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OWNERS ASSOCIATION**  
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(Space Above for Recorder's Use)

**THIRD AMENDED AND RESTATED DECLARATION  
OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
HAMPTON VILLAGE**

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**THIRD AMENDED AND RESTATED DECLARATION OF  
COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
HAMPTON VILLAGE**

This *Third Amended and Restated Declaration of Covenants, Conditions and Restrictions for Hampton Village* is made by the Hampton Village Owners Association, a California nonprofit mutual benefit corporation ("Association").

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**RECITALS**

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

*Lots 1 through 114, inclusive, and Lots A, B, C, D, E and F, all as shown on the official plat of "Hampton Village", recorded in the office of the Placer County Recorder on December 23, 1986, in Book O of Maps, Page 100.*

B. An instrument entitled Amended And Restated Declaration Of Covenants, Conditions And Restrictions for Hampton Village, was recorded on July 13, 1987, in Book 3226, Page 448, in the Official Records of Placer County, California, which was amended by the Second Amendment to Amended and Restated Declaration of Covenants, Conditions and Restrictions for Hampton Village, recorded on December 18, 1992, as Document Number 92-096909-00, in the Official Records of Placer County ("Second Restated Declaration"). There is presently no record of a "First Amendment."

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

D. At least majority of the Members voted to amend, restate, and supersede the Second Restated Declaration, as amended, pursuant to Section 12.05 of the Second Restated Declaration. There were no eligible mortgage holders at the time this Declaration was approved.

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

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

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

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

attractiveness of the Development and every part thereof, and of fostering the development, management, improvement, enjoyment, and sale of the real property comprising the Development and any part thereof.

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

## **ARTICLE 1 DEFINITIONS**

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1.1 Absolute Majority. "Absolute Majority" shall mean a majority of the Members of the Association.

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

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

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

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

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

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

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

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

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

1.7 Association. "Association" shall mean the Hampton Village Owners Association, a California non-profit mutual benefit corporation, its successors and assigns.

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

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

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

1.11 Common Area. "Common Area" shall mean and refer to all that portion of the property owned by the association for the use and enjoyment of the owners, and includes Lots A, B, C, D, E and F as shown on the Map.

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

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

1.14 County. "County" shall mean the County of Placer in the State of California.

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

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

1.17 Development Agreement. "Development Agreement" shall mean the Development Agreement by and between the City of Roseville and SOUTHFORK PARTNERSHIP (original developer, "Declarant") relative to the development known as Johnson Ranch, adopted by the City of Roseville on March 6, 1985, by Ordinance No. 1847, and was recorded on April 9, 1985, in Book 2792, Page 1 of Official Records of the County of Placer, as such Development Agreement presently reads and as it may be modified or amended from time to time.

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

1.19 Exclusive Use Common Area. "Exclusive Use Common Area" shall mean those portions of the Common Area set aside for exclusive use of an Owner or Owners to the exclusion of other Owners, shall constitute "exclusive use common area" as defined in Civil Code Section 4145.

1.20 FNMA. "FNMA" shall mean the Federal National Mortgage Association.

1.21 Front Yard Areas. "Front Yard Areas" shall mean that portion of each lot which is generally visible from any street within the Development and would commonly be referred to as a front yard or side yard. "Front Yard Area" shall not include those portions of a Lot which are covered by structural improvements or which are enclosed for the private use of an Owner. The precise area of each Lot which constitutes the Front Yard Area shall be determined by the actual location of the Residence and fence improvements constructed thereon or as determined by the Board.



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

1.23 Hampton Easement. "Hampton Easement" shall mean that portion of an Owner's Lot to which an easement has been granted to the Owner of an adjacent Lot for light, air, landscaping, maintenance and recreational use as provided in Section 3.9.1.

1.24 Improvement(s). "Improvement(s)" shall mean all structures and improvements including without limitation Residences, buildings, walls, solar panels, fences, awnings, landscaping, hardscape, walkway, sidewalk, patio, deck, screens, doors, patio covers, or other structures or improvement to land of any kind.

1.25 Landscape CC&Rs. "Landscape CC&Rs" shall mean the Master Declaration of Covenants, Conditions and Restrictions for Johnson Ranch Community, recorded on July 13, 1987, in Book 3266, Page 221, of Official Records of Placer County.

1.26 Lane. "Lane" shall mean any of the approximately twenty-two feet (22') wide alleys located at the rear of one or more Lots in the Development.

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

1.28 Maintenance. "Maintenance" or "Maintain" shall mean the exercise of reasonable care to keep buildings, roads, landscaping, lighting and other related Improvements and fixtures in a reasonably good state of maintenance and repair. Maintenance of landscaping shall further mean the exercise of regular fertilization, irrigation, and other garden management practices necessary to promote a healthy, weed-free environment for optimum plant growth.

1.29 Member. "Member" shall mean an Owner.

1.30 Mortgage. "Mortgage" shall mean a mortgage or deed of trust encumbering a lot or other portion of the development. A "mortgagee" and "mortgage holder" shall include the beneficiary under a deed of trust. An "institutional mortgagee" or "institutional holder" is a mortgagee that is a bank or savings and loan association, or established mortgage company or other entity chartered under federal or state laws, any corporation or insurance company, or any federal or state agency, and that holds a first mortgage on any lot or on the common area.

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

1.32 Party Wall. "Party Wall" shall mean any wall or fence (not retaining walls) located on a property line dividing any Lots, which wall is commonly used by any such Lot and the adjoining Lot or Common Area.

1.33 Private Yard Areas. "Private Yard Areas" shall mean the yard areas of each Lot which are for the private use as part of each individual Residence area and are not visible from the Common Area.

1.34 Rear Lot Setback Area. "Rear Lot Setback Area" shall mean and refer to that portion of the approximately five-foot (5') setback area at the rear of each Lot facing on a lane, exclusive of driveway and fences, which is to be landscaped by Declarant and maintained by the Association. The precise area of each lot which constitutes the Rear Lot Setback Area shall be determined by the actual location of the Residence and fence improvements constructed thereon or as determined by the Board.

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

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

1.37 Resident. "Resident" shall mean any person who resides in a Residence within the Development whether or not such person is an Owner as defined in Section 1.31.

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

1.39 Subdivision Map. "Subdivision Map" or "Map" shall mean the subdivision map entitled official plat of "Hampton Village", recorded in the office of the Placer County Recorder on December 23, 1986, in Book O of Maps, Page 100.

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

## **ARTICLE 2   COMMON AREA**

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

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

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

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

violations of the Governing Documents by an Owner or any person for whom an Owner is responsible.

2.2.3 The right of the Board, as set forth in Section 3.3, to grant easements and rights of way in, on, over, or under the Common Area.

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

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

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

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

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

2.2.9 The right of the Association to grant exclusive use of a portion of the Common Area to an Owner, if approved by an Absolute Majority of the Members, except as provided by law or as provided in Section 2.4 below.

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

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

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

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

## **ARTICLE 3 EASEMENTS**

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3.1 Easements in General. In addition to all easements reserved and granted on the Subdivision Map and the easements specified in Article 2, there are hereby specifically acknowledged, reserved and granted for the benefit of the Lots and the Owners in common and for each Lot and Owner severally, and for the Association, as their respective interests shall exist, the easements and rights of way as particularly identified in this article.

3.2 Easements for Utilities and Maintenance. Wherever sanitary sewer connections or water connections or electricity, gas or telephone, television lines or drainage facilities are installed within the Development, which connections, lines or facilities, or any portion thereof, lie in or upon Lots owned by other than the owner of the Lot served by said connections, the Owners of any Lots served by said connections, lines or facilities shall have the right, and are hereby granted an easement to the full extent necessary therefor, to enter such lots or to have utility companies enter therein, or any portion thereof, to repair, replace and generally maintain said connections as and when the same may be necessary.

Wherever sanitary sewer house connections and/or water house connections or electricity, gas or telephone lines or drainage facilities are installed within the properties, which connections serve more than

one Lot, the Owner of each Lot served by said connections shall be entitled to the full use and enjoyment of such portions of said connections as service their Lot.

All utility companies having easements on the Development covered by this Declaration shall have easements for cleaning, repairing, replacing and otherwise maintaining or causing to be maintained service in all underground utility lines, including, when reasonably necessary, the entry into an improvement constructed upon a Lot for uncovering any such lines. Any Owner or utility company exercising the rights granted in this section shall be obligated to restore the Lot and the Residence entered to substantially its former condition.

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

3.4 General Association Easements for Maintenance, Repair, and Replacement. The Association shall have an easement in, on, over, or under every Lot as reasonably necessary to: (a) maintain and repair the Common Area, (b) perform maintenance upon a Lot which is not performed by its Owner as provided by Sections 8.4 and 8.6 and (c) otherwise perform its obligations under this Declaration.

The Association shall also have an easement in and across such other portions of each Lot for the maintenance, repair and replacement of landscaping and irrigation systems and appurtenances in the Front Yard Area and Rear Lot Setback Area. Each Owner's use and Maintenance of the Front Yard Area and Rear Lot Setback Area of their Lot shall be restricted as set forth in Section 4.16 hereof.

