

First Restated  
Declaration of Covenants and Restrictions  
(recorded on January 17, 1992, as document 92-01670)

Restated Bylaws  
(recorded on June 7, 1991, as document 91-16580)

Articles of Incorporation  
(filed with Secretary of State on August 20, 1991, as document A407510)

Amendments of the Restated Bylaws  
(recorded on March 25, 2004, as document 2004-10863)

Amendments of the Restated Bylaws  
(recorded August 20, 2010, as document 2010-18300)

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RECORDING REQUESTED BY, AND  
WHEN RECORDED, MAIL TO:

WEINTRAUB GENSHEA & SPROUL  
Law Corporation  
Attn: Curtis C. Sproul, Esq.  
P.O. Box 15208  
Sacramento, California 95851-0208

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FIRST RESTATED DECLARATION

OF

COVENANTS AND RESTRICTIONS

OF

TAHOE DONNER



**FIRST RESTATED DECLARATION  
OF  
COVENANTS AND RESTRICTIONS  
OF  
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**FIRST RESTATED DECLARATION  
OF  
COVENANTS AND RESTRICTIONS  
OF  
TAHOE DONNER**

**RECITALS**

Dart Industries, Inc., a Delaware corporation (the "Declarant"), executed those Declarations of Covenants and Restrictions (collectively, the "Original Declarations") listed in Exhibit "A" attached hereto. The Original Declarations are hereby consolidated into this single Declaration covering all of the Properties (as defined below), and are amended and restated in their entirety to read as follows:

1. Declarant was the original owner of that certain real property located in the County of Nevada, State of California, consisting of 6,087 acres, more or less, which is more particularly described in Exhibit "B" attached hereto and incorporated herein by reference (the "Properties").

2. Declarant conveyed the Properties, subject to certain easements, protective covenants, conditions, restrictions, reservations, liens and charges as set forth in the Original Declarations referred to above, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of Properties and all of which shall run with the Properties and be binding on all parties having or acquiring any right, title or interest in the Properties, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

3. It was the further intention of the Declarant to sell and convey residential, multiple family and commercial Lots to the Owners, subject to the protective covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes between Declarant and such Owners which are set forth in this Declaration and which are intended to be in furtherance of a general plan for the subdivision, development, sale and use of the Properties as a "planned development" as that term is defined in section 1351(k) of the California Civil Code. Finally, it was the intention of Declarant that the Association own and maintain the "Common Areas" and "Common Facilities" within the Properties, but reserved exclusively for the use and enjoyment of the Members of the Association, their tenants, lessees, guests and invitees, and the public, when approved by the Board, all subject to the terms and conditions of the Governing Documents.

4. During the 1970's the Association and its members were involved in several suits with the Declarant regarding the offering of subdivision interests and the adequacy of Association Common Areas and Common Facilities. Among other things, the resolution of this litigation resulted in receipt by the Association of certain cash payments and Other Association Real Property from the Declarant. The Other Association Real Property was not specifically conveyed to the Association as Common Area.

5. On December 31, 1991, the Nevada County Superior Court ordered that this First Restated Declaration of Covenants and Restrictions had been duly approved by written ballot vote of the Members sufficient to amend and restate the Original Declarations, in accordance with California Civil Code section 1356. As so amended and restated, these easements, covenants and restrictions shall run with the Properties and shall be binding on all parties having or acquiring any right, title or interest in the Properties or any portion thereof, and shall inure to the benefit of each Owner thereof. A copy of the Court's order is attached hereto as Exhibit "E".

**ARTICLE I**  
**Definitions**

Section 1. "Articles" means the Articles of Incorporation of Tahoe Donner Association, which are filed in the Office of the California Secretary of State, as such Articles may be amended from time to time.

Section 2. "Assessment" means any Regular, Special or Special Individual Assessment made or assessed by the Association against an Owner and his or her Separate Interest in accordance with the provisions of Article IV of this Declaration.

Section 3. "Association" means Tahoe Donner Association, a California non-profit mutual benefit corporation, its successors and assigns.

Section 4. "Association Rules" means the rules, regulations and policies adopted by the Board of Directors of the Association, pursuant to Article III, section 7 of this Declaration, as the same may be in effect from time to time.

Section 5. "Board of Directors" or "Board" means the Board of Directors of the Association elected or appointed pursuant to the Bylaws.

Section 6. "Bylaws" means the Bylaws of the Association, as such Bylaws may be amended from time to time.

Section 7. "Commercial Lots" means any Lot within the Properties zoned for commercial purposes. When any provision of this Declaration is intended to apply only to a Commercial Lot, that term is used.

Section 8. "Common Area" or "Common Areas" means all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area owned by the Association at the time of the Recordation of this Declaration is described in Exhibit "C", attached hereto. Unless the context clearly indicates a contrary intent, any reference herein to the "Common Areas" shall also include any Common Facilities located thereon.

Section 9. "Common Expense" means any use of Common Funds authorized by Article IV hereof and Article IX of the Bylaws and includes, without limitation: (a) all expenses or charges incurred by or on behalf of the Association for the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common Area, Common Facilities, or Other Association Real Property, (b) all expenses or charges reasonably incurred to procure insurance for the protection of the Association, its property and its Board of Directors, (c) any amounts reasonably necessary to fund reserves for the maintenance, repair, expansion and replacement of the Common Areas and Common Facilities and Other Association Real Property, and for non-payment of any Assessments, and (d) the use of such funds to defray the costs and expenses incurred by the Association in the performance of its functions or in the proper discharge of the responsibilities of the Board as provided in the Governing Documents.

Section 10. "Common Facilities" means (i) the recreation facilities located within the Common Area, including the 18-hole golf course, the ski complex



(including downhill and cross country ski areas), the Donner Lake beach area, swimming pools, the tennis courts, the campground, the equestrian center; and (ii) the main clubhouse and recreation building, and the maintenance buildings and other facilities constructed or installed or to be constructed or installed, or currently located within the Common Area or the Other Association Real Property and owned or leased by the Association.

Section 11. "Condominium" means those residential units meeting the definition of a condominium under California Civil Code section 1351(f) and situated on a Multiple Family Residential Lot.

Section 12. "County" means the County of Nevada, State of California, and its various departments, divisions, employees and representatives.

Section 13. "Declarant" means the original project developer of the Properties, namely Dart Industries, Inc., a Delaware corporation.

Section 14. "Declaration" means this First Restated Declaration of Covenants and Restrictions, as such Declaration may be amended from time to time. The "Original Declarations" is a collective term which refers to the documents referenced in Exhibit "A".

Section 15. "Environmental Control Committee," "Committee" or "ECC" means the Committees created pursuant to Article V of this Declaration.

Section 16. "Excavation" means any disturbance of the surface of the land (except to the extent reasonably necessary for planting) which destroys any vegetation or results in the removal of earth, rock, sand or other natural substance.

Section 17. "Fill" means any addition of rock or earth materials to the surface of the land which increases the natural elevation of such surface by more than twenty-four (24) inches.

Section 18. "Front Yard" is a yard extending across the front of the Lot between the side lot lines and extending from the front lot line to a line parallel to the front lot line at the nearest point on the front elevation of the Owner's Residence.

Section 19. "Governing Documents" is a collective term that means this Declaration and the Articles, Bylaws and Association Rules, as the same may be amended from time to time.

Section 20. "Improvement" includes, without limitation, any exterior construction, installation, alteration or remodeling of any buildings, walls, retaining walls, stairs, decks, fences, swimming pools, roads, driveways, parking areas, landscape structures, skylights, solar heating equipment, spas, antennas, poles, signs, utility lines or any Structures of any kind.

Section 21. "Lot" means any parcel of real property designated by a number on the Subdivision Map for any portion of the Properties excluding the Common Area. When appropriate within the context of this Declaration, the term "Lot" shall also include the Residence, Condominium units, commercial buildings and other Improvements constructed or to be constructed on a Lot. Within the Properties

there are Commercial Lots, Residential Lots and Multiple Family Residential Lots.

Section 22. "Member" means any Person who is defined as a Member of the Association in Article III, section 1 and whose rights as a Member are not suspended pursuant to Article XIII, section 6 hereof.

Section 23. "Mortgage" means any security device encumbering all or any portion of the Properties, including any deed of trust. "Mortgagee" shall refer to a beneficiary under a deed of trust as well as to a mortgagee in the conventional sense.

Section 24. "Multiple Family Residential Lot" means any Lot intended to be used for residential purposes by more than one family such as a Lot developed as a Condominium project. When any provision of this Declaration is intended to apply only to Multiple Family Residential Lots, that term is used.

Section 25. "Other Association Real Property" means and refers to certain parcels of real property now owned or hereafter acquired by the Association which are not dedicated as Common Area. The parcels currently comprising Other Association Real Property are described in Exhibit "D", attached hereto. See also Article VIII, section 4.

Section 26. "Owner" means any Person who owns a fee simple interest in any Lot. The term "Owner" shall include, except where the context otherwise requires, the members of an Owner's family.

Section 27. "Owner of Record" includes an Owner and means any Person in which title to a Lot is vested as shown by the Official Records of the Office of the Nevada County Recorder.

Section 28. "Person" means an individual or any other entity with the legal right to hold title to real property.

Section 29. "Properties" means all parcels of real property (Common Area, Lots and Other Association Real Property) described in Exhibit "B", attached hereto. Any reference to "Properties" shall also include: (a) all buildings, structures, utilities, Common Facilities, and other Improvements now located or hereafter constructed or installed thereon, and all appurtenances thereto; and (b) any additional real property that is hereafter annexed to the real property described in Exhibit "B" and subjected to this Declaration pursuant to Article XVII, section 2 hereof.

Section 30. "Rear Yard" means a yard extending across the rear of the Lot between the side lot lines and measured between the rear lot line and a line parallel thereto within the Lot.

Section 31. "Record" or "Recordation" means, with respect to any document, the recordation or filing of such document in the Office of the Nevada County Recorder.

Section 32. "Regular Assessment" means an Assessment levied on an Owner and his or her Separate Interest in accordance with Article IV, section 2, hereof.

Section 33. "Residence" means a private, single-family dwelling and related garages and out-buildings constructed or to be constructed on a Residential Lot.

Section 34. "Residential Lot" means any Lot intended to be used for improvement with a single family detached residence structure. When any provision of this Declaration is intended to apply only to a Residential Lot, that term is used.

Section 35. "Road" means any vehicular way designated on a Subdivision Map as a road, court or street.

Section 36. "Separate Interest" is a collective term which means and refers to both Lots (improved and unimproved) and Condominium units. However, for purposes of Article IV (assessments) and any Governing Document provision relating to the rights, preferences and privileges of Association Members any reference to Separate Interests shall not include the Owners of Commercial Lots.

Section 37. "Side Yard" means a yard, the width of which is the minimum required horizontal distance between any side lot line and a line parallel thereto on the lot, not including any portion of the required front yard or required rear yard,

Section 38. "Single Family Residential Use", means occupation and use of a Residence or Condominium unit for single family dwelling purposes in conformity with this Declaration and the requirements imposed by applicable zoning or other laws or governmental regulations limiting the number of persons who may occupy single family residential dwellings.

Section 39. "Special Assessment" means an Assessment levied on an Owner and his or her Separate Interest in accordance with Article IV, section 3 hereof.

Section 40. "Special Individual Assessment" means an Assessment made against an Owner and his or her Separate Interest in accordance with Article IV, section 5 hereof.

Section 41. "Structure" means anything constructed or erected on any portion of the Properties, the use of which requires location on the ground or installation as a material component of an existing Structure or Improvement.

Section 42. "Subdivision Maps" means the Recorded maps for all phases and parcels comprising the common interest development within the Properties. The Subdivision Maps are listed in Exhibit "B" attached to this Declaration.

## **ARTICLE II**

### **Property Rights and Obligations of Owners**

Section 1. Owners' Nonexclusive Easements of Enjoyment. Every Owner shall have a nonexclusive right and easement of enjoyment in and to all Common Areas within the Properties, including ingress and egress to and from his or her Lot, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- (a) Regulation of Common Facilities. The Association shall have the

right to regulate the use and enjoyment of its Common Facilities, including, without limitation, the right to: (i) charge reasonable admission and other fees as a condition to facilities access and usage; (ii) limit the number of Owners or guests who may use any recreational Common Facilities within the Properties; or (iii) adopt and implement, as part of the Association Rules, a recreational facility pass system to regulate the number of individuals who have the right to use and enjoy such facilities by virtue of the ownership of a Separate Interest and the terms and conditions of such usage. If a system of user fees or amenity access passes is implemented, the system can make reasonable distinctions between the user privileges of Owners, tenants, guests and invitees, and subclasses of each, so long as all classes of users similarly situated are treated fairly and equally. The Board shall also be authorized to permit members of the public to use recreational Common Facilities if the Board reasonably determines that such usage will make the facility more cost effective and can be accommodated without overburdening the facility.

(b) Adoption of Association Rules. The right of the Association to adopt Association Rules as provided in Article III, section 7 hereof, regulating the use and enjoyment of the Properties for the benefit and well-being of the Owners and residents in common, and, in the event of the breach of such rules or any provision of any Governing Document to initiate disciplinary action in accordance with Article III, section 8 and Article XIII, section 6 hereof.

(c) Right to Borrow. The right of the Association, in accordance with the Articles and Bylaws, to borrow money with membership approval in accordance with article IX, section 2(a)(v) of the Bylaws, for the purpose of improving the Common Areas and Common Facilities or the Other Association Real Property and, in aid thereof, to Mortgage said property; provided, however, that the rights of any such Mortgagee in said properties shall be subordinate to the rights of the Owners hereunder.

(d) Right to Dedicate Property. The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed by the Owners; provided, however, that no such dedication or transfer shall be effective unless an instrument, approved by at least two-thirds of the voting power of the Members, and their first Mortgagees consenting to such dedication or transfer has been Recorded. Furthermore, no dedication shall be permitted which impairs the ingress and egress to any Lot. Said instrument may be executed in counterparts so long as each counterpart is in recordable form. The granting of easements by the Association for utility purposes within the Common Areas shall not be subject to the constraints of this subparagraph (d) so long as any such easement does not impede ingress to, or egress from, any Lot.

Section 2. Persons Subject to Governing Documents. All present and future Owners, tenants and occupants of any Separate Interest within the Properties shall be subject to, and shall comply with, each and every provision of the Governing Documents, as the same or any of them shall be amended from time to time, unless a particular provision is specifically restricted in its application to one or more of such classes of persons (i.e., Owners, tenants, invitees, etc.). The acceptance of a deed to any Separate Interest, the entering into a lease, sublease or contract of sale with respect to any Separate Interest, or the occupancy of any Lot shall constitute the consent and agreement of such Owner, tenant or occupant that each and all of the provisions of this

Declaration, as the same or any of them may be amended from time to time, shall be binding upon said person and that said person will observe and comply with the Governing Documents.

### Section 3. Delegation of Use.

(a) Delegation of Use and Leasing of Separate Interests, Generally. Any Owner may delegate, in accordance with and subject to the Governing Documents, the Owner's rights in and to the use and enjoyment of the Common Area and Common Facilities to the members of the Owner's family or the Owner's tenants, lessees or contract purchasers who reside in the Owner's Residence or Condominium. In the event that any Owner conveys his or her interest in a Separate Interest pursuant to a contract of sale, the Owner must delegate, in accordance with the Governing Documents, the Owner's membership rights and rights of enjoyment to the Common Area and Common Facilities to the Owner's contract purchaser/vendee. Use of recreational Common Facilities by tenants and lessees is subject to reasonable regulation by the Association, as more particularly provided in section 1(a) of this Article II.

With the exception of vacation and seasonal rentals, any rental or lease of a Residence or Condominium may only be to a single family for Single Family Residential Use. The restrictions on multiple family occupancy imposed by this paragraph are intended to protect, enhance and maintain the single family residential atmosphere which exists within the Properties and to avoid an overburdening of Common Areas and Common Facilities. In no event shall any Residence or Condominium be owned or used on a time-share basis as defined in California Business and Professions Code section 11003.5 or comparable superseding statute.

Every Owner-lessor shall be obligated to provide each tenant or lessee of the Owner's Residence or Condominium with a copy of this Declaration or the Association Rules. This obligation may be satisfied by tender to the tenant or lessee of a summary of rules and regulations most pertinent to rentals as may be prepared, from time to time, by the Association's management. The Owner-lessor shall at all times be responsible for compliance by the Owner's tenant or lessee with all applicable Governing Document provisions during the tenant's/lessee's occupancy and use of the Residence or Condominium. The Association shall be entitled to adopt rules of uniform and nondiscriminatory application interpreting the requirements of this section 3 or regulating specific matters of collective concern arising out of or pertaining to the rental or lease of Residences or Condominiums. Such rules may make reasonable distinctions between the rights and privileges accorded to Owners, tenants and lessees with respect to Common Facilities and other Common Area amenities.

(b) Discipline of Lessees. Subject to subparagraph (c) below, in the event that any tenant or lessee fails to honor the provisions of any Governing Document, the Association shall be entitled to take such corrective action as it deems necessary or appropriate under the circumstances. Such action may include disciplinary action directly against the tenant, such as suspension of the tenant's privileges to use any recreational Common Facilities, or the imposition of fines and penalties against the Owner or tenant.

(c) Due Process Requirements for Disciplinary Action. Except for circumstances in which immediate corrective action is necessary to prevent



damage or destruction to the Properties or to preserve the rights of quiet enjoyment of other Owners, the Association shall have no right to initiate disciplinary action against an Owner-lessor (or the Owner's lessee or tenant on account of the misconduct of the Owner's lessee or tenant unless and until the following conditions have been satisfied: (i) the Owner has received written notice from the Board or the Association's General Manager detailing the nature of the lessee's/tenant's alleged infraction or misconduct and advising the Owner of his or her right to a hearing on the matter if the Owner believes that remedial or disciplinary action is unwarranted or unnecessary; (ii) the Owner has been given a reasonable opportunity to take corrective action on a voluntary basis or to appear at a hearing, if one is requested by the Owner; and (iii) the Owner has failed to prevent or correct the tenant's objectionable actions or misconduct. Any hearing requested hereunder shall be conducted in accordance with Article XIII, section 6 hereof.

Section 4. Obligations of Owners. By virtue of the ownership of Separate Interest within the Properties, Owners shall be subject to the following:

(a) Owner's Duty to Notify Association of Tenants and Contract Purchasers. Each Owner shall notify the Association's General Manager of the names of any contract purchaser, lessee or tenant of the Owner's Separate Interest who leases a Residence or Condominium for any period in excess of 30 days. This communication requirement is intended to facilitate the Association's ability to administer its responsibilities under the Governing Documents by being aware of the identity of long term residents.

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

(c) Notification Regarding Governing Documents.

(i) As more particularly provided in section 1368 of the California Civil Code, as soon as practicable before transfer of title or the execution of a real property sales contract with respect to any Separate Interest, the Owner thereof must give the prospective purchaser: (A) a current copy of the Governing Documents; (B) the Association's most current financial statement; and (C) a true statement in writing from the Association ("delinquency statement") disclosing the amount of any delinquent Assessments, together with information relating to late charges, attorneys' fees, interest, and reasonable costs of collection which, as of the date the statement is issued, are or may become a lien on the Separate Interest being sold.

(ii) The Association shall, within 10 days of the mailing or delivery of a request for the information described in subparagraph (c)(i), above, provide the Owner with a copy of the current Governing Documents, together with the financial statement and the delinquency statement referred to in said subparagraph.

(iii) The Association shall be entitled to impose a fee for

providing the Governing Documents and the financial and delinquency statements equal to (but not more than) the reasonable cost of preparing and reproducing the requested materials. The Association may also institute a fee in connection with the transfer of title to a Separate Interest so long as the fee does not exceed the actual costs incurred by the Association to change its records.

(d) Payment of Assessments and Compliance With Rules. Each Owner of a Separate Interest, other than Commercial Lot Owners, shall pay, when due, each Regular, Special and Special Individual Assessment levied against the Owner and his or her Separate Interest pursuant to Article IV, hereof, and shall observe, comply with and abide by any and all rules and regulations set forth in, or promulgated by the Association pursuant to, any Governing Document.

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

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

(g) Prohibition on Avoidance of Obligations. No Owner, by non-use of the Common Area or Common Facilities, abandonment of the Owner's Separate Interest or otherwise may avoid the burdens, and obligations imposed on such Owner by the Governing Documents, including, without limitation, the obligation to pay Assessments levied against the Owner and his or her Separate Interest pursuant to this Declaration.

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

Section 5. Supplemental Declarations Applicable to Condominiums. Condominium projects, as defined in California Civil Code section 1351(f), constructed on Multiple Family Residential Lots may be subject to additional equitable servitudes imposed pursuant to Supplemental Declarations of Restrictions applicable to the project only ("Supplemental Declarations"); provided, however, that any such equitable servitudes shall not detract from the covenants and restrictions contained herein.

### **ARTICLE III Tahoe Donner Association**

Section 1. Association Membership. As more particularly defined in Article III of the Bylaws, every Owner of a Separate Interest, other than Commercial Lot Owner, shall be a Member of the Tahoe Donner Association. Each Owner shall hold

one membership in the Association for each Lot and/or Condominium owned and the membership shall be appurtenant to such Separate Interest. A person who holds an interest in a Lot or Condominium merely as security for performance of an obligation is not a Member until such time as the security holder becomes an Owner of Record of the Separate Interest through foreclosure or Recordation of a deed in lieu thereof.

Section 2. One Class of Membership. The Association shall have one class of membership and the rights, duties, obligations and privileges of the Members shall be as set forth in the Governing Documents.

Section 3. Voting Rights of Members. Each Member of the Association shall be entitled to one vote for each Separate Interest owned by said Member. When more than one person holds an interest in a Separate Interest, all such persons shall be Members, although in no event shall more than one vote be cast with respect to any such Separate Interest. Voting rights may be temporarily suspended under those circumstances described in Article XIII, section 6 hereof.

Section 4. Assessments. The Association shall have the power to establish, fix and levy Assessments against the Owners of Separate Interests within the Properties and to enforce payment of such Assessments in accordance with Article IV of this Declaration.

Section 5. Transfer of Memberships. Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale or encumbrance of the Separate Interest to which it is appurtenant and then only to the purchaser in the case of a sale of such Separate Interest. The membership appurtenant to a Separate Interest passes automatically to the purchaser upon Recordation of a deed evidencing transfer of title to the Separate Interest. Tenants who are delegated rights of use pursuant to Article II, section 3 hereof do not thereby become Members, although the tenant and Members of the tenant's family shall, at all times, be subject to the provisions of all Governing Documents. Any attempt to make a prohibited transfer of an Association membership is void. In the event the Owner of any Separate Interest should fail or refuse to transfer the membership registered in his or her name to the purchaser of Separate Interest, the Association shall have the right to record the transfer upon its books and thereupon any other membership outstanding in the name of the seller with respect to the Separate Interest shall be null and void.

Section 6. Powers and Authority of the Association.

(a) Powers and Authority, Generally. The Association shall have the responsibility of owning, managing and maintaining the Common Areas and Common Facilities and discharging the other duties and responsibilities imposed on the Association by the Governing Documents. In the discharge of such responsibilities and duties, the Association shall have all of the powers of a nonprofit mutual benefit corporation organized under the laws of the State of California in the ownership and management of its properties and the discharge of its responsibilities hereunder for the benefit of its Members, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Governing Documents. The Association and its Board of Directors shall have the power to do any and all lawful things which may be authorized, required or permitted to be done under and by virtue of the Governing Documents, and to



do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of the Owners. The specific powers of the Association and the limitations thereon shall be as set forth in Article IX of the Bylaws.

(b) Association's Limited Right of Entry. Without limiting the foregoing description of powers, the Association and its agents shall have the specific right to enter on any Lot, when necessary, to perform the Association's obligations under this Declaration, including: (i) obligations to enforce the architectural control, minimum construction standards, and land use restrictions of Articles V, VI, VII and VIII hereof; (ii) any obligations with respect to construction, maintenance and repair of adjacent Common Facilities; or (iii) to make necessary repairs or maintenance that an Owner has failed to perform which, if left undone, will pose a threat to, or cause an unreasonable interference with, Association property or the Owners in common. The Association's rights hereunder shall not include the right to enter any private Residence, condominium or apartment unit and, with the exception of actions taken in response to emergency situations, the Association shall have no right to initiate any corrective action or alter any improvement on the Owner's Lot without complying with the notice and due process requirements of Article XIII.

The Association's rights of entry under this section shall be exercisable as follows:

(i) The Association shall have an immediate right of entry in the case of an emergency originating in or threatening the Lot where entry is required, or any adjoining Lots or Common Area, and the Association's work may be performed under such circumstances whether or not the Owner or his or her lessee is present.

(ii) On a regular basis it is necessary for the ECC and other Association or fire personnel to access Lots within the Properties to inspect ongoing construction projects or to inspect conditions and/or improvements which are or may become a fire hazard. Notice of such inspections may be given in the Association newsletter (in the case of regular, periodic inspections) or as part of the ECC construction approval process (in the case of ECC inspections of ongoing construction projects); and

(iii) In all other nonemergency situations the Association, or its agents, shall furnish the Owner or his or her lessee with at least 10 days written notice of its intent to enter the Lot, specifying the purpose and scheduled time of such entry. In the case of all entries other than entries required to respond to emergency situations, the Association shall make every reasonable effort to perform its work and schedule its entry in a manner that respects the privacy of the persons residing on the Lot.

#### Section 7. Association Rules.

(a) Rule Making Power. The Board may, from time to time and subject to the provisions of this Declaration, propose, enact and amend rules and regulations of general application to the Owners of Separate Interests within the Properties ("Association Rules"). The Association Rules may concern, but need not be limited to: (i) matters pertaining to use of the Common Area and

Common Facilities and any Other Association Real Property by Owners, their tenants, guests and invitees, or any other person(s) who have rights of use and enjoyment of such Common Area, Common Facilities and Other Association Real Property; (ii) architectural control and the rules of the Environmental Control Committee under Article V, section 5 hereof; (iii) the conduct of disciplinary proceedings in accordance with Article XIII, section 6 hereof; (iv) regulation of parking, pet ownership and other matters subject to regulation and restriction under Article VIII hereof; (v) collection and disposal of refuse; (vi) minimum standards for the maintenance of improvements on any Separate Interest; and (vii) any other subject or matter within the jurisdiction of the Association as provided in the Governing Documents.

Notwithstanding the foregoing grant of authority, the Association Rules shall not be inconsistent with or materially alter any provision of the Governing Documents or the rights, preferences and privileges of Members thereunder. In the event of any material conflict between any Association Rule and any provision of the Declaration, the Articles or the Bylaws, the conflicting provisions contained in the Declaration, the Articles or the Bylaws shall prevail.

(b) Adoption and Amendment of Rules. Association Rules may be adopted or amended from time to time by majority vote of the Board in accordance with this subparagraph (b). Except in the case of: (i) rules or regulations adopted to respond to an emergency which threatens the health or safety of the residents or immediate damage to or destruction of any Common Area; and (ii) rules or regulations concerning Board or committee administrative or procedural matters, no Association Rule shall be adopted until the proposed rule or amendment thereof has been published to the Members at least 45 days prior to the date when the Board is scheduled to act on the proposal. During the 45-day comment period at least one Board or community meeting shall be held at which the proposed rule is an agenda item.

(c) Effective Date of Rules and Rule Amendments: Communication to Members. Any duly adopted rule or amendment to the Association Rules shall become effective immediately following the date of adoption thereof by the Board, or at such later date as the Board may deem appropriate. Once the rule or amendment is adopted, that fact shall also be reported to the Members in writing. If the text of the Rule is altered as a result of Member comments or Board deliberations, the complete text of the Rule, as adopted, shall also be reported to the Members in writing. Any notice required hereunder may be effected by publication in the Association's newsletter or in a separate notice mailed to the Members' addresses as shown on the books of the Association.

Within six months following the Effective Date of this Declaration (see XVII, section 3(f)) and continually thereafter, the Association shall prepare and maintain a copy of all Association Rules generally applicable to the Members. Upon completion, the Rule booklet shall be distributed to the Members and shall be updated on a regular basis. Copies of the Association Rules shall also be available upon request in the same fashion as other Governing Documents (see Article II, section 4(c)). Those portions of the Association Rules pertaining to ECC matters (Article V) or disciplinary matters (Article XIII) may be maintained in separate booklets to facilitate administration of those Association functions.

Section 8. Breach of Association Rules or Restrictions. Any breach of the Association Rules or of any other Governing Document provision shall entitle the Association to exercise the enforcement and disciplinary rights and remedies set forth in Article XIII hereof.

Section 9. Limitation on Liability of the Association's Directors and Officers. No director or officer of the Association and no member of any duly appointed committee (collectively and individually referred to as the "Released Party") shall be personally liable to any of the Members, or to any other person, for any error or omission in the discharge of his or her duties and responsibilities or for any failure to provide any service required hereunder or under the Bylaws; provided that such Released Party has, upon the basis of such information as may be possessed by the Released Party, acted in good faith, in a manner that such person believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances.

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

#### **ARTICLE IV Assessments**

##### Section 1. Assessments Generally.

(a) Covenant to Pay Assessments. Each Owner of a Separate Interest, other than a Commercial Lot Owner, by acceptance of a deed therefore (whether or not it shall be so expressed in such deed), covenants and agrees to pay to the Association the Regular Assessments, Special Assessments and Special Individual Assessments described in this Article IV.

