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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS**

**FOR**

**22 STATION AT THE VILLAGE OF SQUAW VALLEY USA**

(Revised pursuant to board approval in order to update Davis-Stirling Act references.)

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**22 STATION AT THE VILLAGE OF SQUAW VALLEY USA**

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**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR  
22 STATION AT THE VILLAGE AT SQUAW VALLEY USA**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR 22 STATION AT THE VILLAGE AT SQUAW VALLEY USA (as amended from time to time, "Declaration") is made as of March 15, 2002, by 22 Station Development Corporation, a California corporation (together with its successors and assigns, "Declarant").

**RECITALS**

A. Declarant owns the real property located in the County of Placer, State of California, defined below as the Phase One Property and the Phase Two Property. The Phase One Property includes the benefit of certain appurtenant easements and penults more particularly described on Exhibit D attached hereto and made a part hereof (collectively, the "Off-Site Easements and Agreements").

B. Declarant previously executed and recorded in the Placer County Records (as that term is defined below) certain easement agreements (the "Neighbourhood Company Common Area Easement Agreements") that grant, for the benefit and use of other parcels of real property, easements for the use of, and other rights and obligations concerning, portions of the Phase One Property and the Condominium Project (as that term is defined below), which easements, rights and obligations are senior in legal priority to this Declaration and all rights, powers and privileges and immunities hereunder. The Neighbourhood Company Common Area Easement Agreements are more particularly described in Exhibit C attached hereto and made a part hereof. The Neighbourhood Company Common Area Easement Agreements are not necessarily all of the easements that encumber or affect the Phase One Property.

C. Declarant desires to develop on the Phase One Property and, if and when an appropriate Declaration of Annexation (as that term is defined below) is recorded in the Placer County Records, also on the Phase Two Property, a condominium project pursuant to the Davis-Stirling Common Interest Development Act, California Civil Code, Title 6, Sections 4000 through 4725, as the same may be amended from time to time (the "Act"). Declarant may, but is not required to, annex future Phases (as that term is defined below) to the Condominium Project. Any annexation by Declarant shall be done in accordance with Section 18.08 below.

D. Declarant deems it necessary and desirable to subject the Phase One Property and, if and when a Declaration of Annexation is recorded in the Placer County Records, also such other real estate as is therein identified, including, but not limited to, the Phase Two Property, to the covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth in this Declaration.

E. By this Declaration, Declarant intends to establish, subject to the Neighbourhood Company Common Area Easement Agreements and the Neighbourhood Company Documents (as that term is defined below), a plan of condominium ownership for the

**22 Station at the Village of Squaw Valley USA**

*Drafted by Angius & Terry LLP, 3001 Lava Ridge Court, Ste. 130, Roseville, CA 95661, (916) 567-1400*

Property (as that term is defined below) and to provide for the annexation of additional real property to this Declaration.

## **DECLARATION**

In consideration of the foregoing, Declarant hereby declares as follows:

### **ARTICLE I: DECLARATION**

#### **1.01. Declaration.**

Declarant hereby creates, on the Property, subject to the Neighbourhood Company Common Area Easement Agreements and the Neighbourhood Company Documents, a condominium project named 22 Station at The Village at Squaw Valley USA and declares that the Property shall be held, conveyed, hypothecated, encumbered, leased, rented, used, improved, and occupied subject to the limitations, covenants, conditions, restrictions, reservations, easements, assessments, charges, servitudes, liens and other provisions of this Declaration, all of which are declared and agreed to be in furtherance of a plan of condominium ownership as described in the Act for the subdivision, improvement, protection, maintenance, sale, and ownership of condominiums within the Property, and all of which are declared and agreed to be for the purpose of enhancing, maintaining, and protecting the value and attractiveness of the Property. It is Declarant's intent that this Declaration shall satisfy the requirements of Section 1353 of the Act.

#### **1.02. Covenants Running with the Land.**

All covenants, conditions, restrictions, reservations, easements, charges, liens and other provisions of this Declaration are covenants running with the land and/or equitable servitudes. The obligations, burdens and benefits created by this Declaration shall bind and inure to the benefit of Declarant, Successor Declarants, the Owners (as that term is defined below), the Association (as that term is defined below), the Neighbourhood Company (as that term is defined below), all other parties having any right, title or interest in the Property or any portion thereof and their respective successors, assigns, heirs, devisees, executors, administrators and personal representatives.

### **ARTICLE II: DEFINITIONS.**

#### **2.01 Basic Definitions.**

As used in this Declaration, the following terms have the meanings given to them in this Section 2.01.

(a) "AAA" has the meaning given to that term in paragraph 4.10(d) below.

(b) "Act" means the Davis-Stirling Common Interest Development Act, California Civil Code, Title 6, Sections 4000 through 4725, as the same may be amended from time to time.

(c) "Antenna Equipment" has the meaning given to that term in Section 10.07 below.

(d) "Area," when reference is made to a Unit or Units, means the total number of square feet of the floor surface thereof as shown on the Plan, or if such square footage is not shown on the Plan, then "Area," when reference is made to a Unit or Units, means the total number of square feet of the floor area of such Unit or Units as determined by the Board.

(e) "Articles" means the articles of incorporation of the Association, as the same may be amended from time to time.

(f) "Assessment" means a Regular Assessment, a Special Assessment, a Limited Assessment, a Default Assessment or a Property Tax Assessment levied and assessed pursuant to Article VII below, or a Residential Cost Center Assessment.

(g) "Assessment Lien" means the lien of the Association on a Unit, as described in Section 7.17 below.

(h) "Assessment Shares" has the meaning given to that term in Section 7.05(c) below.

(i) "Association" means the 22 Station Owners Association, Inc., a California nonprofit mutual benefit corporation, and its successors and assigns.

(j) "Association Documents" means this Declaration, the Articles, the Bylaws and the Rules and Regulations, all as may be amended and supplemented from time to time.

(k) "Board of Directors" or "Board" means the board of directors of the Association.

(l) "Bond" means any bond or other arrangement to secure performance of a commitment of Declarant or its successors or assigns to complete the Common Area or any portion thereof not completed at the time the California Commissioner of Real Estate issues a final subdivision public report for the Condominium Project.

(m) "Bylaws" means the Association's bylaws as amended and supplemented from time to time.

(n) "Claim Notice" has the meaning given to that term in paragraph 4.10(a) below.

(o) "Class C Period" has the meaning given to that term in paragraph 5.02(c).

(p) "Commercial Director": has the meaning given to that term in Section 6.01 below.

(q) "Commercial Space Covenants" means the Declaration of Commercial Space Covenants, Conditions and Restrictions (Commercial Spaces - The Village at Squaw Valley USA) recorded on May 4, 2001 as Instrument Number 2001-0042917, in the Placer County Records.

(r) "Commercial Unit" means each Unit designated as a Commercial Unit on the Plan. Such designation shall be shown by the reference "Commercial" or "C" on the Plan. The

Commercial Units shall not include the Parking Units. The designation of a Commercial Unit as "C" on the Plan may be followed by a number and a letter designation. The number shall designate a separate Commercial Unit (i.e., C1 is a separate Commercial Unit from C2). The letter shall designate a separate portion of the same Commercial Unit (i.e., C1-A and C1-B are separate areas of the same Commercial Unit). Notwithstanding the foregoing, the letters "PM" shall refer to the Commercial Unit PM.

(s) "Commercial Unit PM" means any Unit designated as Commercial Unit "PM" or "C-PM" on the Plan and discussed in Section 10.04 below.

(t) "Common Area" means all of the Condominium Project other than the Units. Without limiting the generality of the preceding sentence, the Common Area includes, but is not limited to:

(i) all of the Property and the Improvements located thereon except for those Improvements that are designated by this Declaration or by the Plan as Units; and

(ii) the Exclusive Use Common Area

(u) "Common Expenses" means:

(i) any and all costs, expenses and liabilities incurred by or on behalf of the Association, including, but not limited to, costs, expenses and liabilities for (A) managing, operating, insuring, improving, repairing, replacing and maintaining the Common Area; (B) providing facilities, services and other benefits to Owners; (C) administering and enforcing the covenants, conditions, restrictions, reservations and easements created hereby; (D) levying, collecting and enforcing the Assessments and Assessment Liens imposed pursuant hereto; (E) regulating and managing the Condominium Project; (F) operating the Association; and (G) administering and enforcing the Easement Agreements; and

(ii) reserves for future such costs, expenses and liabilities (the "Reserves").

(v) "Condominium Project" means the common interest community created on the Property by this Declaration, consisting of the Units and the Common Area collectively.

(w) "Consumer Price Index" means the published Consumer Price Index, All Items, San Francisco-Oakland-San Jose for All Urban Consumers issued by the Bureau of Labor Statistics of the U.S. Department of Labor.

(x) "Cost Sharing Agreement" means the Declaration of Easements and Cost Sharing Agreement created by Declarant and more particularly described on Exhibit D attached hereto.

(y) "County" shall mean the County of Placer in the State of California.

(z) "CSA" has the meaning given to that term in Section 3.09 below.

(aa) "Declarant" means 22 Station Development Corporation, a California corporation, its successors and assigns.

(bb) "Declaration" means this Declaration of Covenants, Conditions and Restrictions for 22 Station at The Village at Squaw Valley USA, as the same may be amended and supplemented from time to time.

(cc) "Declaration of Annexation" means an executed and acknowledged instrument that, upon its recordation in the Placer County Records, subjects the Phase Two Property or other real estate to this Declaration in accordance with the provisions of this Declaration.

(dd) "Default Assessment" has the meaning given to that term in Section 7.12 below.

(ee) "Director" means a duly elected or appointed member of the Board, including a Residential Director or a Commercial Director.

(ff) "Easement Agreements" mean collectively, the Neighbourhood Company Common Area Easement Agreements and the Off-Site Easements and Agreements and any future agreements for easements that are granted, established, or otherwise acquired or conveyed by the Association pursuant to this Declaration.

(gg) "Equal Assessment" has the meaning given to that term in Section 7.05 below.

(hh) "Exclusive Use Common Area" or "EUCA" means those portions of the Common Area allocated by this Declaration or by operation of the Act for the exclusive use by the Owner of one or more Units, but fewer than all Units. Without limiting the generality of the foregoing, the "Exclusive Use Common Area" includes, but is not limited to:

(i) any shutters, awnings, window boxes, windows and doors located at the boundaries of Units and utility systems, mechanical systems, exhaust and ventilation systems, fireplaces, patios, balconies, decks, pools, hot tubs, spas, porches, courtyards, hallways, maid rooms, linen rooms, laundry facilities,

(ii) housekeeping offices, health and workout facilities, storage spaces (including bike and ski storage and locker areas), luggage rooms, restrooms, and other areas and Improvements that are designed to serve fewer than all Units;

(iii) any physical portion of the Condominium Project that is labeled or described on the Plan as "Exclusive Use Common Area" or "EUCA," "Residential Common Area" or "RCA," "Balancy" or "B";

(iv) if any chute, flue, duct, wire, conduit, bearing wall, bearing column or other structural component, any portion of a mechanical system or any fixture lies partially within and partially outside the designated boundaries of a Unit, any portion thereof serving only that Unit, such portion being an Exclusive Use Common Area allocated solely to that Unit, and any portion thereof serving more than one (1) Unit or serving any portion of the Common Area being a part of the Common Area; and

(v) any nonstructural wall located wholly within a Unit, such wall being an Exclusive Use Common Area appurtenant solely to that Unit.

(ii) "Facilities" has the meaning given to that term in Section 10.04 below.

(jj) "First Mortgage" means any Mortgage that is not subordinate in legal priority to any other Mortgage, but that may be subordinate to liens for taxes, Assessments and Bonds, and other liens that are given priority by statute, as well as easements, covenants, conditions and other restrictions, including, but not limited to, this Declaration.

(kk) "First Mortgagee" means a Mortgagee under a First Mortgage.

(11) "Flex Units" has the meaning given to that term in paragraph 10.26(b) below.

(mm) "Guest" means any family member, employee, agent, independent contractor, tenant, customer or invitee of an Owner or of a tenant of an Owner.

