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**P.E.V. HOMEOWNERS'  
ASSOCIATION, INC. NO. 7**  
c/o BAYDALINE & JACOBSEN LLP  
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(Space Above For Recorder's Use)

**FIRST RESTATED DECLARATION**  
**OF**  
**COVENANTS, CONDITIONS, AND RESTRICTIONS**  
**FOR**  
**P.E.V. HOMEOWNERS' ASSOCIATION, INC. NO. 7**

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**FIRST RESTATED DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
FOR P.E.V. HOMEOWNERS' ASSOCIATION, INC. NO. 7**

This First Restated Declaration of Covenants, Conditions, and Restrictions for P.E.V. Homeowners' Association, Inc. No. 7 is made by the P.E.V. Homeowners' Association, Inc. No. 7, a California nonprofit mutual benefit corporation (the "Association").

**RECITALS**

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A. The Association is an "association", as that term is defined in California Civil Code Section 4080, which has been created to manage the common interest development located in Plumas County, State of California, commonly known as Plumas Pines (the "Development") and more particularly described as follows:

*All of that real property shown in that certain Subdivision Map entitled "Plumas Eureka Estates, Unit No. 7 (Phase I)" filed in the Office of the Recorder of Plumas County, State of California, on January 5, 1982 in Book 5 of Maps at Pages 50 to 51.*

B. Osterlund Enterprises, Inc. a California corporation (referred to herein as the "Declarant") executed a document entitled "Declaration of Covenants, Conditions and Restrictions for Plumas Eureka Estates Unit No. 7", in Volume 503, at Page 280, of the Official Records of Plumas County, California (the "Original Declaration").

C. The Original Declaration was amended by a document entitled "First Amendment to Declaration of Covenants, Conditions and Restrictions of Plumas Eureka Estates Unit No. 7" recorded on August 17, 1998 in Book 737, Page 443, of the Official Records of Plumas County, California (the "First Amendment").

D. The Original Declaration was further amended by a document entitled "Second Amendment to Declaration of Covenants, Conditions and Restrictions of Plumas Eureka Estates Unit No. 7" recorded on October 25, 2015 as Document No. 2015-0006845, of the Official Records of Plumas County, California (the "Second Amendment").

E. The Original Declaration, as amended by the First Amendment and Second Amendment, established certain limitations, easements, covenants, restrictions, conditions, liens, and charges which run with and are binding upon all parties having or acquiring any right, title, or interest in the real property comprising the Development.

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

G. At least seventy-five percent (75%) of the voting power of the Members voted to amend, restate, and supersede the Original Declaration pursuant to Section 11.1.1 of the Original Declaration.

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

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

2. All of the real property comprising the Development constitutes a "planned development", as that term is defined in California Civil Code Section 4175.

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

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

## **ARTICLE 1 DEFINITIONS**

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

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

1.3 Architectural Committee. "Architectural Committee" shall mean the committee created pursuant to Article 9 of this Declaration.

1.4 Architectural Rules. "Architectural Rules" shall mean the rules and regulations adopted by the Board pursuant to Section 9.5 of this Declaration.

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

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

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

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

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

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

1.7 Association. "Association" shall mean P.E.V. Homeowners' Association, Inc. No. 7, a California nonprofit mutual benefit corporation, its successors and assigns.

1.8 Association Rules. "Association Rules" or "Rules" shall mean rules and regulations regulating the use and enjoyment of the Common Area which may be adopted by the Board from time to time.

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

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

1.11 Common Area. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners in the Development excluding the Lots. The Common Area includes, but is not limited to, Lot A, Lot B, Lot C, and Lot D as shown on the Subdivision Map. Common Area shall include all facilities and improvements located within the property designated as Common Area, including driveways, walkways, paths, stairs, parking areas, sewers, open spaces, planted and landscaped areas, streets and roads, electrical, water, gas and telephone utility facilities, fire hydrants, and all other Improvements thereon.

1.12 Common Facilities. "Common Facilities" shall mean all facilities constructed or installed, if any, or to be constructed or installed, or currently located on the Common Area and owned by the Association.

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

1.14 County. "County" shall mean the County of Plumas, State of California, and its various departments, divisions, employees, and representatives.

1.15 Deck. "The term "Deck" shall mean the enclosed or fenced deck included in a Lot.

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

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

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

1.19 Governing Documents. "Governing Documents" shall mean the Articles, Bylaws, Declaration, Association Rules (including the Architectural Rules), Election Rules and the policies and resolutions duly adopted by the Board and distributed to the Members.

1.20 Improvement(s). "Improvement(s)" shall mean without limitation, the construction, installation, alteration, or remodeling of any buildings, walls, fences, landscaping, equipment, antennas, stairs, decks, utility lines, or any other structure of any kind.



1.21 Lot. "Lot" shall mean any plot of land shown upon the Subdivision Map, with the exception of the Common Area.

1.22 Member. "Member" shall mean Owner.

1.23 Mortgagee. "Mortgagee" shall refer to a beneficiary under a deed of trust as well as to a mortgagee in the conventional sense.

1.24 Owner. "Owner" shall mean any person, firm, corporation, or other entity in which fee title to a Lot is vested as shown by the official records of the office of the Plumas County recorder, including Contract Sellers, but excluding Contract Purchasers and excluding those having such interest merely as security for the performance of an obligation. Where the context requires, the term "Owner" shall include the members of the Owner's household and the Owner's guests, tenants/lessees and invitees; provided, however, that such persons are not "Owners" for purposes of exercising voting rights in the Association.

1.25 Party Fence. "Party Fence" shall mean any party fence constructed on the dividing lot line between any Lots.

1.26 Party Roof. "Party Roof" shall mean a contiguous roof which was built as part of the original construction of the Residences, which intersects or crosses a lot line which divides the Lots.

1.27 Party Wall. "Party Wall" shall mean a wall which is built as a part of the original construction of the Residences in the Development and placed on the dividing line between the Lots.

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

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

1.30 Resident. "Resident" shall mean any person who resides in a Residence within the Development whether or not such person is an Owner as defined in Section 1.24.

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

1.32 Subdivision Map. "Subdivision Map" shall mean the Recorded subdivision map for the Development.

1.33 Total Voting Power. "Total Voting Power" shall mean the total number of votes of all Members entitled to vote at a particular time, calculated on the basis of one (1) vote for each Lot.

## **ARTICLE 2 COMMON AREA**

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2.1 Purpose of Common Area. Subject to the provisions of the Declaration, the Common Area is held and maintained by the Association, and is used to meet the common interests of the Owners, the members of the Owners' households, and the Owners' tenants, resident Contract Purchasers, and guests as provided in the Governing Documents.

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

2.2.1 The right of the Board to establish and enforce reasonable Rules governing use of the Common Area.

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

2.2.3 The right of the Board, as set forth in Section 3.4 of this Declaration, to grant easements and rights of way in, on, over, or under the Common Area.

2.2.4 The right of the Board to sell, dedicate, or transfer all or any part of the Common Area, subject to the requirements of Section 5.8 and Section 5.9.

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

2.2.6 The right of the Board to borrow money in accordance with the Governing Documents.

2.2.7 The right of the Association, through its authorized agents, to enter any Lot or Residence to perform its obligations under this Declaration, including obligations with respect to construction, maintenance, repair, or replacement for the benefit of the Common Area or the Owners in common, or to make necessary repairs that the Lot Owner has failed to perform, in which case the right shall be immediate in case of an emergency originating in or threatening such Residence or Lot and the obligation can be performed whether or not the Owner is present.

2.2.8 The right of the Association to establish, construct, maintain, repair, and replace facilities upon the Common Area including without limitation recreation facilities, storage facilities and workshops, which may be necessary or convenient in the discharge of the Association's duties and the exercise of its rights under the Governing Documents.

2.2.9 The right of the Association to grant exclusive use of a portion of the Common Area to an Owner, if approved by an Absolute Majority of the Members, except as provided by law.

2.2.10 The right of the Association, without approval of the Members, to charge reasonable admission and other fees or to limit the number of guests of Members who may use any recreational Common Facilities.

2.3 Assignment of Rights of Use. Any Owner may assign his or her rights of use and enjoyment, including easements, in the Development to the members of his or her household, tenants, Contract Purchasers, guests and invitees, subject to the terms of the Governing Documents. Upon the leasing of a Lot, or upon occupancy of a Lot by a Contract Purchaser, the Owner shall be deemed to have assigned all such rights exclusively to the tenants or Contract Purchasers of such Lot except that such Owner shall continue to have an easement for ingress and egress to such Owner's Lot to the extent necessary to discharge of the Owner's obligations and rights as a landlord. Each Owner shall notify the Secretary of the Association of the names of any tenants or any such Contract Purchasers of such Owner's Lot. Each Owner, tenant, or Contract Purchaser shall also notify the Secretary of the Association of the names of all members of his or her household to whom such Owner, tenant, or Contract Purchaser has assigned any rights of enjoyment in the Development as provided herein and the relationship which each such person bears to such Owner, tenant, or Contract Purchaser. Any rights of enjoyment assigned pursuant to this section are subject to suspension to the same extent that rights of Owners are subject to suspension as provided in the Governing Documents. It is the express purpose and intent of the provisions of this section to limit the right of use and enjoyment of the Common Area to Residents and their guests.

