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Restated Declaration of Covenants, Conditions and Restrictions El Rancho Loma Serena Homeowners Association

**(DOCUMENT TITLE)**

ADAMS | STIRLING  
Professional Law Corporation  
2566 Overland Avenue, Suite 730  
Los Angeles, California 90064  
(310) 945-0280

**RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS**

**EL RANCHO LOMA SERENA  
HOMEOWNERS ASSOCIATION**

**a California nonprofit corporation  
under IRC Section 501(c)(7)**

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

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**EL RANCHO LOMA SERENA  
HOMEOWNERS ASSOCIATION**

a California nonprofit corporation

THIS RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS ("CC&Rs") is made by all persons who own Lots in that certain real property planned residential development known as El Rancho Loma Serena located in Calaveras County, California. These CC&Rs apply to and bind all properties previously covered by covenants, conditions and restrictions. Without reducing the number of properties covered by these CC&Rs, these CC&Rs apply to the following properties:

Lots A, B, C, D, E, F, and X and Lots 1 through 148, EL RANCHO LOMA SERENA, Units 1, 2, and 3, as per Map ("Subdivision Map") recorded in Book 3 of Maps in the Office of the County Recorder of Calaveras County on the 5th day of May, 1969.

By this instrument, (1) except for any recorded covenants affecting only a single Unit in the properties covered by these CC&Rs and/or (2) unless expressly otherwise provided herein, the Members of the Association hereby fully amend and restate, in their entirety, all previous declarations of covenants, conditions and restrictions and all amendments recorded prior to and on May 4, 2012 as Recorder's Document No. 2012 5490, and substitute in their place these CC&Rs, which:

1. *Benefit Members.* Are for the benefit of Members of the Association;
2. *Benefit the Development.* Are for the benefit, enhancement and protection of the desirability, value and attractiveness of the Development and each Lot therein;
3. *Bind Successors in Interest.* Inure to the benefit of and be binding upon each successor in interest of the Association, each Member, Tenant, Resident, and occupant of any portion of the Development, as well as their respective heirs, personal representatives, grantees, Tenants, licensees, successors and assigns; and
4. *Run with the Land.* Run with the land and are binding upon all parties having or acquiring any right, title or interest in the Development or any portion of the Development, whether as sole owners, joint owners, Tenants, Residents, occupants or otherwise.

NOW THEREFORE, all Lots in the Development, as well as any conveyance, transfer, sale, assignment, rental, lease or sublease of a Lot, are deemed to incorporate the provisions of these CC&Rs. Each successor in interest is subject to all of the covenants, conditions and restrictions contained in these CC&Rs.



**ARTICLE 1: DEFINITIONS – These Definitions pertain to all governing documents.**

1.1 “Accessory Dwelling Unit” also referred to as (ADU) means an attached or detached residential dwelling unit which provides complete independent living facilities for one or more persons. It includes permanent provisions for living, sleeping, eating, cooking, and sanitation on the same parcel as the single-family dwelling is situated.

1.2 “Accessory Structure” means any barn, stable, pen, coop, cage, corral, paddock, feed area, or enclosed structure used for housing or maintenance of livestock.

1.3 “Annual Meeting” means the annual meeting of the Members of the Association.

1.4 “Architectural Standards” means those rules and guidelines which govern the making of physical changes, alterations, repairs or Improvements to Lots, Common Areas and Exclusive Use Common Areas.

1.5 “Articles” means the Association’s Articles of Incorporation.

1.6 “Assessment” means any Regular Assessment, Special Assessment, Reimbursement Special Assessment, or any other assessment levied, imposed, or assessed against a Member’s Lot in accordance with the provisions of the Governing Documents or applicable law.

1.7 “Association” means the El Rancho Loma Serena Homeowners Association, a California nonprofit corporation. The Association includes, when the context requires, its Officers, Directors, employees and agents.

1.8 “Board” or “Board of Directors” means the Board of Directors of the Association.

1.9 “Budget” means a pro forma, projected or estimated operating budget of the Association’s income and expenses for a twelve (12) month period.

1.10 “Building” means any building or structure which is part of the Improvements of the Development.

1.11 “Bylaws” means the duly adopted Bylaws of the Association, including any amendments.

1.12 “CC&Rs” means this Restated Declaration of Covenants, Conditions and Restrictions and any amendments to these CC&Rs.

1.13 “Committee” means any committee appointed by the Board to assist in the management and administration of the affairs of the Association.

1.14 “Common Area” means the entire Development, except the Separate Interests owned by Members.

1.15 "Common Expenses" means the costs, expenses and charges in connection with maintaining, managing, insuring, operating, repairing, improving or replacing the Common Areas or managing the affairs of the Association. Common Expenses include, but are not limited to, those amounts reasonably necessary for Reserves.

1.16 "Construction" means any new construction of a residence or outbuilding, including additions, alterations, or modifications to the original footprint of any existing structure, made by a Member in or to any Lot, Residence, or Common Area.

1.17 "Davis-Stirling Act" means and refers to the Davis-Stirling Common Interest Development Act which is the portion of the California Civil Code beginning with Section 4000 that governs common interest developments.

1.18 "Development" means that certain residential development known as "El Rancho Loma Serena" and located at 8321 Old Emigrant Trail West, Mountain Ranch, California 95246.

1.19 "Director" means any member of the Association's Board of Directors.

1.20 "Governing Documents" means these CC&Rs and any other documents which govern the operation of the Association, including, but not limited to, the Articles of Incorporation, Bylaws, Architectural Standards, Rules and Regulations, Complaint and Violation Procedure, and Election Rules, as may be amended from time to time.

1.21 "House Trailer" means a wheeled vehicle that can be pulled by a car or truck and is equipped for occupancy. Examples include an RV, motor home, 5th wheel, or camper, all with adequate sewage disposal systems and a current, valid registration and license.

1.22 "Improvements" means all buildings and other structures located within the Development, including, but not limited to, streets, sidewalks, and utilities.

1.23 "Junk" means, but is not limited to, trash, refuse, paper, glass, cans, bottles, rags, and other solid waste or salvageable materials other than garbage; inoperable appliances and parts; inoperable and unregistered vehicles, vehicle parts, vehicle hulks; discarded furniture; and materials from the demolition, alteration or construction of buildings or structures, unless such materials from demolition, alteration or construction are being used for purposes of fill.

1.24 "Lender" means the holder of a first mortgage or deed of trust given by a Member (or his/her predecessor in interest), the lien of which mortgage or deed of trust is superior to all other monetary encumbrances, except real property taxes and assessments.

1.25 "Livestock" means bovine and ruminant animals, horses, mules, burros, sheep, goats, llamas, alpacas, emus, swine, domestic fowl, and other useful animals commonly kept or raised in rural residential areas. "Livestock" does not include dogs, cats, and other common household pets.



1.26 "Lot" means any real property which is a Separate Interest such as lots, sublots, or parcels in the Development subject to these CC&Rs. Real property includes the improvements affixed to the Separate Interest.

1.27 "Manager" means any Person or company employed or retained by the Association to oversee the operation, maintenance and management of the Association.

1.28 "Manufactured Home" means prefabricated housing built on a chassis, on or after June 15, 1976, to the standards of the Department of Housing and Urban Development (HUD). Manufactured homes are factory built and then transported to a site for use as a permanent residential dwelling.

1.29 "Member" means the Owner, whether one or more Persons, of a Lot within the Development as evidenced by a publicly-recorded deed to the Lot, but excluding any Person or Persons having such an interest in the Lot merely as security for the performance of an obligation. Membership is appurtenant to and may not be separated from the record fee ownership of a Lot and may not be transferred, encumbered, pledged, alienated, or otherwise separated in any way, except in connection with the record sale of a fee interest of the Lot to which it is appurtenant. Where the CC&Rs impose restrictions on Member, the restriction also applies to Member's Tenants, and Member's and Tenant's family, guests and invitees.

1.30 "Membership Approval" or "Approval of the Membership" means approved or ratified by an affirmative vote of a majority of the votes represented and voting in a duly held election in which a Quorum is represented, which affirmative votes also constitute a majority of the required Quorum, unless otherwise provided in the Governing Documents.

1.31 "Mobile Home" means a large trailer manufactured prior to June 15, 1976 and used for temporary or permanent occupancy.

1.32 "Modular Home" means factory-built housing constructed to the standards of the Uniform Building Code at a site other than the location upon which it is to be installed and must meet all building code and energy code (Title XXIV) requirements.

1.33 "Mortgage" means a deed of trust.

1.34 "Mortgagee" means a beneficiary (or its assignee) under a deed of trust to a Lot and the term "First Mortgagee" refers to a beneficiary (or its assignee) under a deed of trust to a Lot with priority over all other Mortgagees and deeds of trust.

1.35 "Officer" means the president, vice-president, secretary, treasurer, and any other officer of the Association, as defined in the Bylaws.

1.36 "Operating Accounts" means any account into which the Association's Assessments are deposited and out of which the Association's operational expenses are paid.



1.37 "Owner" means the owner, whether one or more Persons, of the publicly-recorded fee title to any Lot within the Development, but excluding any Person or Persons having such an interest in the Lot merely as security for the performance of an obligation.

1.38 "Parking Areas" includes those portions of the Development used for the parking of vehicles.

1.39 "Person" means a natural person, corporation, partnership, trust, association, or other entity, as recognized by law.

1.40 "Quorum" is defined in the Association's Bylaws.

1.41 "Regular Assessments" means Dues and/or Assessments other than Special Assessments and Reimbursement Assessments, levied or imposed against Members in order to perform the Association's obligations under the Governing Documents or the law.

1.42 "Reimbursement Special Assessments" or "Reimbursement Assessments" means those Special Assessments levied against Members for expenses incurred by the Association arising out of: (i) actions or omissions of Members, Tenants or their respective family, guests, invitees, vendors, or pets; (ii) materials or services provided to Members, Tenants or their respective family, guests, invitees, or pets; or (iii) conditions originating on a Lot.

1.43 "Reserves" or "Reserve Accounts" means those monies set aside in a separate account for anticipated long-term maintenance, repair, replacement and restoration of major Common Area components of the Development or Improvements upon the Common Areas, and any other obligations of the Association that are authorized by either the Governing Documents or law.

1.44 "Residence" means a person's home; the place where someone lives.

1.45 "Resident" means any Person in actual possession of all or any portion of a Lot.

1.46 "Rules and Regulations" or "Rules" means the rules and regulations adopted by the Board to interpret and implement the Governing Documents and for the orderly conduct of the business of the Association.

1.47 "Separate Interest" means a lot, parcel, area, or space separately owned by a Member.

