. ~~[NOTE TO BOARD: This statute requires~~
5 ~~Associations to permit Owners to install certain fire resistant~~
6 ~~roofing materials.]~~

7
8 9.3.3 Kitchens. No more than one (1) kitchen facility shall be installed or
9 maintained within a Dwelling without prior architectural approval.

10 9.3.4 Tree Removal. No tree with a diameter of four inches (4") or more at
11 three (3) feet from the ground shall be destroyed, uprooted, cut down
12 or removed from any Residential Lot or Condominium Lot without prior
13 architectural approval and, where required, approval of the Tahoe
14 Donner Foster.

15
16 9.4 Establishment and Composition of ASC. The Board shall appoint an ASC
17 consisting of three (3) regular Members of the Association ~~at least one (1) of~~
18 ~~whom shall be a director, and four (4) alternates.~~ ~~[NOTE TO BOARD: We~~
19 ~~recommend that there be at least one Board member on the Architectural~~
20 ~~Committee to help assure consistency between the decisions of the~~
21 ~~committee and the standards applied by the Board.]~~ The Board may also
22 appoint one (1) alternate ASC member who shall attend ASC meetings and shall
23 be authorized to act as a substitute on the ASC with the power to vote in the
24 event of absence or disability of any Committee member. The ASC members
25 and any alternate shall serve at the pleasure of the Board. If at any time there
26 shall not be a duly-constituted ASC, the Board shall exercise the functions of the
27 ASC in accordance with the terms of this Article 9. The Board may also appoint
28 alternate ASC members who shall attend ASC meetings and shall be authorized
29 to act as a substitute on the ASC with the power to vote in the event of absence
30 or disability of any committee member. The ASC members and any alternate(s)
31 shall serve at the pleasure of the Board. If at any time there is no ASC, the
32 Board shall exercise the functions of the ASC in accordance with this Article 9.

33
34 9.5 Duties and Authority of ASC. It shall be the duty of the ASC to consider and act
35 upon proposals or plans submitted to it pursuant to the terms of this Declaration
36 and to perform such other duties as may be delegated to it by the Board. ~~The~~
37 ~~ASC is expressly not authorized to approve any variances from the Rules except~~
38 ~~those variances and in compliance with Section 9.13 ("Variances").~~

39
40 9.6 Meetings; Minutes; Reimbursement. The ASC shall meet as necessary to
41 properly perform its duties hereunder. The ASC shall keep and maintain a
42 record of all actions taken by it at such meetings or otherwise. The ASC and its
43 members shall be entitled to reimbursement for reasonable out-of-pocket
44 expenses incurred by them in the performance of any ASC function.

- 1
2 9.7 Preliminary Consultation with ASC Prior to Submitting Application. Any Owner
3 considering performing any work requiring the prior approval of the ASC may
4 apply to the ASC for preliminary consultation by submitting preliminary plans or
5 drawings of the contemplated work in accordance with the Architectural Rules.
6 The purpose of the preliminary consultation procedure is to allow an Owner
7 considering making substantial improvements an opportunity to obtain guidance
8 concerning design considerations before expending substantial sums for plans
9 and other exhibits required to apply for actual approval. Within forty-five (45)
10 days after receiving a request for a preliminary consultation, the ASC shall
11 consider the preliminary information submitted and shall respond in writing to the
12 Owner. The ASC's response shall give the requesting Owner such direction
13 concerning the form and substance of an approval application for the
14 contemplated work as the ASC deems proper or desirable for the guidance of the
15 Owner. The issuance of a preliminary consultation response by the ASC shall
16 not under any circumstances be deemed approval of any contemplated work;
17 nor, once an Owner submits a request for approval, shall it preclude the ASC
18 requesting additional information about the proposed work based on the actual
19 application. ~~[NOTE TO BOARD: Note 45-day time to respond to preliminary~~
20 ~~applications.]~~
21
22 9.8 Written Request for ASC Approval. Any Owner proposing to perform any work
23 that requires prior approval pursuant to this Article 9, shall submit to the ASC a
24 written request setting forth the nature of the proposed work and furnishing such
25 information and documentation as the ASC may require depending on the nature
26 and size of the proposed work. Such information and documentation may
27 include but is not limited to: (i) floor plans, (ii) color samples of exterior materials,
28 (iii) specifications, (iv) building plans, (v) wall sections, (vi) exterior elevations,
29 (vii) roof plans, (viii) landscaping plans, (ix) graphics and exterior furnishings, and
30 (x) the Owner's proposed construction schedule.
31
32 9.9 Fees; Professional Consultants. The ASC may charge a reasonable fee or fees
33 for review of architectural or landscaping applications, drawings, plans, and
34 specifications which may include the cost of retaining outside consultants
35 including but not limited to architects, engineers, soils experts, or contractors.
36
37 9.10 Notice, Meetings, Minutes. At least four (4) days' prior notice of all ASC
38 meetings shall be ~~provided to Members by General Delivery, posted on the~~
39 ~~Association's website.~~ The ASC shall meet on a monthly basis and more
40 frequently if required to consider and act upon an Owner's request for approval.
41 All meetings of the ASC shall be open to Members. The Owner and, in the
42 ASC's discretion, other interested persons, may present information relevant to
43 the Owner's requested approval. The Committee shall keep minutes of all ASC
44 meeting.

1
2 9.11 Basis for Decisions; Good Faith. The ASC’s decisions shall be made in good
3 faith and shall not be unreasonable, arbitrary, or capricious. It is recognized and
4 intended that the ASC will employ subjective criteria and judgments in its review
5 of and determination concerning plans and proposals submitted to it. The ASC
6 shall make its decisions from the perspective of the interest of the Development
7 as a whole in the fostering of the coherence, value, attractiveness and aesthetic
8 compatibility of all architectural designs and features in the Development, after
9 consideration of such factors the ASC reasonably determines to be relevant and
10 after reasonable investigation consistent with the scope and circumstances of the
11 proposal submitted to the ASC. The vote or written consent of a majority of the
12 ASC members shall constitute an act by the ASC. The ASC shall grant the
13 requested approval only if:

- 14
- 15 (a) The Owner has submitted a complete application;
- 16
- 17 (b) The ASC finds that the plans and specifications conform to this
18 Declaration and to the Architectural Rules in effect at the time such plans
19 were submitted to the ASC. Pursuant to **Section 9.13** (“Variances”), the
20 ASC may approve any application involving a request for or a need for a
21 variance. A variance shall not include any minor deviations from the
22 Architectural Rules or Minimum Construction Standards of **Article 8**
23 (“Minimum Construction Standards”), necessary to overcome practical
24 difficulties, or avoid unnecessary expense, or prevent unnecessary
25 hardship to the Owner(s);
- 26
- 27 (c) The ASC finds that the proposed work will, if approved, be consistent and
28 compatible with the architectural and aesthetic standards prevailing within
29 the Development and will be in harmony with the external design and
30 appearance of other existing structures and improvements within the
31 Development, and as to location with respect to topography and finished
32 grade elevations; and
- 33
- 34 (d) The ASC determines that the proposed work would be consistent with the
35 standards of the Development and the purposes of this Declaration as to
36 quality of workmanship and materials.

37

38 9.12 Decisions in Writing; Timely Decision; Reasonable Conditions. All approvals and
39 rejections of requests for approval shall be in writing and shall be issued by the
40 ASC within sixty (60) days from the date of submission of a complete application
41 to the ASC. Any approval may include such reasonable conditions as the ASC
42 or the Board may determine. If a request is rejected, the decision shall include
43 an explanation of the ASC’s decision and a notice describing the Owner’s right to
44 request consideration by the Board.

1
2 9.13 Variances. When approving an application pursuant to this Article 9, the ASC
3 may allow reasonable variances from the Architectural Rules, the provisions of
4 Article 8 ("Minimum Construction Standards"), and the use restrictions at
5 Sections 6.1 through 6.106.1 through 6.8 of this Declaration; subject to the
6 following:

7
8 9.13.1 Written Determination. The ASC must make a good faith written
9 determination that issuance of a variance (i) will not constitute a
10 material deviation from any restrictions contained within this
11 Declaration, (ii) the proposed alteration allows the objectives of the
12 applicable use restriction provision being deviated from to be
13 substantially achieved despite the noncompliance, or (iii) the variance
14 applies to a land use restriction or minimum construction standard that
15 is otherwise applicable but the ASC finds is unnecessary or
16 burdensome under the circumstances applicable to the Lot.

17
18 9.13.2 ~~Non-approval~~Approval of Land-Use Restriction or Minimum
19 Construction Standard Variance. Any variance related to a land-use
20 restriction or to a minimum construction standard ~~must not~~may be
21 approved ~~if so long as~~ it will ~~result in a material detriment to the~~
22 ~~Development or not~~ create an unreasonable nuisance with respect to
23 any portion of the Development ~~or result in a material detriment to the~~
24 ~~Development~~. ~~Any such application shall be referred to the Board for~~
25 ~~reconsideration as provided for in~~ Section 9.14 ("Disapproval by ASC;
26 Reconsideration by Board").

27
28 9.13.3 ~~Written Notice to Board~~. ~~The ASC shall provide written notice to the~~
29 ~~Board of any application for an alteration that was approved where a~~
30 ~~variance was also approved.~~

31
32 ~~[NOTE TO BOARD: Pursuant to Civil Code section 4765, only the~~
33 ~~Board is permitted to deliberate on applications that have been~~
34 ~~disapproved by the committee. Your existing CC&Rs appear to~~
35 ~~permit such reconsideration by the ASC. Because of the~~
36 ~~statutory requirements for reconsideration by the Board, we did~~
37 ~~not carry over these provisions from your existing CCRs. Appeals~~
38 ~~and reconsideration by the Board shall be handled pursuant to~~
39 ~~the same procedures outlined in~~ Article 14.~~]~~

40
41 9.14 Disapproval by ASC; Reconsideration by Board. An application that has been
42 disapproved by the ASC may be re-submitted to the Board by the Owner or upon
43 the Owner's request may be referred by the ASC to the Board for
44 reconsideration. Reconsideration of an application by the Board of Directors

1 shall be done at an open meeting, pursuant to the procedures set forth in **Section**
2 **14.13** ("Owner's Request for Hearing").

3
4 9.15 **Failure of ASC or Board to Make Timely Decision.** If the ASC shall fail to act on
5 a request for approval within the time specified in **Section 9.12** ("Decisions in
6 Writing; Timely Decision; Reasonable Conditions"), or if the Board shall fail to
7 consider the Owner's request in a timely fashion pursuant to **Section 9.14**,
8 ("Disapproval by ASC; Reconsideration by Board"), the Owner shall be entitled to
9 invoke internal dispute resolution pursuant to *Civil Code* section 5910, discussed
10 in **Section 14.16** ("Internal Dispute Resolution").

11
12 9.16 **Failure to Obtain Required Approval.** If any work that requires prior approval
13 pursuant to this **Article 9** is performed without such approval having been
14 obtained, the Board shall be entitled to proceed in accordance with the provisions
15 of **Section 9.20** ("Notice of Non-conformity") and **Section 9.21** ("Failure to
16 Remedy Non-conformity") as though the Board had given written Notice of Non-
17 conformity with approved plans.

18
19 9.17 **Commencement of Approved Work.** Upon receipt of written approval, the Owner
20 shall, as soon as practicable, satisfy all conditions of the approval and diligently
21 proceed with the commencement and completion of all approved work.
22 Commencement of the approved work shall occur, in all cases, within ninety (90)
23 days from the date of such approval. In the case of original construction on a
24 vacant Lot, "commencement of construction" shall mean at least the completion
25 of grading and the pouring of all or substantially all foundations for any
26 improvements. If the Owner fails to comply with this paragraph, any approval
27 previously given shall be deemed revoked unless the ASC, upon written request
28 of the Owner made prior to the expiration of the time for commencement of the
29 approved work, extends the time for such commencement. The ASC shall not
30 grant an extension of time for commencement of the work if the ASC finds that
31 there has been a material change in the circumstances upon which the original
32 approval was granted. ~~[NOTE TO BOARD: Ninety (90) days is suggested for
33 time to start work after approval is given; however, this is not established
34 by statute. Some associations allow as much as a year. Please let us
35 know if you want to specify a different amount of time.]~~

36
37 9.18 **Completion; Extension of Deadline.** The Owner shall complete all approved work
38 within one (1) year after commencement thereof; except that in the case of
39 original construction on a vacant Lot or reconstruction after substantially total
40 destruction of the improvements on a Lot, the construction or reconstruction shall
41 be completed within two (2) years after commencement thereof. In the case of
42 projects under construction when this Declaration is recorded, the construction or
43 reconstruction shall be completed by the completion date specified in the project
44 approval or, if no such completion date was specified, within one (1) year (or in

1 the case of original construction on a vacant Lot or reconstruction after
2 substantially total destruction of the improvements on a Lot within two (2) years),
3 after the date of recordation. ~~The date for completion may be extended as long~~
4 ~~as such completion is rendered impossible or would result in great hardship to~~
5 ~~the Owner due to strikes, fires, national emergencies, natural calamities, or other~~
6 ~~supervening forces beyond the control of the Owner or his or her agents,~~
7 ~~provided the Owner notifies the ASC of such occurrence within a reasonable time~~
8 ~~after becoming aware of it.~~ The date for completion may be extended by the ASC
9 pursuant to the Architectural Rules. If an Owner fails to comply with this **Section**
10 **9.18**, the ASC shall notify the Board of such failure, and the Board shall be
11 entitled to (or on its own initiative the Board may) proceed in accordance with the
12 provisions of **Section 9.20**, (“Notice of Non-conformity”), as though the Board has
13 given written Notice of Non-conformity with approved plans.

14
15 9.19 Notice of Completion; Inspection of Completed Work. Upon the completion of
16 any work for which approval is required under this **Article 9**, the Owner shall give
17 written notice of completion to the ASC. ~~The written notice shall include copies~~
18 ~~of all applicable permits, job cards, and building permit inspections.~~ Within sixty
19 (60) days after receiving notice of completion from the Owner, the ASC or its
20 duly-authorized representative may inspect such work to determine if it
21 substantially complies with the granted approval and Owner shall cooperate with
22 the ASC to conduct such inspection. If the ASC fails to notify the Owner of any
23 non-conformity within such sixty (60) day period, the work shall be deemed to be
24 in accordance with the granted approval. If the Owner fails to give notice of
25 completion, the Board shall be entitled to proceed in accordance with the
26 provisions of **Section 9.20** (“Notice of Non-conformity”), as though the Board has
27 given written Notice of Non-conformity with approved plans.

28
29 9.20 Notice of Non-conformity. If the ASC finds that the work was not done in
30 substantial conformity with the granted approval, it shall notify the Owner in
31 writing before the end of such sixty (60) day period set forth in **Section 9.19**
32 (“Notice of Completion; Inspection of Completed Work”) specifying particulars of
33 non-conformity and requiring the Owner to remedy the same within thirty (30)
34 days from the date of the notice from the ASC or such longer time as the ASC
35 may designate in the notice.

36
37 9.21 Failure to Remedy Non-conformity. If the Owner fails to remedy such non-
38 conformity within the time specified in the Notice of Non-conformity from the
39 ASC, the ASC shall notify the Board in writing of such failure. Pursuant to the
40 procedures set forth in **Section 14.12** (“Hearing Called by the Board; Executive
41 Session; Open Meeting”), the Board shall then set a date on which a hearing
42 before the Board shall be held regarding the alleged non-conformity. If the Board
43 finds at such hearing that a substantial non-conformity exists, the Board may, in
44 addition to any other remedy available under the Governing Documents or

1 applicable law, order the Owner to remedy or remove such non-conformity. If the
2 Owner thereafter fails to do so within the time specified by the Board, the Board
3 may, in addition to any other remedy available under the Governing Documents
4 or applicable law, remove or remedy the non-conformity and, in that event, all
5 expenses incurred by the Association in connection therewith shall be assessed
6 against the Owner as a Reimbursement Assessment.
7

8 9.22 Non-waiver. The approval by the ASC or the Board of any plans, drawings, or
9 specifications for any work done or proposed, or for any other matter requiring
10 approval under this **Article 9**, shall not be deemed to constitute a waiver of the
11 right to withhold approval of any similar plan, drawing, specification, or matter
12 subsequently submitted for approval with respect to the same Lot or any other
13 Lot.
14

15 9.23 Estoppel Certificate. Within thirty (30) days after written demand is delivered to
16 the Association by an Owner, and upon payment to the Association of a
17 reasonable fee (as fixed from time to time by the Board), the Board shall cause to
18 be recorded an estoppel certificate certifying, with respect to specified
19 improvements and other work performed by the requesting Owner upon a
20 particular Lot owned by such Owner, that as of the date of the estoppel
21 certificate, either: (i) the improvements and other work specified by the Owner
22 and performed by the Owner are not in violation of the architectural approval
23 requirements of this Declaration, or (ii) that certain or all of the specified
24 improvements or other work are in violation of the architectural approval
25 requirements, in which event the estoppel certificate shall identify the non-
26 complying improvements or work and set forth with particularity the basis of such
27 non-compliance. Any purchaser from the Owner, or from anyone deriving any
28 interest in a Lot through the Owner, shall be entitled to rely on the recorded
29 estoppel certificate with respect to the matters therein set forth, such matters
30 being conclusive as between the Association and the Owner(s) and any persons
31 deriving any interest through the Owner(s).
32

33 9.24 Disclaimer of Liability. Neither the Board, nor any ASC, nor any member thereof
34 shall be liable to the Association, to any Owner, or to any person deriving an
35 interest through an Owner for any damage, loss, or prejudice suffered or claimed
36 on account of: (i) the approval or disapproval of any plans, drawings, and
37 specifications, whether or not defective; (ii) the construction or performance of
38 any work, whether or not pursuant to approved plans, drawings, and
39 specifications; or (iii) the development of any property within the Development; or
40 (iv) the execution and filing of an estoppel certificate pursuant to **Section 9.23**
41 (“Estoppel Certificate”) whether or not the facts therein are correct; *provided,*
42 *however,* that the Board, ASC, or such member has acted in good faith on the
43 basis of such information as may be possessed by it or him or her. Without
44 limiting the generality of the foregoing, the Board or any ASC may, but is not

1 required to, consult with or hear the views of the Association or any Owner with
2 respect to any plans, drawings, specifications, or any other proposal submitted
3 for approval pursuant to this **Article 9**. Every purchaser, by acquiring title to a Lot
4 or portion thereof agrees not to bring any action or suit against the Board, the
5 ASC, or its or their members seeking to recover any such damages.
6

7 9.25 Compliance with Governmental Requirements. The Owner of the Lot is required
8 to obtain all permits and governmental authorizations, if any, required for any
9 work done upon such Owner's Lot and such Owner must comply with all
10 applicable zoning and building codes as well as other applicable laws and
11 ordinances. The Owner of each Lot is solely responsible for complying with any
12 applicable building permit process or other governmental requirements with
13 respect to any work done upon the Owner's Lot. Submission of a request for
14 approval by the ASC or the Board and the review and approval of any proposals,
15 plans, or other submittals shall in no way be deemed to be satisfaction of or
16 compliance with any building permit process or any other governmental
17 requirements, nor shall it constitute the assumption of any responsibility by or
18 impose any liability on the Association, the Board, the ASC, or its or their
19 members as to the accuracy, efficacy, or sufficiency thereof. When Architectural
20 approval standards of the Association are more stringent than applicable
21 governmental standards, the more stringent standards of the Association shall
22 apply, notwithstanding the fact that governmental approval may have been
23 obtained based on governmental standards that are less stringent than those of
24 the Association.
25
26

1
2 **ARTICLE 10 ASSESSMENTS AND LIENS**
3

4 This **Article 10** does not apply to Commercial Lots and Commercial Lots do not pay
5 Assessments.
6

7 10.1 Covenant of Owner. Each Owner of a Separate Interest within the Development,
8 by acceptance of a deed or other conveyance thereof, whether or not it shall be
9 so expressed in such deed or conveyance, shall be deemed to have covenanted
10 and agreed to pay to the Association all: (i) Regular Assessments, (ii) Special
11 Assessments, (iii) Reimbursement Assessments, and (iv) Enforcement
12 Assessments levied by the Association as hereinafter provided, together with all
13 Additional Charges.
14

15 10.1.1 Association's Power to Collect. Such deed or conveyance shall be
16 deemed to vest in the Association the right and power to initiate all
17 actions and procedures as the Board shall deem necessary or
18 appropriate for the collection of such Assessments and Additional
19 Charges and for the enforcement of the liens hereinafter provided for.
20 If the Separate Interest is owned by an entity, such as a corporation, a
21 limited liability company, a partnership, or other entity, the assessment
22 levied by the Association pursuant to this Declaration, together with all
23 Additional Charges, shall be a personal debt and obligation of each
24 principal, partner, managing member, member or officer of such entity
25 and shall bind his or her heirs, devisees, personal representatives,
26 successors, and assigns. Upon taking title to a Separate Interest, the
27 entity-Owner shall notify the Association in writing of the name(s) and
28 provide contact information for each such owner, principal, partner,
29 managing member, or officer, whichever the case may be.
30

31 10.1.2 Assessments Are a Personal Obligation. Assessments levied by the
32 Association pursuant to this Declaration, together with all Additional
33 Charges, shall be a personal debt and obligation of the Owner against
34 whom they are assessed, and shall bind his or her heirs, devisees,
35 personal representatives, successors, and assigns.
36

37 10.1.3 Obligation Runs with the Land. The obligation to pay Assessments
38 and Additional Charges and the right and power of the Association to
39 initiate all actions and procedures for collection shall run with the land,
40 so that each successive Owner or Owners of any Separate Interest
41 shall, in turn, become liable to pay all such Assessments and
42 Additional Charges assessed that become due and payable during the
43 time he or she is Owner of such Separate Interest.
44

1 way affect the priority of the Association's liens relative to liens of
2 third parties.]
3

4 10.3 Purpose of Assessments. The Assessments levied by the Board shall be used
5 exclusively to pay for the costs of management and operation of the
6 Development, of conducting the business and affairs of the Association, to
7 promote the recreation, health, safety, welfare, benefit, and interests of the
8 Owners and Residents in the Development, and for the improvement and
9 maintenance, repair, and replacement of the Common Area and, to the extent
10 provided for in the Governing Documents or by law, of the Separate Interests
11 situated within the Development or which, in the opinion of the Board, shall be
12 deemed to be necessary or proper for the management of the Development or of
13 the affairs of the Association, or the benefit of the Owners, or for the enforcement
14 of the Governing Documents.
15

16 10.4 Funds to Be Held in Association Name. Unless otherwise determined by the
17 Board, the Association shall maintain at least two (2) separate accounts in one
18 (1) or more banks or other depositories selected by the Board, which accounts
19 shall be clearly designated Tahoe Donner Association operating account and
20 Tahoe Donner reserve account. The Assessments collected by the Association
21 shall be properly deposited into such accounts. Withdrawal of funds from
22 Association accounts shall be subject to the requirements of **Section 10.4 of the**
23 **Bylaws** ("Checks, Drafts, and Evidences of Indebtedness"). ~~**[NOTE TO BOARD:**~~
24 ~~**The law does not expressly require two separate accounts to be**~~
25 ~~**maintained, but since withdrawal and use of reserve funds is subject to**~~
26 ~~**very specific requirements, it is prudent to keep reserve funds in a**~~
27 ~~**separate and clearly designated account.]**~~
28

29 10.5 Funds Held in Trust for Owners. The Assessments collected by the Association
30 shall be held in trust by the Association for and on behalf of each Owner. Upon
31 sale or transfer of any Separate Interest by any Owner, the Owner's interest in
32 the funds held in trust by the Association shall terminate and shall be deemed
33 automatically transferred to the successor-transferee of such Owner.
34

35 10.6 Authority of the Board to Levy Assessments. The Board shall have the power
36 and the duty to levy Regular Assessments and Special Assessments sufficient to
37 meet the Association's obligations under the Governing Documents and
38 applicable law.
39

40 10.7 Regular Assessment.

41
42 10.7.1 Calculation of Estimated Requirement. Prior to the beginning of each
43 fiscal year, the Board shall estimate the net funds required by the
44 Association for such fiscal year to manage, administer, operate, and

1 maintain the Development; to conduct the affairs of the Association;
2 and to perform all of the Association's duties in accordance with the
3 Governing Documents, including a reasonable amount allocated to
4 contingencies and to a reserve fund for restoration, repair, and/or
5 replacement of those components for which the Association is
6 responsible and which must be repaired or replaced on a periodic
7 basis. The amount of estimated required funds shall constitute the
8 Regular Assessment.

9
10 10.7.2 Allocation of Regular Assessment. The Board shall allocate and
11 assess the Regular Assessment equally among the Separate Interests
12 by dividing the amount by the number of Separate Interests within the
13 Development. Owners of multiple Separate Interests that have been
14 used as a single homesite or Unit that have been legally merged to
15 create a single ~~Separate Interest~~ homesite or Unit shall be responsible
16 for payment of Regular Assessments on each of the original Separate
17 Interests on the same basis as if the Separate Interests were not used
18 as a single homesite or Unit or were not merged. When an
19 undeveloped Condominium Lot is develop with Units, each Unit shall
20 be a Separate Interest and each Owner of a Unit shall be obligated to
21 pay an equal share of the Regular Assessment.

22
23 10.7.3 Payment of Regular Assessment. Unless the Board shall designate
24 otherwise, Regular Assessments shall be levied on an annual basis
25 and shall be paid in one (1) installment which shall be due on the first
26 (1st) day of January; *provided, however*, that the Board may allow for
27 the payment of annual assessments in equal installments.

28
29 10.7.4 Notice of Regular Assessment. Not less than thirty (30) days and not
30 more than ninety (90) days prior to the beginning of each fiscal year,
31 the Board shall send to each Owner a notice of the amount of the
32 Regular Assessment allocated to his or her Separate Interest, except
33 that if there is an increase in the Regular Assessment over the
34 previous year, in compliance with *Civil Code* section 5615, the notice
35 shall be provided to the Owner by Individual Delivery not less than
36 thirty (30) days and not more than sixty (60) days before the due date
37 of the increased Regular Assessment.