2.4 Damage to Common Area or Association Property. An Owner is responsible for the cost to repair any damage caused to any Common Area, which is caused by the negligence, gross negligence, or willful misconduct by the Owner or the Owner's tenants, residents, or invitees. In the event that the Association elects to submit a claim to its insurance provider for the cost to repair said damage, the Association may charge the cost of the deductible and any increased premiums to the Owner as a Reimbursement Assessment.

2.5 Mechanic's Liens. In the event there shall be filed against the Common Area a Notice of Mechanic's Lien for, or purporting to be for, labor or materials alleged to have been furnished or delivered for any Owner or his or her Lot, such Owner shall immediately cause such lien to be discharged by payment, bond, or otherwise. If the Owner fails to cause the lien to be discharged, the Board may send written notice to the Owner specifying that unless the Owner causes the lien to be discharged within five (5) days from the date of such notice, the Board may cause the lien to be discharged. Within such five (5) day period, the Owner shall be granted a hearing before the Board regarding the validity of such lien and any offsets or defenses thereto. At that time, the Board shall determine whether the lien adversely and improperly affects and encumbers the rights and interests of the Association or the other Owners. If the Board determines that the lien does adversely and improperly affect and encumber such rights and interests and that adequate protection of such rights and interests has not been provided, the Board may cause the lien to be discharged by payment, bond, or otherwise. The Board shall have the right to levy a Reimbursement Assessment against the Owner responsible for causing the lien to be discharged in an amount equal to all amounts paid by the Association together with interest thereon at the legal rate and all costs and expenses paid or incurred in connection therewith, including reasonable attorneys' fees.

2.6 Common Area Construction. Except as may be authorized by the Board, no person or entity other than the Association or its duly-authorized agents: (a) shall construct, reconstruct, refinish, alter, or maintain any Improvement upon the Common Area; (b) shall make or create any excavation or fill upon the Common Area; (c) shall change the natural or existing drainage of the Common Area; or (d) shall plant, remove, or destroy any seed, plant material, tree, shrub, or other vegetation upon the Common Area.

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### **ARTICLE 3 EASEMENTS**

3.1 Easements for Utilities and Maintenance. Easements over and under the Development for the installation, repair, and maintenance of electric, telephone, water, gas and sanitary sewer lines and

facilities, heating facilities, cable or master television antenna lines, drainage facilities, walkways and landscaping as shown on the recorded map of the property, and as may be hereafter required or needed to service the Development, are hereby reserved by the Association, and applicable utility companies, together with the right to grant and transfer the same. There shall be no obstruction of the easements.

3.2 Encroachment Easements. Each Lot within the Development is hereby declared to have an easement over all adjoining Lots and the Common Area for the purpose of accommodating any encroachment due to engineering errors, errors in original construction, settlement or shifting of the building, or any other cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of Owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Lot agree that minor encroachments over adjoining Lots or Common Area shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

3.3 Entry for Repairs. The Board may authorize its agents and employees to enter upon any Lot when necessary in connection with any maintenance, landscaping, or construction for which the Association is responsible and to effect emergency repairs, or to effect necessary repairs which the Lot Owner has failed to perform as required by this Declaration, in which case such entry shall be made with as little inconvenience to the Owner as practicable and any damage caused thereby shall be repaired by the Board at the expense of the Association. In the case of repairs the Owner has failed to perform, except in case of an emergency, twenty-four (24) hour advance notice shall be given to the Owner or occupant.

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

3.5 Easements for Party Walls and Encroachments. Whenever two (2) Residences are located adjacent to each other with two (2) separate walls, as defined as a Party Wall, or whenever Residences are located adjacent to the Common Area, such Residences are hereby granted exclusive appurtenant easements for encroachments for overhanging eaves or roofs as originally constructed and for encroachments due to settlement or, shifting of structures for any cause whatsoever and encroachments due to construction, reconstruction, or repair of the Residence which may so encroach, and for utility meters, lines, wires, pipes and conduits, over and on the adjoining Lot or Common Area, as servient tenement, with the contiguous Lot as dominant tenement; provided, however, in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners.

3.6 Easements for Party Walls and Party Roofs. The Owner of each Lot upon which a Party Wall or Party Roof is located shall have a reciprocal non-exclusive easement to each contiguous Lot for the purpose of maintaining the wall or roof.

## ARTICLE 4 USE RESTRICTIONS

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4.1 Single Family Residential Use. Except as specifically provided in Section 4.2, below, no Lot, or any portion thereof, shall be occupied or used for other than single-family residential purposes by the Owners, their Contract Purchasers, lessees, tenants, or guests.

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

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

4.2.2 Those other businesses which by law must be permitted to be conducted within the Development.

4.3 Offensive Conduct, Nuisances, Noise. No noxious, harmful, unlawful, or offensive activities shall be conducted upon or within any part of the Development, nor shall anything be done thereon which may be or become a nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to any Residents of the Development, or which shall in any way interfere with their use of the Common Area and facilities thereon or the use and enjoyment of their Lots or Residences. Without limiting any of the foregoing, no Resident shall permit noise, including but not limited to the barking of dogs or excessively loud music, to emanate from the Resident's Lot, which would unreasonably disturb another Resident's enjoyment of his or her Lot or of the Common Area. Excessive noise levels may be determined at the sole discretion of the Board which may, but shall not be obligated to, rely on the standards established in applicable County codes regulating such matters. Nothing in this Section shall be construed to limit the Association's ability to discharge its duties in accordance with the Governing Documents or otherwise manage the Development.

4.4 Use of the Common Area. The Common Area shall be preserved as open space and used for recreational purposes and other purposes incidental and ancillary to use of the Lots. Such use shall be limited to the private use for aesthetic and recreational purposes by Members, their tenants, families, and guests, subject to the provisions of the Governing Documents. Nothing shall be placed, kept, stored, or parked on the Common Area without the prior written consent of the Association, except by the Association. Without limiting the foregoing, no Owner shall place rubbish, debris, or other unsightly or unsanitary materials in the Common Area. Each Owner shall avoid causing damage to the Common Area.

4.5 Requirement of Architectural Approval. As addressed in greater detail in Article 9, construction, installation, modification, or alteration of buildings, outdoor structures, fences, awnings, outdoor lighting, landscaping, exterior decorations, and all other exterior Improvements are subject to approval of the Architectural Committee.

4.6 Interior Improvements. No Owner shall undertake any activity or work with respect to the Owner's Residence that will impair the structural soundness or integrity of any adjoining Residence or impair any easement or hereditament, or do any act or allow any condition to exist in or around the

Owner's Residence or Lot which will adversely affect any other Residences or their occupants. Any interior Improvements involving the structural components of the Residence other than non-load-bearing interior walls, shall require prior architectural approval in accordance with Article 9. This Section 4.6 shall apply exclusively to any Residence with a Party Wall.

4.7 Utility Service. No lines, wires, or other devices for the communication or transmission of electric current or power, including telephone, television, internet, and radio signals, shall be constructed, placed, or maintained anywhere in or upon any Lot unless the same shall be contained in conduits or cables constructed, placed, or maintained underground or concealed in, under or on buildings or other approved structures. Should the only option to receive a signal require lines, cable, or wire to be exposed, then the Owner shall request approval from the Board to grant an exception. Nothing herein shall be deemed to forbid the erection and use of temporary power or telephone services incident to the construction of approved buildings.

4.8 Sports Apparatus. No basketball standards or fixed sports apparatus shall be attached to any Residence or carport or erected on any Lot or within the Common Area except at locations within fenced patio areas. As used in this section, the term "sports apparatus" does not include bicycles, skateboards, roller skates, roller blades, or any other similar wheeled equipment.

4.9 Garbage. All garbage and trash shall be regularly removed from the Development and shall not be allowed to accumulate thereon. Trash may only be placed and kept in no more than two (2) covered trash containers. Trash containers must be stored in a place where they are screened or concealed from view from the Common Area, the streets, or any other Lot in the Development except for a period of twenty-four (24) hours prior to and after trash collection.

4.10 Signs. No sign of any kind shall be displayed to the public view from any portion of the Development except that this restriction shall not apply to: (a) signs required by legal proceedings; (b) signs which by law cannot be prohibited; (c) a single sign of customary and reasonable dimension and design, complying with the Rules and reasonably located on a Lot advertising the Residence for sale or rent; (d) a single identification sign which has been approved by the Board located on a Lot identifying the number or address of the Lot; (e) signs required for traffic control and regulation of streets or open areas within the Development; (f) signs on the Common Area as approved by the Board for a purpose reasonably related to the affairs of the Association; and (g) such other signs as the Board, in its discretion, may approve provided that the Board may adopt limitations on such other signs including, without limitation, restrictions on the size of the signs, the duration of their posting, and their location. All permissible signs must be in good condition. Signs shall not be faded or cracked. The Board may adopt, amend, and repeal Rules for the implementation of this Section which Rules may include, without limitation, automatic approval of signs meeting specified requirements. It is the express purpose and intent of this Section to permit the Association's regulation of signs within the Development to the greatest extent permitted by law.