1.48 "Special Assessments" means Assessments levied from time to time against Members if at any time during the fiscal year the Regular Assessments are inadequate to perform the Association's obligations under the Governing Documents or the law, including, but not limited to, Common Area maintenance and repairs, replacements, unexpected expenses, capital improvements, and emergency repairs.

1.49 "Tenant" or "Lessee" means a Person who has been given the right to temporary use and occupancy of a Lot owned by a Member, whether such right to occupy and use is paid for in money or other value.

1.50 "Undeveloped Lot" means any lot not improved with a completed and approved detached single-family dwelling or accessory dwelling unit.

1.51 "Utility Lines" means sewer lines, storm drains, water pipes, electricity lines, gas lines, telephone lines or cables, television cables, satellite dish cables, heating and air conditioning conduits, heating and air conditioning ducts, heating and air conditioning flues, fiber optic cables, data lines, community security systems, and other similar lines, pipes, cables, ducts, flues, and conduit pipes.

1.52 "Visual Blight" means any unreasonable or unlawful condition or use of real property, premises or building exteriors which, by reason of its appearance as viewed at ground level from the public right-of-way or from neighboring premises, is detrimental to the property of others or to the value of the property of others, offensive to the senses, or reduces the aesthetic appearance of the neighborhood. This includes, but is not limited to, (a) the keeping, storing, depositing, scattering over or accumulation on the premises of lumber, junk, trash, debris, scrap metal, rubbish, packing materials, and building materials (except those being used for construction for which a building permit has been issued); (b) abandoned, discarded or unused objects or equipment such as furniture, stoves, appliances, refrigerators, freezers, cans or containers, automotive parts and equipment; abandoned, wrecked, disabled, dismantled, or inoperative vehicles or parts (except inoperative vehicles that are registered and are in an active state of renovation or restoration); and (c) any personal property, fence, or structure, which is unsightly by reason of its condition or inappropriate location.

1.53 "Voting Power" means the total number of Lots entitled to vote.

1.54 Definitions of Other Terms. Unless the context clearly requires otherwise, all other terms are defined in the Davis-Stirling Act.

## **ARTICLE 2: MEMBERSHIP RIGHTS AND PRIVILEGES**

2.1 Membership. Each Person is automatically a Member of the Association upon obtaining a publicly-recorded fee title ownership interest in a Lot and remains a Member until he or she ceases to have such recorded fee ownership interest in a Lot.

a. *Membership Appurtenant to Lots.* Membership in the Association is for the benefit of and appurtenant to the Lot to which it relates and may not be separated from the ownership of the Lot.

b. *Membership for Security Interests.* Membership does not include Persons who hold an interest in a Lot merely as security for the performance of an obligation.



c. *No Membership for Tenants.* Tenants have the same rights to use the Common Areas as Members and have the same duties to follow the Association's Governing Documents but are not Members and have no right to vote.

d. *Separate Transfer of Membership.* No Member may transfer, pledge, or alienate in any way his/her membership in the Association, except upon the recorded transfer of the fee interest in the Lot to which it is appurtenant and then only to the transferee of such fee interest.

e. *Trust.* If the record fee title to a Lot is held in the name of a trustee on behalf of a trust, the trustees of the trust are authorized to exercise the rights and privileges of Association membership on behalf of the trust.

f. *Corporation.* If the record fee title to a Lot is held by a corporation, the president of the corporation, as designated in the corporation's minutes, is authorized to exercise the rights and privileges of Association membership on behalf of the corporation.

g. *Partnership.* If the record fee title to a Lot is held by a partnership, the managing partner, as designated in the partnership agreement, is authorized to exercise the rights and privileges of Association membership on behalf of the partnership. If no managing partner has been designated in the partnership agreement, then the partnership must deliver to the Association a written designation of the name of the partner who is authorized to exercise the rights and privileges of Association membership on behalf of the partnership.

h. *Limited Liability Company.* If the recorded fee title to a Lot is held by a limited liability company, the manager, as designated in the limited liability operating agreement, is authorized to exercise the rights and privileges of Association Membership on behalf of the limited liability company.

i. *Other Entities.* If the record fee title to a Lot is held by a legal entity not described above, the majority owner of the entity is considered the Owner of the Lot for purposes of membership in the Association and may exercise the rights and privileges of a Member. If there is no majority owner, an owner of the legal entity must deliver to the Association a written designation of the name of the owner who is authorized to exercise the rights and privileges of Association membership on behalf of the entity.

2.2 Proof of Ownership. Proof of membership must be in the form of a recorded deed showing fee ownership of a Lot.

2.3 Voting Rights. In all matters submitted for a membership vote, Members are entitled to one (1) vote per Lot (regardless of the number of Members having an interest in the Lot).

2.4 Inspection of Records. Members have the right to inspect records of the Association as provided for in the Bylaws and by law.



2.5 Ingress, Egress and Support. Members have a nonexclusive easement appurtenant to and for the benefit of their Lots for ingress, egress, and support over, across and through the Common Area.

2.6 Easement for Use and Enjoyment. Members have a nonexclusive easement of use and enjoyment of the Common Areas, subject to the rights of the Association to establish reasonable Rules regulating the use of the Common Areas and any other rights described in the Governing Documents.

2.7 Encroachment Easement. Members agree that minor encroachments of the Common Area on Lots, or of Lots on the Common Area, are permitted and that valid easements for the encroachments exist. Such minor encroachments are not encumbrances either on the Lots or the Common Area.

### **ARTICLE 3: MEMBERSHIP OBLIGATIONS**

3.1 Obligation to Follow Governing Documents. Members, Tenants and Residents must follow the Association's Governing Documents and ensure that their respective family, guests, and invitees abide by the Governing Documents.

3.2 Security. Neither the Association nor any Officer, Director, Committee member, employee or agent of the Association are insurers or guarantors of any level of security within the Development. Members are responsible for their own security and must take appropriate measures to ensure their own security and that of their family, guests, invitees and Tenants. Members agree not to rely on any security measures provided by the Association. The Association, its Officers, Directors, Committee members, employees and agents are not liable for any loss or damage from failure to provide adequate or effective security measures.

3.3 Purchase Subject to Violations. Buyers take ownership of Lots subject to any violations by prior Members, Tenants or their respective family, guests, invitees, or pets, of the Governing Documents concerning the Lot, whether such violations were disclosed by the seller of the Lot and whether the Association knew of the violations at the time of obtaining a publicly-recorded fee title ownership interest. Such buyers are liable for correcting such violations upon demand by the Association. Assessments, fines, and other charges not secured by a lien on the Lot prior to transfer of title are exempt from this provision.

3.4 Obligation to Provide Contact Information. Members are required to provide the Association with a current mailing address, and current email address provided that written consent by such Member for communication by email is on file with the Association. Members and Tenants must provide the Association with the current telephone numbers at which they can be reached in an emergency.

3.5 Notice of Transfer of Ownership. No later than five (5) days after the assignment, sale, quitclaim or other transfer of their Lots, Members must notify the Association of the name, address, phone number, and email address of the transferee and the nature of the transfer.

3.6 Duty to Maintain, Repair and Replace. Except for those duties specifically assigned to the Association by these CC&Rs, Members must, at their sole expense, maintain and repair their Lots, maintain, repair and replace Improvements to their Lots, and maintain, repair and replace any Exclusive Use Common Areas servicing their Lots. Members' obligations include, without limitation, the following:

a. *Improvements.* All Improvements or alterations to the Lot or appurtenant areas by any current or prior Owner of the Lot, or by any party other than the Association, as part of any Improvement or alteration to the Lot.

b. *Utility Lines.* All Utility Lines that exclusively service the Lot which are not maintained by public utility companies.

c. *Fire Prevention.* Members are encouraged to keep clear any flammable grass, brush, and/or weeds along the edge of their property adjacent to the fifty-foot (50') common area roadway easement. The common area roadway easement is measured twenty-five feet (25') from the center line of the paved road in both directions.

During fire season, Members shall refrain from mowing and weed eating, unless these activities are performed before 10:00am. On days where there are Red Flag or Fire Weather Watches in effect, Members shall completely abstain from these activities.

Members are also required to maintain defensible space of a minimum of one-hundred feet (100') from each side and from the front and rear of structures and buildings as prescribed by the California Public Resources Code.

d. *Fences.* Unless otherwise agreed to by the affected Members, Members who have fences separating their Lots, which the Association is not required to maintain, repair or replace, are (1) equally entitled to use and enjoy the fences and (2) equally liable to maintain, repair and replace the fences. Notwithstanding the foregoing, if fences are damaged due to the negligence or willful misconduct of a Member, Member's Tenant, or their respective family, guests, invitees or pets, the responsible Member must bear the full expense of any necessary repair or replacement.

e. *Insects and Plant Diseases.* No thing or condition is permitted to exist upon any Lot which induces, breeds or harbors infectious plant diseases or noxious insects including but not limited to pine bark beetle. Owner will be responsible to ensure any infestation is properly eradicated.

f. *Tree Removal and Pruning.* Members must keep the trees on their Lots, adjacent to Common Areas, properly pruned to prevent them from becoming overgrown or diseased. The right is reserved by the Association to enter upon any Lot for the purpose of treating or removing trees which pose an immediate danger or threat to Association roads or Common Areas, and to charge the Lot owner for the work performed. Individual Members and not the Association are responsible for any damage caused by the trees and shrubs on their Lots.



g. Drainage Structures. Members must keep all drainage courses, ditches, swales, and culverts on their Lots free and clear of all obstructions, and must maintain all such drainage ditches, swales and culverts in good order.

In the event the Association finds a drainage ditch, swale, or culvert is needed to prevent road erosion at the access point of any Lot, it shall be the responsibility of the Lot Owner to take action acceptable to the Association to prevent such erosion or similar damage. The design of the drainage ditch, swale, or culvert may be directed by the Association.

Members must not alter or obstruct a natural drainage course, or materially add to the natural water volume of a drainage course without making adequate provisions with respect to neighboring Lots and Common Areas. Any such alterations, obstructions or additions to water volume must have the prior written approval of the Association.

3.7 Easement for Maintenance. Each Member has easement rights across Lots and Common Areas as may be necessary for installing, maintaining, repairing, or replacing Utility Lines which cannot reasonably be serviced from their Lots. Access to Lots and Common Areas is limited to a reasonable work area and for a reasonable time. Except in emergencies, reasonable notice and consent to perform such work, which may not be unreasonably withheld, must be obtained from the affected Lot Owner and/or the Association, as applicable. Immediately after the work is completed, Members must restore affected Lots and/or the Common Areas to the same or better condition than they were in prior to the commencement of such work. Such restoration work on affected Lots and Common Areas must be done promptly at the sole expense of the Member performing the installation, repair, or maintenance work.