(nn) "Improvement" means any building, structure or other permanently attached or imbedded improvement, including, but not limited to, foundations, columns, girders, beams, supports, perimeter and supporting walls, utility systems, mechanical systems, sprinkler systems, exhaust and ventilation systems, storage areas, roofs, chimneys, drainage facilities, patios, balconies, decks, porches, courtyards, stoops, exits and entrances (including, but not limited to, all fixtures and improvements contained therein), located within the Property or any portion thereof from time to time.

(oo) "Institutional Mortgagee" means a Mortgagee that is a bank or savings and loan association or mortgage company or other entity chartered or licensed under federal or state laws whose principal business is lending money on the security of real property or investing in such loans.

(pp) "Interest in Common Area" means the undivided interest in the Common Area appurtenant to a Unit, determined in accordance with Section 3.03 below.

(qq) "JAMS" has the meaning given to that term in paragraph 4.10(d) below.

(rr) "Limited Assessment" has the meaning given to that term in Section 7.11 below.

(ss) "Lower Access Easement" shall mean that certain Access Ramp Easement and Maintenance Agreement to be recorded in the Placer County Records prior to Declarant conveying the Upper Parking Units to the Neighbourhood Company.

(tt) "Lower Parking Units" means the Parking Units located on the second (or bottom) underground level of parking.

(uu) "Major Component" has the meaning ascribed by the Act.

(vv) "Majority," whether or not capitalized, means any percentage greater than fifty percent (50%).

(ww) "Management Agent" means a Person, who for compensation or in expectation of compensation, exercises control over the assets of the Association; provided, however, "Management Agent" shall not include a full-time employee of the Association, a regulated financial institution operating within the normal course of business, or an attorney at law acting within the scope of his or her license.

(xx) "Mortgage" means any mortgage, deed of trust or other instrument encumbering a Unit or interest therein as security for payment of a debt or other obligation.

(yy) "Mortgagee" means any Person named as a mortgagee or beneficiary in a Mortgage and any successor to the interest of such Person.

(zz) "Neighboring Property" has the meaning given to that term in Section 11.02 below and means the real property located in Placer County, California that is more particularly described in Exhibit F attached hereto and made a part hereof

(aaa) "Neighbourhood Company" means the Squaw Valley Neighbourhood Company, a California nonprofit mutual benefit corporation, its successors and assigns, being the Master Association (as that term is defined in Section 2792.32 of the California Code of Regulations, Title 16, Article 12, as same may be amended from time to time) for The Village at Squaw Valley USA.

(bbb) "Neighbourhood Company Common Area Easement Agreements" means collectively those certain common area easements and agreements affecting the Neighbourhood Company and/or the Association that are recorded in the Placer County Records which easements and agreements have been more particularly described on Exhibit C attached hereto and made a part hereof.

(ccc) "Neighbourhood Company Documents" means the Declaration of Covenants, Conditions and Restrictions for The Village at Squaw Valley USA, a Master Planned Development, any declaration(s) of annexation applicable to the Neighbourhood Company, the Articles of Incorporation for the Neighbourhood Company, the bylaws for the Neighbourhood Company, the rules and regulations for the Neighbourhood Company, the master plan for The Village at Squaw Valley USA, including the "Conditional Use Permit/Variance" approved by Placer County on October 14, 1999, as may be amended from time to time, and the design guidelines for The Village at Squaw Valley USA prepared by Eldon Beck & Associates dated November 1997.

(ddd) "Neighbourhood Company Property" means the Phase One Neighbourhood Company Property and any other property conveyed to the Neighbourhood Company pursuant to the Neighbourhood Company Documents including, but not limited to, any future annexations to the Neighbourhood Company Property.

(eee) "Off-Site Easements and Agreements" means collectively the easement and permit agreements recorded in the Placer County Records for various parking, drainage, snow storage, access and roadway rights benefitting the Property and every part thereof as the dominant tenement, as described on Exhibit D hereto and made a part hereof

(fff) "Officer" means a duly elected or appointed officer of the Association.

(ggg) "Owner" means the record holder of legal fee simple title to a Unit, a portion thereof or an interest therein. If there is more than one (1) record holder of legal title to a Unit, each record holder is an Owner. The term "Owner" includes Declarant and the Association to the

extent that Declarant or the Association is the record holder of legal fee simple title to a Unit, a portion thereof or an interest therein.

(hhh) "Parking Unit" means each Unit housing the underground parking facility for the Condominium Project which is designed to be used for parking vehicles and for ingress and egress to and from the underground parking spaces. A Parking Unit may be designated by the label "Parking Unit," "Parking" or "P" on the Plan. The Parking Units are shown on the page of the Plan which is attached hereto as Exhibit G.

(iii) "Person" means any natural person, corporation (including any non-profit mutual benefit or public benefit corporation), partnership, limited liability company, association, trust, trustee, governmental or quasi-governmental entity or any other entity capable of owning real property under the laws of the State of California.

(jjj) "Phase" means the incremental portion in which the Condominium Project is intended to be developed.

(kkk) "Phase One Neighbourhood Company Property" means the real property described as Lot 1, Tract No. 883, per map recorded in Book X of Maps at page 99 in Placer County records, less and except the Phase One Property.

(lll) "Phase One of the Condominium Project" means the condominium development described in the Plan for the Phase One Property, including the Units and the Common Area and all Improvements, regardless of whether any Improvement is located in whole or in part outside the Phase One Property.

(mmm) "Phase One Property" means the three-dimensional condominium building envelope shown on the Plan for building C and more particularly described on Exhibit A attached hereto. The Phase One Property includes the land, airspace, buildings, parking garage, patios, decks, staircases, chimneys and all other Improvements located within the envelope, including any Improvement permanently affixed to the buildings described on such Plan regardless of whether the Improvement is located in whole or in part outside the condominium building envelope.

(nnn) "Phase Two Neighbourhood Company Property" means the real property that may be conveyed to the Neighbourhood Company in connection with any Declaration of Annexation for the Phase Two Property

(ooo) "Phase Two of the Condominium Project" means any condominium development that may be created pursuant to a Declaration of Annexation and described by a Plan for the Phase Two Property, which, if recorded, will include the Units and Common Area created thereby and all Improvements regardless of whether the Improvement is located in whole or in part outside the Phase Two Property.

(ppp) "Phase Two Property" means any three-dimensional condominium building envelope that may be annexed into the Property pursuant to a Declaration of Annexation, the location of which shall be described on a Plan for Phase Two of the Condominium Project.



(qqq) "Placer County Records" means the Official Records of Placer County, California, as maintained by the Placer County Recorder.

(rrr) "Plan" means a condominium plan recorded with respect to the Property or any portion thereof in the Placer County Records pursuant to Section 1351(e) of the Act as such plan may be amended and supplemented from time to time.

(sss) "Property" means the Phase One Property and

(i) the Phase One Property and

(ii) any real property that, by recordation of a Declaration of Annexation, is made subject to this Declaration in accordance with the terms and conditions contained herein, including, but not limited to, the Phase Two Property,

(iii) together with all appurtenances thereto.

(ttt) "Property Tax Assessment" has the meaning given to that term in Section 7.06 below.

(uuu) "Proposed Residential Units" means the total number of Residential Units that may be constructed on the Phase One Property and the Phase Two Property, which shall be a maximum of 151 Residential Units.

(vvv) "Purchaser" means a Person, other than Declarant or a Successor Declarant, who becomes an Owner.

(www) "Regular Assessment" has the meaning given to that term in Section 7.05 below.

(xxx) "Regular Common Expenses" has the meaning given to that term in Section 7.05 below.

(yyy) "Reserve Account" has the meaning given to that term in Section 7.21 below.

(zzz) "Reserves" has the meaning given to that term in the definition of "Common Expenses" above.

(aaaa) "Residential Cost Center Assessments" has the meaning given to that term in Section 7.05 below.

(bbbb) "Residential Director" has the meaning given to that term in Section 6.01 below.

(cccc) "Residential Expenses" has the meaning given to that term in Section 7.05 below.

(dddd) "Residential Facilities" has the meaning given to that term in Section 7.05 below.

(eeee) "Residential Unit" means any Unit other than a Commercial Unit or Parking Unit.

(ffff) "Rules and Regulations" means the written standards, requirements, rules, regulations, and procedures adopted by the Association with respect to the Condominium Project, including, but not limited to, those respecting the use and enjoyment, maintenance and

regulation, management and preservation of the Common Area and the Units, as the same may be amended, repealed, replaced, or supplemented from time to time.

(gggg) "Share of Common Expenses" means the share of Common Expenses allocated to a Unit in accordance with the terms and conditions of Section 7.04 below.

(hhhh) "Share of Common Expenses Schedule" has the meaning given to that term in Section 7.05 below and is set forth on Exhibit E attached hereto and made a part hereof.

(iiii) "Special Assessment" has the meaning given to that term in Section 7.07 below.

(jjjj) "Special Declarant Rights" means the rights and powers reserved by Declarant in this Declaration, including, but not limited to, those set forth in Article XV below, especially for itself, its successors and assigns, including, but not limited to, Successor Declarants.

(kkkk) "Successor Declarant" means any Person who succeeds to any Special Declarant Right, which succession may be accomplished as set forth in Section 3.06 below.

(llll) "The Village at Squaw Valley USA" means that certain development consisting of residential and commercial uses planned for the Neighbourhood Company Property.

(mmmm) "Unequal Variable Assessment" has the meaning given to that term in Section 7.05 below.

(nnnn) "Unit" means the elements of the Condominium Project that are designed to be owned separately, and not in common, by the Owners, such Units and their respective boundaries being shown and particularly described in the Plan, deeds conveying Units, and this Declaration. "Unit" does not include other interests in real property that are less than estates in real property, such as exclusive or nonexclusive easements. In interpreting deeds and plans, the existing physical boundaries of a Unit, or of a Unit reconstructed in substantial accordance with the original Plan, shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed or Plan, regardless of minor variance between boundaries shown on the Plan or in the deed and those of the building. Whenever reference to a Unit is made in this Declaration, in the Plan, in a deed, or elsewhere, it shall be presumed that such reference is made to the Unit as a whole, including each of its component elements. If walls, floors or ceilings are designated as boundaries of a Unit, all paneling, tiles, wallpaper, painting, finished flooring, and other materials constituting any portion of the finished surfaces thereof are part of the Unit, and all other portions of the walls, floors and ceilings are part of the Common Area.

(oooo) "Upper Parking Units" means the Parking Units located on the first (or top) underground level of parking.

(pppp) "Vacation Club" means a corporation, limited liability company, partnership, joint venture or other entity that is owned by members, whose ownership/membership interests in the corporation, limited liability company, partnership, joint venture or other entity are evidenced by points, shares or other interests that entitle the members to occupy Residential Units owned and/or leased by such entity.

## **2.02 Gender and Number.**

Wherever the context of this Declaration so requires:

- genders; (a) words used in the masculine gender shall include the feminine and neuter
- genders; (b) words used in the feminine gender shall include the masculine and neuter
- genders; (c) words used in the neuter gender shall include the masculine and feminine
- (d) words used in the singular shall include the plural; and
- (e) words used in the plural shall include the singular.

## **ARTICLE III. UNITS AND COMMON AREA**

### **3.01 Creation of Units.**

(a) Subject to the Neighbourhood Company Common Area Easement Agreements, the Neighbourhood Company Documents, and all other matters affecting title to the Property as shown in the Placer County Records as of the date this Declaration is recorded therein, Declarant hereby creates, on the Phase One Property, except as provided in Article XV respecting Special Declarant Rights, sixty-seven (67) Residential Units, two (2) Commercial Units and three (3) Parking Units within Phase One of the Condominium Project, the boundaries and identifying numbers of which are shown on the Plan for Phase One of the Condominium Project. Subject to the provisions of this Declaration, Declarant reserves to itself and Successor Declarants the right, power, and privilege to execute, acknowledge and record in the Placer County Records, in accordance with the provisions of Section 18.08 below, a Declaration of Annexation that adds to the Condominium Project the Phase Two Property creating an additional eighty-four (84) Residential Units, three (3) Commercial Units and three (3) Parking Units to be developed in accordance with the Plan for Phase Two of the Condominium Project. Until such Declaration of Annexation is thus recorded, the Phase Two Property is not encumbered or otherwise affected by this Declaration.