(b) Extent of Owner's Personal Obligation for Assessments. Each Owner who acquires title to a Separate Interest (whether at a judicial sale, trustee's sale or otherwise) shall be personally liable only for Assessments attributable to the Separate Interest so purchased which become due and payable after the date of the close of escrow for such sale; provided, however, that any unpaid Assessment of a previous Owner shall remain the debt of such previous Owner and any lien on the Separate Interest which was recorded against the Separate Interest while the previous Owner held title (see section 10 below), by reason of any unpaid Assessment, shall remain in force and effect as a lien on the Separate Interest. That lien is subject to foreclosure as provided in section 10(b), below.

(c) No Avoidance of Assessment Obligations. No Owner may exempt himself/herself or the Owner's Separate Interest from liability or charge for the Owner's share of any Assessment levied against the Owner or his or her share of any Regular or Special Assessment levied against the Owner's Separate Interest, by waiving or relinquishing, or offering to waive or relinquish, the Owner's right to use and enjoy all or any portion of the Common Area or Common

Facilities or by the abandonment or non-use of the Owner's Separate Interest.

Section 2. Regular Assessments.

(a) Preparation of Annual Budget; Establishment of Regular Assessments. Not less than 45 nor more than 60 days prior to the beginning of the Association's fiscal year, the Board shall estimate the total amount required to fund the Association's anticipated Common Expenses for the next succeeding fiscal year (including additions to any reserve fund established to defray the costs of future repairs, replacement or additions to the Common Facilities) by preparing and distributing to all Association Members a budget satisfying the requirements of Article XII, section 5 of the Bylaws.

(b) Establishment of Regular Assessment by Board/Membership Approval Requirements. Subject to the Member approval requirements described in this subparagraph (b), the total Common Expenses estimated in the Association's budget (less projected income from sources other than assessments) shall become the aggregate Regular Assessment for the next succeeding fiscal year. With the exception of assessments imposed to address emergency situations (see section 4, below), the Board of Directors may not impose a Regular Assessment that is more than 20 percent greater than the Regular Assessment for the Association's immediately preceding fiscal year without the vote or written assent of a majority of a quorum of the Members (see section 8, below).

(c) Allocation of Regular Assessment. The total estimated Common Expenses, determined in accordance with subparagraph (a), shall be allocated among, assessed against, and charged to each Owner of Record according to the ratio of the number of Separate Interests within the Properties owned by the assessed Owner to the total number of Separate Interests subject to Assessment so that each Separate Interest bears an equal share of the total Regular Assessment. For the purpose of this subparagraph (c), a Multiple Family Residential Lot which is improved as an apartment shall be deemed to have assessable Separate Interests equal to the number of apartment units in the building.

(d) Assessment Roll. That portion of the estimated Common Expenses assessed against and charged to each Owner shall be set forth and recorded in an Assessment roll which shall be maintained and available with the records of the Association and shall be open for inspection at all reasonable times by each Owner or his or her authorized representative for any purpose reasonably related to the Owner's interest as a property Owner or as a Member of the Association. The Assessment roll (which may be maintained in the form of a computer printout) shall show for each Separate Interest the name and address of the Owner of Record, all Regular, Special and Special Individual Assessments levied against each Owner and his or her Separate Interest, and the amount of such Assessments which have been paid or remain unpaid. The delinquency statement required by Article II, section 4(c)(i) hereof shall be conclusive upon the Association and the Owner of such Separate Interest as to the amount of such indebtedness appearing on the Association's Assessment roll as of the date of such statement, in favor of all persons who rely thereon in good faith.

(e) Mailing Notice of Assessment. On an annual basis, the Board of Directors shall mail to each Owner of Record at the street address of the Owner's Separate Interest, or at such other address as the Owner may from time



to time designate in writing to the Association, a statement of the amount of the Regular Assessment for the next succeeding fiscal year. The statement shall be sent to all Owners within the time specified in section 2(a) above.

(f) Failure to Make Estimate. If, for any reason, the Board of Directors fails to make an estimate of the Common Expenses for any fiscal year, then the Regular Assessment made for the preceding fiscal year, together with any Special Assessment made pursuant to section 3(a)(i) of this Article for that year, shall be assessed against each Owner and his or her Separate Interest on account of the then current fiscal year. If it is later determined that additional funds are required to meet the Common Expenses for the fiscal year, any adjustment in the Regular Assessment or any supplemental Special Assessment to fund the deficit must be approved by a majority of a quorum of the Members (see section 8, below).

(g) Payment of Regular Assessment. The Regular Assessment levied against each Owner and his or her Separate Interest shall be due and payable to the Association on January 1 of each year; provided, however, that the Board, in its discretion, shall be empowered to institute an installment payment system for the collection of Regular Assessments. Assessments which are not paid prior to the "delinquency date" as defined in subparagraph (a) of section 10, below, shall give rise to the remedies set forth in said section 10.

### Section 3. Special Assessments.

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

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

(ii) Additional Capital Improvements or Other Extraordinary Nonrecurring Expenditures. The Board may also levy Special Assessments for additional capital improvements within the Common Area (i.e., improvements not in existence on the date of this Declaration that are unrelated to repairs for damage to, or destruction of, the existing Common Facilities) or to defray the costs of any other extraordinary, non-recurring action or undertaking which the Board, in its discretion, determines to be to the advantage and in the best interests of the Members as a whole. The Special Assessment power conferred hereunder is not intended to diminish the Board's obligation to plan and budget for normal maintenance, replacement and repair of the Common Area, existing Common Facilities or Other Association Real Property through Regular Assessments (including the funding of reasonable capital repair and replacement reserves) and to maintain adequate insurance on the Common Area, existing Common Facilities and Other Association Real Property in accordance with Article X hereof. In the Original Declarations, Special Assessments for capital

improvements were designated as "Development Fund Assessments." If the Board intends to impose Special Assessments to fund any project, action or undertaking pursuant to this subparagraph (a)(ii), the proposal shall be included as part of the Association's budget disclosures to the Members (see Article XII, section 5 of the Bylaws).

Typically Special Assessments shall only be imposed to fund a specific capital improvement project during a particular fiscal year. However, if the Board determines that a Special Assessment should be levied to fund a portion of a capital project which will, or is likely to, entail work and/or funding in more than one fiscal year, this fact and a detailed disclosure of the intended scope and estimated costs of the project shall also be included in the Association's annual budget disclosures.

(b) Special Assessments Requiring Membership Approval. Except as provided in section 4, below, no Special Assessments described in subparagraph (a) hereof, which in the aggregate exceed 5 percent of the budgeted gross expenses of the Association for the fiscal year in which the Special Assessment(s) is/are levied, shall be imposed without the affirmative vote of a majority of a quorum of the Members (see section 8, below).

(c) Allocation and Payment of Special Assessments. When levied by the Board or approved by the Members as provided above, the Special Assessment shall be divided among, assessed against and charged to each Owner and his or her Separate Interest in the same manner prescribed for the allocation of Regular Assessments pursuant to subparagraph 2(c). The Special Assessment so levied shall be recorded on the Association's Assessment roll and notice thereof shall be mailed to each Owner.

Special Assessments shall be due as a personal debt of the Owner and a lien against his or her Separate Interest. Special Assessments shall be payable to the Association within 60 days after the mailing of notice of the Special Assessment or within such extended period as the Board shall determine to be appropriate under the circumstances giving rise to the Special Assessment.

Section 4. Assessments to Address Emergency Situations. The requirement of a membership vote to approve certain Regular Assessment increases and Special Assessments (see sections 2(b) and 3(b), above) shall not apply to assessment increases which are necessary to address emergency situations. For purposes of this section, an emergency situation is any of the following:

(a) An extraordinary expense required by an order of a court;

(b) An extraordinary expense which is necessary to repair or maintain the Common Areas, Common Facilities or any portion of the Separate Interests which the Association is obligated to maintain where a threat to personal safety is discovered; or

(c) An extraordinary expense which is necessary to repair or maintain the Common Areas or Common Facilities that could not have been reasonably foreseen by the Board in preparing and distributing the budget pursuant to Article XII, section 5 of the Bylaws and section 1365 of the California Civil Code; provided, however, that prior to the imposition or collection of an assessment under this subparagraph (c), the Board shall pass a resolution containing written findings

as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. The Board's resolution shall be distributed to the Members together with the notice of assessment.

Section 5. Special Individual Assessments.

(a) Circumstances Giving Rise to Special Individual Assessments. In addition to the Special Assessments levied against all Owners in accordance with section 3, above, the Board of Directors may impose Special Individual Assessments against an Owner in any of the circumstances described in subparagraphs (i) through (iii) below; provided, however, that no Special Individual Assessments may be imposed against an Owner pursuant to this section until the Owner has been afforded the notice and hearing rights to which the Owner is entitled pursuant to Article XIII, section 6 hereof, and, if appropriate, has been given a reasonable opportunity to comply voluntarily with the Association's Governing Documents. Subject to the foregoing, the acts and circumstances giving rise to liability for Special Individual Assessments include the following:

(i) Damage to Common Area or Common Facilities. In the event that any damage to, or destruction of, any portion of the Common Area or the Common Facilities is caused by the willful misconduct or negligent act or omission of any Owner, any member of his or her family, or any of the Owner's tenants or guests, the Board shall cause the same to be repaired or replaced, and all costs and expenses incurred in connection therewith shall be assessed and charged solely to and against such Owner as a Special Individual Assessment.

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

(iii) Required Maintenance on Lots. As more particularly provided in Article IX, section 5 (and without limiting the generality of that section), if any Lot is maintained so as to become a nuisance, fire or safety hazard for any reason, including without limitation, the accumulation of trash, junk automobiles or improper weed or vegetation control, the Association shall have the right to enter said Lot, correct the offensive or hazardous condition and recover the cost of such action through the imposition of a Special Individual Assessment against the offending Owner.

(b) Levy of Special Individual Assessment and Payment. Once a Special Individual Assessment has been levied against an Owner for any reason described, and subject to the conditions imposed, in subparagraph (a) of this section, such Special Individual Assessment shall be recorded on the Association's Assessment roll, notice thereof shall be mailed to the affected Owner and the Special

Individual Assessment shall thereafter be due as a separate debt of the Owner, and a lien against his or her Separate Interest, payable in full to the Association within 30 days after the mailing of notice of the Assessment.

Section 6. Purpose and Reasonableness of Assessments. Each Assessment, whether Regular or Special, made in accordance with the provisions of this Declaration, is hereby declared and agreed to be for use exclusively (a) to promote the recreation, health, safety and welfare of the Owners and other residents within the Properties; (b) to promote the enjoyment and use of the Properties by the Owners and their families, tenants and guests; and (c) to provide for the repair, maintenance, replacement, protection and expansion of the Common Area and Common Facilities. Each and every Assessment levied hereunder is further declared and agreed to constitute a separate, distinct and personal obligation (with respect to which a separate lien may be created hereby) of the Owner of the Separate Interest against which the Assessment is imposed that shall be binding on the Owner's heirs, successors and assigns; provided, however, that the personal obligation of each Owner for delinquent Assessments shall not pass to the Owner's successors in title unless expressly assumed by them.

Section 7. Exemption of Certain of the Properties From Assessments. The following real property subject to this Declaration shall, unless devoted to the use as a residential dwelling, be exempt from the Assessments and the lien thereof provided herein:

(a) Any portion of the Properties dedicated accepted by a local public authority;

(b) The Common Area and Common Facilities and Other Association Real Property; and

(c) Any Separate Interest owned by the Association which is not being rented or leased for residential purposes.

Section 8. Notice and Procedure for Member Approval Pursuant to Sections 2 and 3. In the event that Member approval is required in connection with any increase or imposition of Assessments pursuant to sections 2 and 3 of this Article, approval of the requisite percentage of the Members shall be solicited by written ballot conducted in accordance with section 7513 of the Corporations Code and Article IV, section 6 of the Bylaws. Unless otherwise specified by law, the quorum required for such membership action shall be a majority of the Members (see Article V, section 5(a)(i) of the Bylaws).

Section 9. Maintenance of Assessment Funds.

(a) Bank Accounts. All sums received or collected by the Association from Regular, Special or Special Individual Assessments, together with any interest or late charges thereon, shall be promptly deposited in one or more insured checking, savings or money market accounts in a bank or savings and loan association selected by the Board of Directors. In addition, the Board shall be entitled to make investments of reserve or development funds in insured certificates of deposit, money market funds or other prudent investments consistent with the investment standards normally observed by trustees. The Association Rules shall include an investment policy describing with specificity the types of investments authorized hereunder.



The Board and such officers or agents of the Association as the Board shall designate shall have exclusive control of Association account(s) and investments and shall be responsible to the Owners for the maintenance at all times of accurate records thereof. The withdrawal of funds from Association accounts shall be subject to the minimum signature requirements imposed by California Civil Code section 1365.5 and Article XII, section 2 of the Bylaws.

To preclude a multiplicity of bank accounts, the proceeds of all Assessments may be commingled in one or more accounts and need not be deposited in separate accounts so long as the separate accounting records described herein are maintained. Any interest received on such deposits shall be credited proportionately to the balances of the various Assessment fund accounts maintained on the books of the Association as provided in subparagraph (b), below.

(b) Separate Accounts: Commingling of Funds. Except as provided below, the proceeds of each Assessment shall be used only for the purpose for which such Assessment was made, and such funds shall be received and held in trust by the Association for such purpose. Notwithstanding the foregoing, the Board, in its discretion, may, during the course of a fiscal year, make appropriate adjustments among the various line items in the Board's approved general operating budget (but not in any budgeted reserve allocations) if the Board determines that it is prudent and in the best interest of the Association and its Members to make such adjustments. If the proceeds of any Special Assessment exceed the requirement of which the Assessment is levied, such surplus may, in the Board's discretion, be returned proportionately to the contributors thereof, reallocated among the Association's reserve accounts if any such account is, in the Board's opinion, underfunded or credited proportionately on account of the Owners' future Regular Assessment obligations.

For purposes of accounting, but without requiring any physical segregation of assets, the Association shall maintain a separate account of all funds received by it in payment of each category of Assessment and of all disbursements made therefrom; provided, however, that receipts and disbursements of Special Assessments made pursuant to Article IV, section 3(a)(i) hereof shall be accounted for together with the receipts and disbursements of Regular Assessments for the year in which the Special Assessment is levied. Furthermore, separate liability accounts shall be maintained for each capital improvement for which reserve funds for replacement are allocated.

Unless the Association is exempt from federal or state taxes, all sums allocated to capital replacement accounts shall be accounted for as contributions to the capital of the Association and as trust funds segregated from the regular income of the Association or in any other manner authorized by law or regulations of the Internal Revenue Service and the California Franchise Tax Board that will prevent such funds from being taxed as income of the Association.

#### Section 10. Collection of Assessments: Enforcement of Liens.

(a) Delinquent Assessments. Assessments are delinquent if they are not paid within 15 days following the scheduled due date. The due date for Regular Assessments shall, in no event, be less than 60 days after the date the notice

of Assessment is mailed to the Members. Commencing 30 days after the scheduled due date, delinquent Assessments shall bear interest at the maximum rate allowed by law from and after the due date until the same is paid. In addition to the accrual of interest, the Board of Directors is authorized and empowered to promulgate a schedule of reasonable late charges or penalties for any delinquent Assessments, subject to the limitations imposed by California Civil Code sections 1366(c) and 1366.1 or comparable superseding statutes.

(b) Effect of Nonpayment of Assessments.

(i) Creation and Imposition of a Lien for Delinquent Assessments. As more particularly provided in section 1367 of the California Civil Code or comparable superseding statute, the amount of any delinquent Regular, Special, or Special Individual Assessment, together with any late charges, interest and costs (including reasonable attorneys' fees) attributable thereto or incurred in the collection thereof, shall become a lien upon the Separate Interest of the Owner so assessed only when the Association causes to be Recorded a Notice of Delinquent Assessment. The Notice shall be executed by an authorized representative of the Association and shall set forth: (A) the amount of the delinquent Assessment(s) and other sums duly imposed pursuant to this Article and section 1366 of the California Civil Code; (B) the legal description of the Owner's Separate Interest against which the Assessments and other sums are levied; (C) the name of the Owner of Record of such Separate Interest; and (D) the name and address of the Association; and (E) in order for the lien to be enforced by nonjudicial foreclosure, the name and address of the trustee authorized by the Association to enforce the lien by sale. Upon payment in full of the sums specified in the Notice of Delinquent Assessment, the Association shall cause to be Recorded a further notice stating the satisfaction and release of the lien thereof.

(ii) Remedies Available to the Association to Collect Assessments. The Association may bring legal action against the Owner personally obligated to pay the delinquent Assessment, foreclose its lien against the Owner's Separate Interest or accept a deed in lieu of foreclosure. Foreclosure by the Association of its lien may be initiated by judicial foreclosure or by nonjudicial foreclosure by the trustee designated in the Notice of Delinquent Assessment or by a trustee substituted pursuant to California Civil Code section 2934a. Any sale of a Separate Interest by a trustee acting pursuant to this section shall be conducted in accordance with sections 2924, 2924b and 2924c of the California Civil Code applicable to the exercise of powers of sale in mortgages or deeds of trust.

(iii) Nonjudicial Foreclosure. The Association shall commence non-judicial foreclosure by Recording a Notice of Default with respect to the Separate Interest giving rise to the delinquent Assessment. The Notice of Default shall state all amounts which have become delinquent with respect to the Owner's Separate Interest and the costs (including attorneys' fees), penalties and interest that have accrued thereon, the amount of any Assessment which is due and payable although not delinquent, a legal description of the property with respect to which the delinquent Assessment is owed, and the name of the Owner of Record or reputed Owner thereof. The Notice of Default shall advise the Owner of Record and other interested parties of the Association's election to sell the Separate Interest or other property to which the amounts relate and shall otherwise conform with the requirements for a notice of default under

section 2924c of the California Civil Code, or comparable superseding statute.

The Association shall have the rights conferred by section 2934a of the Civil Code to assign its rights and obligations as trustee in any non-judicial foreclosure proceedings to the same extent as a trustee designated under a deed of trust and for purposes of said section 2934a, the Association shall be deemed to be the sole beneficiary of the delinquent Assessment obligation. Furthermore, in lieu of an assignment of trusteeship, the Association shall be entitled to employ the services of a title insurance company or other responsible company authorized to serve as a trustee in nonjudicial foreclosure proceedings to act as an agent on behalf of the Association in commencing and prosecuting any nonjudicial foreclosure hereunder.

(iv) Actions for Money Judgment. In the event of a default in payment of any Assessment, the Association, in its name but acting for and on behalf of all other Owners, may initiate legal action against the Owner(s) who are personally liable for the delinquent Assessment, in addition to any other remedy provided herein or by law, to recover a money judgment or judgments for unpaid Assessments, costs and attorneys' fees without foreclosure or waiver of the lien securing the unpaid Assessments.

Section 11. Transfer of Separate Interest by Sale or Foreclosure. Except as otherwise provided herein, the sale or transfer of any Separate Interest shall not affect any Assessment lien duly Recorded with respect to such Separate Interest prior to the sale or transfer. However, the sale or transfer of any Separate Interest pursuant to the foreclosure of any first Mortgage shall extinguish the lien of such Assessments as to payments which become due prior to such sale or transfer. No sale or transfer of a Separate Interest as the result of foreclosure, exercise of a power of sale or otherwise shall relieve the new Owner of such Separate Interest, whether it be the former beneficiary of the first Mortgage or some other person, from liability for any Assessments thereafter becoming due or from the lien thereof.

Where the first Mortgagee or other purchaser of a Separate Interest obtains title to the same as a result of foreclosure of any such first Mortgage or exercise of a power of sale, the person acquiring title, his or her successors and assigns, shall not be solely liable for the Assessments chargeable to such Separate Interest which became due prior to the acquisition of title. Instead, such unpaid Assessments shall be deemed to be Common Expenses collectible from the Owners of all of the Separate Interests, including such acquirer, his or her successors and assigns. Furthermore, foreclosure shall not affect the Association's right to maintain an action for the collection of delinquent Assessments against the foreclosed party personally.

Section 12. Priorities. When a Notice of Delinquent Assessment has been Recorded, such notice shall constitute a lien on the Separate Interest prior and superior to all other liens except (a) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (b) the lien or charge of any first Mortgage of Record (meaning any Recorded Mortgage with first priority over other Mortgages) made in good faith and for value; provided, however, that such subordination shall apply only to the Assessments which have become due and payable prior to the transfer of such property pursuant to the exercise of a power of sale or a judicial foreclosure involving a default under such first Mortgage.

Section 13. Unallocated Taxes. The current policy of the Nevada County Assessor is to place no value on Common Area property for purposes of real property tax assessment purposes. However, in the event that any taxes are assessed against the Common Area, or the personal property of the Association, rather than being reflected in the assessed value of the Separate Interests, such taxes shall be included in the Regular Assessments imposed pursuant to section 2 of this Article. If necessary, a Special Assessment may be levied against the Separate Interests in an amount equal to such taxes to be paid in two installments, thirty days prior to the due date of each tax installment.

Section 14. Waiver of Exemptions. Each Owner, to the extent permitted by law, waives, to the extent of any liens created pursuant to this Article IV, the benefit of any homestead or exemption law of California in effect at the time any Assessment or installment thereof becomes delinquent or any lien is imposed against the Owner's Separate Interest.

## **ARTICLE V**

### **Environmental and Architectural Regulation**

#### Section 1. Environmental Control Committee Approval of Improvements.

(a) Approval Generally. Before commencing construction or installation of any Improvement (as defined in Article I, section 20 hereof) on any Separate Interest within the Properties, the Owner planning such Improvement must submit a written request for approval to the Association's Environmental Control Committee. The Owners request shall include structural plans, specifications and plot plans satisfying the requirements of the Environmental Control Committee Rules (see section 5 below). Although the initial application for approval must be signed by the Owner, the application can designate an individual as the Owner's representative and agent for subsequent processing and review of the proposed project by the Environmental Control Committee. Unless the Committee's approval of the proposal is first obtained, no work on the Improvement shall be undertaken. The Committee shall base its decision to approve, disapprove or conditionally approve any proposed Improvement of the criteria described in section 6 of this Article.

(b) Modifications to Approved Plans Must Also Be Approved. Once a work of Improvement has been duly approved by the Committee, no material modifications shall be made in the approved plans and specifications therefor and no subsequent alteration, relocation, addition or modification shall be made to the work of Improvement, as approved, without a separate submittal to, and review and approval by, the Committee. If the proposed modification will have, or is likely to have, a material affect on other aspects or components of the Improvement project, the Committee, in its discretion, may order the Owner, his or her contractors and agents to cease working not only on the modified component of the Improvement, but also on any other affected component.

In the event that it comes to the knowledge and attention of the Association, the ECC, or the agents or employees of either that a work of Improvement or any modification thereof, is proceeding without proper approvals the Association shall be entitled to exercise the enforcement remedies specified in section 7 of this Article, including, without limitation, ordering an



immediate cessation and abatement of all aspects of the work of Improvement until such time as proper Committee review and approval is obtained.

(c) Maintenance of Existing Improvements and Lots. The Committee's jurisdiction and responsibilities hereunder shall also extend to and include the monitoring and regulation of existing Improvements and Lots for the common benefit of the Tahoe Donner community to ensure that the Improvements and Lots are being maintained and used in accordance with Articles VI, VII and VIII of this Declaration.

Section 2. Committee Membership. The Environmental Control Committee shall be composed of three Members of the Association appointed by the Board. The Board shall also designate a minimum of two alternate members of the Committee who shall serve in the absence of any Committee Member. In selecting the members of the Committee, the Board of Directors shall endeavor to appoint individuals whose occupations or education will provide technical knowledge and expertise relevant to matters within the Committee's jurisdiction. If possible, two members of the Committee shall possess a professional degree or other background in design, land planning, engineering, architecture, law, or some other field which is related to the functions to be performed by the Committee. No member of the Association Board of Directors, Association employee or the president of any Tahoe Donner social club or organization (such as the men's golf club) shall be eligible to serve as a member of the Committee. Subject to this limitation, individuals appointed to the Committee may, in the Board's discretion, serve successive terms.

Committee members shall serve for terms of two years, subject to the Board's power to remove any Committee member at any time and to appoint a successor. Neither the members of the Committee nor its designated representatives shall be entitled to any monetary compensation for services performed pursuant hereto. The president of the Committee shall be elected by the Committee members.

Section 3. Duties of the Environmental Control Committee. It shall be the duty of the Committee to consider and act upon the proposals and plans submitted to it pursuant to this Declaration, to adopt Environmental Control Committee Rules pursuant to section 5 hereof, to undertake periodic inspections of Lots and Common Areas within the Properties to assure compliance with the Governing Document's land use and environmental control regulations, and to perform other duties delegated to it by the Board of Directors or imposed by this Declaration. Plans and specifications shall be submitted to the Environmental Control Office or the Chairman of the Committee at the Association's principal office.

Section 4. Meetings. The Environmental Control Committee shall meet on at least a monthly basis and more frequently if necessary to properly perform its duties hereunder. The vote or written consent of a majority of the Committee members shall constitute an act by the Committee and the Committee shall keep and maintain a written record of all actions taken. The Committee members shall be entitled to reimbursement for reasonable out-of-pocket expenses incurred by them in the performance of any Committee functions. Requests for reimbursement shall be supported by adequate documentation and shall be submitted to, and approved by, the Board of Directors in its sole discretion.

The Owner-applicant or his designated agent shall be entitled to appear at any meeting of the Committee at which the Owner's proposal has been scheduled for

review and consideration. The Owner or designated agent shall be entitled to be heard on the matter and may be accompanied by his or her architect, engineer and/or contractor. Reasonable notice of the time, place and proposed agenda for Committee meetings shall be communicated before the date of the meeting to any Owner-Applicant whose application is scheduled to be heard.

Section 5. ECC Rules. The Environmental Control Committee may, from time to time and with approval of the Board of Directors, adopt, amend and repeal rules and regulations to be known as "ECC Rules." The ECC Rules are currently set forth in a booklet entitled "Rules, Procedures and Restrictions for Building and Land Use." The procedures for adopting Association Rules generally (see Article III, section 7(b)) shall be applicable to the adoption of ECC Rules.

The ECC Rules shall interpret and implement the provisions of this Article V by setting forth:

(a) The standards, procedures and time limitations for Environmental Control Committee review and approval of Owner submittals of proposed Improvement projects (including, without limitation, minimum requirements for submitting a complete application for project approval);

(b) Guidelines for the construction of improvements, including, without limitation, architectural design, placement on Lots, color schemes, exterior finishes and materials and similar features which are recommended or required for use on any Improvements or categories of Improvements within the Properties;

(c) The criteria and procedures for requesting variances from any property use restrictions or minimum construction standards that would otherwise apply to the proposed Improvement under the Governing Documents (see section 8 below);

(d) Minimum requirements for the maintenance, supervision and restoration of construction sites by Owners and their contractors. Without limiting the foregoing, the ECC Rules may specifically regulate the activities of contractors and subcontractors, who shall be deemed to be the Owner's agents for purposes of rules enforcement and compliance matters;

(e) Any requirements for the payment of inspection/plan processing fees and deposits to assure the Owners proper and timely performance in accordance with the approved plans and specifications and the application, use and/or refund of such fees and deposits;

(f) Uniform and reasonable time limitations for completion of approved Improvement projects or other duly noted compliance matters;

(g) The consequences of failing to timely complete approved Improvement projects, including, without limitation, the imposition of fines and penalties;

(h) Inspection of Improvement projects by the Environmental Control Committee and the procedures available to the Environmental Control Committee to assure compliance with ECC Rules or any conditions imposed on the Improvement project during the course of construction (including, without limitation, the issuance of stop work orders or "red tags" to cause an immediate cessation of construction activity); and

(i) The procedures available to the Environmental Control Committee to correct nonconforming uses of Lots.

Notwithstanding the foregoing, the ECC Rules shall implement the provisions of this Declaration in a reasonable, uniform and nondiscriminatory manner and no ECC Rule shall be in derogation of the minimum standards required by this Declaration. In the event of any conflict between the ECC Rules and this Declaration, the provisions of the Declaration shall prevail.

Section 6. Basis for Approval of Improvements. When a proposed work of Improvement is submitted to the Environmental Control Committee for review, the Committee shall grant the requested approval only if the Committee, in its sole discretion, finds that all of the following provisions have been satisfied:

(a) The Owner's plans and specifications: (i) conform to this Declaration and to the ECC Rules in effect at the time such plans are submitted to the Committee; (ii) will result in the construction of an Improvement that is in harmony with the external design of other structures and/or landscaping within the Properties; and (iii) will not interfere with the reasonable enjoyment of any other Lot Owner of his or her property, including, without limitation, the other Owner's rights to scenic and solar access free of unreasonable obstructions; and

(b) The proposed Improvement(s), if approved, will otherwise be consistent with the architectural and aesthetic standards prevailing within the Properties and with the overall plan and scheme of development of the Properties and the purposes of this Declaration.

While it is recognized that the Committee's determination to approve or disapprove an Improvement will, of necessity, be subjective to some degree, the members of the Committee shall act reasonably and in good faith. Factors commonly considered by the Committee in reviewing proposed Improvements include the quality of workmanship and materials proposed for the Improvement project, the harmony of the proposed Improvement's exterior design, finish materials and color with that of other existing structures, and the proposed location of the Improvement in relation to existing topography, finished grade elevations, roads, Common Areas and other structures.

The Committee shall be entitled to determine that a proposed Improvement or component thereof is unacceptable in the context of a particular Lot, even if the same or a similar Improvement/component has previously been approved for use at another location or locations within the Properties. Factors which may cause the Committee to reject a proposal which was previously approved at another site include: poor drainage, unique topography, visibility from roads, Common Areas or other Lots or prior adverse experience with the product or design of the proposed Improvement or any component thereof.

The Committee shall have no jurisdiction with respect to the interior portions of any Improvement or Structure unless some portion of the proposed interior will have a direct and material adverse impact on the exterior components of the improvement (such as the design of the superstructure for roofs or load-bearing walls).