38
39 10.7.5 Permitted Increase in Regular Assessment. Pursuant to *Civil Code*
40 section 5605(b), except as otherwise provided by law, the Board shall
41 not increase the Regular Assessment for any fiscal year above the
42 amount of the Regular Assessment for the preceding fiscal year by
43 more than twenty percent (20%) (or such other limitation on the
44 increase as may be imposed by law), except upon the affirmative vote

1 of a majority of Members voting on any such increase in the Regular
2 Assessment, provided that a quorum is established. For purposes of
3 the preceding sentence and to the extent required pursuant to *Civil*
4 *Code* section 5605(c), a quorum shall mean more than fifty percent
5 (50%) of the Members of the Association, notwithstanding any lower
6 quorum requirement which may be set forth in the Bylaws.
7

8 10.7.6 Revised Regular Assessment. Subject to the provisions of **Section**
9 **10.7.5** ("Permitted Increase in Regular Assessment") or as otherwise
10 permitted by law, if at any time during the course of any year, the
11 Board determines the amount of the Regular Assessment to be
12 inadequate, by reason of a revision of its estimate of either expenses
13 or income or otherwise, the Board shall have the right, at a regular or
14 special meeting of the Board, to revise the Regular Assessment for the
15 balance of the fiscal year. To the extent required by *Civil Code* section
16 5615, notice of any such increase shall be given to the Members by
17 Individual Delivery and such revised Regular Assessment shall
18 become effective on the first day of the next month that is at least thirty
19 (30) days and not more than sixty (60) days after the date of such
20 notice.
21

22 10.7.7 Failure to Fix Regular Assessment. The failure or omission by the
23 Board to fix or levy any Regular Assessment before the expiration of
24 any fiscal year, for that fiscal year or the next fiscal year, shall not be
25 deemed either a waiver or a modification in any respect of the
26 provisions of this Declaration, or a release of any Owner from the
27 obligation to pay Assessments or any installment thereof for that or any
28 subsequent year, but the amount of the Regular Assessment fixed for
29 the preceding fiscal year shall be the amount of the Regular
30 Assessment for the ensuing fiscal year until a new Regular
31 Assessment is levied.
32

33 10.8 Special Assessments.
34

35 10.8.1 Purpose of Special Assessments. If at any time during any fiscal year
36 the Regular Assessment proves inadequate for any reason, including
37 nonpayment of any Owner's share thereof or the unexpected repair,
38 replacement, or reconstruction of improvements located in the
39 Development, or if funds are otherwise required for any authorized
40 activity of the Association, the Board may levy a Special Assessment
41 in the amount of such actual or estimated inadequacy or cost.
42

43 10.8.2 Permitted Amount of Special Assessments. Except in the case of an
44 emergency situation as defined in *Civil Code* section 5610, in any fiscal

1 year the Board may not levy Special Assessments which, in the
2 aggregate, exceed five percent (5%) of the budgeted gross expenses
3 of the Association for that fiscal year (or such other limitation on the
4 amount as may be imposed by law), except upon the affirmative vote
5 of a majority of the Members voting on any such Special Assessment,
6 provided that a quorum is established. For purposes of the preceding
7 sentence and to the extent required pursuant to *Civil Code* section
8 5605(c), a quorum shall mean more than fifty percent (50%) of the
9 Members of the Association, notwithstanding any lower quorum
10 requirement which may be set forth in the Bylaws.

11
12 10.8.3 Allocation of Special Assessments. Special Assessments shall be
13 allocated and assessed among the Separate Interests in the same
14 manner as Regular Assessments.

15
16 10.8.4 Notice of Special Assessment. Upon the imposition of a Special
17 Assessment or an increase in a Special Assessment, in compliance
18 with *Civil Code* section 5615 notice thereof shall be given to each
19 Owner by Individual Delivery, not less than thirty (30) days and not
20 more than sixty (60) days prior to the due date of the Special
21 Assessment.

22
23 10.9 Development Fund Special Assessments.

24
25 10.9.1 Purpose of Development Fund Special Assessments. If at any time
26 the Board shall propose to undertake a capital improvement project to
27 add Common Area and/or Common Area Facilities to the
28 Development, the Board may levy a Development Fund Special
29 Assessment in such amount the board shall determine, in its sole
30 discretion shall be required to fund the costs and expenses of the
31 proposed capital improvement project.

32
33 10.9.2 Member Approval Required for a Development Fund Special
34 Assessment. In any fiscal year the Board may levy a Development
35 Fund Special Assessment for funding the costs and expenses of a
36 capital improvement project without a Member vote, so long as the
37 Development Fund Special Assessment, in the aggregate does not
38 exceed five percent (5%) of the budgeted gross expenses of the
39 Association for that fiscal year. And, upon the affirmative vote of a
40 majority of the Members voting on any such Development Fund
41 Special Assessment, provided that a quorum is established, the Board
42 may levy a Development Fund Special Assessment which in the
43 aggregate is in excess of five percent (5%) of the budgeted gross
44 expenses of the Association for that fiscal year. For purposes of the

1 preceding sentence and to the extent required pursuant to *Civil Code*
2 section 5605(c), a quorum shall mean more than fifty percent (50%) of
3 the Members of the Association, notwithstanding any lower quorum
4 requirement which may be set forth in the Bylaws.

5
6 10.9.3 Allocation of Development Fund Special Assessments. Development
7 Fund Special Assessments shall be allocated and assessed among
8 the Separate Interests in the same manner as Regular Assessments.

9
10 10.9.4 Notice of Development Fund Special Assessment. Upon the
11 imposition of a Development Fund Special Assessment notice thereof
12 shall be given to each Owner by Individual Delivery, not less than thirty
13 (30) days and not more than sixty (60) days prior to the due date of the
14 Development Fund Special Assessment.

15
16 10.8.5 10.9.5 Payment of Development Fund Special Assessments; Cost of
17 Payment Plans. Development Fund Special Assessments shall be
18 payable in a lump sum or in installments as may be determined by the
19 Board with regard to each Development Fund Special Assessment
20 when it is imposed. If the Association incurs additional expenses
21 because of a payment method selected by an Owner (for example, but
22 not limited to, paying a Development Fund Special Assessment in
23 installments instead of in a lump sum), the Association may charge
24 such expense to the Owner as an Additional Charge or as a
25 Reimbursement Assessment. Nothing in this Section 10.8 shall be
26 deemed to obligate the Association to offer or permit alternate payment
27 plans.

28
29 10.9 10.10 Reimbursement Assessments. The Board, after notice and a hearing as
30 provided for in Section 14.11 (“Notices: Content, Delivery”) and Section 14.12
31 (“Hearing Called by the Board; Executive Session; Open Meeting”), may levy a
32 Reimbursement Assessment against an Owner and his or her Separate Interest:

- 33
34 (a) To reimburse the Association for costs incurred to maintain, repair, or
35 replace property (including property within a Separate Interest) when such
36 damage is due to the act or neglect of such Owner, his or her Contract
37 Purchaser, or member of his or her household, pet, tenant, invitee, or
38 guest, or as otherwise provided in the Governing Documents;
- 39
40 (b) If the failure of such Owner, his or her Contract Purchaser, or member of
41 his or her household, pet, tenant, invitee, or guest to comply with any
42 provision of the Governing Documents has necessitated or resulted in an
43 expenditure of funds by the Association to deal with such lack of

1 compliance or to bring such person or the Separate Interest into
2 compliance;

- 3
4 (c) To reimburse the Association for any costs of collecting from an Owner
5 any amount the Owner is obligated to pay the Association.
6

7 Without limiting the generality of the foregoing, and to the fullest extent
8 permitted by law, all costs including attorney fees, incurred by the
9 Association to enforce **Section 6.11** ("Restriction on Businesses
10 Conducted Within a Separate Interest"), **Section 6.10** ("Animals"), **Section**
11 **6.15.3** ("Indemnification Regarding Tenants' Actions"), and **Section 14.6**
12 ("Injunctions"), or to defend any claim arising or alleged to arise from any
13 of the foregoing sections, shall be reimbursed to the Association as a
14 Reimbursement Assessment. Any Reimbursement Assessment shall be
15 due and payable to the Association when levied.
16

17 | **10.1010.11 Enforcement Assessments.** Subject to the requirements set forth in
18 **Section 14.8** ("Imposing Sanctions"), the Board may levy an Enforcement
19 Assessment (and any fine or monetary penalty imposed by the Board in
20 accordance with the provisions of the Governing Documents shall be deemed to
21 be such an Enforcement Assessment), for violation of any of the provisions of the
22 Governing Documents. Any Enforcement Assessment shall be due and payable
23 to the Association when levied.
24

25 | **10.1110.12 No Offsets.** All Assessments levied by the Board shall be payable in the
26 full amount specified, including any Additional Charges imposed as provided by
27 the terms of this Declaration, and no offsets against any such amounts shall be
28 permitted for any reason whatsoever, including without limitation a claim that the
29 Association has failed to properly exercise its duties of maintenance or
30 enforcement.
31

32 | **10.1210.13 Bad Checks.** An Owner who writes a check to the Association on
33 insufficient funds shall be charged a service fee in the amount permitted by *Civil*
34 *Code* section 1719 and may be liable for damages to the Association in an
35 amount equal to three (3) times the amount of the bad check, as provided by
36 statute.
37

38 | **10.1310.14 Delinquent Assessments; Acceleration in the Event of Delinquency.** Any
39 installment or other portion of an Assessment not received within fifteen (15)
40 days after its due date shall be delinquent and, to the fullest extent permitted by
41 law including *Civil Code* section 5650(b), shall be subject to a late charge and,
42 thirty (30) days after the due date, interest not to exceed the maximum rate
43 permitted by law, as well as all other Additional Charges. If any monthly
44 installment of the Regular Assessment or any installment of a Special

1 Assessment that has been levied and is permitted to be paid on an installment
2 basis is delinquent for a period of sixty (60) days, the Association may, but shall
3 not be obligated to, declare the entire balance of the Regular Assessment or the
4 Special Assessment immediately due and payable together with all other
5 delinquent amounts.
6

7 | 10.14.10.15 Enforcement by Action at Law or Foreclosure. The Board, on behalf of the
8 Association, may enforce the payment of any delinquent Assessment plus
9 Additional Charges by bringing an action at law against any Owner personally
10 obligated to pay the same, or by foreclosing the lien against the Owner's
11 Separate Interest by judicial or non-judicial foreclosure, to the fullest extent
12 permitted by law. To the extent prohibited by *Civil Code* section 5725(b), the
13 amount of an Enforcement Assessment may not become a lien that is
14 enforceable by non-judicial foreclosure.
15

16 | 10.14.110.15.1 Pre-lien Notice. At least thirty (30) days prior to recording a
17 Notice of Delinquent Assessment against a Separate Interest to collect
18 a debt that is past due, the Association shall provide written notice to
19 the Owner(s) of the Separate Interest, as required by *Civil Code*
20 section 5660 ("Pre-lien Notice").
21

22 | 10.14.210.15.2 Prior to Recording a Lien. Prior to recording a Notice of
23 Delinquent Assessment, the Association shall comply with all
24 applicable requirements imposed by law, including offering to
25 participate in internal dispute resolution (**Section 14.16** of this
26 Declaration) or Alternative Dispute Resolution (**Section 14.17** of this
27 Declaration) to the extent required pursuant to *Civil Code* section 5670
28 and making the decision to record a lien for delinquent Assessments at
29 an open meeting of the Board, to the extent required pursuant to *Civil*
30 *Code* section 5673.
31

32 | 10.14.310.15.3 Owner's Right to Discuss Payment Plan. To the extent
33 provided in *Civil Code* section 5665, an Owner may submit to the
34 Board a written request to discuss a payment plan for a debt noticed in
35 a Pre-lien Notice. If the Owner's written request is mailed to the Board
36 (as evidenced by a postmark or receipt of mailing) within fifteen (15)
37 days after the postmark on the Pre-lien Notice, the Board shall meet
38 with the Owner within forty-five (45) days of the postmark date of the
39 Owner's written request, unless there is not a regularly scheduled
40 Board meeting within the period, in which case the Board, in its
41 discretion, may hold a special meeting in executive session to meet
42 with the Owner or may designate a committee of one (1) or more
43 Board members to meet with the Owner.
44

1 | 10.14.410.15.4 Notice of Delinquent Assessment. The amount of the past
2 | due debt noticed in the Pre-lien Notice shall be a lien from and after
3 | the recording of a Notice of Delinquent Assessment. No later than ten
4 | (10) days after recordation, a copy of the Notice of Delinquent
5 | Assessment shall be mailed by certified mail in compliance with *Civil*
6 | *Code* section 5675 to every person whose name is shown as an
7 | Owner of the Separate Interest in the Association records or in such
8 | manner and to such persons as may be required by applicable law.
9 |

10 | 10.14.510.15.5 Delinquent Assessments of Less Than \$1,800. To the
11 | extent provided in *Civil Code* section 5720(b), delinquent Assessments
12 | totaling less than One Thousand Eight Hundred Dollars (\$1,800) that
13 | are less than twelve (12) months delinquent may not be collected by
14 | judicial or non-judicial foreclosure, but may be collected in any other
15 | manner provided by law including a civil action in small claims court to
16 | the extent provided in *Civil Code* section 5720(b)(1) or recording a lien
17 | as provided in *Civil Code* section 5720(b)(2). Prior to recording such a
18 | lien, the Association shall offer to participate in internal dispute
19 | resolution (Section 14.16 of this Declaration) to the extent required by
20 | *Civil Code* section 5720(b)(2).
21 |

22 | 10.14.610.15.6 Initiating Foreclosure. As provided in *Civil Code* section
23 | 5700(a), no procedures shall be initiated to foreclose the lien securing
24 | any noticed past due debt under this Article 10 until after the expiration
25 | of thirty (30) days following the recording of a Notice of Delinquent
26 | Assessment. To the extent required pursuant to *Civil Code* section
27 | 5705(b), the Association shall offer to participate in internal dispute
28 | resolution (Section 14.16 of this Declaration) or Alternative Dispute
29 | Resolution (Section 14.17 of this Declaration). To the extent required
30 | by *Civil Code* section 5705(c), a decision to initiate foreclosure shall be
31 | made only by the Board in an executive session meeting.
32 |

33 | 10.14.710.15.7 Amount Due and Payable. Except with respect to the
34 | amount of any Enforcement Assessment, upon the recording of the
35 | Notice of Delinquent Assessment referred to above, the Association
36 | may, at its option, declare the entire balance of all sums then due or to
37 | become due from the Owner, immediately due and payable, which
38 | total sum may then be included in any suit, action, or other procedure
39 | initiated to collect said sums, including all Additional Charges.
40 |

41 | 10.14.810.15.8 Notice of Initiating Foreclosure. To the extent required
42 | pursuant to *Civil Code* section 5705(d), the Association shall provide
43 | written Notice of Initiating Foreclosure to the record Owner of the

1 Separate Interest, including notice by personal service to any resident
2 Owner.

3
4 | 10.1510.16 Power of Sale. Each Owner does hereby appoint the Association as
5 trustee to enforce and to foreclose any lien which is established pursuant to the
6 terms of this Declaration, by private power of sale, as provided in Division III, Part
7 4, Title 14, Chapter 2, Article 1, (Section 2920 and following) of the *Civil Code* of
8 the State of California, and does further grant to the Board of Directors, on behalf
9 of the Association, the authority and power to sell the Separate Interest of such
10 Owner in the event of any default in payment of any Assessments or Additional
11 Charges levied against such Separate Interest, for lawful money of the United
12 States, to the highest bidder, to satisfy said lien. The Association, as trustee for
13 the remaining Owners, or any other Owner, may purchase the Separate Interest
14 at said sale.

15
16 | 10.1610.17 Right of Redemption. To the extent provided pursuant to *Civil Code*
17 section 5715(b), a non-judicial foreclosure to collect delinquent Assessments
18 shall be subject to a right of redemption.

19
20 | 10.1710.18 Remedies Are Cumulative. The Board may commence any procedure for
21 the collection of delinquent Assessments upon its own decision. The remedies
22 provided in this Declaration for collection of delinquent Assessments shall be
23 cumulative and not exclusive; that is, the Association may use one (1) or more or
24 all of the available remedies to collect delinquent Assessments to the fullest
25 extent permitted by law.

26
27 | 10.1810.19 Partial Payments. The Association's acceptance of a partial payment,
28 whether voluntary or involuntary, shall not prevent the Association from pursuing
29 any or all of its available collection remedies.

30
31 | 10.1910.20 Certificate of Satisfaction and Release of Lien. Upon payment in full of a
32 delinquent Assessment, including any Additional Charges, or the satisfaction
33 thereof, the Board shall cause to be recorded, in the same manner as the Notice
34 of Delinquent Assessment, a further certificate stating the satisfaction thereof and
35 the release of the lien.

36
37 | 10.2010.21 Subordination to Lien of First Mortgage. Except as otherwise expressly
38 provided by law, the lien securing each of the Assessments provided for under
39 this Declaration shall have priority as of the date of recordation of the Notice of
40 Delinquent Assessment, as provided in **Section 10.15.4**, over all other liens and
41 encumbrances applicable to the Separate Interests; *provided, however*, that such
42 Assessment lien shall be subordinate to the lien of any First Mortgage recorded
43 against the Separate Interest prior to the date the Notice of Delinquent
44 Assessment was recorded; and *provided, further*, that such subordination shall

1 apply only to the Assessments which have become due and payable prior to the
2 sale of such property pursuant to a decree of foreclosure of any such First
3 Mortgage, or pursuant to a power of sale contained in any such First Mortgage.
4 Such foreclosure sale shall not relieve such property from liability for any
5 Assessments and Additional Charges becoming due after the sale of such
6 property pursuant to a decree of foreclosure of any such First Mortgage, or
7 pursuant to a power of sale contained in any such First Mortgage, nor from the
8 lien of any subsequent Assessment, including Assessments levied against all
9 Separate Interests proportionately to compensate for the unpaid Assessments
10 and Additional Charges, which shall constitute a lien upon the purchased
11 Separate Interest in accordance with this Article 10.

12
13 | 10.21 10.22 Waiver of Exemptions. Each Owner, to the extent permitted by law, does
14 hereby waive, to the extent of any liens created pursuant to this Declaration, the
15 benefit of any homestead or exemption laws of the State of California in effect at
16 the time any Assessment or installment thereof becomes delinquent or any lien is
17 imposed pursuant to the terms of this Declaration.
18

19 | 10.22 10.23 Property Exempt from Assessments. The following property subject to
20 this Declaration shall be exempt from the Assessments, Additional Charges, and
21 liens created herein:
22

- 23 (a) All property dedicated to and accepted by the City or County or other local
24 public authority and devoted to public use;
25
26 (b) Any Separate Interest which is owned by the Association as a result of the
27 Association having acquired such Separate Interest through foreclosure;
28 *provided, however*, that such exemption shall apply only during the period
29 in which the Association is record owner of such Separate Interest;
30
31 (c) All Common Area; and
32
33 (d) All Other Association Property.
34
35

36 **ARTICLE 11 MAINTENANCE OF PROPERTY**

37
38 11.1 Association's Responsibility for Common Area Generally. The Association has
39 the exclusive right and responsibility to provide maintenance, repair, upkeep, and
40 replacement of the Common Area and Common Facilities and improvements,
41 and landscaping thereon, and Other Association Property, and any other real
42 and/or personal property that may be acquired by the Association, keeping such
43 property in good condition and repair. Without limiting the generality of the
44 foregoing:

- 1
2 11.1.1 Landscaping; Janitorial; Painting. The Association shall specifically be
3 responsible for providing lighting, landscaping, gardening (including
4 periodic replacement, as the Board deems necessary, of trees, shrubs,
5 and other plants upon the Common Area), and janitorial services for
6 the Common Area, as needed, and shall cause any and all other acts
7 to be done which may be necessary to assure the maintenance of the
8 Common Area in good condition and repair, including painting of the
9 exterior surfaces of Common Area building(s) and such other portions
10 of the Common Area as the Board, in its discretion, determines to be
11 necessary.
- 12
13 11.1.2 Snow Removal. The Association shall be responsible for providing
14 snow removal for the Common Area as necessary in the discretion of
15 the Board.
- 16
17 11.1.3 Common Area Utilities and Services; Utility Laterals. The Association
18 shall procure and pay for water, sewage, garbage, electrical, gas,
19 telephone, fiberoptics, cable, and other service for the Common Area.
20 The Association shall pay all charges for utilities supplied to the
21 Development except those metered or charged separately to the Lots.
22 The Association shall maintain all utility installations located in the
23 Common Area *except for* (i) those installations maintained by utility
24 companies, public, private, or municipal and (ii) utility lateral lines that
25 serve a single Lot exclusively, no matter where located, which are the
26 responsibility of the Lot Owner.
- 27
28 11.1.4 Drainage Systems. Except for those installations maintained by a
29 public, private, or municipal entity, the Association shall be responsible
30 for maintenance, repair, and replacement of drainage installations and
31 facilities, and for culverts and canals designed to collect storm runoff
32 and all natural drainage courses within the Common Area.
- 33
34 11.1.5 Employees or Independent Contractors. The Association may perform
35 its obligations and provide such services as the Board shall determine
36 through employees of the Association or through independent
37 contractors. In either case, Residents or Owners shall not interfere
38 with or attempt to instruct any of such persons in the performance of
39 their duties.
- 40
41 11.2 Owner's Responsibility for Maintenance of Units. ~~Except Each Owner shall be~~
42 ~~responsible for the maintenance, repair, and replacement of his or her~~
43 ~~Condominium as may be otherwise provided for required~~ in a Supplemental
44 Declaration with respect to a Condominium Project, ~~each.~~

1
2 11.3 Owner's Responsibility for Maintenance of Lots. Each Owner shall be
3 responsible for the maintenance, repair, and replacement of his or her Lot, and
4 any and all improvements, structures, outbuildings, fences, gates, driveways,
5 patio, paving, walkways, pathways, lighting, and landscaping thereon, keeping
6 the same in a clean, sanitary, workable, and attractive condition. Without limiting
7 the generality of the foregoing:
8

9 11.2.1 11.3.1 Utility Laterals and Lines. Each Owner shall be responsible for the
10 maintenance, repair and replacement of utility laterals and utility lines
11 that serve the Owner's Lot exclusively, even if all or a portion of such
12 lateral or line is situated in the Common Area.
13

14 11.2.2 11.3.2 Landscaping. Subject to the restrictions on tree removal at **Section**
15 **6.9** ("Tree Removal"), each Owner shall be responsible for the
16 maintenance, repair and replacement of the landscaping within the Lot,
17 keeping the same is a neat, clean, and attractive condition.
18 Landscaping must be maintained in such a manner as to not become a
19 fire hazard or to be unsightly.
20

21 11.2.3 11.3.3 Drainage. Each Owner shall be responsible for the maintenance,
22 repair, and replacement of drainage facilities located upon the Lot.
23 Each Owner shall keep any drainage facilities, culverts, ditches or
24 swales (whether natural or manmade) free and clear of obstructions
25 and in good working condition at all times. No Owner shall alter or
26 obstruct a natural drainage course or materially add to the natural
27 water volume of such drainage course without making adequate
28 provisions with respect to neighboring Lots and Common Area. As
29 provided for in **Section 9.2.5** ("Drainage Patterns"), alterations,
30 obstructions, or additions to natural or other drainage facilities upon a
31 Lot is subject to prior architectural approval.
32

33 11.2.4 11.3.4 Slope Control. Except for those installations maintained by a
34 public, private, or municipal entity, each Owner shall be responsible for
35 the maintenance, repair, and replacement of slope control areas of the
36 Lot and all slope control improvements thereon.
37

38 11.2.5 11.3.5 Compliance with Architectural Provisions. An Owner's right and
39 responsibility for maintaining, repairing, or replacing any portions of his
40 or her Lot shall be subject to any applicable provisions of the
41 Governing Documents relating to landscaping and architectural control,
42 including **Article 9** ("Architectural Approval").
43

1 | 11.311.4 Owner's Cooperation. Each Owner and Resident shall cooperate with the
2 | Board and its agents in the performance of maintenance, repair, or replacement
3 | by the Association of any portion of Common Area.
4 |

5 | 11.411.5 Wood Destroying Organisms. As provided in *Civil Code* section 4780(b),
6 | each Owner is responsible for and shall perform maintenance and repair of his or
7 | her Lot and Dwelling occasioned by the presence of wood destroying pests or
8 | organisms, including mold, decay, dry rot, [Bark Beetles](#), and termites. Without
9 | limiting the generality of the foregoing, every Owner and Resident shall be
10 | responsible for taking reasonable measures to prevent conditions that may cause
11 | such damage, including but not limited to use of proper spacers under planters
12 | and other objects that may trap moisture, stacking of firewood on racks, and
13 | prompt removal of leaves, dirt, and other debris and may be liable to the
14 | Association for the cost of maintenance, repair, or replacement due to damage
15 | as provided in [Section 11.10](#) ("Owner's Liability to Association for Negligent
16 | Damage").
17 |

18 | 11.511.6 Authority for Entry of Lot. The Association or its agents shall have the
19 | right to enter any Lot whenever such entry is necessary, in the Board's
20 | discretion, for purposes of inspection to (1) ensure compliance with the use
21 | restrictions of this Declaration, (ii) to ensure compliance with the Architectural
22 | Rules, and (iii) to perform maintenance, repair or replacement that the
23 | Association is required to perform as a result of an Owner's failure to perform
24 | such maintenance, repair or replacement. Such entry shall be made with as little
25 | inconvenience to the Residents as practicable and only upon reasonable
26 | advance written notice of not less than ten (10) days, except that in emergency
27 | situations notice shall be given as the situation reasonably permits.
28 |

29 | 11.611.7 Acceptance of Condition of Lot. Each Owner, by acceptance of a deed to
30 | a Lot, accepts responsibility for the condition of the Lot including but not limited to
31 | existing defects, unresolved architectural violations of any predecessor Owner,
32 | and failure of a predecessor Owner to perform maintenance, repairs, or
33 | replacement upon the Lot or any encroachments upon the Common Area that
34 | are the responsibility of the Lot Owners, and the Association shall be entitled to
35 | exercise all of its enforcement powers with respect to the obligations of Lot
36 | Owner in connection with such conditions, whether or not such conditions were
37 | disclosed to the Owner.
38 |

39 | 11.711.8 Board's Discretion to Require Maintenance. The Board shall have the
40 | discretion to determine whether any maintenance, repair, or replacement that is
41 | the responsibility of an Owner is necessary to preserve the appearance and
42 | value of the property within the Development or any portion thereof and may
43 | notify an Owner of the work the Board deems necessary. In the event an Owner
44 | fails to perform such work within sixty (60) days after notification by the Board to

1 the Owner, the Board may, after written notice to the Owner and the right of a
2 hearing before the Board pursuant to **Section 14.12** (“Hearing Called by the
3 Board; Executive Session; Open Meeting”), cause such work to be done and
4 charge the cost thereof to the Owner as a Reimbursement Assessment.