3.5 Entry for Repairs. The Board may authorize its agents and employees to enter upon any Lot when necessary in connection with any maintenance, landscaping, or construction for which the Association is responsible, to effect emergency repairs, or to effect necessary repairs which an Owner has failed to perform as required by this Declaration. Such entry shall be made with as little inconvenience to the Owner as reasonably practicable. Except in case of an emergency or for routine maintenance the Association is obligated to perform, twenty-four (24) hour advance notice shall be given to the Owner or Resident.

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

minor errors in construction, or settlement or shifting of the building shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

3.7 Encroachments; Front Yard Areas and Rear Lot Setback Areas. It may be that in connection with subsequent reconstruction, repair, or settlement thereof, portions of a Residence may encroach upon the former Front Yard Area or Rear Lot Setback Area. Conversely, it may be that in connection with such reconstruction, Repair, or settlement there will be portions of Lots which are not covered by the Residence and are not enclosed or partially enclosed for use exclusively with a particular Lot (e.g., the Front Yard Areas of the Lots). In the former instance, a valid easement for the encroachment and the Maintenance thereof shall exist in favor of the Owner for as long as such encroachment exists, and the encroaching object shall be treated for all purposes as if it were situated on the Lot to which it relates. In the latter instance, the portions of Lots which are unimproved and unenclosed shall be treated for all purposes as if they were a part of the original Front Yard Areas or Rear Lot Setback Areas.

3.8 Additional Parking. The Development contains open parking spaces in addition to the garages located on individual lots. Such parking spaces shall be part of the Common Area. These parking spaces may be used only by the visitors and guests of Owners and Residents. This use, however, is subject to the right of the Board to designate certain spaces as "guest parking only," and to otherwise regulate their use by means of the Association rules from time to time.

3.9 Easements Between Adjacent Lots.

3.9.1 Hampton Easement

3.9.1.1 Benefitted Lots. In order to expand and enhance the Private Yard Area of certain lots (the "Benefitted Lots") and to provide for drainage, light, air, landscaping, maintenance and recreational uses, declarant, by this Section 3.9.1, establishes a nonexclusive easement (the "Hampton Easement") for such purposes in favor of each Benefitted Lot.

3.9.1.2 Location and Extent of a Hampton Easement. In each case where there is a Benefitted Lot, the owner of the Benefitted Lot shall have a Hampton Easement on the property of the adjacent Lot owner (the "Grantor"). The Hampton Easement will generally extend from the exterior face of the Grantor's Garage Side Wall to the side lot boundary line. A Garage Side Wall is a wall (a) which encloses, in part, that portion of the Grantor's structure containing the garage, and (b) which faces a Hampton Easement. The exact location and extent of each Hampton Easement for a Benefitted Lot shall be as set forth on a plat attached to the grant deed conveying such Benefitted Lot and on a plat attached to the grant deed conveying the Grantor's Lot. Any dispute with respect to the location or extent of a Hampton Easement shall be resolved as determined by the Board.

3.9.1.3 Purpose of Hampton Easement. The purpose of a Hampton Easement described in this Section 3.9 shall purposes and all surface and recreational rights consistent with normal residential yard use.

3.9.1.4 Restrictions on Benefitted Lot Owner. The Benefitted Lot owner shall not place or maintain landscaping, planting or other Improvements in the Hampton Easement area which will interfere with the inspection, Maintenance, or Repair of

the Residence of the Grantor without the prior written consent of the Grantor. No plants, landscaping or other improvements may be braced or espaliered against the Garage Side Wall. The Benefitted Lot owner shall trim plants and trees planted within the easement area or on adjacent property so that such plants and trees do not touch or overhang the adjoining residential structure. The Benefitted Lot owner shall not attach anything to the outside of the Grantor's residential structure or make any use of such structure's wall.

3.9.1.5 Restrictions on Grantor. The Grantor shall not place or erect any structure in the Hampton Easement. The Grantor shall not attach anything to the exterior of the Garage Side Wall which shall protrude into the Hampton Easement area other than roof, eaves and gutters installed by Declarant. The Grantor shall not extend or otherwise change the Garage Side Wall adjacent to the easement area or the roof, eaves or gutters above such wall, except for routine painting, Maintenance, Repair, or reconstruction, without the consent and permission of the Benefitted Lot owner. The Grantor shall not construct any doors or windows, other than to replace those installed by Declarant, on the Garage Side Wall.

3.9.1.6 Repainting of Garage Side Wall. Painting of the Garage Side Wall shall be of the same color and quality as that originally utilized by Declarant, unless both the Grantor and the Benefitted Lot Owner agree, in writing, on an alternative shade or quality of paint and, pursuant to Article 9, all required approvals have been obtained.

3.9.2 Maintenance and Repair Easement. A limited easement is hereby established to accommodate the interests of any owner where the structure of such Owner is located within five feet (5') of a common boundary line. In all cases where a structural wall is located within five feet (5') of a common boundary line between adjacent Lots (a "Proximate Wall"), the lot owner shall have a nonexclusive easement over the Private Yard Area, Front Yard Area, Rear Lot Setback Area and Hampton Easement of the adjacent Lot for access to, inspection of, maintenance of, and repair of a Proximate Wall or the roof thereon and the reconstruction of a Proximate Wall or the roof thereon in the event of the partial or total destruction of the Proximate Wall or the roof thereon or the structure of which the Proximate Wall is a part.

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## ARTICLE 4 USE RESTRICTIONS

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4.1 Residential Use. Except as specifically provided in Section 4.3, below, no Lot, or any portion thereof, shall be occupied or used for other than residential purposes by Owners, their Contract Purchasers, lessees, tenants, or guests.

4.2 Rental or Lease of Lots. The rental or lease of Lots, or any portion thereof, shall be subject to the restrictions in accordance with the provisions of this Section.

4.2.1 Lease Provisions. The term of any lease or rental agreement shall be for a period of not less than thirty (30) days. Any Owner leasing or renting a Lot shall provide the tenants or lessees with copies of this Declaration and the Bylaws, failure of which shall constitute a violation of such documents. The Owner must provide the Association with a

copy of the signed lease or rental agreement, or with the names and contact information for all tenants, as well as the Owner's offsite mailing address, and such other information as the Association may require, including without limitation, the completion of a particular rental information form. The Owner shall provide the Association with the make, model, and license plate number of all of their tenants' vehicles.

No Owner may rent or lease less than the entire Residence, unless such Owner is also occupying the Residence. This does not preclude an Owner separately renting or leasing an Accessory Dwelling Unit or Junior Accessory Dwelling Unit on a Lot.

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

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

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

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

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

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

4.4 Offensive Conduct, Nuisances, Noise. No noxious, harmful, unlawful, or offensive activities shall be conducted upon or within any part of the Development, nor shall anything be done thereon which may be or become a nuisance, or cause unreasonable embarrassment, disturbance, or annoyance to any Residents or Owners in the Development, or which shall in any way interfere with their use of the



Common Area and facilities thereon or the use and enjoyment of their Lots or Residences. Without limiting any of the foregoing, no Resident shall permit noise, including but not limited to the barking of dogs or excessively loud music, to emanate from the Resident's Lot, which would unreasonably disturb another Residents' enjoyment of their Lot or of the Common Area. Excessive noise levels may be determined at the sole discretion of the Board which may, but shall not be obligated to, rely on the standards established in applicable County or City codes regulating such matters. Nothing in this Section shall be construed to limit the Association's ability to discharge its duties in accordance with the Governing Documents or otherwise manage the Development.

Fireworks are prohibited except on the fourth (4<sup>th</sup>) of July. Illegal fireworks are prohibited at all times.

4.5 Use of the Common Area. All use of the Common Area is subject to the Governing Documents. No alterations or additions to the Common Area shall be made except as authorized by the Board pursuant to Section 2.5. Nothing shall be placed, kept, or stored on the Common Area without the prior written consent of the Board, except by the Association. Without limiting the foregoing, no Owner shall place rubbish, debris, or other unsightly or unsanitary materials on the Common Area. Each Owner shall avoid causing damage to the Common Area.

4.6 Requirement of Architectural Approval. As addressed in greater detail in Article 9, construction, installation, modification, or alteration of buildings, outdoor structures, fences, awnings, outdoor lighting, landscape, and all other exterior Improvements are subject to approval of the Architectural Review Committee. No structures of a temporary character, including, but not limited to, trailers, basements, shacks, garages, barns, or other outbuildings, shall be erected or placed on any lot at any time without the express consent of the Architectural Review Committee.

4.7 Window Coverings. Windows may only be covered by drapes, shades, or shutters and shall not be painted or covered by foil, cardboard, or similar materials.

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

4.9 Antennas; Roof Projections. No outside mast, tower, pole, antenna, or satellite dish shall be erected, constructed, or maintained within the Development or on any Common Area except: (a) those erected, constructed, or maintained by the Association; (b) those expressly approved by the Board; or (c) those specifically permitted by law. With respect to those masts, towers, poles, antenna, and satellite dishes specifically permitted by law, the Association shall have the authority to regulate their installation

and maintenance to the greatest extent permitted by law. The Owner of each Lot shall be responsible for the repair and maintenance of any mast, tower, pole, antenna, or satellite they install within the Development and shall indemnify and reimburse the Association for all costs and expenses associated therewith, including, without limitation, any increased costs incurred by the Association in the performance of its maintenance obligations as specified in Article 8. Owners shall submit a request to the Architectural Review Committee before installing such devices, which shall be responded to in accordance with California and federal law and in accordance with the Governing Documents.

