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Owners Association**  
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(Space Above for Recorder's Use)

**SECOND AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
OF  
TRACT NO. 02-1006  
FOR  
MILL CREEK**

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**SECOND AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS OF  
TRACT NO. 02-1006 FOR MILL CREEK**

This *Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions of Tract No. 02-1006 for Mill Creek* is made by the Mill Creek Summer Home Owners Association, a California nonprofit mutual benefit corporation ("Association").

**RECITALS**

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A. The Association is an "association," as that term is defined in Civil Code section 4080 which has been created to manage the common interest development located in the County of Tehama, State of California commonly known as Tract No. 02-1006 for Mill Creek ("Development") and more particularly described in Exhibit A.

B. The original developer of the Development, Mill Creek, LLC, a California limited liability company, executed the *Declaration of Covenants, Conditions, and Restrictions of Tract No. 02-1006 for Mill Creek*, recorded on May 18, 2005, in book 2708, page 265 of the Official Records of Tehama County ("Original Declaration").

C. The Original Declaration was superseded in the *Declaration of Covenants, Conditions, & Restrictions of Tract No 02-1006 for Mill Creek*, recorded on August 24, 2017, as document number 2017010537, in the Official Records of Tehama County ("Restated Declaration").

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

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

G. At least a simple majority of the Members voted to amend, restate, and supersede the Restated Declaration pursuant to Article XIII, Section 13.1 of the Restated Declaration.

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

1. The Restated Declaration is hereby amended, restated, and superseded in its entirety to read as set forth in this Declaration.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 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 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, which means more than fifty percent (50%) of the Members.

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 Review Committee. "Architectural Review Committee" or "ARC" shall mean the committee created pursuant to Article 9.

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

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 their Lot as provided in Article 6. "Assessment" shall include any or all of the following:

1.6.1 Annual Assessments, which shall have the meaning set forth in Section 6.5.

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

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

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

1.7 Association. "Association" shall mean Mill Creek Summer Home Owners Association, a California non-profit mutual benefit corporation, its successors and assigns.

1.8 Association Rules. "Association Rules" shall mean the rules and regulations governing the use, occupancy, management, administration, elections, and operation of the Development or any part thereof as adopted and published by the Board from time to time.

1.9 Board of Directors or Board. "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 and Members and any duly-adopted amendments thereof.

1.11 Common Area. "Common Area" shall mean and refer to all of the real property owned by the Association for the common use and enjoyment of the Members and shall include "LOT A" through "LOT E," inclusive, all of which are shown, designated, and described on the Subdivision Map as well as any plot of land and/or easement that may be conveyed to the Association and designated as "Common Area," as well as any constituent element(s) of the Development that the Association is obligated to maintain, such as, but not limited to, streets, street signs, and open space.

1.12 Common Expenses. "Common Expenses" shall mean and include the actual and estimated expenses of operating the Development and any reasonable reserve for such purposes as found and determined by the Board and all sums designated Common Expenses by or pursuant to the Project Documents.

1.13 Common Facilities. "Common Facilities" shall mean the private streets, private drives, open parking spaces, community dumpsters, community water tanks, and other facilities constructed or installed, or to be constructed or installed, or currently located within the Common Area and owned by the Association.

1.14 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.

1.15 County. "County" shall mean the County of Tehama.

1.16 Declarant. "Declarant" shall mean Mill Creek, LLC; and their successors and assigns.

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

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

1.19 Director. "Director" shall mean a member of the Board.

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

1.21 Improvement(s). "Improvement(s)" includes, but is/are not limited to, the construction, installation, alteration, or remodeling of any buildings, walls, roofs, foundation, decks, swimming pools, landscaping, landscape structures, skylights, solar heating equipment, spas, antennas, utility lines as well as any structure of any kind. In no event shall the term "Improvement" be interpreted to include projects that are restricted to the interior of any Residence.



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

1.23 Member. "Member" shall mean an Owner.

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 Tehama 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 that such persons are not "Owners" for purposes of exercising voting rights in the Association.

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

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

1.27 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.

1.28 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 Corporations Code section 7513 or Civil Code sections 5100–5125, respectively) in which the number of ballots received equals or exceeds the number required to establish a quorum.

1.29 Subdivision Map. "Subdivision Map" shall mean the subdivision maps recorded in the Office of the County Recorder of Tehama County and which are referenced in the legal description of the Development in Exhibit A.

1.30 Tenant. "Tenant" shall mean any Resident who does not hold fee title to a Lot, but who has a right to occupy a Lot or any portion of a Lot, regardless of where that right originates.

1.31 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 Use of Common Area. The Common Area shall be preserved as open space and used for recreational purposes and other purposes incidental and ancillary to the use of Lots. Such use shall be limited to the private use for aesthetic and recreational purposes by the Members, their Tenants, families, and guests, subject to the provisions of the Governing Documents. No improvement, excavation, or work which in any way alters any Common Area or Common Facility from its natural or existing state on the

date such Common Area or Common Facility was completed shall be made or done except by the Association and then only in strict compliance with the provisions of this Declaration.

2.3 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 their 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:

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

2.3.2 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.