5
6 | **11.811.9** Limitation of Association’s Liability. The Association shall not be
7 responsible or liable for damage to a Lot or any improvement thereon or contents
8 thereof, except to the extent arising from the willful misconduct or gross
9 negligence of the Association, its employees, contractors, or agents.

10
11 | **11.911.10** Owner’s Liability to Association for Negligent Damage. In the event the
12 need for any maintenance, repair, or replacement performed by the Association
13 is caused by the willful or negligent act or omission of an Owner or a Resident, a
14 member of his or her household, pets, tenants, invitees, or guests, the cost of
15 such maintenance, repair, or replacement not covered by insurance, including
16 any applicable insurance deductible and the cost of materials, labor, supplies,
17 and services shall be charged to, and paid by, the Owner of the Lot in the form of
18 a Reimbursement Assessment.

19
20
21 **ARTICLE 12 INSURANCE**

22
23 12.1 Insurance Coverage to Be Maintained by Association. The Association shall
24 procure and maintain, as a common expense of all Owners, the types of
25 insurance described in **Section 12.2** (“Common Area Hazard Insurance to Be
26 Maintained by Association”), **Section 12.3** (“Earthquake Insurance”), **Section 12.4**
27 (“General Liability Insurance to Be Maintained by Association”), and **Section 12.5**
28 (“Other Insurance to Be Maintained by Association”), if and to the extent such
29 insurance, with the coverages described below, is available at a reasonable
30 premium cost.

31
32 12.2 Common Area Hazard Insurance to Be Maintained by Association. ~~**[NOTE TO**~~
33 ~~**BOARD: Consistent with your current documents this section requires the**~~
34 ~~**Association to insure the Common Area improvements for 100% of their**~~
35 ~~**insurable replacement cost. The Association does NOT carry any**~~
36 ~~**insurance on the Lots or the improvements on the Lots.]**~~ The Association
37 shall maintain a policy of fire and extended coverage insurance covering all of
38 the Common Area, the Common Facilities and the Other Association Property
39 and all furnishings, equipment, and personal property owned by the Association
40 or owned in common by all of the Owners, with limits equal to one hundred
41 percent (100%) of the full insurable replacement costs of the Common Area
42 improvements exclusive of land, foundation, excavations, and other items
43 normally excluded from coverage. The policy may contain a reasonable

1 deductible and the amount of the deductible shall be added to the face amount of
2 the policy in determining whether the insurance equals the replacement cost.

3
4 12.2.1 Policy Endorsements. The policy may include such endorsements as
5 the Board, in its discretion, shall determine based on the character and
6 replacement cost of the Common Area, Common Facilities, and Other
7 Association Property improvements from time to time, such as:

8
9 ~~(i) — an agreed amount endorsement or its equivalent,~~

10
11 ~~(ii)(i)~~ (i) an increased cost of construction endorsement or a contingent
12 liability from operation of building laws endorsement or their
13 equivalent, and ordinances endorsement or their equivalent with
14 the following three (3) coverages: (a) contingent liability, (b)
15 demolition of the undamaged part of the building, and (c)
16 increased cost of construction because of changes in codes;

17
18 ~~(iii) — an extended coverage endorsement,~~

19
20 ~~(iv)(ii)~~ coverage for costs of demolition;

21
22 ~~(v)(iii)~~ glass coverage;

23
24 (iv) comprehensive equipment and machinery breakdown coverage
25 for all Common Area Facilities as defined in Section 1.10.2;

26
27 (v) windstorm, lightening, sprinkler leakage, for or water damage;

28
29 (vi) coverage for loss or damage as a result of theft, vandalism, or
30 malicious mischief; coverage for equipment breakdown of any
31 equipment required to run and operate the Project; and for
32 sprinkler leakage; windstorm, or water damage,

33
34 (vii) coveragea determinable cash adjustment clause or a similar
35 clause to permit cash settlement covering full value of the
36 improvements in case of total or partial destruction and a
37 decision not to rebuild;

38
39 (viii) coverage for demolition in the event of total or partial destruction
40 and a decision not to rebuild, and;

41
42 (ix) maintenance fees receivable coverage in case of damage to a
43 LotParcel by a covered peril and the Board is unable, after

1 reasonable effort to collect assessments from the Owner of the
2 affected ~~Lot~~Parcel; and

3
4 (x) a no coinsurance or margin clause.

5
6 12.2.2 General Policy Provisions. Such policy shall:

7
8 (i) name the Master Association as the first-named insured and the
9 Owners or any of them, as additional insureds;

10
11 (ii) contain a standard Mortgagee clause;

12
13 (iii) provide a waiver of subrogation as to any and all claims against
14 the Master Association, its officers and directors, the manager,
15 and the Owners and a waiver of all defenses based upon acts of
16 the insureds or the existence of co-insurance; and

17
18 (iv) shall require that at least thirty (30) days' prior written notice be
19 given to the Master Association by the insurer before
20 cancellation except that in the case of cancellation for
21 nonpayment of premiums or for fraud the notice shall be given
22 no less than ten (10) days prior to the effective date of the
23 cancellation.

24
25 12.3 Earthquake Insurance. The Association ~~shall~~may carry earthquake insurance for
26 some Common Facilities, such as the pool, with such coverage and deductibles
27 as the Board may from time to time determine; *provided, however,* that if a
28 Special Assessment in an amount requiring approval of the Members or an
29 increase in the Regular Assessment in an amount requiring approval of the
30 Members shall be required to fund the payment of the earthquake insurance
31 premiums, and the Members shall fail to approve such Special Assessment or
32 increase in the Regular Assessment, the Association shall not be obligated to
33 maintain or procure earthquake insurance.

34
35 12.4 General Liability Insurance to Be Maintained by Association. The Association
36 shall maintain commercial general liability insurance insuring the Association, its
37 officers and directors, its manager, its employees, its committee members, its
38 agents, and the Owners against any liability incident to operation, management,
39 ownership, maintenance, and repair of the Common Area and to protect against
40 liability to the public or to any Owner incident to the use of, or resulting from
41 accidental or intentional act occurring in or about the Common Area, but
42 excluding the liability of an Owner incident to personal bodily injury and property
43 damage occurring within that Owner's Lot or in any other Lot or upon the
44 Common Area resulting from the negligence of that Owner. Limits of liability

1 shall be set by the Board but shall in no event be less than Three Million Dollars
2 (\$3,000,000).

3
4 12.4.1 Scope of Coverage. Such liability insurance policy shall insure against
5 ~~bodily~~ personal injury, including medical payments, advertising injury,
6 death, or property damage occurring in, on or about any portion of the
7 Common Area and if available and at a reasonable cost as determined
8 by the Board shall include:

- 9
10 (i) water damage liability,
11
12 (ii) hired and non-owned vehicle coverage, theft and collision
13 coverage,
14
15 (iii) liability for property of others,
16
17 (iv) elevator liability coverage, if applicable,
18
19 (v) off-premises employee coverage, and
20
21 (vi) such other risks as are customarily covered in similar
22 developments.

23
24 12.4.2 Other Provisions. If available and at a reasonable cost as determined
25 by the Board, such liability insurance policy:

- 26
27 ~~(i) shall name the Association as a first-named insured and~~
28 ~~Owners as named insureds, with policy benefits payable to the~~
29 ~~Association as trustee for the Owners or any of them;~~
30
31 ~~(ii)(i)~~ shall contain a waiver of subrogation as to claims against the
32 Association, the Board members, the committee members, the
33 Owners and members of the Owner's family who reside with
34 such Owner, except in cases of arson or fraud;
35
36 ~~(iii)(ii)~~ shall contain a waiver of the defense of invalidity on account of
37 the conduct of any Owner over which the Board has "no
38 control;"
39
40 ~~(iv)(iii)~~ shall require that at least thirty (30) days' prior written notice be
41 given to the Association by the insurer before cancellation,
42 except that in the case of cancellation for nonpayment of
43 premiums or for fraud, the notice shall be given no less than ten
44 (10) days prior to the effective date of the cancellation;

1
2 ~~(v)~~(iv) shall provide that in no event shall the insurance be brought into
3 contribution with insurance purchased individually by Owners or
4 their Mortgagees;

5
6 ~~(vi)~~(v) shall exclude policies obtained by the individual Owners from
7 consideration under any "other insurance" clause; and

8
9 (vi) shall contain a provision requiring the insurer to defend lawsuits
10 for which there is coverage under the policy even if the
11 allegations are fraudulent, but authorizing the insurer to make
12 such investigation and settlement of any claim or suit within the
13 policy limit as it deems expedient.

14
15 (vii) [a standard ISO endorsement listing the Residential Owners as](#)
16 [insureds except for liability arising out of their own Units \(ISO](#)
17 [CG 20 04 11 85\) or its equivalent.](#)

18
19 12.5 Other Insurance to Be Maintained by Association.

20
21 12.5.1 Directors' and Officers' Insurance. The Association shall maintain
22 directors' and officers' liability insurance [for monetary and non-](#)
23 [monetary loss](#) with limits to be set by the Board but in no event less
24 than One Million Dollars (\$1,000,000) or any higher applicable limit set
25 forth in *Civil Code* section 5800, and containing ~~a cross-liability an~~
26 [insured vs. insured](#) endorsement ~~and to the extent commercially~~
27 [available and](#) a waiver of subrogation as to the Association, the
28 officers, ~~and the directors,~~ [committee members, the employees,](#) and
29 the agents and employees ~~of, or~~ any of them. Coverage for prior acts,
30 to the extent obtainable, shall be included.

31
32 [12.5.2 Automobile Insurance.](#) [If the Master Association operates owned,](#)
33 [hired or non-owned vehicles for the Project, the Master Association](#)
34 [shall maintain comprehensive automobile liability insurance at a limit of](#)
35 [liability of not less than Five Hundred Thousand Dollars \(\\$500,000\) for](#)
36 [combined bodily injury and property damage.](#)

37
38 12.5.212.5.3 Workers' Compensation Insurance. The Association shall maintain
39 workers' compensation insurance to the extent necessary to comply
40 with any applicable laws and may carry such insurance at any time as
41 determined by the Board.

42
43 12.5.312.5.4 Fidelity ~~Bond~~ Insurance. The Association shall maintain ~~a~~ standard
44 fidelity ~~bond~~ [insurance](#) covering dishonest acts [and employee theft](#) on

1 the part of officers ~~and~~, directors, and committee members of the
2 Association, the manager, and any employees or volunteers who are
3 responsible to handle funds of the Association. Such ~~bond~~insurance
4 shall name the Association as obligee, shall be written in an amount
5 which shall be determined by not less than three (3) times the
6 Board monthly Regular Assessments plus the amount of reserve funds,
7 and shall contain a waiver of any defense based on the exclusion of
8 persons serving without compensation.
9

10 12.5.4 12.5.5 Other Insurance. The Association may maintain at any time and
11 from time to time any other insurance, including but not limited to flood
12 insurance, coverage for business income and extra expenses, and for
13 maintenance fees receivable, and any other such and bonds as the
14 Board may from time to time deem necessary or desirable.
15

16 12.6 Insurance to Be Maintained by Owner. The insurance policies to be carried by
17 the Association pursuant to Section 12.1 (“Insurance Coverage to Be Maintained
18 by Association”) are not intended to cover the Lots or Units or the commercial
19 structures or residential Dwellings, or the condominium Units erected, installed
20 and maintained thereon, or liability of an Owner incident to ownership or use of
21 his or her Lot, Unit, structure or Dwelling, or liability incident to an Owner’s
22 negligence upon the Common Area and Common Facilities. In addition to any
23 insurance an Owner may be required to procure as set forth in a Supplemental
24 Declaration, each Owner shall be responsible for procuring and maintaining (i)
25 hazard insurance on the Owner’s Lot or Condominium and any structures and/or
26 Dwelling improvements, (ii) insurance against Owner liability incident to
27 ownership or use of the Owner’s Lot or Condominium, liability incident to an
28 Owner’s negligence upon the Common Area or Common Facilities, (iii) insurance
29 on the contents of the Dwelling, Unit, or commercial buildings and/or structures,
30 and (iv) such other insurance as the Owner shall determine is adequate to cover
31 such other risks as the Owner shall determine, including but not limited to loss of
32 business, loss of use, additional living expenses, loss of rental income or
33 business income, and loss assessment coverage. If an Owner fails to obtain any
34 insurance he or she is obligated or permitted to obtain pursuant to this
35 Declaration, nothing in this Declaration shall be construed to impose any
36 obligation whatsoever on the Association to insure that which the Owner does
37 not insure.
38

39 12.7 Insurance Proceeds. Proceeds of all insurance policies owned by the
40 Association shall be received by the Association and shall be deposited in the
41 operating account of the Association; *provided, however,* that whenever repair or
42 reconstruction is required, the proceeds of any insurance received by the
43 Association as a result of any loss shall be applied to such repair or

1 reconstruction except to the extent of any excess insurance proceeds as
2 provided in [Section 13.2.4](#) (“Excess Insurance Proceeds”).

3
4 12.8 Responsibility for Payment of Deductible. Subject to the provisions of [Section](#)
5 [11.10](#) (“Owner’s Liability to Association for Negligent Damage”), the amount of
6 the deductible under any insurance obtained by the Association shall be borne
7 solely by the Association. If an Owner is responsible for the payment of such
8 deductible, the failure or refusal of the Owner’s insurance carrier to pay or
9 reimburse the deductible shall not relieve the Owner of his or her responsibility
10 for the deductible.

11
12 12.9 Owner’s Liability for Conditions Affecting Insurance. As provided in [Section 5.1.3](#)
13 (“Conditions Affecting Insurance”), the responsible Lot Owner shall be liable to
14 the Association if anything is done, placed, or kept within the Development that
15 increases the rate of insurance or results in the cancellation of insurance under
16 any insurance policy maintained by the Association.

17
18 12.10 Insurance Carriers. All insurance policies carried by the Association shall be
19 written by companies that are not prohibited from doing business in the State of
20 California.

21
22 12.11 Annual Review of Policies. The limits and coverage of all insurance policies
23 carried by the Association shall be reviewed at least annually by the Board and
24 increased or decreased in its discretion.

25
26 12.12 Coverage Not Available; Disclaimer. In the event any insurance policy or any
27 endorsement listed in in [Section 12.2](#) (“Common Area Hazard Insurance to Be
28 Maintained by Association”), [Section 12.3](#) (“Earthquake Insurance”), [Section 12.4](#)
29 (“General Liability Insurance to Be Maintained by Association”), and [Section 12.5](#)
30 (“Other Insurance to Be Maintained by Association”), is for any reason not
31 available, then the Association shall obtain such other or substitute policy or
32 endorsement as may be available which provides, as nearly as possible, the
33 coverage described above. The Association, and its directors and officers, shall
34 have no liability to any Lot Owner or Mortgagee if, after good faith effort, it is
35 unable to obtain or maintain the insurance required pursuant to [Section 12.2](#),
36 [Section 12.3](#), [Section 12.4](#), and [Section 12.5](#) because the insurance is no longer
37 available or, if available, can be obtained or maintained only at a cost that the
38 Board in its sole discretion determines is unreasonable under the circumstances,
39 or the Members fail to approve any Special Assessment or increase in the
40 Regular Assessment needed to fund the insurance premiums. In accordance
41 with *Civil Code* section 5810, as soon as reasonably practicable, the Association
42 shall notify the Members by Individual Notice if any of the policies described in
43 [Section 7.5.8 of the Bylaws](#) (“Summary of Association’s Insurance Policies”)
44 have lapsed or been canceled, and are not immediately renewed, restored, or

1 replaced, or if there is a significant change, such as a reduction in coverage or
2 limits or an increase in the deductible for any of those policies. If the Association
3 receives any notice of non-renewal of a policy described in **Section 7.5.8 of the**
4 **Bylaws** and replacement coverage will not be in effect by the date the existing
5 coverage will lapse, the Association shall immediately notify the Members by
6 Individual Notice.
7

8 12.13 **Copies of Policies.** Copies of all insurance policies (or certificates of insurance)
9 and paid invoices showing that premiums have been paid shall be retained by
10 the Association and shall be available for inspection by Owners at any
11 reasonable time.
12

13 12.14 **Adjustment of Losses.** The Board is appointed attorney-in-fact by each Owner to
14 file all claims and to negotiate and agree on the value and extent of any loss
15 under any policy carried by the Association pursuant to **Section 12.2** (“Common
16 Area Hazard Insurance to Be Maintained by Association”), **Section 12.3**
17 (“Earthquake Insurance”), **Section 12.4** (“General Liability Insurance to Be
18 Maintained by Association”), and **Section 12.5** (“Other Insurance to Be
19 Maintained by Association”). The Board is granted full right and authority to
20 compromise and settle any claims or enforce any claim by legal action or
21 otherwise and to execute releases in favor of any insured.
22

23 12.15 **Premiums.** The premiums for any insurance obtained by the Association shall be
24 a common expense of the Association and shall be paid for out of the operating
25 fund of the Association.
26

27 **ARTICLE 13** **DAMAGE OR DESTRUCTION; CONDEMNATION**

28
29
30 13.1 **Emergency Repairs.** Without waiting to obtain insurance settlements or bids, the
31 Board may undertake such emergency repair work after a casualty to the
32 Common Area or Common Area improvements as it may deem necessary or
33 desirable under the circumstances including but not limited to mitigating or
34 removing dangerous conditions and other actions that may be necessary to
35 comply with applicable laws, ordinances, and regulations; and the Board may
36 charge the operating account for the costs thereof.
37

38 13.2 **Damage to Common Area.** In the event of damage to or destruction of the
39 Common Area or other property of the Association or any part thereof, then the
40 following provisions shall apply:
41

42 13.2.1 **Amount of Insurance Proceeds.** The Board shall obtain a
43 determination of the amount of available insurance proceeds that will
44 be recovered from the Association’s insurance carrier(s).

- 1
2 13.2.2 Bids. The Board shall obtain such bids from responsible licensed
3 contractors as the Board deems appropriate to restore the damaged or
4 destroyed property to its condition immediately prior to such damage or
5 destruction (including compliance with current building code and
6 ordinance requirements and any modifications approved by the Board),
7 including provision for a completion bond.
8
- 9 13.2.3 Sufficient Proceeds. If the insurance proceeds paid to the Association
10 are sufficient to cover the costs of restoration, the Board shall contract
11 with such contractor as the Board in its discretions shall determine and
12 proceed to perform the restoration.
13
- 14 13.2.4 Excess Insurance Proceeds. Any excess insurance funds shall be
15 deposited in the operating account of the Association.
16
- 17 13.2.5 Insufficient Proceeds; Decision Not to Repair. If the insurance
18 proceeds, together with reserve funds, if any, allocated for replacement
19 of the damaged or destroyed improvement, are insufficient to cover the
20 costs of repair or replacement of the property damaged or destroyed,
21 the Association may levy a Special Assessment against the Members
22 of the Association up to the maximum amount permitted without a
23 Member approval vote as provided in Section 10.8.2 (“Permitted
24 Amount of Special Assessments”) to cover the cost of the repair or
25 replacement not covered by the insurance proceeds. If the sum of
26 insurance proceeds, allocated reserve funds, and Special Assessment
27 funds equal less than eighty-five percent (85%) of the cost of repair or
28 replacement, the Members may elect not to cause such replacement
29 or repair by the vote of two-thirds (2/3) of the Total Voting Power of the
30 Association. In that event, the damaged Common Area shall be
31 cleared and landscaped; *provided, however*, that there shall exist in
32 such Common Area adequate vehicular and pedestrian rights-of-way
33 for Owners to ensure legal access to each Owner’s Lot and the costs
34 thereof shall be paid from the insurance proceeds, any allocated
35 reserve funds and, if necessary, the other funds of the Association.
36 Any remaining insurance proceeds shall be used in the manner
37 determined by the Board, provided that such use shall not be
38 inconsistent with the purposes of the Association.
39
- 40 13.2.6 Alternative Repair Plan. If a decision not to rebuild is not approved
41 pursuant to Section 13.2.5 (“Insufficient Proceeds; Decision Not to
42 Repair”), the Board shall use such funds as are available to repair or
43 stabilize the damaged Common Area according to such alternative
44 plan as the Board shall deem appropriate under the circumstances.

1
2

1 13.3 Rebuilding or Repair of Improvements on a Lot.

2
3 13.3.1 Owner to Repair. If any Lot or any improvement on a Lot is damaged
4 or destroyed by fire or other casualty, the Owner(s) of such Lot shall
5 repair or rebuild the structures upon such Lot and restore such Lot to
6 its condition prior to the damage or destruction, or to such other
7 condition as shall have been approved in advance by the ASC
8 pursuant to Article 9 (“Architectural Approval”).
9

10 13.3.2 Commencement and Completion of Repair. Repair or rebuilding shall
11 be commenced and completed within the times specified in Section
12 9.17 (“Commencement of Approved Work”) and Section 9.18
13 (“Completion; Extension of Deadline”).
14

15 13.3.3 Insufficient Insurance Proceeds. In the event the insurance proceeds
16 are insufficient to complete such work, the Lot Owner shall pay such
17 additional sums as may be necessary to complete such rebuilding and
18 repair.
19

20 13.3.4 Destruction; Failure to Timely Repair. In the case of total or
21 substantially total destruction of a Dwelling, if restoration is not
22 commenced within one (1) year after the occurrence of the destruction,
23 the Board may require that the foundation and other installations be
24 removed and the Lot restored to a safe, orderly, and natural condition.
25 Nothing in the preceding sentence shall be deemed to limit the right of
26 the Association to otherwise enforce the obligation of an Owner to
27 restore or rebuild the damaged structures and restore the Lot as
28 provided in the first sentence of this Section 13.3.4.
29

30 13.4 Condemnation of Lots.

31
32 13.4.1 Total Condemnation of Lot. If an entire Dwelling or Lot, or so much
33 thereof as to render the remainder unfit for use as a Dwelling, is
34 condemned or taken for a public or quasi-public use pursuant to any
35 statute, by right of eminent domain, or by private purchase in lieu of
36 eminent domain, the Owner’s membership in the Association shall
37 terminate as of the last day of the month in which the condemner
38 obtains the right to possession, or upon Owner’s vacating the
39 premises, whichever occurs last.
40

41 13.4.2 Partial Condemnation of Lot. If only a portion of a Dwelling or Lot is
42 taken and the remainder is fit for use as a Dwelling, the Owner shall
43 continue to be a Member of the Association.
44

1 13.4.3 Rights of Association. In any condemnation action involving an
2 Owner's Dwelling or Lot, the Association shall have the right to seek
3 compensation for any damages incurred by the Association.
4

5 13.5 Revision of Documents. In the event of (i) a partial or complete condemnation of
6 the Common Area or the taking of all or a portion of the Common Area by right of
7 eminent domain or by private purchase in lieu of eminent domain, (ii)
8 condemnation or taking of one (1) or more Lots, or (iii) a decision by the
9 Association by affirmative act or failure to act, not to repair damaged Common
10 Area, the Association shall have the power and authority to resurvey the
11 remaining portion of the Development and to execute and record, on behalf of
12 itself and the individual Owners, all necessary documents to show the altered
13 status of the Development, including but not limited to a revised Subdivision Map
14 and an amended Declaration and readjustment of the percentages of undivided
15 interest of the remaining Owners in the Development, if applicable.
16
17

18 **ARTICLE 14 ENFORCEMENT; NOTICE; HEARINGS**

19
20 ~~[NOTE TO BOARD: This article collects together enforcement procedures~~
21 ~~updated to reflect current law. These procedures apply to all enforcements~~
22 ~~actions by the Association. In addition, please note that Board may not delegate~~
23 ~~its authority to preside over actions for Member discipline; accordingly, we did~~
24 ~~not carry over the provisions in your existing documents that give the ASC~~
25 ~~authority to enforce violations of architectural rules.]~~
26

27 14.1 Violations As Nuisance. Every act or omission constituting or resulting in a
28 violation of any of the provisions of the Governing Documents shall be deemed to
29 constitute a nuisance and, in addition to any other remedies which may be
30 available, such nuisance may be abated or enjoined by the Association or its
31 Officers or Board of Directors or by any Owner; *provided, however,* that the
32 Board shall not be obligated to take action to abate or enjoin a particular violation
33 if, in the exercise of its discretion, the Board determines that acting to abate or
34 enjoin such violation is not likely to foster or protect the interests of the
35 Association and its Members as a whole.
36

37 14.2 Violation of Law Is a Violation of the Declaration. Any violation of a state,
38 municipal, or local law, ordinance or regulation pertaining to the ownership,
39 occupancy, or use of any property within the Development is hereby declared to
40 be a violation of this Declaration and subject to any and all of the enforcement
41 procedures set forth herein.
42

43 14.3 Owner's Responsibility for Conduct and Damages. Each Owner shall be fully
44 responsible for informing members of his or her household, Contract Purchasers,

1 tenants, invitees, and guests of the provisions of the Governing Documents, and
2 shall be fully responsible for the conduct, activities, and any Governing
3 Document violation of any of them, and for any damage to the Development or
4 the Association resulting from the negligent or intentional conduct of any of them
5 or the conduct of any pet belonging to any of them.
6

7 14.4 No Avoidance. No Owner may avoid the burdens or obligations imposed by the
8 Governing Documents through non-use of any Common Area facilities or by
9 abandonment of his or her Lot.
10

11 14.5 Enforcement Rights Are Cumulative. To the fullest extent permitted by law,
12 including *Civil Code* section 5975, the Association and any Owner shall have the
13 right to enforce any and all provisions of the Governing Documents by any
14 proceeding at law or in equity. Each remedy provided is cumulative and not
15 exclusive.
16

17 14.6 Injunctions. Except for the nonpayment of any Assessment levied pursuant to
18 the provisions of this Declaration, it is hereby declared that a remedy at law to
19 recover damages for a default in the performance of any of the terms and
20 provisions of any of the Governing Documents or for the breach or violation of
21 any such provisions is inadequate and that the failure of any Owner, Contract
22 Purchaser, member of his or her household, tenant, invitee, guest, or household
23 pets or any other occupant or user of any of the property within the Development
24 to comply with any provision of the Governing Documents may be enjoined in
25 any judicial proceedings initiated by the Association, its officers or Board of
26 Directors, or by any Owner or by their respective successors in interest.
27