4.10 Vehicles and Parking. Each owner shall be entitled to the exclusive use of the garage located upon their Lot. No Owner or Resident within the Development may leave any vehicle parked outside their garage. To assure that no Resident's vehicles are parked elsewhere within the Development, the following restrictions shall be strictly enforced:

4.10.1 Garages. Except as may be required for Accessory Dwelling Units or Junior Accessory Dwelling Units that must be permitted by law subject to reasonable restrictions. No garage shall be remodeled or used as a workshop, storage space, hobby facility or for any other use or facility which would interfere with its use for the accommodation of the number of full-sized passenger vehicles which the garage was originally designed to accommodate. All garages shall be maintained in a neat and orderly condition and garage doors shall be kept closed except during the time required for vehicles to enter or exit the garage or when individuals are working within the garage.

4.10.2 Number of Vehicles and Garage Parking. All of the persons who own or reside in any single Residence, shall park their vehicles in their garage and shall not bring to the Development at any one time more two (2) vehicles (including recreational vehicles as set forth in Section 4.10.3 below).

4.10.3 Recreational Vehicles. No vans, boats, motorcycles, campers, trailers or other recreational vehicles of any type (all of which are referred to herein as "a recreational vehicle") shall be kept or parked in any sidewalk or yard area within the Lots or upon the Common Area. Garages may not be used for storing or parking any recreational vehicle unless such vehicle is completely enclosed by the garage and cannot be viewed from the street, lane, or any other Lot. The parking spaces in the Common Area may not be used for storing or parking any recreational vehicle.

4.10.4 Street, Alley, Driveway Parking. No Owner, Resident or guests or visitors thereof may park any vehicles on any street, alley, driveway, or lane within the Development. Vehicles shall not be parked behind Residences. The Association shall post and maintain "No Parking" signs on all streets within the Development. Guests and visitors of owners may park within the guest parking spaces as set forth in Section 3.8 hereof.

4.10.5 Guests. No Owner or Resident shall permit overnight guests or frequent visitors to the Development to park in any manner which violates the provisions of this section.

4.10.6 Parking Rules and Enforcement. In order to prevent or eliminate any parking problems within the Development, or to further define and enforce the restrictions contained in this Section, the Board shall have the authority to adopt further reasonable rules and restrictions regarding vehicles and parking within the Development as the Board may deem prudent and appropriate. The Board shall also have the power to impose fines

and other sanctions for violations of provisions of the Governing Documents relating to vehicles and parking. Such authority and power shall include, without limitation, the power and authority to:

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

4.10.6.2 Fix and impose fines for violations of this Section in accordance with Section 8.1.4 of the Bylaws.

4.11 Fences. No fence, awning, ornamental screen, screen door, sunshade or wall of any nature, which is visible from the Common Areas, shall be erected or maintained on or around any portion of any structure or elsewhere within the Development except those existing as part of Declarant's original Construction and their duplicate replacements, or those which are installed or authorized and approved by the Architectural Review Committee.

4.12 Animals.

4.12.1 Household Pets. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any Lot, except that a reasonable number of dogs, cats, or other common household pets (not poultry) may be kept, provided they are not kept for any commercial purpose and are kept in such a manner as not to constitute a nuisance to other Owners. This provision shall not apply to aquarium type fish, reptiles, or small caged animals, such as hamsters and birds kept within the Residence at all times. All pets shall be maintained and kept in compliance with all State and County laws.

4.12.2 Common Area. While in the Common Area, dogs must be restrained on a leash held by a responsible person capable of controlling it. Dogs may not be tethered anywhere on Common Area or in the front of a Lot under any circumstance, except on a Lot when the Owner is present. Owners must pick up all pet feces in the Common Area.

4.12.3 No Dangerous or Vicious Animals. The Association shall have the right to prohibit the keeping of any animal which constitutes, in the sole and exclusive opinion of the Board, a nuisance to any other person, or to require the removal of a vicious or dangerous animal.

4.12.4 Owner's Responsibility for Pets. Each Owner shall be responsible for immediately removing and disposing of any waste introduced to any portion of the Development by their pets or the pets of their guests and invitees. The Board shall have the power to impose Enforcement Assessments for violations of provisions of the Governing Documents relating to pets, including without limitation fines for failure to remove and dispose of pet waste as required by this section. Each Owner, Resident, and any person bringing or keeping an animal within the Development shall be absolutely liable to the Association and all other persons for any injury or damage to persons or property caused by the animal

brought upon or kept upon the Development by such person or by members of their household, tenants, guests, or invitees. Each Owner and Resident shall indemnify the Association and its officers, directors, and agents against any and all claims, damages, losses, demands, liabilities, and expenses, including but not limited to attorneys' fees, arising out of or resulting from the presence or conduct of any animal brought upon or kept within the Development by the Owner or Resident, members of their household, guests, tenants, or invitees.

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

4.13 Trash and Storage. All garbage and trash shall be placed and kept in covered containers. In no event shall such containers be kept where they are visible from common area or any neighboring Lot, except as may reasonably be necessary in connection with the collection thereof by the garbage collector. No exterior portion of any lot shall be used for the storage of building material or other materials except in connection with approved construction.

4.14 Clotheslines. No exterior clotheslines or other outside clothes drying or airing facility shall be erected or maintained on any Lot, which is visible from the Common Area, any street or any other Lot, unless no other location is available, in which case the clothesline or facility shall be located in the location least visible from the Common Area or other Lots.

4.15 Sight Distance at Intersections. No fence, wall, hedge, or shrub planting which obstructs sight lines at elevations between two feet (2') and six feet (6') above the roadway shall be placed or permitted to remain on any corner Lot within the triangular area formed by street property lines and a line connecting them at points twenty-five feet (25') from the intersection of the street lines or, in the case of a rounded property corner, from the intersection of the street property lines extended. The same sight-line limitations shall apply on any Lot within ten feet (10') from the intersection of a street property line with the edge of a driveway. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

No fence or hedge exceeding three feet (3') in height shall be erected or permitted to remain or allowed to grow nearer any street than setback lines shown on the Subdivision Map.

4.16 Common Area, Front Yard Areas, Rear Lot Setbacks, Landscaping on Owner's Lots. No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any structural improvement upon, or shall make or create any excavation or fill upon, or shall change the natural or existing drainage of, or shall destroy or remove any tree or shrub or plant any tree, shrub or other vegetation upon Common Area, Front Yard Areas or Rear Lot Setback Areas as defined in Article 1. The Association shall maintain such Front Yard Areas and Rear Lot Setbacks as if they were a part of the Common Area. Easements required for such maintenance automatically exist as provided in Article 3.

The Association may at any time, and from time to time: (1) Reconstruct, replace or refinish any Improvement or portion thereof upon Common Area in accordance with the original design, finish or standard of construction of such Improvement; (2) Construct, reconstruct, replace or refinish any road Improvement, surface or appurtenances thereto upon any portion of common area; (3) Replace destroyed

trees or other vegetation and plant trees, shrubs and ground cover upon any landscaped portion of the Common Area, Front Yard Area or Rear Lot Setback Area; (4) Place and maintain within the Common Area or Front Yard Areas or the Rear Lot Setback Areas such signs as the association deems necessary for the identification of addresses and facilities, regulation of traffic and parking, the regulation and use of common area and for the health, welfare and safety of Owners and guests. Any such signs shall comply with applicable governmental requirements.

4.16.1 Restrictions on Owners' Landscaping. Unless there has been prior written approval of the Architectural Review Committee, no Owner shall: (a) plant any tree on a Lot where the distance between the center of the tree trunk is less than three feet (3') from any fence; (b) alter the grade of the land within their Lot; or (c) alter any Front Yard Area, Rear Lot Setback Area or Common Area. If Owners would like to alter their Lots, they must submit application with plans, photos, and other necessary materials, as required by Article 9 and the Association Rules.

4.17 Activities Affecting Insurance; Compliance with All Laws. Nothing shall be done or kept within the Development which will increase the rate of insurance maintained by the Association without the prior written consent of the Association. No Owner shall permit anything to be done or kept within the Development which would result in cancellation of any insurance policy maintained by the Association or any other Owner. No Owner shall permit anything to be done or kept in their Lot that violates any law, ordinance, statute, rule or regulation of any local, County, state, or federal agency.