2.3.3 The right of the Board to grant easements and rights of way in, on, over, or under the Common Area.

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

2.3.5 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.

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

2.3.7 The right of the Association, through its authorized agents, to enter any Lot 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. 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.

2.3.8 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.

2.3.9 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.

2.4 Assignment of Rights of Use. Any Owner may assign their rights of use and enjoyment, including easements, in the Development to members of their 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 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 their 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.

2.5 Damage to Common Area or Association Property. An Owner is responsible for the cost to repair any damage caused to any Common Area, including Exclusive Use 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.

2.6 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.

2.7 Utilities Rights and Duties. Whenever sanitary sewer, water, electric, gas, television receiving, telephone lines or other utility connections, or drainage systems are located or installed within the Development, the Owner of each Lot served by said connections shall be entitled to the use and enjoyment of such portions of said connections that serve their Lot. Every Owner shall maintain all utility installations located in or upon their Lot except for those installations specifically arranged to be maintained by the Association or utility companies, whether public or private. Utility companies shall have the right, at reasonable times and after reasonable notice, to enter upon the Development to discharge any duty to maintain Development utilities.

2.8 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 their 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.

### **ARTICLE 3 EASEMENTS**

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3.1 Utility and Maintenance Easement. Easements over and under the Development for the installation, repair, and maintenance of electric, telephone, water, gas and sanitary sewer lines, heating facilities, cable or master television antenna lines, drainage facilities, walkways, and landscaping as shown on the Subdivision Map, and as may be hereafter required or needed to service the Development, are hereby reserved by the Association, together with the right to grant and transfer the same.

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 a Lot when necessary in connection with any maintenance, landscaping, or construction for which the Association is responsible or 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 their Lot without the consent of the affected Owner of the Lot.

## **ARTICLE 4 USE RESTRICTIONS**

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4.1 Residential Use. Except as specifically provided in Section 4.6, and with the exception of Lot 1, no Lot, or any portion thereof, shall be occupied or used for other than residential purposes by the Owners, their Contract Purchasers, lessees, Tenants, or guests.

4.2 Square Footage Use. With the exception of Lot 1, the total square footage of the Residence that is located on any Lot shall not exceed twenty-five hundred (2,500) square feet.

4.3 Lots and Setbacks. Each Lot shall be conveyed as a separately designated and estate subject to the restrictions in this Declaration and other Governing Documents. All Lots shall provide for setback of structures that accommodates a fire defensible space.

4.4 No Partition. There shall be no judicial partition of the Development or any part thereof, nor shall any Owner or any person acquiring any interest in the Development or any part thereof seek any judicial partition thereof; provided, however, that if any Lot shall be owned by two (2) or more co-tenants as tenants in common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition by sale as between such co-tenants.

4.5 No Further Subdivision. No Lots in this subdivision shall be further subdivided nor shall less than all of any such Lot be conveyed by an Owner thereof and no Owner of a Lot within the Development shall be entitled to sever that Lot from the Common Area.

4.6 Restriction on Businesses. With the exception of Lot 1, no trade, business, or commercial activity of any kind shall be established, maintained, operated, permitted, or conducted within the Development except:

4.6.1 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.

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

4.7 Machinery and Equipment.

4.7.1 With the exception of Lot 1, which is excluded from the requirements of the provisions of this Section 4.7.1 and except as provided for in the provisions of Subsection 4.7.2, below, no machinery or equipment of any kind shall be placed, operated, or maintained upon or adjacent to any Lot except such machinery or equipment that is usual or customary in connection with the use, maintenance, or repair of a Residence or appurtenant structures within the Development or that has been approved by the Architectural Review Committee.

4.7.2 No machinery or equipment of any kind shall be placed, operated, or maintained upon or adjacent to Lot 1 except such machinery or equipment that is normally associated with a properly conducted resort operation or that has been approved by the Architectural Review Committee.

4.8 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 to emanate from the Resident's Lot between the hours of 10:00 P.M. to 8:00 A.M. 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 or City codes regulating such matters. Residents shall not engage in any activity which in any way increases the rate of insurance for the Association or for any other Lot, or cause any insurance policy to be cancelled or to cause a refusal to renew the same, or which will impair the structural integrity of any building. 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.

4.9 Indemnification. Each Owner, by acceptance of their deed, agrees personally and for their invitees, to indemnify each and every other Owner, and to hold such indemnified Owner(s) harmless from, and to defend them against, any claim of any person for personal injury or property damage occurring within the Lot of the indemnifying Owner, except to the extent:

4.9.1. That any such injury or damage is covered by insurance in favor of the Association or the indemnified Owner, whichever is applicable; or

4.9.2. The injury or damage occurred by reason of the willful or negligent act or omission of the Association, an indemnified Owner, or any Invitees of an indemnified Owner.

4.10 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, landscape and all other exterior Improvements are subject to approval of the Architectural Review Committee.