(b) No Owner may alter its Unit, subdivide its Unit or relocate the boundaries between its Unit and an adjacent Unit, except as provided in Section 10.14 and Article XV respecting Special Declarant Rights and except as required by Section 1360 of the Act.

### **3.02 Units.**

- (a) Except as expressly provided to the contrary in this Declaration:
  - (i) the Interest in Common Area appurtenant to the Unit, the right to use the Exclusive Use Common Area appurtenant to the Unit, if any, and the membership in the

Association appurtenant to the Unit may not be partitioned or separated from the Unit or any part thereof; and

(ii) each Unit shall always be conveyed, transferred, gifted, devised, bequeathed, encumbered and otherwise affected only as a complete Unit.

(b) Notwithstanding anything to the contrary contained in paragraph 3.01(a), 3.01(b) or 3.02(a) above or elsewhere in this Declaration:

(i) nothing shall prevent or limit Declarant or any Successor Declarant's exercise or enjoyment of any Special Declarant Right;

(ii) an Owner may grant its rights to use any Common Area or any Exclusive Use Common Area appurtenant to the Owner's Unit to such Owner's Guests;

(iii) the Owner of a Commercial Unit may construct, maintain, alter, and replace demising walls and other partitions within its Commercial Unit and rent or lease separate portions of its Commercial Unit to one (1) or more tenants; and

(iv) the Owner of a Commercial Unit may assign all or a portion of the voting rights allocated to the membership appurtenant to the Commercial Unit to one (1) or more lessees to whom the Owner leases all or a portion of its Commercial Unit in accordance with the terms and conditions of paragraph 5.01(c) below.

### **3.03 Interests in Common Area.**

(a) the Interests in Common Area shall be allocated among the Units as set forth in this Section 3.03. The Interest in Common Area appurtenant to a Unit shall be an undivided equal interest in the Common Area of the Property on which the Units are located. As to Phase One of the Condominium Project, each Owner will receive an undivided 1/72nd interest in and to the Common Area of the Property.

(b) Except as expressly provided to the contrary elsewhere in this Declaration, an Interest in Common Area may not be partitioned from the Unit to which it is appurtenant, and any purported conveyance, encumbrance or transfer of an Interest in Common Area made without the Unit to which the Interest in Common Area is appurtenant shall be void.

### **3.04 Exclusive Use Common Area.**

Except as expressly provided to the contrary in this Declaration, the allocation of the Exclusive Use Common Area shown on the Plan or as required by operation of the Act may not be altered without the consent of all Owners whose Units would be affected by such reallocation and then only in accordance with the terms and conditions of the Act.

### **3.05 Owners' Nonexclusive Easements; Association Rights.**

Every Owner has a nonexclusive easement of use, enjoyment, ingress, egress, and support in, to, and throughout the Common Area except that each such nonexclusive easement is subordinate to, and exercise of rights and powers under each such nonexclusive easement shall not interfere with any of the exclusive easements held by Owners over the Exclusive Use

Common Area or the exercise of rights and powers thereunder. Each such nonexclusive easement shall be appurtenant to the Owner's Unit and shall pass with the title to the Unit. All such nonexclusive easements are subject to the following rights and restrictions:

(a) The right of the Association to limit the number of Guests and to adopt and enforce the Rules and Regulations.

(b) The right of the Association to borrow money to improve, repair, maintain or replace the Common Area.

(c) The right of the Association to suspend the right of an Owner to use any facility in the Common Area as provided in paragraph 4.02(a)(viii) below.

(d) The right of the Association to adopt and enforce Rules and Regulations concerning the control and use of any recreational and other facilities located within the Common Area, including the right to regulate the parking of vehicles within the Common Area. The Neighbourhood Company shall adopt and enforce rules and regulations governing parking within the Upper Parking Units. Declarant and the Neighbourhood Company are each authorized to delegate to a municipality or other governmental entity or to contract with any private security patrol company to exercise its authorized rights in connection with such parking areas.

### **3.06 Future Construction.**

Nothing in this Declaration shall limit the right of Declarant to complete development of the Condominium Project, including, but not limited to, completion of construction of the Improvements within the Common Area and to Units owned by Declarant and completion of construction of Improvements within the Phase Two Property if annexed, or to alter the Condominium Project or to construct additional Improvements as Declarant deems advisable or to construct additional improvements and condominium projects adjacent to the Property, including, but not limited to, anywhere within the Neighboring Property. The rights, powers and privileges of Declarant in this Declaration may be assigned by Declarant to any successor to all or any part of any Declarant's interests in the Condominium Project, as developer, by an express assignment set forth in a recorded deed or other instrument that transfers any such interests to a successor, including, but not limited to, a Mortgagee acquiring Declarant's interest in the Condominium Project by foreclosure or by deed in lieu of foreclosure.

### **3.07 Parking Spaces.**

The customers and invitees of the Owners of the Commercial Units may use the parking spaces in the offsite parking facility located adjacent to the Neighbourhood Company Property as provided in the Offsite Easements and Agreements.

All of the Condominium Project's residential vehicle parking spaces are located within the Upper Parking Units and are allocated for use by Owners of the Residential Units and their Guests. The Upper Parking Units shall be owned by the Neighbourhood Company, and the Neighbourhood Company will govern the use and operation of the parking spaces within the Upper Parking Units designated on the Plan. As provided in the Neighbourhood Company Documents, two (2) parking spaces shall be reserved within or near the Condominium Project for purposes of providing services to all Units and shall be so marked for service use. One (1)

parking space within or near the Condominium Project shall be designated for use by the Owner of the Commercial Unit PM. Additional parking spaces within the Upper Parking Units may be used by Owners of Commercial Units and their Guests on the condition that the Upper Parking Units shall be managed in a way that will not deprive any Residential Unit from the right to use one (1) parking space within the Upper Parking Units.

### **3.08 Conveyance of Neighbourhood Company Property.**

The Declarant shall cause (a) the Phase One Neighbourhood Company Property, and (b) the Phase Two Neighbourhood Company Property, if the Phase Two Property is made subject to this Declaration in accordance with a Declaration of Annexation, to be conveyed to the Neighbourhood Company on or before the date the Declarant first conveys title to a Unit in the applicable Phase. Each Owner shall be a member of the Neighbourhood Company and as a member shall have easement rights over and across the Neighbourhood Company Property for ingress and egress over the private walkways, plazas and recreation areas situated on the Neighbourhood Company Property. The Neighbourhood Company Documents also shall provide for easements in favor of the Association, for support from the land under and adjacent to the Phase One Property and the Phase Two Property, if annexed, and for access to and use of (including the right to install, maintain, repair or replace) any utility or related lines and equipment installed within, on or over the Neighbourhood Company Property in order to provide utility or related services to the Phase One Property, including, but not limited to, water, electricity, telephone, gas, cable television, and sanitary sewer or storm drainage lines and equipment. In addition, the Neighbourhood Company Documents grant the Declarant access to and use of the Phase One Neighbourhood Company Property by Declarant and its subcontractors and agents to construct, maintain and sell the Units and all related Improvements in any subsequent Phases. The Neighbourhood Company shall own, operate and maintain the Phase One Neighbourhood Company Property and the Phase Two Neighbourhood Company Property, if the Phase Two Property is annexed, including the land, plazas, walkways and common areas around the condominium building envelope for building C as shown on the Plan, and the condominium building envelope for building D as shown on the Plan if the Phase Two Property is annexed.

### **3.09 Establishment of CSAs.**

A County service area zone of benefit ("CSA") (CSA 28 Zone 161), as amended, has been established by the County for the purpose of collecting monies to provide for the operation, maintenance, repair, reconstruction and performance of acts associated with the maintenance of (a) traffic management plans benefitting The Village at Squaw Valley USA, (b) streetlighting and (c) storm drainage maintenance. The property tax assessment to fund such CSA or improvement district or other funding entity allocable to the property interest represented by the Lower Parking Units shall not be apportioned and paid by the Owners of those Lower Parking Units, but instead shall be apportioned by the Association among all other Owners and paid by those Owners. The Lower Parking Units pay for a large and equitable portion of those costs through the Ski Corp Easements (as such term is defined in the Neighbourhood Company Documents) with the Neighbourhood Company.

A second CSA (CSA 28 Zone 162) has been established by the County for the purpose of collecting monies to provide for the operation, maintenance, repair, reconstruction and

performance of acts associated with the maintenance of a Squaw Valley community park. The property tax assessment to fund such CSA or improvement district or other funding entity allocable to the property interest represented by the Lower Parking Units shall not be apportioned and paid by the Owners of those Lower Parking Units, but instead shall be apportioned by the Association among all other Owners and paid by those Owners.

## **ARTICLE IV. THE ASSOCIATION.**

### **4.01 Formation of the Association**

Prior to Declarant first conveying a Unit to a Purchaser, Declarant shall form the Association, and the Association shall be charged with the duties and invested with the rights, powers, privileges, and immunities set forth in the Articles, the Bylaws and this Declaration.

### **4.02 Purposes and Powers.**

(a) The Association's purposes are:

(i) to manage, regulate, operate, insure, construct, improve, repair, replace, alter and maintain the Common Area;

(ii) to provide various facilities, services and other benefits to the Owners;

(iii) to administer and enforce the covenants, conditions, restrictions, reservations and easements set forth in this Declaration, as well as those set forth in the Easement Agreements;

(iv) to administer and enforce the Association Documents and other instruments for the ownership, management and control of the Condominium Project;

(v) to levy, collect and enforce the Assessments and the Assessment Liens;

(vi) to impose monetary penalties, including late charges and interest;

(vii) to suspend voting rights in the Association;

(viii) to suspend use privileges for the Common Area or any portion thereof;

(ix) to adopt, amend, repeal and replace Rules and Regulations deemed appropriate by the Association;

(x) to enter into agreements with other Persons, including, but not limited to, easements, licenses, leases, modifications of the Easement Agreements and other agreements with one (1) or more other Persons, including, but not limited to, arrangements with the Neighbourhood Company, other property owner associations, whether those associations are condominium associations or associations connected with other forms of common interest real estate developments, which arrangements contemplate the reciprocity of use or the sharing of expenses among the Association and the other Persons or other such associations for facilities and services that serve the Association, the Owners, the other Persons, or the other associations;

**22 Station at the Village of Squaw Valley USA**

*Drafted by Angius & Terry LLP, 3001 Lava Ridge Court, Ste. 130, Roseville, CA 95661, (916) 567-1400*

(xi) to take any action that it deems necessary or appropriate to protect the interests and general welfare of Owners; and

(xii) to regulate and manage the Condominium Project.

(b) Unless expressly prohibited by law or any of the Association Documents, the Association may:

(i) take any and all actions that it deems necessary or advisable to fulfill its purposes;

(ii) exercise any powers conferred on it by the Act or any Association Document; and

(iii) exercise all powers that may be exercised in the State of California by nonprofit mutual benefit corporations.

(c) Without in any way limiting the generality of paragraph 4.02(b) above, the Association may, but except as otherwise expressly provided in this Declaration or the other Association Documents, is not necessarily obligated to:

(i) provide various facilities and services to Owners, such as (A) recreational facilities and services, (B) water, sewer, gas, electric, cable television and other utility services, (C) parking facilities, (D) snow removal and storage services and (E) trash collection facilities and services;

(ii) acquire, sell, lease and grant easements over, across and through the Common Area;

(iii) borrow monies and grant security interests in the Common Area and in the assets of the Association as collateral therefor;

(iv) make capital improvements, repairs and replacements to the Common Area;

(v) participate with others in any partnership, joint venture, or other association, transaction or arrangement of any kind whether or not such participation involves sharing or delegation of control with or to others; and

(vi) hire and terminate Management Agents and other employees, agents and independent contractors.

(d) Without in any way limiting the generality of paragraph 4.02(b) above, the

Association may, but is not necessarily obligated to, perform any act reasonably necessary to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings, whether at law or in equity, for damages, injunctive relief, or other remedies pursuant to California Code of Civil Procedure Section 383.



#### **4.03 Association Documents.**

(a) This Declaration creates the Condominium Project and sets forth certain covenants, conditions, restrictions, reservations, easements, assessments, charges and liens applicable to the Property. The Articles create the Association. The Bylaws provide for the regulation and management of the Association. The Rules and Regulations provide for the regulation and management of the Condominium Project.