3.8 Liability for Damage.

a. Members are liable for any and all damage to the Lots of other Members, Common Areas, and any personal property negligently caused by the Member, Member's Tenant, Occupants, or their respective family, guests, invitees, vendors, or pets.

b. The Association and all Members must repair, restore, remediate or replace any damaged portion of the Development as required by these CC&Rs. However, the Association may impose a Reimbursement Special Assessment against any liable Member for all costs, incurred by the Association in connection with any such repairs, restoration or replacement. The Reimbursement Special Assessment may become a lien against the liable Member's Separate Interest enforceable by the sale of the Member's Lot under Civil Code sections 2924, 2924(b), and 2924(c).

3.9 Correction of Violations. Following notice and a hearing and a finding by the Association of a violation of the Governing Documents, the Association will have the right, but not the duty, to correct or cause to be corrected the violation, including entering a Lot with the permission of a Member owning the Lot, which permission will not be unreasonably withheld. All expenses incurred by the Association to correct the violation will be recovered from the Members owning the Lot as a Reimbursement Assessment following notice and a hearing. If permission for



entry into the Lot is not granted, the Association may enforce the violation by any other means allowed by the Governing Documents or the law.

3.10 Reimbursement to Association. If the Association provides materials or services that benefit a particular Member, such Member must reimburse the Association for the costs the Association incurred. If not, the Association may impose a Reimbursement Special Assessment against the Member in the amount of such costs.

3.11 Liability for Mitigation. Members are liable for expenses incurred by the Association in mitigating or repairing damage to Lots and Common Areas due to damage: (i) originating from a Member's Lot, or (ii) from the negligence or willful misconduct of such Member, Member's Tenant, or their respective family, guests, invitees, vendors, or pets. If not repaid, the Association may impose Reimbursement Special Assessments against liable Members.

3.12 Guests. Each Member is liable to all other Members and the Association for the conduct, behavior, and violations of Persons visiting the Member or Member's Tenant in the Development.

#### **ARTICLE 4: DUTIES OF THE ASSOCIATION**

4.1 Board of Directors. The management, maintenance and care of the Common Areas, management of the Association, enforcement of the Governing Documents, and all other acts of the Association are performed by its Board of Directors, unless provided otherwise in the Governing Documents.

a. *Membership Meetings.* The Association must have at least one (1) meeting of its Members each year, as provided for in the Bylaws. Annual and Special Meetings of the membership must be held at the dates, times, and locations provided for in the Bylaws.

b. *Director Qualifications and Meetings.* The qualifications of Directors and candidates to be elected to the Board are provided for in the Bylaws and/or Election Rules. Meetings of the Board must be held as provided for in the Bylaws and as required by law.

4.2 Powers of a Nonprofit Corporation. The Association has all of the powers of a nonprofit corporation organized under the laws of the State of California, operating for the benefit of its Members.

4.3 Maintain Common Areas. Unless otherwise provided in these CC&Rs, the Association must maintain, repair, and replace the Common Areas including, but not limited to the following:

a. *Common Area Fences.* The Association must maintain, repair, and replace all Common Area fences.

b. *Buildings and Equipment.* All portions of buildings and equipment owned by the Association must be maintained and repaired by the Association. The Association may discontinue

the use of or dispose of equipment or Association buildings as it deems appropriate.

c. Common Area Roadways. The Association must maintain, repair, and replace Common Area roads.

4.4 Incur and Pay Expenses. The Association is empowered to incur and pay the operational expenses of the Association, which include, but are not limited to, legal and accounting services; utilities; insurance; management services; vendor services, such as security, landscaping, garbage collection, pest control, cleaning, painting, and other such services related to the Common Areas; maintenance, repair, reconstruction, and replacement of all or any portion of the Common Areas or the personal property acquired by the Association; supplies and materials; and such other services for the use, enjoyment and protection of the Development and its Residents as the Board may determine from time to time are reasonable, proper, or desirable.

4.5 Rules and Regulations. The Board may adopt, amend, and repeal Rules and Regulations regarding any matter set forth in the Governing Documents, including, but not limited to: (i) the use, occupancy, and maintenance of the Development; (ii) the general health, welfare, peace, comfort, safety and security of Residents in the Development; and (iii) the interpretation and implementation of the Governing Documents.

4.6 Foreclose, Hold Title and Make Conveyances. The Association is authorized to lien and foreclose upon any Lot for non-payment of Assessments, to take title to the Lot, to assume or otherwise pay off encumbrances, and to acquire, hold title to, lease and convey, with or without consideration, real and personal property and interests.

4.7 Fee Limitation. The Association may not impose fees that exceed the amount necessary to defray the costs for which the fee is levied.

4.8 Commercial Concessions. The Board may negotiate contracts and grant commercial concessions over portions of the Common Area, subject to Membership Approval.

4.9 Utility and Cable Easements. Easements for installation and maintenance of utilities are reserved as shown on the recorded Subdivision Map over ten (10) feet on each side of all side and rear lot lines and over ten (10) feet along the subdivision boundary.

4.10 Granting Utility Easements. The Board is authorized to grant easements and rights of way in, under, or through the Common Areas for constructing, erecting, operating, maintaining, repairing, and replacing utilities and similar services.

4.11 Limitation on Granting Easements. Granting any Member an easement for exclusive use of any portion of the Common Areas requires Approval of the Membership except if the easement is for any of the reasons stated in the Davis-Stirling Act.

4.12 Borrow Money. The Association may borrow and repay monies, as needed to discharge its duties, and pledge or assign Special Assessment rights, as security for repayment of such borrowed money.



4.13 Represent Association in Litigation. The Association, by its Board, may institute, defend, settle, or intervene in litigation, arbitration, mediation, administrative proceedings, or any other legal proceeding in any capacity necessary to represent the interests of the Association.

4.14 Receive and Dispose of Property. Subject to the Section of these CC&Rs entitled "Limitation on Transfer of Real Property", the Association may acquire, hold, lease, encumber, convey, or otherwise dispose of real and personal property and to take real and personal property by will, gift, bequest or any other legal transfer. Any funds or property so received must be used consistently with the purposes for which the Association was formed.

4.15 Limitations on Transfer of Real Property. The Board may exchange, sell, dedicate, or otherwise transfer real property, including Common Area, owned by the Association only on the following conditions:

a. Approval by a majority of the Voting Power of the Association must first be obtained, except for the sale or other transfer of property acquired by the Association in foreclosure proceedings.

b. No exchange, sale, dedication or other transfer may include real property to which a Member has an exclusive right to occupy or use.

c. For any exchange of real property, the property received by the Association must be of equal or greater value than the property given.

d. Any dedication of property must only be to a public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Association.

e. If the exchange, sale, dedication or other transfer of real property requires an amendment to the governing documents, any approval of such exchange, sale, dedication or other transfer by the Board must be conditioned upon approval of such amendment.

4.16 Capital Improvements. The following applies to Common Area Capital Improvements:

a. *Authority.* The Board may alter, remove or replace Common Area improvements as needed to carry out their duties.

b. *Defined.* "Capital Improvement" means any substantial discretionary addition to the Common Areas or significant alterations to the appearance of the Development. A Capital Improvement is not defined to mean additions or upgrades to Common Area materials which are necessary or prudent to comply with building or safety codes, or to prevent property damage or personal injury, or to reduce operating or maintenance costs for the Common Areas or to comply with Reserve component repairs or replacements.

c. *5% Limitation.* Capital Improvements may not be made to the Common Areas in any fiscal year in excess of five percent (5%) of the Association's budgeted gross expenses for that year, without Membership Approval.

d. *Obsolescence.* If the Board determines that any Common Area Improvement is obsolete, and/or no longer brings sufficient value to the Association to justify its upkeep, and the cost to remove the amenity is more than 5% of the budgeted gross expenses for that fiscal year, the Board must obtain Membership Approval to remove the amenity.

4.17 Vendor Contract Limitations. Except for the contracts listed below, the Association is prohibited from entering into any contract for services which binds the Association for a period for more than two (2) years, without Membership Approval.

a. *Public Utility Contract.* A contract with a public utility company, if the rates charged for the materials or services are regulated by the Public Utilities Commission. However, the term of the contract must be for the shortest term for which the supplier will contract at the regulated rate.

b. *Fire and Burglary.* Contracts for terms up to three (3) years to lease or service burglar and/or fire alarm equipment or provide protective services.

c. *Bulk Cable Service.* Contracts for terms up to five (5) years to provide cable, internet, or satellite communications service.

d. *Insurance.* Contracts for insurance, if the policies do not exceed three (3) years duration.

e. *Reserve Studies.* Contracts for up to three (3) years for reserve studies.

4.18 Delegation to Manager. The Board may delegate any of its duties, powers, or functions to any qualified Person or management company to act as Manager, except (i) attending Board meetings and voting on motions; (ii) electing officers; (iii) filling vacancies on the Board; (iv) appointment of executive committees; and (v) approving settlement agreements. Notwithstanding any delegation of duties, however, the Manager's actions are subject to the direction and supervision of the Board.

4.19 Nonprofit Character of Association. Notwithstanding anything contained in these CC&Rs to the contrary, the Association may not engage in any activity which may jeopardize the nonprofit character of the Association.

4.20 Discharge of Liens. When necessary, the Association is empowered to discharge, by payment, any lien against the Common Area and assess the cost thereof to the Member or Members responsible for the existence of the lien. Prior to any Board decision to discharge a lien, the Member or Members responsible for the existence of the lien must be given written notice and an opportunity to be heard by the Board and present any defenses which may exist.



## ARTICLE 5: ARCHITECTURAL CONTROL

5.1 No Improvements or Alterations Without Approval. No Construction by or on behalf of a Member on any Lot is permitted until plans and specifications have been submitted to the Architectural Committee and have been approved by the Board. Any Construction plans which are unapproved, different from those approved by the Board, or done without required governmental permits, are automatically deemed disapproved and the Member must promptly remove or correct the disapproved Construction plans to comply with the Architectural Standards, the Architectural Committee's or Board's approvals, and governmental requirements.

5.2 Applicants in Good Standing. Only Members in Good Standing may submit requests for architectural approval of Construction to their Lots. A Member is in Good Standing for the purposes of any Governing Documents unless found by the Board, at a properly noticed hearing, (1) to be delinquent in the payment of any Assessment, fee, or fine, by more than sixty (60) days, and/or (2) to be otherwise in violation of the Association's Governing Documents.

5.3 Architectural Standards. The Board is authorized to adopt, amend, and repeal Architectural Standards. These Architectural Standards interpret and implement the provisions of these CC&Rs by setting forth the standards and procedures for the review and approval of proposed Construction, guidelines or requirements for architectural design, or placement of any structure within the Development.