4.11 Antennas; Roof Projections. No outside mast, tower, pole, antenna, or satellite dish shall be erected, constructed, or maintained within the Development or on any Common Area except: (a) those erected, constructed, or maintained by the Association; (b) those expressly approved by the Board of Directors; or (c) those specifically permitted by law. With respect to those masts, towers, poles, antennae, and satellite dishes specifically permitted by law, the Association shall have the authority to regulate their installation and maintenance to the greatest extent permitted by law. The Owner of each Lot shall be responsible for the repair and maintenance of any mast, tower, pole, antenna, or satellite installed by him or her within the Development and shall indemnify and reimburse the Association for all costs and expenses associated therewith, including without limitation any increased costs incurred by the Association in the performance of its maintenance obligations as specified in Article 9 of this Declaration.

4.12 Temporary Occupancy. No trailer, tent, or incomplete or temporary building structure of any kind shall be used at any time as a Residence, either temporary or permanent. Temporary buildings or structures used during the construction or improvement of a Residence shall be expressly approved by the Architectural Committee and shall be removed immediately after the completion of construction.

4.13 Overnight Habitation. Overnight habitation is prohibited in the Common Area or the driveways of the Lots. As used in this Section, the term "overnight habitation" includes, without limitation, any overnight (a) lodging in a motor home, trailer, camper, or vehicle of any type, or (b) camping.

4.14 Parking and Vehicles.

4.14.1 No dilapidated or inoperable motor vehicle shall be kept, placed, maintained, constructed, reconstructed, or repaired upon any Lot or the Common Area within the Development in such a manner as will be visible from the Common Area or any adjacent Lot; provided, however, that the provision of this section shall not apply to emergency vehicle repairs or temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any work or improvement approved by the Architectural Committee.

4.14.2 No commercial vehicles of any nature shall be parked or stored on any Lot or on the streets of the Development, except for commercial vehicles providing services to the Owners of Lots or the Association, and in that event only for the duration necessary to provide such services.

4.14.3 Owners are permitted to park motor homes, campers, trailers, boats, and recreation vehicles on the Common Area streets and the driveway of their respective Lot for a period of up to seven (7) days. For purposes herein, the term "truck" does not include a pickup truck that weighs less than three-quarter (3/4) ton.

4.15 Vehicle Maintenance There shall be no maintenance (other than vehicle washing and cleanup) or repairs performed on any vehicle except within an enclosed garage or except for any emergency repairs that are necessary in order to remove the vehicle to a proper repair facility.

4.16 Parking Rules and Enforcement. In order to prevent or eliminate any parking problems within the Development, or to further define and enforce the restrictions contained in this Section, the Board shall have the authority to adopt further reasonable rules and restrictions regarding vehicles and parking within the Development as the Board may deem prudent and appropriate. The Board shall also have the power to impose fines and other sanctions for violations of provisions of the Governing Documents relating to vehicles and parking. Such authority and power shall include, without limitation, the power and authority:

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

4.16.2 To fix and impose fines for violations of this Section in accordance with Section 10.4.2 of this Declaration and the Bylaws.

4.17 Temporary Construction. Temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any work shall be removed within three (3) days of completion of said construction

4.18 Animals.

4.18.1 General Restrictions. No animals of any kind shall be maintained, bred, or kept on any Lot or in the Common Area except that dogs, cats, or other customary household pets in a reasonable number and size may be kept; provided, however, that they are not kept, bred, or maintained for any commercial purposes. The Board shall specifically have the right to prohibit the maintenance of any pet which, in the opinion of the Board, after notice and hearing, constitutes a nuisance to any other Owner.

4.18.2 Common Area. While in the Common Area, dogs must be restrained on a leash held by a responsible person capable of controlling it.

4.18.3 Owner's Responsibility for Pets. Each Owner and Resident shall be responsible for immediately removing and disposing of any waste introduced to any portion of the Development by their pets or the pets of their guests and invitees. The Board shall have the power to impose fines and other sanctions for violations of provisions of the Governing Documents relating to pets, including without limitation fines for failure to remove and dispose of pet waste as required by this Section. Each Owner, Resident, and any person bringing or keeping an animal within the Development shall be absolutely liable to the Association and all other persons for any injury or damage to persons or property caused by the animal brought upon or kept upon the Development by such person or by members of his or her household, tenants, guests, or invitees. Each Owner and Resident shall indemnify the Association and its officers, directors, and agents against any and all claims, damages, losses, demands, liabilities, and expenses, including but not limited to attorneys' fees, arising out of or resulting from the presence or conduct of any animal brought upon or kept within the Development by the Owner or Resident, members of his or her household, guests, tenants, or invitees. Any unusual or excessive noise by a pet to the extent that it creates a continuing disturbance or annoyance to other Residents shall constitute a nuisance under Section 4.3.

4.18.4 Pet Rules. The Board may adopt and enforce pet rules, which shall be Rules, in addition to the provisions of this Section. Such Rules may include, without limitation, regulations regarding the presence of pets on the Common Area, what constitutes a reasonable number of pets, and restrictions on breed and size.

4.18.5 Structures for Animals. No structure for the care, housing, or confinement of any animal shall be maintained so as to be visible from any adjacent Lot.

4.19 Exterior Fires. With the exception of properly maintained gas or electric cooking devices and outdoor propane heating equipment, exterior fires are prohibited in the Development.

4.20 Mailboxes and Exterior Newspaper Tubes. There shall be no exterior newspaper tubes or freestanding mailboxes except as may be approved by the Architectural Committee.



4.21 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 and customary in connection with the use, maintenance or construction of a Residence or appurtenant structures in the Development.

4.22 Clotheslines. Exterior clotheslines or other outside clothes drying or airing facility shall not be erected or maintained on any Lot such that it is visible from any other Lot or the Common Area, including the Association's private streets.

4.23 Fences. No fences, hedges, or walls shall be erected or maintained on any Lot, except as may be approved by the Architectural Committee.

4.24 Diseases and Pests. No Owner shall permit anything or condition to exist upon the Owner's Lot which shall induce, breed, or harbor infectious plant diseases, rodents, or noxious insects.

4.25 Window Coverings. The interior surfaces of all windows shall be covered with normal and customary window coverings such as curtains, drapes, shutters, or blinds. The exterior side of window coverings shall be white, off-white, or beige unless approved otherwise in writing by the Architectural Committee.

4.26 Decks. No Owner shall permit the storage of any automobile or motorcycle parts, freezers, refrigerators, or any other large appliance on the Deck attached to such Owner's Residence.

4.27 Mineral Exploration. No property within the Development shall be used in any manner to explore for or to remove any water, oil, or other hydrocarbons, minerals of any kind, gravel, earth or any earth substance or other mineral of any kind.

4.28 Lease of Lots. In order to: (a) protect the equity in the Lots for the Owners; (b) preserve the character of the Development as an owner-occupied, residential community; (c) prevent the Development from assuming the character of a renter-occupied area; and (d) retain the Development's ability to comply with financing eligibility requirements, the rental of Lots shall be subject to the restrictions in accordance with the provisions of this Section.

4.28.1 Lease Provisions. Any lease of any Lot shall be in writing and the written agreement shall expressly provide: (a) that it is subject to all provisions of the Association's Governing Documents; (b) that the lessees of the Lot shall comply with all provisions of the Association's Governing Documents; (c) that any violation of any such provisions of the Association's Governing Documents shall constitute a breach and default of the terms of such lease; and (d) that no lessee may sublet or assign his or her lease. The lease agreement shall also contain any other terms that may be required by the Association's rules and regulations.

4.28.2 Responsibility for Violations. Each Owner leasing or renting a Lot shall be strictly responsible and liable to the Association for the actions of such Owner's tenants or lessees within the Development and for each tenant's and lessee's compliance with the provisions of the governing documents as they may be amended from time to time. The failure of any tenant or lessee to comply with the terms of the governing documents shall constitute a default under such lease or rental agreement and shall entitle the Owner, or the Association at the Owner's sole cost and expense, to terminate the tenancy.

4.28.3 Due Process Requirements for Disciplinary Action. Except for circumstances in which immediate corrective action is necessary to prevent damage or destruction to the

Development 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: (a) the Owner has received written notice from the Board, the Association's property manager or an authorized committee of the Board 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 in the event the Owner believes that remedial or disciplinary action is unwarranted or unnecessary; (b) 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 (c) 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 the Bylaws.

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

4.28.5 Indemnification of Association. Every Owner of a Lot that is occupied by persons other than the Owner pursuant to a lease or otherwise, agrees to and shall indemnify and defend the Association, its officers, Directors, and agents and shall hold them harmless from any cost, loss, claim, or damages of any kind, including but not limited to attorneys' fees arising out of the conduct or presence of the occupants of the Lot upon the Development, including any such arising or alleged to have arisen out of the enforcement or non-enforcement by the Association of the Governing Documents against such occupants. Without limiting the generality of the foregoing, all costs, including attorneys' fees incurred by the Association to enforce the Governing Documents against such occupants, including eviction as provided herein, shall be reimbursed to the Association by the Owner and may be assessed by the Association as a Reimbursement Assessment.