4.11 Leasing or Rentals. With the exception of Lot 1, for the purposes of the provisions of this Section 4.11 the Development shall be considered as being designed and intended as an Owner-occupied, residential development. Therefore, an Owner shall be responsible for any Violation of a Provision of the Governing Documents by a Tenant or any other occupant of their Lot. With the exception of Lot 1, which shall be excluded from the requirements of Section 4.11 and its Subsections, no Owner shall rent, lease, or otherwise delegate the use and occupation of their Lot except upon the following terms and conditions:

4.11.1 The term of any rental or lease agreement shall be for a period of not less than thirty (30) days, this restriction shall not apply to Owners of Lots who received title to their Lots prior to the date this Declaration is recorded in the office of the Recorder ("Effective Date"). All Owners who receive title to their Lots after the Effective Date shall be subject to the restriction set forth in this section, except as otherwise provided in Civil Code section 4740, or successor statute.

4.11.2 Owners who are renting or leasing a Lot shall provide the Tenant with a copy of the Governing Documents. No Owner may rent or lease less than the entire Lot, except as otherwise provided in Civil Code section 4740, or successor statute.

4.11.3 Each Owner shall notify the Association of the names of any Tenants, as well as the length of the lease with those Tenants, prior to the initiation of the rental.

4.12 Pets. Dogs and cats may be kept on each Lot so long as the same are not kept, bred, or maintained for commercial purposes. No other animals, livestock, or poultry of any kind shall be kept, bred, or raised on any Lot. Dogs shall only be allowed in the Common Area when they are leashed and under the supervision and restraint of their Owners. No household pet shall be chained or tethered in public view or anywhere within the Common Area unless the Owner is present and supervising the pet. Owners shall be responsible for the prompt disposal of pet waste. Each Owner bringing or keeping a pet in the Development, including a guest's pet or animal, shall be solely responsible for the conduct of their animals and the Association, its Board, Officers, Directors, employees, and agents shall have no liability to any Owner, their household members, guests, invitees, Tenants, contractors, and contract purchasers for any damage or injury to persons or property caused by any such animal. The Board shall further have the right to establish and enforce reasonable rules and regulations imposing standards for the reasonable control and keeping of animals in, upon, and around the Development. All construction of structures intended to house and/or contain animals shall be created in accordance with the current building codes of Tehama County for outbuildings and similar improvements, and shall be created in a manner that will provide for the control of the animals. All such structures shall be maintained in a clean, sanitary, workable, and attractive condition. All construction under this section must be approved by the Architectural Review Committee.

4.13 Solid and Yard Waste. Solid waste carts, yard waste carts, "totes", and other rubbish and waste, excluding tree debris that is cleared for fire safety, shall be completely screened from public view.

4.14 Septic Systems. Each Lot shall have its own individual, on-site, septic waste disposal system, which shall be designed, located, constructed, and repaired in accordance with the requirements, standards, and recommendations of the Tehama County Code.

4.15 Temporary Storage Units or Dumpsters. Owners may have temporary storage units or dumpsters on their Lot only with the express written approval of the Board, which shall be subject to any reasonable restrictions imposed by the Board, in its sole discretion.

4.16 Fences. With the exception of Lot 1, no fences, ornamental screens, retaining walls, or walls of any nature or kind, shall be constructed or modified, including design or location changes without prior written approval from the ARC prior to construction or modification.

4.17 Utility Lines. All utility lines and services, including, but not limited to, cable television, shall be underground.

4.18 Vehicle Parking and Storage Rules. With the exception of Lot 1, in order to prevent or eliminate any vehicle parking or storage problems within the Development, the Board shall have the authority to adopt reasonable rules and restrictions regarding vehicles parked or stored within the Development, as the Board may deem prudent and appropriate.

4.19 Existing Natural Features. Reasonable efforts shall be made to minimize impacts on existing natural features such as trees, rock outcroppings, ridge lines, slopes, and drainage courses.

4.20 Signs. The Board may adopt, amend, and repeal Rules regarding the presence of signs of any kind, so long as those Rules comply with Civil Code § 4710 or successor statutes. Those Rules may include, without limitation, automatic approval of signs meeting specified requirements.

4.21 Antenna and External Fixtures. With the exception of Lot 1, which shall be excluded from the requirements of this Section 4.21, 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 dish installed by them within the Development and shall indemnify and reimburse the Association for all costs and expenses associated therewith, including without limitation any increased costs incurred by the Association in the performance of its maintenance obligations as specified in Article 8 of this Declaration.

4.22 Gas or Liquid Storage. With the exception of propane tanks, no tank for the storage of gas or liquid shall be installed on or within the Development unless such installation was done by Declarant or has been approved by the Architectural Review Committee.

4.23 Changing Grades, Slopes, and Drainage. No change in the established grade or elevation of a Lot or an easement and no change in the established slope or ratio of the cuts and fills which alters established drainage patterns shall be permitted without the prior written consent of the County and the Architectural Review Committee. For the purposes of this Section, established drainage patterns are defined as the drainage patterns existing at the time the grading of said Lot was completed in conformity with the grading and drainage plan heretofore approved by the County.

4.24 Temporary Residential Structures. With the exception of Lot 1, no structure of a temporary character, including without limitation, recreational vehicles, trailers, campers, tents, shacks, garages, or other outbuildings shall be used on any Lot at any time as a Residence for more than fourteen (14) consecutive days.