5.4 Architectural Committee. The Board is authorized to appoint an Architectural Committee. Said committee shall consist of at least one (1) Director of the Association and at least two (2) other persons who are owners in the Association. If the Board does not appoint one, the Board is automatically deemed to be the Architectural Committee.

a. *Capacity.* The Architectural Committee serves only in an advisory capacity to the Board and is permitted to receive, review, investigate and provide recommendations to the Board.

b. *Conflicts of Interest.* A Director or Architectural Committee member is not permitted to participate in the decision-making process of any architectural submittal made by that Director or Architectural Committee member or members of his or her family. Further, a Director or Architectural Committee member is not permitted to participate in the decision-making process of any other architectural submittal if the approval would result in a monetary benefit to the Director or Architectural Committee member or any company in which the Director or Architectural Committee member, or members of his or her family have a financial interest.

### 5.5 Submission of Plans.

a. Plans, elevations, specifications, and plot plans in accordance with the Association's Governing Documents, describing the proposed Construction, must be submitted to the Architectural Committee by personal delivery or certified mail.

b. Within forty-five (45) days from the date of submission of a complete set of required plans, unless (i) rejected by the Committee, or (ii) additional information to properly



consider the required plan review is requested, action by the Board will be taken and the submitter will be notified in writing of the Board's decision. If the Board fails to approve or disapprove the required plans within the forty-five (45) day period, said plans are deemed approved.

c. Construction plans shall not be approved by any individual Architectural Committee member or Director. In the event an individual Architectural Committee member or Director approves architectural plans and specifications, such approval should not be relied upon and shall not be deemed approval.

d. The Architectural Committee is authorized to impose any reasonable conditions of approving construction plans, in writing, including, but not limited to, requiring modifications of particular aspects of the Member's architectural submission.

e. Members whose construction plans are disapproved must be informed in writing with an explanation of why the proposed Construction is disapproved. The Member is permitted to seek reconsideration of a disapproved plan review, in writing, unless any Construction was disallowed because it would violate the Association's Governing Documents. A permissible written request for reconsideration must be received by the Board not more than forty-five (45) days after the denial. Within forty-five (45) days after receipt of the request for reconsideration, the Board must hold an open meeting to consider the reconsideration and decide. Failure of the Board to decide within the forty-five (45) day period is deemed a decision in favor of the Member.

f. Once construction plans have been approved, any substantial modifications to the approved plans and specifications will require additional review and approval.

g. Unless a shorter period is specified in the approval, Construction approved by the Architectural Committee and Board must be completed within twelve (12) months of the Member receiving approval and/or twelve (12) months following completion of the foundation. Construction not completed within twelve (12) months of the member receiving approval must be resubmitted for approval. The Board of Directors may grant short extensions for Construction to be completed.

5.6 Rescinding Approval. The Architectural Committee and/or the Board is authorized to rescind previously approved plans but only for good cause.

5.7 Failure to Comply with Approval Requirements. Any Construction, whether in progress or completed, which (1) was not approved in writing by the Board or (2) violates the Board's conditions of approval, is automatically deemed disapproved and in violation of the Governing Documents.

5.8 Review Fees. The Board is authorized to establish a schedule of fees to be charged to an applicant to reimburse the Association for any out-of-pocket expenses it may incur in connection with the approval of any required architectural plans and specifications, including architectural and/or engineering consultant fees, attorneys' fees for the preparation of recordable covenants or easements, or other documents uniquely necessary for compliance with reasonable conditions of approval, and expert expenses for reviewing plans.



5.9 Variances. The Architectural Committee is permitted to recommend reasonable architectural variances, subject to advanced written Board approval. The Board may grant the variance if it determines the variance will not (i) constitute a material deviation from the overall plan and scheme of the Development, (ii) result in a material detriment to the Association or any Member, or (iii) create a nuisance in the Common Area or affecting any other Member. The granting of a variance by the Board is not a variance or waiver as to any other Lot, nor does any variance affect the applicability or enforceability of any provision of this Article in respect to any other Lot.

5.10 Engineering and Code Requirements. Plans and specifications approved by the Architectural Committee and Board are not approved for engineering design, Building, Safety or Fire codes, or other safety specifications. Approval by the Architectural Committee and Board does not absolve Members of the responsibility of obtaining any necessary governmental approvals or permits. Plans and specifications for permanent dwellings must comply with all Uniform Building Codes and current Calaveras County Codes. In addition, any manufactured home must also meet current HUD standards. Members must ensure compliance with applicable Building, Safety and Fire codes, ordinances, and specifications.

5.11 Inspection. The Association has the right, but not the obligation, to periodically inspect any work approved by the Architectural Committee and Board. Members must allow inspection. Any work in progress may be halted and the Member may be subject to a fine if (1) an inspection is not allowed, or (2) the Construction is in violation of the Governing Documents as provided in the Section above entitled "Failure to Comply with Approval Requirements" or elsewhere. Such inspections do not absolve Members from compliance with the Association's Architectural Standards and all applicable Building, Safety and Fire codes.

5.12 Building Department and Association Approvals. Any construction, repair, modification, or alteration of any Improvement requiring the issuance of a building permit must be submitted by the Member to the appropriate governmental entity for review and approval. The Architectural Committee may impose conditions of approval which are more restrictive than conditions imposed by governmental agencies. If the conditions of approval imposed by the governmental entity and the Architectural Committee conflict, the more restrictive conditions control.

5.13 Mechanics' Liens. Members must ensure that no lien is placed against any other Lot, or against the Common Areas, for labor or material furnished to their Lots. If a lien is placed against the Common Areas and/or another Member's Lot, and the responsible Member does not immediately cause the removal of the lien, the Association may, after written notice to the responsible Member, pay the amounts necessary to have the lien removed and levy a Reimbursement Special Assessment against the responsible Member for the monies advanced and any fees and costs incurred by the Association.

5.14 Hold Harmless and Indemnify. Approval of plans by the Association signifies only a general conformance with its Architectural Standards and not with Building, Safety, or Fire code compliance, lot lines, easements, or best construction practices. The Association and its Architectural Committee, Members, Officers, Directors, employees, and agents are not liable and



must be held harmless, defended and indemnified for mistakes in judgment or negligence arising out of or in connection with the Association's approval or disapproval of plans.

5.15 Minimum Size. No permanent single-family residential dwelling shall be constructed or maintained upon any lot with less than eight hundred (800) square feet of living area within a single-story house, nor less than six hundred (600) square feet of living area on the main floor of a two (2) or more storied residential single dwelling without the written consent of the Board of Directors. Size requirements for accessory dwelling units must be in accordance with California State Law and Calaveras County Code.

5.16 Setbacks. No building shall be located on any lot nearer to any and all property lines than thirty (30) feet. In any event, no building shall be located on any lot nearer than twenty (20) feet to an easement across the lot or parcel for the use and benefit of other owners in the subdivision. Stables and/or corrals are not to be located at a distance closer than fifty (50) feet from any property line. Setbacks for accessory dwelling units must be in accordance with California State Law and Calaveras County Code requirements.

5.17 Occupancy of Unfinished, Temporary or Mobile Structures Prohibited. Except as allowed under Article 6.19 of these CC&Rs "Temporary Living Arrangements While Building," no trailer, RV, bus, mobile home, tent, shack, garage, temporary building or structure of any kind is permitted to be occupied or lived in at any time. Permanent residential dwellings must not be occupied or lived in until they have been completed and the exterior is made to comply with the Association's Architectural Standards and any required governmental occupancy permit has been issued.

5.18 Waiver of Liability. Neither the Architectural Committee or its members nor the Association or its Officers, Directors, employees or agents are liable for any damage, loss or prejudice suffered or claimed on account of the Architectural Committee's review, approval, or disapproval of any plans, drawings or specifications, or the conformance of the construction with the approved plans and any such claims are expressly waived.

## **ARTICLE 6: GENERAL RESTRICTIONS**

6.1 Drilling and Exploration. No Lot is permitted to be used in any manner to explore for, remove, refine, or store any quantities of water, gasoline, oil, hydrocarbons, minerals, gravel, earth, or earth substances of any kind in excess of usual and customary amounts necessary for residential use.

6.2 Drones. A "drone" is defined as a powered aerial vehicle that flies autonomously or is remotely piloted. The operation of drones in the Development, if allowed by the Association, must comply with the Association's Rules and Regulations and any federal and state laws.

6.3 Flammable Materials. Except for reasonable amounts of legal ammunition for use with legal firearms, the storage or use of explosives, fireworks, or highly flammable or highly corrosive materials by Members, Tenants, Residents, or their respective family, guests, or invitees anywhere in the Development is prohibited.



6.4 Health/Safety Hazards. Members must not permit conditions which constitute a health, safety, or fire hazard to exist on their Lots, or Exclusive Use Common Areas.

6.5 Hiring of Association Employees. Members are not prohibited from hiring off-duty Association employees to perform work. However, any use of off-duty employees is at the employing Member's expense. The Association is not liable for the acts or omissions of employees hired by Members while in the course and scope of employment by the Member.

6.6 Machinery and Equipment. Tractors or other equipment with cleats or other attributes which could cause road damage must not be used on the Association roads. If damage occurs resulting from the use of tractors or other equipment on the roads, the Lot owner involved shall be responsible to pay the Association for costs incurred in repair of the roads.

6.7 Cannabis. Commercial growing or distribution of cannabis, including but not limited to marijuana, medical marijuana, and hemp as defined by applicable local, state and/or federal laws is strictly prohibited in the Development, whether in Lots, Exclusive Use Common Areas, or Common Areas.

6.8 Controlled Substances. Any manufacturing, synthesizing, producing or distributing any illicit or controlled substances as defined by applicable local, state and/or federal laws is strictly prohibited in the Development, whether in Lots, Exclusive Use Common Areas, or Common Areas.

6.9 Nuisance. Members are prohibited from causing or permitting any act or condition which constitutes a nuisance.

a. *Unreasonableness*. To constitute a nuisance, the act or condition must be an unreasonable disturbance or annoyance, unreasonably injurious to health, indecent, or unreasonably detrimental to Persons or property.

b. *Board Determination*. Because a nuisance is largely subjective, the Association is not obligated to become involved in disputes where, in the opinion of the Board, the alleged disturbance does not constitute a nuisance. Despite the Board's determination, the parties retain the right to take appropriate legal action against each other without involving the Association.

6.10 Obstruction of Common Areas. Obstruction or misuse of the Common Area, for other than its intended purpose, is prohibited, unless expressly permitted in writing by the Board for good cause.