4.28.6 Attorney Fees and Costs. Upon the filing of any legal action where the Association becomes the prevailing party against an Owner to gain an Owner's compliance with this Section, the Association, as prevailing party, shall be entitled to recover all of its attorneys' fees and costs. Prior to the filing of any court action seeking declaratory or injunctive relief to enforce this provision (including either such action coupled with a claim for monetary damages in excess of \$5,000) the Association shall first comply with the provisions of California Civil Code Section 5925 relating to Alternative Dispute Resolution.

4.28.7 Rules and Regulations. The Association's Board of Directors shall have the authority to adopt rules to further define and enforce the restrictions contained within this section.

4.29 Actions Affecting Insurance. Nothing shall be done or kept in the Common Area which will increase the rate of insurance on any of the Common Area. No Owner shall permit anything to be done or kept in the Common Area or which will result in the cancellation of insurance on the Common Area or which would be in violation of any governmental statute, ordinance, rules or regulations.

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

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

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

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

## **ARTICLE 5 HOMEOWNERS ASSOCIATION**

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

5.2 Membership. Each Owner of a Lot shall be a Member of the Association and shall remain a Member thereof until such time as his or her Lot ownership ceases for any reason. Membership shall be appurtenant to and may not be separated from ownership of a Lot and shall not be transferred, encumbered, pledged, alienated, or otherwise hypothecated in any way, except in connection with the sale or encumbrance of the Lot to which it is appurtenant.

5.3 Voting. Only Members shall be entitled to vote, and only one (1) vote shall be cast for each Lot, all as more particularly specified in the Bylaws.

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

5.5 Association Rules. The Board shall have the power and the authority to establish, promulgate, amend, repeal, and enforce such rules and regulations, which shall be known as "Rules", as the Board deems necessary for the management and operation of the Development and the conduct of business and affairs of the Association. The Rules may concern, but need not be limited to, matters pertaining to: (a) use of the Common Area; (b) pets; (c) signs; (d) collection and disposal of refuse; (e) minimum standards for maintenance of property; (f) use of recreation facilities, if any; (g) parking and traffic regulations; (h) rental or leasing of Lots; and (i) any other subject matter within the jurisdiction of the Association as provided in the Governing Documents or by law.

5.6 Manager and Other Personnel. The Board shall have the power and authority to employ a manager and such other persons or entities as the Board shall deem appropriate to assist it in managing the Development and conducting the business and affairs of the Association, as more particularly set forth in the Bylaws.

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

5.8 Association Property. The Board of Directors shall have the power to sell, transfer, lease, or otherwise dispose of the Association's property, provided that the Board shall not, sell, transfer, or otherwise dispose of real property owned by the Association having an aggregate value in excess of ten percent (10%) of the budgeted gross expenses of the Association for that fiscal year without the approval of at least a Simple Majority.

5.9 Transfer of Common Area to Public Agency or Utility. The Board of Directors shall have the power to dedicate or transfer all or any part of the Common Area to a public agency, authority, or utility. No such dedication or transfer shall be effective unless it has been approved by Members holding at least two-thirds (2/3) of the Total Voting Power.

5.10 Borrow Money. The Board of Directors shall have the power to borrow money in the name of the Association without approval of the Members.

5.11 Mortgage of Association Property. The Board of Directors shall have the power and authority to mortgage, pledge, encumber, or otherwise hypothecate the real and personal property of the Association for money borrowed or debts incurred by the Association.

5.12 Mergers and Consolidations. The Association may: (a) participate in mergers and consolidations with other nonprofit corporations organized for the same purposes as the Association; or (b) annex additional property to the Development, provided that the approval of an Absolute Majority is obtained.

5.13 Dissolution. So long as there is any Lot, parcel, or area for which the Association is obligated to provide management, maintenance, preservation or control, the consent of all Members must be obtained for the Association to: (a) transfer all or substantially all of its assets; or (b) file a certificate of dissolution.

5.14 Limitation of Liability. Neither the Association nor its Directors, officers, employees, agents, or committee members (collectively and individually referred to as the "Released Party") shall be personally liable for damages or in equity to any of the Members, or to any other person, for any error or omission in the discharge of their duties and responsibilities or for their failure to provide any service required hereunder or pursuant to the Bylaws, even if such Released Party is negligent, provided that such Released Party has not acted in bad faith. This standard of care and limitation of liability shall extend, without limitation, to matters such as: (a) the establishment of the Association's annual financial budget; (b) the funding of Association reserve accounts; (c) the discharge of the Association's maintenance, repair, and replacement obligations; (d) the enforcement of the Governing Documents; and (e) to any other fiduciary duties or responsibilities imposed by law or the Governing Documents.

## **ARTICLE 6 ASSESSMENTS AND LIENS**

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6.1 Covenant of Owner. Each Owner of a Lot within the Development, by acceptance of a deed or other conveyance thereof, whether or not it shall be so expressed in such deed or conveyance, shall be deemed to have covenanted and agreed to pay to the Association: (a) Regular Assessments; (b) Special Assessments; (c) Reimbursement Assessments; and (d) Enforcement Assessments levied by the Association as hereinafter provided, together with all Additional Charges. Such deed or conveyance shall be deemed to vest in the Association the right and power to initiate all actions and procedures as the Board shall deem necessary or appropriate for the collection of such Assessments and Additional Charges and for the enforcement of the liens hereinafter provided for.

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

6.2 Creation of Lien. Each Assessment levied by the Association pursuant to this Declaration, together with all Additional Charges, shall be a charge upon the land and upon levy shall be secured by a continuing lien upon the property against which such Assessment is levied. The Association shall have

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

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

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

6.5 Regular Assessment.

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

6.5.2 Allocation of Regular Assessments. The Board shall allocate and assess the amount of estimated required funds equally among the Lots by dividing the amount by the number of Lots; provided, however, that those items in the Association's budget applicable to (a) insurance premiums, (b) painting, (c) exterior maintenance, and (d) roof reserve shall be levied and assessed among the Lots in proportion to the ratio of the square footage of the Residence of the Lot to be assessed to the aggregate square footage of all Residences in the Development.

6.5.3 Payment of Regular Assessments. Unless the Board shall designate otherwise, Regular Assessments shall be levied on an annual basis and shall be paid in twelve (12) equal monthly installments during the fiscal year, and each installment shall be due and payable on the first day of each month.

6.5.4 Increases in Regular Assessment. Pursuant to California Civil Code Sections 5605 and 5610 except as otherwise provided by law, the Board shall not increase the Regular Assessment for any fiscal year above the amount of the Regular Assessment for the preceding fiscal year by more than the maximum amount permitted by law, except upon the affirmative vote or written consent of a majority of Members voting on any such

increase in the Regular Assessment, provided that a quorum is established. For purposes of the preceding sentence, a quorum shall mean more than fifty percent (50%) of the Members of the Association, notwithstanding any lower quorum requirement which may be set forth in the Bylaws.

## 6.6 Special Assessments.

6.6.1 Purpose of Special Assessments. If at any time during any fiscal year the Regular Assessment proves inadequate for any reason, including nonpayment of any Owner's share thereof or the unexpected repair, replacement, or reconstruction of Improvements located in the Development, or if funds are otherwise required for any authorized activity of the Association, the Board may levy a Special Assessment in the amount of such actual or estimated inadequacy or cost. The Board may also levy a Special Assessment for capital Improvements within the Common Area. The Special Assessment power conferred hereunder is not intended to diminish the Board's obligation to plan and budget for routine maintenance, repair, and replacement of Common Facilities through Regular Assessments.

6.6.2 Allocation of Special Assessments. Special Assessments shall be allocated and assessed equally among all Lots in the Development, except for the following:

6.6.2.1 Those items in the Association's budget applicable to (a) insurance premiums, (b) painting, (c) exterior maintenance, and (d) roof reserve shall be levied and assessed among the Lots in proportion to the ratio of the square footage of the Residence of the Lot to be assessed to the aggregate square footage of all Residences in the Development; and

6.6.2.2 Any Assessment against an Owner as a result of a deficiency in insurance proceeds or condemnation awards as provided in Article 7 of this Declaration.

6.6.3 Approval of Special Assessments. Except in the case of an emergency situation as defined in California Civil Code Sections 5600 - 5650, in any fiscal year the Board may not levy Special Assessments which, in the aggregate, exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, except upon the affirmative vote or written consent of a majority of the Members voting on any such Special Assessment, provided that a quorum is established. For purposes of the preceding sentence, a quorum shall mean more than fifty percent (50%) of the Members of the Association, notwithstanding any lower quorum requirement which may be set forth in the Bylaws.