(b) If there is any conflict or inconsistency between the terms and conditions of the Neighbourhood Company Documents and this Declaration, the Neighbourhood Company Documents shall control. If there is any conflict or inconsistency between the terms and conditions of this Declaration and the terms and conditions of the Articles, the Bylaws or the Rules and Regulations, the terms and conditions of this Declaration shall control. If there is any conflict or inconsistency between the terms and conditions of the Articles and the terms and conditions of the Bylaws or the Rules and Regulations, the terms and conditions of the Articles shall control. If there is any conflict or inconsistency between the terms and conditions of the Bylaws and the terms and conditions of the Rules and Regulations, the terms and conditions of the Bylaws shall control.

#### **4.04 Books and Records.**

(a) Upon request, the Association shall allow Owners and Mortgagees and their respective duly-appointed agents and representatives to inspect current copies of the Association Documents and the accounting books, records, budgets and financial statements of the Association during normal business hours and under other reasonable circumstances. The Association may charge a reasonable fee for copying such materials.

(b) The membership register, including mailing addresses, telephone numbers and voting rights, books of account and minutes of meetings of the Owners, of the Board and of committees of the Board of the Association shall be made available for inspection and copying by any Owner, or by its duly-appointed agent or representative, at any reasonable time and for a purpose reasonably related to its interest as an Owner, at the office of the Association or at such other place within the Condominium Project as the Board of Directors shall prescribe. Minutes of any meeting of the Board, minutes proposed for adoption that are marked to indicate draft status, any summary of the Board minutes or of any meeting of the Board, other than an executive session, shall be available to Owners within thirty (30) days of the meeting and shall be distributed only to Owners and only upon request and payment of the fee prescribed by the Association. At the time the pro forma operating budget is distributed as required by law or at the time of any general mailing, Owners shall be notified in writing of their right to have copies of such minutes and summaries of meetings of the Board and of how, where, and at what cost those copies may be obtained.

(c) The Board shall establish reasonable rules with respect to:

(i) notice to be given to the custodian of the records by the Owner desiring to make the inspection;

(ii) hours and days of the week when such an inspection may be made; and

(iii) payment of the cost of reproducing copies of documents requested by an Owner.

(d) Every Director shall have the absolute right at any reasonable time to inspect all books, records, and documents of the Association, including the right to make extracts and copies thereof, and the physical properties owned or controlled by the Association.

(e) Commencing not later than ninety (90) days after the close of the sale of the first Unit, copies of all documents set forth in Section 2792.23 of the California Code of Regulations of the Real Estate Commissioner adopted under the Act shall be delivered in accordance with the terms of such Section.

#### **4.05 Right to Delegate Powers and Duties; Professional Management.**

Subject to the provisions of Section 6.03, the Association may delegate any of its powers and duties to its employees, committees, agents, or contractors, including, but not limited to, a Management Agent. Any agreement for professional management of the Condominium Project by a Management Agent shall not exceed three (3) years, and shall be terminable by either party with or without cause and without payment of a termination fee after one (1) year upon thirty (30) days written notice. Such agreement may be renewed from year to year by the Association. If the Condominium Project is professionally maintained or managed, the Board shall not terminate any Management Agent and assume self-management without the consent of seventy-five percent (75%) of the First Mortgagees.

#### **4.06 Preparation and Distribution of Financial Statements, Notices, Reports and Copies of Association Documents.**

Unless the other Association Documents impose more stringent standards, the Association shall cause to be prepared and distributed to all Owners the financial statements, notices, reports, and copies of the Association Documents as indicated in this Article IV or otherwise required to be prepared and distributed as follows:

(a) The Board shall prepare and distribute to the Owners the following information respecting the Association's insurance policies:

(i) a summary of the Association's property, general liability, and earthquake and flood insurance policies, if applicable, which shall be distributed within sixty (60) days preceding the beginning of the Association's fiscal year, that includes all of the following information about each policy:

(A) the name of the insurer;

(B) the type of insurance;

(C) the policy limits of the insurance; and

(D) the amount of deductibles, if any.

(ii) the Association shall, as soon as reasonably practical, notify the Owners by first class mail if any of the policies described in paragraph 4.06(a)(i) above have

lapsed, been canceled and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible, for any of these policies. If the Association receives any notice of nonrenewal of policy described in paragraph 4.06(a)(i) above, the Association shall immediately notify the Owners if replacement coverage will not be in effect by the date the existing coverage will lapse. To the extent that the information required to be disclosed under paragraph 4.06(a)(i) above is specified in the insurance policy declaration page, the Association may meet its obligation of such paragraph by making copies of that page and distributing it to all the Owners.

(iii) The summary distributed pursuant to Section 4.06(a)(i) above shall contain, in at least 10-point boldface type, the following statement: "This summary of the Association's policies of insurance provides only certain information, as required by Section 5300 of the Civil Code, and should not be considered a substitute for the complete policy terms and conditions contained in the actual policies of insurance. Any Association member may, upon request and provision of reasonable notice, review the Association's insurance policies and, upon request and payment of reasonable duplication charges, obtain copies of those policies. Although the Association maintains the policies of insurance specified in this summary, the Association's policies of insurance may not cover your property, including personal property or, real property improvements to or around your dwelling, or personal injuries or other losses that occur within or around your dwelling. Even if a loss is covered, you may nevertheless be responsible for paying all or a portion of any deductible that applies. Association members should consult with their individual insurance broker or agent for appropriate additional coverage."

(b) The Board shall prepare and distribute to the Owners a pro forma operating budget of the Association for each fiscal year which budget shall be distributed not less than forty-five (45) days nor more than sixty (60) days before the beginning of that fiscal year, which pro forma operating budget shall consist of at least the following:

(i) estimated revenues and expenses on an accrual basis;

(ii) a summary of the Association's Reserves based on the most recent Reserves review or study conducted under Section 5550 of the Act, which shall be printed in bold type and shall include the following:

(A) the current estimated replacement cost, estimated remaining life, and estimated useful life of each Major Component that the Association is obligated to maintain; and

(B) as of the end of the fiscal year for which the study was prepared:

(1) the current estimate of cash Reserves necessary to repair, replace, restore, or maintain such Major Components;

(2) the current amount of accumulated cash Reserves actually set aside to repair, replace, restore, or maintain such Major Components; and

(3) the percentage of the amount in (ii)(A) that the amount in (ii)(B) represents;

(iii) a statement about whether the Board has determined or anticipates that the levy of one (1) or more Special Assessments will be required to repair, replace, or restore any Major Component or to provide adequate Reserves for them;

(iv) a general statement addressing the procedures used for the calculation establishing those Reserves to defray the future repair, replacement or additions to such Major Components; and

(v) a general statement regarding the Owner's right to have copies of the minutes of meetings of the Board and how and when these minutes may be obtained.

(c) In lieu of the distribution of the pro forma operating budget required by paragraph 4.06(b), the Board may elect to distribute a summary of the pro forma operating budget to all Owners with a written notice that the pro forma operating budget is available at the business office of the Association or at another suitable location within the boundaries of the Condominium Project and that copies will be provided upon request and at the expense of the Association. If any Owner requests that a copy of the pro forma operating budget required by paragraph 4.06(b) be mailed to the Owner, the Association shall provide the copy to the Owner by first-class United States mail within five (5) days at the expense of the Association. The written notice that is distributed to each of the Owners shall be in at least 10-point boldface type on the front page of the summary of the budget.

(d) The Association shall notify each Owner yearly of the Owner's right to receive an annual report consisting of a balance sheet rendered as of the last day of the Association's fiscal year, an operating statement for that fiscal year, a statement of changes in financial position for the fiscal year, a statement of the place where the names and address of the current Owners are located, and any information required pursuant to Section 8322 of the California Corporations Code. A copy of the annual report shall be distributed to each Owner and any Mortgagee that has requested a copy within one hundred and twenty (120) days after the close of the Association's fiscal year. In any fiscal year in which the gross income of the Association exceeds seventy-five thousand dollars (\$75,000), a copy of the review of the annual report prepared by a licensee of the California State Board of Accountancy in accordance with generally accepted accounting principles shall be distributed with the annual report. If the annual report is not reviewed by an independent accountant, the report shall be accompanied by the certificate of an authorized Officer that the report was prepared from the books and records of the Association without independent audit or review.

(e) A statement of the Association's policies and practices in enforcing its remedies against Owners for delinquent Regular, Limited, Special, Property Tax and Default Assessments including the recording and foreclosing of Assessment Liens against a delinquent Owner's Unit. A copy of this statement shall be distributed to each Owner and to any Mortgagee that has requested a copy annually within sixty (60) days prior to the beginning of the Association's fiscal year.

Copies of this Declaration, the Articles, Bylaws, Rules and Regulations, and a statement regarding delinquent Assessments shall be provided to any Owner within ten (10) days of the mailing or delivery of a written request. The Board may impose a fee to provide these materials

not to exceed the Association's reasonable costs in preparing, reproducing, and transmitting the materials.

(g) During the sixty (60) day period immediately preceding the beginning of the Association's fiscal year, the Association shall provide to the Owners a statement describing the alternative dispute resolution provisions of the Act, including, but not necessarily limited to, the statement required by Section 1354 of the Act.

(h) Not less than thirty (30) nor more than sixty (60) days prior to any increase in any Regular or Special Assessment becoming due, the Association shall provide notice by first-class mail to the Owners of such increase.

#### **4.07 Adoption of Budgets.**

Prior to the beginning of each fiscal year of the Association, the Board shall adopt an annual operating budget for the Association for that fiscal year. If the Board fails to adopt an operating budget for any fiscal year prior to the first day of that fiscal year, the Owners shall continue to pay periodic installments of Assessments at the rates payable during the prior fiscal year, and the prior year's budget shall be deemed the current year's budget until such time as the Board adopts a new annual budget, at which time the Association shall levy against each Unit the Assessments for the then current fiscal year, giving the Owners credit, in such manner as the Board deems necessary or appropriate, for any installments that the Owners have previously paid to the Association during such fiscal year.

#### **4.08 Enforcement of Bonded Obligations.**

(a) If the Association is the obligee under a Bond, the Board shall consider and vote on the question of action by the Association to enforce the obligations under the Bond with respect to any Improvement for which a notice of completion has not been filed by the later of (i) sixty (60) days after the completion date specified for that Improvement in the "planned construction statement" appended to the Bond or (ii) thirty (30) days after the expiration of any written extension given by the Association.

(b) If the Board fails to consider and vote on the action to enforce the obligations under the Bond, or if the Board decides not to initiate action to enforce the obligations under the Bond, then on receipt of a petition signed by Owners representing not less than five percent (5%) of the total voting power of the Association, the Board shall call a special meeting of Owners for the purpose of voting to override the decision of the Board not to initiate action or to compel the Board to take action to enforce the obligations under the Bond. The Board shall give written notice of the meeting to all Owners entitled to vote in the manner provided in this Declaration or in the Bylaws for notices of special meetings of Owners. The meeting shall be held not less than thirty-five (35) days nor more than forty-five (45) days after receipt of the petition. At the meeting, the vote in person or by proxy of a Majority of the Owners entitled to vote (other than Declarant) in favor of taking action to enforce the obligations under the Bond shall be considered the decision of the Association, and the Board shall implement this decision by initiating and pursuing appropriate action in the name of the Association.

(c) The Association shall act in a reasonably prompt manner to exonerate Declarant and its surety under any Bond in favor of the Association, provided such exoneration is appropriate.