4.25 Notification of Sale. With the exception of Lot 1, concurrently with the consummation of the sale of any Lot under circumstances where the transferee becomes an Owner of the Lot, or within five (5) business days thereafter, the transferee shall notify the Association in writing of such sale.

4.26 Variances. The Board shall be authorized to grant reasonable variances from the provisions of Article 4 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 when acting on any request for a variance:



4.26.1 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 Review 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 notify the applicant within thirty (30) days of the Board's decision. If the Board determines that the variance request meets the requirements set forth in this Section, on its face, the procedures set forth in the remainder of this Section shall be followed.

4.26.2 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.

4.26.3 After the conclusion of the hearing, the Board shall, in its sole discretion, grant or deny the request for variance in accordance with the standards set forth in this Section. As discussed above, if the Board grants the variance request, the Board may impose such conditions as the Board deems appropriate and shall 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, 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 their 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 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 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, property insurance, and workers compensation insurance as it shall deem proper and as more particularly set forth in the Bylaws.

5.8 Association Property. The Board 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 five percent (5%) 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 shall have the power to dedicate or transfer ownership of all or any part of the Common Area to a public agency, authority, or utility. No such dedication or transfer of ownership shall be effective unless it has been approved by Members holding at least a Simple Majority of the Total Voting Power.

5.10 Borrow Money. The Board shall have the power to borrow money in the name of the Association, provided it has been approved by Members holding at least a Simple Majority of the Total Voting Power.

5.11 Mortgage of Association Property. The Board 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) Annual 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 their 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 of Record of any Lot shall, in turn, become liable to pay all such Assessments and Additional Charges assessed during the time they are Record Owner of such Lot. After an Owner transfers Record any Lot they own, they shall not be liable for any Assessments levied thereafter with respect to such Lot. Such Owner shall remain personally liable 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 duty to levy Annual and Special Assessments sufficient to meet the Association's obligations under the Governing Documents and law.

6.5 Annual 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 Annual Assessment. 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.

6.5.3 Payment of Annual Assessments. Unless the Board shall designate otherwise, Annual Assessments shall be levied on an annual basis and shall be due and payable on the first day of the month after it is assessed.

6.5.4 Increases in Annual Assessment. Pursuant to Civil Code sections 5605 and 5610, except as otherwise provided by law, the Board shall not increase the Annual Assessment for any fiscal year above the amount of the Annual 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 Annual 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, 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 Annual 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 Annual Assessments.

6.6.2 Allocation of Special Assessments. Special Assessments shall be allocated and assessed equally among all Lots in the Development, except any Assessment against an Owner as a result of a deficiency in insurance proceeds or condemnation awards as provided in Article 7.

6.6.3 Approval of Special Assessments. Except in the case of an emergency situation, as defined in 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 their Lot if a failure by such Owner, or any person, pet, or entity 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 their Lot into compliance or to reimburse the Association for damage caused to the Common Area or Improvements thereon by any Owner or their household, 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 for violation of any of the provisions of the Governing Documents. Any Enforcement Assessment shall be due and payable to the Association when levied. Any "fine" imposed by the Board in accordance with the provisions of the Governing Documents shall be deemed to be such an Enforcement Assessment.

6.9 Failure to Fix Assessments. The failure or omission by the Board to fix or levy any Annual 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 Annual Assessment fixed for the preceding fiscal year shall be the amount of the Annual Assessment for the ensuing fiscal year until a new Annual 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 an Owner 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 attorneys' fees, late charges, and interest, if any, pursuant to Civil Code section 5650(b), 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 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.

6.17 Waiver of Exemptions. Each Owner, to the extent permitted by law, waives, 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 OR DESTRUCTION; CONDEMNATION**

7.1 Damage or Destruction of Common Area. In the event of damage or destruction to the Common Area, any insurance proceeds or awards shall be payable to the Association, provided that any insurance proceeds or awards to the Association for damage to or destruction of the Common Area shall be allocated for the repair or restoration of the Common Area.

7.1.1 If there is a total or partial destruction of any of the Common Area, the Common Area shall be promptly rebuilt, unless, as soon as possible following the date of such destruction. The Owners holding at least seventy-five percent (75%) of the total voting power, at a duly noticed and held meeting of the Members, may determine that repair or reconstruction shall not take place. If such a meeting is called, the Board shall solicit and obtain bids from at least two (2) licensed contractors for the cost of repairing and/or reconstructing such Common Area in accordance with the original construction and shall present this information to the Owners at said meeting.

7.1.2 If the Common Area is to be rebuilt, all of the Owners shall be obligated to contribute their proportionate share of any funds that are required over and above the available insurance proceeds, to cover the cost of such repair or reconstruction.

7.1.2.1 Said proportionate share shall be determined by dividing the full amount of any additional funds that are required by the total number of Lots in the Development.

7.1.2.2 If any Owner fails to pay their proportionate share, the Board may levy a Special Assessment against the Lot of such Owner, which may be enforced under the lien provisions contained in Section 6.2 of the Declaration, entitled, "Creation of Lien," or in any other manner provided for in the provisions of the Governing Documents or by law.