6.11 Quiet Enjoyment. No one may engage in any behavior, whether verbal or physical, including, but not limited to, the posting or distributing of documents, openly or anonymously, anywhere in the Development, where such behavior is abusive, harassing, threatening, intimidating, defaming, slanderous, unlawfully aggressive, and/or otherwise legally actionable against other Members, Residents, guests, invitees, members of the Board, or the Association's management, employees, agents, or vendors. Because such breaches of quiet enjoyment are largely



subjective, the Board may choose to act only against egregious breaches. When the Association chooses not to act on a complaint of breach of quiet enjoyment, or the complaining party believes the Association's action is not sufficient, such party may take legal action to enforce this provision against other Members and/or Residents, but is not permitted and expressly waives his/her right to take any action, legal or otherwise, including commencing or maintaining a lawsuit against the Association and/or its Officers, Directors, employees, and/or agents for their failure to act on the party's complaint and/or for the manner in which they handled it.

6.12 Residential Use. No lot shall be used except for residential purposes. No residential building shall be erected, altered, placed, or permitted on any lot not to exceed two and one-half stories in height, a private garage, appropriate outbuildings, and/or one accessory dwelling unit as approved by the Architectural Committee and Board of Directors. Using a Lot, or permitting a Lot or any portion of it, to be occupied or used for any purpose other than residential use is prohibited. Notwithstanding the foregoing, Residents may use a room as a home office, provided that (1) the primary use of the Lot remains residential, (2) no business advertising or signage is used, and (3) no customers, clients or patients visit the Lot. The Board may adopt additional Rules regarding the use of such home businesses.

6.13 Storage of Vehicles and Junk. The storage of vehicles and junk in the Association is restricted as stated in the Association's Rules and Regulations.

6.14 No Obstruction of View. Nothing shall be placed on any Lot in such a manner as to obstruct the view of traffic or create a safety hazard, including, but not limited to, fences, hedges, or natural vegetation.

6.15 No Mobile Homes. No mobile homes, as defined in this document, shall be permanently or temporarily placed on any Lot.

6.16 Septic. No building shall be constructed or maintained on any lot intended for occupancy or occupied as a residential dwelling, unless a sewage disposal system is constructed and maintained in connection therewith. Any sewage disposal system shall be built in accordance with the requirements of the Health Department of Calaveras County. Sewage disposal systems design and location must be approved by the health authorities of the State of California, Calaveras County, or by the appropriate agency having jurisdiction. Sewage disposal systems on lots situated above roadways and embankments, must have a setback of at least twenty (20) feet. Prior to the closing of any sewage disposal system, proper approval must be obtained from the appropriate agency having jurisdiction.

6.17 Completion of Construction. The exterior of any dwelling, house, or outbuilding to be erected on any lot shall be completed within twelve (12) months after the foundation is completed.

6.18 Temporary Living Arrangements While Building. No structure of a temporary character shall be used on any lot as a residence, except that during the construction of a residence, a temporary structure, including but not limited to, an accessory dwelling unit, house trailer, barn, shed, and/or storage building may be used for a period not to exceed twelve (12) months or the



duration of a building permit, whichever is shortest, provided such structure has adequate waste facilities and prior approval, in writing, is obtained from the Architectural Committee and the County of Calaveras. In the event of extraordinary circumstances requiring additional time, the Board may grant an extension of up to one (1) year provided permission has been obtained from the County of Calaveras.

## **ARTICLE 7: PETS AND LIVESTOCK**

7.1 General. No animal, including livestock, is permitted to be kept, bred, or maintained for any commercial purpose or for any purpose that would involve any odor, noise, or other nuisance which would unreasonably disturb the use and enjoyment of any portion of the Development by other Members. Conditions constituting a nuisance include, but are not limited to, excessive noise, excessive odors, and posing a threat to health.

For the basis of this section, "commercial purpose" means any purpose other than for residential use, including but not limited to, the temporary raising of animals for charitable purposes, 4-H and similar animal husbandry projects, and service animals.

7.2 Pet Limitation and Requirements. The keeping of any domestic dogs and cats shall be limited to no more than three (3) dogs and four (4) cats per residence. Pets are permitted in the Common Areas including Common Area Roadways; and must be under the control of their owner at all times. Dog owners should pick up after their pets in the Common Area. Members, their guests, and tenants must not allow their pets to roam free on other Member's properties without express permission of the property owner.

7.3 Livestock and Bird Limitation. The keeping of livestock or domestic fowl shall be limited based on the information as follows:

For each acre of land, one "animal unit" and one "bird unit" are permitted. Members may choose to keep only livestock, only domestic fowl, or a combination of both; however, combined totals may not exceed those shown below per acre of land.

An "animal unit" consists of one the following:

- 2 head of cattle (cow or steer)
- 2 horses (including ponies, mules, burros and donkeys)
- 2 hogs or pigs
- 2 llamas
- 2 alpacas
- 3 sheep
- 3 goats

A "bird unit" includes one of the following:

- 12 chickens (including 2 roosters)
- 4 ducks
- 4 turkeys (including birds of similar size)
- 4 geese

7.4 Animal Husbandry Projects. The keeping or raising of cattle, horses, goats, sheep, hogs, chickens, rabbits, birds or other animals as a school or youth development program like 4H, Grange, Future Farmers of America (FFA), or a similar organization project is permitted, provided the total number of animals kept per acre of land does not exceed the animal and/or bird units allowed by this section.

7.5 Dangerous Animals. No keeping of wild and/or non-domestic animals is allowed. This also includes any species of animal which is venomous to human beings whether its venom is transmitted by bite, sting, touch or other means and those considered to be aggressive or dangerous, except honey-producing bees.

7.6 No Commercial Kennels. No commercial kennels shall be permitted.

7.7 Odor and Vector Control. Accessory structures and animal enclosures, including but not limited to pens, coops, cages, barns, corrals, paddocks and feed areas shall be maintained free from excessive litter, garbage and the accumulation of manure, so as to discourage the proliferation of flies, other disease vectors and offensive odors. Sites shall be maintained in a neat and sanitary manner.

7.8 Setback Requirements. Enclosed pens and accessory structures used for housing or maintenance of domestic livestock on all parcels shall observe a minimum twenty-five (25) foot setback from the edge of any common area roadway adjacent to a Member's lot and at least twenty (20) feet from dwellings, whether on the same or adjacent properties, provided that such enclosed pens and accessory structures for the housing or maintenance of chickens, ducks, turkeys, geese, and similar animals need be at least ten (10) feet from side or rear lot lines.

7.9 Erosion and Sedimentation Control. In no case shall any person allow animal keeping to cause significant soil erosion, or to produce sedimentation on any common area roadway, adjoining property, or in any drainage channel. In the event such sedimentation occurs, the keeping of animals outdoors on the site shall be deemed a nuisance and may be subject to fines and/or enforcement.

7.10 Liability. Members are liable for any injury to Persons or property caused by any animal brought or permitted onto or kept within the Development by the Member, Member's Tenant or their respective family, guests, or invitees.

## **ARTICLE 8: ENFORCEMENT OF GOVERNING DOCUMENTS**

8.1 Association Enforcement Rights. In addition to any other rights described in these CC&Rs and without waiving the Association's right to institute any other enforcement measures, and subject to the notice and hearing provisions in the Bylaws and as required by law, the Association is authorized to enforce the Governing Documents by any of the following means:

a. Monetary Penalties (Fines). The Board is authorized to assess reasonable monetary penalties (fines) for violations of the Association's Governing Documents by a Member, Member's



Tenants or their respective family, invitees or guests. A monetary penalty (fine) imposed by the Association as a disciplinary measure for failure of a Member to comply with the governing documents, is hereby treated and deemed to be an assessment that may become a lien against the Member's separate interest, but such lien may not be enforced by the sale of the interest under Civil Code Sections 2924, 2924b, and 2924c (non-judicial foreclosure). As assessments, Members are liable for all costs of collection, including reasonable attorneys' fees, court costs, and related expenses for delinquent monetary penalties (fines) as per the Association's Fine Policy for Violation of Articles of Incorporation, CC&R's, Bylaws, and Rules & Regulations.

b. *Suspend Common Area Privileges.* The Board is authorized to temporarily suspend Common Area privileges of Members, Member's Tenants and their respective family, invitees, and guests for their failure to comply with the Association's Governing Documents. Any such suspension must be for a period of time not to exceed thirty (30) days for each noncontinuing violation. For continuing violations, the suspension may be imposed for as long as the violation continues.

c. *Dispute Resolution.* As to any dispute between a Member and the Association, the Association is authorized to engage in Internal Dispute Resolution and/or Alternative Dispute Resolution as provided for in the Governing Documents and the law.

d. *Judicial Enforcement.* A lawsuit for damages, declaratory relief, and/or injunctive relief may be filed, whether or not the relief sought is for negative or affirmative action.

8.2 Cumulative Remedies. The respective rights and remedies, provided by the Governing Documents, under the law, or available in equity, are cumulative and the exercise of any one or more of such rights or remedies does not preclude or affect the exercise, at the same or at different times, of any other such rights or for the same or different failures of the Members or others to perform or observe any provision of the Governing Documents.

8.3 Failure to Enforce Not a Waiver. Failure to enforce the Governing Documents, whether by the Board or any Member or other Person entitled to enforce them, is not deemed a waiver of the right to do so. Waiver or attempted waiver of any provision of the Governing Documents with respect to a given Lot is not deemed a waiver of such right as to any other Lot. Additionally, violation of any provision of the Governing Documents by the Members owning any Lot or Lots does not affect the applicability or enforceability of any provision of the Governing Documents against the Members owning any other Lot.

8.4 Remedy at Law Inadequate. If event remedies at law for violation of the Association's Governing Documents are inadequate, then equitable, declaratory, and/or injunctive relief may be sought and awarded.

8.5 Right of Action Against Buyer. If a Member fails to correct architectural, nuisance, or other continuous violations concerning the Member's Lot prior to the transfer of title to the Lot to a buyer, the Association retains the right to enforce compliance against the buyer for such violations.



8.6 Right to Request Identification. All Persons using the Association's Common Area facilities must show proper identification when requested by Directors of the Board or the Ranch House caretaker.

8.7 Attorneys' Fees. If any party initiates any action or proceeding to enforce or interpret the Governing Documents or California law relating to the Development, the prevailing party is entitled to recover reasonable attorneys' fees and court costs, including reasonable expert fees, as permitted by law.

## **ARTICLE 9: RIGHT OF ENTRY**

9.1 Limited Right of Entry. During reasonable hours and subject to the notice requirements contained in this Article, the Association's representatives, employees, and vendors are authorized to enter Lots, Common Areas, and Exclusive Use Common Areas: (i) to inspect and perform maintenance, repairs, or replacements to the Common Areas or Exclusive Use Common Areas; or (ii) to mitigate or repair damage; or (iii) to inspect the Lots and Exclusive Use Common Areas to ensure compliance with the Governing Documents.