6.7 Reimbursement Assessments. The Association shall levy a Reimbursement Assessment against any Owner and his or her Lot if a failure by such Owner, or any person or pet for whom the Owner is responsible, to comply with any provision of the Governing Documents has necessitated or resulted in an expenditure of funds by the Association to deal with such lack of compliance or to bring such Owner or his or her Lot into compliance, or to reimburse the Association for damage caused to the Common Area or Improvements thereon by any Owner or their family, guest, or tenant. The Association shall also levy a Reimbursement Assessment in the event that the Association has expended funds performing emergency repairs as authorized by this Declaration or for any other reasons specifically authorized by

the provisions of this Declaration. A Reimbursement Assessment shall include any costs, including attorneys' fees, incurred by the Association, including costs of collecting from an Owner any amount which the Owner is obligated to pay to the Association. A Reimbursement Assessment shall be due and payable to the Association when levied.

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

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

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

6.11 Payment Under Protest. If a dispute exists between the Owner of a Lot and the Association regarding any disputed charge or sum levied by the Association, including, but not limited to an Assessment, fine, penalty, late fee, collection cost, or monetary penalty imposed as a disciplinary measure, and the amount in dispute does not exceed the jurisdictional limits set forth in the Code of Civil Procedure Sections 116.220 and 116.221, or comparable successor statute, the Owner may, in addition to pursuing dispute resolution, pay under protest the disputed amount and all other amounts levied, including any fees and reasonable costs of collection, reasonable attorney's fees, late charges, and interest, if any, pursuant to subdivision (b) of Section 5650, and commence an action in small claims court. Nothing in this section shall impair the Association's ability to collect delinquent assessments as provided by California law.

6.12 Delinquent Assessments. Any installment or other portion of an Assessment not paid within fifteen (15) days after its due date shall be delinquent and shall be subject to interest and late charges not to exceed the maximum rate permitted by law, as well as all other Additional Charges. The Board, on behalf of the Association, may enforce the payment of any delinquent Assessment plus Additional Charges by bringing an action at law against any Owner personally obligated to pay the same, or by foreclosing the lien against the Owner's Lot by judicial or non-judicial foreclosure, except as prohibited by law. Except as prohibited by law, upon any delinquency in payment, the Association may, at its option, declare the entire balance of all sums then due or to become due from the Owner, immediately due and payable, which total sum may then be included in any suit, action, or other procedure initiated to collect such sums, including all Additional Charges. The Board may commence any procedure for the collection of delinquent Assessments upon its own decision. The remedies provided in this Declaration for collection of delinquent Assessments shall be cumulative and not exclusive.

6.13 Power of Sale. Each Owner does hereby appoint the Association as trustee to enforce and to foreclose any lien which is established pursuant to the terms of this Declaration, by private power of



sale, as provided in Division III, Part 4, Title 14, Chapter 2, Article 1, of the California Civil Code, and does further grant to the Board, on behalf of the Association, the authority and power to sell the Lot of such Owner in the event of any default in payment of any Assessments or Additional Charges levied against such Lot, for lawful money of the United States, to the highest bidder, to satisfy such lien, except as prohibited by law. The Association or any Owner may purchase the Lot at the sale.

6.14 Certificate of Satisfaction and Release of Lien. Upon payment in full of a delinquent Assessment, including any Additional Charges, or the satisfaction thereof, the Board shall Record, in the same manner as the Notice of Delinquent Assessment, a further certificate stating the satisfaction thereof and the release of the lien.

6.15 Priority. Except as otherwise expressly provided by law, the lien securing each of the Assessments provided for under this Article shall have priority as of the date of Recording of the original declaration applicable to the Development over all other liens and encumbrances applicable to the Lots. Notwithstanding the preceding, a lien for Assessments which have become due and payable prior to the sale of a Lot pursuant to a decree of foreclosure of a First Mortgage, or pursuant to a power of sale contained in any such First Mortgage, shall be subordinate to the lien of any First Mortgage Recorded against the Lot. Such foreclosure sale shall not relieve the Lot from liability for any Assessments and Additional Charges thereafter becoming due, nor from the lien of any subsequent Assessment.

6.16 Association Funds. All Association accounts shall be maintained in one (1) or more banks or other depositories selected by the Board, which accounts shall be clearly designated as belonging to the Association. The Assessments collected by the Association shall be properly deposited into such accounts. The Assessments collected by the Association shall be used for the purposes set forth in Section 6.3 of this Declaration.

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

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

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

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

6.18.3 All Common Areas.

6.19 Owner Assignment of Rents. Each Owner hereby presently assigns to the Association, absolutely and regardless of possession of the Lot, all rents and other monies now due or which may hereafter become due under any lease, agreement or otherwise for the use or occupation of any or all parts of any Lot owned by the Owner, now existing or hereafter made, for the purpose of collecting all Assessments due the Association pursuant to this Declaration which are in default. The Association hereby confers on each Owner the authority to collect and retain the rents and other monies derived from

any such lease or agreement as they become due and payable, provided that the Association at its sole discretion, may revoke such authority at any time, upon written notice to the Owner of a default in the payment of any Assessment due hereunder. Upon revocation of such authority the Association may, pursuant to court order or by court-appointed receiver, collect and retain such monies, whether past due and unpaid or current.

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

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### **7.1 Repair and Reconstruction.**

7.1.1 If any Improvements on a Lot are damaged or destroyed by fire or any other casualty, and said damage is limited solely to a particular Lot, the insurance proceeds shall be paid to the Owner of said Lot, or the Mortgagees thereof, as their respective interests may appear, and such Owner or Mortgage shall use said proceeds to rebuild or repair the damage. In the event that the insurance proceeds are insufficient to complete such rebuilding or repair, the Owner shall be responsible for the payment of such additional sums as may be necessary to complete such rebuilding or repair.

In the event said Owner does not commence such rebuilding or repair within a reasonable time, the Association may bring suit for an injunction to compel the Owner to perform said rebuilding or repair.

7.1.2 If any Improvements on a Lot are damaged and destroyed and such damage or destruction extends to the exterior of the Improvements on two (2) or more Lots, the insurance proceeds shall be paid to the Association and used to rebuild or repair the damage provided the proceeds are sufficient to cover the costs to rebuild or repair. The Association shall thereupon contract for the repair or rebuilding of the damaged Improvements. In the event the insurance proceeds are insufficient to pay all costs of repairing or rebuilding of the damaged Improvements: (a) the Board shall pay the insurance proceeds to a savings and loan Association, bank, or trust company as may be approved by the Board, which proceeds shall be held for the benefit of the Owners of the damaged Lots and their Mortgagees, as their respective interest may appear, and pursuant to an insurance trust agreement consistent with the provisions of this Declaration, approved and executed by the Board, and (b) the Board shall, as soon as possible but no later than thirty (30) days after it is determined that the insurance proceeds are insufficient, call a special meeting of the Owners for the purpose of determining whether to impose a Special Assessment, pursuant to the procedures of Section 6.6, for the portion of the costs of repairing and reconstructing the damaged or destroyed Improvements which exceed the available insurance proceeds. In the event that the owners determine not to impose such a Special Assessment, each Owner of a Lot on which the Improvements have been damaged or destroyed shall be responsible for the proportionate share of such costs in excess of the available insurance proceeds. The Owner of each such Lot shall undertake the necessary repair and reconstruction using the available insurance proceeds and the Owner's own funds.

To the extent that there are any insurance proceeds unexpended in regard to a casualty damaging or destroying the exterior of the Improvements on two (2) or more Lots, such proceeds shall be distributed to the Owner of the damaged Lots and the Mortgage of any mortgage or deed of trust upon any such Lot, as their interests may appear, according to

the respective fair market value of the damaged Lots at the time of the destruction, as determined by an independent appraisal.

7.2 Damage or Destruction of Common Area. In the event of any damage or destruction to the Common Area or any of the Improvements or facilities located thereon, the Association shall immediately undertake to repair and reconstruct any such damage or destruction substantially in accordance with the original design or standard of construction of the damaged or destroyed Common Area, Improvement or facility. The Association shall utilize all available insurance proceeds to accomplish such repair or reconstruction.

In the event the insurance proceeds are insufficient to cover all of the costs for such repair or reconstruction, the Board shall pay the insurance proceeds to a savings and loan Association, bank, or trust company as may be approved by the Board, which proceeds shall be held for the benefit of the Owners and their Mortgagees, as their respective interests may appear, and pursuant to an insurance trust agreement consistent with the provisions of this Declaration, approved and executed by the Board. The Board shall then, utilizing such engineering and design consultants as they deem necessary, prepare a report evaluating the extent of reconstruction or repair of such damage or destruction which is reasonably possible solely utilizing the aggregate sum of the total available insurance proceeds. As soon as possible, but no later than sixty (60) days after the occurrence of the damage or destruction, the Board shall present the report to the Lot Owners and notify all Mortgagees of the findings of said report and call a special meeting of the Owners. At such special meeting the Owners shall determine by an Absolute Majority whether to utilize solely the available insurance proceeds to reconstruct the damage or destruction in accordance with the recommendations of the report of the Board or whether to impose a Special Assessment pursuant to Section 6.6 to reconstruct the destroyed or damaged facilities beyond the recommendations of the report of the Board. Any determination to impose a Special Assessment shall be decided by a vote of at least sixty percent (60%) of the Members. Any such additional Special Assessment shall be levied equally as to each Lot and be a lien on the Lot against which said assessment is levied and enforced pursuant to the terms of Section 6.6.