#### **4.09 Alternative Dispute Resolution.**

In any dispute in which the Association is a party, the Association may perform any act reasonably necessary to resolve any such civil claim or action through alternative dispute resolution proceedings such as mediation, binding arbitration, or non-binding arbitration proceedings. The Association may perform the following acts:

(a) provide, or in good faith attempt to provide, one hundred twenty (120) days advance notice of the Board's intent to initiate the prosecution of any civil action, including the nature and basis of the claim, to every Owner of the Association and to every entity or person who is a prospective party to the civil action, provided that notice can be given (i) more than one hundred twenty (120) days prior to the expiration of any pertinent statute of limitations and (ii) without prejudice to the Association's rights to enforce the Association Documents and further provided that no such notice need be given prior to the filing of an action in small claims court or an action solely to enforce assessment obligations;

(b) prior to initiating the prosecution of a civil action solely for declaratory relief or injunctive relief to enforce the Association Documents, in conjunction with a claim for monetary damages not in excess of five thousand dollars (\$5,000), the Association shall endeavor to submit the matter to alternative dispute resolution in compliance with the provisions of Section 5925 et seq. of the California Civil Code;

(c) immediately after initiating the prosecution or defense of any civil action, make a reasonable effort, in good faith, to (i) meet and confer with every person or entity who is a party to the action to discuss appropriate processes for resolving the civil action, including available alternative dispute processes and other available processes to avoid or reduce costs or losses by the parties associated with the action, (ii) provide an opportunity to cure any alleged defect in Common Area or facilities which is the basis for the action, and (iii) provide for the scope of discovery, if any, to be conducted prior to the inception of any alternative dispute resolution procedure;

(d) consider diversion of the prosecution or defense of any civil action to an alternative dispute resolution proceeding such as mediation, non-binding arbitration, or binding arbitration; and

(e) agree to participate fully and in good faith in the resolution of any civil action through any alternative dispute resolution proceedings, including but not limited to mediation, non-binding arbitration, and binding arbitration, and to pay costs reasonably incurred by the Association on account of those alternative dispute resolution proceedings.

#### **4.10 Dispute Notification and Resolution Procedure (Declarant Disputes).**

Any disputes between the Association (or any Owners) and the Declarant, or any director, officer, partner, employer, subcontractor or agent of the Declarant, relating to this Declaration, the other Association Documents, the use or condition of the Property, and/or the design, construction and installation of any Improvements located thereon shall be subject to the following provisions:

(a) Notice: Any Person with a claim against the Declarant, or any director, officer, partner, employer, subcontractor or agent thereof (collectively the "Declarant" for purposes of this section), shall notify the Declarant in writing of the claim, which writing shall describe the nature of the claim and the proposed remedy (the "Claim Notice").

(b) Right to Inspect and Right to Corrective Action: Within a reasonable period after receipt of the Claim Notice, which period shall not exceed sixty (60) days, the Declarant and the claimant shall meet at a mutually acceptable place within the Property to discuss the claim. At such meeting or at such other mutually agreeable time, Declarant and Declarant's representatives shall have full access to the Property that is subject to the claim for the purposes of inspecting the Property. The parties shall negotiate in good faith in an attempt to resolve the claim. If the Declarant elects to take any corrective action, Declarant and Declarant's representatives and agents shall be provided full access to the Development to take and complete corrective action.

If the claim is subject to the provisions of the California Civil Code Section 6000 as it may be amended from time to time, compliance with the procedures of the California Civil Code Section 6000 shall satisfy the requirements of this section.

(c) Mediation: If the parties cannot resolve the claim pursuant to the procedures described in paragraphs (a) and (b) above (including, if applicable, California Civil Code Section 6000 procedures), the matter shall be submitted to mediation pursuant to the mediation procedures adopted by the American Arbitration Association or any successor thereto or to any other entity offering mediation services that is acceptable to the parties. No person shall serve as a mediator in any dispute in which the person has any financial or personal interest in the result of the mediation, except by the written consent of all parties. Prior to accepting any appointment, the prospective mediator shall disclose any circumstances likely to create a presumption of bias or prevent a prompt commencement of the mediation process.

Within ten (10) days of the selection of the mediator, each party shall submit a brief memorandum setting forth its position with regard to the issues that need to be resolved. The mediator shall have the right to schedule a pre-mediation conference and all parties shall attend unless otherwise agreed. The mediation shall be commenced within ten (10) days following the submittal of the memoranda and shall be concluded within fifteen (15) days from the commencement of the mediation unless the parties mutually agree to extend the mediation period. The mediation shall be held in the county in which the Property is located or such other place as is mutually acceptable by the parties.

The mediator has discretion to conduct the mediation in the manner in which the mediator believes is most appropriate for settlement of the dispute. The mediator is authorized to conduct joint and separate meetings with the parties and to make oral and written recommendations for settlement. Whenever necessary, the mediator also may obtain expert advice concerning technical aspects of the dispute, provided the parties agree and assume the expenses of obtaining such advice. The mediator does not have the authority to impose a settlement on the parties.

Prior to the commencement of the mediation session, the mediator and all parties to the mediation shall execute an agreement pursuant to California Evidence Code or successor statute in order to exclude the use of any testimony or evidence produced at the mediation in any

subsequent dispute resolution forum, including, but not limited to, court proceedings, reference proceedings or arbitration hearings. The agreement shall specifically state:

Evidence of anything said or of any admission made in the course of the mediation is not admissible evidence, and disclosure of any such evidence shall not be compelled in any civil action in which, pursuant to law, testimony can be compelled to be given. Unless the document provides otherwise, no document prepared for the purpose of, or in the course of, or pursuant to, the mediation, or copy thereof, is admissible in evidence; and disclosure of any such document shall not be compelled in any civil action in which, pursuant to law, testimony can be compelled to be given.

Persons other than the parties, the representatives and the mediator may attend mediation sessions only with the permission of the parties and the consent of the mediator. Confidential information disclosed to a mediator by the parties or by witnesses in the course of the mediation shall not be divulged by the mediator. All records, reports, or other documents received by the mediator while serving in such capacity shall be confidential. There shall be no stenographic record on the mediation process.

The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required travel and other expenses of the mediator, expenses of any witnesses, and costs of any proofs or expert advice produced at the request of the mediator, shall be borne equally by the parties unless they agree otherwise.

(d) **BINDING ARBITRATION: IF THE PARTIES CANNOT RESOLVE THE CLAIM PURSUANT TO THE PROCEDURES DESCRIBED IN SUBSECTIONS (a), (b) AND (c) ABOVE, THE PARTIES SHALL SUBMIT THE MATTER TO BINDING ARBITRATION PURSUANT TO THE PROVISIONS OF CALIFORNIA CODE OF CIVIL PROCEDURE SECTIONS 1280, ET. SEQ., OR ANY SUBSEQUENT OR REPLACEMENT LEGISLATION. ARBITRATION SHALL BE SUBMITTED TO A PROFESSIONAL ALTERNATIVE DISPUTE RESOLUTION ORGANIZATION, INCLUDING THE AMERICAN ARBITRATION ASSOCIATION ("AAA"), JUDICIAL ARBITRATION MEDIATION SERVICES ("JAMS"), OR OTHER RECOGNIZED SERVICE DOING BUSINESS IN THE STATE OF CALIFORNIA. THE ARBITRATION SHALL BE CONDUCTED IN ACCORDANCE WITH RULES AND PROCEDURES THAT ARE EQUIVALENT "IN SUBSTANCE" TO THE COMMERCIAL ARBITRATION RULES OF AAA OR THE STREAMLINED OR COMPREHENSIVE RULES OF JAMS. DECLARANT SHALL ADVANCE THE FEES NECESSARY TO INITIATE ANY ALTERNATIVE DISPUTE RESOLUTION SERVICE, WITH ALL COSTS AND FEES FOR SUCH ENGAGEMENT, INCLUDING ONGOING COSTS AND FEES, TO BE PAID AS AGREED BY THE PARTIES. IF THE PARTIES CANNOT AGREE AS TO THE ALLOCATION OF COSTS AND FEES, THE ARBITRATOR(S) SHALL DETERMINE THE ALLOCATION OF ONGOING AND ULTIMATE AMOUNTS OF COSTS AND FEES TO BE BORNE BY THE PARTIES.**

THE ALTERNATIVE DISPUTE RESOLUTION SERVICE SHALL, APPOINT A NEUTRAL AND IMPARTIAL INDIVIDUAL(S) TO SERVE AS ARBITRATOR(S), WITH SUCH APPOINTMENT BEING MADE WITHIN SIXTY (60) DAYS FROM THE SERVICE'S RECEIPT OF A WRITTEN REQUEST FROM A PARTY TO ARBITRATE THE CLAIM OR



DISPUTE. IN SELECTING THE ARBITRATOR(S), THE PROVISIONS OF CODE OF CIVIL PROCEDURE SECTION 1297.121 SHALL APPLY. ARBITRATOR(S) MAY BE CHALLENGED FOR ANY OF THE GROUNDS LISTED THEREIN OR IN CODE OF CIVIL PROCEDURE SECTION 1297.124. THE VENUE OF THE ARBITRATION SHALL BE IN PLACER COUNTY, CALIFORNIA UNLESS THE PARTIES AGREE TO SOME OTHER LOCATION. THE ARBITRATOR(S) SHALL BE AUTHORIZED TO PROVIDE ALL RECOGNIZED REMEDIES AVAILABLE IN LAW OR EQUITY FOR ANY CAUSE OF ACTION THAT IS THE BASIS OF THE ARBITRATION, PROVIDED THAT THE ARBITRATOR(S) SHALL NOT BE PERMITTED TO AWARD PUNITIVE DAMAGES.

## **ARTICLE V. MEMBERSHIP AND VOTING**

### **5.01 Membership.**

(a) Each Owner, including Declarant, shall be a member of the Association. Membership shall be appurtenant to each Unit, and the holding of an ownership interest in a Unit shall be the sole qualification for membership. An Owner shall hold a separate membership for each Unit in which the Owner owns an interest. Membership shall terminate automatically when the Owner no longer holds any ownership interest in any Unit. Membership may not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except on a transfer of title to a Unit and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Unit shall transfer automatically the appurtenant membership to the transferee. Any party that holds an interest in a Unit merely as security for performance of an obligation shall not be a member of the Association.

(b) Each Owner shall have the rights, duties, and obligations set forth in this Declaration, the Articles, Bylaws, and Rules and Regulations.

(c) Notwithstanding anything to the contrary in this Section 5.01, an Owner may assign its voting rights to any Person by duly executed proxies timely delivered to the Association.

### **5.02 Weighted Versus Equal Votes.**

The Association shall have three (3) classes of voting membership as follows:

(a) Class A: class A members are all Owners, other than the Declarant. Notwithstanding the foregoing, Declarant shall be a class A member and shall have class A voting rights only after Declarant's class B voting rights expire.

(i) Each Residential Unit owned by a class A member shall be allocated one (1) class A vote, regardless of the number of Owners of that Residential Unit.

(ii) Each Commercial Unit owned by a class A member shall be allocated that number of class A votes equal to the quotient (rounded to the nearest 1/100th) obtained by dividing:

(A) the Area of the Commercial Unit, by

(B) seven hundred fifty (750), regardless of the number of Owners of that Commercial Unit.

(iii) Each Upper Parking Unit (excluding the Upper Parking Unit labeled P2 on the Plan and excluding the Upper Parking Unit labeled P5 on the Plan for the Phase Two Property if the Phase Two Property is annexed) shall be allocated two (2) class A votes, regardless of the size of the Upper Parking Unit or the number of Owners of the Upper Parking Unit.

(iv) Each Lower Parking Unit shall be allocated two (2) class A votes, regardless of the size of the Lower Parking Unit or the number of Owners of the Lower Parking Unit.

(b) Class B: The sole class B member shall be the Declarant, who shall be entitled to the following voting rights:

Each Residential Unit owned by the class B member shall be allocated three (3) class B votes; and

(ii) Each Commercial Unit owned by the class B member shall be allocated that number of class B votes equal to the product of:

(A) three (3) multiplied by

(B) the quotient (rounded to the nearest 1/100th) obtained by dividing (1) the Area of the Commercial Unit (as determined by the Association in its sole discretion) by (2) seven hundred fifty (750).

(iii) Each Upper Parking Unit (excluding the Upper Parking Unit labeled P2 on the Plan and excluding the Upper Parking Unit labeled P5 on the Plan for the Phase Two Property if the Phase Two Property is annexed) owned by the class B member shall be allocated six (6) class B votes.

(iv) Each Lower Parking Unit owned by the class B member shall be allocated six (6) class B votes.

(v) Class B membership for each Phase shall cease and be irreversibly converted to class A membership on the first to occur of the following:

(A) A prescribed date certain which is not later than the second (2<sup>nd</sup>) anniversary of the first conveyance of a Unit in the most recent Phase of the Condominium Project; or

(B) A prescribed date which is not later than the fourth anniversary of the first conveyance of a Unit in the first Phase of the Condominium Project.