9.2 Notice of Entry. The Association must give at least three (3) business days' written notice by personal delivery, or five (5) calendar days' written notice by first class mail or email, to the Resident and a Lot Owner, stating the purpose for and time of the entry. Email notification may be used only if the recipient previously consented to receive such notices and communications from the Association by email.

9.3 Avoid Unreasonable Interference. The right of entry must be exercised to avoid unreasonable or unnecessary interference with the possession, use, and enjoyment of the Member or Resident of such Lot.

9.4 Emergency Entry. In an emergency, the Board or its authorized representatives may enter the Lot without permission and is not subject to liability to the Member or Resident for such entry. If exercised in good faith, such entry is deemed to be consented to by all Members and does not constitute trespass or any other wrongful act. If the Association must damage or destroy property to gain access to the Lot, the Member will have no right of action against the Association or its representatives for such damage or destruction. However, the Association must repair any such damage or destruction if the emergency did not originate in the affected Lot. Prior to emergency entry, if feasible, the Board must make a good faith effort to contact a Member owning the Lot.

9.5 Refusal to Allow Entry.

a. *Entry by Court Order.* Following any refusal to expressly grant entry permitted in these CC&Rs, the Association may file suit and seek a court order to gain entry authorized in these CC&Rs. However, if the Member owning the Lot or a Resident of the Lot has expressly prohibited entry authorized in these CC&Rs, the Association's representatives are permitted to gain entry only after filing suit and obtaining a court order.



b. *Entry without Court Order.* If the Member owning the Lot or a Resident of the Lot does not expressly prohibit entry authorized in these CC&Rs, but is unavailable or otherwise refuses to expressly grant access, the Association, through its representatives, are permitted to enter the Lot, without a court order, in the manner permitted elsewhere in this Article. Such Persons entering with no court order, when acting in good faith, are not liable for trespass or any other unintentional damages resulting from such entry.

c. *Recovery of Attorneys' Fees and Costs in Lawsuit.* If the Association files a lawsuit to gain entry and prevails, it is entitled to recover by from the Member, by judgment, all expenses the Association incurred because of refusal to allow entry, including, without limitation, the cost of hiring a locksmith, the cost of repairing damage that was reasonably necessary to gain entry, and reasonable attorneys' fees and costs of suit for enforcement of this provision of the CC&Rs as the court may order.

d. *Expenses Not Recovered as Part of a Lawsuit.* If the Association gains entry without a court order and/or chooses not to seek recovery it expends in a lawsuit, it is permitted to recover all expenses it incurred because of refusal to allow entry, including, without limitation, the cost of hiring a locksmith and the cost of repairing damage that was reasonably necessary to gain entry, but excluding attorneys' fees, by a Reimbursement Special Assessment against the Member, enforceable by all means provided for in these CC&Rs and by law, including lien and foreclosure.

9.6 Damage Repaired by Association. Any damage caused by the Association to the Common Areas must be promptly repaired by the Association to original building construction standards. The Association is authorized to recover the cost of any damage caused by others, but repaired by the Association, by a Reimbursement Special Assessment (if caused by a Member, a Member's Tenant, family member, invitee or guest), or any other legal means against the responsible parties.

## ARTICLE 10: ASSESSMENTS

10.1 Purpose of Assessments. The general purpose of Assessments is to provide for the recreation, health, safety, and welfare of the Members, enforce and comply with the Governing Documents, manage the Development, enhance the quality of life in the Association, improve, maintain, repair, and replace Common Areas and Exclusive Use Common Areas, provide for the acquisition and maintenance of property, services and facilities devoted to these purposes, and for any action or undertaking on behalf of the Association.

10.2 Regular Assessment/Dues. The Board must levy Regular Assessments in an amount sufficient to provide for the performance by the Board of each and every one of its powers and duties provided, however:

a. *20% Limitation.* Pursuant to the Davis-Stirling Act, the Board is not permitted, without the approval of Members casting a majority of the votes with a Quorum present, to impose a Regular Assessment which is more than twenty percent (20%) greater than the Regular Assessment for the immediately preceding fiscal year. Quorum for the purposes of this provision means more than fifty percent (50%) of the Members of the Association.



b. *Uniform Rate of Assessment.* Regular Assessments must be fixed at a uniform rate for all Lots.

c. *Payable of Assessments.* Regular Assessments are due in full by each Member no later than the date indicated on the annual invoice issued in July of each year. If any Member elects to pay the Regular Assessment in monthly payments, twelve (12) equal monthly installments are due on the first day of each calendar month or at such other dates and in such other installments as the Board determines. Assessments for new Members must be prorated in the first month of membership according to the date on which the individual becomes a Member.

d. *Written Notice.* Written notice of any increase in Regular Assessments must be sent by first-class mail to each Member not less than thirty (30) days nor more than sixty (60) days prior to the increased Assessment becoming due.

e. *Modification of Assessment.* The Board may offer incentives and/or modify the Regular Assessments during the course of a fiscal year, if necessary, to conform to a revised estimate of costs and expenses. However, if the aggregate increase exceeds twenty percent (20%) of the Regular Assessment for the immediately preceding fiscal year, the Board must obtain the approval of Members as provided for in the Davis-Stirling Act. If an annual Regular Assessment is not published for a new fiscal year, the Regular Assessment for the prior fiscal year will apply and govern each Member's payments until changed by a new Regular Assessment.

10.3 Special Assessment. In addition to the Regular Assessment, the Board may levy a "Special Assessment" for any purpose necessary for the Association to carry out its duties; provided, however:

a. *5% Limitation.* Pursuant to the Davis-Stirling Act, the Board is not permitted, without the approval of Members casting a majority of the votes with Quorum present, to impose a Special Assessment which is more than five percent (5%) of the budgeted gross expenses of the Association for such fiscal year. Quorum for purposes of this provision means more than fifty percent (50%) of the Members of the Association.

b. *Uniform Rate of Assessment.* Special Assessments are fixed at a uniform rate for all Lots.

c. *Reimbursement Assessments.* Special Assessments are also permitted to be levied against individual Lots for reimbursement of expenses incurred by the Association arising out of actions or omissions of such Member, Member's Tenant, or their respective family, guests, invitees or pets, as expressly provided for elsewhere in these CC&Rs.

d. *Payment Schedule.* Special Assessments are payable by each Member against whom assessed either monthly or at such dates and in such installments as the Board determines.

e. *Written Notice.* Written notice of Special Assessments must be sent by first-class mail to each Member not less than thirty (30) days nor more than sixty (60) days prior to the Assessment becoming due.



10.4 Emergency Assessment. In emergency situations, the Board may increase Regular Assessments beyond twenty percent (20%) or impose Special Assessments above five percent (5%) only as provided for by law.

10.5 Deposit of Assessments. All sums received by the Association must be promptly deposited into accounts clearly designated in the Association's name.

a. *Commingling*. The Association must maintain separate accounts for its operating funds and its Reserves, respectively, and no funds from those separate accounts are permitted to be commingled at any time.

b. *Interest*. No Member has the right to receive interest on any such funds deposited.

10.6 Reserves. All sums assessed and collected by the Association which are budgeted to fund Reserves for anticipated long-term maintenance, repair, and replacement of Common Area components, the cost of which would not ordinarily be incurred on an annual basis, must:

a. *Be Segregated*. Be received in trust by the Board, set aside and segregated from the other monies and not be commingled with the Association's Operating Account.

b. *Be Invested*. Be invested in low-risk investments. Reserves must be deposited in financial institutions authorized to do business in California and where the Association's deposits are insured against loss. Alternatively, the Association may deposit funds with brokerage houses or institutions which are members of the Financial Industry Regulatory Authority and where the Association's deposits are insured against loss.

c. *Require Two Signatures*. Be withdrawn from the Reserve account only upon approval by the Board and the signature of two (2) members of the Board.

d. *Not Be Reimbursed*. All contributions to the Reserves, as well as interest earned, are for the benefit of the Association and not to the benefit of any individual Member. As such, contributions and interest are not refundable to Members when they cease to be Members of the Association.

## **ARTICLE 11: ENFORCEMENT OF ASSESSMENTS**

11.1 Liability for Assessments. Assessments, together with charges, interest, costs, and attorneys' fees (regardless of whether legal proceedings are instituted), are a debt of each owner of a separate interest at the time the assessment or other sums are levied. Co-owners and/or Members owning a full or partial interest in a Lot are jointly and severally liable for the entire amount of all Assessments, late charges, interest, reasonable costs of collection, reasonable attorneys' fees, and monetary penalties.

11.2 Enforcement Rights. In addition to any other rights provided for by law or described in these CC&Rs, the Board has the right to collect delinquent Assessments as follows:

a. *Late Fees and Interest*. Unpaid Assessments are deemed delinquent fifteen (15) days after they are due and are subject to a one-time late charge of the greater of either ten percent (10%) or Ten Dollars (\$10.00), which may not be imposed more than once on any delinquent Assessment, and interest at the rate of twelve percent (12%) per annum, which may commence thirty (30) days after the Assessment becomes due.

b. *File Suit*. The Association is authorized to commence and maintain a lawsuit directly on the debt without waiving its right to establish a lien and initiate foreclosure against the Member's Lot for the delinquent Assessment. In any action to collect delinquent Assessments, late charges or interest, the prevailing party is entitled to costs and reasonable attorneys' fees. All amounts included in any judgment may become the subject of a judgment lien in any county in California in which an abstract of judgment is recorded.

c. *Lien and Foreclose*. In accordance with the Davis-Stirling Act, a delinquent Assessment or installment, together with any late charges, interest, costs, attorneys' fees, and penalties, will become a lien on the Lot upon the recordation of a "Notice of Delinquent Assessment" in the Office of the County Recorder. All future amounts in addition to those listed on the lien must be secured before future legislature or legal initiatives can develop. The Board is permitted to enforce any Assessment lien against a Lot by filing an action for judicial foreclosure or by nonjudicial foreclosure in the manner provided for in the Davis-Stirling Act. The Association, through its Board, is authorized to bid on the Lot at the sale and may hold, lease, mortgage, and convey the acquired Lot as permitted by law.

d. *Suspend Privileges*. Subject to the notice and hearing provisions set forth in the Bylaws, the Association is authorized to suspend privileges until the delinquent Assessments, fees and fines, including any accumulated penalties, interest, and costs of collection have been paid in full.

e. *Additional Remedies*. The remedies provided in this Section are in addition to, not in substitution for, any other rights and remedies which the Association may have.