4.18 Setback. All dwellings and structures, including, but not limited to, fences, walls, and replacement dwellings, shall be located on any Lot or Lots a distance from any street or streets, Lane or Lanes adjacent to the Lot equal to or greater than the setback line shown on the official recorded plan or Subdivision Map or as required by local zoning codes and ordinances, whichever distance is greater. All dwellings, including garages or other structures physically a part of such dwelling, shall be in accordance with the setbacks approved by the City of Roseville for the Development. Any garage or any structure not physically a part of the dwelling shall be erected behind the front setback line of the Residence and may be located as near to the side or rear boundary of the Lot as is now or hereafter permissible under the provisions of the building code of the City of Roseville. For the purposes of this Section, eaves, steps, and chimneys shall not be considered as a part of a building, provided, however, that this provision shall not be construed to permit any portion of a building to encroach upon another Lot. If the City of Roseville imposes more stringent or conflicting requirements with respect to any of the provisions of this Section 4.18, then the City of Roseville's requirements shall apply.

4.19 Subdivision or Merger of Lots. No Lot may be further subdivided, nor may more than one Lot be combined into a single parcel of land, for any reason.

4.20 No Partition. There shall be no judicial partition of the Development or any part thereof, nor shall any Owner or any person acquiring any interest in the Development or any part thereof seek any judicial partition thereof. Notwithstanding the preceding, if any Lot is owned by two or more co-tenants as tenants in common or as joint tenants, this section shall not be deemed to prevent a judicial partition by sale as between such co-tenants.

4.21 Variances. The Board shall be authorized to grant reasonable variances from the provisions of Article 4 upon written application from any Owner provided that the Board determines, in its sole discretion, that the specific application of the restriction to such Owner will: (a) cause substantial undue hardship to the Owner, or (b) fail to further or accomplish the common plan for the Development as

contemplated by this Declaration. The Board shall have the power to limit any variance granted in scope or duration or otherwise impose such specific requirements as the Board may, in its complete discretion, see fit to require. The Board shall follow the following procedures in acting on any request for a variance:

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

4.21.2 The Board shall conduct a hearing on the variance within forty-five (45) days of the receipt of the written request for a variance. Notice shall be given to all Members not less than fifteen (15) days prior to the date of the hearing. Members may submit comments in writing prior to the hearing and/or appear at the hearing. The Board shall establish a reasonable time limit for Member comments during the hearing. No decision regarding the request for variance shall be made until the conclusion of the hearing.

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

4.21.4 Variances required to accommodate disabilities are exempt from this procedure, and will be addressed by the Board pursuant to information provided by the Resident and the Resident's medical professional.

## **ARTICLE 5 HOMEOWNERS ASSOCIATION**

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

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

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

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

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

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

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

5.8 Association Property. The Board shall have the power to sell, transfer, lease or otherwise dispose of the Association's property, provided that the Board shall not sell, transfer, or otherwise dispose of real property owned by the Association having an aggregate value in excess of twenty percent (20%) of the budgeted gross expenses of the Association for that fiscal year without the approval of at least a Simple Majority.

5.9 Transfer of Common Area to Public Agency or Utility. The Board shall have the power to dedicate or transfer all or any part of the Common Area to a public agency, authority, or utility. No such dedication or transfer shall be effective unless it has been approved by Members holding at least an Absolute Majority.

5.10 Borrow Money. The Board shall have the power to borrow money in the name of the Association.

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

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

5.13 Conveyance of Common Area and Common Open Space Property to the Association. The Board from time to time may accept conveyance of property to be added to the Common Area or the Common Open Space.

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

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

5.16 Johnson Ranch Landscape CC&Rs. The Development is subject to the Landscape CC&Rs.

5.16.1 Assessments. The Landscape CC&Rs provide for assessments for the purpose of maintaining certain landscaped areas in the Johnson Ranch area. In the Development, the areas to be maintained by the Landscape Maintenance Committee established pursuant to the Landscape CC&Rs are Lots B, C, D, E and F, all as shown on the Subdivision Map. Section 8.05 of the Landscape CC&Rs provides that a Homeowners Association shall collect from lot owners and deliver to the JR Community Owners Association assessments due pursuant to the Landscape CC&Rs unless otherwise advised by the JR Community Owners Association. The Association shall collect from each Owner as part of the Regular Assessment an amount that will meet the obligations of all owners under the Landscape CC&Rs.

5.16.2 The Board of the Association shall appoint a representative to exercise the voting rights of all Hampton Village Owners as members of the JR Community Owners Association. The appointed representative shall continue in that capacity until replaced by the Board. The appointed representative shall have the exclusive right to exercise the voting rights of all Hampton Village owners unless a majority of the Members vote at any regular or special meeting to have each Owner individually exercise its voting rights in the JR Community Owners Association. An election by the Members to individually exercise JR Community Owners Association voting rights shall be effective until the next annual Membership meeting. If a majority of the Members do not vote at the next annual Membership meeting to continue the individual exercise of JR Community Owners Association voting rights, then the previously appointed representative shall thereafter exercise the voting rights of all members of the JR Community Owners Association.

## **ARTICLE 6 ASSESSMENTS AND LIENS**

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6.1 Covenant of Owner. Each Owner of a Lot within the Development, by acceptance of a deed or other conveyance thereof, whether or not it shall be so expressed in such deed or conveyance, shall be deemed to have covenanted and agreed to pay to the Association: (a) Annual Assessments; (b) Special Assessments; (c) Reimbursement Assessments; and (d) Enforcement Assessments levied by the



Association as hereinafter provided, together with all Additional Charges. Such deed or conveyance shall be deemed to vest in the Association the right and power to initiate all actions and procedures as the Board shall deem necessary or appropriate for the collection of such Assessments and Additional Charges and for the enforcement of the liens hereinafter provided for.

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

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

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

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

6.5 Annual Assessment.

6.5.1 Calculation of Estimated Required Funds. Not less than thirty (30) days nor more than ninety (90) days prior to the end of each fiscal year, the Board shall complete and distribute to all Owners an estimate of the funds required by the Association for such fiscal year to: (a) manage, administer, operate, and maintain the Development; (b) to conduct the affairs of the Association; and (c) to perform all of the Association's duties in accordance with this Declaration. Such estimate shall include a reasonable amount allocated to

contingencies and to a reserve fund for the restoration, repair, and/or replacement of those components for which the Association is responsible and which must be repaired or replaced on a periodic basis.

6.5.2 Allocation of Annual Assessment. The Board shall allocate and assess the amount of estimated required funds equally among the Lots by dividing the amount by the number of Lots.

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

6.5.4 Increases in Annual Assessment. Pursuant to Civil Code Sections 5605 and 5610, except as otherwise provided by law, the Board shall not increase the Annual Assessment for any fiscal year above the amount of the Annual Assessment for the preceding fiscal year by more than the maximum amount permitted by law, except upon the affirmative vote or written consent of a majority of Members voting on any such increase in the Annual Assessment, provided that a quorum is established. For purposes of the preceding sentence, a quorum shall mean more than fifty percent (50%) of the Members of the Association, notwithstanding any lower quorum requirement which may be set forth in the Bylaws.

## 6.6 Special Assessments.

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

6.6.2 Allocation of Special Assessments. Special Assessments shall be allocated and assessed equally among all Lots in the Development.

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

6.7 Reimbursement Assessments. The Association shall levy a Reimbursement Assessment against any Owner and their Lot if a failure by such Owner, or any person or pet for whom the Owner is responsible, to comply with any provision of the Governing Documents has necessitated or resulted in an

expenditure of funds by the Association to deal with such lack of compliance or to bring such Owner or their Lot into compliance, or to reimburse the Association for damage caused to the Common Area or Improvements thereon by any Owner or their family, guest, or tenant. The Association shall also levy a Reimbursement Assessment in the event that the Association has expended funds performing emergency repairs as authorized by this Declaration or for any other reasons specifically authorized by the provisions of this Declaration. A Reimbursement Assessment shall include any costs, including attorneys' fees, incurred by the Association, including costs of collecting from an Owner any amount which the Owner is obligated to pay to the Association. A Reimbursement Assessment shall be due and payable to the Association when levied.

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

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

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

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

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

Assessments upon its own decision. The remedies provided in this Declaration for collection of delinquent Assessments shall be cumulative and not exclusive.

6.13 Power of Sale. Each Owner does hereby appoint the Association as trustee to enforce and foreclose any lien which is established pursuant to the terms of this Declaration, by private power of sale, as provided in Division III, Part 4, Title 14, Chapter 2, Article 1, of the Civil Code, and does further grant to the Board, on behalf of the Association, the authority and power to sell the Lot of such Owner in the event of any default in payment of any Assessments or Additional Charges levied against such Lot, for lawful money of the United States, to the highest bidder, to satisfy such lien, except as prohibited by law. The Association or any Owner may purchase the Lot at the sale.

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

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

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

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

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

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

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

6.18.3 All Common Areas.

6.19 Owner Assignment of Rents. Each Owner hereby presently assigns to the Association, absolutely and regardless of possession of the Lot, all rents and other monies now due or which may

hereafter become due under any lease, agreement or otherwise for the use or occupation of any or all parts of any Lot owned by the Owner, now existing or hereafter made, for the purpose of collecting all Assessments due to the Association pursuant to this Declaration which are in default. The Association hereby confers on each Owner the authority to collect and retain the rents and other monies derived from any such lease or agreement as they become due and payable, provided that the Association at its sole discretion, may revoke such authority at any time, upon written notice to the Owner of a default in the payment of any Assessment due hereunder. Upon revocation of such authority the Association may, pursuant to court order or by court-appointed receiver, collect and retain such monies, whether past due and unpaid or current.