28 14.7 Limitation on Association's Disciplinary Rights. To the extent provided in *Civil*
29 *Code* section 4510, the Association shall not have the power and authority to
30 cause a forfeiture or abridgment of an Owner's right to the full use and
31 occupancy of his or her Lot as the result of the failure by such Owner, members
32 of his or her household, Contract Purchaser, tenants, invitees, guests or pets to
33 comply with any provision of the Governing Documents, except where such
34 forfeiture or abridgment is the result of the judgment of a court of competent
35 jurisdiction, a decision arising out of an arbitration proceeding, or a foreclosure or
36 sale under private power of sale for failure of such Owner to pay Assessments
37 levied by the Association pursuant to this Declaration. The provisions of this
38 **Section 14.7** shall not affect the Association's right to impose other sanctions
39 including imposing Enforcement Assessments as provided in **Section 14.8**
40 ("Imposing Sanctions").
41

42 14.8 Imposing Sanctions. Upon an explicit finding and for reasons specified by the
43 Board or the Architectural Standards Committee or the Covenants Committee
44 following a hearing called by the Board or the Architectural Standards Committee

1 | or the Covenants Committee and conducted in accordance with this **Article 14**,
2 | the Board or the Architectural Standards Committee or the Covenants Committee
3 | shall have the power to impose sanctions on a Member who is in default in the
4 | payment of any Assessment or Additional Charge levied by the Board or is found
5 | to be in violation of any provision of the Architectural Rules or is found to be in
6 | violation of any provision of the Governing Documents. Sanctions may include
7 | loss of good standing, suspension of other rights, and/or monetary penalties
8 | (fines), as described below.
9 |

10 | 14.8.1 Loss of Good Standing. ~~The Board~~The Board or the Architectural
11 | Standards Committee or the Covenants Committee may suspend a
12 | Member's Good Standing for so long as the Member remains in default
13 | of such payment or until the violation is remedied. When a Member is
14 | not in Good Standing, his or her Association voting rights shall be
15 | suspended and the Member shall be disqualified from serving on the
16 | Board.
17 |

18 | 14.8.2 Suspension of Other Rights. ~~The Board~~The Board or the Architectural
19 | Standards Committee or the Covenants Committee may suspend a
20 | Member's or a Resident's right to use Common Area and Common
21 | Facilities for so long as a Member remains in default of such payment,
22 | or for such period as may be specified by the Board or the Covenants
23 | Committee if the violation involves misbehavior related to Common
24 | Area and Common Facilities.
25 |

26 | 14.8.3 Monetary Penalties (Fines). The Board may adopt a policy imposing
27 | monetary penalties or fines (which shall constitute Enforcement
28 | Assessments) pursuant to *Civil Code* section 5850. Such policy, if
29 | adopted, ~~which~~ shall be distributed to the Member in the annual policy
30 | statement pursuant to *Civil Code* section 5310. Multiple fines may be
31 | imposed for multiple violations. The schedule of fines may be changed
32 | by the Board by a Rule change pursuant to *Civil Code* section 4360
33 | and following.
34 |

35 | 14.8.4 Monthly Sanctions for Continuing Violations. In the case of a
36 | continuing violation, such as an uncorrected architectural violation,
37 | where an Owner fails to remedy the violation after notice ~~from the~~
38 | ~~Board~~ to do so, the Board or the Architectural Standards Committee or
39 | the Covenants Committee may impose sanctions, including monetary
40 | penalties, such sanctions to remain in effect for a period of one (1)
41 | month or until the continuing violation is remedied, whichever occurs
42 | sooner. (By way of example and not limitation, a violation in the nature
43 | of parking every day in a prohibited parking space would *not* constitute
44 | a "continuing violation" but each instance would constitute a separate

violation.) If the continuing violation has not been remedied within the one (1) month period, the Board or the Architectural Standards Committee or the Covenants Committee may impose separate and successive sanctions for the continuing violation, provided the Board or the Architectural Standards Committee or the Covenants Committee conducts a separate hearing, not more frequently than once a month, before imposing each successive sanction. ~~The Board~~ The Board or the Architectural Standards Committee or the Covenants Committee may limit the scope of such hearing to facts and circumstances occurring subsequent to the previous hearing relating to the subject continuing violation.

14.8.5 Reimbursement Assessment Not a Sanction. The imposition of a Reimbursement Assessment pursuant to the Declaration does not constitute and shall not be deemed to be a sanction.

14.9 Investigation of Complaints. Upon receipt of a written complaint from an Owner or a Resident, the Board or the Architectural Standards Committee (if it pertains to an Architectural Rules) or the Covenants Committee (if it pertains to misbehavior related to Common Area and Common Facilities or violations of any of the use restrictions in this Declaration) shall conduct an investigation of the allegations in the complaint and shall make relevant findings upon which the Board or the Architectural Standards Committee or the Covenants Committee shall base a decision to pursue or not pursue the matter. If the Board decides not to pursue a matter, it shall notify the complaining party in writing stating the reason(s) for its decision.

14.10 Written Notice of Violation. If the Board or the Architectural Standards Committee or the Covenants Committee determines, whether on its own initiative or pursuant to a written complaint, that a violation of the Governing Documents exists or has occurred, it shall notify the responsible Owner(s) by written notice in compliance with Section 14.11 (“Notices: Content, Delivery”).

14.11 Notices: Content, Delivery. Any notice of violation required or given under this Article 14 shall be in writing and shall comply with *Civil Code* section 5855 as to content and time of service and with *Civil Code* section 4040 as to method of service.

14.11.1 Content of Notice of Violation. Any notice given by the Association to a Member shall comply with *Civil Code* section 5855 and shall, at a minimum, set forth a brief description of the act or omission constituting the alleged violation of the Governing Documents; a reference to the specific Governing Document provision or provisions alleged to have been violated; if applicable, a statement that the

1 Member may request a hearing by the Board or the Architectural
2 Standards Committee or the Covenants Committee; the date, time,
3 and location of any hearing called by the Board or the Architectural
4 Standards Committee or the Covenants Committee; and any sanction,
5 disciplinary action, or other enforcement action being contemplated by
6 the Board or the Architectural Standards Committee or the Covenants
7 Committee.

8
9 14.11.2 Delivery of Notice. Any notice may be given by any method provided
10 for in *Civil Code* section 4040; *provided, however*, that (i) if notice is
11 given by mail, it shall be sent postage prepaid by United States first-
12 class mail and/or by certified mail, return-receipt requested; and (ii) if
13 given by the Association to a Member, it shall be sent to the most
14 recent address for the affected Member as shown on the records of the
15 Association. Pursuant to *Civil Code* section 4050(b), if sent by United
16 States mail, delivery of such is deemed complete upon deposit in the
17 United States mail, postage prepaid. Pursuant to *Civil Code* section
18 4050(c), if such notice is sent by electronic means, delivery is deemed
19 complete at the time of transmission.

20
21 14.11.3 Owner's Address for Notice. It shall be each Owner's responsibility to
22 notify the Association in writing of any change in the Owner's address
23 for the purpose of receiving notices from the Association. The fact that
24 a different address appears on correspondence to the Association from
25 an Owner shall not constitute such written notice, unless it is expressly
26 stated that such address is a change of address for the purpose of
27 receiving notice from the Association. Upon transfer of title to a Lot,
28 the transferee shall be responsible for notifying the Association of such
29 transfer. The notification shall set forth the address of the Lot, the
30 names of the transferee and the transferor, and the date of sale or
31 other transfer. Prior to receipt of such notification, any and all
32 communications required or permitted to be given by the Association
33 or the Board to the Lot Owner shall be deemed to be duly made and
34 given to the transferee if duly and timely made and given to the person
35 shown as the Owner of the Lot and at the address in the Association's
36 records.

37
38 14.11.4 Notice to Co-Owners or Occupants. Unless otherwise provided by law,
39 when a Lot is owned by two (2) or more co-Owners or is occupied by
40 two or more Occupants, notice to one (1) Owner or to one Occupant
41 shall be deemed notice to all Owners or to all Occupants, as the case
42 may be.
43

1 14.12 Hearing Called by the BoardHearings; Executive Session; Open Meeting. To the
2 extent required by *Civil Code* section 5855, whenever the Board or the
3 Architectural Standards Committee or the Covenants Committee determines to
4 conduct a hearing, it shall notify the affected Owner(s) and/or Resident(s) in
5 writing by Individual Delivery, at least ten (10) days before the ~~Board~~ meeting at
6 which the matter will be considered. If the matter concerns Member discipline or
7 the imposition of sanctions, the Board or the Architectural Standards Committee
8 or the Covenants Committee shall meet in executive session (or with respect to
9 the Architectural Standards Committee or Covenants Committee (in a private
10 session) if requested by the Member, *unless* (and then only to the extent)
11 applicable law requires that certain actions by the Board be conducted at an
12 open meeting of the Board, such as *Civil Code* section 5673 concerning a
13 decision to record a lien for delinquent Assessments. ~~If the matter concerns~~
14 ~~compliance with architectural approval requirements, the hearing shall be~~
15 ~~conducted in open meeting pursuant to Civil Code section 4765. In the Board's\In~~
16 ~~the Board's or the Architectural Standards Committee's or the Covenants~~
17 ~~Committee's~~ discretion, other interested person(s) may attend a hearing and may
18 present information relevant to the subject matter of the hearing. An Owner shall
19 be entitled to bring his or her attorney to a hearing. If a notified Owner or
20 Resident fails to attend a noticed hearing, the Board or the Architectural
21 Standards Committee or the Covenants Committee may nevertheless conduct its
22 deliberations and make a determination based on its own investigation and any
23 other information supplied to it that the Board or the Architectural Standards
24 Committee or the Covenants Committee deems reasonably reliable.

25
26 14.13 Owner's Request for Hearing. An Owner who has received a notice of violation
27 sent pursuant to **Section 14.10** ("Written Notice of Violation") or a notice of
28 corrective action sent pursuant to **Section 14.15** ("Enforcement by Association in
29 Emergency Situations") or as otherwise provided in the Governing Documents,
30 may request a hearing before the Board or the Architectural Standards
31 Committee or the Covenants Committee by submitting a written request to the
32 Board or the Architectural Standards Committee or the Covenants Committee. If
33 an Owner is requesting a meeting to discuss a payment plan for a past due debt
34 owed to the Association, the meeting shall be scheduled and conducted as
35 provided in **Section 10.15.3** ("Owner's Right to Discuss Payment Plan"). If the
36 Owner is requesting a hearing concerning a notice of violation sent pursuant to
37 **Section 14.10** ("Written Notice of Violation") or a notice of corrective action sent
38 pursuant to **Section 14.15** ("Enforcement by Association in Emergency
39 Situations"), the request for hearing must be submitted within ten (10) days after
40 the date of such notice. ~~The Board~~The Board or the Architectural Standards
41 Committee or the Covenants Committee shall schedule a hearing at its next
42 regular meeting that is at least five (5) days after its receipt of an Owner's
43 request for hearing or, in the Board's or the Architectural Standards Committee
44 or the Covenants Committee discretion, at another time agreed by the Board or

1 the Architectural Standards Committee or the Covenants Committee and the
2 Owner. Hearings ~~shall be~~ conducted by the Board shall be in executive session
3 or at an open meeting as provided in Section 14.12 ("~~Hearing Called by the~~
4 Board Hearings; Executive Session; Open Meeting").

5
6 14.14 Notice of Hearing Decisions. Within fifteen (15) days after a hearing is
7 conducted, the Board or the Architectural Standards Committee or the
8 Covenants Committee shall notify the Owner or Resident in writing as to its
9 decision. If the Board or the Architectural Standards Committee or the
10 Covenants Committee decides to impose sanctions, the notice shall describe the
11 sanctions imposed and, if applicable, their effective dates.
12

1
2 14.15 Enforcement by Association in Emergency Situations.

3
4 14.15.1 Definition of Emergency Situation. For purposes of this **Section 14.15**,
5 the following shall constitute emergency situations:

- 6
7 (i) an immediate and unreasonable infringement of or threat to the
8 safety or peaceful enjoyment of Residents of the Development,
9
10 (ii) a traffic or fire hazard,
11
12 (iii) a threat of material damage to or destruction of the
13 Development or any portion thereof,
14
15 (iv) a violation of any provision of the Governing Documents that is
16 of such a nature that there is no material question regarding the
17 identity of the violator or whether the violation has occurred
18 (such as parking violations).
19

20 14.15.2 Immediate Corrective Action. Notwithstanding any other provisions of
21 the Governing Documents, under circumstances that constitute an
22 emergency, the Board or its duly-authorized agents may undertake
23 immediate corrective action. The Board shall promptly thereafter send
24 written notice of the corrective action to the affected Owner including
25 notice of any Reimbursement Assessment assessed to the Owner for
26 costs incurred by the Association in connection therewith. If the Owner
27 requests a hearing pursuant to **Section 14.13** (“Owner’s Request for
28 Hearing”), enforcement of any Reimbursement Assessment imposed
29 by the Board shall be held in abeyance and shall be pursued only if
30 affirmed by the Board at the hearing.
31

32 14.16 Internal Dispute Resolution.

33
34 14.16.1 Fair, Reasonable, and Expeditious Procedure. The provisions of
35 **Article 9** (“Architectural Approval”) and of **Section 14.9** (“Investigation
36 of Complaints”) through **Section 14.15** (“Enforcement by Association in
37 Emergency Situations”) are intended to provide a fair, reasonable, and
38 expeditious procedure for resolving disputes between the Association
39 and any Member that are subject to *Civil Code* sections 5900 through
40 5920 (which applies to, among other things, enforcement of applicable
41 provisions of the *Corporations Code* and enforcement of the Governing
42 Documents). The above-referenced provisions of the Declaration shall
43 constitute the Association’s “internal dispute resolution” process as
44 required by *Civil Code* section 5905.

1
2 14.16.2 Statutory Default Procedures. If the Association shall fail to comply
3 with the Association's internal dispute resolution process, then the
4 Association and the affected Member shall abide by the statutory
5 default procedures provided in *Civil Code* section 5915, or successor
6 statute. Any resolution so agreed upon by the parties thereto, that is
7 not in conflict with the law or the Governing Documents, shall bind the
8 parties and shall be judicially enforceable as provided in *Civil Code*
9 section 5910.

10
11 14.16.3 Alternative Dispute Resolution ("ADR") May Also Apply. If (a) the
12 subject matter of the dispute (including, among other things,
13 enforcement of applicable provisions of the *Corporations Code* and
14 enforcement of the Governing Documents) and the remedy sought
15 (including certain kinds of declaratory, injunctive, or writ relief, which
16 may be in conjunction with certain limited monetary relief, but
17 excluding small claims actions and excluding Assessment disputes)
18 are subject to *Civil Code* sections 5925 through 5965 and (b) the
19 Association and the affected Member do not agree on a resolution
20 through the foregoing internal dispute resolution process provided for
21 in Section 14.16.1 ("Fair, Reasonable, and Expeditious Procedure"),
22 then no party to the dispute may pursue a civil remedy that is subject
23 to *Civil Code* sections 5925 through 5965, without first complying with
24 the "alternative dispute resolution" procedures set forth in that statute
25 and referenced in Section 14.17 ("Alternative Dispute Resolution
26 Before Initiating Lawsuit").

27
28 14.16.4 Annual Description of Internal Dispute Resolution Process. The
29 Association shall annually provide the Members with a description of
30 the internal dispute resolution process required by *Civil Code* section
31 5920 as part of the annual policy statement prepared pursuant to *Civil*
32 *Code* section 5310. Such description may consist of a copy of Article 9
33 ("Architectural Approval") and Section 14.9 ("Investigation of
34 Complaints") through this Section 14.16 ("Internal Dispute Resolution").
35

36 14.17 Alternative Dispute Resolution Before Initiating Lawsuit.

37
38 14.17.1 Annual Disclosure of ADR Process. As provided in *Civil Code* section
39 5965, the Association shall annually provide to its Members a
40 summary of the provisions concerning alternative dispute resolution
41 contained in *Civil Code* sections 5925 through 5965 as part of the
42 annual policy statement prepared pursuant to *Civil Code* section 5310.
43 Such summary may consist of a copy of this Section 14.17. Such
44 summary shall include the following language:

1
2 “Failure of a member of the association to comply with the alternative
3 dispute resolution requirements of Section 5930 of the *Civil Code* may
4 result in the loss of the member’s right to sue the association or
5 another member of the association regarding enforcement of the
6 governing documents or the applicable law.”
7

8 14.17.2 When ADR Applies. The requirements of this **Section 14.17** apply to
9 civil action or proceedings as defined in *Civil Code* section 5925(b)
10 when the remedy sought is solely for declaratory, injunctive, or writ
11 relief or if for the foregoing relief in conjunction with monetary damages
12 not in excess of the jurisdictional amount for a small claims action as
13 stated in *Code of Civil Procedure* sections 116.220 and 116.221, all as
14 provided in *Civil Code* section 5930(b). *Civil Code* sections 5925
15 through 5965 apply to disputes between Members as well as to
16 disputes between the Association and a Member. The ADR
17 requirements of this **Section 14.17** do not apply to Assessment
18 disputes or to an action in small claims court.
19

20 14.17.3 Statutory ADR Process. In accordance with *Civil Code* sections 5925
21 through 5965, the Association or a Member may not file an
22 “enforcement action” as defined in the statute unless the parties have
23 endeavored to submit their dispute to “alternative dispute resolution” as
24 the term is defined in *Civil Code* section 5925(a) and as the process is
25 specified in *Civil Code* sections 5935, 5940, and 5945.
26

27 14.18 Non-waiver of Enforcement. Failure to enforce any provision of the Governing
28 Documents at any time shall not be deemed a waiver of the right to do so
29 thereafter with respect to the same or any other violation of any provision of the
30 Governing Documents.
31

32 14.19 Costs and Attorney Fees. In an action to enforce the Governing Documents, the
33 prevailing party shall, to the fullest extent permitted by law, including *Civil Code*
34 section 5975, be entitled to recover the full amount of all costs including attorney
35 fees incurred in responding to and/or in enforcing any Governing Document
36 provision. Without limiting the generality of the foregoing, in the event an Owner
37 pursuant to *Civil Code* section 4605 brings a civil action for violation of *Civil Code*
38 section 4600 (concerning the granting of exclusive use of a portion of the
39 Common Area to a Member) or pursuant to *Civil Code* section 4955 a civil action
40 for violation of the Common Interest Open Meeting Act (*Civil Code* sections 4900
41 through 4955) if the Association shall prevail in any such action, the Association
42 shall be entitled to recover reasonable attorney fees except to the extent
43 prohibited by law. The remedies of the prevailing party to recover the amount of

1 such costs, expenses, and attorney fees shall include, but shall not necessarily
2 be limited to, the imposition of a Reimbursement Assessment.
3
4

5 **ARTICLE 15** **AMENDMENT**

6
7 15.1 Required Approval. This Declaration may be amended by the affirmative vote of
8 Members representing at least a **majority of the Total Voting Power of the**
9 **Association;** [~~← NOTE TO BOARD: Same as current CC&Rs. [The~~
10 ~~following lower approval requirement is the same as the approval~~
11 ~~requirement for assessment votes.→]~~ a Majority of a Quorum of the Owners,
12 provided that for purposes of voting to amend the Declaration a quorum shall
13 mean at least fifty percent (50%) of the Total Voting Power of the Association;
14 [~~We have recently started to see CC&R amendment provisions permitted by~~
15 ~~the Department of Real Estate that call for a “majority of a quorum” of the~~
16 ~~Members instead of a majority of the Total Voting Power. Your normal~~
17 ~~quorum requirement is 25%, so this alternative provision calls for a special~~
18 ~~higher quorum of 50% because of the importance of CC&R amendments.~~
19 ~~Please let us know if you wish to use a majority of the Total Voting Power~~
20 ~~or a majority of a quorum.] provided, however, that, upon advice of legal
21 counsel licensed to practice law in the State of California including the drafting by
22 legal counsel of appropriate amendatory provisions, the Board shall have the
23 authority without the requirement of Member approval to amend any provision of
24 the Declaration (i) to resolve any conflict between the Declaration and applicable
25 law which may arise due to the enactment or amendment of a statute or due to a
26 development in applicable case law or (ii) to conform the provisions of the
27 Declaration to changes in applicable statutory law that impose requirements that
28 are non-discretionary in nature.
29~~

30 15.2 Amendment Must Be Recorded. Any amendment of the Declaration shall be
31 signed and acknowledged by the duly-authorized officer(s) of the Association and
32 recorded in the Office of the County Recorder.
33

34 15.3 Presumption of Validity. There will be a presumption subsequent to the
35 recording of an amendment to this Declaration pursuant to **Section 15.2**
36 (“Amendment Must Be Recorded”) that all votes and consents required to pass
37 the same pursuant to **Section 15.1** (“Required Approval”) were duly obtained in
38 accordance with the Governing Documents and applicable law. Such
39 presumption may be rebutted by an action commenced within one (1) year from
40 the date the amendment is recorded. In the absence of any such action, such
41 presumption shall thereafter become conclusive.
42
43
44

ARTICLE 16 **GENERAL PROVISIONS**

- 1
2 16.1 Headings. The headings used in this Declaration are for convenience only and
3 are not to be used in interpreting the meaning of any of the provisions of this
4 Declaration, or otherwise.
5
- 6 16.2 Severability. The provisions of this Declaration shall be deemed independent
7 and severable, and the invalidity or partial invalidity or unenforceability of any
8 provision hereof shall not invalidate any other provisions hereof.
9
- 10 16.3 Liberal Construction. The provisions of this Declaration shall be liberally
11 construed to effectuate its purpose of fostering a plan of community ownership
12 and occupancy and of management of the Development for the benefit of the
13 community.
14
- 15 16.4 Amendment to Referenced Statutes; Time for Performance. References in the
16 Declaration to particular statutes, including sections of the *Civil Code* or the
17 *Corporations Code*, shall be deemed to include any successor statute and any
18 amendments to existing or successor statutes. Whenever this Declaration states
19 a time for the performance of any act by the Association which by law (as it may
20 exist from time to time) must be performed at or within a specified time, the time
21 for the performance of such act shall be deemed to be the widest timeframe
22 permitted under then-applicable law.
23
- 24 16.5 Number; Gender. The singular shall include the plural and the plural the singular
25 unless the context requires the contrary, and the masculine, feminine, and neuter
26 shall each include the masculine, feminine, or neuter, as the context requires.
27
- 28 16.6 Exhibits. All exhibits attached to this Declaration are incorporated by this
29 reference as though fully set forth herein.
30
- 31 16.7 Power of Attorney. To the extent necessary to carry out and enforce the
32 provisions of this Declaration, an irrevocable power of attorney coupled with an
33 interest is granted to the Association by the Owners and each of them.
34
- 35 16.8 Term. The covenants, conditions, restrictions, limitations, reservations, grants of
36 easement, rights, rights-of-way, liens, charges, and equitable servitudes
37 contained in this Declaration shall run with and shall benefit and burden all of the
38 real property subject to this Declaration, including without limitation the Lots and
39 Common Areas, and shall inure to the benefit of and be binding upon the
40 Owners, the Association, its Board of Directors and officers, and their respective
41 agents and successors in interest, for a term of forty-seven (47) years from the
42 date of recordation of this Declaration. Thereafter the term shall be automatically
43 extended for successive periods of ten (10) years each, unless within the six (6)
44 months prior to the expiration of the initial forty-seven (47) year term or any ten-

1 year extension period a written instrument, approved by Owners entitled to vote
2 and holding at least a majority of the Total Voting Power of the Association,
3 terminating the effectiveness of this Declaration shall be recorded in the Office of
4 the County Recorder of Nevada County, California.

5
6 IN WITNESS WHEREOF, we, the Members of TAHOE DONNER
7 ASSOCIATION, pursuant to the requisite approval, and by means of the
8 signatures of the President and the Secretary, do hereby affirm, approve, and
9 adopt the foregoing Amended and Restated Declaration of Covenants,
10 Conditions and Restrictions of Tahoe Donner Association, which Amended and
11 Restated Declaration of Covenants, Conditions and Restrictions shall be
12 recorded with the County Recorder of Nevada County, California.

13
14 DATED: _____

TAHOE DONNER ASSOCIATION, a
California nonprofit mutual benefit
corporation

15
16
17
18
19
20 _____
President

21
22
23 _____
Secretary

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EXHIBIT A

(Recital Paragraphs A & B)

**List of Recorded Documents Superseded by
This Amended and Restated Declaration**

1. ~~FIRST RESTATED DECLARATION OF THE COVENANTS AND RESTRICTIONS OF TAHOE DONNER, dated December 31, 1991 and recorded on the 17th day of January 1991 in the Official Records of the County of Nevada, State of California;~~
2. ~~SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, dated November 13, 1975, and recorded on November 21, 1975, as Document No. 21042, Official Records of Nevada County, State of California;~~
3. ~~SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS TAHOE DONNER — GOLF COURSE CLUBHOUSE, dated January 3, 1977, and recorded on January 11, 1977, as Document No. 727, Official Records of Nevada County, State of California.~~

EXHIBIT B

(Recital Paragraph C)

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

A. Property other than Common Areas or Other Association Real Property:

UNIT 1 Lots 1 through 183 and Lots 185 through 499 inclusive of Tahoe Donner Unit 1, as shown on the Official Map thereof, filed in the [officeOffice](#) of the Nevada County Recorder on April 13, 1971 in Book 4 of Subdivisions Maps, Page 21.

UNIT 2 Lots 1 through 51, Lots 55 through 140, and Lots 142 through 427, inclusive of Tahoe Donner Unit 2, as shown on the Official Map thereof, filed in the [officeOffice](#) of the Nevada County Recorder on May 26, 1971 in Book 4 of Subdivision Maps, at Page 23. Lots 4, 23, 24, 25, 26, 27, 28, 424, 425, 426, and 427 are commercial lots. Lot 141 is privately owned and not part of Tahoe Donner Association.

UNIT 3 Lots I through 10, 16 through 256 and 260 through 549 inclusive of Tahoe Donner Unit 3, as shown on the Official Map thereof, filed in the [officeOffice](#) of the Nevada County Recorder on August 11, 1971, in Book 4 of Subdivision Maps, at Page 25. Lots 28, 29, 65, 66 and 79 are commercial lots.