Section 7. Enforcement of Environmental Control Matters.

(a) In addition to other enforcement remedies set forth in this Declaration, the Environmental Control Committee shall have enforcement authority with respect to any matters within the Committee's jurisdiction, as defined in section 1, above, including the authority to order an abatement of any construction, alteration or other matter for which approval is required, the imposition of reasonable fines (as approved by the Board), to the extent that an Improvement project has not been approved by the Committee or if it does not conform to the plans and specifications submitted to and approved by the Committee. No work of Improvement for which approval is required shall be deemed to be approved simply because it has been completed without a complaint, notice of violation, or commencement of a suit to enjoin such work.

(b) Legal proceedings or the suspension of Member privileges to compel compliance with the ECC Rules, eliminate architectural or environmental violations or other violations of the Governing Documents that are under jurisdiction of the Environmental Control Committee must be approved by the Board and legal actions shall be maintained in the name of the Association. If any legal proceeding is initiated to enforce any of the provisions hereof, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to the costs of such proceeding.

(c) If an Owner or his designated agent(s) is/are found to be in non-compliance with this Declaration or any ECC Rule, the ECC shall so notify the Owner or agent and provide a reasonable time to take corrective action, giving due consideration to the nature of the problem or infraction. ECC hearings shall be conducted in accordance with the minimum procedures set forth in Article XIII, below.

(d) Any fines or other disciplinary action imposed by the ECC may be appealed to the Board of Directors (see section 12, below). Any such appeal shall be governed by Article XIII hereof.

Section 8. Variances. The Environmental Control Committee shall be entitled to allow reasonable variances in any procedures specified in this Article, the ECC Rules, the minimum construction standards specified in Article VI or in any land use restrictions specified in Article VIII in order to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardship to Owner-applicants. Before a variance can be granted, however, all of the following conditions must be met:

(a) If the requested variance will necessitate deviation from, or modification of, a property use restriction that would otherwise be applicable under this Declaration, the Committee must conduct a public hearing on the proposed variance after giving prior written notice to the Board and to any Owner of a Separate Interest located within 500 feet of the Separate Interest affected by the variance.

(b) The Committee must make a good faith written determination that issuance of the variance will be consistent with either of the following criteria: (i) the requested variance will not constitute a material deviation from any restriction contained herein or that the proposal allows the objectives of the violated requirement(s) to be substantially achieved despite non-



compliance; or (ii) the variance relates to a requirement land use restriction or minimum construction standard otherwise applicable hereunder that is unnecessary or burdensome under the circumstances. No variance will be granted if the ECC concludes that the request, if granted, will result in a material detriment, or create an unreasonable nuisance with respect, to any portion of the Properties.

Section 9. Estoppel Certificate. Within 30 days after written demand is delivered to the Environmental Control Committee by any Owner, and upon payment to the Association of a reasonable fee (as established from time to time by the Board, in its sole discretion, to recover the Association's actual costs of providing the service), the Committee shall Record an estoppel certificate, executed by any two of its members, certifying (with respect to any Separate Interest owned by the applicant Owner) that as of the date thereof, either: (a) all improvements made and other work completed by said Owner comply with this Declaration, or (b) such improvements or work do not so comply, in which event the certificate shall also identify the noncomplying Improvements or work and set forth with particularity the basis of such noncompliance. Any purchaser of the subject Separate Interest from the Owner, or from anyone deriving any interest in said Separate Interest through the Owner, shall be entitled to rely on the Association's estoppel certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, all Owners and any persons deriving any interest through them.

Section 10. Limitation on Liability. Neither the Association, the Environmental Control Committee nor any member thereof (collectively "released party") shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any mistakes in judgment, negligence or nonfeasance arising out of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any work on an approved Improvement, whether or not the work is performed pursuant to approved plans, drawings or specifications; (c) the development of any Separate Interest within the Properties; or (d) the issuance of an estoppel certificate pursuant to section 9, above, whether or not the facts therein are correct; provided, however, that the released party has acted in good faith on the basis of such information as he or she possessed.

Section 11. Compliance With Governmental Regulations. Review and approval by the Environmental Control Committee of any proposals, plans or other submittals pertaining to improvements shall in no way be deemed to constitute satisfaction of, or compliance with, any building permit process or any other governmental requirements, the responsibility for which shall lie solely with the Lot Owner who desires to construct, install, or modify the Improvement.

Section 12. Appeals. Appeals from decisions of the Environmental Control Committee may be made to the Board of Directors or its duly appointed appeals committee. The Board or its duly authorized committee may elect, in its discretion, to hear the appeal or, in the alternative, to affirm the decision of the Environmental Control Committee. The Association Rules shall contain procedures to process appeals pursuant to this section 12.

**ARTICLE VI**  
**Minimum Construction Standards**

Unless a variance is requested from, and granted by, the Environmental Control Committee in accordance with Article V, section 8, hereof, improvements constructed on any Lot shall conform to the following minimum construction standards:

Section 1. Minimum Construction Standards Applicable to All Lots.

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

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

(c) Model Homes. No Owner of any Separate interest shall build or permit the building thereon of any structure that is to be used as a model or exhibit.

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

(e) Approval by Environmental Control Committee. No building, fence, wall or other permanent structure or improvement shall be erected, altered, or placed on any Lot until building plans, specifications and a plot plan showing the location of structures on the Lots have been submitted to the Environmental Control Committee for review and approval as described in Article V hereof.

(f) Exterior Surfaces. No reflective finishes (other than glass) shall be used on exterior surfaces (other than surfaces of hardware fixtures) of any building structure erected on a Residential Lot. The Committee shall be authorized, as part of the Environmental Control Committee Rules, to adopt a chart of approved colors and stains for exterior finishes.

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

(h) Solar Heating Systems. Subject to limitations imposed by California law, the Environmental Control Committee shall be entitled to adopt, as part of the Environmental Control Committee Rules, reasonable regulations regarding the installation of exterior solar heating systems. These rules may include limitations on placement and design of such systems to the extent necessary to avoid an unsightly appearance from neighboring Lots or Common Area.

(i) Drainage. No Owner shall do any work, construct any improvement, place any landscaping or suffer the existence of any condition whatsoever which shall alter or interfere with the drainage pattern for the Owner's or any adjacent Lots or parcels or Common Area as established in connection with the approval of the final subdivision and parcel maps applicable to the Properties by the County of Nevada, except to the extent such alteration in drainage pattern is approved in writing by the Environmental Control Committee, the County of Nevada, and all other public authorities having jurisdiction. Plans and specifications submitted by an Owner to the Environmental Control Committee in connection with the construction of a Residence or other major structural improvement shall include a drainage plan in sufficient detail to permit the Committee to assess the impacts, if any, of the improvement on natural drainage courses. See also Article VII, section 5.

(j) Modular and Prefabricated Housing: Mobile Homes. The use of Modular Housing units or prefabricated housing units assembled off the building site shall be subject to regulation by the Environmental Control Committee to the full extent permitted by Civil Code section 714.5 or comparable superseding statute.

(k) Air Pollution Controls. The ECC shall be empowered to adopt reasonable regulations for the design of any fire place, wood burning stove or other combustion system which is proposed for use in a Structure in order to reduce smoke emissions.

## Section 2. Minimum Construction Standards — Residential Lots.

(a) Minimum Square Footage. Every Residence constructed on a Residential Lot shall contain a minimum of 1200 square feet of fully enclosed floor area to be devoted to living purposes (exclusive of roofed or unroofed porches, terraces, decks, garages, carports and other outbuildings). Not less than 900 square feet shall be located on the first floor of the Residence. For purposes of the preceding sentence, the first floor of a residence shall be the floor with the dwelling's principal living space for any Residence with a basement or downstairs garage or bedroom area.

(b) Height Limitations. No structure or improvement shall be constructed on any Residence Lot having a height of more than two stories; provided, however, that the height of a structure or improvement may exceed two stories if permissible by law and if the Environmental Control Committee determines that the proposed height is compatible with the physical site involved and adjoining properties; provided that the total height of the structure shall in no event exceed 35 feet measured from the building's mid-point on the downhill slope.

(c) Set Back Lines. No structure or improvement (other than a fence for which a permit has been granted by the Environmental Control Committee) shall be constructed, erected, placed or maintained upon any Residential Lot within the following prescribed set back areas:

(i) A front yard set back area, the minimum depth of which shall be at least 20 feet measured from the front lot line of such Lot.

(ii) A side yard set back area, the minimum width of which shall be ten feet along any single inner side lot line of such Lot. The ten foot side yard set back is required in order to avoid snow shedding from the Residence onto the adjacent Lot and to prevent a row house appearance of adjoining Residences. The Committee shall be entitled to permit exceptions to this side yard set back requirement to a minimum of five feet, without compliance with the variance procedures specified in Article V, section 8, when such is deemed necessary to accommodate special circumstances which would otherwise lead to burdensome costs to the Owner. Side yard set backs shall be measured from the eave of the Residence's roof, rather than from the foundation.

(iii) A rear yard, the minimum depth of which, having an area equal to at least 20 percent of the gross area of such Lot. The resulting depth shall not in any case be less than 25 feet.

(d) Parking. Each Residence Lot which is improved after the effective date of this Declaration shall have paved off-the-road parking facilities for at least two automobiles.

(e) Exterior Lighting. There shall be no exterior lighting of any sort either installed or maintained on any Lot, the light source of which is visible from neighboring property or streets, except as permitted by the Environmental Control Committee Rules. In no event shall fluorescent, mercury vapor, sodium, amber vapor or similar outdoor security lights be permitted. The Committee shall establish rules, as necessary or appropriate, to assure the serene, peaceful and rural nature of the Tahoe Donner common interest development.

(f) Roofing Materials. Natural wood or shingle roofing materials or composition roofing materials shall not be permitted on any Residence within the Properties unless they are treated with fire retardant materials. The use of other roofing materials, such as metal, tile, gravel or artificial shingles or shakes that have the appearance of natural wood shingles shall be permitted, subject to prior Environmental Control Committee approval of the appearance and quality of the material.

(g) Siding Materials. The exterior walls of any Residence, garage or other structure shall be finished with natural wood. Rock or stucco may be used in combination with wood. Metal, Masonite or other manufactured siding shall not be permitted. No siding composed in whole or part of artificial or "fake" stones, stucco stones or manufactured used brick shall be permitted unless an exception is granted by the Environmental Control Committee.

(h) Antenna, External Fixtures, Etc. No television or radio poles, antenna, television satellite reception dishes, flag poles, clothesline, or other external fixtures except those approved by the Environmental Control Committee, shall be constructed, erected or maintained on any Lot. No wiring, insulation, air-conditioning or other machinery or equipment, other than those approved by the Committee, and their duplicate replacements shall be constructed, erected or maintained on or within the exterior of any structure within the Properties.

Section 3. Minimum Construction Standards — Multiple Family Residential Lots. Those Multiple Family Residential Lots within Tahoe Donner Unit Nos. 2, 3 and 6 which are subject to this Declaration, as set forth in Exhibit "B" 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 apartment buildings or Condominium buildings shall be constructed on any Multiple Family Residential Lot zoned for six or fewer units.

The maximum number of apartment or condominium units on each of the following multiple family residential lots in Tahoe Donner Units 2, 3 and 6 shall be:

<u>Lots Within Unit 2</u>	<u>Maximum Number of Apartment or Condominium Units on each Lot</u>
1, 22, 311, 312, 313, 314	8 units/lot
15, 16, 17, 315, 316, 317	7 units/lot
9, 14, 18, 33, 439	6 units/lot
10, 11, 19, 20, 21, 32, 35, 36, 336, 337	5 units/lot
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/lot
323, 324	3 units/lot
309	13 units/lot
34	42 units/lot
310	9 units/lot
<u>Lots Within Unit 3</u>	<u>Maximum Number of Apartment or Condominium Units on each Lot</u>
Lots 30, 31, 32, and 33	four (4) units/lot
Lot 34	sixty-nine (69) units/lot
Lots 35, 36, 37, 38, 39 and 40	four (4) units/lot
<u>Lots Within Unit 6</u>	
594	7 units/lot
593, 595, 598	6 units/lot
592, 596, 597, 599, 600, 601, 602	5 units/lot
603	4 units/lot

(b) Minimum Square Footage Requirements. Each apartment or condominium unit within each multi-family building shall contain not less than six hundred fifty (650) square feet of fully enclosed floor area to be devoted to living purposes (exclusive of roof or unroofed porches, terraces, decks, garages, carports and other out buildings).



(b) Minimum Square Footage Requirements. Each apartment or condominium unit within each multi-family building shall contain not less than six hundred fifty (650) square feet of fully enclosed floor area to be devoted to living purposes (exclusive of roof or unroofed porches, terraces, decks, garages, carports and other out buildings).

(c) Height Limitations. The height of each apartment building on each Lot shall not exceed the height prescribed by the Environmental Control Committee.

(d) Parking. Each Multi-Family Lot shall have paved off-the-road parking facilities for at least 1.5 automobiles for each apartment or condominium unit in any building constructed on said Lot.

(e) Lot Combinations. Nothing contained herein shall prevent or restrict a Lot Owner from combining contiguous multiple family residential Lots and building thereon more than one apartment or condominium building, so long as the above provisions are complied with on a combined basis.

(f) Compliance With County Regulations. Any provisions of the laws of the County of Nevada in effect from time to time which are more restrictive than the provisions hereof shall control.

(g) Application of Use Restriction. Each and every restriction set forth in sections 1(f), 2(c) and 2(e), above, with respect to Single Family Residential Lots shall be equally applicable to Multiple Family Lots and are incorporated herein by this reference, except that the side yard set back on Multiple Family Residential Lots shall be 5 feet, rather than 10 feet.

(h) Variance Authority. The Environmental Control Committee shall have the power to grant variances from any of the provisions in subparagraph (a), (b) or (d), above, under and pursuant to article V, section 8 hereof.

#### Section 4. Minimum Construction Standards - Commercial Lots.

(a) Site Development.

(i) Building Site. The building site areas shall be as permitted by any applicable zoning ordinance of the County of Nevada, California.

(ii) Number of Buildings. The number of buildings which may be constructed on any Commercial Lot shall be in accordance with the applicable zoning ordinance of the County of Nevada, California.

(iii) Building Height. Building height limit shall be compatible with the physical site involved with a maximum height of 25 feet unless otherwise approved in writing by the Environmental Control Committee.

(iv) Yards. Front yard, side yard and rear yard requirements for the location of any building upon any Commercial Lot shall be as set forth in the applicable zoning ordinance of the County of Nevada, California.

(v) Setbacks. Setbacks shall be as shown and delineated on the

Subdivision Maps Recorded with respect to Tahoe Donner, or if not so shown, as set forth in the applicable zoning ordinance of the County of Nevada, California.

(vi) Off-Street Parking. The number of off-street parking spaces which shall be provided shall be in accordance with the applicable zoning ordinance of the County of Nevada, California.

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

(b) Construction and Alteration of Improvements, Change in Topography.

(i) Subdivision Maps. No tentative or final map of subdivision or resubdivision of any Commercial Lot, or any amendment thereto, shall be submitted for approval to any governmental agency of the County of Nevada, or Recorded without the prior written approval of the Environmental Control Committee; provided, however, that the signatures of the members of the Environmental Control Committee on any such maps shall not be required as a condition of Recordation thereof.

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

(iii) Lighting.

(A) Prohibition. There shall be no exterior lights or lighting systems, including but not limited to lighted signs, erected, installed, constructed, or maintained on any Commercial Lot without the prior written approval of the Environmental Control Committee.

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

(C) Hooding Device. All such lights shall be hooded so that all light therefrom is projected downward and inward toward the Lot or building

on which such lights are constructed.

(iv) Signs.

(A) ECC Approval Required. No sign shall be constructed, erected, placed, or maintained upon any Commercial Lot without the prior written approval of the Environmental Control Committee.

(B) Design. The design of all signs shall be an integral part of the design of the building or Structure involved and shall be compatible with the physical site involved and with the Properties.

(C) Size. Signs will be limited in size as may from time to time be prescribed by the Environmental Control Committee.

(D) Rotation. Signs shall not rotate.

(E) Materials. All signs shall be constructed of durable materials and shall be mounted with bolts, fasteners, or clips of hot dipped galvanized iron, stainless steel, aluminum, brass, or bronze.

(F) Mounting. All letters or signs mounted on any exterior wall or any structure so as to be exposed to the weather will be mounted three-fourths of an inch from such wall to permit proper dirt and water drainage.

(G) Installation and Lighting. All signs shall be installed in accordance with the drawings approved by the Environmental Control Committee. Any penetration of a building structure required for sign installation will be neatly sealed in a watertight condition. Occupant will be fully responsible for the operations of occupant's sign contractors.

(H) Height. The height of any free-standing sign shall be compatible with the physical site involved with a maximum height of 20 feet unless otherwise permitted by the Environmental Control Committee.

(I) Roof Signs. Roof signs or any signs extending above the roof line are prohibited.

(v) Loading Docks and Service Areas. All loading docks, truck ramps and service areas shall be screened so as not to be visible from other property in the vicinity, including lots, roads and Common Areas. Such screening shall have an opaque finish and be of a material and of a height acceptable to the Environmental Control Committee.

(vi) Utilities. The Environmental Control Committee may, if it finds it necessary or desirable for the environment of the Properties, require that all utility lines, wires, pipes and conduits, including without limitation all electrical and telephone lines and cables, be constructed and installed underground provided, however, that said requirement shall not apply to any outlet thereof, or means of access thereto, or any sewer pumping plant, or electrical generator or transformer, or to any utility line or facility which must, of necessity, be installed above ground.

(vii) Roofs. All roofing materials shall be approved by the Environmental Control Committee.

(viii) Antennae. No exterior antenna of any type, or other exterior structure or device for sending or receiving electromagnetic waves, shall be erected, constructed, placed or maintained on any Commercial Lot without the prior written approval of the Environmental Control Committee.

(ix) Ground Areas. All ground areas not covered by any building or other Structure shall be either paved or landscaped. All roadways, driveways, truck ramps, loading and delivery areas and vehicle parking areas shall be paved with a hard-surfaced impermeable material acceptable to the Environmental Control Committee. All paved areas shall be maintained and kept clean, reasonably clear of snow and free of oil and other extraneous matter.

(x) Building Materials. All structures on any Commercial Lot shall be constructed substantially of new materials, and no used structure shall be placed on any Commercial Lot without the prior written approval of the Environmental Control Committee.

(xi) Occupancy. No structure shall be used or occupied until the same has been substantially completed in accordance with its plans and specifications.

## **ARTICLE VII**

### **Association and Owner Maintenance Responsibilities**

Section 1. Common Areas. The Association shall be solely responsible for all maintenance, repair, upkeep and replacement within the Common Areas and other Association Real Property. No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any Improvement upon, or shall create any excavation or fill or change the natural or existing drainage of any portion of the Common Areas or Other Association Real Property. In addition, no person shall remove any tree, shrub or other vegetation from, or plant any tree, shrub, or other vegetation upon, the Common Areas or Other Association Real Property without expressed approval of the Association.

Without limiting the foregoing, the Association shall be responsible for:

(a) The reconstruction, replacement or refinishing of any Common Facility or other Improvements upon any portion of the Common Area as needed from time to time.

(b) The construction, reconstruction, replacement or refinishing of any road, driveway, trail or surface upon any portion of Common Area designated on a Subdivision Map as a private road or parking area and all snow removal for the Common Area.

(c) The replacement of trees or other vegetation and the planting of trees, shrubs and ground cover upon any portion of Common Area.

(d) The placement and maintenance of such signs as the Association may

deem necessary for the identification of the development and of roads, the regulation of traffic, including parking, the regulation and use of Common Areas and Common Facilities and for the health, welfare and safety of Owners, tenants and guests. Any such signs to be placed within the street area shall be subject to County approval and any signs to be placed within the Common Areas shall be subject to Environmental Control Committee approval.

Section 2. Owner Maintenance Responsibility. Except as may be otherwise provided in any Supplemental Declaration Recorded with respect to any Condominium project within the Properties (see Article II section 5 hereof), each Owner shall be responsible for the maintenance and repair of his or her Residence and/or Lot.

Section 3. Association Recovery of Costs of Certain Repairs and Maintenance.

(a) In the event that the need for maintenance or repair, which would otherwise be the Association's responsibility hereunder, is caused through the willful or negligent acts of an Owner, his or her family, guests, tenants or invitees, and is not covered and paid for by Association insurance policies or any liability insurance maintained by the responsible Owner, the cost of such maintenance or repairs shall be subject to recovery by the Association through the imposition of a Special Individual Assessment against the offending Owner in accordance with Article IV, section 5 hereof.

(b) The Environmental Control Committee may give written notice to an Owner who fails to perform maintenance functions for which he or she is responsible, with a request to correct the failure within a reasonable period of time, as specified in the ECC's notice. If the Owner refuses or fails to perform such necessary repair or maintenance, the Association may exercise its rights under Article III, section 6(b) to enter the Owner's Lot and perform the repair or maintenance so long as the Owner has been given notice and the opportunity for a hearing in accordance with Article XIII, section 6, hereof. The costs incurred by the Association in any such action shall be recoverable from the noncomplying Owner as a Special Individual Assessment.

Section 4. Cooperative Maintenance Obligations. To the extent necessary or desirable to accomplish the Association's maintenance obligations hereunder, individual Owners shall cooperate with the Association and its agents and maintenance personnel in the conduct of its work.

Section 5. Drainage Structures. Ditches and Swales.

(a) All drainage structures, culverts and canals improved by the Association for the major collection of storm runoff and any natural drainage courses within Common Areas shall be maintained regularly by the Association or by an appropriate public agency.

(b) Except as provided in subparagraph (a), above, each Owner shall keep drainage courses, ditches and swales on his or her Lot free and clear of all obstructions, and shall, in cooperation with contiguous property Owners (including the Association as to any contiguous parcels it owns), maintain all such drainage ditches, swales and culverts common to their Lots in good order.

(c) No Owner or resident shall alter or obstruct a natural drainage course, or materially add to the natural water volume of said drainage course



without making adequate provisions with respect to neighboring Lots and Common Areas. Any such alterations, obstructions or additions to water volume shall be considered a work of improvement that is subject to prior review and approval by the Environmental Control Committee.

## **ARTICLE VIII**

### **Use of Properties and Restrictions**

In addition to the restrictions established by law or the Association Rules promulgated by the Board of Directors (consistent with this Declaration), the following restrictions are hereby imposed upon the use of Lots, Common Areas and other parcels within the Properties.

#### Section 1. Residential Lots, Multiple Family Residential Lots and Common Area.

##### (a) Use of Lots.

(i) All Residential Lots within the Properties shall be used solely for the construction of Residences, and all Multiple Family Residential Lots within the Properties shall be used solely for the construction of Condominium buildings containing Condominium or apartment units, whose occupancy and use shall be restricted to Single Family Residential Use as defined in Article I, section 38 hereof. In no event shall a Residence, Condominium, or apartment be occupied by more individuals than permitted by applicable law, zoning or other local governmental regulation.

(ii) All Residence and related structures erected on any Residential Lot and all Condominium or apartment buildings erected on any Multiple Family Residential Lot shall conform to the minimum construction standards set forth in Article VI hereof, unless a variance has been granted by the Environmental Control Committee in accordance with Article V, section 13 hereof.

(iii) Each Residential Lot shall be conveyed as a separately designated and legally described fee simple estate and each Condominium shall be conveyed by reference to a Recorded Condominium Plan and a Supplemental Declaration (as described in Article II, section 5 hereof), subject to this Declaration. All Lots and the Residences, Condominium or apartment buildings and the units located therein and other improvements erected or placed thereon (including, without limitation, landscaping) shall at all times be maintained in such a manner as to prevent their becoming unsightly and as not to create a fire hazard.

(iv) The vegetation and landscaping on any Lot shall be planted or maintained by the Owner or resident in such a manner as to reduce the risk of fire, prevent or retard shifting or erosion of soils, encourage the growth of indigenous ground cover and cause the proper diversion of water into streets and natural drainage channels. The removal of any trees from a Lot shall be subject to subparagraph (xi), below.

(v) No camping, whether temporary or permanent, and no temporary structures of any kind shall be permitted on any Lot, except as provided in Article VI, section 1(g).



(vi) No person shall live in the garage of a Residence or Condominium.

(vii) No more than one kitchen facility shall be installed or maintained in any Residence or Condominium.

(viii) With the exception of Lots owned by the Association, no drilling, refining, quarrying or mining operations of any kind shall be permitted on any Lot.

(ix) Other than to those Lots owned by the Association, there shall be no access to any Lot on the perimeter of the Properties except from designated streets or roads within the Properties.

(x) Owners of Lots adjacent to the golf course shall permit entrance upon their Lots in order to permit players to retrieve their golf balls.

(xi) No existing trees with a diameter greater than four inches shall be destroyed, uprooted, cut down or removed from any Lot unless and until such action has been approved by the Environmental Control Committee. In order to assure compliance with this restriction, no tree shall be removed until the EEC has been notified of the intended action and has issued its approval.

(b) Common Areas. The Common Areas shall be preserved as open space except where, improved for recreational purposes or other purposes incidental and ancillary to the use of Lots or administration of the Association. No improvement excavation or work which in any way alters any Common Area or Common Facility from its natural or existing state shall be made or done except by the Association and then only in strict compliance with the provisions of this Declaration. Without limiting the foregoing, it is anticipated that the existing Common Facilities will require future expansion in order to accommodate increased Member usage as Residences are constructed on Separate Interests within the Properties. The construction of new recreational Common Facilities and the cessation of operations of any existing recreational Common Facility shall be subject to the Member approval requirements of Article IX, section 2 of the Association Bylaws.

(c) Prohibition of Noxious Activities. No illegal, noxious or offensive activities shall be carried out or conducted upon any Lot or Common Area nor shall anything be done within the Properties which is or could become an unreasonable annoyance or nuisance to neighboring property Owners. Without limiting the foregoing, no Owner shall permit noise, including, but not limited to barking dogs, the operation of excessively noisy air conditioners, stereo amplifier systems, television systems, motor vehicles (including snowmobiles) or power tools, to emanate from an Owners Lot or from activities within the Common Area, which would unreasonably disturb any other Owner's or tenant's enjoyment of his or her Lot or the Common Areas.

(d) Household Pets. The following restrictions regarding the care and maintenance of pets within the Properties shall be observed by each Owner and resident:

(i) A reasonable number of common household pets may be kept on each Residential Lot or in each Condominium so long as the same are not kept, bred or maintained for commercial purposes. No other animals, including horses, livestock or poultry of any kind shall be kept, bred or raised on any Residential Lot or on any Multiple Family Residential Lot.

(ii) Dogs shall only be allowed within any portion of the Common Areas when they are leashed and otherwise under the supervision and restraint of their Owners or other person accompanying the dog.

(iii) No household pet shall be left chained or otherwise tethered within any portion of the Common Area.

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

(v) The Board of Directors shall have the right to establish and enforce additional rules and regulations defining, in a uniform and non-discriminatory manner, what constitutes a "reasonable number" of pets depending on their size, disposition and/or maintenance requirements and imposing standards for the reasonable control and keeping of household pets in, upon and around the Properties to ensure that the same do not interfere with the quiet and peaceful enjoyment of the Properties by the other Owners and residents.

(vi) Horses shall only be permitted within those portions of the Common Area designated for equestrian use.

(e) Signs. No advertising signs or billboards shall be displayed on any Lot or posted within or upon any portion of the Common Areas except that an Owner may post on his or her Lot or display from his or her Condominium (i) any signs required by legal proceedings, (ii) a single "For Rent," "For Lease" or "For Sale" sign of reasonable dimensions and appearance, in accordance with any applicable Association Rules, and (iii) residential identification signs of a combined total face area of 1/2 square foot or less for each Residence or Condominium. Furthermore, during periods of construction on any Lot, the general contractor shall, with the Owner's permission, be entitled to maintain a sign of reasonable dimensions indicating that the contractor's company is performing work on the subject Lot. A-frame or other directional signs of real estate brokers advertising Lots for sale or lease shall only be allowed along roadways within the Properties or on any portion of the Common Areas in strict compliance with applicable ECC sign regulations.

(f) Business Activities. Tahoe Donner is a multi-use common interest development with areas zoned for business and commercial activities, and no business or commercial activities of any kind whatsoever shall be conducted in any Residence, Condominium, garage or out building or any other portion of any Residential or Multiple Family Residential Lot provided, however, the foregoing restriction shall not apply to the activities, signs or activities of the Association in the discharge of its responsibilities under the Governing

Documents. Furthermore, no restrictions contained in this subparagraph (f) shall be construed in such a manner so as to prohibit any Owner from: (i) maintaining his or her personal library in his or her Residence or Condominium; (ii) keeping his or her personal business records or accounts therein; (iii) handling his or her personal or professional telephone calls or correspondence therefrom; (iv) leasing or renting his or her Residence or Condominium in accordance with Article II, section 3, hereof; or (v) conducting any other activities on the Owners Lot otherwise compatible with residential use and the provisions of this Declaration which do not generate excessive traffic or noise and are permitted under applicable zoning laws or regulations without the necessity of first obtaining a special use permit or other specific governmental land use authorization. The uses described in (i) through (v), above, are expressly declared to be customarily incidental to the principal residential use of the Residence or Condominium and not in violation of this section.

(g) Garbage. No rubbish, trash or garbage shall be allowed to accumulate on any Lot. Any trash that is accumulated by an Owner outside the interior walls of a Residence or Condominium shall be stored entirely within appropriate covered disposal containers and facilities which shall be screened from view from any street, neighboring Lot, neighboring Condominium or Common Area, except on the day when containers are placed near the street or scheduled for trash collection. Any extraordinary accumulation of rubbish, trash, garbage or debris (such as debris generated upon vacating a Residence or Condominium or during the construction or modification of Improvements) shall be removed from the Properties to a public dump or trash collection area by the Owner or tenant at his or her expense. The Association shall be entitled to impose reasonable fines and penalties for the collection of garbage and refuse disposed of in a manner inconsistent with this section.