7.2 Damage or Destruction of a Residence. If all or any portion of any Residence is damaged or destroyed by fire or other casualty, it shall be the duty of the Owner of the Lot on which such Residence is located to rebuild, repair, or reconstruct such Residence in a manner which will restore it substantially to its appearance and condition immediately prior to the casualty.

7.2.1 Any Owner who has suffered such damage shall apply to the Architectural Review Committee for approval of plans of the reconstructing, rebuilding, or repairing of their Residence.

7.2.1.1 Application for such approval shall be made in writing to the Architectural Review Committee together with full and complete plans, specifications, working drawings, and elevations showing the proposed reconstruction and the end result thereof.

7.2.1.2 The Architectural Review Committee shall grant such approval only if the design proposed by the Owner would result in a finished Residence that will be in harmony with the exterior design of other Residences within the Property.

7.2.2 The Owner of any damaged Residence(s) and the Architectural Review Committee shall be obligated to proceed with all due diligence hereunder to discharge their respective obligations.

7.2.3 Unless a waiver or modification of these requirements is obtained from the Architectural Review Committee in accordance with the provisions of Section 9.18 of the Declaration, titled, "Variances," the Owner(s) shall commence reconstruction or removal of the damaged or destroyed structure within six (6) months after the damage occurs and complete reconstruction within eighteen (18) months after such damage occurs.

7.3 Condemnation. If an action for condemnation of all or any portion of the Common Area is proposed or threatened by any governmental agency having the right of eminent domain, then, after approval by the vote or written consent of at least fifty-one percent (51%) of all of the Owners who are eligible to vote, the Common Area, or any portion of it, may be sold and conveyed to the condemning authority by the Board or its designees who is/are acting as the attorney-in-fact of all of the Owners under



an irrevocable power of attorney, which each Owner by accepting a deed to a Lot, grants to the Board and which shall be coupled with the interest of all of the other Owners, at a price that is deemed fair and equitable by the Board.

7.3.1 On any sale occurring under the provisions of Subsection 7.1.1, above, the proceeds of such sale shall be distributed equally to each Owner and their Mortgagees as their respective interests may appear. If the Common Area, or any portion thereof, is not sold but is instead taken under a judgment by a court of competent jurisdiction, the award for such a taking shall be apportioned among the Owners and their respective Mortgagees, by the terms of the judgment of condemnation and if not so apportioned, then any such award shall be distributed in equal shares to each Owner.

## **ARTICLE 8 MAINTENANCE OF PROPERTY**

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8.1 Association Responsibilities. The Association shall be solely responsible for all maintenance, repair, and replacement within the Common Area. The Association shall be specifically responsible for maintaining the following improvements and easements if located within the Common Area: (1) all drainage improvements, (2) the park and all its facilities, (3) any monuments that have been installed in the Development, (4) the lighting, (5) pedestrian and emergency access easements, and (6) all other Improvements and easements only to the extent that such Improvements and easements are located in the Common Area.

No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter, or maintain any improvement upon, or shall create any excavation, fill, or change the natural or existing drainage of any portion of the Common Area. In addition, no person shall remove any tree, shrub, or other vegetation from, or plant any tree, shrub, or other vegetation upon the Common Area without express approval of the Association.

8.2 Owner Responsibilities. Each Owner shall be responsible for the maintenance and repair of their Residence and Lot, including, without limitation: the roofs; siding; painting; glass surfaces; glass doors; windows; screens and screen doors; exterior doors; window fixtures; any hardware; concrete surfaces; Residence interior; and the plumbing, electrical, heating and air conditioning systems servicing the Residence. The Owner shall also be responsible for the maintenance of all exterior landscaping, and all utility, sewer, telephone, and water lines located on their Lot or exclusively serving their Lot. Each Owner shall clear debris from their Lot to ensure fire safety and resistance.

8.3 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, value, or safety 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, 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.

8.4 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.

8.5 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.

8.6 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.

8.7 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 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 Review Committee ("ARC") 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 Review Committee.

9.2.1 Except as provided in Sections 9.2.2 and 9.2.3, the Board shall appoint an Architectural Review Committee that shall consist of at least three (3) Members to be selected by the Board, who serve at the pleasure of the Board. The Board shall have the power, in its complete discretion and either with or without cause, to remove any member of the ARC. In the event of death, resignation, or removal of any member of the ARC, 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 ARC without appointing the separate committee provided for in Section 9.2.1.

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

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

9.5 Architectural Rules. The Architectural Review 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 ARC 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 9.18, the ARC 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 Review Committee or Board may require, including, without limitation, samples of proposed paints and other finish materials in such sizes and formats as the ARC 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 Review 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 ARC shall so advise the Owner in writing of its determination, whereupon all plans and specifications so designated by the ARC must thereafter bear appropriate evidence of such preparation or review.