UNIT 4 Lots 1 through 643, inclusive of Tahoe Donner Unit 4, as shown on the Official Map thereof, filed in the Office of the Nevada County Recorder on November 23, 1971, in Book 4 of Subdivision Maps, at Page 27.

UNIT 5 Lots 1 through 555, inclusive of Tahoe Donner Unit 5, as shown on the Official Map thereof, filed in the [officeOffice](#) of the Nevada County Recorder on August 23, 1972, in Book 4 of Subdivision Maps, at Page 36.

UNIT 6 Lots 1 through 640 inclusive of Tahoe Donner Unit 6, as shown on the Official Map thereof, filed in the [officeOffice](#) of the Nevada County Recorder, on May 10, 1972, in Book 4 of Subdivision Maps, at Page 34.

UNIT 7 Lots 1 through 356, inclusive of Tahoe Donner Unit 7, as shown on the Official Map thereof, filed in the [officeOffice](#) of the Nevada County Recorder, on August 23, 1972, Book 4 of Subdivision Maps, at Page 37.

1 UNIT 8 Lots 1 through 237 and 240 through 608, inclusive of Tahoe Donner Unit 8, as
2 shown on the Official Map thereof, filed in the [officeOffice](#) of the Nevada County
3 Recorder, on March 13, 1973, in Book 4 of Subdivision Maps, at Page 43.

4
5 UNIT 9 Lots 1 through 338 and Lots 342 through 654, inclusive of Tahoe Donner Unit 9,
6 as shown on the Official Map thereof, filed in the [officeOffice](#) of the Nevada County
7 Recorder on September 7, 1973, in Book 4 of Subdivision Maps, at Page 57.

8
9 UNIT 10 Lots 1 through 488 inclusive of Tahoe Donner Unit 10, as shown on the Official
10 Map thereof, filed in the [officeOffice](#) of the Nevada County Recorder on July 5, 1973, in
11 Book 4 of Subdivision Maps, at Page 55.

12
13 UNIT 11 Lots 1 through 170 and Lots 173 through 517 inclusive of Tahoe Donner Unit
14 11, as shown on the Official Map thereof, filed in the [officeOffice](#) of the Nevada County
15 Recorder, on January 3, 1973, in Book 4 of Subdivision Maps, at Page 41.

16
17 "TAHOE DONNER SKI BOWL CONDOMINIUMS", and the "TAHOE DONNER LODGE
18 CONDOMINIUMS", all real property lying within the unincorporated territory of Nevada
19 County, California, and [situatedsituated](#) in Section 1, Township 17 North, Range 15 East,
20 M.D.B. & M., and more particularly described as Lot 64 and a portion of Parcel R of Tahoe
21 Donner Unit 3 as said lot and parcel are so designated and shown on the Official Map
22 thereof, filed in the [officeOffice](#) of the Nevada County Recorder, on August 11, 1971, in
23 Book 4 of Subdivision Maps, at Page 25.

24
25 "TAHOE DONNER GOLF CLUB CONDOMINIUMS", as shown upon the Official Map
26 thereof, filed in the [officeOffice](#) of the Nevada County Recorder, on June 13, 1974, in Book
27 5 of Subdivisions at Page 11.

28
29 UNIT 3 Lot 259, (the Nevada County maintenance site).

30
31 UNIT 10 Parcel B (proposed school site).

32
33 UNIT 11 Parcel K (fire station site).

34
35 B. Common Areas:

36
37 "Golf Course Facilities", Parcels 1 and 2, as shown on the Official Map thereof, filed in
38 the [officeOffice](#) of the Nevada County Recorder, on September 15, 1976, in Book 10 of
39 Parcel Maps, at Page 178.

40
41 "Marina", as described in the deed recorded [within the Office of](#) the Nevada County
42 Recorder on April 30, 1976, as document No. 7664, in Book 789, at Page 686.

1 | UNIT 1: Parcel A through N, inclusive and Lot 184 of Tahoe Donner Unit 1 as shown on
2 | the Official Map thereof, filed in the [officeOffice](#) of the Nevada County Recorder, on
3 | April 13, 1971, in Book 4 of Subdivision Maps, Page 21.

4 |
5 | UNIT 2: Parcels A through L, inclusive and Parcel N of the Tahoe Donner Unit No. 2 as
6 | shown on the Official Map thereof, filed in the [officeOffice](#) of the Nevada County Recorder,
7 | on May 26, 1971, in Book 4 of Subdivision Maps, Page 23.

8 |
9 | "Trout Creek Condo Property" (formerly Lots 428 through 439 of Tahoe Donner Unit 2 as
10 | shown on the Official Map thereof, filed in the [officeOffice](#) of the Nevada County
11 | Recorder on May 26, 1971, in Book 4 of Subdivision Maps, at Page ~~22~~23) and as
12 | further described in the deed recorded November 22, 1988, series No. 88-31745.

13 |
14 | "Northwoods Clubhouse Facilities" All property as shown on the parcel map recorded
15 | with the [Office of the](#) Nevada County Recorder, on October 22, 1980, in Book 15 of
16 | Parcel Maps, at Page 31. (This property includes former Lots 52, 53 and 54 of Tahoe
17 | Donner Unit 2.)

18 |
19 | UNIT 3: A portion of Parcel R ("Ski Area Day Lodge") of Unit 3, as shown on the Official
20 | Map thereof, filed in the [officeOffice](#) of the Nevada County Recorder, on August 11,
21 | 1971, in Book 4 of Subdivision Maps, at Page 25.

22 |
23 | Lots 28 and 79 ("Ski Area Parking Lots) of Tahoe Donner Unit 3, as shown on the
24 | Official Map thereof, filed in the [officeOffice](#) of the Nevada County Recorder, on August
25 | 11, 1971, in Book 4 of Subdivision Maps, at Page 25.

26 |
27 | "Maintenance Facility", Parcels 1, 2 and 3 as shown on the parcel map (formerly Tahoe
28 | Donner Unit 3, Lots 257, 258 and Lots 172, 173 of Unit 11 as shown on the Official Map
29 | thereof, filed in the [officeOffice](#) of the Nevada County Recorder, on August 11, 1971, in
30 | Book 4 of Subdivision Maps, at Page 25) filed in the [officeOffice](#) of the Nevada County
31 | Recorder, on December 28, 1979, in Book 17 of Parcel Maps, at Page 38.

32 |
33 | Parcels A through N inclusive and Parcels U and V, as shown on the Official Map of
34 | Tahoe Donner Unit 3, filed in the [officeOffice](#) of the Nevada County Recorder, on
35 | August 11, 1971, in Book 4 of Subdivision Maps at Page 25.

36 |
37 | Lots 11, 12, 13, 14 and 15 of Tahoe Donner Unit 3, as shown on the Official Map
38 | thereof, filed in the [officeOffice](#) of the Nevada County Recorder, on August 11, 1971, in
39 | Book 4 of Subdivision Maps, at Page 25.

40 |
41 | "Alder Creek Picnic Area" Parcels 1 and 2 as described in the deed recorded in the
42 | [officeOffice](#) of the Nevada County Recorder on November 24, 1975, as document No.
43 | 21094, in Book 767 at Page 637.

1 UNIT 4: Parcels A through M, inclusive of Tahoe Donner Unit 4, as shown on the
2 Official Map thereof, filed in the [officeOffice](#) of the Nevada County Recorder on
3 November 23, 1971, in Book 4 of Subdivision Maps, at Page 27.

4
5 UNIT 5: Parcels A through H, inclusive and Parcel L (Boat Storage Lot) within Tahoe
6 Donner Unit 5, as shown on the Official Map thereof, filed in the [officeOffice](#) of the
7 Nevada County Recorder on August 23, 1972, in Book 4 of Subdivision Maps, at Page
8 36.

9
10 UNIT 6: Parcels A through N, inclusive and Parcel P ("The Equestrian Center") located
11 within Tahoe Donner Unit 6, as shown on the official Map thereof, filed in the [officeOffice](#) of
12 the Nevada County Recorder, on May 10, 1972, in Book 4 of SUBDIVISION Maps, at Page
13 34.

14
15 UNIT 7: Parcels A through K, inclusive and Parcel L ("The Campground") located within
16 Tahoe Donner Unit 7, as shown on the Official Map thereof, filed in the [officeOffice](#) of
17 the Nevada County Recorder, on August 23, 1972, Book 4 of Subdivision Maps, at
18 Page 37.

19
20 UNIT 8: ~~parcels~~[Parcels](#) A through H, inclusive, Parcels J through Y inclusive and lots
21 238 and 239, located within Tahoe Donner Unit 7, as shown on the Official Map
22 thereof, filed in the [officesOffice](#) of the Nevada County Recorder on March 13, 1973, in
23 Book 4 of Subdivision Maps, at Page 43.

24
25 UNIT 9: Lots 339, 340 and 341 and Parcels B through F, inclusive, Parcels H through N
26 inclusive, Parcel O, and Q through W, inclusive, located within Tahoe Donner Unit 9, as
27 shown on the Official Map thereof, filed in the [officeOffice](#) of the Nevada County
28 Recorder on September 7, 1973, in Book 4 of Subdivision Maps, at Page 57.

29
30 UNIT 10: Parcel A, and Parcels C through K inclusive, located within Tahoe Donner
31 Unit 10, as shown on the Official Map thereof, filed in the [officeOffice](#) of the Nevada
32 County Recorder on July 5, 1973, in Book 4, of Subdivision Maps, at Page 55.

33
34 UNIT 11: Parcels A through K inclusive and Parcel J located within Tahoe Donner Unit 11,
35 as shown on the Official Map thereof, filed in the Office of the Nevada County Recorder on
36 January 3, 1973, in Book 4 of Subdivision Maps, at Page 41.

37
38 C. Other Association Real Property:

39
40 "2,000 Acres", Parcels 1 and 2 as described in the deed recorded [within the Office of](#)
41 the Nevada County Recorder on July 7, 1982, [seriesDocument](#) No. 82-15361.

42
43 ~~"32 Acres", Parcel (A of parcel map P.N.: 16-060-12; 16-060-14; 16-060-15; 16-060-16;~~
44 ~~17-020-05; 17-020-06; and 17-020-27)~~

1
2 All the real property as described in the deed recorded within the Office of the Nevada
3 County Recorder on ~~June 23, 1987, in Book 17 of Parcel Maps at Page 121.~~February
4 17, 2012, Document No. 20120004305.

5
6 "Corner of Donner Pass Road and Northwoods Blvd", Parcel 1 of parcel map(A.P.N.:
7 16-060-22 and 16-060-13, Euer Grant)

8
9 All the real property as described in the deed recorded within the Office of the Nevada
10 County Recorder on ~~September 15, 1976, in Book~~October 25, 2011, Document No.
11 20110025265.
12 (A.P.N.: 16-060-20 and 16-060-23, Euer Grant)

13
14 All the real property as described in the deed recorded in the Office of the Nevada
15 County Recorder on February 16, 2012, Document No. 20120004255.
16 (A.P.N.: 17-020-34, Rosamond Grant)

17
18 Parcels One through Ten, inclusive, as described in the deed recorded in the Office of
19 the Nevada County Recorder on June 4, 2010, Document No. 20100013062.
20 (A.P.N.: 18-180-01, 02, 03; 18-200-02 thru 21; 18-210-02 thru 21; 18-220-02 thru 22;
21 18-230-02 thru 22; 18-240-02 thru 19; 18-250-02 thru 19; 18-260-02 thru 09, 11 thru 15,
22 20 and 22 thru 27; 18-270-02 thru 07, 09 thru 21 and 27; 18-280-02 thru 20, 22, 23 and
23 27; 18-290-02 thru 02, 10 thru 25; 18-320-06 thru 07, 10 thru 12, 14 thru 16, 20 thru 24,
24 26, 28, 31, 34 thru 37, 39, 40, 49, 50, 59, 60; 18-330-02, 03, 06, 08, 09, 10, 11, 13 thru
25 16, 20, 26 thru 30 and 34; 18-382-21, Sinclair Grant)

26
27 Tract One Parcels I, II and III, and Tract Two, as described in the deed recorded in the
28 Office of ~~Parcel Maps at Page 177~~the Nevada County Recorder on May 12, 2016,
29 Document No. 20160009902.
30 (A.P.N.: 16-060-02-000; 16-060-18-000; 16-060-17-000, Crabtree Canyon)

31
32 Parcels One and Two, as described in the deed recorded in the Office of the Nevada
33 County Recorder on June 3, 2011, Document No. 20110013213.
34 (A.P.N.: 18-101-10, McGlasham Springs)
35

1 | **EXHIBIT CB**

2 |

3 | **(Section 1.10)**

4 |

5 | **List of Common Area Lots**

6 |

7 | "Golf Course Facilities", Parcels 1 and 2, as shown on the Official Map thereof, filed in

8 | the [officeOffice](#) of the Nevada County Recorder, on September 15, 1976, in Book 10 of

9 | Parcel Maps, at Page 178.

10 |

11 | "Marina", as described in the deed recorded [within the Office of](#) the Nevada County

12 | Recorder on April 30, 1976, as document No. 7664, in Book 789, at Page 686.

13 |

14 | UNIT 1: Parcel A through N, inclusive and Lot 184 of Tahoe Donner Unit 1 as shown on

15 | the Official Map thereof, filed in the [officeOffice](#) of the Nevada County Recorder, on

16 | April 13, 1971, in Book 4 of Subdivision Maps, Page 21.

17 |

18 | UNIT 2: Parcels A through L, inclusive and Parcel N of the Tahoe Donner Unit No. 2 as

19 | shown on the Official Map thereof, filed in the [officeOffice](#) of the Nevada County Recorder,

20 | on May 26, 1971, in Book 4 of Subdivision Maps, Page 23.

21 |

22 | "Trout Creek Condo Property" (formerly Lots 428 through 439 of Tahoe Donner Unit 2 as

23 | shown on the Official Map thereof, filed in the [officeOffice](#) of the Nevada County

24 | Recorder on May 26, 1971, in Book 4 of Subdivision Maps, at Page ~~22~~[23](#)) and as

25 | further described in the deed recorded November 22, 1988, series No. 88-31745.

26 |

27 | "Northwoods Clubhouse Facilities" All property as shown on the parcel map recorded

28 | [within the Office of](#) the Nevada County Recorder, on October 22, 1980, in Book 15 of

29 | Parcel Maps, at Page 31. (This property includes former Lots 52, 53 and 54 of Tahoe

30 | Donner Unit 2.)

31 |

32 | UNIT 3: A portion of Parcel R ("Ski Area Day Lodge") of Unit 3, as shown on the Official

33 | Map thereof, filed in the [officeOffice](#) of the Nevada County Recorder, on August 11,

34 | 1971, in Book 4 of Subdivision Maps, at Page 25.

35 |

36 | Lots 28 and 79 ("Ski Area Parking Lots) of Tahoe Donner Unit 3, as shown on the

37 | Official Map thereof, filed in the [officeOffice](#) of the Nevada County Recorder, on August

38 | 11, 1971, in Book 4 of Subdivision Maps, at Page 25.

39 |

40 | "Maintenance Facility", Parcels 1, 2 and 3 as shown on the parcel map (formerly Tahoe

41 | Donner Unit 3, Lots 257, 258 and Lots 172, 173 of Unit 11 as shown on the Official Map

42 | thereof, filed in the [officeOffice](#) of the Nevada County Recorder, on August 11, 1971, in

43 | Book 4 of Subdivision Maps, at Page 25) filed in the [officeOffice](#) of the Nevada County

44 | Recorder, on December 28, 1979, in Book 17 of Parcel Maps, at Page 38.

1
2 Parcels A through N inclusive and Parcels U and V, as shown on the Official Map of
3 Tahoe Donner Unit 3, filed in the [officeOffice](#) of the Nevada County Recorder, on
4 August 11, 1971, in Book 4 of Subdivision Maps at Page 25.

5
6 Lots 11, 12, 13, 14 and 15 of Tahoe Donner Unit 3, as shown on the Official Map
7 thereof, filed in the [officeOffice](#) of the Nevada County Recorder, on August 11, 1971, in
8 Book 4 of Subdivision Maps, at Page 25.

9
10 "Alder Creek Picnic Area" Parcels 1 and 2 as described in the deed recorded in the
11 [officeOffice](#) of the Nevada County Recorder on November 24, 1975, as document No.
12 21094, in Book 767 at Page 637.

13
14 UNIT 4: Parcels A through M, inclusive of Tahoe Donner Unit 4, as shown on the
15 Official Map thereof, filed in the [officeOffice](#) of the Nevada County Recorder on
16 November 23, 1971, in Book 4 of Subdivision Maps, at Page 27.

17
18 UNIT 5: Parcels A through H inclusive and Parcel L (Boat Storage Lot) within Tahoe
19 Donner Unit 5, as shown on the Official Map thereof, filed in the [officeOffice](#) of the
20 Nevada County Recorder on August 23, 1972, in Book 4 of Subdivision Maps, at Page
21 36.

22
23 UNIT 6: Parcels A through N, inclusive and Parcel P ("The Equestrian Center") located
24 within Tahoe Donner Unit 6, as shown on the official Map thereof, filed in the [officeOffice](#) of
25 the Nevada County Recorder, on May 10, 1972, in Book 4 of [SUBDIVISIONSubdivision](#)
26 Maps, at Page 34.

27
28 UNIT 7: Parcels A through K inclusive and Parcel L ("The Campground") located within
29 Tahoe Donner Unit 7, as shown on the Official Map thereof, filed in the [officeOffice](#) of
30 the Nevada County Recorder, on August 23, 1972, Book 4 of Subdivision Maps, at
31 Page 37.

32
33 UNIT 8: parcels A through H inclusive, Parcels J through Y inclusive and lots 238 and
34 239, located within Tahoe Donner Unit 7, as shown on the Official Map thereof, filed in
35 the [officesOffice](#) of the Nevada County Recorder on March 13, 1973, in Book 4 of
36 Subdivision Maps, at Page 43.

37
38 UNIT 9: Lots 339, 340 and 341 and Parcels B through F, inclusive, Parcels H through N
39 inclusive, Parcel O, and Q through W, inclusive, located within Tahoe Donner Unit 9, as
40 shown on the Official Map thereof, filed in the [officeOffice](#) of the Nevada County
41 Recorder on September 7, 1973, in Book 4 of Subdivision Maps, at Page 57.
42

1 UNIT 10: Parcel A, and Parcels C through K inclusive, located within Tahoe Donner
2 Unit 10, as shown on the Official Map thereof, filed in the ~~office~~Office of the Nevada
3 County Recorder on July 5, 1973, in Book 4, of Subdivision Maps, at Page 55.
4

5 UNIT 11: Parcels A through K inclusive and Parcel J located within Tahoe Donner Unit 11,
6 as shown on the Official Map thereof, filed in the Office of the Nevada County Recorder
7 on January 3, 1973, in Book 4 of Subdivision Maps, at Page 41.
8
9
10

1 | **EXHIBIT DC**

2 |

3 | **(Section 1.16)**

4 |

5 | **List of Condominium Projects Subject to This Declaration**

6 |

7 |

8 | "TAHOE DONNER SKI BOWL CONDOMINIUMS", and the "TAHOE DONNER LODGE
9 | CONDOMINIUMS", all real property lying within the unincorporated territory of Nevada
10 | County, California, and situatesituated in Section 1, Township 17 North, Range 15 East,
11 | M.D.B. & M., and more particularly described as Lot 64 and a portion of Parcel R of Tahoe
12 | Donner Unit 3 as said lot and parcel are so designated and shown on the Official Map
13 | thereof, filed in the officeOffice of the Nevada County Recorder, on August 11, 1971, in
14 | Book 4 of Subdivision Maps, at Page 25.

15 |

16 | "TAHOE DONNER GOLF CLUB CONDOMINIUMS", as shown upon the Official Map
17 | thereof, filed in the officeOffice of the Nevada County Recorder, on June 13, 1974, in Book
18 | 5 of Subdivisions at Page 11.

19 |

20 | "Trout Creek Condominiums" (formerly Lots 428 through 439 of Tahoe Donner Unit 2 as
21 | shown on the Official Map thereof, filed in the officeOffice of the Nevada County
22 | Recorder on May 26, 1971, in Book 4 of Subdivision Maps, at Page 23) and as
23 | further described in the deed recorded November 22, 1988, series No. 88-31745.

24 |

25 |

26 |

EXHIBIT ED

(Section 1.40)

Other Association Property Subject to This Declaration

"2,000 Acres", Parcels 1 and 2 as described in the deed recorded within the Office of the Nevada County Recorder on July 7, 1982, series No. 82-15361.

"32 Acres", Parcel (A of parcel map P.N.: 16-060-12; 16-060-14; 16-060-15; 16-060-16; 17-020-05; 17-020-06; and 17-020-27)

All the real property as described in the deed recorded within the Office of the Nevada County Recorder on ~~June 23, 1987, in Book 17 of Parcel Maps at Page 121.~~ February 17, 2012, Document No. 20120004305.

"Corner of Donner Pass Road and Northwoods Blvd", Parcel 1 of parcel map (A.P.N.: 16-060-22 and 16-060-13, Euer Grant)

All the real property as described in the deed recorded within the Office of the Nevada County Recorder on ~~September 15, 1976, in Book~~ October 25, 2011, Document No. 20110025265. (A.P.N.: 16-060-20 and 16-060-23, Euer Grant)

All the real property as described in the deed recorded in the Office of the Nevada County Recorder on February 16, 2012, Document No. 20120004255. (A.P.N.: 17-020-34, Rosamond Grant)

Parcels One through Ten, inclusive, as described in the deed recorded in the Office of the Nevada County Recorder on June 4, 2010, Document No. 20100013062. (A.P.N.: 18-180-01, 02, 03; 18-200-02 thru 21; 18-210-02 thru 21; 18-220-02 thru 22; 18-230-02 thru 22; 18-240-02 thru 19; 18-250-02 thru 19; 18-260-02 thru 09, 11 thru 15, 20 and 22 thru 27; 18-270-02 thru 07, 09 thru 21 and 27; 18-280-02 thru 20, 22, 23 and 27; 18-290-02 thru 02, 10 of Parcel Maps at Page 177 thru 25; 18-320-06 thru 07, 10 thru 12, 14 thru 16, 20 thru 24, 26, 28, 31, 34 thru 37, 39, 40, 49, 50, 59, 60; 18-330-02, 03, 06, 08, 09, 10, 11, 13 thru 16, 20, 26 thru 30 and 34; 18-382-21, Sinclair Grant)

Tract One Parcels I, II and III, and Tract Two, as described in the deed recorded in the Office of the Nevada County Recorder on May 12, 2016, Document No. 20160009902. (A.P.N.: 16-060-02-000; 16-060-18-000; 16-060-17-000, Crabtree Canyon)

Parcels One and Two, as described in the deed recorded in the Office of the Nevada County Recorder on June 3, 2011, Document No. 20110013213. (A.P.N.: 18-101-10, McGlasham Springs)

1
2
3

1
2 **EXHIBIT FE**

3
4 **(Section 1.57)**

5
6 List of Subdivisions Maps

7
8
9 Map of Tahoe Donner Unit 1, filed in the office of the Nevada County Recorder on April
10 13, 1971 in Book 4 of Subdivisions Maps, Page 21.

11
12 Map of Tahoe Donner Unit 2, filed in the office of the Nevada County Recorder on May
13 26, 1971 in Book 4 of Subdivision Maps, at Page 23.

14
15 Map of Tahoe Donner Unit 3, filed in the office of the Nevada County Recorder on August
16 11, 1971, in Book 4 of Subdivision Maps, at Page 25. Lots 28, 29, 65, 66 and 79 are
17 commercial lots.

18
19 Map of Tahoe Donner Unit 4, filed in the Office of the Nevada County Recorder on
20 November 23, 1971, in Book 4 of Subdivision Maps, at Page 27.

21
22 Map of Tahoe Donner Unit 5, filed in the office of the Nevada County Recorder on
23 August 23, 1972, in Book 4 of Subdivision Maps, at Page 36.

24
25 Map of Tahoe Donner Unit 6, filed in the office of the Nevada County Recorder, on May
26 10, 1972, in Book 4 of Subdivision Maps, at Page 34.

27
28 Map of Tahoe Donner Unit 7, filed in the office of the Nevada County Recorder, on
29 August 23, 1972, Book 4 of Subdivision Maps, at Page 37.

30
31 Map of Tahoe Donner Unit 8, filed in the office of the Nevada County Recorder, on
32 March 13, 1973, in Book 4 of Subdivision Maps, at Page 43.

33
34 Map of Tahoe Donner Unit 9, filed in the office of the Nevada County Recorder on
35 September 7, 1973, in Book 4 of Subdivision Maps, at Page 57.

36
37 Map of Tahoe Donner Unit 10, filed in the office of the Nevada County Recorder on July 5,
38 1973, in Book 4 of Subdivision Maps, at Page 55.

39
40 Map of Tahoe Donner Unit 11, filed in the office of the Nevada County Recorder, on
41 January 3, 1973, in Book 4 of Subdivision Maps, at Page 41.

42
43 "TAHOE DONNER SKI BOWL CONDOMINIUMS", and the "TAHOE DONNER LODGE
44 CONDOMINIUMS", all real property lying within the unincorporated territory of Nevada

1 | County, California, and ~~situatesituated~~ in Section 1, Township 17 North, Range 15 East,
2 | M.D.B. & M., and more particularly described as Lot 64 and a portion of Parcel R of Tahoe
3 | Donner Unit 3 as said lot and parcel are so designated and shown on the Official Map
4 | thereof, filed in the office of the Nevada County Recorder, on August 11, 1971, in Book 4
5 | of Subdivision Maps, at Page 25.

6 |
7 | "TAHOE DONNER GOLF CLUB CONDOMINIUMS", as shown upon the Official Map
8 | thereof, filed in the office of the Nevada County Recorder, on June 13, 1974, in Book 5 of
9 | Subdivisions at Page 11.

10 |
11 | Map of Golf Course Facilities, filed in the office of the Nevada County Recorder, on
12 | September 15, 1976, in Book 10 of Parcel Maps, at Page 178.

13 |
14 | Map of Trout Creek Condo Property (formerly Lots 428 through 439 of Tahoe Donner
15 | Unit 2 as shown on the Official Map thereof, filed in the office of the Nevada County
16 | Recorder on May 26, 1971, in Book 4 of Subdivision Maps, at Page ~~23~~ 23 and as
17 | further described in the deed recorded November 22, 1988, series No. 88-31745.