(h) Storage. Storage of personal property (including, without limitation, trailers and construction materials) on any Lot shall be entirely within enclosed storage areas. There shall be no storage piles accumulated on top or outside of any enclosed storage area, with the exception of neatly stacked woodpiles with wood cut to fireplace length. The foregoing limitation shall not apply to construction materials placed on a Lot during periods of approved construction.

The Association shall have the right to establish and maintain on the premises appropriate storage yards and storage buildings within the Common Areas for the maintenance of materials and equipment used by the Association in connection with its planting, building, repair, maintenance and preservation of the structures, gardens and other Improvements which the Association is obligated to repair and maintain.

(i) Clotheslines. No exterior clothesline shall be erected or maintained and there shall be no drying or laundering of clothes on any Lot in a manner which is visible from any neighboring Lot, neighboring Condominium or the Common Area.

(j) Antennas and Similar Devices. Owners are entitled to maintain antennas on their Residences or Condominiums which are designed for customary television and radio broadcast reception. Nevertheless, in order to ensure adequate aesthetic controls and to maintain the general attractive appearance of the Properties, no Owner, resident or lessee shall, at his or her expense or

otherwise, place or maintain any objects, such as masts, towers, poles, television and radio antennas, or television satellite reception dishes on or about the exterior of any building within the Properties unless Environmental Control Committee approval is first obtained in accordance with Article V hereof. Furthermore, no activity shall be conducted on any Lot which causes an unreasonable broadcast interference with television or radio reception on any neighboring Lot, or Condominium.

(k) Machinery and Equipment. No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot except such machinery or equipment as is usual or customary in connection with the use, maintenance or repair of a private Residence, Condominium or appurtenant structures within a rural common interest development such as Tahoe Donner.

(l) Diseases and Pests. No Owner shall permit any thing or condition to exist upon his or her Lot or Condominium which shall induce, breed or harbor infectious plant diseases, rodents or noxious insects.

(m) Parking and Vehicle Restrictions.

(i) All driveways and garages, if any, on Lots shall be maintained in a neat and orderly condition. Garages are to be used for the parking of standard passenger vehicles and trucks, not to exceed the size of a one-ton pick up truck, boats or similar items for storage purposes and shall not be converted to living quarters or work shops which will preclude the parking of the Owner's or occupant's vehicles within the garage. It is the intent of this restriction to avoid regular and prolonged parking of cars, trailers and recreation vehicles in driveways. Designated guest parking areas within the Common Areas are to remain open for use by guests only and are not to be used by Owners or other residents, either permanently or temporarily, for the parking of their passenger vehicles or the storage of boats, trailers or similar items.

(ii) No motor vehicle shall be constructed, reconstructed or repaired within the Properties and no dilapidated or inoperable vehicle, including vehicles without wheel(s) or an engine, shall be stored on the Properties; provided, however that the provisions of this section shall not apply to emergency vehicle repairs which do not take more than 72 hours to complete.

(iii) The Board shall have the authority to tow or restrain by use of devices such as the "Denver Boot," at the Owner's expense, any vehicle parked or stored on any private roadway or parking area within the Common Areas in violation of this section. The Board shall post such notices or signs within the Common Area as may be required by law to effectuate this towing provision.

(iv) The Association Rules may include such additional reasonable rules and restrictions of uniform application regarding parking and the use of vehicles within the Properties as the Board may deem prudent and appropriate. Without limiting the foregoing, the rules can include special provisions or restrictions applicable only to recreational vehicles in excess of one-ton, boats and trailers.

(n) Activities Affecting Insurance. Nothing shall be done or kept on any Lot or within the Common Area which will increase the rate of any insurance

policy without the prior written consent of the Association and no Owner shall permit anything to be done or kept on his or her Lot, Condominium or the Common Area which would cause any improvements to be uninsurable against loss by fire or casualty or result in the cancellation of insurance on any Residence, Condominium or any part of the Common Area.

Section 2. Commercial Lots.

(a) Use of Commercial Lots. All Commercial Lots shall be used only for office and professional purposes, retail sales and service establishments, including without limitation, gift shops, barber and beauty shops, clothing stores, drug stores, food and beverage stores, sporting goods, dry cleaners, laundromat, restaurants, locksmith, automobile service stations (including incidental automobile repair services), real estate sales or rental offices and mini-storage facilities. All Improvements on Commercial Lots shall be subject to Environmental Control Committee approval in accordance with Article V hereof.

(b) Prohibited Uses. Notwithstanding any provision of any applicable zoning ordinance of the County of Nevada, California, or any use permitted thereby, no Commercial Lot nor any part thereof shall be used, and no building or other improvement shall be constructed, maintained, or used, for: automobile sales (new and used), trailer or mobile home sales, automobile repair garages, radio transmitter stations or towers, escort or dating bureaus, massage parlors, motels or hotels, automatic or self-service car washes, movie theaters, auditoriums, pool or billiard halls, skating rinks, mortuary or funeral homes, plumbing, electrical, heating and air conditioning or similar businesses which customarily involve the exterior storage of materials or high volumes of traffic, and similar service establishments.

(c) Additional Prohibited Uses. Operations and Nuisances. No use or operation shall be made, conducted, or permitted on or with respect to any Commercial Lot which is obnoxious to, or out of harmony with, the environment of Tahoe Donner, including but not limited to the following:

- (i) Any public or private nuisance;
- (ii) Any noise or sound that is objectionable due to intermittence, beat, frequency, shrillness or loudness;
- (iii) Any obnoxious odor;
- (iv) Any noxious, toxic, caustic or corrosive fuel or gas;
- (v) Any dust, dirt or fly ash in excessive quantities;
- (vi) Any unusual fire, explosion or other damaging or dangerous hazard;
- (vii) Any airport or landing field;
- (viii) Any convent or monastery;
- (ix) Any fraternity or sorority house;



- (x) Any new single family residence;
- (xi) Any multiple family residence;
- (xii) Any institution or home for the treatment of alcoholics, drug addicts or the mentally infirm;
- (xiii) Any jail farm, honor farm or detention facility used for the detention or rehabilitation of law breakers or prisoners;
- (xiv) Any mobile home park;
- (xv) Any warehouse (other than mini-storage), provided, however, that any area for the storage of goods intended to be sold at any retail establishment on a Commercial Lot shall not be deemed to be a warehouse;
- (xvi) Any manufacturing, assembling, distillating, refining, smelting, agricultural, or mining operations;
- (xvii) Any "second hand" store, government "surplus" store or store commonly referred to as a "discount house";
- (xviii) Any trailer court, junk yard, stock yard or animal raising facility (other than a pet shop);
- (xix) Any billboard;
- (xx) Any drilling for, or removal of, subsurface substances;
- (xxi) Any dumping, disposal, incineration or reduction of garbage or refuse;
- (xxii) Any fire or bankruptcy sale or auction house operation; or
- (xxiii) Any use prohibited by or contrary to any applicable zoning ordinance of the County of Nevada, California, or any law.

(d) Vehicle Parking. No mobile home, travel trailer, truck, camper, boat, dune buggy, house trailer, automobile, or similar vehicle shall be placed or kept upon any Commercial Lot except within an enclosed building or structure which prevents view thereof from outside such building or structure; provided, however, that nothing contained herein shall prohibit the temporary parking of any commercial vehicle in or on any loading or delivery area, truck ramp, or vehicle parking area for the purpose of delivery of materials to any structure or business establishment within any Commercial Lot; and provided further, however, that nothing contained herein shall prohibit the temporary parking of any motor vehicle within motor vehicle parking areas by any Owner, occupant, tenant, concessionaire or permitted for purposes connected with or incidental to any permitted business or use being made of any portion of the Property.

(e) Outside Sales or Storage. All sales, display and storage shall be within an enclosed building, and no portion of the Properties shall be used for outside sales, display or storage of any material or equipment of any nature whatsoever, including, without limiting the generality of the foregoing, any



building materials, machines, tools, implements, furniture, landscaping materials, irrigation pipes or apparatus; provided, however, that nothing contained herein shall prohibit use of any portion of the Properties for a nursery or garden shop. In the event any portion of the Properties is used for a nursery or garden shop, an outside sales display and storage area will be permitted (provided the same is not prohibited by any applicable zoning ordinance of the County of Nevada, California), which such area may be open for the sale, display and storage of plants, shrubs and trees, provided that any such area for the sale, display, or storage of other materials or equipment shall be enclosed by a fence of a height and material approved by the Environmental Control Committee.

(f) Noise Level. No activity shall be undertaken or permitted upon any portion of any Commercial Lot which will cause any sound, whether intermittent, recurrent or continuous, in excess of 55 decibels (dbs) measured at any point on any boundary line of said Lot.

(g) Signs. The Association Rules may include uniform and non-discriminatory regulations concerning the design, size and placement of signs on Commercial Lots.

### Section 3. All Lots (Residential, Commercial and Multiple Family).

(a) Restriction on Further Subdivision and Severability. Except for Multiple Family Residential Lots, no Lot shall be further subdivided nor shall less than all of any such Lot be conveyed by an Owner thereof. No Owner of a Lot or Condominium within the Properties shall be entitled to sever that Lot or Condominium from the Common Area portion of the Properties.

(b) Variances. Upon application by any Owner, the Environmental Control Committee shall be authorized and empowered to grant reasonable variances from the property use restrictions set forth in this Article VIII, if specific application of the restriction will, in the sole discretion of the Committee, either cause an undue hardship to the affected Owner or fail to further or preserve the common plan and scheme of development contemplated by this Declaration. In considering and acting upon any request for a variance, the Committee shall follow the procedures set forth in Article V, section 8 for the granting of architectural variances. The same right of appeal to the Board of Directors set forth in Article V, section 12 shall apply to any Committee action pursuant to this section.

(c) Enforcement of Property Use Restrictions. The objective of this Declaration shall be to promote and seek voluntary compliance by Owners and tenants with the environmental standards and property use restrictions contained herein. Accordingly, in the event that the Association becomes aware of an architectural or property use infraction that does not necessitate immediate corrective action under Article XIII, section 6 hereof, the Owner or Tenant responsible for the violation shall receive written notice thereof and shall be given a reasonable opportunity to comply voluntarily with the pertinent Governing Document provision(s). Such notice shall describe the noncomplying condition, request that the Owner or tenant correct the condition within a reasonable time specified in the notice and advise the Owner or tenant of his or her right to be heard.

(d) Additional Restrictions.

(i) There shall be no hunting or discharge of firearms on any Lot.

(ii) There shall be no water well on any Lot, unless (a) a permit has been obtained from the ECC for the use of a water well thereon, and (b) the location of, and facilities used in connection with such well have been approved by the ECC.

(iii) There shall be no blasting or discharge of explosive upon any Lot, without the express prior approval of the ECC.

Section 4. Other Association Real Property. As noted herein, the Association holds title to certain parcels of real property, more particularly described in Exhibit "D", which is not encumbered as Common Area ("Other Association Real Property"). The use, enjoyment and development of the Other Association Real Property shall be in the sole discretion of the Board of Directors except that:

(a) Such use, enjoyment and development shall always be to the advantage and in the best interests of the Association and its Members; and

(b) On the vote of a majority of a quorum of the Members, all or any portion of the Other Association Real Property can be designated as Common Area. The minimum quorum for any vote of the Members hereunder shall be fifty percent of the total voting power and, in the event that the Members approve the re-designation of any Other Association Real Property as Common Area, evidence of such action shall be made a matter of record by Recordation of an appropriate written instrument, signed and acknowledged by the president and secretary of the Association.

**ARTICLE IX**  
**Easements**

Section 1. Utility Easements. Easements for installation and maintenance of utilities and drainage facilities are shown on the Subdivision Maps. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may change or interfere with the installation and maintenance of utilities, or which may damage, interfere or change the direction of flow of drainage facilities in the easements. The easement area of each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, or, if in a Common Area by the Association, except for those improvements for which a public authority or utility company is responsible.

Section 2. Recreational Easements. Recreational easements are shown on the Subdivision Maps. Within these easements, no structure of any kind shall be placed, erected, constructed or maintained, and no tree or vegetation shall be felled, cut, trimmed, pruned or removed, except as may reasonably be required by the Association to construct and maintain trails and park sites therein and/or for the construction and maintenance of public and private utility easements shown on the Subdivision Maps. Such easements shall at all times be open and accessible to the Members of the Association, their guests and invitees and such

other persons as may from time to time be designated by the Association, for right of way and general park purposes, subject to reasonable rules and regulations established by the Association.

Section 3. Maintenance of Easement Areas. No dwelling unit and/or other structure of any kind shall be built, erected or maintained upon any such easement, reservation or right of way, and said easements, reservations and rights of way shall, at all times, be open and accessible to public and quasi-public utility corporations, and other persons erecting, constructing, or servicing such utilities and quasi-utilities, all of whom shall have the right of ingress and egress thereto and therefrom, and the right and privilege of doing whatever may be necessary in, under and upon said locations for the carrying out of any of the purposes for which said easements, reservations and rights of way are hereby reserved and may hereafter be reserved.

Section 4. Slope Control Areas. Slope control areas are reserved as shown on the Recorded Subdivision Maps. Within these slope control areas no structure, planting or other materials shall be placed or permitted to remain or other activities undertaken which may damage or interfere with established slope ratios, create erosion or sliding problems, or which may change the direction of the flow of drainage channels. The slope control areas of each Lot and all improvements in them shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible.

Section 5. Other Easements. Each Lot and its Owner, and the Association as to the Common Area, are hereby declared to be subject to all the easements, dedications and rights-of-way granted or reserved in, on, over and under the Properties and each Lot and Common Area as shown on the Subdivision Map.

Section 6. Priority of Easements. Wherever easements granted to the County are, in whole or in part, coterminous with any other easements, the easements of the County shall have and are hereby granted priority over said other easements in all respects.

## **ARTICE X Insurance**

Section 1. Types of Insurance Coverage. The Association shall purchase, obtain and maintain, with the premiums therefore being paid out of Common Funds, the following types of insurance, if and to the extent such insurance, with the coverages described below, is available at a reasonable premium cost:

(a) Fire and Casualty Insurance. A policy of fire and casualty insurance naming as parties insured the Association and any Mortgagee of the Common Area, and containing the standard extended coverage and replacement cost endorsements and such other or special endorsements as will afford protection and insure, for the full insurable, current replacement cost (excluding foundations and excavation, but without deduction for depreciation) as determined annually by the insurance carrier, all Common Facilities and the personal property of the Association for or against the following:

(i) Loss or damage by fire or other risks covered by the standard

extended coverage endorsement.

(ii) Loss or damage from theft, vandalism or malicious mischief.

(iii) Such other risks, perils or coverage as the Board of Directors may determine.

Such policy or the endorsement made a part thereof shall, to the extent available, provide that the insurer issuing the policy agrees to abide by the decision of the Association made in accordance with the provisions of Article XI of this Declaration as to whether or not to repair, reconstruct or restore all or any damaged or destroyed portion of the Common Facilities.

(b) Public Liability and Property Damage Insurance. To the extent such insurance is reasonably obtainable, a policy of comprehensive public liability and property damage insurance naming as parties insured the Association, each member of the Board of Directors, any manager, the Owners and occupants of any Separate Interests, and such other persons as the Board may determine. The policy will insure each named party against any liability incident to the ownership and use of the Common Area and including, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than \$1 million covering all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall include coverage against water damage liability, liability for non-owned and hired automobiles, liability for property of others and any other liability or risk customarily covered with respect to projects similar in construction, location and use.

(c) Additional Insurance and Bonds. To the extent such insurance is reasonably obtainable, the Association may also purchase with Common Funds such additional insurance and bonds as it may, from time to time, determine to be necessary or desirable, including, without limiting the generality of this section, demolition insurance, flood insurance, and workers' compensation insurance. The Board shall also purchase and maintain fidelity bonds or insurance in an amount not less than 100 percent of each year's estimated annual operating expenses and shall contain an endorsement of any person who may serve without compensation. The Board shall purchase and maintain such insurance on personal property owned by the Association and any other insurance, including directors and officers liability insurance, that it deems necessary or desirable.

Section 2. Coverage Not Available. In the event any insurance policy, or any endorsement thereof, required by section 1 is for any reason not available, then the Association shall obtain such other or substitute policy or endorsement as may be available which provides, as nearly as possible, the coverage hereinabove described. The Board shall notify the Owners of any material adverse changes in the Association's insurance coverage.

Section 3. Copies of Policies. Copies of all insurance policies (or certificates thereof showing the premiums thereon have been paid) shall be retained by the Association and shall be available for inspection by Owners at any reasonable time.

Section 4. Trustee. All insurance proceeds payable under section 1 of this

Article, may, in the discretion of the Board of Directors, be paid to a trustee to be held and expended for the benefit of the Owners, Mortgagees and others, as their respective interests shall appear. Said trustee shall be a commercial bank in Nevada County that agrees in writing to accept such trust.

Section 5. Adjustment of Losses. The Board is appointed attorney-in-fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried pursuant to section 1 of this Article. The Board is granted full right and authority to compromise and settle any claims or enforce any claim by legal action or otherwise and to execute releases in favor of any insured.

Section 6. Insurance of Lots and Separate Interests. An Owner may carry whatever personal liability, property damage liability, fire and casualty insurance with respect to his or her Lot and Separate Interest that he or she desires. The Association shall have no responsibility for the adequacy or extent of such coverage.

## **ARTICLE XI**

### **Damage or Destruction**

Section 1. Common Facilities Bids and Determination of Available Insurance Proceeds. In the event any Common Facilities are ever damaged or destroyed, then, and in such event, as soon as practicable thereafter, the Board of Directors shall (a) obtain bids from at least two reputable, licensed contractors, which bids shall set forth in detail the work required to repair, reconstruct and restore the damaged or destroyed portions of the Common Facilities to substantially the same condition as they existed prior to the damage and the itemized price asked for such work, and (b) determine that amount of all insurance proceeds available to the Association for the purpose of effecting such repair, reconstruction and restoration.

Section 2. Common Facilities: Sufficient Insurance Proceeds. Subject to the provisions of section 1 hereof, if, in the event of damage to or destruction of any portion of any Common Facility, the insurance proceeds available to the Association are sufficient to cover the costs of repair, reconstruction and restoration, then the Association may cause such facilities to be repaired, reconstructed and restored; provided, however, that in the event of a total destruction of the Common Facility, the Association shall not be obligated to restore the Common Facility to its prior appearance and condition if, in the Board's opinion, architectural or design modifications to the Facilities will result in providing the Members with an improved facility available for substantially the same use and enjoyment as the destroyed facility.

Section 3. Common Facilities Insurance Proceeds Insufficient in an Amount Exceeding \$50,000. In the event that any Common Facility is totally or substantially damaged or destroyed or, if, in the event of damage to or destruction of only a portion of the Common Facilities, the insurance proceeds available to the Association are insufficient to complete the repair or restoration work and the amount of the deficiency, less reserves, if any, accumulated for the major repair or replacement of the facility exceeds five percent of the Association's budgeted gross expenses for the year, a Special Assessment may only be imposed to fund the deficiency if approved by the Members in accordance with Article IV, section 3(b). If the Owners do not approve a



Special Assessment to repair, reconstruct or restore the damaged or destroyed Common Facilities, the available insurance proceeds, together with any other sums otherwise available to the Association, for repair or reconstruction shall be used to demolish and remove the damaged or destroyed improvements from the Common Area and to level and landscape the sites thereof. Any balance of such proceeds and/or funds shall be applied as determined by a majority of a quorum of the Members.

Section 4. Damage or Destruction of Residences or Condominiums.

(a) Obligation to Rebuild or Clear Lot. In the event of damage to, or destruction of, a Residence or any Multiple Family Residential Structure (including, without limitation, a Condominium building) by fire or other casualty, the Owner or Owners thereof shall, within six months thereafter, either:

(i) Diligently commence to rebuild the structure in accordance with this Declaration and the Environmental Control Committee Rules; or

(ii) Clear and level the Lot, removing all wreckage, debris and other evidence of damage to the property.

The time limitations for action hereunder can be modified, in the discretion of the Environmental Control Committee, if necessary to accommodate delays due to weather or other factors. Any request for additional time shall be submitted to the Committee in accordance with Article V, sections 9, 10 and 11, hereof.

(b) Environmental Control Committee Approval. Any Owner whose Residence or Condominium has suffered damage shall apply to the Environmental Control Committee for approval of plans for the reconstruction, rebuilding or repair of the Structure. Application for such approval shall be made in writing together with full and complete plans, specifications, working drawing and elevations showing the proposed reconstruction and the end result thereof. The Environmental Control Committee shall grant such approval only if the design proposed by the Owner would result in a finished Residence or Condominium unit in harmony with the exterior design of other Residences or adjoining Condominiums within the Properties. Notwithstanding the foregoing requirements, an Owner of a damaged or destroyed Residence shall not be obligated to observe the Minimum Construction Standards of Article VI which impose a minimum square footage requirement of 1,200 square feet (Article VI, section 2(a)) or authorize the ECC to impose side yard set backs in excess of five feet (Article VI, section 2(c)(ii)) if the Owner intends to reconstruct his or her Residence substantially as it appeared and was located prior to being damaged or destroyed.

(c) Time Limitation for Reconstruction or Removal. The Owner or Owners of any damaged Residence(s) or Condominiums shall be obligated to proceed with all due diligence hereunder, and the Owner(s) shall commence reconstruction within six months after the damage occurs and complete reconstruction or removal of damaged structures within the time requirements established by the Environmental Control Committee for similar construction in the ECC Rules.



**ARTICLE XII**  
**Condemnation**

If all or part of the Common Area shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages for or on account of the taking of the Common Area, exclusive of compensation for consequential damages to certain affected Lots or Parcels, shall be payable to the Association as trustee for all Owners and mortgagees according to the loss or damages to their respective interest in the Common Area. The Association, acting through its Board of Directors, shall have the right to act on behalf of the Owners with respect to the negotiation, settlement and litigation of the issues with respect to the taking and compensation affecting the Common Area. Each Owner hereby designates and appoints the Association as his or her attorney-in-fact for such purposes.

**ARTICLE XIII**  
**Breach and Default**

Section 1. Remedy at Law Inadequate. Except for the nonpayment of any Assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration are inadequate and that the failure of any Owner, tenant, occupant or user of any Separate Interest or any portion of the Common Area or Common Facilities to comply with any provision of the Governing Documents may be enjoined by appropriate legal proceedings instituted by any Owner, the Association, its officers or Board of Directors, or by their respective successors in interest.

Section 2. Nuisance. Without limiting the generality of the foregoing section 1, the result of every act or omission whereby any covenant contained in this Declaration is violated in whole or in part is hereby declared to be a nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.

Section 3. Costs and Attorneys' Fees. In any action brought because of any alleged breach or default of any Owner or other party hereto under this Declaration, the court may award to any party to such action such attorneys' fees and other costs as it may deem just and reasonable.

Section 4. Cumulative Remedies. The respective rights and remedies provided by this Declaration or by law shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different default or breach or for the same or any different failure of any Owner or others to perform or observe any provision of this Declaration.

Section 5. Failure Not a Waiver. The failure of any Owner, the Board of Directors, the Association or its officers or agents to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or

easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Association or the Board, or any of its officers or agents.

Section 6. Rights and Remedies of the Association.

(a) Rights Generally. In the event of a breach or violation of any Association Rule or of any of the restrictions contained in any Governing Document by an Owner, his or her family or the Owner's guests, employees, invitees, licensees or tenants, the Board, for and on behalf of all other Owners, may enforce the obligations of each Owner to obey the Association Rules and/or the covenants and restrictions contained herein through the use of such remedies as are deemed appropriate by the Board and available in law or in equity, including but not limited to: (i) the hiring of legal counsel; (ii) the imposition of fines and monetary penalties; (iii) the pursuit of legal action; (iv) the suspension of the Owner's right to use recreational Common Facilities; or (v) suspension of the Owner's voting rights as a Member of the Association; provided, however, the Association's right to undertake disciplinary action against its Members shall be subject to the conditions set forth in this section.

The decision of whether it is appropriate or necessary for the Association to initiate enforcement or disciplinary action in any particular instance, and the nature and extent of the action taken, shall be matters which are within the sole discretion of the Board or its duly authorized enforcement committee. If the Association declines to take action in any instance, any Owner shall have such rights of enforcement as exist by virtue of section 1354 of the California Civil Code or otherwise by law.

(b) Schedule of Fines. The Environmental Control Committee shall implement a schedule of reasonable fines and penalties for offenses related to ECC matters. This schedule will be approved by the Board as part of the ECC Rules and Regulations as described in Article V, section 5 hereof. The Board shall implement a schedule of other fines and penalties for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate (such as penalties for late payment of Assessments). Once imposed, all fines and penalties may be collected as a Special Individual Assessment as set forth in Article IV, section 5, hereof. If a fine schedule is adopted, it shall be published at least once a year in the Association's newsletter.

(c) Definition of "Violation", A violation of the Governing Documents shall be defined as a single act or omission occurring on a single day. If the detrimental effect of a violation continues for additional days, discipline imposed by the Board may include one component for the violation and, according to the Board's discretion, a per diem component for so long as the detrimental effect continues. Similar violations on different days shall justify cumulative imposition of disciplinary measures. The Association shall take reasonable and prompt action to repair or avoid the continuing damaging effects of a violation or nuisance occurring within the Common Area at the cost of the responsible Owner.

(d) Limitations of Disciplinary Rights .

(i) Loss of Rights; Forfeitures. So long as the Association's actions satisfy the due process requirements of subparagraph (ii) below, the Association shall have the power to discipline an Owner or cause a forfeiture or abridgment of the Owners right to the full use and enjoyment of his or her privileges as a Member due to the failure by the Owner (or his or her family members, tenants, guests or invitees) to comply with any provision of the Governing Documents or of any duly enacted Association Rule under the following circumstances: (A) where the loss or forfeiture is the result of the judgment of a court of competent jurisdiction; (B) where the action results from a decision arising out of arbitration or a foreclosure or sale under a power of sale for failure of the Owner to pay Assessments levied by the Association; or (C) where the loss or forfeiture is limited to a temporary suspension of an Owner's rights as a Member of the Association or the imposition of monetary penalties for failure to pay Assessments or otherwise comply with any Governing Documents.

(ii) Hearings. No penalty or temporary suspension of rights shall be imposed pursuant to this Article unless the Owner alleged to be in violation is given at least 15 days prior notice of the proposed penalty or temporary suspension and is given an opportunity to be heard before the Board of Directors or appropriate committee established by the Board with respect to the alleged violation(s) at a hearing conducted at least 5 days before the effective date of the proposed disciplinary action.

Notwithstanding the foregoing, under circumstances involving conduct that constitutes (A) an immediate and unreasonable infringement of, or threat to, the safety or quiet enjoyment of neighboring Owners; (B) a traffic or fire hazard; (C) a threat of material damage to, or destruction of, the Common Area or Common Facilities; or (D) a violation of the Governing Documents that is of such a nature that there is no material question regarding the identity of the violator or whether a violation has occurred (such as late payment of Assessments or parking violations), the Board of Directors, or its duly authorized agents, may undertake immediate corrective or disciplinary action and, upon request of the offending Owner (which request must be received by the Association, in writing, within ten days following the Association's disciplinary action), or on its own initiative, conduct a hearing as soon thereafter as reasonably possible.

If the Association acts on its own initiative to schedule a hearing, notice of the date, time and location of the hearing shall accompany the notice of disciplinary action. If the accused Owner desires a hearing under circumstances described in the immediately preceding paragraph where the Association is authorized to initiate summary action, a written request therefore shall be delivered to the Association no later than five days following the date when the fine is levied or other enforcement action is initiated. The hearing shall be held as soon as reasonably practical, but in no event later than 45 days following the date of the disciplinary action or 45 days following receipt of the accused Owners request for a hearing, whichever is later. Under such circumstances, any fine or other disciplinary action shall be held in abeyance and shall only become effective if affirmed at the hearing.

(e) Notices. Any notice required by this Article shall, at a minimum, set forth the date and time for the hearing, a brief description of the action or inaction constituting the alleged violation of the Governing Documents and a reference to the specific Governing Document provision alleged to have been

violated. The notice shall be in writing and may be given by any method reasonably calculated to give actual notice; provided, however, that if notice is given by mail, it shall be sent by first-class or certified mail to the last address of the Member shown on the records of the Association.

(f) Rules Regarding Disciplinary Proceedings. The Board, or an appropriate committee appointed by the Board to conduct and administer disciplinary hearings and related proceedings, shall be entitled to adopt rules that further elaborate and refine the procedures for conducting disciplinary proceedings. Such rules, when approved and adopted by the Board, shall become a part of the Association Rules.

#### Section 7. Covenants Committee.

(a) Appointment of Committee. Acting pursuant to Article X, section 1 of the Bylaws, the Board of Directors may establish a Covenants Committee to hear and decide cases involving alleged violations of the Governing Documents and the Association Rules. If a covenants committee is established, no Member of the Board of Directors or the ECC or any member of the immediate family of a director or ECC member shall be eligible to serve on the committee. If no committee is established, the Board shall perform this function.