(c) Class C membership: Declarant shall be the sole class C member. As the sole class C member, Declarant shall have no voting rights in the Association, but shall have the right to appoint and remove that number of Directors allocated to the class C members as set forth below in Article VI. Class C membership shall not entitle Declarant to any rights other than

those appointment and removal rights set forth below in Article VI. The class C time period (the "Class C Period") shall commence when the first Assessment is levied upon an Owner and shall expire upon the later to occur of the following: (i) when seventy-five percent (75%) of the Proposed Residential Units have been conveyed to Purchasers, or (ii) on the second (2"d) anniversary following the first conveyance of a Residential Unit to a Purchaser.

(d) So long as more than one (1) class of voting memberships exist, any action by the Association that requires approval of a Majority of the voting power of Owners other than Declarant for action to be taken by the Association shall, notwithstanding the provisions of paragraph 5.03(c) below, require the approval by the designated percentage of voting power in each class, except the action described in Section 4.08 above.

(e) If there is a single class of voting memberships, any action by the Association that requires approval of a Majority of the voting power of Owners other than Declarant for action to be taken by the Association shall, notwithstanding the provisions of paragraph 5.03(c) below, require the vote or written assent of a Majority of the total voting power of the Association as well as the vote or written assent of a Majority of the total voting power of the Owners other than Declarant.

(f) Voting for the members of the Board shall be by secret written ballot, and the Owners shall be entitled to exercise cumulative voting rights as provided in paragraph 6.01(e) below.

(g) From the first election for members of the Board and thereafter for so long as a Majority of the voting power of the Association resides in Declarant or for so long as there is more than one (1) class of membership in the Association, not less than one-third (1/3rd) of the incumbents on the Board shall be elected solely by the votes of Owners other than Declarant.

### **5.03 Voting.**

(a) Fractional voting shall not be allowed. If the Owners of a Unit cannot agree among themselves as to how to cast their votes on a particular matter, they shall lose their right to vote on such matter. If any Owner casts a vote representing a membership appurtenant to a particular Unit, it will thereafter be presumed for all purposes that the Owner was acting with the authority and consent of all other Owners with whom such Owner shares the membership, unless objection thereto is made by an Owner of that Unit to the Person presiding over the meeting at the time the vote is cast. If more than the number of allocated votes are cast for any particular membership, none of such votes shall be counted and all of such votes shall be deemed null and void.

(b) The Association shall have no voting rights for any membership appurtenant to any Unit owned by the Association.

(c) Except as otherwise provided in this Declaration, the Articles, or the Bylaws, and subject to the provisions set forth above, including, but not limited to, paragraphs 5.02(d) and (e) above, all matters requiring the approval of a Majority of the voting power of the Owners shall be deemed approved if Owners holding a Majority of the total voting power of all Owners assent to them by written consent or if approved at any duly called regular or special meeting at which a quorum is present, either in person or by proxy, by Owners holding a Majority of the total voting power of all Owners present, either in person or by proxy.

## **ARTICLE VI. BOARD OF DIRECTORS**

### **6.01 Number and Election of Directors.**

(a) The Board shall consist of three (3) Directors who shall have full voting rights as follows:

(i) two (2) Directors who shall represent the Residential Units (the "Residential Directors"); and

(ii) one (1) Director who shall represent the Commercial Units and the Parking Units (the "Commercial Director"). The Declarant shall appoint all of the initial members of the Board. Subject to the terms and conditions of Sections 6.01(b), 6.03 and 6.04 below, each Director will hold office for a term of three (3) years. One of the three initial Directors shall hold office until the second annual meeting, one of the three initial Directors shall hold office until the third annual meeting, and one of the three initial Directors shall hold office until the fourth annual meeting. Thereafter, at each annual meeting, the successors to the Directors whose terms expire at that meeting shall be elected or appointed to hold office for terms expiring at the annual meeting held in the third year following the year of their election.

(b) Notwithstanding the foregoing, during the Class C Period, the Directors shall be appointed and elected as follows:

(i) the class A members who are Owners of Residential Units, other than Declarant, shall elect one (1) Residential Director;

(ii) the class A members who are Owners of Commercial Units and Parking Units shall elect the Commercial Director; and

(iii) the class C member shall appoint one (1) Residential Director.

(c) After the Class C Period, the Directors shall be appointed and elected as follows:

(i) the class A members who are Owners of Residential Units shall elect both Residential Directors; and

(ii) the class A members who are Owners of Commercial Units and the Parking Unit shall elect the Commercial Director.

(d) In any election of Directors to the Board, each member shall be entitled to the number of votes that is equal to the product obtained by multiplying:

(i) the number of votes allocated to that membership in accordance with Section 5.02 above, by

(ii) the number of Directors to be elected by that group of members.

(e) The election of Directors may be by cumulative voting as described herein whenever more than two (2) positions on the Board are to be filled, provided a member has placed a candidate's name in nomination prior to the voting and given notice at the meeting prior

to the voting of the member's intention to cumulate votes. If any member has given such notice, then all members shall have the right to cumulate their votes for candidates in nomination.

Under cumulative voting, each member, either in person or by proxy, may give a single candidate the number of votes equal to the number of Directors to be elected multiplied by the number of votes the member is entitled to exercise under this Declaration, or the member may distribute these cumulated votes among any two (2) or more candidates as the member desires. The candidates receiving the highest number of votes up to the number of Directors to be elected shall be elected. Unless the entire Board is removed by a vote of the Owners, an individual Director may not be removed prior to the expiration of his or her term if the votes against removal would have been sufficient to elect that Director if cast cumulatively for the Director at an election at which the same total number of votes were cast and the entire number of Directors authorized at the time of the most recent election of that Director were then being elected. These cumulative voting provisions do not apply to the election of special Directors by Owners other than Declarant under the provisions set forth in the Bylaws.

#### **6.02 Powers of the Board.**

Except as otherwise provided in this Declaration, the Articles and the Bylaws, the Board may act on behalf of the Association in all instances and is authorized to exercise all powers of the Association, including, but not limited to, the following:

(a) Enforcement of applicable provisions of this Declaration, the Cost Sharing Agreement, the other Association Documents, and other instruments for the ownership, management, and control of the Condominium Project, including, but not limited to, the assessment of fines and penalties for violations of the provisions of this Declaration;

(b) Payment of all expenses and obligations incurred by the Association in the conduct of the Association's business, including, but not limited to, all licenses, taxes, assessments, or governmental charges, levied or imposed against the property of the Association or that may become a lien on the Common Area or any portion thereof;

(c) Levy and collect Assessments in accordance with Article VII below, including the assessment of fines and penalties for violations;

(d) Contracting for casualty, liability, and other insurance on behalf of the Association;

(e) Contracting for goods and services for the Common Area, facilities, and interests for the Association, subject to the limitations set forth in Section 6.03 below;

(f) Delegation of powers to committees, Officers, or employees of the Association as expressly authorized by the Association Documents;

(g) Preparation of budgets and financial statements for the Association as prescribed in the Association Documents;

(h) Formulation of the Rules and Regulations;

(i) Initiation and execution of disciplinary proceedings against Owners for violations of provisions of the Association Documents in accordance with the procedures set forth in the Association Documents;

(j) Entering upon any Unit or Exclusive Use Common Area as necessary in connection with construction, maintenance, or emergency repair for the benefit of the Common Area or the Owners in common;

(k) Election of the Officers of the Association; and

(l) Filling vacancies on the Board except for a vacancy created by the removal of a Director.

### **6.03 Actions Requiring Owner Assent.**

The Board shall not take any of the following actions except with the assent, by vote at a meeting of the Association or by written ballot without a meeting, pursuant to California Corporations Code Section 7513, of a Majority of the Owners other than Declarant constituting a quorum consisting of a Majority of the voting power of the Association residing in members other than Declarant:

(a) Incur aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year;

(b) Sell during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year;

(c) Pay compensation to Directors or to Officers of the Association for services performed in the conduct of the Association's business, provided that the Board may reimburse an Owner for expenses incurred in carrying on the business of the Association; or

(d) Enter into a contract with a third Person to furnish goods or services for the Common Area or the Association for a term longer than one (1) year, with the following exceptions:

(i) A contract with a public utility company if the rates charged for the materials or services are regulated by the California Public Utilities Commission, provided the term does not exceed the shortest term for which the supplier will contract at the regulated rate;

(ii) Prepaid casualty or liability insurance policies not to exceed three (3) years duration provided the policy permits for short rate cancellation by the insured;

(iii) Lease agreements for laundry room fixtures and equipment not to exceed five (5) years duration provided Declarant does not have a direct or indirect ownership interest of ten percent (10%) or more in any lessor under such agreements;

(iv) Agreements for cable television services and equipment or satellite dish television services and equipment not exceeding five (5) years duration, provided that the supplier is not an entity in which Declarant has a direct or indirect ownership interest of ten percent (10%) or more;

(v) Agreements for sale or lease of burglar alarm and fire alarm equipment, installation, and services not exceeding five (5) years duration, provided that the supplier or suppliers are not entities in which Declarant has a direct or indirect ownership interest of ten percent (10%) or more;

(vi) Except as otherwise set forth in this Section, a contract for a term not to exceed three (3) years that is terminable by the Association after no longer than one (1) year without cause, penalty, or other obligation on ninety (90) days (or less) written notice of termination to the other party; and

(vii) Agreements for the sale or lease of health club and similar exercise or recreational equipment, not to exceed five (5) years duration provided Declarant does not have a direct or indirect ownership interest of ten percent (10%) or more in any seller or lessor under such agreements.

#### **6.04 Absolute Prohibitions.**

The Board may not act on behalf of the Association to:

- (a) amend this Declaration;
- (b) terminate the Association, this Declaration or the Condominium Project;
- (c) elect Directors to the Board, other than to fill a vacancy for the unexpired portion of any Director's term; or
- (d) determine the qualifications, powers and duties, or terms of office of Directors.

### **ARTICLE VII. ASSESSMENTS, COMMON EXPENSES AND LIENS**

#### **7.01 Levy of Assessments.**

(a) The Board shall establish and levy annual Regular (including Residential Cost Centers), Special, Limited and Property Tax Assessments in amounts that the Board estimates will be sufficient to raise the funds needed to perform the duties of the Association during each fiscal year. The annual Assessments shall include a portion for Reserves in such amounts as the Board in its discretion considers appropriate to meet the costs of the future repair, replacement, or addition to the Major Components that the Association is obligated to maintain, repair, and replace.

(b) The right to levy Assessments shall commence as to Units in a Phase of the Condominium Project on the close of escrow for the first conveyance of a Unit in that Phase of the Condominium Project. Regular Assessments shall commence as to all Units in a Phase of the

Condominium Project on the first day of the month following the first conveyance of a Unit in that Phase under authority of a final subdivision public report issued by the California Department of Real Estate. Thereafter, Regular Assessments shall be levied on the first day of each month.

(c) To establish an initial working capital fund for the Association, at the closing of the sale of a Residential Unit by Declarant to a Purchaser, the Purchaser shall pay to the Association an amount equal to the Association's estimate of three (3) months of Common Expenses for the fiscal year in which the sale of the Residential Unit occurs,

(d) Prior to the closing of the sale of a Residential Unit by Declarant to a Purchaser:

Declarant, in order to assure the fulfillment of its obligation to pay Regular Assessments as an Owner of Units, shall furnish funds, a surety bond, letter of credit or other security to the Association, as obligee, in accordance with the provisions of Regulation 2792.9 of the California Code of Regulations; and

(ii) Declarant shall furnish funds, a surety bond, letter of credit or other security satisfactory to the California Department of Real Estate, to the Association, equal to the product obtained by multiplying the amount paid by individual Purchasers pursuant to paragraph 7.01(c) above by the number of Residential Units in the Condominium Project.

(e) Payments by Purchasers to the Association at closings under paragraph 7.01(c) above shall not be credited against, or relieve Purchasers from, their obligation to pay other Assessments levied against Units by the Association.

(f) Upon the sale of a Unit to a Purchaser, the Association shall not be obligated to return to the transferor any portion of the working capital fund, but the transferor shall be entitled to an appropriate credit from its transferee assuming that their sale or transfer documents provide for such credit.