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

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7.1     Destruction of Improvements. In the event any Improvement is damaged or destroyed in whole or part, by any casualty, the Owner of the portion of the Development on which the same is located shall immediately undertake to restore the same in conformity with the previously approved plans initially permitting such Improvement or shall submit new plans for approval as provided in Article 9 hereof, and except as otherwise provided herein as to time periods for commencing and completing the restoring construction, in conformity with the requirements of Article 9. If the restoration or construction of such Improvement is not commenced within six (6) months after the date of such damage or destruction, or is not completed by no later than two (2) years after such damage or destruction (subject to unavoidable delays in construction), such Owner shall raze the same, and leave the Lot in a safe and sightly condition. Thereafter, any subsequently proposed construction, placement, or maintenance of any new Improvement on such portion of the Lot, the plans and specifications pertaining thereto, and the projected operations and uses in connection therewith, shall also be subject to and required to be in conformity with each and every provision (by reference or otherwise) of this Declaration as such provisions exist at the time such construction, placement or maintenance is subsequently proposed.

7.1.1   Replacement Construction and Construction on Vacant Lots. In the event that any Owner plans construction of a Residence on a Lot after destruction of an existing Residence or for any other reason ("replacement Residence"), such owner shall comply with the provisions of Article 9. The replacement Residence shall be of like quality, materials and workmanship as the Residences originally constructed by Declarant. Any one (1)-story replacement Residence shall contain at least 1,300 square feet of living area exclusive of garages or open porches. Any two (2)-story replacement Residence shall contain at least 1,700 square feet of living area exclusive of garages or open porches.

7.1.2   Communication. Owners shall keep the Association reasonably informed of their plans and progress for the clearing and reconstruction of their Lots and Residences.

7.2     Condemnation Affecting Common Area. If part or all of the Development is taken by any authority having the power of eminent domain, the Association shall represent the Owners in any condemnation proceedings or in any negotiations, settlements and agreements with the condemning authority for acquisition of the Common Areas, or part thereof, or in litigation of the issues with respect to the compensation to be paid. Each Owner hereby designates the Association as his attorney-in-fact for such purposes. All compensation and damages, exclusive of that paid for individual Lots, shall be payable to the Association as trustee for all owners and mortgagees as their interests may appear. Upon receipt of the award the Association shall determine, upon the voter, written consent of seventy-five percent (75%) of the Members, whether the award is sufficient to Repair and restore the property and whether it is practicable to

do so. If the Association determines to rebuild, the Board shall levy a Special Assessment to cover any reconstruction costs not compensated by the award. If the Association determines not to rebuild, the Board shall prepare a new subdivision map for the remaining property and shall distribute the award to the Owners and Mortgagees as their interests appear.

7.3 Insurance and Costs of Repair and Replacement In the event of damage to or destruction of the Development by causes insured against by the Association, the Association shall Repair or Replace the same from the insurance proceeds payable to it or to the trustee designated by the Board of Directors. If damage or destruction occurs to the Common Area and the insurance proceeds are insufficient to cover the costs of Repair or Replacement thereof, the Association may make a Special Assessment upon all Owners (as provided in Section 6.6) to cover the additional costs of Repair or Replacement not covered by insurance proceeds. If the Association carries insurance on the individual residential Improvements and if damage or destruction occurs to Improvements on individual Lots, but the insurance proceeds are insufficient to cover costs of Repair or Replacement, the Association may make a Reimbursement Assessment (as provided in Section 6.7) to cover the additional cost of Repair or Replacement not covered by the insurance proceeds. Such Reimbursement Assessment, for purposes of this section only, shall be levied by the Board of Directors against an individual Owner in the amount by which the cost of Repair or Replacement on their Lot exceeds that Owner's share of the total insurance proceeds payable by reason of the damage or destruction having occurred.

7.4 Condemnation Affecting Lots. If the taking involves individual Lots, the Owner directly affected shall represent and negotiate for themselves with respect to the damages and compensation for such taking. Within ninety (90) days of the taking, the Association shall determine, upon the vote or written assent of seventy-five percent (75%) of the Members, whether or not the taking so affects the affected Lots and Improvements thereon that they cannot be restored or replaced. Upon making the determination, the following provisions shall apply:

7.4.1 If the Association determines that the Lots and Improvements thereon can be restored, the award shall be distributed to the Board of Directors as trustee and the Board shall restore the Lots and Improvements, and distribute any excess award as provided in Section 7.2 above, that is, to the Lot Owners and their Mortgagees, as their interests appear. In the event that the award is not sufficient to cover the cost of rebuilding or restoration, the Association shall levy a Reimbursement Assessment (as provided in Section 6.7) to cover the additional cost of rebuilding or restoration not covered by the award. Such Reimbursement Assessment, for the purposes of this section only, shall be levied by the Board of Directors against an individual Lot Owner in the amount by which the cost of rebuilding or restoration on their Lot exceeds that Owner's share of the total award.

7.4.2 If the Association determines that the Lots and Improvements thereon cannot be restored, the Board shall, within thirty (30) days of the award, determine the allocation of the award between the Common Area and the affected Lots and shall distribute the compensation to the Owners and the Mortgagees, as their interests appear.

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## **ARTICLE 8 MAINTENANCE OF PROPERTY**

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8.1 Association Responsibilities. Subject to Section 5.16, the Association shall be responsible for Maintaining, Repair, and Replacing the following in good condition and repair:

8.1.1 Common Area Facilities. The Association shall Maintain or provide for the Maintenance, Repair, and Replacement of all Common Area Improvements, including, but not limited to private roads, parking areas and landscaping.

8.1.2 Landscaping. The Association shall provide gardening services to Maintain and Replace as necessary all the landscaping within the Common Area, the Front Yard Areas and Rear Lot Setback Areas of individual Lots.

8.1.3 Sprinkling Systems. The sprinkling systems, including, but not limited to, timer clocks, originally installed in the Common Area, the Front Yard Areas and Rear Lot Setback Areas of individual Lots in connection with the landscaping Improvements shall be operated and maintained solely by the Association.

8.2 Owner Responsibilities. Except for the landscaping to be performed by the Association as specified above, each Owner shall be responsible for Maintenance, Replacement, and Repair of their individual Residence, including specifically:

8.2.1 Utility Connections. Utility lines and connections, including sewer, electrical, plumbing and gas lines, which are located within a Lot and provide service to the Residence located upon that Lot, shall be Maintained, Repaired, and Replaced by the Owner of the Lot in question and/or the utility company involved, rather than by the Association.

8.2.2 Private Yard Area. Each Owner shall plant, landscape, clean, Maintain, Repair, and Replace the Private Yard Areas of their Lot.

Fences shall be six-inch (6”) wide pickets and shall be painted every two (2) years and repaired and replaced as needed. Fences shall be maintained in good repair with no broken boards.

8.2.3 Sprinkling Systems. Each Lot shall be equipped with a sprinkling system with separate controls for the Front Yard Area and Rear Lot Setback Area. As provided in Section 8.1.3, the Association shall operate and Maintain, Repair, and Replace the sprinkling system installed to serve the Front Yard Area and Rear Lot Setback Area of individual Lots. Each Owner shall operate and Maintain, Repair, and Replace any sprinkling system which such Owner installs to serve the Private Yard Areas of their Lot. No Owner may connect to any part, including, but not limited to, the timing controls, of the Front Yard Area and Rear Lot Setback Area sprinkling system for any purpose. If water to the sprinkling systems is metered, each Owner shall be responsible for the costs of water used in the sprinkling systems for all of the Front Yard Areas, Rear Lot Setback Areas and the Private Yard Areas of their Lot.

8.2.4 Structures. Each Owner shall Maintain, Repair, and Replace all structures and shall be entirely responsible for the painting, decorating, cleaning and maintenance thereof, including all personal property and fixtures therein.

8.2.5 Sidewalk and Drains. Each Owner shall maintain, repair, and replace sidewalks on or abutting their Lots, as well as drainage. This includes walkways up to the front door of the Residence.

8.3 Party Walls. Each Owner shall maintain, repair, and replace all Party Walls in accordance with the following provisions:

8.3.1 General Rules of Law to Apply. Each fence or wall, which is placed on the dividing line between the Lots to provide a common fence or wall between two (2) or more separate Lots, shall constitute a Party Wall. The general rules of law, including Civil Code Section 841, regarding Party Walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

8.3.2 Sharing of Repair and Maintenance Cost. The cost of maintenance and repair of a Party Wall shall be shared by the Owners who make use of the Party Wall in equal proportion to such use. For purposes of this section, sharing a common property line along a Party Wall constitutes use. The Owners with such shared responsibility shall mutually agree upon which party will actually carry out the work, and the other party will contribute their share of the cost. In the event a party refuses to cooperate, notice shall be given pursuant to Civil Code Section 841, and the noticing party may then carry out the work and seek reimbursement. With respect to Party Walls abutting the Common Area, the responsibility and cost of maintenance, repair and replacement of a fence or wall placed within a Lot or on the Lot line abutting Common Area shall be the sole obligation of the Lot's Owner.