(b) Jurisdiction and Hearing Procedures of the Committee. The Covenants Committee shall review written complaints from Lot Owners, the General Manager or the Environmental Control Committee (for violations other than those relating to specific improvement projects within the jurisdiction of the Committee) of alleged violations of the Governing Documents or Association Rules, and, when determined appropriate, conduct hearings and make findings regarding the alleged violation(s). The Covenants Committee may levy penalties and/or fines (pursuant to a Board-approved fine schedule) in the event the allegations regarding such violations are found to be true. To perform the foregoing, the Covenants Committee shall adopt rules of procedure for enforcement hearings and shall conduct its hearings in accordance with such rules after they have been approved by the Board. Notwithstanding the foregoing, enforcement of specific violations of architectural and/or land use requirements relating to Improvement projects submitted to, and reviewed by, the Committee shall remain the jurisdiction of the Environmental Control Committee pursuant to Article V, section 7.

(c) Appeals. The decisions of the Covenants Committee, if established, shall be appealable to the Board of Directors within 15 calendar days following receipt of the committee's decision. The Board shall have the discretion to hear any appealed matter or decline to take the appeal and thus affirm the decision of the Covenants Committee. Any decision to decline an appeal shall be based on a reasonable determination from the record that the appeal lacks merit. Decisions of the Board shall be final and in writing. If the determination of the Covenants Committee is reversed or modified by the Board, the Board's decision shall explain why such action was taken. Procedures for appeal and the hearing of appeals, consistent with this Article XIII, may be included in the Association Rules.

(d) Court Actions. Court actions to enforce the Governing Documents may only be initiated on behalf of the Association with the prior approval of the Board.

**ARTICLE XIV**  
**Notices**

Section 1. Mailing Addresses. Any communication or notice of any kind permitted or required herein shall be in writing and may be served, as an alternative to personal service, by mailing the same as follows:

If to any Owner:

To the street address of his or her Separate Interest or to such other Address as may appear on the books of the Association as the Owner's mailing address.

If to the Association or the Environmental Control Committee:

To the Tahoe Donner Association or the Tahoe Donner Environmental Control Committee at the principal office of the Association (or to such other address as the Association/Committee may from time to time designate in writing to the Owners)

Section 2. Personal Service Upon Co-Owners and Others. Personal service of a notice or demand to one of the co-Owners of any Separate Interest, to any general partner of a partnership which is the Owner of Record of the Separate Interest, or to any officer or agent for service of process of a corporation which is the Owner of Record of the Separate Interest, shall be deemed delivered to all such co-Owners, to such partnership or to such corporation, as the case may be.

Section 3. Deposit in United States Mails. All notices and demands served by mail shall be sent by first-class mail, with postage prepaid, and shall be deemed delivered four days after deposit in the United States mail in Nevada County, California.

**ARTICLE XV**  
**No Public Rights in the Properties**

Nothing contained in this Declaration shall be deemed to be gift or dedication of all or any portion of the Properties to the general public or for any public use or purpose whatsoever. However, by prior dedication, roadways within the Properties are County thoroughfares.

**ARTICLE XVI**  
**Amendment of Declaration**

Section 1. Amendment in General. This Declaration may be amended or revoked in any respect by the vote or assent by written ballot of the holders of at least a simple majority (50 percent plus one) of the Members. Notwithstanding the foregoing, the percentage of the voting power necessary to amend a specific clause or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause.



Section 2. Effective Date of Amendment. The amendment will be effective upon the Recordation of a Certificate of Amendment, duly executed and certified by the president and secretary of the Association, setting forth in full the amendment so approved and that the approval requirements of section 1 above have been duly met. Notwithstanding anything to the contrary herein contained, no such amendment shall affect the rights of the holder of any first Mortgage recorded prior to the Recording of such amendment. If the consent or approval of any governmental authority or other entity is required under this Declaration to amend or revoke any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained.

Section 3. Reliance on Amendments. Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

## **ARTICLE XVII**

### **General Provisions**

Section 1. Term. The covenants, restrictions, limitations, reservations, grants of easement, rights, rights-of-way, liens, charges and equitable servitudes contained in this Declaration shall run with, and shall benefit and burden, the Separate Interests and the Common Area as herein provided, and shall inure to the benefit of and be binding upon the Owners, the Association, its Board of Directors, and its officers and agents, and their respective successors in interest, for the term of 60 years from the date of the Recordation of this Declaration, after which time the same shall be automatically extended for successive periods of 10 years each unless, within 6 months prior to the expiration of the initial 60-year term or any such 10-year extension period, a recordable written instrument, approved by Owners entitled to vote and holding at least a majority of the voting power of the Association terminating the effectiveness of this Declaration, shall be Recorded.

Section 2. Annexation of Additional Property.

(a) Membership Approval Required. Additional real property may be annexed to the Properties and brought within the general plan and scheme of this Declaration upon the approval by vote or written consent of Members entitled to exercise not less than a majority of the voting power of the Association. As used herein, the term "annexation" shall not include any acquisition of real property by the Association as Common Area or Other Association Real Property and not for subdivision purposes; provided, however, that in the event a Special Assessment is required to acquire such property, the provisions of Article IV, section 3 shall apply. Upon obtaining the requisite approval pursuant to this section 2, the owner of any real property who desires to annex such property to the Properties and add it to the general plan and scheme of this Declaration and subject the property to the jurisdiction of the Association, shall Record a Declaration of Annexation as more particularly described in subsection (b) below.

(b) Declaration of Annexation. Any annexations of real property to the Properties authorized under subparagraph (a), above, shall be effected by Recordation of a Declaration of Annexation, or other similar instrument, with



respect to the additional real property. The Declaration of Annexation: (i) shall be executed by the owner of the subject property; (ii) shall extend the general plan and scheme of this Declaration to such real property; and (iii) may contain such additions to, and modifications of, the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added real property so long as the supplemental restrictions are consistent with the general plan and scheme of this Declaration and all applicable laws and governmental regulations. Any such supplemental declaration may set forth use restrictions and the design and building standards which shall apply to the annexed parcel in question or may give blanket approval for development of that parcel in accordance with specific architectural plans and drawings which are signed dated and incorporated by reference in the supplemental declaration.

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 Properties and be subject to, and encompassed within, the general plan and scheme of this Declaration. Lots within the annexed property shall thereupon become subject to Assessment by the Association and to the functions, powers and jurisdiction of the Association, and the Owners of Lots within the annexed real property shall automatically become Members of the Association.

### Section 3. Construction.

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

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

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

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

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

(f) Effective Date. This Declaration shall become effective upon its approval by the Members as attested by the signature of the president and secretary set forth below and its Recordation in the Office of the County

Recorder (the "Effective Date"). In the event that any of the minimum construction standards of Article VI or the property use restrictions of Article VIII are more restrictive than corresponding provisions contained in the Original Declarations, the provisions of the Original Declarations shall continue to apply to (i) any completed Improvements or Structures; (ii) any existing uses authorized by the Original Declarations and not subject to regulation under Article VI, section 1(e); (iii) any projects for the construction of Improvements or Structures authorized by the ECC prior to the Effective Date which remain under construction on said date, and (iv) any projects for the construction of Improvements or Structures for which plans and specifications have been prepared (regardless of submittal to the ECC) if the Owner demonstrates to the ECC that modification of the plans to conform to this Declaration will adversely affect the aesthetics or cost of the project.

DATED: January 11, 1992

TAHOE DONNER ASSOCIATION, a California  
nonprofit mutual benefit corporation

By Ruth Cowan

(President)

By D.C. McCormack

(Secretary)

State of California )  
County of Nevada ) ss.

On this 11th day of January 1992, before me, Jacquelyn Colton, the undersigned  
notary public, personally appeared Ruth Cowan and D.C. McCormack personally  
known to me to be the persons whose names are subscribed to the within  
instrument, and acknowledged that they executed it.  
Witness my hand and official seal.

Jacquelyn Colton  
Jacquelyn Colton

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**TAHOE DONNER ASSOCIATION**

**EXHIBIT "A"**

**ORIGINAL DECLARATIONS BEING AMENDED AND RESTATED**

DECLARATIONS OF COVENANTS AND RESTRICTIONS OF THE TAHOE DONNER ASSOCIATION, UNIT 1. Recorded in Nevada County, May 18, 1971, in Book 553, Page 343 and amended by order of Frank D. Francis, Judge of the Superior Court, County of Nevada, #34421, Dated June 17, 1986 and recorded on June 18, 1986, Document # 86-20130.

SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, TAHOE DONNER, UNIT 2. Recorded by Nevada County on June 30, 1971, #9236, Volume 559, Page 26.

SECOND SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, TAHOE DONNER, UNIT 2. Recorded by Nevada County on August 10, 1971, #12216, Volume 565, Page 49.

THIRD SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, TAHOE DONNER, UNIT 2. Recorded by Nevada County on March 6, 1975, #3719, Volume 730, Page 467.

AMENDMENT TO THIRD SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, TAHOE DONNER, UNIT 2. Recorded by Nevada County on March 17, 1989, #89-06577.

SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, TAHOE DONNER, UNIT 3. Recorded by Nevada County August 13, 1971, #12435, Volume 565, Page 351.

AMENDED SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, TAHOE DONNER, UNIT 3. Recorded by Nevada County August 18, 1971, #12844, Volume 566, Page 228.

SECOND SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, TAHOE DONNER, UNIT 3. Recorded by Nevada County, March 6, 1975, #3718, Volume 730, Page 445.

THIRD SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, TAHOE DONNER, UNIT 3. Recorded by Nevada County on May 27, 1976, #9604, Volume 794, Page 98.

FIFTH SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, TAHOE DONNER, UNIT 3. Recorded by Nevada County on January 11, 1977, #726, Volume 835, Page 198.

SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, TAHOE DONNER, UNIT 4. Recorded by Nevada County November 23, 1971, #19513, Volume 579, Page 67.

SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, TAHOE DONNER, UNIT 5. Recorded by Nevada County November 27, 1972, #20456, Volume 625, page 32.

SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, TAHOE DONNER, UNIT 6. Recorded by Nevada County, July 7, 1972, #11298, Volume 606, Page 475.

SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, TAHOE DONNER, UNIT 7.



Recorded by Nevada County, November 27, 1972, #20455, Volume 625, Page 29.

SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, TAHOE DONNER UNIT 8.  
Recorded by Nevada County June 15, 1973, # 9826, Volume 648, Page 493.

SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, TAHOE DONNER, UNIT 9.  
Recorded by Nevada County December 20, 1976, # 26416, Volume 831, Page 327.

SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, TAHOE DONNER UNIT 10.  
Recorded by Nevada County December 20, 1976 #26415, Volume 831, Page 323.

SUPPLEMENTAL DECLARATION OF COVENANTS AND RESTRICTIONS, TAHOE DONNER, UNIT 11.  
Recorded by Nevada County June 15, 1973, # 9827, Volume 648, Page  
496.

**TAHOE DONNER ASSOCIATION**

**EXHIBIT "B"**

**LEGAL DESCRIPTION OF THE PROPERTIES**

**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 574, inclusive and Lots 582 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 567, 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.

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

UNIT 10 Lots 1 through 488 inclusive of Tahoe Donner Unit 10, as shown on the Official Map thereof, filed in the office of the Nevada County Recorder on

July 5, 1973, in Book 4 of Subdivision Maps, at Page 55.

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

"TAHOE DONNER SKI BOWL CONDOMINIUMS", and the "TAHOE DONNER LODGE CONDOMINIUMS", all real property lying within the unincorporated territory of Nevada County, California, and situate in Section 1, Township 17 North, Range 15 East, M.D.B. & M., and more particularly described as Lot 64 and a portion of Parcel R of Tahoe Donner Unit 3 as said lot and parcel are so designated and 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.

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

UNIT 3 Lot 259, is the Nevada County maintenance site.

UNIT 10 Parcel B is a proposed school site.

UNIT 11 Parcel K is a fire station site.

B. Common Areas:

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

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

UNIT 1: Parcel A through N, inclusive and Lot 184 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 Subdivision Maps, Page 21.

UNIT 2: Parcels A through L, inclusive and Parcel N of the Tahoe Donner Unit No. 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, Page 23.

"Trout Creek Condo Property" (formerly Lots 428 through 439 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 \_\_\_\_\_) and as further described in the deed recorded November 22, 1988, series No. 88-31745.

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

UNIT 3: A portion of Parcel R ("Ski Area Day Lodge") of 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 and 79 ("Ski Area Parking Lots) 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.

"Maintenance Facility", Parcels 1, 2 and 3 as shown on the parcel map (formerly Tahoe Donner Unit 3, Lots 257, 258 and Lots 172, 173 of Unit 11 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) filed in the office of the Nevada County Recorder, on December 28, 1979, in Book 17 of Parcel Maps, at Page 38.

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

Lots 11, 12, 13, 14 and 15 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.

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

UNIT 4: Parcels A through M, 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: Parcels A through H inclusive and Parcel L (Boat Storage Lot) within 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: Parcels A through N, inclusive and Parcel P ("The Equestrian Center") located within 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: Parcels A through K inclusive and Parcel L ("The Campground") located within 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: parcels A through H inclusive, Parcels J through Y inclusive and lots 238 and 239, located within Tahoe Donner Unit 7, as shown on the Official Map thereof, filed in the offices of the Nevada County Recorder on March 13, 1973, in Book 4 of Subdivision Maps, at Page 43.

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

Page 57.

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

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

C. Other Association Real Property:

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

"32 Acres", Parcel A of parcel map recorded with the Nevada County Recorder on June 23, 1987, in Book 17 of Parcel Maps at Page 121.

"Corner of Donner Pass Road and Northwoods Blvd", Parcel 1 of parcel map recorded with Nevada County Recorder on September 15, 1976, in Book 10 of Parcel Maps at Page 177.



**TAHOE DONNER ASSOCIATION**

**EXHIBIT "C"**

**LEGAL DESCRIPTION OF THE COMMON AREAS**

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

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

UNIT 1: Parcel A through N, inclusive and Lot 184 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 Subdivision Maps, Page 21.

UNIT 2: Parcels A through L, inclusive and Parcel N of the Tahoe Donner Unit No. 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, Page 23.

"Trout Creek Condo Property" (formerly Lots 428 through 439 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 \_\_\_\_\_) and as further described in the deed recorded November 22, 1988, series No. 88-31745.

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

UNIT 3: A portion of Parcel R ("Ski Area Day Lodge") of 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 and 79 ("Ski Area Parking Lots) 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.

"Maintenance Facility", Parcels 1, 2 and 3 as shown on the parcel map (formerly Tahoe Donner Unit 3, Lots 257, 258 and Lots 172, 173 of Unit 11 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) filed in the office of the Nevada County Recorder, on December 28, 1979, in Book 17 of Parcel Maps, at Page 38.

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

Lots 11, 12, 13, 14 and 15 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.

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

UNIT 4: Parcels A through M, 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: Parcels A through H inclusive and Parcel L (Boat Storage Lot) within 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: Parcels A through N, inclusive and Parcel P ("The Equestrian Center") located within 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: Parcels A through K inclusive and Parcel L ("The Campground") located within 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: Parcels A through H inclusive, Parcels J through Y inclusive and lots 238 and 239, located within Tahoe Donner Unit 7, as shown on the Official Map thereof, filed in the offices of the Nevada County Recorder on March 13, 1973, in Book 4 of Subdivision Maps, at Page 43.

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

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

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

**TAHOE DONNER ASSOCIATION**

**EXHIBIT "D"**

**LEGAL DESCRIPTION OF OTHER ASSOCIATION REAL PROPERTY**

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

"32 Acres", Parcel A of parcel map recorded with the Nevada County Recorder on June 23, 1987, in Book 17 of Parcel Maps at Page 121.

"Corner of Donner Pass Road and Northwoods Blvd", Parcel 1 of parcel map recorded with Nevada County Recorder on September 15, 1976, in Book 10 of Parcel Maps at Page 177.

TAHOE DONNER ASSOCIATION

EXHIBIT "E"

ORDER OF NEVADA COUNTY SUPERIOR COURT  
REDUCING REQUIRED VOTING PERCENTAGE  
FOR  
FIRST RESTATED DECLARATION OF  
COVENANTS AND RESTRICTIONS OF TAHOE DONNER

FILED

1981 DEC 31 PM 3:54

RECEIVED  
M. PINA

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF NEVADA

In the Matter of ) NO. 45216  
TAHOE DONNER ASSOCIATION, a )  
California nonprofit mutual )  
benefit corporation, )  
Petitioner. )

R U L I N G

The Petition of Tahoe Donner Association to reduce the required voting percentage necessary to approve the amended Declaration of Covenants, Conditions and Restrictions at Tahoe Donner is granted and the amendment based upon the affirmative votes actually received is approved. The following findings are made pursuant to Section 1356 of the Civil Code.

1. That the Petitioner has given not less than fifteen (15) days' written notice of the court hearing to all members of the association. No mortgagee or governmental entity is entitled to notice.

2. That balloting on the proposed amendments was conducted in accordance with all applicable provisions of the governing instruments.

3. That a reasonably diligent effort was made to permit



1 all eligible members to vote on the proposed amendment.

2 4. That owners have more than fifty percent (50%) of  
3 the voting power of the association voted in favor of the amend-  
4 ment.

5 5. The amendment is reasonable.

6 6. There are no class or development voting rights  
7 which will be adversely affected by adoption of the amendment.

8 DATED: DECEMBER 31, 1991.

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13 FRANK D. FRANCIS  
14 Judge of the Superior Court  
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**OTHER C&Rs AFFECTING DIFFERENT PORTIONS OF THE ASSOCIATION**

The following Declarations affect certain parcels within Tahoe Donner and therefore supplement the Master Declaration with respect to those parcels.

Fourth Supplemental-Tahoe Donner Unit 3-Parcel H  
Recorded May 27, 1976, Document #9605  
Vol 794, Pages 104-107. (This relates to restrictions on improvements to Parcel H, Unit 3)

Amendment to Supplemental-Tahoe Donner Unit 8  
Recorded November 8, 1978, Document #33603  
Vol 996, Pages 556-557. (This relates to improvements on, and maintenance of, recorded easements within Unit 8)

Amendment to Supplemental-Tahoe Donner Unit 9  
Recorded November 8, 1978, Document #33604  
Vol 996, Pages 558-559. (This relates to improvements on, and maintenance of, recorded easements within Unit 9).

Amendment to Supplemental-Tahoe Donner Unit 10  
Recorded November 8, 1978, Document #33605  
Vol 996, Pages 560-561. (This relates to improvements on, and maintenance of, recorded easements within Unit 10).

Amendment to Supplemental-Tahoe Donner Unit 11.  
Recorded November 8, 1978, Document #33606  
Vol 966, Pages 562-563. (This relates to improvements on, and maintenance of, recorded easements within Unit 11)

**FOURTH SUPPLEMENTAL  
DECLARATION OF COVENANTS AND RESTRICTIONS  
TAHOE DONNER UNIT NO.3 - PARCEL H**

THIS DECLARATION is made this 24th day of May, 1976, by TAHOE DONNER ASSOCIATION, a California nonprofit corporation ("ASSOCIATION"), as follows:

1. RECITALS.

a. Association is the owner of, and the only person having any right, title or interest in and to, that certain real property described as:

Parcel H of Tahoe Donner Unit No. 3, as shown on the Official Map thereof filed in the Office of the County Recorder of the County of Nevada on August 11, 1971, in Book 4 of Subdivisions at Page 25,

b. Said parcel H of Tahoe Donner Unit No. 3 is subject to that certain Declaration of Covenants and Restrictions executed by Dart Industries Inc., a Delaware corporation, dated May 18, 1971 and recorded on May 18, 1971 in Book 553 of Official Records of the Recorder of the County of Nevada, State of California, at Page 343 (the "Original Covenants and Restrictions"); and to that certain Supplemental Declaration of Covenants and Restrictions (the "Supplemental Declaration") executed by Dart Industries Inc., dated August 9, 1971 and recorded on August 13, 1971 in Book 565 of said Official Records, at Page 351, as amended by an Amended Supplemental Declaration of Covenants and Restrictions (the "Amended Supplemental Restrictions") dated August 18, 1971 and recorded on August 18, 1971 in Book 566 of said Official Records, at Page 228.

c. Said Parcel H is "Common Area", as the same is defined in Paragraph 3 of the Original Covenants and Restrictions.

d. The purpose of this Declaration is to impose additional restrictions relative to the construction of improvements on that portion of said Parcel H as described on Exhibit "A" hereto in order to facilitate construction of a snow removal equipment storage and maintenance building on Lot 259 of Tahoe Donner Unit No. 3 to which said Parcel H is adjacent.

e. Association desires and intends by this Declaration to impose upon said Parcel H the mutual and beneficial easements, restrictions, covenants, conditions and charges provided for by this Declaration with the intent that this will assure a general plan for improvement, protection, maintenance, use and development of said Parcel H, which will benefit said Parcel H, said Lot 259 of Tahoe Donner Unit No. 3, and all of the real property within the Tahoe Donner Development and the owners thereof.

2. DECLARATIONS. Pursuant to Section 1468 of the California Civil Code, Association hereby declares that the real property situated in the County of Nevada, State of California, described as Parcel H, Tahoe Donner Unit 3, as shown in the Official Map of said Tahoe Donner Unit 3 filed in the Office of the County Recorder of the County of Nevada on August 11, 1971, in Book 4 of Subdivisions at Page 25, is now held, and shall hereafter be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, developed, maintained and improved subject to: (a) The original Covenants and Restrictions which are incorporated herein and made a part hereof by this reference except to the extent that any provision thereof is inconsistent with any provision of this Declaration, and (b) The covenants, conditions, restrictions, limitations, reservations, easements, rights-of-way, charges and equitable servitudes contained in this Declaration, all of which are hereby declared established and expressed to be (i) in furtherance of a general plan for the development, improvement, maintenance and use of Parcel H, Tahoe Donner Unit 3, and the Tahoe Donner development; and (ii) for the benefit and protection of Parcel H, Tahoe Donner Unit 3, and the Tahoe Donner development and for the purpose of enhancing and perfecting the value, desirability and attractiveness thereof. Association further declares that said Covenants and Restrictions shall run with said parcel H, Tahoe Donner Unit 3, and shall be binding upon and inure to the benefit of Association and each and every person having or acquiring any right, title or interest in said Parcel H or any portion thereof, and their respective grantees, heirs, executors, administrators, devisees, successors in interest, assigns or other persons deriving their interest from said parties.

Any conveyance, transfer, sale, assignment, lease or sublease of said parcel H, Tahoe Donner Unit 3, or any portion thereof, or any improvement thereon, or any interest therein, shall and is hereby deemed to incorporate by reference the provisions contained in this Declaration.

3. GENERAL RESTRICTIONS APPLICABLE TO PARCEL H. No person shall have the right to construct or maintain any structure, fence or other improvement upon that portion of Parcel H of Tahoe Donner Unit 3 as more particularly described on Exhibit "A" attached hereto and incorporated herein by this reference.

In WITNESS WHEREOF, Association has executed this Declaration the day and year first above written.

TAHOE DONNER ASSOCIATION  
California non-profit corporation

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/s/Lawrence C. Cardoza, President

**EXHIBIT "A"**

**Portion of Parcel "H" Tahoe Donner Unit - 3**

All that portion of Parcel "H" of the subdivision of "Tahoe Donner Unit - 3", as said parcel is shown on the Official Map thereof, recorded in Book 4 of Subdivisions, at Page 25, Nevada County, California; said portion being a strip of land ten (10') feet in width situate contiguous with and parallel to the northerly line of said Parcel "H"; the bounds of which are more particularly described as follows:

Commencing at the Northwest corner of the herein described strip, a point on the line common to said Parcel "H" and Lot 259 of said "Tahoe Donner Unit-3", from which the Northwest corner of said Parcel "H" being identical to the Southwest corner of said Lot 259, bears South 79 degrees 49' 20" West 27.00 feet; thence North 79 degrees 49' 20" East 110.00 feet along said common line to the Northeast corner of the herein described strip; thence leaving said common line and running South 10 degrees 10' 40" East 10.00 feet; thence South 79 degrees 49' 20" West 110.00 feet; thence North 10 degrees 10' 40" West 10.00 feet to the point of commencement.

Date Recorded: November 8, 1978  
Document #33603  
Vol 996, Pages 556-557

**AMENDMENT TO SUPPLEMENTAL  
DECLARATION OF COVENANTS AND RESTRICTIONS  
TAHOE DONNER UNIT 8**

WESTERN TITLE INSURANCE COMPANY, a corporation, being the owner of record, pursuant to a Holding Agreement entered into with DART INDUSTRIES INC., a Delaware corporation, dated April 12, 1971 as supplemented by supplemental Holding Agreement dated May 20, 1971, of that certain real property in the county of Nevada, State of California more particularly described as Lots 5 through 608 as shown and described on that certain Subdivision Map entitled "Tahoe Donner Unit 8", filed in the Office of Recorder of Nevada County on March 13, 1973, in Book 4 Subdivisions, at Page 43, hereby amends the Supplemental Declaration of Covenants and Restrictions recorded with respect thereto on June 15, 1973 in Book 648 of said Official Records at Page 493, to add the following as Paragraph 4 thereof:

4. General Restrictions Applicable to Easements. Paragraph 7h of the Original Covenants and Restrictions is hereby supplemented with the following provisions:

(5) Certain strips of land are shown and designated on the recorded map of Tahoe Donner Unit 8 as "A.E." or as "Access Easement", for the purpose of ingress and egress (hereinafter "Access Easement"). Declarant hereby declares that each and every lot in Unit 8 upon which an Access Easement is shown or designated on said map is and shall be subject to, and shall be sold, conveyed, hypothecated, encumbered and otherwise transferred in whole or in part, subject to a perpetual, nonexclusive easement for ingress and egress appurtenant to and for the benefit of each and every lot abutting on said access easement or containing any said access easement or portion thereof.

Within these easements no structure of any kind shall be placed, erected, constructed or maintained and no planting or other material shall be placed or permitted to remain which may interfere with the rights of ingress and egress; provided, however, that nothing contained herein shall prohibit the construction and maintenance of driveways or roadways over and across said easements or the doing of whatever may be necessary to carry out the purposes for which said easements are created.

Said access easements and all improvements thereto shall be maintained by the owners of the easements, and the costs of such maintenance shall be shared, in such proportions as they may agree, or, in the event of failure to agree, in accordance with the provisions of California Civil Code Section 845.

IN WITNESS WHEREOF, the undersigned have executed this Amendment to Supplemental Declaration of Covenants and Restrictions this 1st day of November, 1978.

WESTERN TITLE INSURANCE COMPANY  
pursuant to a Holding Agreement

/s/  
Shirley A. Matlock, Assistant Secretary

/s/  
William F. Thomas, Vice President



Date Recorded: November 8, 1978  
Document #33604  
Vol 996, Pages 558-559

**AMENDMENT TO SUPPLEMENTAL  
DECLARATION OF COVENANTS AND RESTRICTIONS  
TAHOE DONNER UNIT 9**

WESTERN TITLE INSURANCE COMPANY, a corporation, being the owner of record, pursuant to a Holding Agreement entered into with DART INDUSTRIES INC., a Delaware corporation, dated April 12, 1971 as supplemented by Supplemental Holding Agreement dated May 20, 1971, of that certain real property in the county of Nevada, State of California as shown and described on that certain Subdivision Map entitled "Tahoe Donner Unit 9", filed in the Office of Recorder of Nevada County on September 7, 1973, in Book 4 Subdivisions, at Page 57, hereby amends the Supplemental Declaration of Covenants and Restrictions recorded with respect thereto on December 20, 1976 in Book 831 of said Official Records at Page 327, to add the following as Paragraph 4 thereof:

4. General Restrictions Applicable to Easements. Paragraph 7h of the original Covenants and Restrictions is hereby supplemented with the following provisions:

(5) Certain strips of land are shown and designated on the recorded map of Tahoe Donner Unit 9 as "A.E." or as "Access Easement", for the purpose of ingress and egress (hereinafter "Access Easement"). Declarant hereby declares that each and every lot in Unit 9 upon which an Access Easement is shown or designated on said map is and shall be subject to, and shall be sold, conveyed, hypothecated, encumbered and otherwise transferred in whole or in part, subject to a perpetual, nonexclusive easement for ingress and egress appurtenant to and for the benefit of each and every lot abutting on said access easement or containing any said access easement or portion thereof.

Within these easements no structure of any kind shall be placed, erected, constructed or maintained and no planting or other material shall be placed or permitted to remain which may interfere with the rights of ingress and egress; provided, however, that nothing contained herein shall prohibit the construction and maintenance of driveways or roadways over and across said easements or the doing of whatever may be necessary to carry out the purposes for which said easements are created.

Said access easements and all improvements thereto shall be maintained by the owners of the easements, and the costs of such maintenance shall be shared, in such proportions as they may agree, or, in the event of failure to agree, in accordance with the provisions of California Civil Code Section 845.

IN WITNESS WHEREOF, the undersigned have executed this Amendment to Supplemental Declaration of Covenants and Restrictions this 1st day of November, 1978.

WESTERN TITLE INSURANCE COMPANY  
pursuant to a Holding Agreement

/s/  
Shirley A. Matlock, Assistant Secretary

/s/  
William F. Thomas, Vice President

Date Recorded: November 8, 1978  
Document #33605  
Vol 996, Pages 560-561

**AMENDMENT TO SUPPLEMENTAL  
DECLARATION OF COVENANTS AND RESTRICTIONS  
TAHOE DONNER UNIT 10**

WESTERN TITLE INSURANCE COMPANY, a corporation, being the owner of record, pursuant to a Holding Agreement entered into with DART INDUSTRIES INC., a Delaware corporation, dated April 12, 1971 as supplemented by Supplemental Holding Agreement dated May 20, 1971, of that certain real property in the county of Nevada, State of California as shown and described on that certain Subdivision Map entitled "Tahoe Donner Unit 10", filed in the Office of Recorder of Nevada County on July 15, 1973, in Book 4 Subdivisions, at Page 55, hereby amends the Supplemental Declaration of Covenants and Restrictions recorded with respect thereto on December 20, 1976 in Book 831 of said Official Records at Page 323, to add the following as paragraph 4 thereof:

4. General Restrictions Applicable to Easements. Paragraph 7h of the original Covenants and Restrictions is hereby supplemented with the following provisions:

(5) Certain strips of land are shown and designated in the recorded map of Tahoe Donner Unit 10 as "A.E." or as "Access Easement", for the purpose of ingress and egress (hereinafter "Access Easement"). Declarant hereby declares that each and every lot in Unit 10 upon which an Access Easement is shown or designated on said map is and shall be subject to, and shall be sold, conveyed, hypothecated, encumbered and otherwise transferred in whole or in part, subject to a perpetual, nonexclusive easement for ingress and egress appurtenant to and for the benefit of each and every lot abutting on said access easement or containing any said access easement or portion thereof.