9.8 Grant of Approval. The Architectural Review 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;

9.8.2 The ARC 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 ARC, 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 their property; and

9.8.3 The ARC 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. The Architectural Review Committee may approve a request for approval subject to the Owner's consent to any modifications made by the ARC. 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 Review Committee Action. The Architectural Review Committee shall act on a request for approval within sixty (60) days from the date of receipt thereof by the ARC. Any request for approval which has not been acted on by the ARC 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 ARC 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 Review Committee and shall not apply if the Board is acting in the capacity of an ARC pursuant to this Article. An Owner-applicant shall have a right to appeal the decision of the ARC to the Board, provided that such request shall be presented to the Board within ten (10) days from the date of the Architectural Review 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 Review 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 Section, any prior approval 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 their agents. If an Owner fails to comply with this Section, the Board shall proceed in accordance with the provisions of Section 9.14, as though the failure to complete the Improvements was a noncompliance with approved plans.

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 Review Committee.

9.14.2 Within sixty (60) days after the receipt of such written notice, the ARC, 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 ARC 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) day 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 ARC 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 ARC, and, in the Board's discretion, any other interested person, may present information relevant to the question of the alleged noncompliance. After considering all relevant 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 10.5.

9.14.5 If, for any reason, the ARC 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 ARC 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 Review Committee of any plans, drawings, or specifications for any work done or proposed, or for any other matter requiring the approval of the ARC 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 Liability. Neither the Board, the Architectural Review 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; (d) the execution and filing of an estoppel certificate pursuant to Section 9.16, whether or not the facts therein are correct, provided that the ARC, 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 them; or (e) the execution and filing of a notice of noncompliance, whether or not the facts therein are correct, provided that the ARC, 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 them. Without limiting the generality of the foregoing, the ARC, 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 ARC. Every purchaser, by acquiring title to a Lot or portion thereof, agrees not to bring any action or suit against the Board, the ARC, or their members or representatives seeking to recover any such damages.

9.17 Compliance with Governmental Requirements. The application to the Association, and the review and approval of any proposals, plans, or other submittals, shall not 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 Review Committee, or their members as to the accuracy, efficacy, or sufficiency of such proposals, plans, or other submittals.

9.18 Variances. The Architectural Review 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:

9.18.1 The ARC 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 to be substantially achieved despite noncompliance; (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.

9.18.2 After the conclusion of the hearing, the ARC 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 and Damages. Each Owner shall be fully responsible for informing the members of their household and their Tenants, Contract Purchasers, contractors, and guests of the provisions of the Governing Documents, and shall be fully responsible for the conduct, activities, Governing Document violations, and damage to the Development or the Association resulting from the negligent or intentional conduct of any of them, including, but not limited to, any household pets. If a Lot is jointly owned 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 No Avoidance. No Owner may avoid the burdens or obligations imposed by the Governing Documents through non-use of any Common Area facility, if any, or by abandonment of their Lot.

### 10.5 Rights and Remedies of the Association.

10.5.1 Enforcement Rights. 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. The Board shall not be obligated to take action to enforce a provision of the Governing Documents if, in the exercise of its discretion, the Board determines that acting to enforce the provision is not likely to foster or protect the interests of the Association and its Members as a whole.

10.5.2 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 their Tenants, Contract Purchasers, contractors, guests, or invitees, the Board shall have the power to impose sanctions against the Owner. Such sanctions may include, without limitation, the imposition of fines and/or the suspension of an Owner's rights as a Member, including an Owner's right to use the recreational or community facilities, if any, on the Common Area. Except as provided in Section 10.7, imposition of sanctions shall be effective only after notice and an opportunity for 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 to reimburse the Association for any costs incurred relating to violation of any provisions of the

Governing Documents by the members of such Owner's household and such Owner's Tenants, Contract Purchasers, guests, pets, or other invitees.

10.5.3 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, 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, or by any Owner or by their respective successors in interest.

10.5.4 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 their Lot as the result of the failure by such Owner, members of such Owner's household, or their Tenants, guests, invitees, or household pets to comply with any provision of the Governing Documents, except where such forfeiture or abridgement 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.

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

10.7 Emergency Situations. The following shall constitute emergency situations: (a) an immediate and unreasonable threat to the safety of Residents of the Development; (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 or disciplinary action. Hearings with respect to such corrective or disciplinary action shall be in accordance with Section 8.1.4 of the Bylaws.

10.8 Alternative Dispute Resolution. Compliance with Civil Code sections 5925–5965 and Civil Code sections 5900–5920 shall be required with respect to any dispute subject to such sections.

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

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



10.11 Costs and Attorneys' Fees. In the event the Association shall take any action to enforce any of the provisions of the Governing Documents or shall determine that any Member or members of their household or their 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.

10.12 Indemnification. Each Owner, by acceptance of their deed, agrees for themselves and for the members of their household, their Contract Purchasers, Tenants, guests, or invitees to: (a) indemnify each and every other Owner for; (b) hold each and every other Owner harmless from; and (c) defend each and every other Owner against, any claim of any person for personal injury or property damage occurring within the Lot of such Owner, except that such Owner's duty to indemnify, hold harmless, and defend may be diminished to the extent that the injury or damage occurred by reason of the negligence of any other Owner or person temporarily visiting in such Lot or is fully covered by the Owner's insurance.

10.13 Waiver of Homestead Benefits. Each Owner to the extent permitted by law, waives, to the extent of any liens created pursuant to the Governing Documents, the benefit of any homestead or exemption laws of California in effect at the time any Assessment becomes due.