7.3 Condemnation of Common Area. If at any time all or any portion of any Common Area, or any interest therein, is taken for any public or quasi-public use, under any statute, by right of eminent domain or by private purchase in lieu of eminent domain, the entire award in condemnation, to the extent such award is not apportioned among the Owners by court judgment or by agreement between the condemning authority and each of the affected Owners in the Development, shall be paid to the holder or holders of the fee title to such area as their interests may appear according to the fair market values of the Lots at the time of taking, as determined by independent appraisal. Said appraisal shall be made by a qualified real estate appraiser with an MAI certificate or the equivalent and selected by the Board. Any such award to the Association shall be deposited into the operating fund of the Association. The Association shall represent the interests of all Lot Owners in any proceedings relating to such condemnation to the extent such Lot owners have any interests in the Common Area.

7.4 Party Wall, Party Fence, or Party Roof. If a Party Wall, Party Fence, or Party Roof is destroyed or damaged by fire or other casualty, any Owner who has used the wall, fence, or roof may restore it, and if the other Owners thereafter make use of the wall, fence or roof, they shall contribute to the cost of restoration thereof in proportion to such use. Such contribution shall be made without prejudice, however, to the right of the Owner who originally restored the wall, fence, or roof to call for a larger contribution from such other Owners under any rule of law regarding liability for negligent or willful acts or omissions.

## **ARTICLE 8 MAINTENANCE OF PROPERTY**

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### 8.1 Association Responsibilities.

8.1.1 Common Area. The Association shall maintain, repair, and replace the Common Area and all Improvements and landscaping thereon, including without limitation the trees, parking spaces, and private streets located on the Common Area.

8.1.2 Lots; Landscaping. The Association shall maintain, repair, and replace the landscaping on each Lot, which shall be strictly limited to the following responsibilities: (a) mowing or otherwise leveling the lawn grass, (b) edging the areas bordering the lawn grass, (c) blowing and removing leaves and other lawn debris, and (d) landscape irrigation. The Association's landscaping responsibility in this Section 8.1.2 does not extend to the trees on a Lot, or any landscaping improvements installed on the Lot by an Owner.

8.1.3 Exterior Maintenance of Residences. The Association shall provide exterior maintenance for each Residence on a Lot, which shall be strictly limited to the following:

8.1.3.1 Exterior Painting. Every ten (10) years or otherwise determine by the Board, the Association shall paint the exterior portions of the following components on each Lot: (a) chimneys, (b) siding, (c) window frame trim, (d) exterior doors and door frames, and (e) garage doors and door frames. The Board shall employ a contractor to determine if any repairs to the surface to be painted are necessary. The individual Owner shall be assessed the amount necessary to effectuate the repairs which the Board authorizes unless the Owner effectuates such repairs on their own. The Association's painting obligation under this Section does not extend to intermittent painting outside of the ten (10) year scheduled intervals.

8.1.3.2 Roof Surface. The Association shall replace the roof of the Residences. The timing of such roof replacement shall be determined by the Board based on the warranted life expectancy and the timing of the last installation of the roof. The Association's roof replacement obligation under this Section does not extend to regular maintenance or repair outside of the Association's schedule replacement, including without limitation, water leaks, shingle replacement, and damage to the roof flashing.

8.1.3.3 Gutters. The Association shall clear pine needles and other debris from the Residences' gutters twice per year; once in the Spring, and once in the Fall, subject to weather conditions and contractor availability.

8.1.4 Snow Removal. The Association shall provide for snow removal on the private streets in the Common Area and on the driveways on each Lot, to the extent such snow removal is not restricted or impeded by parked vehicles. Notwithstanding the foregoing, the Association shall only cause the driveway snow removal on Lots where the Lot Owner resides thereon as a full-time Resident, as determined by the Owner's payment of regular trash removal services.

8.2 Owner Responsibilities. Except as specifically provided in Section 8.1 above, each Owner shall be responsible for the maintenance, repair, and replacement of his or her Lot and all Improvements thereon. Without limiting the foregoing, each Owner is responsible for maintaining, repairing, and replacing the exterior and the roof of their Residence and the driveway and walkways located on their Lot. Additionally, each Owner is responsible for the maintenance, repair, and replacement of plumbing lines exclusively serve their Lot up to the point of connection, even if such plumbing lines are located outside of their Lot.

8.3 Party Walls, Party Fences, and Party Roofs.

8.3.1 Generally. The cost of reasonable repair and maintenance of a Party Wall, Party Fence, or Party Roof shall be shared by the Owners who make use of the wall, fence, or roof in proportion to such use.

8.3.2 Party Walls and Party Roofs; General Rules of Law. To the extent not inconsistent with the provisions of this Section, the general rules of law regarding Party Walls, and liability for property damage due to negligence or willful acts or omissions shall apply thereto. Notwithstanding any other provision of this Declaration, an Owner who by his or her negligent or willful act causes a Party Wall or Party Roof to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to the land and shall pass to such Owner's successors in title.

8.4 Owner Failure to Maintain. The Board has the absolute discretion to determine whether any maintenance, repair, or replacement which is the responsibility of an Owner, is necessary to preserve the appearance and value of the property comprising the Development, or any portion thereof, and may notify an Owner of the work the Board deems necessary. Subject to the authority of the Board to authorize immediate emergency repairs as specified in Section 8.6 of this Declaration, in the event an Owner fails to perform such work within thirty (30) days after notification by the Board to the Owner, the Board may, after written notice to the Owner and the right of a hearing before the Board, cause such work to be done and charge the cost thereof to the Owner as a Reimbursement Assessment.

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

8.6 Authority for Entry of Lot. The Association or its agents may enter any Lot, when such entry is necessary, in the Board's sole discretion, in connection with the performance of any maintenance, repair, construction, or replacement for which the Association is responsible for which it is authorized to perform, including without limitation the authorization provided in Section 8.3 of this Declaration. Although under no obligation to do so, the Board, in its complete and sole discretion, may enter or may authorize the Association's agents to enter any Lot to effect emergency repairs where such repairs are necessary for safety reasons or to prevent or discontinue damage to the entered Lot, any other Lot or the Common Area. The cost of performing any such emergency repairs shall be charged to the Owner as a Reimbursement Assessment. In the case of repairs the Owner has failed to perform, except in case of an emergency, twenty-four (24) hour advance notice shall be given to the Owner or occupant.

8.7 Association Liability. Except as specifically provided in Section 8.1, the Association shall not be responsible or liable for any maintenance, repair, or replacement of a Lot or any Improvement

thereon, except to the extent that the need for such maintenance, repair, or replacement results from the gross negligence of the Association, its employees, contractors, or agents.

8.8 Board Discretion. The Board shall have the discretion to determine the manner, method, extent and timing of the performance of any and all maintenance, repair, and replacement obligations imposed upon the Association by this Article.

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

## **ARTICLE 9 ARCHITECTURAL CONTROL**

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9.1 Submission of Plans and Specifications. Except for Improvements made, or constructed by, or on behalf of, the Association, no Improvements including without limitation, Residences, buildings, walls, solar panels, fences, awnings, walls, landscaping, screens, doors, patio covers, or other structures of any kind which is visible from the Common Area, streets, or other Lot within the Development, may be commenced, located, erected, painted, or maintained within the Development, nor may any exterior addition to, or change, or alteration therein or alteration to the finished grade elevation, be made until the plans and specifications showing the nature, kind, shape, color, height, size, materials, and location of the same shall have been submitted to and approved in writing by the Architectural Committee as to: (a) quality of workmanship and design; (b) harmony of external design in relation to the nature and character of the Development and the Improvements thereon; (c) location in relation to surrounding structures, topography, finished grade elevation; and (d) compliance with the provisions of the Declaration.

### 9.2 Establishment of Architectural Committee.

9.2.1 Except as provided in Sections 9.2.2 and 9.2.3, below, the Board shall appoint an Architectural Committee to be selected by the Board, who serve at the pleasure of the Board. The Board shall have the power, in its complete discretion and either with or without cause, to remove any member of the Architectural Committee. In the event of death, resignation or removal of any member of the Architectural Committee, the Board shall have the full authority to designate a successor.

9.2.2 The Board may, in its discretion, elect to act as the Architectural Committee without appointing the separate committee provided for in Section 9.2.1.

9.2.3 If a duly-constituted Architectural Committee is not in existence, or if the Board elects to act as the Architectural Committee, the Board shall act as the Architectural Committee in accordance with the terms of this Article 9.

9.3 Duties. It shall be the duty of the Architectural Committee to consider and act upon proposals or plans submitted to it, to perform other duties delegated to it by the Board, and to carry out all other duties imposed upon it by this Declaration.

9.4 Meetings. The Architectural Committee may meet as necessary to properly perform its duties hereunder. Every act done or decision made by a majority of the members of the Architectural

Committee shall be the act or decision of the Architectural Committee. The Architectural Committee shall keep and maintain a record of all actions taken by it at any meetings or otherwise. The Architectural Committee and its members shall be entitled to reimbursement for reasonable out-of-pocket expenses incurred by them in the performance of any Architectural Committee function.