Within these easements no structure of any kind shall be placed, erected, constructed or maintained and no planting or other material shall be placed or permitted to remain which may interfere with the rights of ingress and egress; provided, however, that nothing contained herein shall prohibit the construction and maintenance of driveways or roadways over and across said easements or the doing of whatever may be necessary to carry out the purposes for which said easements are created.

Said access easements and all improvements thereto shall be maintained by the owners of the easements, and the costs of such maintenance shall be shared, in such proportions as they may agree, or, in the event of failure to agree, in accordance with the provisions of California Civil Code Section 845.

IN WITNESS WHEREOF, the undersigned have executed this Amendment to Supplemental Declaration of Covenants and Restrictions this 1st day of November, 1978.

WESTERN TITLE INSURANCE COMPANY  
pursuant to a Holding Agreement

/s/  
Shirley A. Matlock, Assistant Secretary

/s/  
William F. Thomas, Vice President

Date Recorded: November 8, 1978  
Document #33606  
Vol 996, Pages 562-563

**AMENDMENT TO SUPPLEMENTAL  
DECLARATION OF COVENANTS AND RESTRICTIONS  
TAHOE DONNER UNIT 11**

WESTERN TITLE INSURANCE COMPANY, a corporation, being the owner of record, pursuant to a Holding Agreement entered into with DART INDUSTRIES INC., a Delaware corporation, dated April 12, 1971 as supplemented by Supplemental Holding Agreement dated May 20, 1971, of that certain real property in the county of Nevada, State of California as shown and described on that certain Subdivision Map entitled "Tahoe Donner Unit 11", filed in the Office of Recorder of Nevada County on January 3, 1973, in Book 4 Subdivisions, at Page 41, hereby amends the Supplemental Declaration of Covenants and Restrictions recorded with respect thereto on June 15, 1973 in Book 648 of said Official Records at Page 496, to add the following as Paragraph 4 thereof:

4. General Restrictions Applicable to Easements. Paragraph 7h of the Original Covenants and Restrictions is hereby supplemented with the following provisions:

(5) Certain strips of land are shown and designated on the recorded map of Tahoe Donner Unit 11 as "A.E." or as "Access Easement", for the purpose of ingress and egress (hereinafter "Access Easement"). Declarant hereby declares that each and every lot in Unit 11 upon which an Access Easement is shown or designated on said map is and shall be subject to, and all be sold, conveyed, hypothecated, encumbered and otherwise transferred in whole or in part, subject to a perpetual, nonexclusive easement for ingress and egress appurtenant to and for the benefit of each and every lot abutting on said access easement or containing any said access easement or portion thereof.

Within these easements no structure of any kind shall be placed, erected, constructed or maintained and no planting or other material shall be placed or permitted to remain which may interfere with the rights of ingress and egress; provided, however, that nothing contained herein shall prohibit the construction and maintenance of driveways or roadways over and across said easements or the doing of whatever may be necessary to carry out the purposes for which said easements are created.

Said access easements and all improvements thereto shall be maintained by the owners of the easements, and the costs of such maintenance shall be shared, in such proportions as they may agree, or, in the event of failure to agree, in accordance with the provisions of California Civil Code Section 845.

IN WITNESS WHEREOF, the undersigned have executed this Amendment to supplemental Declaration of Covenants and Restrictions this 1st day of November, 1978.

WESTERN TITLE INSURANCE COMPANY  
pursuant to a Holding Agreement

/s/  
Shirley A. Matlock, Assistant Secretary

/s/  
William F. Thomas, Vice President

When recorded, return to:  
TAHOE DONNER ASSOCIATION  
PO Box 11049  
Truckee, CA 95737

**ORIGINAL STAMP HERE**  
Nevada County  
Recorder Stamp here

**RESTATED BYLAWS  
OF  
TAHOE DONNER ASSOCIATION**

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**RESTATED BYLAWS  
OF  
TAHOE DONNER ASSOCIATION**

**ARTICLE I  
Recitals and Definitions**

Section 1. Name of Association. The name of this corporation shall be Tahoe Donner Association and shall be referred to herein as the "Association."

Section 2. Association is Nonprofit. This corporation has been formed pursuant to the California Nonprofit Corporation Law as a mutual benefit corporation.

Section 3. Specific Purpose. The specific and primary purpose of this Association shall be to own, repair, maintain and manage the Common Area and Common Facilities within that certain real estate common interest development located in the County of Nevada, State of California, and commonly referred to as Tahoe Donner, acquire, manage, develop, maintain and sell other property for the benefit of the Members in common, enforce the Rules and Regulations adopted by the Board of Directors from time to time, and the terms and conditions of the Declaration and to otherwise enhance and promote the use and enjoyment of Common Areas and Common Facilities by the Owners in common.

Section 4. Definitions.

(a) County. The term "County" means the County of Nevada, State of California.

(b) Declaration. The term "Declaration" means all limitations, restrictions, covenants, terms and conditions set forth in the First Restated Declaration of Covenants, Conditions and Restrictions recorded in the Office of the Nevada County Recorder with respect to the Properties at Book \_\_\_\_\_ page \_\_\_\_\_, Official Records of said County, as such Declaration may from time to time be supplemented, amended or modified by a subsequent Declaration, or amendment thereto, duly recorded in said Recorder's Office.

(c) Majority of a Quorum. The term "Majority of a Quorum" as used herein shall mean the vote of a majority of the votes cast by written ballot (see Article IV, Section 6, below) when the number of ballots cast in response to the written ballot solicitation equals or exceeds the minimum quorum requirement specified in Article V, section 5, below.

(d) Office of the Recorder. The term "Office of the Recorder" means the Office of the Recorder, County of Nevada, State of California.

(e) Owner. The term "Owner" means any person, firm, corporation or other entity which owns a fee simple interest in any Separate Interest within the properties. The term Owner shall include, except where the context otherwise requires, the members of an Owners family. The Association Rules may further define those persons comprising the family members of Owners and the minimum ownership percentage which must be held by an Owner in order to exercise the voting and membership.

(f) Person. The term "Person" means and includes any individual, corporation, partnership, association or other entity recognized by the laws of the State of California.

(g) Voting Power. The term "Voting Power" means those Members who are eligible to vote for the election of directors or with respect to any other matter, issue or proposal properly presented to the Members for approval at any time a determination of voting power is made.

(h) Other Definitions Incorporated by Reference. The terms defined in the Declaration shall have the same meaning when used herein unless the context clearly indicates a contrary intention.

## **ARTICLE II Principal Office**

Section 1. Location of Principal Office. The principal office of the Association will be located at such place within the Properties as the Board may from time to time designate by resolution.

## **ARTICLE III Membership**

Section 1. Members of the Association. The following persons shall be Members of the Association:

- (a) Each Owner of a Single Family Residential Lot within the Properties;
- (b) Each Owner of a Multiple Family Residential Lot within the Properties; and
- (c) Each Owner of a Condominium, including the Owners of units within the Ski Lodge.

Owners of Commercial Lots are not Members of the Association and have none of the rights, preferences and privileges of Members.

Section 2. Term of Membership. Each Owner who is a Member shall remain a Member until he or she no longer qualifies as such under section 1 above.

Section 3. Multiple Ownership of Lots. If more than one person owns a Lot, all of said persons shall be deemed a single Member for purposes of voting or the exercise of any other rights, powers, or privileges hereunder other than the privilege of using and enjoying the Association's Common Areas and Common Facilities.

If more than one person owns a Lot, only one of the multiple Owners shall be entitled to vote the Membership. The secretary of the Association shall be notified in writing of the Owner designated by his or her co-Owners as having the sole right to vote the Membership on their behalf. If such notification does not occur, the secretary shall be entitled to accept the vote of any of the multiple Owners: provided, however, that if more than one multiple Owner

attempts to vote a membership the act of a majority of the co-Owners binds all. Thus, if there are only two co-Owners and they cast inconsistent votes, the secretary shall refuse to count any ballot pertaining to said Lot.

Section 4. Furnishing Evidence of Membership. A person shall not be entitled to exercise the rights of a Member until such person has advised the Association's principal office, in writing, that he or she is qualified to be a Member under section 1 above, and has provided the secretary with evidence of such qualification in the form of a copy of a recorded grant deed (certified by the Office of the Recorder). Exercise of membership rights shall be further subject to the rules regarding record dates for notice, voting and actions by written ballot and eligibility for voting set forth in Article V, section 8 of these Bylaws.

#### **ARTICLE IV Membership Voting**

Section 1. Single Class of Membership. The Association shall have one class of voting membership comprised of those Owners listed in Article III, section 1, above.

Section 2. Member Voting Rights. On each matter submitted to the membership for a vote, the Members shall be entitled to vote as follows:

(a) A Member who owns a Single Family Residential Lot shall be entitled to one vote for each Lot so owned;

(b) A Member who owns an unimproved Multiple Family Residential Lot shall be entitled to one vote for each Lot so owned;

(c) A Member who owns an improved Multiple Family Residential Lot (unless it is an improved Condominium Lot) shall be entitled to that number of votes equal to the number of units located on the Lot for which the Owner is paying a full Regular Assessment; and

(d) A Member who owns a Condominium Unit, including, without limitation, a unit in the Ski Lodge, shall be entitled to one vote for each such Unit so owned.

(e) The voting rights attributable to any membership appurtenant to a Separate Interest owned by more than a single person shall be exercised only in accordance with Article III, section 3, above.

Section 3. Eligibility to Vote. Only Members in good standing shall be entitled to vote on any issue or matter presented to the Members for approval (See sections 4 and 6 of this Article IV). In order to be in good standing, a Member must be current in the payment of all assessments and not be subject to any suspension of voting privileges as a result of any disciplinary proceeding conducted in accordance with Article XIII, section 6 of the Declaration. A Member's good standing shall be determined as of the record date established in accordance with Article V, section 8 hereof. The Association shall not be obligated to conduct a hearing in order to suspend a Members voting privileges on the basis of the nonpayment of assessments, although a delinquent member shall be entitled to request such a hearing in accordance with the Declaration.

#### Section 4. Manner of Casting Votes.

(a) Voting at Membership Meetings. Due to the size of the Association's membership and the number of non-resident Members, all Member voting shall be conducted by written ballot (see section 6 of this Article IV). Voting at any membership meetings shall be limited to: (i) the receipt of written ballots previously mailed to the Members (see section 6(j), below); (ii) the conduct of informational, nonbinding votes to poll the Members in attendance with respect to a matter or issue of interest to the Association or the Tahoe Donner community; (iii) to approve a motion for the submission of a matter or proposal to the Members for a vote by written ballot in accordance with section 6; or (iv) votes on procedural matters relating to the conduct of the meeting, such as a vote to adjourn. Any motion pursuant to subparagraph (iii) of the preceding sentence must be approved by the affirmative vote of at least 5 percent of the voting power of the Members (see section 6(b), below).

(b) Voting by Written Ballot. Except for the limited membership voting permitted at meetings (see subparagraph (a), above), Members' votes shall be solicited by written ballot with respect to any issue requiring membership approval under the Governing Documents or by law. Written ballot voting shall be conducted in accordance with section 6 of this Article IV.

(c) Proxy Voting. Proxy voting shall not be permitted.

(d) Cumulative Voting. Cumulative voting shall not be permitted.

Section 5. Proxies. Although proxy voting shall not be permitted, the Association shall be authorized and empowered to solicit proxies from Members for the sole purpose of establishing a quorum at membership meetings.

#### Section 6. Action by Written Ballot.

(a) Definition of Written Ballot. A "written ballot" is a ballot that meets the requirements of this section 6 and is mailed to every Member entitled to vote on the matter(s) identified in the written ballot form.

(b) Written Ballots, Generally. Any matter or issue requiring the vote of the Members, including the election of directors, shall be submitted to the Members for approval by written ballot in accordance with this section 6. When Member votes are solicited in this fashion, no formal membership meeting need be called. The actions requiring Member approval are listed in Article IX, section 2, below.

(c) Persons Who Can Initiate a Vote By Written Ballot. Any issue requiring the approval of the Members shall be presented for a vote by written ballot when authorized by a majority vote of the Board or when requested by Members possessing 5 percent of the total voting power of the membership. When the requisite percentage of the Members desire that a written ballot vote be initiated, the procedures for calling a special meeting when requested by the Members shall apply (see Article V. section 3(b)) except that all references to "meetings" and "special meetings" in said section 3(b) shall, in this context, be replaced by references to "written ballots."

Once the determination is made to seek Member approval by written ballot, the Board shall establish a record date (see Article V, section (8)(a)(iii), hereof) for purposes of determining those Members eligible to cast written ballots.

(d) Balloting Time Requirements.

(i) Director Elections. The balloting in director elections shall be scheduled to culminate on the date of the annual membership meeting in the case of any vacancy created by the normal expiration of a director's term of office. In the case of a special election called to fill a vacancy caused by the removal of a director, the balloting shall be scheduled to culminate on the date established for a special meeting called for the purpose of providing prospective candidates an opportunity to present their qualifications and platform to the Members. In the case of written ballots used in the election of directors, the ballots shall be mailed to all Members who are eligible to vote not more than 35 days prior to the date set for the election, but no less than 20 days prior to such date. If the Member elects to return his or her written ballot by mail or personal delivery to the address set forth in the solicitation materials for return of the ballots prior to the meeting at which the election of directors will culminate, the written ballot must be received no later than the close of business on the second business day prior to the scheduled meeting date. If the Member elects to return his or her written ballot in person at the membership meeting, the ballot must be inserted in the ballot box prior to conclusion of the time scheduled on the meeting agenda for receipt of ballots and conclusion of the election process.

(ii) Other Matters. In the case of any other matter or issue submitted to the Members for approval by written ballot, the Board shall mail the written ballot to every Member entitled to vote on the matter no less than 45 days prior to the final date by which the written ballots must be received by the Association in order to be counted.

(iii) Extension of the Balloting Period. The time fixed for the return of written ballots may only be extended if the Board so notifies the Members on the balloting materials originally sent to Members and then for not more than two successive periods of 45 days each. Notwithstanding the foregoing, if a meeting has been scheduled to coincide with the culmination of a written ballot vote on the election of directors and the meeting is adjourned without concluding the election process, the time fixed for the return of written ballots in the director election shall be extended to the date the adjourned meeting is reconvened.

(e) Content of Written Ballots.

(i) Written Ballots Used for Voting in Director Elections. Written ballots used in any election of directors shall set forth the names of the candidates whose names have been placed in nomination at the time the ballot is issued (see Article VII, section 4). The ballot form shall also provide a space where the Member can designate a vote for another (write-in) candidate. Accompanying the written ballot shall be copies of all candidates' statements received by the Association office prior to the mailing date (see Article VII, section 4).



(ii) Written Ballots Used for Voting on Other Matters. Any written ballot distributed to the Members to vote on any issue other than the election of directors shall set forth a description of the proposed action and provide an opportunity on the ballot form to specify approval or disapproval of the proposal. The ballot's description of the proposal (or the description contained in the solicitation materials which accompany the ballot) shall present a reasonably comprehensive description of (a) the reasons why the proponents of the proposal believe that the action should be approved; (b) the reasons for any known opposition to the proposal; and (c) the fiscal impacts, if any, of the proposal on the Association's finances. Reasonable, uniform limitations on the length of proponent's and opponent's statements may be imposed by the Board or by Association Rule.

(iii) Specification of Time for Return of Written Ballot. All written ballots shall state the time by which the ballot must be received in order to be counted (see subparagraph (d), above).

(f) Requirements for Valid Member Action by Written Ballot. Written ballot voting is a procedure, sanctioned by the Corporations Code, for taking action requiring Member approval without the necessity of convening a formal membership meeting. Accordingly, membership approval by written ballot shall only be valid if: (i) the number of votes cast by ballot within the time established for return of the ballots equals or exceeds the quorum that would have been required to be present at a membership meeting if such a meeting had been convened to vote on the proposal (see Article V, section 5), and (ii) the number of affirmative votes cast equals or exceeds the number of affirmative votes that would have been required to approve the action at such a meeting. Article V, section 5, provides for a reduced quorum percentage in the event that the initial quorum requirement cannot be met (see Article V, section 5(a)(ii)). When Member votes are solicited by written ballot, the reduced quorum percentage shall apply during any authorized extension of the balloting period (see subparagraph (d)(iii), above).

(g) Solicitation Rules.

(i) Solicitation Rules, Generally. Written ballots shall be solicited in a manner consistent with the requirements of Article V, section 4 pertaining to the issuance of notices of Members meetings, except that the requirements of subparagraphs (c) and (d), above, shall control with respect to the matters set forth therein. All solicitations of written ballots shall: (A) indicate the number of responses needed to meet the quorum requirement for valid action; (B) the time by which the written ballot must be received by the Association in order to be counted; (C) in the case of any written ballot distributed to vote on matters other than the election of directors, the percentage of affirmative votes necessary to approve the measure submitted for membership approval; and (D) the address for return of the ballots in person or by mail.

(ii) Director Elections. In addition to the minimum solicitation requirements of subparagraph (i) above, solicitation materials accompanying written ballots distributed in director elections may, in the Board's discretion, contain such additional rules as may reasonably be imposed to ensure the secrecy and absence of voting irregularities in the election. For example, the Board, in its discretion, may require any Member who wishes to return his or



her ballot at the meeting to register during the registration period and receive a different form of ballot is considered necessary to eliminate the possibility of any Member voting twice.

(h) Additional, Balloting Procedures.

(i) Generally. If deemed necessary by the Board, the vote by written ballot shall be conducted in accordance with such additional procedures not inconsistent with the provisions of this section, as may be prescribed by a firm of public accountants of good repute who may also be retained to conduct the balloting process and ensure its secrecy.

(ii) Director Elections. In order to ensure the secrecy of written ballots utilized in director elections and fairness in the conduct of the election, the Board shall use the services of a public accountant, legal counsel or a bank, trust company, or similar neutral firm to receive and tabulate all written ballots (whether returned by mail or cast in person by Members attending the meeting at which the election takes place). The firm retained to perform such services shall have the full powers of an inspector of elections appointed by the Board pursuant to section 7614 of the California Corporations Code.

(i) Notification of Results of Balloting Process. Upon tabulation of the written ballots, the Board shall notify the Members of the outcome of the vote by posting the results at the Association's principal office within 30 days following the close of the balloting process and tabulation of the ballots. The results shall also be disclosed in the next issue of the Association's newsletter. If the number of written ballots cast with respect to any matter is insufficient to satisfy the minimum quorum requirements for valid action, the Board shall so notify the Members.

(j) Prohibition of Revocation. Once cast, a written ballot may not be revoked.

(k) Conduct of Informational Meeting. Use of the written ballot procedures set forth herein shall not preclude the Association from also conducting informational meetings of the Members or from scheduling a membership meeting to coincide with the culmination of the balloting period.

Section 7. Majority Vote of Members, Constitutes Approval; Exceptions. If a quorum is present the affirmative vote of the majority of the voting power of Members entitled to vote and voting on any matter (other than the election of directors) shall be the act of the Members, unless the vote of a greater number is required by California's Nonprofit Corporation Law or by the Articles of Incorporation or these Bylaws. In the case of director elections, the candidates receiving the highest number of votes, up to the number of directors to be elected, shall be elected to the vacant director seats.

**ARTICLE V**  
**Membership Meetings**

Section 1. Place and Time of Meeting. Meetings of the Members shall be held at the offices of the Association within the Properties or at such other locations in reasonable proximity to the Properties, as may be appropriate to accommodate

the Association's membership. The time and location of the meeting shall be designated by the Board in the notice of the meeting.

Section 2. Annual Meeting. There shall be an annual meeting of the Members in the month of June of each year or as soon thereafter as possible, not to exceed 30 days, in order to accommodate available facilities. The date, time and location of the annual meeting shall be established by the Board and set forth in the notice of meeting sent to the Members.

Section 3. Special Meetings.

(a) Persons Entitled to Call Special Meetings. A majority of the Board, the president or 5 percent or more of the voting power of the Members may call special meetings of the Members at any time to consider any lawful business of the Association.

(b) Procedures for Calling Special Meetings Requested by Members. If a special meeting is called by Members other than the Board of Directors or president, the request shall be delivered personally or sent by registered mail or by telegraphic or other facsimile transmission to any of the following persons: the president, the vice president, or the secretary or assistant secretary of the Association. The Members' request shall be in the form of a written petition signed by the requisite percentage of the Members and shall specify the general nature of the business for which the meeting was requested.

The officer receiving the Members' request shall cause notice to be promptly given to all Members entitled to vote, in accordance with the provisions of section 4 of this Article V, that a meeting will be held. The notice shall specify the date, time and purpose for the meeting, which date shall be not less than 35 nor more than 90 days following the receipt of the request.

If notice of the meeting is not given by the Association within 20 days after receipt of a petition from the requisite percentage of Members, the persons requesting the meeting may give the notice and, in such event, the Association shall be obligated to reimburse the Members for the actual costs they incur in mailing the notice to the Members. Nothing contained in this subparagraph (b) shall be construed as limiting, fixing, or affecting the time when a meeting of Members may be held when the meeting is called by action of the Board of Directors or the president.

Section 4. Notice of Members' Meetings.

(a) Time Requirements. All notices of meetings of Members (whether regular or special) shall be sent in writing to each Member who, on the record date for notice of the meeting (as provided in section 8 of this Article V), is entitled to vote thereat, in accordance with this section 4. Notice must be given not less than 10 nor more than 90 days before the date of the meeting. However, if the notice is not given by first-class, registered or certified mail, it must be given not less than 20 days (nor more than 90 days) before the date of the meeting.

(b) Minimum Requirements Regarding Content of Notice. The notice of any membership meeting shall specify the place, date, and hour of the meeting. In

the case of a special meeting, the notice shall also state the general nature of the business to be transacted, and no other business may be transacted at the special meeting. In the case of a regular meeting, the notice shall also describe those matters which the Board of Directors, at the time of giving the notice, intends to present to the Members.

(c) Specification of Certain Significant Actions. If the Members' approval is solicited with respect to any of the following matters, the action is invalid unless the notice or written waiver of notice states the general nature of the proposal(s):

(i) Removing a director without cause;

(ii) Filling vacancies on the Board of Directors under those circumstances where a vote of the Members is required pursuant to Article VII, section 6 of these Bylaws;

(iii) Amending the Articles of Incorporation of the Association, these Bylaws or the Declaration in any manner requiring approval of the Members;

(iv) Approving a contract or transaction between the Association and one or more of its directors, or between the Association and any corporation, firm or association in which one or more of its directors has a material financial interest;

(v) Approving any change in the Association's Assessments in a manner requiring membership approval under the Declaration; or

(vi) Voting upon any election to voluntarily terminate and dissolve the Association.

(d) Manner of Service. Notice of any meeting of Members shall be given by first-class mail addressed to each Member either at the Member's address appearing on the books of the Association or the address given by the Member to the Association for the purpose of receiving notice. If no address appears on the Association's books for a Member and no other instructions for notice have been received by the Association, notice shall be deemed to have been given if either (i) notice is sent to that Member by first-class mail to the Association's principal office, or (ii) notice is published at least once in a newspaper of general circulation in the county where that office is located. Notice shall be deemed to have been given at that time when deposited in the mail.

(e) Affidavit of Mailing. An affidavit of the mailing of notice of any Member's meeting may be executed by the secretary or the assistant secretary of the Association. Upon due execution, the affidavit of mailing shall be filed and maintained in the minute book of the Association and shall constitute prima facie evidence that proper notice has been given.

#### Section 5. Quorum Requirements.

(a) Quorum Requirements Generally. The following quorum requirements must be satisfied for any meeting of the Members or action by written ballot pursuant to Article IV section 6 of these Bylaws:

(i) Quorum for Votes on Assessment Increases. In the case of any written ballot vote conducted in order to vote on assessment increases requiring membership approval (Article IV of the Declaration), the quorum requirement for valid action on the proposal shall be the percentage specified in section 1366 of the Civil Code or comparable superseding statute. That quorum percentage is currently a majority of the Members.

(ii) Quorum for Valid Action on Other Matters. In the case of a membership meeting or written ballot called or conducted for any other purposes the quorum shall initially be 25 percent of the voting power of the Members; provided however, that if the required quorum percentage is not obtained, the meeting may be adjourned to another time and/or place not more than 30 days from the initial meeting date (see section 6, below) and at the reconvened meeting the quorum percentage shall be reduced to 15 percent of the voting power of the Members.

(b) Effect of Attendance by Less Than One-Third of the Members. Notwithstanding the quorum rules set forth in subparagraph (a)(ii), above, if the Members present in person or by proxy at any regular membership meeting constitute less than one-third of the total voting power of the Members (but the applicable quorum percentage has been satisfied) the only matters upon which action may validly be taken are those matters the general nature of which were described in the notice of the meeting. As provided in Article IV, section 4, the actions which can be taken at meetings are strictly limited.

(c) Members Represented By Proxy. Members present at a membership meeting in person or by proxy shall be counted toward satisfaction of the quorum requirements specified herein.

(d) Effect of Departure of Members From Meeting. The Members present in person or by proxy at a duly called or duly held meeting at which a quorum is initially present may continue to transact business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the Members required to constitute a quorum. Any vote to adjourn the meeting for lack of a quorum shall only require the affirmative vote of a majority of those Members who are present.

#### Section 6. Adjourned Meetings.

(a) Adjournment, Generally. Any Members' meeting, annual or special, whether or not a quorum is present, may be adjourned to another time and/or place (but not for more than 45 days) by the vote of the majority of Members present at the meeting. Unless there is an absence of a quorum (in which case no other business may be transacted at that meeting except as provided in section 5(d) above), the reconvened meeting may take any action which might have been transacted at the original meeting.

(b) Notice Requirements for Adjourned Meeting. When a Members' meeting is adjourned to another time or place, notice need not be given of the new meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. Notwithstanding the foregoing, if after adjournment a new record date is fixed for notice or voting, a notice of the rescheduled meeting

must be given to each Member who on the record date for notice of the meeting is entitled to vote thereat.

Section 7. Waiver of Notice or Consent by Absent Members.

(a) Waivers and Consents, Generally. If decisions are made or action is otherwise taken by the Members at a meeting where a quorum is present, but for which proper notice was not given to all Members for whatever reason, the decisions or actions made at that meeting will be valid if, either before or after the meeting, each person entitled to vote who was not present at the meeting (in person or by proxy) consents to the meeting by signing (i) a written waiver of notice, (ii) a consent to holding the meeting, or (iii) an approval of the minutes. The waiver of notice need not specify the purpose or general nature of business to be transacted at such meeting unless action is taken or proposed to be taken on matters specified in section 4(c) of this Article V, in which case, the waiver of notice must state the general nature of the matter. All such waivers, consents or approvals shall be filed with the Association records or be made part of the minutes of the meeting.

(b) Effect of a Member's Attendance at a Meeting. Attendance by a person at a meeting shall also constitute a waiver of notice of that meeting, except when the person attends the meeting for the sole purpose of objecting at the beginning of the meeting to the transaction of any business due to the inadequacy or illegality of the notice. Attendance at a meeting is not a waiver of any right to object to the consideration of matters not included in the notice of the meeting which are required to be described therein pursuant to section 4(c) of this Article V, if that objection is expressly made at the meeting.

Section 8. Record Dates for Member Notice, Voting and Giving Consents.

(a) Record Dates Established by the Board of Directors. For the purpose of determining which Members are entitled to receive notice of any meeting, vote, act by written ballot without a meeting or exercise any rights in respect to any other lawful action, the Board of Directors may fix, in advance, a "record date" and only Members of record on the date so fixed are entitled to notice, to vote, or to take action by written ballot or otherwise, as the case may be, notwithstanding any transfer of any membership on the books of the Association after the record date, except as otherwise provided in the Articles of Incorporation or in the California Nonprofit Mutual Benefit Corporation Law. The record dates established by the Board pursuant to this section shall be in accordance with the following requirements:

(i) Record Date for Notice of Meetings. In the case of determining those Members entitled to notice of a meeting, not be more than 90 nor less than 10 days before the date of the meeting;

(ii) Record Date for Voting. In the case of determining those Members entitled to vote at a meeting, not be more than 60 days before the date of the meeting;

(iii) Record Date for Action By Written Ballot Without Meeting. In the case of determining Members entitled to cast votes by written ballot, not be more than 60 days before the day on which the first written ballot is mailed or



solicited; and

(iv) Record Date for Other Lawful Action. In the case of determining Members entitled to exercise any rights in respect to other lawful action, not be more than 60 days prior to the date of such other action.

(b) Failure of Board to Fix a Record Date. If the Board, for any reason, fails to establish a record date, the following rules shall apply:

(i) Record Date for Notice of Meetings. The record date for determining those Members entitled to receive notice of a meeting of Members shall be the business day preceding the day on which notice is given, or, if notice is waived, the business day preceding the day on which the meeting is held.