18 |
19 | Map of Northwoods Clubhouse Facilities, filed on October 22, 1980, in Book 15 of
20 | Parcel Maps, at Page 31. (This property includes former Lots 52, 53 and 54 of Tahoe
21 | Donner Unit 2.)

22 |
23 | UNIT 5: Parcels A through H inclusive and Parcel L (Boat Storage Lot) within Tahoe
24 | Donner Unit 5, as shown on the Official Map thereof, filed in the office of the Nevada
25 | County Recorder on August 23, 1972, in Book 4 of Subdivision Maps, at Page 36.

26 |
27 |
28 | ~~Map of 2,000 Acres Parcels 1 and 2~~

29 |
30 | Map of 32 Acres Parcel A, recorded with the Nevada County Recorder on June 23, 1987,
31 | in Book 17 of Parcel Maps at Page 121.

32 |
33 | Map of Parcel 1 (Corner of Donner Pass Road and Northwoods Blvd.), recorded on
34 | September 15, 1976, in Book 10 of Parcel Maps at Page 177.

BOARDMEMBER DRAFT 9/29/20151/24/2017

**AMENDED AND RESTATED BYLAWS OF
TAHOE DONNER ASSOCIATION**

NOTICE

If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the *California Government Code*. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

TAHOE DONNER ASSOCIATION

BOARD DRAFT
9/29/20151/24/2017

AMENDED AND RESTATED
BYLAWS

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BOARDMEMBER DRAFT 9/29/20151/24/2017

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TAHOE DONNER ASSOCIATION**

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1
2 **BOARDMEMBER DRAFT 9/10/20151/24/2017**

3 **AMENDED AND RESTATED BYLAWS OF**
4 **TAHOE DONNER ASSOCIATION**

5
6
7 **ARTICLE 1 ORGANIZATION**

8
9 1.1 Name and Location. The name of the corporation is TAHOE DONNER
10 ASSOCIATION, which is hereinafter referred to as the "Association." The
11 principal office of the Association shall be located in Nevada County, California,
12 or at such other place reasonably convenient to the Development as the Board of
13 Directors may from time to time establish.

14
15 1.2 Purpose. The purpose of the Association shall be as set forth in its Articles of
16 Incorporation.

17
18 1.3 Successor Entity. In the event the Association as a corporate entity is dissolved,
19 a nonprofit unincorporated association shall forthwith and without further action
20 or notice be formed to succeed to all the rights and duties of the Association.
21 The affairs of such unincorporated association will be governed by the laws of
22 the State of California, and to the extent consistent therewith, by the Declaration,
23 the Articles, and these Bylaws as if they were created for the purpose of
24 governing the affairs of an unincorporated association.

25
26
27 **ARTICLE 2 DEFINITIONS**

28
29 Any capitalized terms that are not defined below shall have the meaning set forth
30 in Article 1 of the Declaration ("Definitions").

31
32 2.1 Additional Charges. "Additional Charges" shall mean all costs, fees, charges,
33 and expenditures including, but not limited to, interest, late charges, attorney
34 fees, recording and filing fees, and all other costs actually incurred by the
35 Association in collecting and/or enforcing payment of Assessments.

36
37 2.2 Articles. "Articles" shall mean the Amended and Restated Articles of
38 Incorporation of Tahoe Donner Association, as they may be amended from time
39 to time, and as filed with the Office of the Secretary of State of California.

40
41 2.3 Assessments. "Assessments," "Regular Assessments," "Special Assessments,"
42 "Reimbursement Assessments," and "Enforcement Assessments" shall have the
43 meanings defined for those terms in the Declaration.
44

- 1 2.4 Association. “Association” shall mean Tahoe Donner Association, a California
2 nonprofit mutual benefit corporation, its successors and assigns.
3
- 4 2.5 Board of Directors. “Board of Directors” or “Board” shall mean the governing
5 body of the Association.
6
- 7 2.6 Bylaws. “Bylaws” shall mean the Amended and Restated Bylaws of the
8 Association as they shall be duly adopted by the Board of Directors and the
9 Members and any duly-adopted amendments thereof.
10
- 11 2.7 Civil Code. “*Civil Code*” shall mean the California *Civil Code* as amended from
12 time to time.
13
- 14 2.8 Commercial Lot. “Commercial Lot” shall mean a Lot within the Development
15 zoned for commercial purposes. When any provision of this Declaration is
16 intended to apply only to a Commercial Lot, that term is used.
17
- 18 2.9 Committee of the Board. “Committee of the Board” shall mean a committee
19 consisting only of directors as described in *Corporations Code* section 7212.
20
- 21 2.10 Common Area. “Common Area” shall mean all real property owned or held by
22 the Association from time to time for the common use and enjoyment of the
23 Owners and Residents of the Development and the Common Facilities.
24
- 25 2.11 Common Facilities. “Common Facilities” shall mean (i) all recreational facilities
26 located within the Common Area, and (ii) the main clubhouse and recreational
27 building, maintenance building, and other facilities constructed or installed or to
28 be constructed or installed, or currently located within the Common Area.
29
- 30 2.12 Condominium Lot. “Condominium Lot” shall mean any Lot intended to be used
31 for multi-family residential purposes, including any Lot developed as a
32 Condominium Project or an apartment project. When any provision of this
33 Declaration is intended to apply only to Condominium Lots that term is used.
34
- 35 2.13 Condominium Maps. “Condominium Maps” or “Plans” shall mean a recorded plat
36 map or condominium plan which identifies the Condominium Project and
37 Condominium Common Area and each Separate Interest in the Condominium
38 Project. The Condominium Maps are listed in **Exhibit C**, attached to the
39 Amended and Restated Declaration of Covenants, Conditions and Restrictions
40 and incorporated herein by this reference.
41
- 42 2.14 Condominium Project. “Condominium Project” shall mean any one (1) of the
43 Condominium Projects or apartment projects located within the Development.
44 On the day of the recording of the Amended and Restated Declaration of
45 Covenants, Conditions and Restrictions, there are one hundred eleven (111)

1 Condominium Projects within the Development. The Condominium Projects
2 subject to said Declaration and a Supplemental Declaration are identified in
3 Exhibit D attached to the Amended and Restated Declaration of Covenants,
4 Conditions and Restrictions and incorporated herein by this reference.
5

6 2.15 Contract Purchaser / Contract Seller. “Contract Purchaser” and “Contract Seller”
7 shall mean the purchaser and the seller, respectively, under an installment land
8 contract in which title to the property is transferred after the final installment
9 payment is made.
10

11 2.16 Corporations Code. “Corporations Code” shall mean the California *Corporations*
12 *Code* as amended from time to time.
13

14 2.17 Declaration. “Declaration” shall mean the Amended and Restated Declaration of
15 Covenants, Conditions and Restrictions of Tahoe Donner Association, recorded
16 in the Office of the County Recorder of Nevada County, California, and any duly-
17 recorded amendments thereof.
18

19 2.18 Delivery, When Effective. As provided for in *Civil Code* section 4050: (i) if notice
20 is sent by United States mail, such notice shall be deemed delivered upon
21 deposit in the United States mail, postage prepaid; (ii) if such notice is sent by
22 electronic means, delivery is complete at the time of the transmission.
23

24 2.19 Development. “Development” shall mean all the real property described in the
25 Declaration as comprising the Tahoe Donner planned development and any
26 additional real property as may hereafter be brought within the jurisdiction of the
27 Association.
28

29 2.20 General Delivery / General Notice. “General Delivery” or “General Notice” shall
30 mean delivery to a Member or Members by one or more of the following
31 methods, as provided in *Civil Code* section 4045:
32

33 (a) By any method provided for delivery of an Individual Notice pursuant to
34 *Civil Code* section 4040 which includes but is not limited to first-class mail
35 or Express Mail or by overnight delivery by an express service carrier,
36

37 (b) By inclusion in a billing statement, newsletter, or other document that is
38 delivered by General Delivery,
39

40 (c) By posting a printed document in a prominent location that is accessible to
41 all Members, if the location has been designated for the posting of
42 General Notices by the Association in the annual policy statement,
43 prepared pursuant to *Civil Code* section 5310,
44

1 (d) If the Association broadcasts television programming for the purpose of
2 distributing information on Association business to its Members, by
3 inclusion in the Association broadcast television programming.
4

5 Notwithstanding the foregoing, if a Member has requested to receive General
6 Notices by Individual Delivery, then all "General Notices" to that Member shall be
7 delivered by "Individual Delivery."
8

9 2.21 Governing Documents. "Governing Documents" shall mean the Articles, Bylaws,
10 Declaration, and Rules.
11

12 2.22 Individual Delivery / Individual Notice. "Individual Delivery" or "Individual Notice"
13 shall mean delivery to a Member or Members by one (1) of the following
14 methods, as provided in *Civil Code* section 4040:
15

16 (a) By first-class mail with postage prepaid, registered or certified mail,
17 express mail, or overnight delivery by an express service carrier,
18 addressed to the recipient at such recipient's address last shown on the
19 books of the Association, or
20

21 (b) By email, facsimile, or other electronic means if the recipient has
22 consented in writing to that method of delivery. The consent may be
23 revoked, in writing, by the recipient. Delivery by electronic transmission
24 must also comply with *Corporations Code* sections 20 and 21. Among
25 other things, Section 20 of the *Corporations Code* requires the Association
26 to obtain consent from the person to whom the document is transmitted to
27 receive it by means of electronic transmission as well as other technical
28 requirements.
29

30 2.23 Lot. "Lot" shall mean any plot of land shown upon any of the Subdivision Maps
31 with the exception of the Common Area. There are Commercial Lots, Residential
32 Lots, and Condominium Lots (containing apartment or condominium Units).
33 There are five thousand, nine hundred thirty (5,930) Lots in the Development.
34

35 2.24 Majority of a Quorum. "Majority of a Quorum" shall mean a majority of the votes
36 cast in any lawful vote or election by the Members in which the number of ballots
37 cast equals or exceeds the number required to establish a quorum as provided in
38 **Section 4.6** ("Quorum Requirements").
39

40 2.25 Member. "Member" shall mean an Owner of a Residential Lot or of a
41 Condominium Lot. The term Member shall include members of the Member's
42 family. Owners of Commercial Lots are not Members of the Association.
43

44 2.26 Member in Good Standing. "Member in Good Standing" shall mean a Member of
45 the Association who is current in the payment of all Assessments and Additional

1 Charges imposed in accordance with the Governing Documents and who is in
2 compliance with all of the provisions of the Governing Documents. A Member
3 shall be deemed to be in Good Standing unless, after notice and an opportunity
4 for hearing, pursuant to **Article 14 of the Declaration** (“Enforcement; Notice;
5 Hearings”), the Board has found the Member to be not in Good Standing and has
6 so notified the Member in accordance with *Civil Code* section 5855.
7

8 2.27 Other Association Property. “Other Association Property” shall mean those
9 parcels of real property now owned or hereafter acquired by the Association
10 which are not dedicated as Common Area. The real property comprising Other
11 Association Property as of the date of recording of the Amended and Restated
12 Declaration of Covenants, Conditions and Restrictions are listed in **Exhibit E**
13 thereof and incorporated herein by this reference.
14

15 2.28 Owner. “Owner” shall mean the record owner, whether one (1) or more persons
16 or entities, of the fee simple title to any Lot (but not an owner of a Commercial
17 Lot) or Unit, including Contract Sellers but excluding Contract Purchasers, and
18 excluding those persons having such interest merely as security for the
19 performance of an obligation.
20

21 2.29 Resident. “Resident” shall mean any person who resides on a Lot or in a Unit
22 within the Development whether or not such person is an Owner.
23

24 2.30 Residential Lot. “Residential Lot” shall mean any Lot located within the
25 Development and intended to be improved with a single-family, detached
26 residential structure. When any provision of the Declaration is intended to apply
27 only to a Residential Lot, that term is used.
28

29 2.31 Rules. “Rules” shall mean the policies, rules, and regulations governing the
30 administration, management, operation, use, and occupancy of the
31 Development, including the use of the Common Area and facilities, the personal
32 conduct of Members and Residents, members of their household, pets, tenants,
33 invitees, and guests within the Development, enforcement of the Governing
34 Documents, and any other matter that is within the jurisdiction of the Association,
35 as adopted, published, or amended by the Board from time to time and subject to
36 applicable law including *Civil Code* section 4340 and following.
37

38 2.32 Separate Interest. Separate Interest shall mean a separately owned Residential
39 Lot or a separately owned Unit within a Condominium Project, but not a
40 Commercial Lot.
41

42 2.33 Total Voting Power. “Total Voting Power” shall mean the total number of votes of
43 all Members entitled to vote at a particular time, calculated on the basis of one
44 (1) vote for each Residential Lot or each Unit, excluding any Residential Lots or
45 Units as to which an Owner is not then a Member in Good Standing.

1
2 2.34 Town. "Town" shall mean the Town of Truckee.

3
4 2.342.35 Unit. "Unit" shall mean the elements of a Condominium that are not
5 owned in common with the Owners of other Condominiums within the
6 Condominium Project, which Units are shown as separately designated and
7 numbered areas on the Condominium Maps or Plans. The boundaries of each
8 Unit and any appurtenances thereto, along with what is included within each Unit,
9 are described on the respective Condominium Plans or Maps for the
10 Condominium Projects. On the day of the recording of the Amended and
11 Restated Declaration of Covenants, Conditions and Restriction, there are six
12 hundred sixty-eight (668) Units in the Project.
13

14
15 **ARTICLE 3 MEMBERSHIP AND VOTING RIGHTS**

16
17 3.1 Membership Appurtenant to Residential Lot and Unit Ownership. Membership in
18 the Association shall include, and shall be limited to, all Owners of a Separate
19 Interest located within the Development. Commercial Lots and not Separate
20 Interests and Owners of Commercial Lots are not Members of the Association
21 and shall have none of the rights, preferences, and privileges of the Members.
22 Ownership of a Separate Interest is the sole qualification to be a Member.
23 Membership shall be appurtenant to and may not be separated from ownership
24 of the Separate Interest. Upon becoming the Owner of a Separate Interest each
25 Owner shall automatically be a Member of the Association and shall remain a
26 Member until such time as his or her or its ownership of the Separate Interest
27 ceases for any reason. Membership in the Association shall not be transferred,
28 encumbered, pledged, alienated, or hypothecated in any way, except upon the
29 transfer or encumbrance of the Separate Interest to which it is appurtenant and
30 then only to the transferee or mortgagee, as the case may be, of such Separate
31 Interest. Any attempt to make a prohibited transfer is void. Upon any transfer of
32 title to a Separate Interest, including a transfer upon the death of an Owner,
33 membership in the Association shall pass automatically to the transferee.
34

35 3.2 Owner's Address for Notice. It shall be each Owner's responsibility to notify the
36 Association in writing of any change in the Owner's address for the purpose of
37 receiving notices from the Association. The fact that a different address appears
38 on correspondence to the Association from an Owner shall not constitute such
39 written notice, unless it is expressly stated in writing that such address is a
40 change of address for the purpose of receiving notice from the Association.
41 ~~[NOTE TO BOARD: If the Association also keeps telephone, email, or other~~
42 ~~contact information, which is used for informal or emergency contact, any~~
43 ~~emergency contact and any formal contact with an Owner should also be~~
44 ~~made in writing by a method authorized by statute for the particular notice,~~
45 ~~in order to preserve the Association's rights should a controversy arise.]~~

1
2 3.3 Notice of Transfer of Title. Upon transfer of title to a Separate Interest, the
3 transferee shall be responsible for notifying the Association of such transfer. The
4 notification shall set forth the address of the Separate Interest, the names of the
5 transferee and the transferor, and the date of sale or other transfer. Prior to
6 receipt of such notification, any and all communications required or permitted to
7 be given by the Association or the Board to the Separate Interest Owner shall be
8 deemed to be duly made and given to the transferee if duly and timely made and
9 given to the person shown as the Owner of Separate Interest and at the address
10 in the Association's records.

11
12 3.4 Proof of Membership. No person shall exercise the rights of a Member until
13 satisfactory proof of membership has been furnished to the Association. Such
14 proof may consist of either a copy of a duly-executed and acknowledged grant
15 deed or a copy of a title insurance policy showing that the person is an Owner as
16 defined in Section 2.28 ("Owner") of a Separate Interest. Such deed or policy
17 shall be deemed conclusive proof of ownership in the absence of a conflicting
18 claim based on a later deed or policy.

19
20 3.5 Voting Rights; Joint Owners.

21
22 3.5.1 One Vote Per Lot or Unit. Only Members in Good Standing shall be
23 entitled to vote on any issue or matter presented to the Members for
24 approval or membership vote. Members in Good Standing shall be
25 entitled to cast one (1) vote for each ~~Separate Interest~~Residential Lot
26 or Unit owned.

27
28 3.5.2 Joint Owners. In the event more than one (1) person owns a given
29 Separate Interest, the vote for such Separate Interest shall be
30 exercised as the Owners among themselves shall determine, but in no
31 event shall more than one (1) vote be cast with respect to any
32 Separate Interest. If the joint Owners of a Separate Interest are unable
33 to agree among themselves as to how their vote is to be cast, they
34 shall lose their right to vote on the matter in question. If any joint
35 Owner of a Separate Interest casts a vote representing a certain
36 Residential Lot or Unit, it will thereafter be conclusively presumed for
37 all purposes that such Owner was acting with the authority and
38 consent of the other Owners of that Separate Interest.

39
40 3.5.3 Trusts, Corporations, Other Entities. In the case of an Owner that is a
41 corporate trustee or is not a natural person (such as a corporation or
42 other entity), the vote of such Owner may be cast by any authorized
43 representative of the Owner designated by notice in writing to the
44 Association.
45

1 3.5.4 Conservator, Guardian, Parent of Minor, Executor. The power to cast
2 a particular Member's vote may be exercised by (i) the Member's
3 conservator, (ii) the guardian of the Member's estate, (iii) the parent(s)
4 entitled to custody of a Member if the Member is a minor, or (iv) the
5 executor or administrator of a deceased Member's estate if the
6 Member's interest in the Separate Interest is subject to administration
7 in his or her estate.
8

9 3.6 Record Date for Voting. Consistent with *Corporations Code* section 7611(c), the
10 Board may fix a date not more than sixty (60) days before the date of any mailing
11 or delivery of ballots as the record date for determining Members entitled to vote
12 and only Members in Good Standing as shown in the records of the Association
13 as of the record date for voting shall be entitled to vote in such vote or election. If
14 no record date for voting is set by the Board, Members in Good Standing on the
15 day of the mailing or delivery of ballots shall be entitled to vote in such vote or
16 election.
17
18

19 **ARTICLE 4 VOTING BY MEMBERS**

20
21 ~~[NOTE TO BOARD: This article is completely updated to address the changes in~~
22 ~~voting per *Civil Code* section 5100(a) and following.]~~
23

24 4.1 Voting by Members; Members' Request for Vote. Any vote on any matter
25 specified in *Civil Code* section 5100(a), which at the time these Bylaws were
26 adopted include: (i) elections regarding assessments legally requiring a vote, (ii)
27 election and removal of directors, (iii) amendments to the governing documents,
28 or (iv) the grant of exclusive use of common area pursuant to *Civil Code* section
29 4600 and any vote pursuant to a written request of Members as described in
30 *Corporations Code* section 7510(e) shall be by "secret ballot" pursuant to *Civil*
31 *Code* sections 5100 through 5145. The deadline for returning a secret ballot
32 shall be at least thirty (30) days. Any membership vote on any other matter may
33 be by written ballot, as described in *Corporations Code* section 7513, and the
34 deadline for returning a written ballot shall be a reasonable time, which may be
35 less than thirty (30) days. ~~[NOTE TO BOARD: This provision is designed to~~
36 ~~provide flexibility for membership votes, limiting the need for secret ballots~~
37 ~~(double envelope system) to only those elections that require secret ballots~~
38 ~~as set for the *Civil Code* section 5100(a). For example, under the~~
39 ~~*Corporations code*, a written ballot may be delivered electronically;~~
40 ~~whereas, secret ballots must be mailed to Members. Please let us know if~~
41 ~~you have any questions about this provision.]~~ from the date of mailing.
42

43 4.2 Proxies Are Prohibited. Use of proxies in connection with membership votes or
44 membership meetings is expressly prohibited. "Proxy" shall mean a written
45 authorization signed by a Member or a Member's attorney-in-fact giving another

1 person or persons power to vote for such Member, as defined in *Corporations*
2 *Code* section 5069, other than a designated authorized representative casting a
3 vote pursuant to Section 3.5.3 ("Trusts, Corporations, Other Entities"), above.
4

5 4.3 Inspector(s) of Election. To the extent required pursuant to *Civil Code* section
6 5110, prior to any election or vote by the Members, the Board shall appoint one
7 (1) or three (3) inspectors of election, whose powers and duties shall be as set
8 forth in such statute.
9

10 4.4 Voting and Election Rules. The Board shall adopt Rules governing membership
11 voting and elections of directors in conformity with *Civil Code* section 5105(a).
12

13 4.5 Open Forums. Notwithstanding the provisions of Section 0 ("Voting by Members;
14 Members' Request for Vote"), the Secretary of the Association Board shall be
15 entitled to call informal meetings of the Members, to be known as open forums,
16 for the purpose of discussing problems common to Members residing in one
17 particular area within the Project property or problems common to all Members.
18 Open forums shall be called on ~~written~~ notice delivered to all interested Members
19 ~~at least five (5) days before the date of the open forum~~. The notice shall set forth
20 the date, time, and place of the open forum and the general nature of each item
21 to be discussed. The Members may discuss at an open forum any topic that has
22 been noticed, but no formal action of the Members may be taken, ~~such action~~
23 ~~being reserved to Member votes conducted pursuant to Section 4.1;~~ however,
24 reports and other informational presentations may be made. Actions requiring a
25 vote of Members are reserved to Member votes conducted pursuant to Section 0.
26

27 4.6 Quorum Requirements. The number of ballots that must be cast in order to
28 establish a quorum shall be as follows:
29

30 4.6.1 Election of Directors. In any election of one (1) or more directors, the
31 number of the valid ballots received shall constitute a quorum.
32

33 4.6.2 Assessment Votes. To the extent required by *Civil Code* section 5605,
34 notwithstanding any other provision in the Governing Documents, for
35 purposes of voting on a Special Assessment or an increase in the
36 Regular Assessment that by law must be approved by the Members, a
37 quorum shall mean more than fifty percent (50%) of the Members (as
38 distinguished from percentage of the Total Voting Power), or such
39 other quorum requirement as may be specified by law. ~~[NOTE TO~~
40 ~~BOARD: This reflects requirements of the law and cannot be~~
41 ~~changed. For instance, the required Member approval cannot be~~
42 ~~increased to 'a majority of the Total Voting Power' instead of 'a~~
43 ~~Majority of a Quorum.']~~
44

1 4.6.3 Amending the Declaration. In any vote to amend the Declaration, a
2 quorum shall mean more than fifty percent (50%) of the Total Voting
3 Power as provided in Section 15.1 of the Declaration (“Required
4 Approval”). ~~[NOTE TO BOARD: This approval requirement is
5 lower than your current documents which require approval of
6 majority of Members. This is the same approval requirement as
7 Section 4.6.2, above. Please let us know if you would like to
8 include this reduced approval requirement for future amendments
9 to your CC&R’s.]~~

10
11 4.6.4 All Other Member Votes. For any other vote or election by the
12 Members, a quorum shall mean twenty-five percent (25%) of the Total
13 Voting Power.

14
15 4.6.5 Meetings to Count Ballots. There shall be no quorum requirement for
16 Member attendance at any meeting of the Members held for the
17 purpose of tabulating ballots pursuant to *Civil Code* section 5120(a)
18 and no voting by the Members other than the tabulation of ballots by
19 the inspector(s) of election shall be conducted at any such meeting.
20

21 4.7 Act of Members Requires Majority of a Quorum. Except where the Governing
22 Documents specify a higher percentage of a quorum or require a specified
23 percentage of the Total Voting Power of the Members for any action that may be
24 taken by the Members, the affirmative vote of a Majority of a Quorum of the
25 Members shall constitute the action of the Members.
26

27 4.8 Results of Membership Votes. To the extent required by *Civil Code* section
28 5120(b), the Board shall within fifteen (15) days of an election give General
29 Notice of the tabulated results to all the Members. To the extent required by
30 *Corporations Code* section 8325, for a period of sixty (60) days following the
31 conclusion of any membership vote (or, if applicable, an annual, regular, or
32 special meeting of Members), a Member shall, upon written request, be informed
33 forthwith of the result of any particular vote of the Members, including the number
34 of memberships voting for, the number of memberships voting against, and the
35 number of memberships abstaining or withheld from voting. If the matter voted
36 on was the election of directors, the Association shall report the number of votes
37 cast for each nominee for director.
38

39 4.9 Meetings of Members. To the extent any vote or election by the Members is
40 required by law to be conducted at a meeting of the Members, the provisions of
41 the *Corporations Code*, including *Corporations Code* sections 7510 and 7511,
42 that would otherwise apply shall apply; any such meeting of Members shall be
43 conducted in accordance with a recognized system of parliamentary procedure
44 or such parliamentary procedures as the Association may adopt; and to the
45 extent required pursuant to *Civil Code* sections 4925(b) and 5000(b), a

1 reasonable time limit for all Members to speak at a meeting of the Members shall
2 be established by the Board.

3
4 4.10 Place of Member Meetings. Meetings of the Members shall be held at a location
5 within the Development, or the Board may designate by resolution a convenient
6 place located as close as reasonably practicable to the Development.

7
8 4.11 Special Meetings of Members. Special meetings of the Members shall be held in
9 response to a request by the Board President, or by any two Members of the
10 Board, or by vote of a majority of the Board, or upon written request of Members
11 representing five percent (5%) of the Total Voting Power of the Members.

12
13 4.12 Notice of Member Meetings. Written notice of Member meetings shall be given
14 to each Member by Individual Delivery at least ten (10) days but not more than
15 ninety (90) days before such meeting; *except that*, in the case of a special
16 meeting called pursuant to written request of Members, notice of such special
17 meeting shall be given to Members by Individual Delivery within twenty (20) days
18 after receipt of a written request by the Board, and the date for such special
19 meeting shall be not less than thirty-five (35) days nor later than ninety (90) days
20 after the date of the Board's receipt of the written request. The notice shall state
21 the date, time and place of the meeting, and in the case of a special meeting,
22 shall state the purpose for the meeting.