8.3.3 Destruction by Fire or Other Casualty. If a Party Wall is damaged or destroyed by fire or other casualty, any Owner who makes use of the wall may restore it, and if other Owners use the Party Wall, they shall contribute to the cost of restoration thereof in proportion to such use, without prejudice, to the rights of any such Owners and to call for a larger contribution from the others under any law regarding liability for negligence or willful acts or omissions.

8.3.4 Weatherproofing. Notwithstanding any other provision of this Section, any Owner who by their negligent or willful act causes a Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

8.3.5 Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Section shall be appurtenant to and run with the land and shall pass to such Owner's successors in title.

8.4 Compliance with Design Provisions. An Owner's right and responsibility for maintaining, repairing, or replacing any portions of their Lot, including landscaping, shall be subject to any applicable provisions of the Governing Documents relating to landscaping and architectural control, including Article 9.

8.5 Owner Failure to Maintain. The Board has the absolute discretion to determine whether any maintenance, repair, or replacement that is the responsibility of an Owner is necessary to preserve the appearance and value of the property comprising the Development, or any portion thereof, and may notify an Owner of the work the Board deems necessary. Subject to the authority of the Board to authorize immediate emergency repairs as specified in Section 8.7, in the event an Owner fails to perform such work within thirty (30) days after notification by the Board, the Board may, after written notice to the Owner and the right of a hearing before the Board, cause such work to be done and charge the cost thereof to the Owner as a Reimbursement Assessment.



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

8.7 Authority for Entry of Lot. The Association or its agents may enter any Lot, when such entry is necessary, in the Board's sole discretion in connection with the performance of any maintenance, repair, construction, or replacement for which the Association is responsible and which it is authorized to perform, including, without limitation, the authorization provided in Section 8.2. Although under no obligation to do so, the Board, in its sole discretion, may enter or may authorize the Association's agents to enter any Lot to effect emergency repairs where such repairs are necessary for safety reasons or to prevent or discontinue damage to the entered Lot, any other Lot, or the Common Area. The cost of performing any such emergency repairs shall be charged to the Owner as a Reimbursement Assessment. In the case of repairs that the Owner has failed to perform, except in the case of an emergency, twenty-four (24) hour advance notice shall be given to the Owner or occupant.

8.8 Association Liability. Except as specifically provided in Section 8.1, the Association shall not be responsible or liable for any maintenance, repair, or replacement of a Lot or any Improvement thereon, except to the extent that the need for such maintenance, repair, or replacement results from the negligence or fault of the Association, its employees, contractors, or agents.

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

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

## **ARTICLE 9    ARCHITECTURAL CONTROL**

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9.1 Submission of Plans and Specifications. Except for Improvements made or constructed by or on behalf of the Association, no Improvement, including building, fence, awning, exterior window covering, sign, house numbers or other exterior addition to or change or alteration of the Improvements, visible from the Common Area, shall be made by or on behalf of any person other than the Association, and none of the things requiring prior consent, as provided in Article 4, may be commenced, located, erected, painted, or maintained within the Development, nor may any exterior addition to, change to, or alteration therein or alteration to the finished grade elevation, be made until the plans and specifications showing the nature, kind, shape, color, height, size, materials, and location of the same shall have been submitted to and approved in writing by the Architectural Review Committee as to: (a) quality of workmanship and design; (b) harmony of external design in relation to the nature and character of the Development and the Improvements thereon; (c) location in relation to surrounding structures, topography, and finished grade elevation; and (d) compliance with the provisions of the Declaration and the Design Criteria.

9.2 Establishment of Architectural Review Committee.

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

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

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

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

9.4 Meetings. The Architectural Review Committee may meet as necessary to properly perform its duties hereunder, but is not required to hold meetings in order to perform its duties. Every act done or decision made by a majority of the members of the Architectural Review Committee shall be the act or decision of the Architectural Review Committee. The Architectural Review Committee shall keep and maintain a record of all actions taken by it at any meetings or otherwise. The Architectural Review Committee and its members shall be entitled to reimbursement for reasonable out-of-pocket expenses incurred by them in the performance of any Architectural Review Committee function.

9.5 Architectural Rules. The Architectural Review Committee may, from time to time, and subject to the Board of Director's approval, adopt, amend, and repeal rules and regulations to be known as Architectural Rules. The Architectural Rules shall interpret and implement the provisions of this Article by setting forth the standards and procedures for Architectural Review Committee review and guidelines for architectural design, placement of Residences and other structures, color schemes, exterior finishes and materials, and similar features which are recommended for use in the Development; provided, that the Architectural Rules shall not be in derogation of the minimum standards required by this Declaration. The Architectural Rules may also impose limits on the days and hours of construction and impose any other restrictions and regulations which the Board of Directors deems appropriate to limit the impact of construction activities on Residents. In its discretion, and subject to Board of Directors review and Section 9.18, the Architectural Review Committee may grant variances from specific Architectural Rules subject to such terms and conditions as it deems appropriate.

9.6 Application. Any Owner proposing to perform any work of any kind whatsoever, which requires prior approval pursuant to this Article, shall apply for approval by notifying the Association in writing of the nature of the proposed work and furnishing such information and documentation as the Architectural Review Committee or Board of Directors may require or request, including, without limitation, samples of proposed paints and other finish materials in such sizes and formats as the

Architectural Review Committee or the Board of Directors may deem appropriate. In addition to any other remedies the Association may have, the Board of Directors may impose a fine against any Owner who fails to obtain the approval required by this Article prior to proceeding with any Improvement, or any alteration to an existing Improvement, for which approval is required pursuant to this Article.

9.7 Expert Review. If at any time the Architectural Review Committee determines that it would be in the best interest of the Association for an Owner-applicant to employ an architect, licensed building designer, or engineer to design or review the structural integrity of any proposed Improvement or component thereof, the Architectural Review Committee shall so advise the Owner in writing of its determination, whereupon all plans and specifications so designated by the Architectural Review Committee must thereafter bear appropriate evidence of such preparation or review. The Architectural Review Committee may engage experts and consultants to aid in their review of applications and projects. Such experts and consultants may assist the Architectural Review Committee at the application stage, during construction, or after construction when inspecting the work. If the Architectural Review Committee engages an expert or consultant, it may charge the costs to the Owner as a fee for the application so long as the Owner is informed at the time of the application before charges are incurred and imposed. An application will not be approved until the fee is paid.

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

9.8.1 The Owner has complied with Sections 9.1, 9.6, and 9.7;

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

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

9.9 Form of Approval. All approvals and denials of requests for approval shall be in writing, except as provided in Section 9.10. The Architectural Review Committee may approve a request for approval subject to the Owner's consent to any modifications made by the Architectural Review Committee. If the Owner does not consent to the modifications, the request for approval shall be deemed denied in its entirety. Any denial of a request for approval shall include: (a) an explanation of why the request for approval was denied, and (b) a description of the procedure for Board of Directors review of the denial as set forth in this Article and any applicable Architectural Rules.

9.10 Time for Architectural Review Committee Action. The Architectural Review Committee shall act on a request for approval within fifteen (15) days from the date of receipt thereof by the Architectural Review Committee. Any request for approval which has not been acted on by the Architectural Review Committee within the preceding timeframe shall be deemed approved. The Owner

requesting approval shall have the burden of establishing the date of receipt of the request for approval by the Architectural Review Committee by evidence in the form of either a copy of such request for approval date-stamped by the Association or by certified mail provided by the U.S. Postal Service acknowledging that such request for approval was delivered to the Association.

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

9.12 Commencement. Upon receipt of approval by the Architectural Review Committee, the Owner shall, as soon as practicable, satisfy all conditions thereof in their approved architectural application. They shall diligently proceed with the commencement of all installation, construction, reconstruction, refinishing, alterations, and excavations pursuant to such approval, with commencement to occur, in all cases, within ninety (90) days from the effective date of such approval or upon such later date as the Architectural Review Committee may, in its discretion, designate. Once commenced, the Owner shall actively and diligently continue with such work with demonstrable progress and not allow for long periods of no work being performed. If the Owner fails to comply with this paragraph, any approval previously given shall be deemed revoked unless the Board of Directors, upon written request of the Owner made prior to the expiration of the time for commencement, extends the time for such commencement. No such extension shall be granted except upon a finding by the Architectural Review Committee that there has been no change in the circumstances upon which the original approval was granted.

9.13 Completion. The Owner shall, in any event, complete the installation, construction, reconstruction, refinishing, or alteration of any Improvement, within one-hundred and eighty (180) days after approval by the Architectural Review Committee thereof (or in the case of projects under construction when this Declaration is Recorded, within one-hundred and eighty (180) days after the date of Recordation), except and for as long as such completion is rendered impossible or would result in great hardship to the Owner due to strikes, fires, national emergencies, natural calamities, or other supervening forces beyond the control of the Owner or their agents. The Board of Directors may extend this deadline by an additional six (6) months upon request. If an Owner fails to comply with this section, the Board of Directors shall proceed in accordance with the provisions of Article 10 of this Declaration as though the failure to complete the Improvements was noncompliance with approved plans.