(ii) Record Date for Voting. The record date for determining those Members entitled to vote at a meeting of Members shall be the day of the meeting, or in the case of an adjourned meeting, the day of the adjourned meeting.

(iii) Record Date for Action by Written Ballot Without Meeting. The record date for determining those Members entitled to vote by written ballot on proposed Association actions without a meeting, when no prior action by the Board has been taken, shall be the day on which the first written ballot is mailed or solicited. When prior action of the Board has been taken, it shall be the day on which the Board adopts the resolution relating to that action.

(iv) Record Date for Other Lawful Action. The record date for determining those Members entitled to exercise any rights in respect to any other lawful action shall be Members at the close of business on the day on which the Board adopts the resolution relating thereto, or the 60th day prior to the date of such other action, whichever is later.

(v) "Record Date" Means as of Close of Business. For purposes of this subparagraph (b) a person holding a membership as of the close of business on the record date shall be deemed the Member of record.

## **ARTICLE VI**

### **Membership Rights**

Subject to the provisions hereof and the provisions of the Declaration, the Members shall have the following rights:

Section 1. Use and Enjoyment of Common Areas by Members and Family. Each Member and the members of his or her Family shall be entitled to the use and enjoyment of all Common Areas and Common Facilities within the Properties; provided however, that the Board shall be entitled to impose reasonable rules and regulations regarding use of Common Facilities to avoid an overburdening of such Facilities (see section 4 below and Article II, section 1(a) and Article III, section 7 of the Declaration. Without limiting the foregoing, it is expressly noted that the Declaration authorizes the Board to adopt a schedule of fees and/or an amenity access pass system to regulate the use of recreational Common Facilities.



Section 2. Assignment of Rights to Tenants and Lessees. Each Member shall have the right to assign his or her rights as a Member (other than voting rights) to a tenant residing within the Member's Residence. Such assignment shall only be effective so long as said tenant is residing in said Residence and is in compliance with the Declaration and the Association Rules as the same may exist from time to time. At all times the Owner shall remain responsible for compliance by the Owner's lessee or tenant with the provisions of the Governing Documents. Without limiting the foregoing, reference is specifically made to Article II, section 3 of the Declaration for additional tenant and lease restrictions.

Section 3. Invitees and Guests. The invitees and guests of a Member shall have the right to use and enjoy the Common Areas and Common Facilities within the Properties subject to section 4, below. Any such guest or invitee shall be subject to the same obligations imposed on the Owner to observe the rules, restrictions and regulations of the Association as set forth in the Governing Documents, including rules regarding use of the Common Facilities.

Section 4. Association Rules and Regulations. The right of any person to use and enjoy the Common Areas and Common Facilities shall at all times be subject to the rules, limitations and restrictions set forth herein, in the Declaration and in the Association's published rules and regulations as promulgated by the Board from time to time. With the exception of the right of use of any roads, the Board or its duly authorized committee shall have the right to impose monetary penalties or to temporarily suspend the use and enjoyment of any Common Area and Common Facilities for the failure of a Member to pay any Assessments when due under the Declaration, or to comply with any other rule or regulation imposed upon such Member, his or her tenants or guests pursuant to the Governing Documents; provided, however, that any such suspension shall only be imposed after such person has been afforded the due process rights more particularly described in Article XIII of the Declaration.

## **ARTICLE VII**

### **Board of Directors**

Section 1. General Association Powers. Subject to the provisions of the California Nonprofit Mutual Benefit Corporation Law and any limitations in the Articles and these Bylaws relating to action required to be approved by the Members, the business and affairs of the Association shall be vested in, and exercised by, the Association's Board of Directors. Subject to the limitations expressed in Article X, section 1, the Board may delegate the management of the activities of the Association to any person or persons, general manager or committee. However any such delegation notwithstanding, the activities and affairs of the Association shall continue to be managed and all Association powers shall continue to be exercised under the ultimate direction of the Board of Directors.

Section 2. Number and qualification of Directors. The Board of Directors shall consist of five (5) persons. The following qualifications must be satisfied in order to be eligible to run as a candidate for election to the Board:

(i) A candidate must be the Owner of a Separate Interest within the Properties. For purposes of this qualification requirement, a person must be the

owner of record of at least a 25 percent interest (with spouses being entitled to aggregate their ownership interests) in a Separate Interest in order to be a candidate for election to the board;

(ii) The candidate must be in good standing with the Association which means that all Assessments with respect to all Separate Interests owned by the candidate must be current and the candidate must not be subject to any suspension of membership privileges;

(iii) No Owner shall be eligible to serve on the Board or to be appointed to fill a vacancy at any time when a co-Owner is also serving on the Board;

(iv) No employee of Tahoe Donner shall be eligible to serve on the Board; and

(v) No Owner can serve for more than two elected consecutive terms of office. For purposes of this qualification requirement, an Owner shall be deemed to have served for the full term for which he or she has been elected, regardless of how long the director actually serves. If a person is elected or appointed to fill a vacancy pursuant to section 3, below, that partial term shall not be counted toward the limitation on consecutive terms of office.

Section 3. Term of Office. At the 1981 annual meeting, the Members elected three directors for a term of two years and two directors for a term of one year. At each annual meeting thereafter, the Members shall elect directors by written ballot (see Article IV, section 6) for a term of two years to replace those directors whose terms of office are then expiring. Accordingly, three directors are elected to office in odd numbered years and two directors are elected to office in even numbered years.

Each director, other than a director elected to fill a vacancy, shall begin his or her term immediately following the director's election and shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified (unless the director resigns or is removed from office in accordance with section 6 below).

Directors who are appointed to fill a vacancy shall serve for the balance of the unexpired term of office to which the director is appointed and shall take office immediately upon their appointment.

Section 4. Nomination of Directors. Individuals can become candidates for election to the Board of Directors in any of the following ways:

(a) Requests for Candidacy. No later than April 1 of each year, the Association shall send a notice to its Members inviting eligible Members to become candidates for election to any vacancies on the Board which are scheduled to be filled at the next annual membership meeting. Those Members who wish to become candidates must submit an application to the Association office no later than May 10 of each year indicating the Member's desire to become a candidate for election to the Board. The application must be accompanied by proof of ownership of a Lot within the Properties.

Upon confirmation of the proposed candidate's status as a Member in good

standing (see Article IV, section 3), the Association shall notify the Member that his or her candidacy has been accepted and invite the Member to submit a candidate's statement. The statement shall not exceed two sides of a single 8-1/2 X 11 inch page and shall be mailed to all Members, together with a written ballot, at the Association's expense.

Prior to the date of the annual membership meeting, the Association shall schedule at least one community meeting, at an appropriate location within or near to the Properties, so all candidates will have an opportunity to address interested Members. If only a single meeting is scheduled it shall be held within 10 days prior to the annual membership meeting.

(b) Good Standing Requirement for Candidacy. In order to be eligible for nomination and election to the Board, the Candidate Member must be in good standing with the Association and current in the payment of his or her Assessments as of the Record Date established in accordance with Article V, section 8.

#### Section 5. Election of Directors.

(a) Directors Elected by Written Ballot: The annual election of Directors shall be conducted by written ballot in accordance with Article IV, section 6 hereof.

(b) Election to Office. Candidates receiving the highest number of votes shall be elected as directors. The directors thus elected shall take office immediately following their election.

(c) Elections Committee. To assure efficient administration of the elections process, the Board shall appoint an Elections Committee which shall be responsible for certifying the good standing and eligibility of individuals to serve as candidates for election to the Board and to monitor the election process to help assure its fairness and impartiality.

#### Section 6. Vacancies on Board of Directors.

(a) Vacancies, Generally. A vacancy or vacancies in the Board of Directors shall be deemed to exist on the occurrence of any of the following: (i) the death, resignation or removal of a director pursuant to subparagraphs (c) and (d) hereof; (ii) the termination of a Director's status as an Owner (iii) an increase of the authorized number of directors; or (iv) the failure of the Members to elect a sufficient number of directors to fill all vacancies which exist on the board at any time due to expiration of director terms, resignation or removal.

(b) Resignation of Directors. Any director may resign from office. The director's resignation shall be effective upon giving written notice to the president, the secretary, or the Board of Directors, unless the notice specifies a later time for the resignation to become effective. If the resignation of a director is effective at a future time, the Board of Directors may elect a successor to take office when the resignation becomes effective. A director shall be deemed to have resigned if the director ceases to be an Owner.

(c) Authority of Board to Remove Directors. The Board of Directors shall

have the power and authority to remove a director and declare his or her office vacant under the following circumstances which shall constitute "cause" for the director's removal: (i) if the director has been declared of unsound mind by a final order of court; (ii) if the director has been convicted of a felony; or (iii) if the director fails to attend 25 percent or more of the regularly scheduled meetings of the Board of Directors during any consecutive twelve-month period established by the board. For purposes of the foregoing minimum meeting attendance requirement, at its first organizational meeting each year the Board shall adopt a schedule of the dates and times of all regular Board meetings for the forthcoming fiscal year. If any scheduled meeting date is changed and less than 30 days prior notice of the change is given to the directors, a director's failure to attend that meeting shall not be counted in determining whether the director has missed 25 percent or more of the Board's regularly scheduled meetings.

(d) Authority of Members to Remove Directors. Except as otherwise provided in subparagraphs (c) and (e) hereof, a director may only be removed from office prior to expiration of his or her term by the affirmative vote of a majority of a quorum of the voting power of the Members represented and voting by written ballot conducted in accordance with Article IV, section 6 hereof. Any membership action to recall or remove a director shall be conducted in accordance with the following procedures:

(i) A special meeting or written ballot on the issue of whether the director(s) should be removed from office shall be called in accordance with Article IV, section 6 or Article V, section 3, hereto. In the event that the board initiates such action, the required vote to initiate the process shall be the affirmative vote of two-thirds of the directors then in office. If any other authorized person wishes to initiate a recall vote, the procedures of subparagraphs (ii) and (iii) shall apply.

(ii) Whenever a Member other than the board of directors desires to recall or remove a director, a petition must be presented in person to the president, vice president or secretary of the Association that carries the signatures of Members in good standing who represent at least 5 percent of the voting power of the membership. Such petition must set forth a brief statement of the reason(s) the petitioners are seeking the director's removal; the signature and Lot number(s) of each petitioning Member in his or her own handwriting; the name(s) of the principal sponsor(s) or initiator(s) of the petition; and fulfill all other requirements required by law.

(iii) Within 20 days after receipt of a Members' petition for recall of a director, the Board shall certify the validity of the signatures and announce the procedures for conducting a written ballot of the Members to vote upon the requested recall. Such written ballot shall be conducted not less than 35 nor more than 90 days after the petition is presented. If the Board fails to set a date for, and give the Members notice of, the written ballot recall election within 20 days, the Members initiating the petition may circulate their own written ballot recall initiative without Board approval or sanction. In such a case the petitioning Members shall be entitled to recover their actual mailing expenses unless it is determined that the petition was invalid or improper for any reason.

(iv) Any director who is the subject of a recall effort shall have

the right to rebut the allegations contained in the petition orally, in writing or both. If in writing, such rebuttal shall be mailed by the association to all Members, together with the recall ballot and a copy of the petitioners' statement in support of the recall effort. The board shall be entitled to place uniform, reasonable limitations on the length of any proponent's and opponent's materials mailed by the Association.

(v) If the number of ballots returned during the prescribed balloting period fails to satisfy the minimum quorum requirement for a valid membership action or if the recall vote results in a tie, the removal action will be deemed to have failed.

(vi) The Members shall be notified promptly of the results of the recall vote.

(e) Removal by Court Action. The Nevada County Superior Court may, in response to a suit filed by any director or a minimum of 100 Members, remove any director determined to be guilty of fraudulent or dishonest acts or gross abuse of authority or discretion with reference to the Association. The Association shall be made a party to any such action.

(f) Filling of Vacancies. Vacancies on the Board of Directors shall be filled by a majority vote of the remaining directors, even though less than a quorum or by a sole remaining director unless the vacancy is created through removal of a director, in which case the vacancy shall be filled by the affirmative vote of a majority of a quorum of the Members voting by written ballot in accordance with Article IV, section 6 hereof. Furthermore, the Members may elect a director or directors at any time to fill any vacancy or vacancies which are not filled by the directors.

(g) Reduction in Number of Directors. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

## **ARTICLE VIII**

### **Board Meetings**

Section 1. Place of Meetings. Regular and special meetings of the Board of Directors may be held at any place within the Properties that has been designated from time to time by resolution of the Board and stated in the notice of the meeting. In the absence of such designation, regular meetings shall be held at the principal office of the Association. Notwithstanding the above provisions of this section 1, a regular or special meeting of the Board may be held at any place consented to in writing by all the Board members, either before or after the meeting. If consents are given, they shall be filed with the minutes of the meeting. Any meeting, regular or special, may be held by conference telephone or similar communication equipment, so long as all directors participating in the meeting can hear one another, and all such directors shall be deemed to be present in person at such meeting.

Section 2. Annual Meeting of Directors. Following each annual meeting of Members, the Board of Directors shall hold a regular meeting for the purpose of organization, election of officers, and the transaction of other business.



Notice of this meeting shall not be required.

Section 3. Other Regular Meetings. Other regular meetings of the Board shall be held without call at such time as shall from time to time be fixed by the Board of Directors and communicated to the Board members. As noted in Article VII, section 6(c), on an annual basis the Board shall adopt a schedule of its regularly scheduled meetings for the forthcoming fiscal year.

Ordinarily, regular meetings shall be conducted monthly; provided, however, that regular meetings can be held as infrequently as every three months if the Board's business does not justify more frequent meetings. Notice of the time and place of regular meetings shall be posted in a prominent place within the Common Area, and shall be communicated to the Board members not less than 72 hours prior to the meeting; provided, however, that notice need not be given to any Board member who has signed a written waiver of notice or consent to holding the meeting as more particularly provided in section 7 of this Article VIII. An agenda for all regular meetings shall be prepared by the president or by management under the direction of the president.

Section 4. Special Meetings of the Board.

(a) Who May Call a Special Meeting. Special meetings of the Board of Directors for any purpose may be called at any time by the president or any two directors.

(b) Notice of Special Meetings.

(i) Manner of Giving. Notice of the time and place of special meetings of the Board shall be given to each director by one of the following methods: (A) by personal delivery of written notice; (B) by first-class mail, postage prepaid; (C) by telephone communication, either directly to the director or to a person at the director's home or office who would reasonably be expected to communicate such notice promptly to the director; or (D) by telegram, charges prepaid. All such notices shall be given or sent to the director's address or telephone number as shown on the records of the Association. Notwithstanding the foregoing, notice of a meeting need not be given to any director who signed a written waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof as more particularly provided in section 7 of this Article VIII.

(ii) Time Requirements. Notices sent by first-class mail shall be deposited into a United States mailbox at least four days before the time set for the meeting. Notices given by personal delivery, telephone, or telegraph shall be delivered, telephoned, or given to the telegraph company at least 48 hours before the time set for the meeting.

(iii) Notice Contents. The notice shall state the time, place, and purpose of the meeting.

Section 5. Attendance by Members.

(a) Board Meetings Open to Members. With the exception of executive sessions of the Board (see subparagraph (b), below) and any meetings conducted by conference telephone, all meetings of the Board shall be open to Members of



the Association; provided, however, that nondirector Members may only participate in deliberations or discussions of the Board (i) during the time allotted on the meeting agenda for Member comments; or (ii) when expressly authorized by a vote of a majority of a quorum of the Board, or authorization by the Board member chairing the meeting. The agenda for board meetings shall include a time for Member questions and comments.

(b) Executive Sessions. The Board, on the affirmative vote of a majority of a quorum shall be entitled to adjourn at any time for purposes of reconvening in executive session to discuss litigation in which the Association is or may become a party, personnel matters, the purchase or sale of real property or other business of a similar or otherwise sensitive nature. Prior to adjourning into an executive session, the topic(s) to be discussed in such session shall be announced, in general terms, to the Members in attendance at the meeting and any resolutions adopted or actions authorized in executive session shall be disclosed at the next regularly scheduled meeting of the Board, or, if the Board reconvenes the open session, at that time. Nothing provided herein shall be construed to obligate the Board to first call an open meeting before meeting in executive session with respect to the matters described above; provided, however, that the first item of business in any such executive session shall be a discussion of the reason(s) for the Board meeting in executive session.

Section 6. Quorum Requirements. A majority of the authorized number of directors shall constitute a quorum for the transaction of business, except to adjourn as provided in section 8 of this Article VIII. Every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present shall be regarded as the act of the Board of Directors, subject to the provisions of the California Nonprofit Corporation Law, especially those provisions relating to (i) approval of contracts or transactions in which a director has a direct or indirect material financial interest, (ii) appointment of committees, and (iii) indemnification of directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors below a quorum, so long as any action taken is approved by at least a majority of the required quorum for that meeting, or such greater number as is required by these Bylaws, the Articles of Incorporation or by law.

Section 7. Waiver of Notice. The transaction of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice, if (a) a quorum is present, and (b) either before or after the meeting, each of the directors not present, individually or collectively, signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. All waivers, consents and approvals shall be filed with the Association records or made a part of the minutes of the meeting and shall have the same force and effect as a unanimous vote of the Board. The requirement of notice of a meeting shall also be deemed to have been waived by any director who attends the meeting without protesting the lack of proper notice either before or at the inception of the meeting.

Section 8. Adjournment. A majority of the directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place or may adjourn for purposes of reconvening in executive session. If the meeting is

adjourned for more than 24 hours, notice of adjournment shall be given to all directors who were not present when the meeting was adjourned. The notice shall be given prior to the time established for reconvening the meeting and shall state the date, time and location thereof. Except as hereinabove provided, notice of adjournment need not be given.

Section 9. Emergency Action Without a Meeting. Any action required or permitted to be taken by the Board of Directors may be taken without a meeting if all members of the Board, individually or collectively, consent in writing to that action. It is the policy of this Association that the authority conferred hereunder to take action by written consent shall only be utilized when the Board determines that it is impractical or impossible to convene a formal meeting in time to take necessary action. Such action by written consent shall have the same force and effect as a unanimous vote of the Board of Directors. Such written consent or consents shall be filed with the minutes of the proceedings of the Board and shall have the same force and effect as a unanimous vote of the Board.

Section 10. Compensation. Directors, officers and members of committees shall not be entitled to monetary compensation for their services as such. However, this limitation on compensation shall not preclude a director, officer, or committee member from being reimbursed for such actual expenses incurred by the director in the performance of his or her duties as may be determined by resolution of the Board of Directors to be just and reasonable. Expenses for which reimbursement is sought shall be supported by a proper receipt or invoice. Directors shall also be entitled to reasonable Common Facility user privileges without the usual fees or charges in order to promote the circulation and visibility of directors within the community and to encourage their awareness of the condition of Association properties and the concerns of Member users.

#### **ARTICLE IX Duties and Powers of the Board**

Section 1. Specific Powers. Without prejudice to the general powers of the Board of Directors set forth in Article VII, section 1, the directors shall have the power to:

(a) Exercise all powers vested in the Board under the Governing Documents and under the laws of the State of California.

(b) Appoint and remove all officers of the Association, the General Manager of the Association, if any, and other Association employees; prescribe any powers and duties for such persons that are consistent with law, the Articles of Incorporation and these Bylaws; and fix their compensation.

(c) Appoint such agents and employ such other employees including attorneys and accountants, as it sees fit to assist in the operation of the Association, and to fix their duties and to establish their compensation.

(d) Adopt and establish rules and regulations subject to the provisions of the Declaration and these Bylaws governing the use of the Common Areas, the Common Facilities, private roads and parking areas within the Properties which are under the jurisdiction of the Association, and the personal conduct of the

Members and their guests thereon, and take such steps as it deems necessary for the enforcement of such rules and regulations including the imposition of monetary penalties and/or the suspension of voting rights and the right to use any Common Areas or Common Facilities; provided notice and a hearing are provided as more particularly set forth in Article XIII, section 6 of the Declaration. Rules and regulations adopted by the Board may contain reasonable variations and distinctions as between Owners and tenants.

(e) Enforce all applicable provisions of the Governing Documents relating to the control, management and use of the Lots within the Properties and the Common Areas and Common Facilities within the Properties.

(f) Contract for and pay premiums for fire, casualty, liability and other insurance and bonds (including indemnity bonds) which may be required from time to time by the Association.

(g) Contract for and pay for maintenance, landscaping, utilities, materials, supplies, labor and services that may be required from time to time in relation to the Properties.

(h) Pay all taxes, Special Assessments and other Assessments and charges which are or would become a lien on any portion of the Properties.

(i) Contract for and pay for construction or reconstruction of any portion or portions of the Properties which the Association is obligated to maintain which have been damaged or destroyed and which are to be rebuilt.

(j) Delegate its duties and powers hereunder to the officers of the Association or to committees established by the Board, subject to the limitations expressed in section 1 of Article X hereof.

(k) Levy and collect Assessments from the Members of the Association in accordance with the Declaration, and establish and collect reasonable use charges for any or all of the Common Facilities as the Board may deem necessary or desirable from time to time for the purpose of equitably allocating among the users the cost of maintenance and operation thereof.

(l) Perform all acts required of the Board under the Declaration.

(m) Prepare budgets (or a summary thereof) and maintain a full set of books and records showing the financial condition of the affairs of the Association in a manner consistent with generally accepted accounting principles and at no greater than annual intervals prepare an annual financial report, a copy of which shall be delivered to each Member in accordance with Article XII, section 5 hereof.

(n) Appoint the Environmental Control Committee, the Elections Committee and such other committees as it deems necessary from time to time in connection with the affairs of the Association in accordance with Article X hereof.

(o) Fill vacancies on the Board of Directors or in any committee, except for a vacancy created by the removal of a Board member.

(p) Open bank accounts and borrow money on behalf of the Association and

designate the signatories to such bank accounts.

(q) Bring and defend actions on behalf of more than one Member or the Association to protect the interests of the Members or the Association, as such, so long as the action is pertinent to the operations of the Association, and assess the Members for the cost of such litigation. Any disciplinary action against a Member shall be subject to the hearing and procedural requirements set forth in Article XIII, section 6 of the Declaration.

(r) Subject to the limitations imposed by section 2, below, to acquire, develop, hypothecate or sell real and personal property as reasonably required to discharge the Association's responsibilities hereunder or for the common use and enjoyment of the Members; provided however, that in no event shall any Common Area be sold.

Section 2. Limitations on Powers. The Board of Directors shall not be entitled to take any of the following actions without approval of the specified percentage of Members:

(a) The affirmative vote by written ballot of a majority of a quorum (see Article I, section 4(c) and Article V, section 5) of the voting power of the Members shall be required before the Board is authorized to take action on any of the following matters:

(i) Any action or undertaking which requires aggregate expenditures for capital improvements to the Common Areas in any fiscal year in excess of 5 percent of the budgeted gross expenses of the Association for that fiscal year; provided, however, that this limitation shall not apply to the expenditure of any funds accumulated by the Association on any new capital improvements or development fund so long as the expenditure is for the purpose for which the fund was established.

(ii) Any action to authorize the payment of monetary compensation to members of the Board of Directors or officers of the Association for their services as such; provided that directors and officers can be reimbursed for reasonable out-of-pocket expenses in accordance with Article VIII, section 10, above.

(iii) Action to remove a director from office without cause (see Article VII, section 6(d), above).

(iv) Action to fill any vacancy on the Board of Directors requiring membership approval pursuant to Article VII, section 6(f), hereof.

(v) Any action or undertaking which requires the borrowing of funds for any Association purpose other than routine credit transactions which are ordinarily incurred in the course of the Association's monthly operations.

(vi) Action to impose any special assessment or increase the regular assessment under circumstances requiring Member approval under Article IV of the Declaration.

(vii) Action to amend these Bylaws (see Article XIII, section 4, below) or the Articles of Incorporation.

(viii) Action to approve an agreement of merger pursuant to Corporations Code section 8010, et seq., or an amendment to an agreement of merger.

(ix) The Approval or initiation of construction of any new recreational Common Facility (including expansion of existing facilities) which is not specifically described in Article I, section 10 of the Declaration when: (A) the budgeted cost of constructing the new Common facility will exceed 5 percent of the Association's budgeted gross expenses for the fiscal year in which the project is approved; and (B) the funds required for construction shall be derived from one or more Member Assessments. No new recreational Common Facility construction project shall be approved by the Board without first adopting a detailed budget of the total projected project construction costs.

Expenditures from Association capital replacement reserve funds or capital development funds for purposes for which the funds have been accumulated shall not be subject to the approval requirements of this subparagraph. The annual budget disclosures (Article XII, section 5(a)) shall include a description of capital improvements projects for which reserve or development funds are being accumulated.

(b) The affirmative vote by written ballot of a majority of the total voting power of the Members, shall be required before the Board of Directors initiates any of the following actions:

(i) Action to terminate the operation of any of the Association recreational Common Facilities specifically identified in Article I, section 10 of the Declaration, or any other recreational Common Facility not so listed when the replacement cost of the unlisted facility is in excess of 5 percent of the Association's budgeted gross expenses for the year in which the closure is scheduled to occur. The terms "termination of operations" and "closure" shall not include the temporary closure of a recreational Common Facility for repairs, rehabilitation, the inability to obtain liability insurance at reasonable rates, health or safety reasons or the close of the season(s) for which the amenities usage was intended shall remain matters within the sole discretion of the Board. Any temporary closure, other than the cessation of normal seasonal operations, shall be supported by a Board resolution detailing the reasons therefor.

(ii) Action to amend the Declaration (see Article XVI of the Declaration).

(c) The affirmative vote by written ballot of all Members shall be required before the Board of Directors initiates any of the following actions:

(i) Action to transfer all or substantially all of the assets of the Association; or

(ii) Action to approve the filing of a certificate of dissolution of the Association.

### Section 3. Regulation of Conflict of Interest Transactions.

(a) Regulation of Interested Director Transactions. In addition to the



foregoing limitations on the powers of the Board, generally, the following provisions shall apply to any "interested director transaction." For purposes of this section, an interested director transaction means any transaction involving the Association in which a director has a material financial interest.

(i) No Board member shall participate in any discussion or board action concerning, or in any way attempt to use his or her Board position to influence, a Board decision in which the Director knows or has reason to know that he or she has a material financial interest, as defined in subparagraph (b) (ii) below:

(ii) On or before July 1 of each year, each director shall be obligated to disclose to the Board of Directors, as a whole, any financial interest of the disclosing director in any interested director transaction. In completing the annual disclosure form, directors shall endeavor in good faith to disclose not only pending transactions involving the Association in which he or she has a material financial interest, but also investments, businesses or relationships which may reasonably lead to or become an interested director transaction during the directors term of office.

(iii) The Association shall not knowingly engage in an interested director transaction unless the required disclosures have been made by the interested director(s) and, prior to engaging in or consummating the transaction, the Board adopts a resolution authorizing or approving the transaction by a vote of a majority of the directors then in office, without counting the vote of the interested director(s); and

(iv) Prior to authorizing or approving any interested director transaction, the Board must have considered, and in good faith determined after reasonable investigations that (A) the transaction is fair and reasonable as to the Association and is for the benefit of the Association and its Members as a whole, and (B) the Association could not have obtained a more advantageous arrangement, with reasonable effort under the circumstances, from other parties.

(b) Definitions. For purposes of this section 3, the following definitions shall apply:

(i) Interested Director Transaction shall be defined as set forth in subparagraph (a) above;

(ii) Material Financial Interest. A Board member shall be deemed to have a material financial interest in a decision within the meaning of subparagraph (a), above, if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the members generally, on:

(A) Any business entity in which the Board member has a direct or indirect investment worth more than \$1,000;

(B) Any interest in real property in which the Board member has a direct or indirect interest worth more than \$1,000;

(C) Any source of income aggregating \$250 or more in value provided to, received by, or promised to the Board member within 12 months prior



to the time when the decision is made; or

(D) Any business entity in which the Board member is a director, officer, partner, trustee, employee, or holds any management position.

(iii) Distinguishable From the Members Generally. A material financial effect of a Board decision on a director's financial interests is distinguishable from its effect on the Members generally unless the decision will affect the director's financial interest in substantially the same manner as it will affect all Members or a significant segment of the Tahoe Donner membership. An industry, trade or profession in which the director is a participant does not constitute a significant segment of the Membership.

(iv) Materiality. Financial effects are material if they might interfere with a Board member's performance of his or her duties in an impartial manner and free from bias.

(v) Indirect Investment or Interest. An indirect investment or interest of a director means any investment or interest owned by the spouse or dependent child of the director, by an agent on behalf of the director or by a business entity or trust in which the director, the director's agents, spouse and/or dependent children own directly, indirectly or beneficially, a 10 percent or greater interest.

(c) Conflict of Interest Rules. The board is empowered to adopt reasonable rules, procedures and forms to facilitate the disclosure of interested director transactions, further refine the application of this Section 3 to specific transactions and to rule on the presence or absence of interested director transactions if such a determination is requested by a director in advance of the director's participation in what is, or may constitute, an interested director transaction.

## **ARTICLE X Committees**

Section 1. Committees of Directors. In addition to the Elections Committee appointed and constituted pursuant to Article VII, section 5(c) of these Bylaws and the Environmental Control Committee appointed and constituted pursuant to Article V of the Declaration, the Board may, by resolution adopted by a majority of the directors then in office, designate one or more committees, each consisting of two or more Members (who may also be directors), to serve at the pleasure of the Board. Committees shall have all such authority of the Board with respect to matters within their area of assigned responsibility as specifically conferred in the Board resolution establishing the committee; provided, however, that no committee, regardless of Board resolution, may:

(a) Take any final action on any matter which, under the Nonprofit Corporation Law of California, also requires approval of the Members.

(b) Fill vacancies on the Board of Directors or on any committee which has been delegated any authority of the Board.