23
24
25 **ARTICLE 5 BOARD OF DIRECTORS: NOMINATION, SELECTION, TERM**
26 **OF OFFICE, REMOVAL**

27
28 ~~[NOTE TO BOARD: This article reorganizes the material in the current Bylaws~~
29 ~~and is updated to address the voting changes implemented by Civil Code section~~
30 ~~5100(a).]~~

31
32 5.1 Number of Directors. The affairs of this Association shall be managed by or
33 under the direction of, and the corporate powers shall be exercised by, a Board
34 of Directors. The authorized number of directors shall be five (5).

35
36 5.2 Annual Election of Directors. Directors shall be elected annually in the month of
37 June.

38
39 5.3 Qualification of Directors. Only persons who satisfy all of the following
40 qualifications shall be eligible to be elected to or serve on the Board: (i) is a
41 Member in Good Standing or in the case of a Member in Good Standing that is
42 not a natural person (such as a corporation or other entity), an officer, director,
43 principal, or authorized representative of the entity, (ii) is over eighteen (18) years
44 of age, (iii) has not been found by a court of competent jurisdiction to be of
45 unsound mind, (iv) has not been convicted of a felony, and (v) owns not less than

1 a twenty-five percent (25%) interest in a Separate Interest. Co-Owners of one
2 (1) or more Lots or Units may not serve on the Board at the same time. No
3 employee of Tahoe Donner shall be eligible to serve on the Board.
4

5 5.4 Nomination Procedures. Nominations of candidates for election to the Board of
6 Directors may be made by an Election Committee (hereinafter, "Election
7 Committee") or by self-nomination, as follows:
8

9 5.4.1 By Election Committee. Prior to any election of directors, the Board
10 shall appoint an Election Committee to nominate candidates for
11 election to the Board. ~~If appointed, the~~The Election Committee
12 ~~shall~~may nominate as many candidates for election to the Board as it
13 shall in its discretion determine, but shall endeavor to nominate not
14 less than the number of positions on the Board that are to be filled in
15 the election. All nominations shall be made from among persons who
16 satisfy the qualifications set forth in Section 5.3 ("Qualification of
17 Directors") and shall be made prior to the deadline for nominations.
18

19 5.4.2 By Self-Nomination. Any Member who satisfies the qualifications set
20 forth in Section 5.3 ("Qualification of Directors") may place his or her
21 name in nomination for election to the Board by giving written notice to
22 the ~~President or Secretary of the~~ Association. Notice of self-
23 nomination must be received prior to the deadline for nominations.
24

25 5.5 Deadline for Nominations. The deadline for nominations shall be set by the
26 Board and shall be not less than five (5) and not more than forty-five (45) days
27 prior to the date of the mailing or delivery of ballots for any election of directors.
28 ~~[NOTE TO BOARD: This time frame for deadline is intended to allow the~~
29 ~~Association to comply with statutory timelines for votes requested by~~
30 ~~Members.]~~
31

32 5.6 Publication of Deadline for Nominations. The date and time of the deadline for
33 nominations shall be published at least fifteen (15) days in advance of the
34 deadline in an Association newsletter, or if there is no such newsletter, notice
35 shall be given in one (1) or more of the following manners: (i) by posting a notice
36 in one (1) or more prominent places within the Development, (ii) by mailing or
37 delivering a notice to each Lot and Unit, or (iii) by other means reasonably
38 designed to provide actual notice to the Members.
39

40 5.7 Election by Acclamation. If, as of the published deadline for nominations, the
41 number of people nominated is not more than the number of directors to be
42 elected, then the persons nominated and qualified to be elected shall, unless
43 election by acclamation is prohibited by law, be declared elected and shall take
44 office at the first Board meeting following the deadline for nominations or, if later
45 and an annual meeting is held, then at the first Board meeting after the annual

1 meeting. Written notice of the election by acclamation shall be given to the
2 Members.

3
4 5.8 Notice of Known Candidate Names. The names of all persons known by the
5 Board to be qualified candidates for election to the Board as of the published
6 deadline for nominations shall be set forth on the ballot for election of directors.
7

8 5.9 Candidate Night. Prior to the annual election, the Board shall conduct at least
9 one (1) community meeting, at an appropriate location within or near the
10 Development, so that all candidates may have an opportunity to address
11 interested members (“candidates night”). Such event shall be held after the
12 deadline for nominations has passed and at least ten (10) days prior to the
13 annual meeting of Members.
14

15 5.10 Voting for Directors; No Cumulative Voting Permitted; No Write-Ins. In all
16 elections of directors, Members in Good Standing may cast, in respect to each
17 position on the Board to be filled, one (1) vote for each Lot or Unit owned. The
18 persons receiving the largest number of votes shall be elected. Cumulative
19 voting (i.e., giving more than one vote to any candidate) shall not be permitted.
20 Voting for write-in candidates (that is, voting for any person not nominated prior
21 to the deadline for nominations) ~~in not permitted.~~ **[NOTE TO BOARD: You can**
22 **have election by acclamation or you can have write-in votes, but you can't**
23 **have both.]is not permitted.
24**

25 5.11 Tied Votes. In the case of a tied vote for one (1) or more positions on the Board,
26 the candidates shall draw lots to determine the winner or winners.
27

28 5.12 Election and Term of Office. In the annual election of directors, the Members
29 shall, in successive years, elect two (2) directors, two (2) directors, and one (1)
30 director, respectively, for terms of three (3) years each. Each director shall serve
31 until the expiration of his or her term and thereafter until a successor is elected,
32 or until the earlier disqualification, death, resignation, or removal of such director.
33 No Owner may serve for more than two (2) elected consecutive terms of office.
34 An Owner shall be deemed to have served for the full term for which he or she
35 had been elected, regardless of how long the director actually serves. If a
36 person is elected or appointed to fill a vacancy pursuant to **Section 5.16** (“Filling
37 Vacancies”) that partial term shall not be counted toward this limitation on
38 consecutive terms of office.
39

40 5.13 Removal of Directors by the Members. Consistent with *Corporations Code*
41 section 7222, any director may be removed from the Board, with or without
42 cause, by the vote of a Majority of a Quorum of the Members- as set forth in
43 Section 5.16.1.
44

1 5.14 Reduction of Number of Directors. Any reduction of the authorized number of
2 directors shall be subject to the provisions of *Corporations Code* section 7222(c).
3

4 5.15 Vacancies, Resignation, Disqualification of Directors. A vacancy shall exist on
5 the Board (i) in the event of the death, resignation, or removal (by the Members)
6 of any director, (ii) in the event of a declaration of a vacancy by the Board as
7 provided below in this **Section 5.15**, (iii) if the authorized number of directors is
8 increased, or (iv) if the Members fail to elect the full authorized number of
9 directors.

10
11 5.15.1 Resignation. Any director may resign by giving written notice to the
12 Board. The resignation shall be effective on the date specified in the
13 notice. Unless otherwise provided in the notice, the acceptance of a
14 resignation shall not be necessary to make it effective.
15

16 5.15.2 Disqualification of a Director. As provided in *Corporations Code*
17 section 7221(b), the Board of directors, by a majority vote of the
18 directors who meet all of the qualifications for directors as set forth in
19 **Section 5.3** ("Qualification of Directors"), may declare vacant the office
20 of any director who fails or ceases to meet any required qualification
21 that was in effect at the beginning of that director's current term of
22 office.
23

24 5.15.3 Failure to Perform Duties. Pursuant to *Corporations Code* section
25 7221(a), the Board, by vote of a majority of a quorum, may declare
26 vacant the office of any director who: (i) fails within sixty (60) days
27 after receiving notice of election to accept office, either in writing or by
28 attending a meeting of the Board as a director, ~~or~~ (ii) is absent from
29 three (3) consecutive regularly scheduled meetings of the Board, or
30 three meetings of the Board in any one calendar year, or (iii) fails to
31 maintain the confidentiality of the Board and/or otherwise breaches his
32 or her fiduciary duty with respect to the performance of his or her
33 obligations.
34

35 5.16 Filling Vacancies.
36

37 5.16.1 Removal by Members. Pursuant to *Corporations Code* section 7224,
38 vacancies on the Board created by the removal of a director by the
39 Members shall be filled by approval of the Members. A director
40 elected by the Members to fill such a vacancy shall serve the
41 remainder of the term of office of the director whom he or she replaces.
42

43 5.16.2 Other Vacancies. Any vacancy occurring on the Board of Directors,
44 except a vacancy created by the removal of a director by the Members,
45 may be filled (i) by approval of the Board of Directors; or (ii) by a sole

1 remaining director. If the Board accepts the resignation of a director
2 tendered to take effect at a future time, the Board, including the
3 resigning director, may choose or, if the Board fails to act, the
4 Members may elect, a successor to take office when the resignation
5 becomes effective. The Members may elect a director at any time to
6 fill any vacancy not filled by the directors. A director chosen by the
7 Board in accordance with this **Section 5.16** to fill a vacancy shall serve
8 the remainder of the term of office of the director whom he or she
9 replaces.

10
11 5.17 **Removal of Entire Board; Replacement Directors.** In the case of a vote by the
12 Members to remove the entire Board of Directors, the incumbent directors shall
13 not be removed from office unless and until one (1) or more replacement
14 directors have been elected by the Members. If, in such election, the Members
15 fail to elect the full number of replacement directors, the vacancies then existing
16 on the Board may be filled by the elected replacement directors pursuant to
17 clause (i) or clause (ii) of **Section 5.16** (“Filling Vacancies”). All of the directors
18 replacing those removed by the Members shall serve until the next annual
19 election of directors, at which time (i) five (5) directors shall be elected and the
20 two (2) directors who receive the largest number of votes shall serve a three-year
21 term and the two (2) directors who receive the next largest number of votes shall
22 serve a two-year term and the other one (1) director shall serve a one-year term,
23 in order to create staggered terms of office; or (ii) alternatively, if the number of
24 qualified candidates for the next annual election is less than or equal to five (5),
25 the directors shall be elected by acclamation pursuant to **Section 5.7** (“Election
26 by Acclamation”) and shall draw lots to determine one-year or two-year terms to
27 create staggered terms of office.

28
29 5.18 **Directors’ Conflict of Interest.** As provided in *Civil Code* section 5350, no director
30 or member of a committee shall be permitted to vote on matters of (i) discipline of
31 the director or committee member, (ii) an assessment against the director or
32 committee member for damage to the Common Area or facilities, (iii) a request,
33 by the director or committee member, for a payment plan for overdue
34 assessments, (iv) a decision whether to foreclose on a lien on the separate
35 interest of the director or committee member, (v) review of a proposed physical
36 change to the separate interest of the director or committee member, (vi) a grant
37 of Exclusive Use Common Area to the director or committee member, and (vii) as
38 provided in *Corporations Code* section 7233, any contact or other transaction in
39 which a director or committee member has a material financial interest. As
40 provided in *Corporations Code* section 7234, the interested director or committee
41 member may be counted in determining the presence of a quorum at a meeting
42 of the Board or of a committee.

43
44 5.18.1 **Material Financial Interest.** A director shall be deemed to have a
45 material financial interest in a decision if it is reasonably foreseeable

1 that the decision will have a material financial effect, distinguishable
2 from its effect on the Members generally, on (a) any business entity in
3 which the Board member has a direct or indirect investment worth
4 more than One Thousand Dollars (\$1,000); (b) any interest in real
5 property in which the Board member has direct or indirect interest
6 worth more than \$1,000; (c) any source of income aggregating Two
7 Hundred Fifty Dollars (\$250) or more in value provided to, received by,
8 or promised to the Board member within twelve (12) months prior to
9 the time when the decision is made; or (d) any business entity in which
10 the Board member is a director, officer, partner, trustee, employee, or
11 holds any management position.

12
13 5.18.2 Distinguishable From the Members Generally. A material financial
14 effect of a Board decision on a director's financial interest is
15 distinguishable from its effect on the Members generally unless the
16 decisions will affect the Board member's financial interest in
17 substantially the same manner as it will affect all Members or a
18 significant segment of the Tahoe Donner membership. An industry,
19 trade or profession in which the Board member is a participant does
20 not constitute a significant segment of the Membership.

21
22 5.18.3 Materiality. Financial effects are material if they might interfere with a
23 Board member's performance of his or her duties in an impartial
24 manner and free from bias.

25
26 5.18.4 Indirect Investment or Interest. An indirect investment or interest of a
27 Board member means any investment or interest owned by the spouse
28 of dependent child of the Board member, by an agent on behalf of the
29 Board member or by a business entity or trust in which the Board
30 member, his or her agents, spouse, and/or dependent children own
31 directly, indirectly or beneficially, a ten percent (10%) or greater
32 interest.

33
34 5.18.5 Conflict of Interest Rules. The Board may adopt reasonable Rules,
35 policies, procedures and forms to facilitate the disclosure of interested
36 director transactions, further refine the application of this **Section 5.18**
37 to specific transactions and to rule on the presence or absence of
38 interested director transactions if such a determination is requested by
39 a director in advance of the director's participation in what is, or may
40 constitute an interested director transaction.

41
42 5.19 No Compensation of Directors. No director shall receive compensation for any
43 service he or she may render to the Association as a director. However, ~~upon~~
44 ~~approval by the Board~~, any director may be reimbursed for his or her expenses
45 actually incurred in the performance of his or her duties. ~~pursuant to resolution of~~

1 [the Board. In order to promote circulation and visibility of the directors within the](#)
2 [community to encourage director awareness of the condition of Association](#)
3 [properties and concerns of Member users, Directors shall be entitled to](#)
4 [reasonable Common Facility user privileges without the usual fees or charges.](#)
5

6 5.20 Directors' Standard of Care. As provided in *Corporations Code* section 7231, a
7 director shall perform the duties of a director, including duties as a member of
8 any Committee of the Board upon which the director may serve, in good faith, in
9 a manner such director believes to be in the best interests of the corporation and
10 with such care, including reasonable inquiry, as an ordinarily prudent person in a
11 like position would use under similar circumstances.
12

13 5.21 Limitation of Liability of Officers and Directors. No director, officer, committee
14 member, employee, or other agent of the Association shall be liable to any
15 Owner or any other person or entity, including the Association, for any damage,
16 loss, or prejudice suffered or claimed on account of any act, omission, error, or
17 negligence of any such person if such person acted in good faith and in a
18 manner such person reasonably believed to be in the best interests of the
19 Association.
20

21 **ARTICLE 6**

22 **MEETINGS OF DIRECTORS**

23
24 6.1 Definition of Meeting of the Board. As defined in *Civil Code* section 4090, a
25 "meeting" of the Board shall mean either: (a) a congregation, at the same time
26 and place, of a sufficient number of directors to establish a quorum of the Board,
27 to hear, discuss, or deliberate upon any item of business that is within the
28 authority of the Board or (b) a teleconference, where a sufficient number of
29 directors to establish a quorum of the Board, in different locations, are connected
30 by electronic means, through audio or video or both. The foregoing includes
31 executive session meetings of the Board.
32

33 6.2 Teleconference Meetings. A teleconference meeting shall be conducted in a
34 manner that protects the rights of Members of the Association and otherwise
35 complies with the requirements of the Davis-Stirling Common Interest
36 Development Act (*Civil Code* section 4000 and following). Except for a meeting
37 that will be held solely in executive session, the notice of the teleconference
38 meeting shall identify at least one (1) physical location so that Members of the
39 Association may attend, and at least one (1) director or a person designated by
40 the Board shall be present at the location. Participation by directors in a
41 teleconference meeting constitutes presence at that meeting as long as all
42 directors participating are able to hear one another, as well as Members of the
43 Association speaking on matters before the Board.
44

1 6.3 Organizational Meeting. As soon as possible, but in any event within thirty (30)
2 days, after each annual election of directors, the Board of Directors shall hold a
3 meeting for the purpose of organization, appointment of officers, and transaction
4 of other business, as appropriate.
5

6 6.4 Regular Meetings of the Board. Regular meetings of the Board shall be held
7 monthly upon proper notice which conforms to the provisions of Section 6.7
8 (“Notice to Directors”) and Section 6.8 (“Notice to Members; Agenda”), at the
9 place, day, and time set forth in such notice. In the event the Board should
10 determine that the business to be transacted by the Board does not reasonably
11 justify monthly meetings, then regular meetings of the Board shall be held at
12 such intervals as the Board may determine, but not less frequently than once
13 every three (3) months.
14

15 6.5 Special Meetings of the Board. Special meetings of the Board shall be held
16 when called by the President of the Association or by any two (2) directors.
17

18 6.6 Emergency Meetings of the Board. As provided in *Civil Code* section 4923,
19 emergency meetings of the Board may be called by the President or by any two
20 (2) directors other than the President, if there are circumstances that could not
21 have been reasonably foreseen which require immediate attention and possible
22 action by the Board, and which of necessity make it impracticable to provide the
23 notice required by *Civil Code* section 4920.
24

25 6.7 Notice to Directors. Regular meetings of the Board may be held, without further
26 notice to the Board, at a place within or reasonably convenient to the
27 Development and on a day and time fixed by resolution by the Board. If not fixed
28 by resolution of the Board, notice of each meeting of the Board shall be
29 communicated to the directors not less than four (4) days prior to a regular
30 meeting, and not less than forty-eight (48) hours prior to a special meeting;
31 provided that shorter notice may be given in the case of a bona fide emergency;
32 and *provided, further*, that notice of a meeting need not be given to any director
33 who signed a waiver of notice or a written consent to holding the meeting,
34 whether before or after the meeting.
35

36 6.8 Notice to Members; Agenda. To the extent required pursuant to *Civil Code*
37 section 4920, except for bona fide emergency meetings (whether open meeting
38 or executive session), prior written notice of the day, time, and place of each
39 meeting of the Board of Directors shall be given to all Members. The notice shall
40 contain the agenda for the meeting, subject to the provisions of *Civil Code*
41 section 4930.
42

43 6.8.1 Timing of Notice to Members. Notice of open Board meetings shall be
44 given at least four (4) days before the meeting. Notice of a Board

1 meeting that is held exclusively in executive session shall be given at
2 least two (2) days before the meeting.

3
4 6.8.2 Delivery of Notice to Members. The notice to the Members shall be
5 given by General Delivery in accordance with *Civil Code* section 4045.
6

7 6.9 Open Meeting. To the extent required pursuant to *Civil Code* section 4925(a),
8 regular and special meetings of the Board of Directors shall be open to all
9 Members of the Association, except when the Board meets in executive session.
10 Pursuant to *Civil Code* section 4925(b), a reasonable time limit for all Members to
11 speak to the Board shall be established by the Board; however, the right to speak
12 to the Board shall not entitle any Member to participate in the Board's
13 deliberations on any matters unless requested to do so by the Board.
14

15 6.10 Executive Session. To the fullest extent permitted by law, including *Civil Code*
16 section 4935, the Board may meet in executive session to confer with legal
17 counsel or to discuss and/or vote upon personnel matters, Member discipline,
18 litigation in which the Association is or may become involved, matters that relate
19 to the formation of contracts between the Association and others, and for the
20 purpose of meeting with a Member, upon such Member's request, regarding the
21 Member's payment of Assessments. In any matter relating to the discipline of a
22 Member, the Board shall meet in executive session if requested to do so by that
23 Member, and that Member and any other person(s) whose participation is, in the
24 judgment of the Board, necessary or appropriate, shall be entitled to attend the
25 executive session; *provided, however*, that (i) to the extent required by *Civil Code*
26 section 5673, a decision by the Board to record a lien for delinquent
27 Assessments shall be made at an open meeting of the Board, and (ii) to the
28 extent required by *Civil Code* section 5705(c), a vote of the Board to initiate
29 foreclosure of a lien for delinquent Assessment shall be taken in executive
30 session but shall be recorded in the minutes of the next following open meeting
31 of the Board. There shall be no requirement that the Board convene an open
32 meeting in order to meet in executive session.
33

34 6.11 Board's Action by Unanimous Written Consent. To the extent provided in *Civil*
35 *Code* section 4910, the Board may not take action by unanimous written consent
36 without a meeting except in case of emergency and then only by electronic
37 transmission, including email as provided in *Civil Code* section 4910(b)(2). Any
38 such written consents shall be filed with the minutes of the proceedings of the
39 Board.
40

41 6.12 Quorum for Board's Action. A majority of the number of directors then in office
42 (but not less than two) shall constitute a quorum for the transaction of business.
43 Every act or decision done or made by a majority of the directors present at a
44 duly-held meeting at which a quorum is present shall be regarded as the act of
45 the Board. A meeting at which a quorum is initially present may continue to

1 transact business, notwithstanding the withdrawal of directors, if any action taken
2 is approved by a majority of the required quorum for that meeting.

3
4 6.13 Voting by Directors. Pursuant to *Corporations Code* section 7211(c), each
5 director shall be entitled to one (1) vote and a director may not vote by proxy or
6 otherwise delegate his or her right to vote on any matter before the Board
7

8 6.14 Minutes of Meetings of Directors. To the extent required by *Civil Code* section
9 4950(a), within thirty (30) days after the date of any meeting of the Board, the
10 Board shall make available to the Members either (i) the minutes of that meeting
11 as adopted by the Board, (ii) if the minutes have not yet been adopted by the
12 Board, the minutes as proposed for adoption which shall be marked to indicate
13 draft status, or (iii) a summary of the minutes. To the extent required by *Civil*
14 *Code* section 4935(e), any matter discussed in an executive session shall be
15 generally noted in the minutes of the Board and minutes of executive sessions
16 shall not otherwise be required. Copies of the minutes, proposed minutes, or
17 summary of minutes shall be provided to any Member of the Association upon
18 request and upon reimbursement of the Association's costs in providing such
19 copies.
20

21 **ARTICLE 7 DUTIES OF THE BOARD OF DIRECTORS**

22
23
24 The Board shall be ultimately responsible for the management and conduct of
25 the affairs of the Association. Without limiting the generality of the foregoing, the
26 specific duties of the Board shall include the following:
27

28 7.1 Supervision. The Board shall supervise all officers, agents, and employees of
29 the Association, if any, and see that their duties are properly performed. [The](#)
30 [Board shall delegate its duty to supervise employees of the Association to the](#)
31 [Manager, who shall have the authority to directly supervise employees.](#)
32

33 7.2 Records and Minutes. The Board shall cause to be kept a complete record of all
34 its acts and the corporate affairs, including an accurate and current record of the
35 Members setting forth their names and addresses, adequate and correct books
36 and records of account, and minutes of the proceedings of the Members, the
37 Board, Committees of the Board, and any other committee appointed by the
38 Board having decision-making authority.
39

40 7.3 Maintain Insurance. The Board shall procure and maintain adequate casualty,
41 liability and other insurance, as the Board shall determine consistent with the
42 provisions of **Article 12 of the Declaration** ("Insurance").
43

44 7.4 Enforcement of Governing Documents. The Board shall enforce the Governing
45 Documents on its own initiative or upon receipt of written complaint from an

1 Owner or a Resident, in accordance with the procedures set forth in **Article 14 of**
2 **the Declaration** (“Enforcement; Notice; Hearings”).