9.5 Architectural Rules. The Architectural Committee may, from time to time, and subject to the Board's approval, adopt, amend, and repeal rules and regulations to be known as Architectural Rules. The Architectural Rules shall interpret and implement the provisions of this Article by setting forth the standards and procedures for Architectural Committee review and guidelines for architectural design, placement of Residences and other structures, color schemes, exterior finishes and materials, and similar features which are recommended for use in the Development; provided, however, that the Architectural Rules shall not be in derogation of the minimum standards required by this Declaration. The Architectural Rules may also impose limits on the days and hours of construction and impose any other restrictions and regulations which the Board deems appropriate to limit the impact of construction activities on the Residents. In its discretion, and subject to the Board review and Section 9.11 of this Declaration, the Architectural Committee may grant variances from specific Architectural Rules subject to such terms and conditions as it deems appropriate.

9.6 Application. Any Owner proposing to perform any work of any kind whatever, which requires prior approval pursuant to this Article, shall apply for approval by notifying the Association, in writing, of the nature of the proposed work and furnishing such information and documentation as the Architectural Committee or Board may require, including without limitation samples of proposed paints and other finish materials in such sizes and formats as the Committee or the Board may deem appropriate. In addition to any other remedies the Association may have, the Board may impose a fine against any Owner who fails to obtain the approval required by this Article prior to proceeding with any Improvement, or any alteration to an existing Improvement, for which approval is required pursuant to this Article.

9.7 Expert Review. If at any time the Architectural Committee determines that it would be in the best interest of the community for an Owner-applicant to employ an architect, licensed building designer or engineer to design or review the structural integrity of any proposed Improvement or component thereof, the Architectural Committee shall so advise the Owner in writing of its determination, whereupon all plans and specifications so designated by the Architectural Committee must thereafter bear appropriate evidence of such preparation or review.

9.8 Grant of Approval. The Architectural Committee shall grant the requested approval only if:

9.8.1 The Owner shall have complied with the provisions of Sections 9.1, 9.6, and 9.7 of this Declaration;

9.8.2 The Architectural Committee shall find that the plans and specifications conform to: (a) this Declaration and the Architectural Rules in effect at the time such plans were submitted to the Committee, unless a variance is granted from such Architectural Rules pursuant to this Article; (b) will be in harmony with the external design of other structures and/or landscaping within the Development; and (c) will not interfere with the reasonable use and/or enjoyment of any other Lot Owner of his or her property; and

9.8.3 The Architectural Committee shall determine that the proposed Improvements would be consistent with the standards of the Development and the purposes of this Declaration as to quality of workmanship, design and materials, as to harmony of exterior design with the existing structures, and as to location with respect to topography and finished grade elevations.

9.9 Form of Approval. All approvals and denials of requests for approval shall be in writing except as provided in Section 9.11 of this Declaration. The Architectural Committee may approve a request for approval subject to the Owner's consent to any modifications made by the Architectural Committee. If the Owner does not consent to the modifications, the request for approval shall be deemed denied in its entirety. Any denial of a request for approval shall include: (a) an explanation of why the request for approval was denied; and (b) a description of the procedure for Board review of the denial as set forth in this Article and any applicable Architectural Rules.

9.10 Time for Architectural Committee Action. The Architectural Committee shall act on a request for approval within thirty (30) days from the date of receipt thereof by the Architectural Committee. Any request for approval which has not been acted on by the Architectural Committee within the preceding time frame shall be deemed approved. The Owner requesting approval shall have the burden of establishing the date of receipt of the request for approval by the Architectural Committee by evidence in the form of either a copy of such request for approval date-stamped by the Association or by certified mail provided by the U. S. Postal service acknowledging that such request for approval was delivered to the Association.

9.11 Board Review. This Section shall only apply if there is a duly organized Architectural Committee, and shall not apply if the Board is acting in the capacity of an Architectural Committee pursuant to this Article. An Owner shall have a right to appeal the decision of the Architectural Committee to the Board, provided that such request shall be presented to within ten (10) days from the date of the Architectural Committee's decision. If a review is conducted: (a) it shall take place during an open meeting of the Board; (b) the Board may affirm, reverse or modify the decision in its discretion and in accordance with the provisions of the Governing Documents; and (c) the Board shall notify the applicant in writing of the Board's decision within fifteen (15) days following the review.

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

9.13 Completion. The Owner shall, in any event, complete the installation, construction, reconstruction, refinishing, or alteration of any Improvement, within one (1) year after commencing construction thereof (or in the case of projects under construction when this Declaration is Recorded, within one (1) year after the date of Recordation), except and for as long as such completion is rendered impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, natural calamities, or other supervening forces beyond the control of the Owner or his or her agents.



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

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

9.14.2 Within sixty (60) days after the receipt of such written notice, the Architectural Committee, or its duly authorized representative, may inspect such Improvement to determine whether it was installed, constructed, reconstructed, altered, or refinished to substantial compliance with the approved plans. If the Architectural Committee finds that such installation, construction, reconstruction, alteration, or refinishing was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such noncompliance within such sixty (60) days period, specifying particulars of noncompliance and shall require the Owner to remedy such noncompliance.

9.14.3 If the Owner shall have failed to remedy such noncompliance upon the expiration of thirty (30) days from the date of such notification, the Architectural Committee shall notify the Board in writing of such failure. The Board shall then set a date on which a hearing before the Board shall be held regarding the alleged noncompliance. The hearing shall be noticed and conducted in accordance with Section 8.1.4 of the Bylaws.

9.14.4 At the hearing the Owner, the Architectural Committee and, in the Board's discretion, any other interested person, may present information relevant to the question of the alleged noncompliance. After considering all such information, the Board shall determine whether there is a noncompliance, and, if so, the nature thereof. If a noncompliance exists, the Board shall require the Owner to remedy or remove the same within a period determined in the discretion of the Board. If the Owner does not comply with the Board's ruling within such period or within any extension of such period as the Board, in its discretion, may grant, the Board may (a) remove the noncomplying Improvement or remedy the noncompliance and all expenses incurred in connection therewith shall be assessed against the Owner as a Reimbursement Assessment, and/or (b) exercise any of the enforcement rights specified in Section 10.4 of this Declaration.

9.14.5 If, for any reason, the Architectural Committee fails to notify the Owner of any noncompliance within sixty (60) days after receipt of a notice of completion from the Owner, the Improvement shall be deemed to be in accordance with the approved plans. The Owner shall have the burden of establishing the date of receipt of the notice of completion by the Architectural Committee by evidence in the form of either a copy of such notice date-stamped by the Association's office or by a certified mail provided by the U. S. Postal service acknowledging that such notice was delivered to the Association.

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

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

9.17 Liability. Neither the Board, the Architectural Committee nor any member or representative thereof shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings, and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; (c) the development of any property within the Development; or (d) the execution and filing of an estoppel certificate pursuant to Section 9.16, above, whether or not the facts therein are correct; provided, however, that the Architectural Committee, the Board or any member or representative thereof has acted in good faith on the basis of such information as may be possessed by it or him or her; provided, however, that the Architectural Committee, the Board or any member or representative thereof has acted in good faith on the basis of such information as may be possessed by it or him or her. Without in any way limiting the generality of the foregoing, the Architectural Committee, the Board or any member or representative thereof, may, but is not required to, consult with or hear the views of the Association or any Owner with respect to any plans, drawings, specifications, or any other proposal submitted to the Architectural Committee. Every purchaser, by acquiring title to a Lot or portion thereof agrees not to bring any action or suit against the Board, the Architectural Committee, or their members or representatives seeking to recover any such damages.

9.18 Compliance with Governmental Requirements. The application to the Association, and the review and approval of any proposals, plans, or other submittals, shall in no way be deemed to be satisfaction of or compliance with any building permit process or any other governmental requirements, the responsibility for which lies solely with the respective Owner, nor shall it constitute the assumption of any responsibility by or impose any liability on the Board, the Architectural Committee, or their members as to the accuracy, efficacy, or sufficiency of such proposals, plans or other submittals.

9.19 Variances. The Architectural Committee may, with approval of the Board, grant reasonable variances in any procedures specified in this Article 9 in order to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardship, provided the following conditions are met:

9.19.1 The Architectural Committee must make a good faith written determination that: (a) the requested variance does not constitute a material deviation from the overall plan and scheme of the Development or from any restriction contained in the Declaration or that the proposal allows the objectives of the violated restriction(s) to be substantially achieved despite noncompliance; or (b) that the variance relates to a restriction or requirement that is unnecessary or burdensome under the circumstances; or (c) that the variance, if granted, will not result in a material detriment, or create an unreasonable nuisance, with respect to any other Lot, Common Area or Owner in the Development.

9.19.2 After the conclusion of the hearing, the Architectural Committee shall consult with the Board to render a determination to either grant or deny the request for variance in accordance with the standards set forth in this Section.