(c) Amend or repeal Bylaws or adopt new Bylaws.

(d) Amend or repeal any resolution of the Board of Directors which by its express terms is not so amendable or repealable.

(e) Appoint any other committees of the Board of Directors or the members of those committees.

(f) Approve any transaction (i) to which the Association is a party and one or more directors have a material financial interest; or (ii) between the Association and one or more of its directors or between the Association or any person in which one or more of its directors have a material financial interest.

Section 2. Meetings and Actions of Committees. Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of Article VIII of these Bylaws, concerning meetings of directors, with such changes in the context of those Bylaws as are necessary to substitute the committee and its members for the Board of Directors and its members, except that the time for regular meetings of committees may be determined either by resolution of the Board of Directors or by resolution of the committee. Special meetings of committees may also be called by resolution of the Board of Directors. Notice of special meetings of committees shall also be given to any and all alternate members, who shall have the right to attend all meetings of the committee. Minutes shall be kept of each meeting of any committee and shall be filed with the Association records unless the mission or charter of the committee, as determined by the Board, does not require such formality. The Board of Directors may adopt rules not inconsistent with the provisions of these Bylaws for the governance of any committee and those rules may dispense with record keeping and procedural requirements otherwise applicable by virtue of this section 2 if the responsibilities of the committee do not necessitate such formality.

## **ARTICLE XI**

### **Officers**

Section 1. Officers. The officers of the Association shall be a president, a vice president, a secretary and a chief financial officer. The Association may also have, at the discretion of the Board, one or more assistant secretaries, one or more assistant treasurers, and such other officers as may be appointed in accordance with the provisions of section 3 following. One person may hold two or more offices, except that neither the secretary nor the chief financial officer may serve concurrently as president.

Section 2. Election of Officers. The officers of the Association, except such officers as may be appointed in accordance with the provisions of sections 3 and 5 following, shall be chosen annually by majority vote of the Board at its first regular meeting following the annual meeting of the Members or the election of directors, and each shall hold his office until he shall resign or shall be removed or otherwise disqualified to serve, or his annual term has expired and his or her successor shall be elected and qualified.

Section 3. Subordinate Officers. The Board may appoint, and may empower the president to appoint such other officers as the affairs of the Association may require each of whom shall hold office for such period, have such authority and

perform such duties as are provided in the Bylaws and as the Board may from time to time determine.

Section 4. Removal of Officers. Any officer may be removed, either with or without cause, by the Board at any regular or special meeting.

Section 5. Resignation of Officers. Any officer may resign at any time by giving written notice to the Board or to the president or to the secretary. Any such resignation shall take effect at the date of the receipt of such notice or at any later time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Association under any contract to which the officer is a party.

Section 6. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in the Bylaws for regular appointments to such office.

Section 7. President. The president shall be elected by the Board from among the directors. He shall be the chief executive officer of the Association and shall, subject to the control of the Board, have general supervision, direction and control of the affairs and officers of the Association. He shall preside at all meetings of the Board, and shall have the general power and duties of management usually vested in the office of president of a corporation together with such other powers and duties as may be prescribed by the Board or the Bylaws.

Section 8. Vice President. The vice president shall be elected by the Board from among the directors. In the absence or disability of the president, the vice president shall perform all the duties of the president and when so acting shall have all the powers of, and be subject to all the restrictions upon, the president. He shall have such other powers and perform such other duties as from time to time may be prescribed by the Board or the Bylaws.

Section 9. Secretary. The secretary shall keep or cause to be kept at the principal office or such other place as the Board may order, a book of minutes of all meetings of directors and Members, with the time and place of holding same, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at directors' meetings the number of Members present in person or by proxy at Members' meetings, and the proceedings thereof. The secretary shall keep, or cause to be kept, appropriate current records showing the Members of the Association, together with their addresses. He or she shall give or cause to be given, notice of all meetings of the Board required by the Bylaws or by law to be given, and he shall keep the seal of the Association in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board or by the Bylaws.

Section 10. Chief Financial Officer. The chief financial officer, who shall be known as the treasurer, shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings and other matters customarily included in financial statements. The books and records shall at all reasonable times be open to inspection by any director in accordance with Article XIII, section 1 of these Bylaws. The treasurer shall

deposit all monies and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board. He shall disburse the funds of the Association as may be ordered by the Board, shall render to the president and directors, whenever they request it, an account of all of his transactions as treasurer and of the financial condition of the Association, and shall have such other powers and perform such other duties as may be prescribed by the Board or the Bylaws. If required by the Board, the treasurer shall give the Association a bond in the amount and with the surety or sureties specified by the Board for faithful performance of the duties of his office and for restoration to the Association of all its books, papers, vouchers, money, and other property of every kind in his possession or under his control on his death, resignation, retirement or removal from office.

**ARTICLE XII**  
**Member Assessment Obligations**  
**and Association Finances**

Section 1. Description of Assessments to Which Owners Are Subject. Owners of Lots within the Properties are subject to Annual, Special and Special Individual Assessments as more particularly described in Article IV of the Declaration.

Section 2. Checks. All checks or demands for money and notes of the Association shall be signed by the president and treasurer, or by such other officer or officers or such other person or persons as the Board of Directors may from time to time designate. Notwithstanding the foregoing, any withdrawal of funds from Association reserve accounts shall require the signature of two directors or an officer (who is not a director) and a director.

Section 3. Operating Account. There shall be established and maintained a cash deposit account to be known as the "Operating Account" into which shall be deposited the operating portion of all Regular and Special Assessments as fixed and determined for all Members. Disbursements from such account shall be for the general need of the operation including, but not limited to, wages, repairs, betterments, maintenance, and other operating expenses of the Properties.

Section 4. Other Accounts. The Board shall maintain any other accounts it shall deem necessary to carry out its purposes, including reserve accounts for replacement of capital improvements as more particularly set forth in Article IV of the Declaration. All Association books of account shall be maintained in accordance with generally accepted accounting principles.

Section 5. Budgets and Financial Statements. The following financial statements and related information for the Association shall be regularly prepared and copies thereof shall be distributed to each Member of the Association:

(a) Budget. A pro forma operating budget for each fiscal year consisting of at least the following information shall be distributed to Members not less than 45 nor more than 60 days prior to the beginning of the fiscal year:

(i) Estimated revenue and expenses on an accrual basis;

(ii) The amount of the total cash reserves of the Association currently set aside for the future repair or replacement of, or addition to, those major components of the Common Areas and Common Facilities which the Association is obligated to maintain and for contingencies;

(iii) An estimate of the current replacement costs of the estimated remaining useful life of, and the methods of funding to defray repair or replacement of, or additions to, those major components of the Common Areas and Common Facilities which the Association is obligated to maintain;

(iv) A general statement setting forth the procedures used by the Board of Directors in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the Common Areas and Common Facilities which the Association is obligated to maintain.

In lieu of distributing the complete pro forma operating budget as specified above, the Board of Directors may elect to distribute a summary of the budget to the Members (within the time limits provided above), together with a notice that the complete budget is available at the Association's principal office and will be furnished, upon request, to any Member at the Association's expense. If a Member requests a copy of the complete budget, the Association shall mail the material, via first class mail, within five days. The Association notice required hereunder shall be presented on the front page of the summary in 10-point bold type.

(b) Year-End Report. Within 120 days after the close of the fiscal year, a copy of the Association's year-end report, consisting of at least the following, shall be distributed to Members:

(i) A balance sheet as of the end of the fiscal year;

(ii) An operating (income) statement for the fiscal year;

(iii) A statement of changes in financial position for the fiscal year;

(iv) A statement advising Members of the place where the names and addresses of the current Members are located; and

(v) Any information required to be reported under section 8322 of the Corporations Code requiring the disclosure of certain transactions in excess of \$50,000 per year between the Association and any director or officer of the Association and indemnifications and advances to officers or directors in excess of \$10,000 per year.

A review of the financial statement of the Association shall be prepared in accordance with generally accepted accounting principles by a licensee of the State Board of Accountancy. If the annual report is not prepared by such a licensee, it shall be accompanied by the certificate of an authorized officer of the Association that the statement was prepared without an audit from the books and records of the Association.

(c) Annual Statement Regarding Delinquency/Foreclosure Policy. In addition to financial statements, the governing body shall annually distribute,



within 60 days prior to the beginning of the fiscal year, a statement of the Association's policies and practices in enforcing its remedies against members for defaults in the payment of Regular and Special Assessments, including the recording and foreclosing of liens against Members' subdivision interests.

(d) Review of Accounts. On no less than a quarterly basis, the Board of Directors shall:

(i) Review a current reconciliation of the Association's operating accounts;

(ii) Review a current reconciliation of the Association's reserve accounts;

(iii) Review the current year's actual reserve revenues and expenses compared to the current year's budget;

(iv) Review the Association's latest account statements prepared by the financial institution(s) with whom the operating and reserve accounts are lodged; and

(v) Review the Association's income and expense statement for the operating and reserve accounts.

To the extent one document provides the information required in more than one of the above listed items, any such requirements listed above may be satisfied by reviewing the same document.

### **ARTICLE XIII Miscellaneous**

#### **Section 1. Inspection of Books and Records.**

(a) Member Inspection Rights. All accounting books and records, minutes of proceedings of the Members, the Board and committees of the Board and membership list of the Association shall at all times, during reasonable business hours, be subject to the inspection of any Member or his duly appointed representative at the offices of the Association for any purpose reasonably related to the Member's interest as such. Member's rights of inspection hereunder shall be exercisable on 10 days written demand on the Association, which demand shall state the purpose for which the inspection rights are requested. Inspection rights with respect to the membership list shall be subject to the Association's right to offer a reasonable alternative to inspection within 10 days after receiving the Member's written demand (as more particularly set forth in section 8330 and following of the California Nonprofit Mutual Benefit Corporation Law). Without limiting the foregoing, reasonable alternatives may include the provision of duplicate copies of requested materials to the requesting party or offering to mail material on the requesting party's behalf.

(b) Director Inspection Rights. Every director shall have an absolute right at any reasonable time to inspect all books, records, documents and minutes of the Association and the physical properties owned by the Association.



The right of inspection by a director includes the right to make extracts and copies of documents.

(c) Adoption of Reasonable Inspection Rules. The Board of Directors may establish reasonable rules with respect to (i) notice of inspection, (ii) hours and days of the week when inspection may be made, and (iii) payment of the actual cost of reproducing copies of documents requested by the Member and employees' time spent in collecting and handling requested documents.

Section 2. General Manager. The Board may, from time to time, employ the services of a manager to manage the affairs of the Association and, to the extent not inconsistent with the laws of the State of California, and upon such conditions as are otherwise deemed advisable by the Board, the Board may delegate to the manager any of its day-to-day management and maintenance duties and powers under these Bylaws and the Declaration, provided that the general manager shall at all times remain subject to the general control of the Board.

Section 3. Corporate Seal. The Association shall have a seal in circular form having within its circumference the words "Tahoe Donner Association, Incorporated April 22, 1971, State of California."

Section 4. Amendment or Repeal of Bylaws. Except as otherwise expressly provided herein, these Bylaws may only be amended or repealed, and new Bylaws adopted by the affirmative vote by written ballot of a majority of a quorum (see Article V, section 5) of the Members of the Association; provided that if any provision of these Bylaws requires the vote of a larger proportion or all of the Members, such provisions may not be altered, amended or repealed except by such greater vote, unless otherwise specifically provided herein. Any amendment to these Bylaws shall become effective immediately upon approval by the Members. The secretary of the Association shall certify adoption of any duly approved amendment to the Bylaws and a copy of said certificate and the amendment shall be included in the Association's corporate records.

Section 5. Notice of Requirements. Any notice or other document permitted or required to be delivered as provided herein may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered 72 hours after a copy of same has been deposited in the United States mail, postage prepaid, addressee as follows: if to the Association or the Board of Directors, to the principal office of the Association as designated from time to time by written notice to the Members: if to a director, to the address from time to time given by such director to the secretary for the purpose of service of such notice; if to a Member, to the address from time to time given by such Member to the secretary for the purpose of service of such notice, or, if no such address has been so given, to the address of any Separate Interest within the Properties owned by such Member.

Section 6. Construction and Definitions. Unless the context requires otherwise or a term is specifically defined herein, the general provisions, rules of construction and definitions in the California Nonprofit Mutual Benefit Corporation Law shall govern the construction of these Bylaws. All captions and titles used in these Bylaws are intended solely for the reader's convenience of reference and shall not affect the interpretation or application of any of the terms or provisions contained herein.

Section 7. Effective Date. These Bylaws shall become effective upon approval by the Members; except that all matters pertaining to membership voting and the election of directors for the election held in 1991 shall be governed by the Association's prior set of Bylaws.

**CERTIFICATE OF SECRETARY**

KNOW ALL MEN BY THESE PRESENTS:

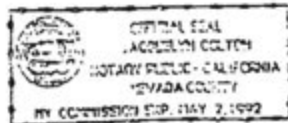
The undersigned, Secretary of the association known as TAHOE DONNER ASSOCIATION, does hereby certify that the above and foregoing Restated Bylaws, consisting of 32 pages, were duly adopted by written ballot of the Members of said Association on the 30TH day of MAY, 1991, and that they now constitute said Bylaws.

TAHOE DONNER ASSOCIATION

By Ruth Cowan  
(Secretary)

State of California )  
County of Nevada ) ss.

On this 5<sup>TH</sup> day of JUNE, in the year 1991, before me, Jacquelyn Colton, Notary Public for the State of California, personally appeared RUTH COWAN, personally known to me to be the person(s) who executed the within instrument as SECRETARY or on behalf of the corporation therein named and acknowledged to me that the corporation executed it.



Jacquelyn Colton  
Notary Public, State of California

**CERTIFICATE OF AMENDMENT  
OF  
ARTICLES OF INCORPORATION**

James D. Kelly and Ruth Cowan certify that:

1. They are the president and secretary, respectively, of TAHOE DONNER ASSOCIATION, a California nonprofit mutual benefit corporation.
2. Articles I through XII, inclusive, of the Articles of Incorporation of this corporation are amended in full to read as follows:

**ARTICLES OF INCORPORATION OF  
TAHOE DONNER ASSOCIATION**

**I**

The name of this corporation is Tahoe Donner Association.

**II**

This corporation is a nonprofit mutual benefit corporation organized under the Non-profit Mutual Benefit Corporation law. The purpose of this corporation is to engage in any lawful act or activity for which a corporation may be organized under such law. More specifically, the corporation will own, repair, maintain and manage common areas, enforce the rules and regulations adopted by the Board of Directors from time to time, and discharge such other lawful duties and responsibilities required pursuant to the corporation's bylaws and the Declaration of Covenants, Conditions and Restrictions (the "Declaration") recorded in the Office of the Recorder of Nevada County, State of California, with respect to that certain real estate planned development located within said County commonly referred to as Tahoe Donner.

**III**

This corporation is intended to qualify as a homeowners association under the applicable provisions of the Internal Revenue Code and of the Revenue and Taxation Code of California. No part of the net earnings of this corporation shall inure to the benefit of any private individual, except as expressly provided in those sections with respect to the acquisition, construction, or provision for management, maintenance, and care of the corporation's property, and other than by a rebate of excess membership dues, fees or assessments. In the event of the dissolution, liquidation, or winding up of the corporation,

upon or after termination of the aforementioned real estate project in accordance with provisions of the Declaration, the corporation's assets remaining after payments or provision for payment, of all known debts and liabilities of the corporation shall be divided among and be distributed to the members thereof in accordance with their respective rights therein.

#### IV

Notwithstanding any of the above statements of purposes and powers, this corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the specific purposes of this corporation.

#### V

The authorized number, and qualifications for membership in this corporation, the different classes of membership, the property, voting and other rights and privileges of members and their liability to dues and assessments and the methods of collection thereof, shall be as provided for in the Bylaws of this corporation.

#### VI

Any amendment of the Articles of Incorporation shall require the vote or consent by written ballot of at least (i) a majority of the Board of Directors and (ii) at least a bare majority of the voting power of the members of this corporation.

#### VII

This corporation elects to be governed by all of the provisions of the California Non-Profit Mutual Benefit Corporation Law of 1980 not otherwise applicable to it under part 5 thereof.

3. The foregoing Amendment of Articles of Incorporation has been duly approved by the Board of Directors.

4. The foregoing Amendment of Articles of Incorporation has been duly approved by the required vote of the corporation's members. The required member vote was 51 percent of the voting power. The total number of Members who voted in favor of this amendment was 3032 and a total of 5,876 Members were eligible to vote on said amendment.

/s/  
\_\_\_\_\_  
James D. Kelly, President

/s/  
\_\_\_\_\_  
Ruth Cowan, Secretary

The undersigned declare under penalty of perjury that the matters set forth in the foregoing certificate are true of their own knowledge.

Executed at Truckee, California, on July 30, 1991.

James D. Kelly

James D. Kelly, President

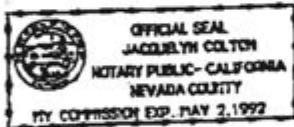
Ruth Cowan

Ruth Cowan, Secretary

GENERAL ACKNOWLEDGMENT

CAL-27

State of California }  
County of NEVADA } SS.



On this the 30th day of JULY, 1991, before me,

JACQUELYN COLTON

the undersigned Notary Public, personally appeared

RUTH COWAN

- ☒ personally known to me  
☐ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) IS subscribed to the within instrument, and acknowledged that SHE executed it. WITNESS my hand and official seal.

Jacquelyn Colton  
Notary's Signature

STATE OF CALIFORNIA

County of Nevada

On August 3, 1991 before me, the undersigned, a Notary Public, and for said State, personally appeared James D. Kelly

personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name IS subscribed to the within instrument, and acknowledged to me that he executed it.

James D. Kelly  
NOTARY PUBLIC

ACKNOWLEDGMENT - INDIVIDUAL  
TE FORM NO. 40 - 11-91







Recording requested by, and  
when recorded return to:

TAHOE DONNER ASSOCIATION  
11509 Northwoods Blvd.,  
Truckee, CA 96161



Nevada, County Recorder  
Jewett-Burdick

**DOC- 2004-0010863-00**

Thursday, MAR 25, 2004 09:24:55

REC \$9.00 CCF \$1.00 SBS \$4.00

NIC \$1.00 AUT \$5.00

Ttl Pd \$20.00

Nbr-0000295691

KLB/KB/1-5

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**AMENDMENTS OF  
THE  
RESTATED BYLAWS  
OF  
TAHOE DONNER ASSOCIATION**

Having been duly approved by the membership of Tahoe Donner Association, the following are amendments of the Restated Bylaws of Tahoe Donner Association, as that document appears in the Official Records of Nevada County, California, as document number 91 16580, recorded therein on June 7, 1991 (the "Restated Bylaws"). Said amendments supersede the original text as indicated herein. With the incorporation of these amendments, the Restated Bylaws remain in full force and effect.

All references are to that certain document entitled "Restated Bylaws of Tahoe Donner Association", as more particularly described above.

**I**

**Amendment of ARTICLE VII, SECTION 3:**

The first paragraph of said Section 3 is hereby replaced, in its entirety, with the following:

**"Term of Office.** In 2003, the Members elected three directors, each for a term of two years. The remaining two directors' two-year terms shall expire in 2004. Concluding at the annual membership meeting in 2004, the Members shall elect two directors by written ballot (see Article IV, section 6) for a term of three years to replace those directors whose terms of office are then expiring. Concluding at the annual membership meeting in 2005, the Members shall elect three directors by written ballot, the two candidates receiving the highest number of votes for a term of three years and the candidate receiving the next highest number of votes for a term of one year, to replace those directors whose terms of office are then expiring; should a tie be involved in determining the length of the term to which a candidate is elected, it shall be decided by random drawing or lot. At each

annual meeting thereafter, the Members shall elect director(s) by written ballot for a term of three years to replace those director(s) whose term(s) of office are then expiring.”  
The second and third paragraphs of said Section 3 remain unchanged.

## II

### Amendment of ARTICLE VII, SECTION 4(a):

The first paragraph of said Section 4(a) is hereby replaced, in its entirety, with the following:  
“Requests for Candidacy. No later than April 1 of each year, the Association shall send a notice to its members inviting eligible Members to become candidates for election to any vacancies on the Board which are scheduled to be filled at the next annual membership meeting. Those Members who wish to become candidates must submit an application to the Association office no later than May 1 of that year indicating the Member’s desire to become a candidate for election to the Board. The application must be accompanied by proof of ownership of a Lot within the Properties. The May 1 deadline for receipt of applications for candidacy shall constitute the close of nominations for that election, and no applications shall be accepted after that time.”

The second paragraph of said Section 4(a) remains unchanged.

The third paragraph of said Section 4(a) is hereby replaced, in its entirety, with the following:  
“Prior to the date of the annual membership meeting, the Association shall schedule at least one community meeting, at an appropriate location within or near to the Properties, so all candidates will have an opportunity to address interested Members.”

## III

### Amendment of ARTICLE VII, SECTION 5:

The following subsection (d) is hereby added after subsection (c) of said Section 5:

“(d) Uncontested Candidates Declared Elected. In the event that, upon the close of nominations (see Section 4, of this Article VII, above), the number of qualified candidates does not exceed the number of directors to be elected, those candidates shall be immediately declared elected, to take office at the conclusion of that year’s annual membership meeting, and that year’s annual election of directors shall be concluded immediately upon said declaration.”

Subsections (a), (b) and (c) of said Section 5 remain unchanged.

## IV

### Amendment of ARTICLE VIII, SECTION 3:

The second paragraph of said Section 3 is hereby replaced, in its entirety, with the following:

"Ordinarily, regular meetings shall be conducted monthly; provided, however, that regular meetings can be held as infrequently as every three months if the Board's business does not justify more frequent meetings. Notice of the time and place of regular meetings shall be posted in a prominent place within the Common Area at least four days prior to the meeting. Regular meetings shall be held upon four days' notice to Board members by first-class mail or by 48 hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means; provided, however, that notice need not be given to any Board member who has signed a written waiver of notice or consent to holding the meeting as more particularly provided in section 7 of this Article VIII. An agenda for all regular meetings shall be prepared by the president or by management under the direction of the president."

The first paragraph of said Section 3 remains unchanged.

## V

### Amendment of ARTICLE VIII, SECTION 4(b):

Paragraphs (i) and (ii) of said Section 4(b) are hereby replaced, in their entirety, with the following paragraph (i):

"(i) Manner and Timing of Giving. With the exception of emergency meetings, notice of the time and place of special meetings of the Board shall be posted in a prominent place within the Common Area at least four days prior to the meeting. With the exception of emergency meetings, special meetings shall be held upon four days' notice to Board members by first-class mail or by 48 hours' notice delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. All such notices shall be given or sent to the director's address or telephone number as shown on the records of the Association. Notwithstanding the foregoing, notice of a meeting need not be given to any director who has signed a written waiver of notice or consent to holding the meeting or an approval of the minutes thereof as more particularly provided in section 7 of this Article VIII. In the case of emergency meetings, every effort shall be made to provide directors with as much and as effective notice as is reasonably possible."

The remaining paragraph (iii) of said Section 4(b) remains unchanged, except that it is hereby renumbered as paragraph "(ii)".

## VI

### Amendment of ARTICLE VIII, SECTION 5:

Section 5 is hereby replaced, in its entirety, with the following:

"Section 5. Attendance by Members.

(a) Board Meetings Open to Members. With the exception of executive sessions of the Board (see subparagraph (b), below), all meetings of the Board shall be open to Members of the Association; provided, however, that nondirector Members may only participate in deliberations or discussions of the Board (i) during the time allotted on the meeting agenda for Member comments; or (ii) when expressly authorized by a vote of a majority of a quorum of the Board, or authorized by the Board member chairing the meeting. The agenda for board meetings shall include a time for Member questions and comments.

(b) Executive Sessions. The Members' right to attend meetings of the Board does not include when the Board adjourns to executive session to consider litigation, matters relating to the formation of contracts with third parties, member discipline, personnel matters, or to meet with a Member, upon the Member's request, regarding the Member's payment of assessments. The Board shall meet in executive session, if requested by a Member who may be subject to a fine, penalty, or other form of discipline, and that Member shall be entitled to attend the executive session. Any matter discussed in executive session shall be generally noted in the minutes of the immediately following meeting of the Board that is open to the entire Membership. Nothing provided herein shall be construed to obligate the Board to first call an open meeting before meeting in executive session with respect to the matters described above."

## VII

### Amendment of ARTICLE IX, SECTION 2(a):

Paragraph (v) of said Section 2(a) is hereby replaced, in its entirety, with the following:

"(v) Any action or undertaking which requires the borrowing of funds for any Association purpose other than routine credit transactions which are ordinarily incurred in the course of the Association's monthly operations or for the acquisition of vehicles, equipment or machinery, where the only collateral for the debt is the property being acquired and the lender has no recourse directly against the Members or their Separate Interests in the event of default on the loan."

All other provisions of said Section 2(a) remain unchanged.

## VIII

### Amendment of REFERENCES TO "ENVIRONMENTAL CONTROL COMMITTEE":

Each and every reference in the Restated Bylaws to "Environmental Control Committee" and "ECC" is hereby replaced with "Architectural Standards Committee" and "ASC", respectively. Until such time as this same amendment may be incorporated into Tahoe Donner Association's First Restated Declaration of Covenants and Restrictions of Tahoe Donner, references therein to "Environmental Control Committee" and "ECC" shall be to the same committee as are all references to "Architectural Standards Committee" and "ASC" in the Restated Bylaws as hereby amended.

# CERTIFICATE OF SECRETARY

KNOW ALL MEN BY THESE PRESENTS:

The undersigned, Secretary of Tahoe Donner Association, does hereby certify that the above and foregoing Amendments of the Restated Bylaws of Tahoe Donner Association were duly adopted by written ballot of the Members of said Association on the Twelfth day of December 2003, and that, therefore, said amendments are to be read together with, and are hereby incorporated into, said Restated Bylaws.

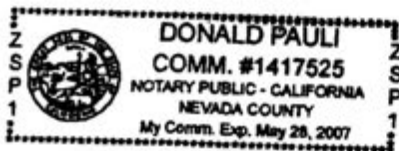
  
 JAMES L. McCANN, Secretary  
 TAHOE DONNER ASSOCIATION


## ACKNOWLEDGMENT

State of California           )  
   ) ss.  
 County of Nevada           )

On March 22, 2004, before me, the undersigned notary public in and for said County and State, personally appeared James L. McCann, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that s/he executed the same in her/his authorized capacity and that, by her/his signature on the instrument, the person or entity upon behalf of which the person acted executed the instrument.

WITNESS my hand and official seal.



  
 My commission expires on 5/28/07



*Recording Requested by*  
**FIDELITY NATIONAL TITLE**

Recording requested by, and  
when recorded return to:

TAHOE DONNER ASSOCIATION  
11509 Northwoods Blvd.,  
Truckee, CA 96161

Nevada County Recorder  
Gregory J. Diaz  
Document#: 20100018300  
Monday August 09 2010, at 08:00:00 AM  
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Paid: \$17.00 AB  
Fidelity Natl Title Co

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**AMENDMENT OF  
THE  
RESTATED BYLAWS  
OF  
TAHOE DONNER ASSOCIATION**

Having been duly approved by the membership of Tahoe Donner Association, the following is an amendment of the Restated Bylaws of Tahoe Donner Association, as that document appears in the Official Records of Nevada County, California, as document number 91 16580, recorded therein on June 7, 1991, and as that document was previously amended by that certain document entitled "Amendments of the Restated Bylaws of Tahoe Donner Association", as that document appears in the Official Records of Nevada County, California, as document number 2004-0010863-00, recorded therein on March 25, 2004 (the "Restated Bylaws"). Said amendment supersedes the original text as indicated herein. With the incorporation of this amendment, the Restated Bylaws remain in full force and effect.

All references are to that certain document entitled "Restated Bylaws of Tahoe Donner Association", as more particularly described above.

Said Restated Bylaws of Tahoe Donner Association are hereby amended to add under Article IX "Duties and Powers of the Board", Section 2 "Limitations on Powers", the following:

"(a)(x) Any action to sell, dispose of, transfer, convey, exchange, hypothecate, encumber, or modify or change the land-use designation of any Other Association Real Property that is located outside of the boundaries of the subdivided development of Tahoe Donner, as such subdivision existed as of the date of the amendment adding this provision. Notwithstanding the foregoing, the Board may undertake any of the otherwise precluded actions without prior Member approval if the Board concludes, by a majority vote, that waiting for Member approval will jeopardize the successful completion of a transaction that is beneficial to the Association."

## CERTIFICATE OF SECRETARY

KNOW ALL MEN BY THESE PRESENTS:

The undersigned, Secretary of Tahoe Donner Association, does hereby certify that the above and foregoing Amendment of the Restated Bylaws of Tahoe Donner Association was duly adopted by written ballot of the Members of said Association on the Third day of September 2008, and that, therefore, said amendment is to be read together with, and is hereby incorporated into, said Restated Bylaws.

  
DON BERRYMAN, SECRETARY  
TAHOE DONNER ASSOCIATION

## ACKNOWLEDGMENT

State of California       )  
                                      )  
County of Nevada       )

On July 22, 2010, 2010, before me, BONNIE LOUISE WATKINS,  
Here Insert Name and Title of the Officer

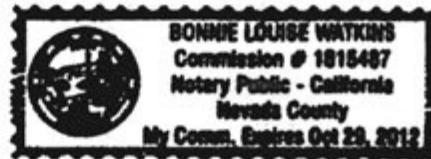
personally appeared DON BERRYMAN,  
Name(s) of Signer(s)

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

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

WITNESS my hand and official seal.

Signature Bonnie Louise Watkins  
Signature of Notary Public



Place Notary Seal Above