3
4 7.5 Annual Budget Report. In accordance with *Civil Code* section 5300(a), the
5 Association shall distribute an annual budget report, not less than thirty (30) days
6 and not more than ninety (90) days prior to the end of the Association’s fiscal
7 year. The annual budget report shall conform to the requirements of *Civil Code*
8 section 5300(b) and (e) and section 5550 concerning the following and any other
9 matters as may be required by law:

10
11 7.5.1 Pro Forma Operating Budget. A “pro forma operating budget” showing
12 the estimated revenue and expenses on an accrual basis;

13
14 7.5.2 Reserves Summary. A summary of the Association’s reserves,
15 prepared in accordance with *Civil Code* section 5565;

16
17 7.5.3 Reserves Funding Plan. A summary of the reserve funding plan
18 adopted by the Board in accordance with *Civil Code* section
19 5550(b)(5). The summary shall include notice to Members that the full
20 reserve study is available on request, and the Association shall provide
21 the full reserve funding plan to any Member upon request;

22
23 7.5.4 Statement of Deferred Repairs. A statement as to whether the Board
24 has determined to defer repairs or replacement of any major
25 component with a remaining life of thirty (30) years or less, including a
26 justification for decision not to make repairs or replacement;

27
28 7.5.5 Statement of Anticipated Special Assessments. A statement,
29 consistent with the reserves funding plan, as to whether the Board has
30 determined that one (1) or more Special Assessments will be required
31 to repair, replace or restore any major component or to provide for
32 adequate reserves for such repair, replacement or restoration. The
33 statement shall set out the estimated amount, commencement date
34 and duration of the assessment, if anticipated;

35
36 7.5.6 Statement of Reserve Calculations. A general statement addressing
37 the procedures used for the calculation and establishment of those
38 reserves to defray the future repair, replacement, or additions to those
39 major components that the Association is obligated to maintain. The
40 statement shall include, but need not be limited to, reserve calculations
41 made using the formula described in *Civil Code* section 5570(b)(4),
42 and may not assume a rate of return on cash reserves in excess of
43 two percent (2%) above the discount rate published by the Federal
44 Reserve Bank of San Francisco at the time the calculation was made;

1 7.5.7 Statement of Outstanding Loans. A statement as to whether the
2 Association has any outstanding loans with an original term of more
3 than one (1) year, including the payee, interest rate, amount
4 outstanding, annual payment, and when the loan is scheduled to be
5 retired;
6

7 7.5.8 Summary of Association's Insurance Policies. A summary of the
8 Association's property, general liability, earthquake, flood, and fidelity
9 insurance policies; and for each policy, the summary shall include the
10 name of the insurer, the type of insurance, the policy limit, and the
11 amount of the deductible, if any. To the extent that any of the required
12 information is specified in the insurance policy declaration page, the
13 Association may meet its obligation to disclose that information by
14 making copies of that page and distributing it with the annual budget
15 report. The summary distributed pursuant to this paragraph shall
16 contain, in at least 10-point boldface type, the following statement:
17

18 "This summary of the association's policies of insurance provides only
19 certain information, as required by Section 5300 of the Civil Code, and
20 should not be considered a substitute for the complete policy terms and
21 conditions contained in the actual policies of insurance. Any
22 association member may, upon request and provision of reasonable
23 notice, review the association's insurance policies and, upon request
24 and payment of reasonable duplication charges, obtain copies of those
25 policies. Although the association maintains the policies of insurance
26 specified in this summary, the association's policies of insurance may
27 not cover your property, including personal property or real property
28 improvements to or around your dwelling, or personal injuries or other
29 losses that occur within or around your dwelling. Even if a loss is
30 covered, you may nevertheless be responsible for paying all or a
31 portion of any deductible that applies. Association members should
32 consult with their individual insurance broker or agent for appropriate
33 additional coverage."
34

35 [7.6 Disclosure of Intent to Use Development Funds for Capital Improvements.](#) In
36 addition to the disclosures required by [Section 7.5](#) ("Annual Budget Report") the
37 [Annula Budget Report shall contain a general statement as to whether the Board](#)
38 [intendes to use Development Funds for a capital improvement project or a part of](#)
39 [a capital improvement project as defined in the \[Section 1.22 of the Declaration.\]\(#\)](#)
40

41 7.6.7.7 Notice of Certain Changes in Insurance. In accordance with *Civil Code* section
42 5810, as soon as reasonably practicable, the Association shall provide Individual
43 Notice, to all Members if any of the policies described in [Section 7.5.8](#)
44 ("Summary of Association's Insurance Policies") have lapsed or been canceled,
45 and are not immediately renewed, restored, or replaced, or if there is a significant

1 change, such as a reduction in coverage or limits or an increase in the deductible
2 for any of those policies. If the Association receives any notice of non-renewal of
3 a policy described in Section 7.5.8 and replacement coverage will not be in effect
4 by the date the existing coverage will lapse, the Association shall immediately
5 provide Individual Notice thereof to the Members.
6

7 | 7.7.7.8 Annual Policy Statement; Notifications to Members. In accordance with *Civil*
8 | *Code* section 5310(a)(1) through (12), not less than thirty (30) days and not more
9 | than ninety (90) days before the end of the fiscal year, the Board shall distribute
10 | to the Members an Annual Policy Statement which shall include all of the
11 | following:
12 |

13 | 7.7.17.8.1 Official Communications to Association. A statement notifying the
14 | Members of the name and address of the person designated to receive
15 | official communications to the Association, in the manner prescribed by
16 | *Civil Code* section 4035;
17 |

18 | 7.7.27.8.2 Secondary Address for Certain Notices. A statement notifying the
19 | Members of an Owner's right to submit to the Association, in
20 | accordance with *Civil Code* section 5260(b), a request to have notices
21 | sent to up to two (2) different addresses pursuant to *Civil Code* section
22 | 4040(b) (concerning annual reports, enforcement of delinquent
23 | Assessments, sale by trustee);
24 |

25 | 7.7.37.8.3 Location Designated for Posting General Notices. A statement
26 | notifying the Members of the location, if any, designated for posting
27 | General Notice;
28 |

29 | 7.7.47.8.4 Option to Receive General Notices by Individual Delivery. A statement
30 | notifying the Members of their option to receive General Notices by
31 | Individual Delivery in accordance with *Civil Code* section 4045;
32 |

33 | 7.7.57.8.5 Notice of Members' Right to Receive Meeting Minutes. A statement
34 | notifying the Members of their right to receive meeting minutes in
35 | accordance with *Civil Code* section 4950(b);
36 |

37 | 7.7.67.8.6 Notice of Assessment Collection Policy. A statement describing the
38 | Regular Assessment and any Special Assessment levied against the
39 | Lots and Units for that fiscal year and the Association's collection
40 | policies as required by *Civil Code* section 5730;
41 |

42 | 7.7.77.8.7 Notice Regarding Liens and Foreclosure. The statement required by
43 | *Civil Code* section 5730(a) printed in at least 12-point type.
44 |

1 | 7.7.87.8.8 Notice of Discipline Policy. A statement describing the Association's
2 | discipline policy, if any, including any schedule of penalties for
3 | violations of the Governing Documents pursuant to *Civil Code* section
4 | 5850;

5 |
6 | 7.7.97.8.9 Notice of Dispute Resolution Procedures. A summary of the statutory
7 | provisions relating to employing internal dispute resolution procedures
8 | and alternative dispute resolution procedures in certain matters related
9 | to enforcement of the governing documents which specifically
10 | references *Civil Code* sections 5920 and 5965. The summary of the
11 | Association's internal dispute resolution procedure may consist of a
12 | copy of Section 14.9 of the Declaration ("Investigation of Complaints")
13 | through Section 14.16 of the Declaration ("Internal Dispute
14 | Resolution"). The summary of the statutory provisions relating to
15 | employing alternative dispute resolution procedures in certain matters
16 | related to enforcement of the governing documents may consist of a
17 | copy of Section 14.17 of the Declaration ("Alternative Dispute
18 | Resolution Before Initiating Lawsuit") through Section 14.19 of the
19 | Declaration ("Costs and Attorney Fees");

20 |
21 | 7.7.107.8.10 Notice of Required Architectural Approval. A notice of the
22 | requirement for Association approval of physical changes to property,
23 | as required by *Civil Code* section 4765 describing the types of changes
24 | that require Association approval and including a copy of the
25 | procedure for review and approval or disapproval which may consist of
26 | a copy of Article 9 of the Declaration ("Architectural Approval") and a
27 | copy of the Architectural Rules, if any;

28 |
29 | 7.7.117.8.11 Mailing Address for Overnight Payment of Assessments. A
30 | statement notifying the Members of the mailing address for overnight
31 | payment of assessment in accordance with *Civil Code* section 5655(c);

32 |
33 | 7.7.127.8.12 Other Required Information. A statement notifying the Members of
34 | other information required by law, or by the Governing Documents, or
35 | that the Board determines in its sole judgment to be appropriate for
36 | inclusion in the Annual Policy Statement.

37 |
38 | 7.87.9 Items Specified in *Civil Code* section 4525(a). To the extent required by *Civil*
39 | *Code* section 4530(a), the Board shall provide or cause to be provided to a
40 | requesting Owner, within ten (10) days of a written request therefor, the items
41 | specified in *Civil Code* section 4525(a), or any of them.

42 |
43 | 7.97.10 ~~Review~~Audit of Annual Financial Statement. ~~To the extent required~~
44 | ~~pursuant to *Civil Code* section 5305, for.~~ For any fiscal year in which the gross
45 | income to the Association exceeds Seventy-five Thousand Dollars (\$75,000.00),

1 | the Board shall obtain ~~a review~~ an audit of the financial statements of the
2 | Association prepared in accordance with generally accepted accounting
3 | principles by a licensee of the California State Board of Accountancy and shall
4 | distribute it to all Members of the Association within one hundred twenty (120)
5 | days after the close of such fiscal year by Individual Delivery.
6 |

7 | 7.107.11 Quarterly Review of Accounts. The Board shall review the Association's
8 | operating and reserve accounts at least in accordance with the minimum
9 | requirements set forth in *Civil Code* section 5500, as follows:
10 |

- 11 | (a) Review a current reconciliation of the Association's operating accounts on
12 | at least a quarterly basis;
13 |
14 | (b) Review a current reconciliation of the Association's reserve accounts on at
15 | least a quarterly basis;
16 |
17 | (c) Review, on at least a quarterly basis, the current year's actual reserve
18 | revenues and expenses compared to the current year's budget;
19 |
20 | (d) Review the latest account statements prepared by the financial institutions
21 | where the Association keeps its operating and reserve accounts; and
22 |
23 | (e) Review an income and expense statement for the Association's operating
24 | and reserve accounts on at least a quarterly basis.
25 |

26 | As used in this **Section 7.11**, the term "reserve accounts" shall have the
27 | meaning set forth in *Civil Code* section 4177.
28 |

29 | 7.117.12 Biennial Notice to Secretary of State. The Board shall file with the
30 | Secretary of State the biennial (every two years) statement of names of officers
31 | and of agent for service of process required pursuant to *Corporations Code*
32 | section 8210 and the statement required by *Civil Code* section 5405(a).
33 |

34 | 7.127.13 Three-Year Reserve Study and Annual Review. In accordance with *Civil*
35 | *Code* section 5550, at least once every three (3) years, the Board shall cause a
36 | study of the reserve account requirements of the Development to be conducted,
37 | which study shall include the minimum requirements specified in *Civil Code*
38 | section 5550(b) or successor statute. The Board shall review the reserve study
39 | annually and shall consider and implement necessary adjustments to the Board's
40 | analysis of the reserve account requirements as a result of that review.
41 |

42 | 7.137.14 Prudent Management of Reserve Funds. The Board shall exercise
43 | prudent fiscal management in maintaining the integrity of the reserve account
44 | and, to the extent restricted by *Civil Code* section 5510(b), shall not expend
45 | funds designated as reserve funds for any purpose other than the maintenance,

1 restoration, repair, or replacement of, or litigation involving the maintenance,
2 restoration, repair, or replacement of, major components for which the
3 Association is responsible and for which the reserve fund was established;
4 *provided, however*, that the Board may authorize a temporary transfer of money
5 from a reserve fund to the Association's general operating fund for the purposes
6 and subject to the procedural requirements specified in *Civil Code* section 5520.
7
8

9 **ARTICLE 8 POWERS OF THE BOARD OF DIRECTORS**

10 The Board of Directors shall have such powers as may be provided by law or
11 expressly set forth in the Governing Documents. Without limiting the generality
12 of the foregoing, the Board shall have the powers specified in this **Article 8**,
13 subject to any limitations or conditions as may be set forth in the Articles, the
14 Bylaws, or the Declaration.
15
16

17 8.1 Make Contracts. The Board shall have the power to authorize any officer or
18 officers to enter into any contract in the name of, or on behalf of, the Association.
19

20 8.2 Consult Professional Advisors. The Board shall have the power to consult with,
21 seek the advice of, and reasonably rely on the advice of attorneys, accountants,
22 and other professionals in carrying out the Board's authority and responsibility
23 under the Governing Documents and the law, and to pay for such professional
24 services.
25

26 8.3 Hire a General Manager and Others. The Board shall have the power to engage
27 the services of a manager or management company as either an employee or an
28 independent contractor to manage the affairs of the Association and, to the
29 extent not inconsistent with these Bylaws or with the laws of the State California,
30 the Board may delegate to the general manager any of its day-to-day
31 management and maintenance duties and powers under these Bylaws and the
32 Declaration, provided that the general manager shall at all times remain subject
33 to the general control of the Board. The Board shall have the power to engage
34 such other employees or independent contractors as the Board may deem
35 necessary, and to prescribe their duties.
36

37 8.4 Adopt and Enforce Rules. Subject to applicable law, including *Civil Code*
38 sections 4340 through 4370 (regarding procedures for adopting or changing
39 certain rules), the Board shall have the power to adopt, publish, amend, repeal,
40 and enforce Rules.
41

42 8.5 Collect Assessments by Foreclosure and/or Legal Action. As addressed in the
43 Declaration, the Board shall have the power to collect Assessments levied by the
44 Association by foreclosing the lien against any property for which Assessments

1 are not paid as required by the Declaration and/or by bringing an action at law
2 against the Owner personally obligated to pay the same.
3

4 8.6 Impose Sanctions. Upon an explicit finding and for reasons specified by the
5 Board following a hearing conducted in accordance with Article 14 of the
6 Declaration ("Enforcement; Notice; Hearings"), the Board shall have the power to
7 impose sanctions on a Member who is in default in the payment of any
8 Assessment or other charge levied by the Board or is found to be in violation of
9 any provision of the Governing Documents. Sanctions may include loss of good
10 standing, suspension of other rights, and/or monetary penalties (fines), as
11 described in Section 14.8 of the Declaration ("Imposing Sanctions").
12

13 8.7 Pay Property Taxes. The Board shall have the power to pay all real property
14 taxes and assessments levied upon any property within the Development to the
15 extent not separately assessed to the Owners. Provided that any such taxes are
16 paid or that a bond insuring the payment is posted, such taxes and assessments
17 may be contested or compromised by the Association prior to the sale or other
18 disposition of any property to satisfy the payment of such taxes.
19

20 8.8 Deal with Association's Property; Certain Limitations. The Board shall have the
21 power to acquire and deal with real and personal property of the Association,
22 subject to any applicable limitations set forth in the Governing Documents,
23 including Section 3.89 of the Declaration ("Transfer or Sale of Association's
24 Property"), Section 3.910 of the Declaration ("New Capital Improvements"), and
25 Section 3.4011 of the Declaration ("Mortgage Association's Property").
26

27 8.9 Open Bank Accounts; Borrow. The Board shall have the power to open bank
28 accounts, designate signatories upon such bank accounts (subject to the
29 requirements of Section 10.4 ("Checks, Drafts, and Evidences of Indebtedness")
30 concerning withdrawal of reserve account funds), and with the approval of a
31 Majority of the Total Voting Power of the Association and subject to any
32 applicable provisions of Section 3.89 of the Declaration ("Transfer or Sale of
33 Association's Property"), Section 3.910 of the Declaration ("New Capital
34 Improvements"), and Section 3.4011 of the Declaration ("Mortgage Association's
35 Property"), borrow money on behalf of the Association for any Association
36 purpose, other than routine credit transactions which are ordinarily incurred in the
37 course of the Association's monthly operations.
38

39 8.10 Pledge Assessments As Security. The Board shall have the power to assign or
40 pledge Assessments of the Association as security for a loan, provided that such
41 assignment or pledge is made to a financial institution or lender chartered or
42 licensed under federal or state law to the extent required by *Civil Code* section
43 5735; and *provided, further*, that approval of the Members shall be required if
44 such assignment or pledge is in conjunction with an increase in the Regular
45 Assessment or the imposition of a Special Assessment that by law requires

1 approval of the Members, and such Member approval shall be the same as the
2 Member approval required for such increase in the Regular Assessment or
3 imposition of a Special Assessment.
4

5 8.11 Invest Reserve Funds. The Board shall have the power to manage and invest
6 Association reserve funds in prudent investments, provided it does so in a
7 prudent manner designed to achieve the primary objective of preserving principal
8 while realizing a reasonable return and to assure the availability of funds as they
9 are needed based upon the Board's most recent review of the reserve fund study
10 obtained by the Board as required in **Section 7.13** ("Three-Year Reserve Study
11 and Annual Review") and applicable law.
12

13 8.12 Indemnify Agents. To the extent provided in *Corporations Code* section 7237,
14 the Board on behalf of the Association shall have the power to and shall
15 indemnify and hold harmless, to the maximum extent permitted by California law,
16 each person who is or at any time was a director, officer, employee, or agent of
17 the Association, or member of any committee appointed by the Board from and
18 against any and all claims, liabilities, expenses, judgments, fines, settlements,
19 and other amounts, as those terms are defined by California law, actually and
20 reasonably incurred by any such person, and to which any such person shall
21 become subject by reason of his or her being a director, officer, employee, or
22 agent of the Association, or member of any committee appointed by the Board.
23

24 8.13 Appoint Committees. The Board may appoint an Architectural Committee, as
25 provided in the Declaration, ~~and an Election Committee, as provided in these~~
26 ~~Bylaws, a Finance Committee, a Tahoe Donner Giving Committee, a General~~
27 ~~Planning Committee, and a Covenants Committee, and may appoint~~ such other
28 committees as it deems appropriate in carrying out the powers and purposes of
29 the Association ~~except that the Board may not delegate its authority to hold~~
30 ~~hearings or impose sanctions under the supervision of the Board.~~ Any
31 "Committee of the Board" (that is, a committee consisting only of directors, as
32 referred to in *Corporations Code* section 7212) shall consist of at least two (2)
33 directors and shall have such powers and duties as the Board shall determine,
34 subject to the limitations of *Corporations Code* section 7212. As provided in
35 *Corporations Code* section 7212(b), a committee exercising the authority of the
36 Board shall not include as members any persons who are not directors. All
37 committees and committee members shall serve at the pleasure of the Board.
38 Upon resolution of the Board any officer may be reimbursed for his or her
39 expenses actually incurred in the performance of his or her duties.
40

41 8.14 Other Powers and Duties. The Board shall have the power to exercise for the
42 Association all powers, duties, and authority vested in or delegated to the
43 Association and not reserved to the Members by other provisions of the
44 Governing Documents, and undertake any action on behalf of the Association as
45 the Board shall deem necessary or proper in furtherance of the purposes and

1 powers of the Association and/or the interests of the Association and its
2 Members.

3

4

5 |

1 **ARTICLE 9 OFFICERS AND THEIR DUTIES**

2
3 9.1 Enumeration of Principal Officers. The principal officers of this Association shall
4 be a President, a Vice-President, a Secretary, and a Treasurer, who shall at all
5 times be members of the Board of Directors. The Board may, from time to time,
6 by resolution appoint other officers as the Board may determine, as provided in
7 **Section 9.4** (“Special Appointments”).
8

9 9.2 Appointment of Principal Officers. The appointment of the principal officers shall
10 take place at the first meeting of the Board following each annual election of
11 directors.
12

13 9.3 Term. The principal officers of this Association shall be appointed annually by
14 the Board, and each shall hold office for one (1) year, unless he or she shall
15 sooner resign, be removed by the Board, or otherwise be disqualified to serve.
16

17 9.4 Special Appointments. The Board may appoint such other officers as the affairs
18 of the Association may require (for example, one or more assistant vice
19 presidents or assistant secretaries or assistant treasurers), each of whom shall
20 hold office for such period, have such authority, and perform such duties as the
21 Board may, from time to time, determine. Officers appointed pursuant to this
22 **Section 9.4** need not be members of the Board or Members of the Association.
23

24 9.5 Resignation and Removal. Any officer may be removed from office, with or
25 without cause, by the Board. Any officer may resign at any time by giving written
26 notice to the Board, the President, or the Secretary. Such resignation shall take
27 effect on the date of receipt of such notice or at any later time specified therein
28 and, unless otherwise specified therein, the acceptance of such resignation shall
29 not be necessary to make it effective.
30

31 9.6 Vacancies. A vacancy in any office may be filled by appointment by the Board.
32 The officer appointed to such vacancy shall serve for the remainder of the term of
33 the officer he or she replaces, subject to the Board’s right to remove an officer.
34

35 9.7 Multiple Offices. One person may hold two (2) or more offices except that neither
36 the Secretary or any assistant secretary nor the Treasurer or any assistant
37 treasurer may serve concurrently as President. This provision is intended to
38 prohibit a single individual from having apparent authority to bind the Association
39 by virtue of holding both offices, pursuant to *Corporations Code* section 7214.
40

41 9.8 Authority to Bind Association. Unless expressly authorized by resolution of the
42 Board, no officer shall have any power or authority to bind the Association or to
43 render the Association liable for any purpose or on any account.
44

1 9.9 No Compensation of Officers. No officer shall receive compensation for any
2 service he or she may render to the Association as an officer. However, upon
3 approval by resolution of the Board, any officer may be reimbursed for his or her
4 expenses actually incurred in the performance of his or her duties.
5

6 9.10 President. The President shall be the chief executive officer of the Association
7 and shall, subject to control of the Board of Directors, have general supervision,
8 direction, and control of the affairs of the Association and of the other officers and
9 the employees and agents of the Association. The President shall preside at all
10 meetings of the Members and at all meetings of the Board, shall have the
11 general powers and duties of management usually vested in the office of the
12 President of an Association, and shall have such other powers and duties as may
13 be prescribed by the Board of Directors and the Bylaws, subject, however, to any
14 limitations contained in the Declaration.
15

16 9.11 Vice-President. In the absence or disability of the President, the Vice-President
17 shall perform all the duties of the President, and when so acting, shall have all of
18 the powers of, and be subject to all of the restrictions upon, the President
19 including the restriction on holding multiple offices as set forth in **Section 9.7**
20 (“Multiple Offices”). The Vice-President shall have such other powers and
21 perform such other duties as, from time to time, may be prescribed by the Board
22 of Directors. In the absence or disability of both the President and the Vice-
23 President, or if there is not a Vice President in office, the Board shall designate
24 another director to preside at a meeting of the Board or of the Members.
25

26 9.12 Secretary. The Secretary shall keep or cause to be kept, at the principal office or
27 such other place as the Board of Directors may prescribe, a book of minutes of
28 all meetings of directors and Committees of the Board, all meetings of any other
29 committee appointed by the Board that has decision-making authority, and all
30 meetings and votes of Members. The Secretary shall give, or cause to be given,
31 notice of all meetings of the Members and of the Board of Directors required by
32 the Bylaws or by law to be given and shall maintain a proper record of the giving
33 of such notice; shall keep or cause to be kept in safe custody the books, records,
34 and documents of the Association; and shall have such other powers and
35 perform such other duties as may be prescribed by the Board of Directors or the
36 Bylaws.
37

38 9.13 Treasurer. The Treasurer shall be responsible for the receipt and deposit in
39 appropriate accounts of all monies of the Association and shall cause
40 disbursement of such funds as directed by resolution of the Board of Directors;
41 may sign all checks and promissory notes of the Association; shall keep or cause
42 to be kept proper books of account; shall cause an annual reviewaudit of the
43 Association’s books and financial statements to be made by a public accountant
44 at the completion of any fiscal year for which such review is required by law or as
45 determined by the Board; shall assist the Board in preparation of an annual

1 budget and a statement of income and expenditures to be presented to the
2 Members of the Association as provided by law; and shall have such other
3 powers and perform such other duties as may be prescribed by the Board of
4 Directors.
5
6

7 **ARTICLE 10 MINUTES; BOOKS AND RECORDS; FUNDS**
8

9 10.1 Minutes of Meetings. To the extent required by *Corporations Code* section
10 8320(a)(2), the Association shall keep minutes of meetings and proceedings of
11 the Members (including membership votes), meetings of the Board and
12 Committees of the Board, and meetings of any other committee appointed by the
13 Board that has decision-making authority. As provided in **Section 6.14** (“Minutes
14 of Meetings of Directors”), any matter discussed in executive session shall be
15 generally noted in the minutes of the next following open meeting of the Board,
16 and minutes of executive sessions shall not otherwise be required. Minutes shall
17 set forth the time and place of holding of such meetings; whether regular or
18 special, and if special, how authorized; what notice was given; the names of
19 those present at meetings of the directors or of any Committee of the Board or of
20 any other committee appointed by the Board that has decision-making authority;
21 the number of votes cast in any vote or election of the membership (or, if
22 applicable, the number of memberships and votes present at Member meetings);
23 and all the proceedings thereof.
24

25 10.2 Members’ Access to Minutes, Books, and Records. To the extent required by
26 *Civil Code* sections 5205 and 5210, and subject to a requesting Member’s
27 compliance with all applicable prerequisites and any applicable limitations
28 (including but not limited to *Corporations Code* section 8332 concerning
29 protection of constitutional rights of other Members, *Corporations Code* section
30 8338 concerning use of memberships lists, and *Civil Code* section 5215
31 concerning withholding or redacting certain records), the Association shall make
32 available for inspection and copying by any Member “Association records” and
33 “enhanced Association records” (as defined in *Civil Code* section 5200)
34 maintained by the Association. This provision does not require the Association to
35 create or maintain any records not otherwise required by law to be maintained.
36 The Board may adopt and publish reasonable rules and regulations establishing
37 procedures relating to a Member’s inspection and obtaining copies of Association
38 records, consistent with the provisions of *Civil Code* section 5205.
39

40 10.3 Directors’ Inspection Rights. As provided in *Corporations Code* section 8334,
41 every director shall have the right at any reasonable time to inspect and copy all
42 books, records, and documents and to inspect the physical properties of the
43 Association.
44

1 10.4 Checks, Drafts, and Evidences of Indebtedness. All checks, drafts, or other
2 orders for payment of money, or notes or other evidences of indebtedness issued
3 in the name of the Association for operational expenditures shall be signed by
4 ~~two (2) persons, the Treasurer and one (1) other director.~~pursuant to resolution
5 of the Board. However, in accordance with *Civil Code* section 5510(a), the
6 withdrawal of funds from the Association's reserve account shall require the
7 signatures of at least two (2) persons who shall be members of the Board of
8 Directors or one (1) member of the Board of Directors and one (1) officer who is
9 not a member of the Board of Directors. ~~[NOTE TO BOARD: The foregoing~~
10 ~~requirements for withdrawal of reserve funds are set by statute.]~~

11
12 10.5 Funds and Deposits. Any funds of the Association shall be deposited to the
13 credit of the Association in such banks or other depositories as the Board of
14 Directors shall, from time to time, determine.

15
16 10.6 Fiscal Year. The fiscal year of the Association shall be ~~as determined by~~
17 ~~resolution of the Board of Directors.~~January 1 to December 31.

18 19 20 21 **ARTICLE 11 AMENDMENTS**

22
23 11.1 Amendments Generally. These Bylaws may be amended by approval of the
24 Board and the affirmative vote of a Majority of a Quorum of the Members;
25 *provided, however,* that, upon advice of legal counsel licensed to practice law in
26 the State of California, including the drafting by legal counsel of appropriate
27 amendatory provisions, the Board shall have the authority without the
28 requirement of Member approval to amend any provision of the Bylaws: (i) to
29 resolve any conflict between the Bylaws and applicable law which may arise due
30 to the enactment or amendment of a statute or due to a development in
31 applicable case law or (ii) to conform the provisions of the Bylaws to changes in
32 applicable statutory law that impose requirements that are non-discretionary.

33
34 11.2 Record of Amendments. When an amendment or a new Bylaw provision is
35 adopted, it shall be placed in the appropriate place in the minute book of the
36 Association together with a certificate signed by the Secretary stating the date on
37 which it was approved by the Board and whether at a meeting or by unanimous
38 written consent of the directors, and the date on which it was approved by the
39 Members.

40 41 42 **ARTICLE 12 MISCELLANEOUS**

43
44 12.1 Conflict in Governing Documents. In the case of any conflict between the
45 Articles of Incorporation and these Bylaws, the Articles shall control; and in the

1 case of any conflict between the Declaration and these Bylaws, the Declaration
2 shall control.

3
4 12.2 Amendments to Referenced Statutes; Time for Performance. References in the
5 Bylaws to particular statutes, including sections of the *Civil Code* or the
6 *Corporations Code*, shall be deemed to include any successor statute and any
7 amendments to existing or successor statutes. Whenever these Bylaws state a
8 time for the performance of any act by the Association which by law (as it may
9 exist from time to time) must be performed at or within a specified time, the time
10 for the performance of such act shall be deemed to be the widest timeframe
11 permitted under then-applicable law.