## **ARTICLE 11 MUTUAL WATER COMPANY**

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### **11.1 Mutual Water Company Membership.**

11.1.1 The Mill Creek/Lassen Mutual Water Company ("Mutual Water Company") has been formed under the general non-profit corporate law of the State of California, for the purpose of operating a water system to serve the Development.

11.1.2 Each Owner by the acceptance of a deed that conveys an ownership interest in the fee title of a Lot, thereby agrees to become, and shall become, a member in the Mutual Water Company.

11.1.3 Each and every Owner also agrees to be bound by the articles of incorporation and bylaws of the Mutual Water Company as well as by the properly executed acts and decisions of the board of directors and officers of the Mutual Water Company.

### **11.2 Mutual Water Company Assessments – Agreement to Pay.**

11.2.1 Each and every Owner agrees to pay the Mutual Water Company whatever dues or assessments are levied by its board of directors ("Water Board") or officers of the Mutual Water Company, for the operation and maintenance of the water system.

11.2.2 When a shareholder in the water company has been delinquent in paying their water company account for one (1) month, or more, and such shareholder has been billed for the amount due, the water company will send a notice of delinquency

to such shareholder by certified mail to the address on record. Such notice will include the amount due, including the accumulated delinquent fees, the shareholders right to appeal to the Water Board, and shall state the restoration fee if entitlement is lost.

11.2.3 Any loss of entitlement must be done in good faith and in a fair and equitable manner.

11.2.4 If the shareholder appeals to the Water Board, the Water Board shall decide the amount due, if any.

11.2.5 Action for collection of delinquent accounts shall be taken after a reasonable time, and in addition to the amount due, the Water Company shall be entitled to recover the accumulated delinquent fees, restoration of entitlement fee, and all collection costs, including reasonable attorneys' fees.

11.3 Severance of the Mutual Water Company Membership Prohibited.

11.3.1 An Owner shall not be entitled to sever their fee title interest in a Lot from their membership in the Mutual Water Company for any purpose.

11.3.2 Neither a fee interest in a Lot or its Owner's (s') membership in the Mutual Water Company can be separately sold, conveyed, encumbered, hypothecated, or otherwise dealt with.

11.4 Limitation on Interests Conveyed.

11.4.1 After the initial sale of a Lot to an Owner(s), any conveyance of the fee title interest in a Lot or any portion of such interest, by an Owner shall convey the Mutual Water Company membership that is appurtenant to such fee title interest or portion thereof.

11.4.2 However, nothing contained in the provisions of this Section 11.4 shall preclude an Owner from creating an estate for life, an estate for years, a co-tenancy, or a joint tenancy in the fee title interest of a Lot with any other person, persons, entity or entities.

**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 an Absolute Majority 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 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 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 Lot 1 Owner's Approval for Certain Amendments. Notwithstanding any other provision of the Governing Documents, no amendment, change, modification, or termination of the following provisions of the Declaration, as they pertain to Lot 1 only, shall be effective until approved in writing by the Owner(s) of Lot 1: Section 4.1, entitled "Residential Use"; Section 4.7, entitled "Machinery and Equipment"; Section 4.11, entitled "Leasing or Rentals"; Section 4.13, entitled "Solid and Yard Waste"; Section 4.16, entitled "Fences"; Section 4.20, entitled "Signs"; Section 4.21, entitled "Antenna and External Fixtures"; Section 4.25, entitled "Temporary Residential Structures"; Section 4.26, entitled "House Numbers"; and Section 12.3, entitled "Lot 1 Owner's Approval for Certain Amendments."

12.4 Restatement of the Declaration. The Board 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:

12.4.1 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;

12.4.2 Delete material that is no longer legally effective;

12.4.3 Add text which indicates that the Board has authorized the restatement and otherwise describes the background of the Development and the restatement process; and

12.4.4 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. The singular shall include the plural and the plural the singular unless the context requires the contrary.

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


13.6 Code References. All code references made in this Declaration shall refer to California law.


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**IN WITNESS WHEREOF,** Members of Mill Creek Summer Home Owners Association consisting at least a simple majority of the Members hereby affirm, approve, and adopt this *Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions of Tract No. 02-1006 for Mill Creek* pursuant to the requirements of Article XIII, Section 13.1 of the Restated Declaration.

DATED: 10/4/22, 2022

**Mill Creek Summer Home Owners Association,**  
a California nonprofit mutual benefit corporation

  
\_\_\_\_\_  
Mark Black, President

  
\_\_\_\_\_  
William M. Loker, Secretary

**Exhibit "A"**

**Legal Description of the Development**

Lots 1 through 25, inclusive, 28 through 84, inclusive, 86 through 98, inclusive, 100 through 102, inclusive, 108 through 109, inclusive, 118 through 136, inclusive, and "LOT A" through "LOT E," inclusive, all of which are shown, designated, and described on that certain map entitled "TEHAMA COUNTY FINAL TRACT MAP # 02-1006" that was filed for Record in the office of the County Recorder of Tehama County, California, on May 18, 2005, in Book 2708 of Maps at Page 265, as Document No. 010960.