11.3 No Offsets. All Assessments are payable in the amount specified by the Assessment and no offsets against such amount are permitted for any reason, including, without limitation: (i) a claim that the Association is not properly exercising its duties and powers, as provided in these CC&Rs; (ii) a Member has not made or elects not to make use of the Common Area; (iii) any maintenance, repairs or replacements for which the Association is responsible have not been performed or have not been performed to a Member's satisfaction.

11.4 No Exemption by Waiver of Use. Members are not permitted to exempt themselves from liability for Assessments nor release their Lots from liens and charges by waiver of their use and enjoyment of the Common Areas, by abandonment of their Lots, or through non-use of Common Areas or membership privileges.



11.5 Attorneys' Fees. Any reasonable attorneys' fees and costs incurred by the Association in the collection of assessments, late fees, and interest against a Member may become a Reimbursement Special Assessment against that Member, which may be collected in any manner provided for by these CC&Rs or by law.

11.6 Non-Waiver of Assessments. If the Board fails to approve a Budget or fix the Assessments for the current year, the Budget and Assessments from the preceding year continue until a new Budget is approved and new Assessments are fixed.

## ARTICLE 12: INSURANCE

12.1 Association Insurance. The Association must obtain and maintain policies of insurance as described below. To help keep premiums at a reasonable level, the Association is authorized to establish appropriate deductibles for its policies of insurance. Unless otherwise determined by the Board, coverage must be on an occurrence basis.

a. *Automobile Liability Insurance*. If appropriate, the Association is permitted to purchase non-owned and hired automobile liability coverage.

b. *Commercial General Liability ("CGL")*. The Association must maintain one or more CGL policies which provide appropriate liability limits for injury or death to one or more Persons in any one accident or occurrence. The Association must carry coverage in amounts that meet or exceed those called for in Civil Code §5805 and any successor statutes.

c. *Direct Physical Loss*. The Association must maintain one or more policies for loss or damage by fire or other perils covered by the standard "Special Form" policy (or its equivalent) covering all Common Area Improvements in the Development, and such other Improvements in the Development as the Board may deem appropriate. The amount of such insurance must not be less than one hundred percent (100%) of the aggregate full insurable value, meaning replacement cost, not a depreciated amount or actual cash value (ACV), if available. The coverage must be written on a blanket basis with an agreed value endorsement and an inflation guard endorsement, if available. The Association's insurance policy must be primary with respect to property damage in the event of overlapping coverage with a Member's property damage policy. Because construction costs can be unpredictable and suddenly escalate whenever large losses occur, Directors are not liable if actual construction costs are greater than the 100% replacement cost provided by the insurance policy. In addition, if available, the Association must include the following:

1. "Ordinance or Law Coverage" or its equivalent, including:
  - (a) Coverage for Loss to the Undamaged Portion of the building or structure.
  - (b) Demolition Cost Coverage.
  - (c) Increased Cost of Construction Coverage.

2. "Maintenance Fees Receivable" coverage, or its equivalent, to cover the loss from unpaid or uncollected Assessments resulting from a covered property loss.
3. Such other endorsements which the Board may deem necessary or reasonable.

d. *Directors and Officers.* The Association must purchase Directors and Officers errors and omission insurance insuring the Association, Directors, Officers, Committee members, trustees, Association employees, Association volunteers, any community manager in contract with the Association, any management company in contract with the Association and employees of such Association management company who perform services on behalf of the Association. The Association must carry coverage in amounts that meet or exceed those called for in Civil Code §5800 and any successor statute.

e. *Fidelity Bond.* The Association must maintain fidelity bond coverage for all Directors, Officers, Committee members, and employees of the Association in an amount no less than the greater of either (1) 150% of annual operating expenses plus Association reserves, or (2) the combined amounts of the total assessments of the Association for three months, plus Association reserves. Such fidelity bond must include coverage for computer fraud, funds transfer fraud and social engineering fraud. If the Association uses a managing agent or management company, the fidelity bond coverage must also include dishonest acts by that person or entity and its employees.

f. *Flood Insurance.* When required by any first mortgage holder, Fannie Mae, Freddie Mac, or the Fair Housing Administration (FHA), the Association must purchase flood insurance on any portion of the premises that Federal Emergency Management Agency (FEMA) determines to be in a Special Flood Hazard Area (SFHA). Otherwise, the Association may purchase flood insurance, after considering the cost and availability.

g. *Workers' Compensation.* The Association must carry workers' compensation insurance as required by law to cover employees of the association.

#### 12.2 Responsibility for Deductible and Uncovered Losses.

a. *Intentional or Negligent Acts.* If any property damage loss, which results from intentional or negligent acts or omissions of any Member, Member's Tenant, or their respective family, guests, invitees, vendors, or pets, is tendered to the Association's property damage policy, the Member and/or any other legally responsible parties are solely liable for any portion of such claim not paid due to a deductible.

b. *Non-Negligent, Unintentional Acts.* If any property damage loss, which results from a failure of any component, element, or portion of the Development and did not result from a negligent or intentional act or omission, is tendered to the Association's property damage policy, in distributing the Association's insurance proceeds to the various claimants, the Association will apportion the deductible of such policy or policies amongst all claimants according to the percentage each claim bears against the total of all claims for the loss.



c. Uncovered Losses. Apart from deductibles as set forth above, responsibility for any losses for which the Association's property damage policy does not provide coverage will be determined according to the maintenance, repair and/or replacement provisions set forth in these CC&Rs and/or the law.

12.3 Liability for Increased Insurance Rates. If any negligent act or omission of any Member, Member's Tenant, or their respective family, guests, invitees, vendors, or pets causes an increase in the cost of the Association's insurance, the amount of the increase must be assessed against the Member and his/her Lot as a Reimbursement Special Assessment.

12.4 Choice of Contractor. With respect to any repairs for which proceeds of insurance are paid or are payable to the Association, the Board must designate the contractor and/or utilize the services of the Association's on-site caretaker to perform the repairs to the Common Areas. Individual Members are responsible for overseeing repairs done to their respective Lots.

12.5 Insurance Company Rating. All policies of insurance required by this Article must be issued by either a California admitted insurance company or an approved carrier on the California List of Approved Surplus Line Insurers (LASLI). Each such carrier must hold an A.M. Best Insurance or Standard and Poor's rating of "A" or better.

## **ARTICLE 13: PROTECTION OF LENDERS**

13.1 Furnishing of Information. Each Lender is, upon written request, entitled to inspect the books and records of the Association during normal business hours and receive written notice of Board and Membership meetings and designate a representative to attend such meetings.

13.2 No Priority Over Rights of First Mortgagees. Nothing in these CC&Rs gives a Member or any other party priority over any rights of first mortgagees of Lots, pursuant to their mortgages, in the case of a distribution to Members of insurance proceeds or condemnation awards for losses to or taking of Lots and/or the Common Area. Additionally, if any Lot or any portion of a Lot is made the subject matter of any condemnation or eminent domain proceeding, no provision herein entitles the Member, or any other party, to priority over a first mortgagee of a Lot, concerning any distribution of the proceeds of any award or settlement.

13.3 Relationship with Assessment Liens. Any lien that the Association may have on any Lot for the payment of Assessments subordinates to the lien or equivalent security interest of any Lender with a first trust deed or mortgage on the Lot, made in good faith and for value, and no such lien impairs the obligation or the priority of such trust deed or mortgage, unless the Lender expressly subordinates its interest, in writing, to such lien.

13.4 Foreclosure. Any holder of a first mortgage who takes title to a Lot, pursuant to the remedies provided in the mortgage, through foreclosure of the mortgage takes the property free of any claim for unpaid Assessments or charges against the mortgaged Lot which accrued prior to the time such Person takes title to the Lot.



13.5 Priority of Mortgage Lien. No breach of any provision of these CC&Rs nor the enforcement of any lien created herein affects, impairs, defeats, or invalidates the lien of any mortgage or deed of trust made in good faith and for value, but these CC&Rs are binding upon any Member whose title is derived through foreclosure, trustee sale, or otherwise.

13.6 Payment of Taxes and Charges. Lenders may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for such Common Area, Lenders making such payments shall be owed immediate reimbursement from the Association.

#### **ARTICLE 14: LIMITATIONS OF LIABILITY**

14.1 Standard for Liability. Officers, Directors, Committee members, employees, or agents are not responsible to the Association, or any Member, Member's Tenant, or their respective family, guests, or invitees for any loss or damage to the Association, or any Person or property suffered by reason of water, fire, smoke, explosion, electricity, dust, sand, insect or rodent infestation, or any other source, unless there is clear and convincing evidence the damage or loss was caused by the willful, intentional or bad faith misconduct of the Association's Officers, Directors, Committee members, employees, or agents, based upon the information such individual possessed at the time of the purported act or omission. The Association's Officers, Directors, Committee members, employees and agents cannot be held strictly liable for their acts or omissions.

14.2 Limited Personal Liability. No Officer, Director, Committee member, or employee of the Association is personally liable for any loss, injury, or damage to Persons or property for any act or omission, if the act or omission was performed in good faith, within the scope of the Person's duties for the Association, was not self-dealing, and did not constitute willful or intentional misconduct.

14.3 Association Not a Security Provider. The Association is authorized to provide security measures in the Development. However, the Association is not a provider of security and has no duty to provide any security in the Development. The obligation to provide security lies with each Member individually. The Association cannot be held liable for any harm, loss or damage to Persons or property by reason of failure to provide adequate security or ineffectiveness of security measures undertaken. This includes, but is not limited to, any harm, loss or damage from theft of or damage to any article or thing placed or stored in or on any portion of the Common Area.

14.4 Duty to Defend. The Association must indemnify and defend and must advance reasonable attorneys' fees and costs to its Officers, Directors, Committee members, and employees for all expenses and liabilities reasonably incurred by such Person(s) regarding any proceeding (including, but not limited to, alternative dispute resolution proceedings) to which they are a party by reason of having been an Officer, Director, Committee member, or employee of the Association. However, the Association may recover its attorneys' fees and costs from, and is not liable for any judgments or other liabilities for the acts or omissions of, any Persons adjudged to



have acted in bad faith or in gross negligence in the performance of their duties to the extent permitted by law.

14.5 Duty to Protect. The Association must protect its Officers, Directors, Committee members, and employees from unlawful harassment in the workplace as such phrase is defined in the law. However, the Association has no duty to prosecute or fund the prosecution of any claim or cause of action which an Officer, Director, Committee member, or employee of the Association asserts against another Officer, Director, Committee member or employee of the Association, or against a Member, which is (1) not based on conduct of the accused performed in the course and scope of his or her duties (2) founded on personal issues or disputes between the parties, (3) for personal injuries or emotional distress, or (4) for defamation.