#### **7.02 Obligations for Assessments.**

(a) Each Owner, by accepting a deed to a Unit (regardless of whether it shall be expressly stated in such deed), shall be deemed to have covenanted and agreed to pay to the Association all:

(i) Regular Assessments;

(ii) Special Assessments;

(iii) Limited Assessments;

(iv) Default Assessments; and

(v) Property Tax Assessments that the Association is required or permitted to levy or impose on such Owner or such Owner's Unit pursuant to the Act, the Cost Sharing Agreement, this Declaration or any other Association Document. Notwithstanding the foregoing, the Owners of the Parking Units shall only be responsible for the Assessments and expenses set forth in Section 7.23 below.



(b) Each Owner shall be personally liable for all Assessments and other charges levied on such Owner or such Owner's Unit during the period of such Owner's ownership thereof. If there are two (2) or more Owners of a single Unit, each and every Owner thereof shall be jointly and severally liable with all the Owners thereof for all Assessments and other charges levied thereon or levied against any one (1) or more of such Owners. No Owner may be relieved from the obligation to pay Assessments by waiving the use or enjoyment of all or any portion of the Common Area or the Owner's Unit, or by abandoning the Unit, or otherwise.

(c) Notwithstanding the definition of the term "Owner":

(i) a Person who acquires a Unit in a foreclosure sale shall be personally liable for all Assessments and other charges that the Association is required or permitted to levy or impose on that Unit or on the Owner of that Unit commencing on the date of the foreclosure sale; and

(ii) a Person who acquires a Unit by deed-in-lieu of foreclosure or other similar instrument shall be personally liable for all Assessments and other charges that the Association is required or permitted to levy or impose on that Unit or on the Owner of that Unit commencing on the date on which the Owner of the Unit delivers the deed-in-lieu of foreclosure.

(d) Each Assessment or other charge, together with all reasonable costs and expenses incurred by the Association in collecting any delinquent Assessment, including, but not limited to, late charges, interest and penalties thereon, and all fees and disbursements of attorneys, accountants, appraisers, receivers and other professionals engaged by the Association in connection therewith, may be recovered by a suit for a money judgment by the Association without foreclosing or waiving any Assessment Lien securing the same.

### **7.03 Limited Exemption from Assessment During Construction.**

(a) Notwithstanding the provisions of Section 7.02 above, and as limited as provided in paragraph 7.03(b) below, pursuant to the provisions set forth in Section 2792.16(c) of the Regulations of the California Department of Real Estate, all Owners, including, but not limited to, Declarant, owning Units that have no structural Improvements for human occupancy shall be exempt from the payment of that portion of any Assessment that is for the purpose of defraying Common Expenses directly attributable to the existence and use of those structural Improvements. Said exemption shall include but not limited to:

- (i) roof replacement;
- (ii) exterior maintenance (including, but not limited to, snow removal);
- (iii) walkways;
- (iv) refuse disposal;
- (v) cable television; and
- (vi) domestic water supplied to living Units.

(b) The exemption under paragraph 7.03(a) above, shall be in effect until the earliest of the following events:

(i) recordation of a notice of completion of the structural Improvements described in paragraph 7.03(a) above;

(ii) occupation or use of the Unit; or

(iii) completion of all elements of the structural Improvements that the Association is obligated to maintain.

(c) In addition to the provisions set forth above in paragraph 7.03(a), and in accordance with Section 2792.16(c) of the Regulations of the California Department of Real Estate, all Owners, including, but not limited to, Declarant, are exempt from the payment of that portion of any Assessment that is for the purpose of defraying Common Expenses directly attributable to the existence and use of a Common Area facility that is not complete at the time Assessments shall be in effect until the earliest of the following events:

(i) a notice of completion of the Common Area facility has been recorded; or

(ii) the Common Area facility has been placed into use.

#### **7.04 Share of Common Expenses.**

Except as otherwise set forth in this Declaration, a Unit's share of Common Expenses (a "Share of Common Expenses") shall be allocated as follows: a Unit's Share of Common Expenses shall equal the quotient (rounded to the nearest 1/100th) obtained by dividing the Unit's Regular Assessment by the total sum of Regular Assessments for all Units.

#### **7.05 Regular Assessments.**

After the Board's adoption of an annual budget, the Association shall levy an Assessment for Common Expenses to be collected by a Regular Assessment (a "Regular Assessment") on each Unit.

(a) Calculation of Regular Assessments against Residential and Commercial Units.

Subject to the limitation set forth in paragraph 7.05(g) below, the amount of the Regular Assessment levied against a Residential Unit or a Commercial Unit shall be the sum of:

(i) an unequal variable assessment (the "Unequal Variable Assessment") levied against each Residential Unit and Commercial Unit (and its Owner) for roof reserves, paint reserves, insurance, water and space heating, and ventilation from a common source, in an amount equal to the product obtained by multiplying:

(A) the quotient (rounded to the nearest 1/100th) obtained by dividing the Area of the Residential or Commercial Unit by the total Area of all Residential and Commercial Units, times

(B) the variable cost factor described in the proration schedule worksheet attached hereto as Exhibit E (the "Share of Common Expenses Schedule"). If any

Residential or Commercial Units are added to or withdrawn from the Condominium Project, or the Area of one (1) or more Residential or Commercial Units is increased or decreased, the Unequal Variable Assessment for all Residential and Commercial Units within the Condominium Project after such addition, withdrawal, increase or decrease shall be recalculated in accordance with the formula set forth in the Share of Common Expenses Schedule; plus

(ii) an equal base assessment (the "Equal Assessment") levied against each Residential and Commercial Unit (and its Owner) for the Common Expenses (the "Regular Common Expenses") to be paid through the collection of Regular Assessments (excluding the Unequal Variable Assessments, the Residential Cost Center Assessments and all other Assessments other than the Regular Assessments) in an amount to be obtained by multiplying:

(A) the quotient (rounded to the nearest 1/100th) obtained by dividing the number of Assessment Shares (the "Assessment Shares") allocated to the Residential or Commercial Unit in accordance with paragraph 7.05(c) below, as applicable, by the total number of Assessment Shares for all Residential or Commercial Units in the Condominium, times

(B) the Regular Common Expenses, plus

(iii) the Residential Cost Center Assessment to be levied against Residential Units in accordance with paragraph 7.05(d) below.

For purposes of calculating the Unequal Variable Assessment in subparagraph 7.05(a)(i) above, the Area of a Residential Unit may be based on the average Area of all Residential Units having the same number of bedrooms. Notwithstanding the foregoing, if the Area of a Residential Unit is materially different from the average of the other Residential Units having the same number of bedrooms, the actual Area of such Residential Unit may be used to calculate the Unequal Variable Assessment. The Unequal Variable Assessment for Commercial Units is calculated for each 750 square feet of Area within a Commercial Unit, as shown on the Share of Common Expense Schedule (rounded to the nearest 1/100th).

(b) Regular Assessments against Parking Units.

Notwithstanding anything in Sections 7.04 and 7.05 to the contrary, neither the Upper Parking Units nor the Lower Parking Units shall be allocated an Assessment Share or be subject to a Share of Common Expenses or any other assessment, charge or fee, except as set forth in Section 7.23 below.

(c) Assessment Shares.

(i) The Assessment Shares for the Residential Units shall be allocated as one (1) Assessment Share for each Residential Unit.

(ii) The Assessment Shares for the Commercial Units shall be calculated as follows:

(A) Each Commercial Unit shall be allocated Assessment Shares based on the Area contained in the Commercial Unit. The number of Assessment Shares for a Commercial Unit shall equal:

(1) the quotient (rounded to the nearest 1/100th) obtained by dividing:

- a. the Area within the Commercial Unit; by
- b. seven hundred fifty (750).

(d) Residential Cost Center Assessment.

After the Board's adoption of an annual budget, the Association shall levy a residential cost center assessment (the "Residential Cost Center Assessment") to cover expenses ("Residential Expenses") incurred by the Association in the operation, maintenance, repair and funding of reserves for certain improvements and services exclusively benefitting all or some of the Residential Units (the "Residential Facilities"). The Residential Cost Center Assessments shall be levied only against those Residential Units benefitting from such Residential Facilities. The Residential Cost Center Assessments may include, but are not limited to, the following Residential Expenses:

the Residential Unit's share of the maintenance, management, operation, repair and replacement of the Residential Facilities, including, but not limited to the exercise rooms, spa facilities and appurtenant pumps, conduits, pipes, equipment and facilities including any such facilities owned and operated by the Association and/or the Neighbourhood Company;

(ii) utilities or other services necessary to the operation of the Residential Facilities;

(iii) insurance coverage for the Residential Facilities; and

(iv) reasonable reserves deemed appropriate by the Board for repair and replacement of any Residential Facilities.

Unless determined otherwise by the Board, the Residential Cost Center Assessments shall be levied and collected by the Association as a component of the Regular Assessment and shall be assessed against each Residential Unit. The Residential Cost Center Assessment to be assessed against each Residential Unit shall equal: (the Assessment Share allocated to each Residential Unit) x Residential Expenses total Assessment Shares for all Residential Units

The total Residential Cost Center Assessments shall equal the total Residential Expenses incurred by the Association. The Association shall distribute to the Owners of the Residential Units a pro forma operating statement and budget for each upcoming fiscal year which shall estimate the Residential Expenses attributable to the Residential Cost Center Assessments and shall set forth the amount and payment schedule therefore.

(e) Additional Cost Center Assessments.

After the Board's adoption of an annual budget, the Association shall levy any additional cost center assessments necessary to cover expenses incurred by the Association in the operation, maintenance, repair and funding of reserves for certain improvements and services exclusively benefitting some but not all of the Units. Any such cost center assessments shall be levied only against those Units benefitting from such expenses, shall be levied and collected by the Association as a component of the Regular Assessment and shall be assessed against each Unit benefitted by such expenses based on the number of Assessment Shares allocated to each Unit so benefitted divided by the total number of Assessment Shares allocated to all Units so benefitted. The Association shall distribute to Owners of the affected Units a pro forma operating statement and budget for each upcoming fiscal year which shall estimate the expenses attributable to any such additional cost center assessments and shall set forth the amount and payment schedule therefore.

(f) Effect of Annexation on Share of Common Expenses Schedule.

The Share of Common Expenses Schedule on Exhibit E may be revised and superseded by the recordation of a Declaration of Annexation for Phase Two of the Condominium Project setting forth a revised Share of Common Expenses Schedule for the Condominium Project. The Declaration of Annexation for any subsequent Phase may provide such appropriate re-allocation of Assessment obligations as the Declarant deems necessary to properly allocate subsequent Association maintenance obligations for any future Phase. Such further Share of Common Expenses Schedule will be controlling and binding on the Association and Owners to the extent they modify this Section 7.05 provided such Share of Common Expenses Schedule is approved by the California Department of Real Estate so long as the California Department of Real Estate retains jurisdiction over the sale of the Condominium Project Units.

(g) Limitation on Increases of Regular Assessments.

The Board may not impose a Regular Assessment for any fiscal year more than twenty percent (20%) above the Regular Assessment for the Association's preceding fiscal year without the approval of the Owners by vote or written consent of the Owners casting a Majority of the votes at a duly held meeting of the Owners at which a quorum is present. For purposes of this paragraph 7.05(g), a quorum shall mean fifty percent (50%) of the Owners of the Association present in person or by proxy. Any meeting of the Association for purposes of complying with this paragraph 7.05(g) shall be conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3, Division 2 of Title 1 of the California Corporations Code and Section 7613 of the California Corporations Code. Notwithstanding the foregoing restrictions on Regular Assessments, the Board may, without such Owner approval, increase the Regular Assessments as necessary for emergency situations. An emergency situation is any of the following:

(i) An extraordinary expense required by an order of the court.

(ii) An extraordinary expense necessary to repair or maintain the Condominium Project or any part of it that the Association is responsible to maintain when a threat to personal safety on the Property is discovered.

(iii) An extraordinary expense necessary to repair or maintain the Condominium Project or any part of it that the Association is responsible to maintain that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget required under Section 1365 of the Act, provided that, before the imposition or collection of any Assessment under this Section, the Board must pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process and shall distribute the resolution to the members with the notice of Assessment.

(iv) An extraordinary expense in making the first payment of the earthquake insurance surcharge under California Insurance Code Section 5003.

(h) Payment of Regular Assessments.