## EXHIBIT "B"

### NOTICE REGARDING ASSESSMENTS AND FORECLOSURE

#### NOTICE ASSESSMENTS AND FORECLOSURE

This notice outlines some of the rights and responsibilities of owners of property in common interest developments and the associations that manage them. Please refer to the sections of the Civil Code indicated for further information. A portion of the information in this notice applies only to liens recorded on or after January 1, 2003. You may wish to consult a lawyer if you dispute an assessment.

#### ASSESSMENTS AND FORECLOSURE

Assessments become delinquent 15 days after they are due, unless the governing documents provide for a longer time. The failure to pay association assessments may result in the loss of an owner's property through foreclosure. Foreclosure may occur either as a result of a court action, known as judicial foreclosure, or without court action, often referred to as nonjudicial foreclosure. For liens recorded on and after January 1, 2006, an association may not use judicial or nonjudicial foreclosure to enforce that lien if the amount of the delinquent assessments or dues, exclusive of any accelerated assessments, late charges, fees, attorney's fees, interest, and costs of collection, is less than one thousand eight hundred dollars (\$1,800). For delinquent assessments or dues in excess of one thousand eight hundred dollars (\$1,800) or more than 12 months delinquent, an association may use judicial or nonjudicial foreclosure subject to the conditions set forth in Article 3 (commencing with Section 5700) of Chapter 8 of Part 5 of Division 4 of the Civil Code. When using judicial or nonjudicial foreclosure, the association records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the amounts secured by the lien are not paid. (Sections 5700–5720 of the Civil Code, inclusive)

In a judicial or nonjudicial foreclosure, the association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges, and interest. The association may not use nonjudicial foreclosure to collect fines or penalties, except for costs to repair common area damaged by a member or a member's guests, if the governing documents provide for this. (Section 5725 of the Civil Code)

The association must comply with the requirements of Article 2 (commencing with Section 5650) of Chapter 8 of Part 5 of Division 4 of the Civil Code when collecting delinquent assessments. If the association fails to follow these requirements, it may not record a lien on the owner's property until it has satisfied those requirements. Any additional costs that result from satisfying the requirements are the responsibility of the association. (Section 5675 of the Civil Code)

At least 30 days prior to recording a lien on an owner's separate interest, the association must provide the owner of record with certain documents by certified mail, including a description of its collection and lien enforcement procedures and the method of calculating the amount. It must also provide an itemized statement of the charges owed by the owner. An owner has a right to review the association's records to verify the debt. (Section 5660 of the Civil Code)

If a lien is recorded against an owner's property in error, the person who recorded the lien is required to record a lien release within 21 days, and to provide an owner certain documents in this regard. (Section 5685 of the Civil Code)

The collection practices of the association may be governed by state and federal laws regarding fair debt collection. Penalties can be imposed for debt collection practices that violate these laws.

## PAYMENTS

When an owner makes a payment, the owner may request a receipt, and the association is required to provide it. On the receipt, the association must indicate the date of payment and the person who received it. The association must inform owners of a mailing address for overnight payments. (Section 5655 of the Civil Code)

An owner may, but is not obligated to, pay under protest 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 by so doing, specifically reserve the right to contest the disputed charge or sum in court or otherwise.

An owner may dispute an assessment debt by submitting a written request for dispute resolution to the association as set forth in Article 2 (commencing with Section 5900) of Chapter 10 of Part 5 of Division 4 of the Civil Code. In addition, an association may not initiate a foreclosure without participating in alternative dispute resolution with a neutral third party as set forth in Article 3 (commencing with Section 5925) of Chapter 10 of Part 5 of Division 4 of the Civil Code, if so requested by the owner. Binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.

An owner is not liable for charges, interest, and costs of collection, if it is established that the assessment was paid properly on time. (Section 5685 of the Civil Code)

## MEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a time-share interest may request the association to consider a payment plan to satisfy a delinquent assessment. The association must inform owners of the standards for payment plans, if any exists. (Section 5665 of the Civil Code)

The board must meet with an owner who makes a proper written request for a meeting to discuss a payment plan when the owner has received a notice of a delinquent assessment. These payment plans must conform with the payment plan standards of the association, if they exist. (Section 5665 of the Civil Code)

ACKNOWLEDGMENT

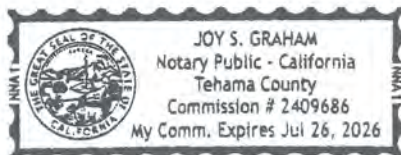
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California )

County of Tehama )

On 10/4/2022, before me, Joy S. Graham, Notary Public,  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Mark Black, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



Place Notary Seal Above

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Joy S. Graham

ACKNOWLEDGMENT

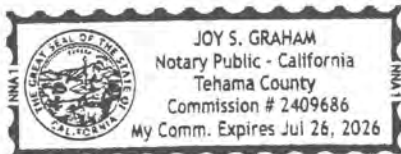
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State of California )

County of Tehama )

On 10/4/2022, before me, Joy S. Graham, Notary Public,  
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared William M. Loker, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



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