14.6 Personal Injury or Property Damage Sustained Within a Lot. This Section applies if any Person sustains personal injury or property damage within a Lot and the injury or damage results in a claim against the Association or any of its Officers, Directors, Committee members, Members, agents, or employees. The Owner of the Lot where the injury or damage occurred must: (i) fully indemnify and hold harmless the Association, Officer, Director, Committee member, Member, agent, or employee against whom such claim or suit is brought; and (ii) defend, at his/her own cost and expense, any resulting litigation against the Association, Officer, Director, Committee member, Member, agent, or employee. However, there is no obligation to hold harmless, defend or indemnify any party whose gross negligence or willful misconduct was the cause of the injury or damage.

14.7 Actions Against Directors. Members are not permitted to and waive all rights to file an action or state any cause of action in any pleading against a Director or Officer of the Association, acting within the scope of that person's duties as a Director or Officer unless the court first determines that the Member seeking to file the pleading has established evidence that substantiates the claim.

## **ARTICLE 15: DAMAGE/DESTRUCTION TO IMPROVEMENTS**

15.1 Generally. All provisions of this Article apply only when the Common Area has been partially or totally destroyed by fire, earthquake, groundwater flooding or other similar casualties.

15.2 Association's Duties. If the Common Areas, any Improvements thereon, and/or any other portion of the Development which the Association is obligated to maintain, repair or replace, are partially or totally destroyed by fire, earthquake, flood or other casualty, the Association must maintain, repair, replace and/or restore same to its former condition (or better) as promptly as practical. The proceeds of any insurance received must be used for such maintenance, repair, replacement and/or restoration.

15.3 Duties of Board During Reconstruction. If reconstruction is undertaken, the Board must: (i) enter into a written contract with a contractor who is licensed and insured and/or utilize the services of the Association's on-site caretaker for such repair, reconstruction, and restoration; (ii) disburse insurance proceeds available for the work, along with funds collected by reason of



Assessments, in appropriate progress payments; and (iii) take all steps necessary to ensure the commencement and completion of such repair, reconstruction, and restoration in a lawful, workmanlike manner at the earliest possible date.

15.4 Special Assessment for Reconstruction. If the proceeds of insurance obtained by the Association are paid to any Mortgagee of a Lot and, by reason of such payment, the insurance proceeds are not made available to the Association as trustee, or otherwise, to effect any repair, reconstruction, or restoration of any damage and/or destruction to all or any portion of the Development as provided in these CC&Rs, the amount of such proceeds not made available must be assessed and charged to and against the Member or Members and his/her Lot as an Emergency Special Assessment. The Emergency Special Assessment must be made by written notification from the Board to the Member or Members against whom made.

15.5 Encroachment. If a Building is partially or totally destroyed and then rebuilt, Members agree that minor encroachments of the Common Area on Lots or of Lots on the Common Area or on other Lots are permitted and that valid easements for the encroachments exist. Such encroachments are not considered to be encumbrances either on the Lots or the Common Area.

## **ARTICLE 16: CONDEMNATION**

16.1 Notice. Promptly upon learning of any potential condemnation or sale by eminent domain, the Board must notify all Members, and First Mortgagees who have filed a written request for notice.

16.2 Payment for Common Area. When an action in eminent domain is brought to condemn all or any portion of the Common Areas, the Association must represent the Members in all proceedings, negotiations, or settlements. Awards for the acquisition of Common Area must be paid to the Board, as trustee, for deposit into the Association's Reserves unless a majority of the total voting power of the Association elects to distribute the award among the Members in accordance with their Percentage Interest.

16.3 Payment for Lot. When an action in eminent domain is brought to condemn all or any portion of one or more Lots, the award made for such taking must be payable to the respective Owners of the Lots, subject to: (i) the rights of Mortgagees holding Mortgages covering such Lots; and (ii) all unpaid Assessments of each Member, taken together with interest and other pending charges. The Board of Directors has no responsibility for the restoration of a Member's personal or real property taken as a result of condemnation.

16.4 Revision of Documents. When any part of the Development is condemned, the Board must, as soon as practical, prepare, file, and/or record a revised subdivision map, or other documents, reports, schedules, or exhibits necessary to show the changed or altered status of the Development.

16.5 Status of Membership. If a Lot is taken in condemnation, the Lot ceases to be part of the Development, the Member ceases to be a Member of the Association, and the Percentage



Interest in Common Area appurtenant to that Lot automatically become vested in the remaining Members, in proportion to their respective Percentage Interests in the Common Area.

## **ARTICLE 17: MISCELLANEOUS**

17.1 Amendment. Any amendments to or restatement of these CC&Rs may be amended in the same manner as the Bylaws may be amended. Any amendment enacted in compliance with this provision becomes effective when recorded with the Office of the County Recorder where the Development is situated.

17.2 Lender Approval. If a First Mortgagee is entitled, by the terms of these CC&Rs, to consent to, approve, disapprove, or object to a proposed amendment to or restatement of the CC&Rs, but fails to return a ballot, or other form providing written disapproval or objection within 30 days of receipt, such First Mortgagee is deemed to have consented to and approved the proposed amendment or restatement, provided the ballot, or other form permitting written disapproval or objection, was delivered by certified or registered mail with return receipt requested and the delivery signed for by a representative of the First Mortgagee.

17.3 Amendment to Conform to Statute. If a provision in these CC&Rs contradicts current law, on the unanimous approval of the Board of Directors and without approval of the Members, the Board is authorized to amend that provision, but only to the extent necessary to render the provision compliant with applicable law. A resolution explaining the need for the change must be adopted by the Board in an open meeting of the Board and recorded in the minutes.

17.4 Term of CC&Rs. These CC&Rs continue in full force and effect for a term of sixty (60) years from the date of their recordation (the Renewal Date), after which time they are automatically extended for successive periods of twenty (20) years. These CC&Rs may be terminated if, within six (6) months prior to the Renewal Date of any twenty-year extension period, (i) at least seventy-five percent (75%) of the Members and seventy-five percent (75%) of the First Mortgagees approve by secret ballot circulated by the Association via its Board of Directors to terminate these CC&Rs, and (ii) an appropriate governmental agency has agreed in writing to assume the Association's Common Area maintenance, repair, and replacement obligations, and (iii) certification of the Membership's and First Mortgagee's approval to terminate and the agency's agreement to assume maintenance duties are recorded with the Office of County Recorder in which the Development is situated, and (iv) the Association's contractual and other legal obligations are wound up, and (v) all required corporate filings, tax returns, and notices are filed with appropriate agencies to effectuate dissolution of the Association/corporation, and (vi) insurance tail coverage is purchased to cover any potential liability the Association may have until all applicable statutes of limitations have run their course.

17.5 Attorneys' Fees. In a lawsuit by the Association seeking the enforcement of the Governing Documents against a Member or to determine the rights or duties of the Member under the Governing Documents, the prevailing party may be awarded reasonable attorneys' fees and costs as permitted by law.

17.6 Notices. Any communication or notice of any kind permitted or required to be delivered pursuant to the Association's Governing Documents, or pursuant to the Davis-Stirling Act, must be in writing. Such delivery must be made as follows:

a. *To the Association:*

- i. *Manner of Delivery*. By mail (first class, postage prepaid, registered or certified, express mail, or overnight delivery by an express service center).
- ii. *Recipient of Delivery*. The person designated in the Association's annual policy statement to receive documents on behalf of the Association. If no person has been designated to receive documents, the document must be delivered to the President or Secretary of the Association.

b. *To the Members:*

- i. *Manner of Delivery*. For communications and notices subject to the Davis-Stirling Act, in the manner required therein, including individual notice or delivery, general notice or delivery, electronic delivery (with consent), or otherwise. For other communications and notices not subject to the Davis-Stirling Act, by electronic delivery (email, facsimile, or other electronic means), by personal delivery, or by mail (first class, postage prepaid, registered or certified, express mail, or overnight delivery by an express service center).
- ii. *Address for Delivery by Mail*. To the Association's address of record for the Member as determined by Civil Code §4041.

c. *When Notice Deemed Delivered*.

- i. *By Mail*. If a document is delivered by mail, delivery is deemed to be complete on deposit into the United States mail.
- ii. *By Electronic Means*. If a document is delivered by electronic means, delivery is complete at the time of transmission.

17.7 Headings. The headings contained in these CC&Rs are for convenience of reference and are not a part of and are not intended to govern, limit, or aid in the construction of any term or provision of these CC&Rs.

17.8 Liberal Construction. The provisions of the Governing Documents must be liberally construed to effectuate their purpose of creating a uniform plan for the use, operation and maintenance of the Development.



17.9 Number and Gender. Words used herein regardless of the number and gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context requires.

17.10 Severability. The provisions of these CC&Rs and any other Governing Document are deemed independent and severable and the invalidity, partial invalidity, or unenforceability of any one provision has no effect on the validity or enforceability of any other provision.

17.11 No Public Rights. Nothing contained in these CC&Rs is a gift or dedication of all or any portion of the Development to the general public or for any public use or purpose whatsoever.

17.12 Successor Association. If the Association, as a corporate entity, is dissolved, a nonprofit, unincorporated association, without further action, automatically succeeds to all the rights and duties of the corporation. The affairs of the unincorporated association will continue to be governed by these CC&Rs, the Bylaws, Architectural Standards, and the Rules and Regulations, as well as any applicable law.

17.13 Conflicting Provisions. When a conflict exists between these CC&Rs and the Articles or the Bylaws, these CC&Rs control. When a conflict exists between the Articles and the Bylaws, the Articles control.

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END OF DOCUMENT

**CERTIFICATION**

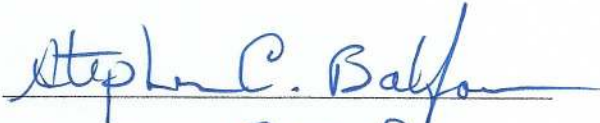
WE CERTIFY this 7<sup>th</sup> day of August, 2020 that this Restated Declaration of Covenants, Conditions and Restrictions has been duly approved and adopted by the Membership of El Rancho Loma Serena Homeowners Association.

EL RANCHO LOMA SERENA HOMEOWNERS ASSOCIATION

By: 

Name: Adam D Beekem

Its: President

By: 

Name: Stephen C. Balfour

Its: Vice-President

**SIGNATURES MUST BE NOTARIZED**



## 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 Calaveras)

On August 7, 2020 before me, T.R. Grubb, Notary Public  
(insert name and title of the officer)

personally appeared Adam D. Berchem  
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.

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

T.R. Grubb

(Seal)



## 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 Calaveras )

On August 7, 2020 before me, T.R. Grubb, Notary Public  
(insert name and title of the officer)

personally appeared Stephen C. Balfour  
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.

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



(Seal)