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

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

9.14.2 Within sixty (60) days after the receipt of such written notice, the Architectural Review Committee, or its duly authorized representative, may inspect such Improvement to determine whether it was installed, constructed, reconstructed, altered, or refinished to

substantial compliance with the approved plans. If the Architectural Review Committee finds that such installation, construction, reconstruction, alteration, or refinishing was not done in substantial compliance with the approved plans, it shall notify the Owner in writing of such noncompliance within such sixty (60) day period, specifying particulars of noncompliance and shall require the Owner to remedy such noncompliance.

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

9.14.4 At the hearing, the Owner, the Architectural Review Committee, and, in the Board of Director's discretion, any other interested person may present information relevant to the question of the alleged noncompliance. After considering all such information, the Board of Directors shall determine whether there is a noncompliance, and, if so, the nature thereof. If a noncompliance exists, the Board of Directors shall require the Owner to remedy or remove the same within a period determined in the discretion of the Board of Directors. If the Owner does not comply with the Board of Director's ruling within such period or within any extension of such period as the Board of Directors, in its discretion, may grant, the Board of Directors may: (a) remove the noncomplying Improvement or remedy the noncompliance and all expenses incurred in connection therewith shall be assessed against the Owner as a Reimbursement Assessment, and/or (b) exercise any of the enforcement rights specified in Section 10.5.

9.14.5 If, for any reason, the Architectural Review Committee fails to notify the Owner of any noncompliance within forty-five (45) days after receipt of a notice of completion from the Owner, the Improvement shall be deemed to be in accordance with the approved plans. The Owner shall have the burden of establishing the date of receipt of the notice of completion by the Architectural Review Committee by evidence in the form of either a copy of such notice date-stamped by the Association's office or by a certified mail provided by the U.S. Postal Service acknowledging that such notice was delivered to the Association.

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

9.16 Liability. Neither the Board of Directors, the Architectural Review Committee, nor any member or representative thereof shall be liable to the Association or to any Owner for any damage, loss, or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings, and specifications, whether or not defective; (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings, and specifications; or (c) the development of any property within the Development; provided, however, that the Architectural Review Committee, the Board of Directors or any member or representative thereof has acted in good faith on the basis of such information as may be possessed by it or them. Without limiting the generality of the foregoing, the Architectural Review

Committee, the Board of Directors, or any member or representative thereof, may, but is not required to, consult with or hear the views of the Association or any Owner with respect to any plans, drawings, specifications, or any other proposal submitted to the Architectural Review Committee. Every purchaser by acquiring title to a Lot or portion thereof agrees not to bring any action or suit against the Board of Directors, the Architectural Review Committee, or their members or representatives seeking to recover any such damages.

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

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

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

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

## **ARTICLE 10 ENFORCEMENT**

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

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

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

10.4 No Avoidance. No Owner may avoid the burdens or obligations imposed by the Governing Documents through non-use of any Common Area facilities, if any, or by abandonment of their Lot.

10.5 Rights and Remedies of the Association.

10.5.1 Enforcement Rights. The Association, its Directors, officers, or agents, and any Owner shall have the right to enforce any and all provisions of the Governing Documents by any proceeding at law or in equity, or through the use of such other remedies as are available and deemed appropriate by the Board. Each remedy provided is cumulative and not exclusive. The Board shall not be obligated to take action to enforce a provision of the Governing Documents if, in the exercise of its discretion, the Board determines that acting to enforce the provision is not likely to foster or protect the interests of the Association and its Members as a whole.

10.5.2 Imposition of Sanctions. In the event of a breach or infraction of any provision of the Governing Documents by an Owner, members of an Owner's household, or their tenants, Contract Purchasers, contractors, guests, or invitees, the Board shall have the power to impose sanctions against the Owner. Such sanctions may include, without limitation, the imposition of fines and/or the suspension of an Owner's right to use the recreational or community facilities, if any, in the Common Area. Except as provided in Section 10.7, imposition of sanctions shall be effective only after notice and an opportunity for hearing as provided in Section 8.1.4 of the Bylaws. The payment of any such fine may be enforced as an Enforcement Assessment as provided in Section 6.8, as well as in any manner permitted by law. Further, each Owner shall be obligated to pay Reimbursement Assessments levied by the Board for reimbursement of any costs incurred by the Association relating to violations of any provision of the Governing Documents by the members of such Owner's household and such Owner's tenants, Contract Purchasers, guests, pets, or other invitees.

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

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

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

10.7 Emergency Situations. The following shall constitute emergency situations: (a) an immediate and unreasonable threat to the safety of Residents of the Development; (b) a traffic or fire hazard; or (c) a threat of material damage to or destruction of the Development or any portion thereof. Notwithstanding any other provisions of the Governing Documents, under circumstances involving conduct that constitutes an emergency situation, the Association may undertake immediate corrective or disciplinary action. Hearings with respect to such corrective or disciplinary action shall be in accordance with Section 8.1.4 of the Bylaws.

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

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

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

10.11 Costs and Attorneys' Fees. In the event the Association shall take any action to enforce any of the provisions of the Governing Documents or shall determine that any Member or members of their household or their tenants, Contract Purchasers, guests, invitees, or household pets have violated any provision of the Governing Documents, and whether or not legal or judicial proceedings are initiated, the prevailing party shall be entitled to recover the full amount of all costs incurred, including attorneys' fees, in responding to such a violation and/or in enforcing any Governing Document provision. The remedies of the Association to recover the amount of such costs and attorneys' fees shall include, without limitation, the imposition of a Reimbursement Assessment as provided in Section 6.7.

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



that the injury or damage occurred by reason of the negligence of any other Owner or person temporarily visiting in such Lot or is fully covered by insurance.

10.13 City of Roseville's Enforcement Rights. The Development is subject to the Development Agreement and the Landscape CC&Rs as defined in Article 1. As required by Sections 3.B.5 and 4.B.4 of the Development Agreement and Section 10.01 of the Landscape CC&Rs, the City of Roseville shall have standing to bring an action in its own right, in the name of Declarant or in the name of any successor or assign of Declarant, including, but not limited to, the Association, to enjoin any violation or enforce the landscaping requirements of the Development Agreement and Landscape CC&Rs. In any such action brought by the City, the City, if it prevails, shall be entitled to liquidated damages in the amount of and in addition to the expense of enforcement plus reasonable attorneys' fees.

## **ARTICLE 11 PROTECTION OF MORTGAGEES**

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11.1 Mortgagee Permitted. Any Owner may encumber their Lot with a Mortgage.

11.2 Priority of Mortgages. Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to the rights of any first Mortgage that encumbers all or a portion of the Development, or any Lot, made in good faith and for value, and no such lien shall in any way defeat, invalidate or impair the obligation or priority of such Mortgage unless the Mortgagee expressly subordinates its interest, in writing, to such lien. No breach of the covenants, conditions or restrictions herein contained, nor the enforcement of any lien provisions herein shall affect, impair, defeat or render invalid the lien or charge of any first Mortgage made in good faith and for value encumbering any Lot. All covenants, conditions and restrictions of this Declaration shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise, with respect to a Lot.

11.3 Curing Defaults. A Mortgagee who acquires title by judicial foreclosure, deed in lieu of foreclosure or trustee's sale shall not be obligated to cure any breach of the provisions of this Declaration which is noncurable or of a type which is not practical or feasible to cure. The determination of the Board, made in good faith as to whether a breach is noncurable or not feasible to cure, shall be final and binding on all Mortgagees.

11.4 Resale. It is intended that any loan to facilitate the resale of any Lot after judicial foreclosure, deed in lieu of foreclosure or trustee's sale is a loan made in good faith and for value and is entitled to all of the rights and protections afforded to other Mortgagees.

11.5 Relationship with Assessment Liens.

11.5.1 The liens created under Article 6 hereof shall be subordinate to the lien of any first Mortgage which was recorded prior to the date any such Assessment becomes due.

11.5.2 If any Lot subject to a monetary lien created by any provision hereof shall be subject to the lien of a first Mortgage: (1) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair the lien of such Mortgage; and (2) the foreclosure of the lien of said Mortgage or sale under a power of sale included in such Mortgage (such events being hereinafter referred to as "events of foreclosure") shall not operate to affect or impair the lien hereof, except that any persons who obtain an interest through any of the events of foreclosure shall take title free of the lien hereof for all such

charges as shall have accrued up to the time of any of the events of foreclosure, but subject to the lien hereof for all of said charges that shall accrue subsequent to the events of foreclosure.

11.5.3 Any Mortgagee who obtains title to a Lot by reason of any of the events of foreclosure, or any purchaser at a private or judicial foreclosure sale, shall take title to such Lot free of any lien or claim for unpaid Assessments against such Lot which accrue prior to the time such Mortgagee or purchaser comes into possession of the Lot, except for liens or claims for a share of assessments resulting from a reallocation of such Assessments.

11.5.4 Nothing in this Section shall be construed to release any owner from their obligation to pay for any Assessment levied pursuant to this Declaration.