## **ARTICLE 10 ENFORCEMENT**

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

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

10.3 Owners' Responsibility for Conduct of Others and Damages. Each Owner shall be fully responsible for informing members of his or her household and his or her tenants, contract purchasers, and guests of the provisions of the Governing Documents, and shall be fully responsible for the conduct, activities, any Governing Document violation of any of them, and for any damage to the Development or the Association resulting from the negligent or intentional conduct of any of them or any household pets. If a Lot is owned jointly by two (2) or more persons, the liability of each Owner in connection with the obligations imposed by the Governing Documents shall be joint and several.

10.4 Rights and Remedies of the Association.

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

10.4.2 Imposition of Sanctions. In the event of a breach or infraction of any provision of the Governing Documents by an Owner, members of an Owner's household, or his or her tenants, Contract Purchasers, contractors, guests, pets or invitees, the Board shall have the power to impose sanctions against the Owner. Such sanctions may include, without limitation, the imposition of fines and/or the suspension of an Owner's rights as a Member to use the recreational or community facilities on the Common Area. Except as provided in Section 10.6, imposition of sanctions shall be effective only after the Board has held a hearing as provided in Section 8.1.4 of the Bylaws. The payment of any such fine may be enforced as an Enforcement Assessment as provided in Section 6.8, as well as in any manner permitted by law. Further, each Owner shall be obligated to pay Reimbursement Assessments levied by the Board for reimbursement of any costs incurred by the Association relating to violation of any provisions of the Governing Documents by such Owner, members of such Owner's household, or his or her tenants, Contract Purchasers, contractors, guests, pets, or invitees.

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

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

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

10.6 Emergency Situations. The following shall constitute emergency situations: (a) an immediate and unreasonable infringement of or threat to the safety of the Residents; (b) a traffic or fire hazard; or (c) a threat of material damage to or destruction of the Development or any portion thereof. Notwithstanding any other provisions of the Governing Documents, under circumstances involving conduct that constitutes an emergency situation, the Association may undertake immediate corrective action. Hearings with respect to such corrective action shall be held following the corrective action in accordance with Section 8.1.4.5 of the Bylaws.

10.7 Dispute Resolution. Compliance with Civil Code Sections 5925 through 5965 and Civil Code Sections 5900 through 5920 shall be required with respect to any dispute subject to such sections.

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

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

10.10 Costs and Attorneys' Fees. In the event the Association shall take any action to enforce any of the provisions of the Governing Documents or shall determine that any Member or members of his or her household or his or her tenants, Contract Purchasers, guests, invitees or household pets have

violated any provision of the Governing Documents, and whether or not legal or judicial proceedings are initiated, the prevailing party shall be entitled to recover the full amount of all costs incurred, including attorneys' fees, in responding to such a violation and/or in enforcing any Governing Document provision. The remedies of the Association to recover the amount of such costs and attorneys' fees shall include, without limitation, the imposition of a Reimbursement Assessment as provided in Section 6.7.

## **ARTICLE 11 RIGHTS OF MORTGAGEES**

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11.1 Generally. The Mortgagees of the Lots in the Development shall be entitled to the rights and privileges set forth in this Article.

11.2 Exemption From Rights of First Refusal. Any Mortgagee who comes into possession of a Lot pursuant to the remedies provided for in its mortgage or deed of trust or pursuant to a foreclosure of the mortgage or deed of trust or pursuant to an assignment in lieu of foreclosure; shall be exempt from any right of first refusal which might be contained in or added to this Declaration.

11.3 Non-Liability for Unpaid Assessments. Any Mortgagee who comes into possession of a Lot pursuant to the remedies provided for in its mortgage or deed of trust, or pursuant to a foreclosure of the mortgage or deed of trust, except upon a voluntary conveyance to the Mortgagee, shall take the property free of any claims for unpaid assessments or charges against the mortgaged Lot which accrue prior to the time such Mortgagee comes into possession of the Lot, except for claims for a pro rata share of such assessments or charges to all Lots including the mortgaged Lot.

11.4 Mortgagees' Approval. Unless at least (a) fifty-one percent (51%) of the Mortgagees who have requested in writing of the Association to be notified of the occurrence of any of the events described in Sections 11.4.1, 11.4.2, 11.4.3 and 11.4.5 of this Declaration, based upon one (1) vote for each mortgage owned, or (b) sixty-six and two-thirds percent (66-2/3%) of the Lot Owners have given their prior written approval, the Association shall not be entitled to:

11.4.1 By act or omission seek to abandon, partition, subdivide, encumber, sell, or transfer any real estate or Improvements thereon which are owned, directly or indirectly, by the Association for the benefit of the Lots and the Owners thereof. The granting of easements for public utilities or other public purposes consistent with the intended use of such property by the Association and Lot Owners shall not be deemed a transfer within the meaning of this clause.

11.4.2 Change the method of determining the obligations, assessments, dues, or other charges which may be levied against a Lot Owner.

11.4.3 By act or omission change, waive, or abandon any scheme of regulations, or enforcement thereof, pertaining to architectural design or exterior appearance of Lots, the exterior maintenance of Lots, the maintenance of Party Walls or Party Fences, driveways, or the upkeep of lawns, plantings, or other landscaping in the Common Area.

11.4.4 Fail to maintain fire and extended coverage insurance on insurable common property owned by the Association on a current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value based on current replacement cost.

11.4.5 Use hazard insurance proceeds for losses to any common property and Improvements owned by the Association other than for the repair, replacement, or reconstruction of such property and Improvements.

11.5 Insurance Proceeds and Condemnation Awards. No provision of this Declaration, the Articles, or the Bylaws shall give a Lot Owner, or any other party, priority over any rights of Mortgagees pursuant to their deeds of trust or mortgages in the case of a distribution to Lot Owners of insurance proceeds or condemnation and eminent domain awards for losses to or a taking of any Lot or portion thereof or any Common Area or Common Facilities owned by the Association or otherwise.

11.6 Default Notice. Mortgagees who have submitted a request in writing to the Association for such shall be entitled to written notification from the Association of any default by the mortgagor or trustor of any Lot in the performance of such mortgagor's or trustor's obligations under this Declaration and the Bylaws which is not cured within sixty (60) days.

11.7 Termination of Planned Development. Unless written approval of each Mortgage is first obtained, the Association shall not be entitled to abandon or terminate its status as a "planned development", as that term is defined in California Civil Code Section 4175.

11.8 Book and Records. Each Mortgage shall have the right to examine the books and records of the Association for the Development. Upon request, each Mortgage shall be entitled to receive an annual audited financial-statement of the Association within ninety (90) days following the end of any fiscal year and written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

11.9 Notice Regarding Substantial Damage or Destruction, Condemnation or Eminent Domain. In the event of substantial damage to or destruction of any Lot or portion of the Common Area and facilities or if any Lot or any portion of the Common Area is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, each Mortgagee who requests such notice shall be provided timely notice of any such damage, destruction, or proceedings.

11.10 Mortgage Protection. A breach of any of the conditions contained in this Declaration shall not defeat nor render invalid the lien of any mortgage or deed of trust made in good faith and for value as to any Lot in the Development; provided, however, that said conditions shall be binding upon and effective against any Owner of a Lot which Lot is acquired by foreclosure, trustee's sale, or otherwise.

## **ARTICLE 12 AMENDMENT**

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12.1 Amendments by Members. This Declaration may be amended by the affirmative vote or written consent of fifty-one percent (51%) of the Members. Any amendment of the Declaration shall be signed and acknowledged by the duly authorized officers of the Association and shall be Recorded.

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

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

12.3 Restatement of the Declaration. The Board of Directors may, by the affirmative vote of a majority of the Directors present at a meeting at which a quorum has been established, restate the

Declaration when it has been properly amended pursuant to this Article. Any such restatement shall supersede any prior declarations and amendments in their entirety, but shall not affect the priority of any previous declarations or amendments in the chain of title to all Lots within the Development as established by the initial date of recordation of the original declaration for the Development. Such restatement may also:

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

12.3.2 Delete material that is no longer legally effective;

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

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

## **ARTICLE 13 GENERAL PROVISIONS**

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

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

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

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

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

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**IN WITNESS WHEREOF**, Members of the P.E.V. Homeowners' Association, Inc. No. 7 Association consisting at least seventy-five percent (75%) of the Members hereby affirm, approve, and adopt this First Restated Declaration of Covenants, Conditions, and Restrictions for Plumas Eureka Estates Unit No. 7 pursuant to the requirements of Section 11.1.1 of the Original Declaration.

DATED: January 14, 2022

**P.E.V. HOMEOWNERS' ASSOCIATION, INC. NO. 7**  
a California nonprofit mutual benefit corporation

Gene Perrier  
Gene Perrier, President

Suzanne Kozel  
Suzanne Kozel, Secretary



**Exhibit "A"**

**Legal Description**

All that certain real property situated in the County of Plumas, State of California, more particularly described as follows:

All that real property shown in that certain Subdivision Map entitled "Plumas Eureka Estates, Unit No. 7 (Phase 1)" filed in the Office of the Recorder of Plumas County, State of California, on January 5, 1982 in Book 5 of Maps at Pages 50 to 51.