11.6 Special Provisions for Eligible Mortgage Holders. As used in this section, an "eligible" Mortgage holder, insurer or guarantor is one who has requested notice of certain actions in accordance with Section 11.8 hereinbelow. The following provisions are imposed for the benefit of eligible Mortgage holders:

11.6.1 Any restoration or repair of the Development, after a partial condemnation or damage due to an insurable hazard, shall be performed substantially in accordance with the Declaration and the original plans and specifications, unless other action is approved by eligible holders holding Mortgages on Lots which have at least fifty-one percent (51%) of the votes of Lots subject to eligible holder Mortgages.

11.6.2 Any election to terminate the legal status of the Development after substantial destruction or substantial taking in condemnation of the Development property must require the approval of eligible holders holding Mortgages on Lots which have at least fifty-one percent (51%) of the votes of lots subject to eligible holder Mortgages.

11.6.3 No reallocation of interests in the Common Areas resulting from a partial condemnation or partial destruction of the Development may be effected without the prior approval of eligible holders holding Mortgages on all remaining Lots whether existing in whole or in part, and which have at least fifty-one percent (51%) of the votes of such remaining Lots subject to eligible holder Mortgages.

11.6.4 When professional management has been previously required by any eligible Mortgage holder or eligible insurer or guarantor, whether such entity became an eligible Mortgage holder or eligible insurer or guarantor at that time or later, any decision to establish self-management by the Association shall require the prior consent of Owners of Lots to which at least sixty-seven percent (67%) of the votes in the association are allocated and the approval of eligible holders holding Mortgages on Lots which have at least fifty-one percent (51%) of the votes of Lots subject to eligible holder Mortgages.

11.6.5 Except as otherwise provided in Sections 11.6.1-11.6.4:

11.6.5.1 The consent of Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of eligible holders holding Mortgages on Lots which have at least sixty-seven percent (67%) of the

votes of Lots subject to eligible holder mortgages shall be required to terminate the legal status of the project as a planned development project.

11.6.5.2 The consent of the Owners of Lots to which at least sixty-seven percent (67%) of the votes in the Association are allocated and the approval of eligible holders holding Mortgages on Lots which have at least fifty-one percent (51%) of the votes of Lots subject to eligible holder Mortgages shall be required to add or amend any material provisions of this Declaration, the Articles, or the Bylaws, which establish, provide for, govern or regulate any of the following:

- a. Voting;
- b. Assessments, assessment liens or subordination of such liens;
- c. Reserves for maintenance, repair and replacement of the Common Areas (or Lots if applicable);
- d. Insurance or fidelity bonds;
- e. Rights to use of the Common Areas;
- f. Responsibility for Maintenance and Repair of the several portions of the Development;
- g. Expansion or contraction of the Development or the addition, annexation or withdrawal of property to or from the Development;
- h. Boundaries of any lot;
- i. The interests in the general or limited Common Areas;
- j. Convertibility of Lots into Common Areas or of Common Areas into Lots;
- k. Leasing of Lots;
- l. Imposition of any right of first refusal or similar restriction on the right of a Lot Owner to sell, transfer or otherwise convey their Lot;
- m. Any provisions which are for the express benefit of Mortgage holders, eligible Mortgage holders or eligible insurers or guarantors of first Mortgages on Lots.

11.7 Changes Requiring Additional First Mortgagee Approval. Except upon the prior written approval of at least two-thirds (2/3) of all first Mortgagees (based on one (1) vote for each first Mortgage owned), neither the Association nor the Members shall be entitled to do any of the following:

11.7.1 By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area either directly or indirectly; provided, however, the granting of easements for public utilities or for other public purposes consistent with the intended use of such common property by the Development shall not be deemed a transfer within the meaning of this clause.

11.7.2 Change the method of determining the obligations, Assessments, dues or other charges which may be levied against an Owner.

11.7.3 Fail to maintain fire and extended coverage insurance on insurable Association property including the Common Area, on a full current replacement cost basis in an amount not less than one hundred percent (100%) of the insurable value, or use casualty insurance proceeds for losses to any part of the Development for other than the Repair, Replacement,

and reconstruction of such improvements except as provided by statute in case of substantial destruction.

11.7.4 By act or omission, change, waive or abandon the provisions hereof, or enforcement thereof, pertaining to architectural design, exterior appearance, exterior Maintenance of Lots or the Maintenance of the Common Area, including the Maintenance of the Common Area party walks or common fences and driveways, or the upkeep of lawns and plantings.

11.7.5 Change the provisions of Section 5.16 with respect to the obligations of the Association under the Landscape CC&Rs.

11.7.6 Effectuate a decision to terminate professional management and assume self-management of the Development. The Mortgagee approval requirements of this section are in addition to those of Section 11.6.

11.8 Notice to First Mortgagees Upon Request. Upon written request to the Association, identifying the name and address of the holder, insurer or guarantor and the Lot number or address, the holder of any first Mortgage or the insurer or guarantor of a first Mortgage will be entitled to timely written notice of:

11.8.1 Any condemnation loss or any casualty loss which affects a material portion of the Development or any Lot on which there is a first Mortgage held, insured or guaranteed by such Mortgage holder, insurer or guarantor;

11.8.2 Any delinquency in the payment of Assessments or charges owed by an Owner of a Lot subject to a first Mortgage held, insured or guaranteed by such holder, insurer or guarantor, which remains uncured for a period of sixty (60) days;

11.8.3 Any lapse, cancellation or material modification of any insurance policy or fidelity bond maintained by the association;

11.8.4 Any proposed action which would require the consent of a specified percentage of Mortgagees as specified in Section 11.6 or 11.7.

11.9 Rights to Inspect, Receive Statements, Attend Meetings.

11.9.1 All Lot Owners and lenders, and all holders, insurers or guarantors of any first Mortgage shall be entitled to inspect current copies of the Declaration, Bylaws, the Association Rules and any other rules concerning the Development and the books, records and financial statements of the Association. Such inspection shall be upon request, during normal business hours or under other reasonable circumstances.

11.9.2 All holders, insurers or guarantors of a first Mortgage shall be entitled, upon written request, to have an audited financial statement for the immediately preceding fiscal year of the Association, free of charge to the party so requesting. Such financial statement shall be furnished within a reasonable time following such request.

11.9.3 Any first Mortgagee shall, upon written request to the Association, be entitled to receive written notice of all annual and special meetings of the Members of the Board, and first Mortgagees shall further be entitled to designate a representative to attend all such meetings in order to, among other things, draw attention to violations of this Declaration which have not been corrected or made the subject of remedial action by the Association; provided, however, nothing contained in this section shall give a first Mortgagee the right to call a meeting of the Board or of the Members for any purpose or to vote at any such meeting.

11.10 Right of First Refusal. The right of an Owner to sell, transfer or otherwise convey his Lot is not subject to any "right of first refusal" or any similar restriction in favor of the Association. In the event this Declaration is amended to provide for any right of first refusal in the Association, a Mortgagee who comes into possession of a Lot pursuant to a judicial foreclosure, a deed in lieu of foreclosure or a trustee's sale shall be exempt therefrom.

11.11 Mortgagees' Right to Cure Defaults. First Mortgagees of Lots may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against all or a portion of any Common Area of the Development and may pay overdue premiums on hazard insurance policies, for such common property, and first Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

11.12 Conflicts. In the event of any conflict between any of the provisions of this Article and any of the other provisions of this Declaration, the provisions of this Article shall control.

11.13 Distribution Rights. No provision of this Declaration, or the Articles or the Bylaws of the Association, or any Rules and regulations established thereunder, shall be deemed to give an Owner, or any other party, priority over any rights of first Mortgagees of a Lot pursuant to their Mortgages in the case of a distribution to Owners of insurance proceeds of condemnation awards for losses to or a taking of Lots.

## **ARTICLE 12 AMENDMENT**

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12.1 Amendments by Members. This Declaration may be amended by the affirmative vote or written consent of an Absolute Majority. Any amendment of the Declaration shall be signed and acknowledged by the duly authorized officers of the Association and shall be Recorded.

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

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

12.3 Restatement of the Declaration. The Board may, by the affirmative vote of a majority of the Directors present at a meeting at which a quorum has been established, restate the Declaration when it has been properly amended pursuant to this Article. Any such restatement shall supersede any prior declarations and amendments in their entirety, but shall not affect the priority of any previous declarations or amendments in the chain of title to all Lots within the Development as established by the initial date of recordation of the Original Declaration for the Development. Such restatement may also:

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

12.3.2 Delete material that is no longer legally effective.

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

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

## **ARTICLE 13 GENERAL PROVISIONS**

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

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

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

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

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

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

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**IN WITNESS WHEREOF**, Members of the Hampton Village Owners Association consisting of at least a majority of the Members of the Association hereby affirm, approve, and adopt this *Third Amended and Restated Declaration of Covenants, Conditions and Restrictions for Hampton Village* pursuant to the requirements of Section 12.05 of the Second Restated Declaration.

DATED: \_\_\_\_\_, 2025

**HAMPTON VILLAGE OWNERS ASSOCIATION,**  
a California nonprofit mutual benefit corporation

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\_\_\_\_\_, President

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\_\_\_\_\_, Secretary