The Owners shall pay the Regular Assessments levied against their respective Units in such periodic installments as may be required by the Association.

(i) Amendments to Regular Assessments.

If the Owners approve an amendment to the Regular Assessment portion of an annual budget pursuant to paragraph 7.05(g) above, the amount of the Regular Assessment levied against each Unit shall be adjusted accordingly, as shall the amount of each Owner's periodic installments.

(j) Failure to Adopt Budget.

If the Board fails to adopt an operating budget for any fiscal year prior to the first day of that fiscal year, the Owners shall continue to pay periodic installments of the Regular Assessment to the Association at the rate payable during the prior fiscal year until such time as the Board adopts a new annual budget, at which time the Association shall levy against each Unit the Regular Assessment for the then current fiscal year, giving the Owners credit, in such manner as the Board deems necessary or appropriate, for any installments that the Owners have previously paid to the Association during such fiscal year.

(k) Owner's Liability for Share of Common Expenses.

The failure of the Association to levy a Regular Assessment for any fiscal year shall not be deemed a waiver, modification or release of an Owner's liability for the Share of Common Expenses allocated to such Owner's Unit.

**7.06 Property Tax Assessments.**

Pursuant to the Act, each Unit constitutes a separate parcel of real estate and will be separately assessed and taxed. Until such time as the real property taxes on the Condominium Project are segregated by Placer County into separate assessments for each Unit, and to the extent that back taxes are not paid by the Unit Owners, the Association shall pay all real and personal property taxes and assessments levied upon any portion of the Condominium Project. The Association shall, upon written request of Declarant, make and enforce a property tax assessment ("Property Tax Assessment") against each Owner whose Unit is taxed to Declarant

pursuant to an unsegregated property tax bill on the Condominium Project, or any portion thereof. The Property Tax Assessment shall constitute a lien on such Owner's Unit as of the date such taxes became a lien and shall be enforceable as provided herein. The amount of the Property Tax Assessment against each Unit shall be equal to the total unsegregated property tax multiplied by a fraction having a numerator equal to the original selling price of such Owner's Unit and a denominator equal to the sum of the original offered selling prices of each Unit in the Condominium Project. The Association shall, at least forty-five (45) days prior to the delinquency date of any unsegregated tax installment, deliver to each Owner a copy of the tax bill, along with a written notice setting forth the Owner's obligation to pay a proportionate share of the tax installment and any interest and penalty or late charge that the Owner may be charged for failure to comply. The Association shall pay the taxes on behalf of any Owner who does not pay his proportionate share. The Association shall add to the Regular Assessments of a delinquent Owner the amount of any sum advanced, plus interest at the rate of ten percent (10%) per annum and any amount necessary to reimburse the Association for any penalty or late charge actually assessed in connection with the unsegregated tax bill, which late charge results from the failure of the delinquent Owner to make timely payment of his Property Tax Assessment. The foregoing provisions relating to the collection of Property Tax Assessments in connection with an unsegregated tax bill may not be amended without the express written consent of Declarant, for so long as the Declarant is the Owner of one (1) or more Units in the Condominium Project.

#### **7.07 Special Assessments.**

Subject to the restriction in Section 7.09 below, the Association may levy a special assessment ("Special Assessment") if the Board, in its discretion, determines that the Association's available funds are or will become inadequate to meet the estimated expenses of the Association, including the maintenance of appropriate Reserves, for a particular fiscal year for any reason, including, but not limited to, unanticipated delinquencies, costs of construction, unexpected repairs or replacements of capital improvements or otherwise. The Board shall determine the amount necessary to meet the estimated expenses, and if the amount is approved by a Majority vote of the Board, it shall become a Special Assessment. The Board, in its discretion, may levy the entire Special Assessment immediately or levy it in installments over a period it considers appropriate. Special Assessments shall be levied and allocated among each Unit subject to Regular Assessments, pursuant to Section 7.05 above, in accordance with each Unit's Share of Common Expenses.

(a) The Owners shall pay the Special Assessments levied against their respective Units in periodic installments as may be required by the Association.

(b) If an annual budget for any fiscal year is not adopted prior to the first day of that fiscal year, the Owners shall continue to pay periodic installments of the Special Assessment to the Association at the rate payable during the prior fiscal year until such time as the Board ratifies a new annual budget for the then current fiscal year. Once the Board ratifies a new annual budget, the Association shall levy against each Unit the Special Assessment for the then current fiscal year and each Owner's periodic installments shall be adjusted as necessary to pay the new Special Assessment in equal periodic installments over the remainder of such fiscal year, giving the Owners credit, in such manner as the Board deems necessary or appropriate, for any installments that the Owners have previously paid to the Association during such fiscal year.

(c) The failure of the Association to levy a Special Assessment for any fiscal year shall not be deemed a waiver, modification or release of an Owner's liability for the Share of Common Expenses allocated to such Owner's Unit.

#### **7.08 Special Assessments for Rebuilding and Repair of Improvements.**

Any Special Assessment against Owners in the Condominium Project to raise funds for the rebuilding or major repair of Improvements, shall be levied upon the basis of the ratio of the Area of the Unit to be assessed to the total Area of all Units subject to the Special Assessment.

#### **7.09 Limitations on Special Assessments.**

The Board may not levy any Special Assessment that either would, by itself or in the aggregate with other Special Assessments levied for that fiscal year, exceed five percent (5%) of the budgeted gross expenses of the Association for the fiscal year without the approval of the Owners by vote or written consent of the Owners casting a Majority of the votes at a duly held meeting of the Owners at which a quorum is present. For purposes of this Section 7.09, a quorum shall mean fifty percent (50%) of the Owners of the Association present in person or by proxy. Any meeting of the Association for purposes of complying with this Section 7.09 shall be conducted in accordance with Chapter 5 (commencing with Section 7510) of Part 3, Division 2 of Title 1 of the California Corporations Code and Section 7613 of the California Corporations Code. Notwithstanding the foregoing restrictions on assessment, the Board may, without such Owner approval, increase the Special Assessments necessary for emergency situations. The foregoing restriction shall not apply to an Assessment levied against a particular Unit to reimburse the Association for costs incurred in bringing the Owner or the Unit into compliance with this Declaration, the Articles, Bylaws, or Rules and Regulations. An emergency situation is any of the following:

- (a) An extraordinary expense required by an order of the court.
- (b) An extraordinary expense necessary to repair or maintain the Condominium Project or any part of it that the Association is responsible to maintain when a threat to personal safety on the Property is discovered.
- (c) An extraordinary expense necessary to repair or maintain the Condominium Project or any part of it that the Association is responsible to maintain that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget required under California Civil Code Section 5300, provided that, before the imposition or collection of any Assessment under this Section, the Board must pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process and shall distribute the resolution to the Owners with the notice of Assessment.
- (d) An extraordinary expense in making the first payment of the earthquake insurance surcharge under California Insurance Code Section 5003.



### **7.10 Accounting for Special Assessments.**

Unless the Association is exempt from federal or state income taxes, including, but not limited to, an exemption under Internal Revenue Code Section 528 and the California Revenue and Taxation Code Section 23701t, the Board shall take such steps as may be reasonably necessary to prevent the Special Assessment from being included in the Association's income for federal and state income tax purposes, including, if necessary, depositing the funds in a segregated account, not commingling the funds with any other funds of the Association, and using the funds solely for the purpose for which they were levied.

### **7.11 Limited Assessments.**

(a) The Assessments that the Association may levy pursuant to this Section 7.11 are referred to in this Declaration as "Limited Assessments."

(b) Notwithstanding anything to the contrary contained in Section 7.05 above, if any Common Expense is attributable to the operation, maintenance, repair, replacement, alteration or improvement of an Exclusive Use Common Area, the Association may levy an Assessment for such Common Expense against the Units to which that Exclusive Use Common Area is assigned, equally, in proportion to the Shares of Common Expenses attributable to those Units, or in any other equitable proportion as the Association reasonably deems appropriate.

(c) Each Limited Assessment levied against any Unit shall be shown on the annual budget, or an amendment to an annual budget, adopted by the Board and shall be paid as and when determined by the Board.

### **7.12 Default Assessments.**

(a) Notwithstanding anything to the contrary contained herein, if any Common Expense is caused by:

(i) the negligence or misconduct of an Owner or such Owner's Guest,

Or

(ii) a violation of any covenant or condition of an Association Document by an Owner or such Owner's Guest,

(iii) the Association may levy an Assessment against such Owner's Unit.

(b) Any such Assessment levied by the Association and each fine, penalty, fee or other charge imposed upon an Owner for the violation of any covenant or condition of any Association Document by an Owner or such Owner's Guest are each referred to herein as a "Default Assessment."

(c) With respect to any Default Assessment, or portion thereof, levied other than as a late charge, the Owner of the Unit against which the Association seeks to levy the Default Assessment shall be provided notice and an opportunity to be heard. Owners of Units against which Default Assessments have been levied shall pay such Default Assessments when required by the Association.

(d) After compliance with the due process requirements imposed by law and in the Association Documents, the Board may impose a monetary penalty and levy a Default Assessment against a particular Unit to reimburse the Association for costs incurred in repairing damage to the Common Area, or any Improvements or personal property located thereon, for which the Owner was allegedly responsible, or in bringing the Owner or the Owner's Unit into compliance with this Declaration, the Articles or the Bylaws. To the extent permissible by the Act and California Civil Code Sections 2924, 2924(b), and 2924(c), any Default Assessment, or portion thereof, may become a lien against the Owner's Unit that is enforceable by a power of sale.

### **7.13 Assessment Period.**

Unless the Board determines otherwise, the Association's fiscal year shall be a calendar year, and the Regular Assessment period shall commence on January 1 of each year and shall terminate on December 31 of that year, provided that the first Regular Assessment period for all Units in any Phase shall commence on the first day of the calendar month following the date of the closing of the first conveyance of a Unit in that Phase under authority of a final subdivision public report issued by the California Department of Real Estate and shall terminate on December 31 of that year.

### **7.14 Delinquency.**

Regular, Special, Limited, Property Tax and Default Assessments levied pursuant to the Association Documents are delinquent if not paid within fifteen (15) days after they become due. If an Assessment is delinquent the Association may recover all of the following:

(a) Reasonable costs incurred in collecting the delinquent Assessment, including reasonable attorneys' fees;

(b) A late charge not exceeding ten percent (10%) of the delinquent Assessment or Ten Dollars (\$10.00), whichever is greater; and

(c) Interest on any delinquent Assessment and on reasonable costs of collection and late charges at an annual percentage rate equal to the lesser of (i) twelve percent (12%) or (ii) the highest rate allowable in accordance with the then applicable usury laws of the State of California, commencing thirty (30) days after the Assessment becomes due and continuing until paid.

### **7.15 Assignment of Assessments.**

The Association shall have the unrestricted right to assign its right to receive Assessments and other future income, either as security for obligations of the Association or otherwise, on the condition that any such assignment is approved by a Majority of the Owners.

### **7.16 Association's Powers to Sue and to Establish Assessment Lien.**

The Association has the right to collect and enforce Assessments. Subject to the restriction on the enforcement of monetary penalties described in paragraph 7.12(d) above, the Association may enforce delinquent Assessments, including delinquent installments thereof, by

suing an Owner directly on the debt established by the Assessment, or by establishing a lien against the Owner's Unit as provided in Section 7.17 below and foreclosing the lien through either judicial proceedings or nonjudicial proceedings under a power of sale as provided in Section 7.18 below. In any action instituted by the Association to collect delinquent Assessments, accompanying late charges, or interest, the prevailing party shall be entitled to recover from the losing party costs and reasonable attorneys' fees incurred, including, but not limited to, those incurred in any appeal. The Association may take a deed in lieu of foreclosure or other similar instrument.

#### **7.17 Assessment Lien.**

(a) Any Assessment and any late charges, reasonable costs of collection, and interest, as assessed in accordance with Section 1366 of the Act, shall be a debt of the Owner at the time the Assessment or other sums are levied. Before the Association may place a lien upon the Unit of an Owner to collect a debt which is past due, the Association shall notify the Owner in writing by certified mail of the fee and penalty procedures of the Association, provide an itemized statement of the charges owed by the Owner, including items on the statement which indicate the principal owed, any late charges and the method of calculation, any attorneys' fees, and the collection practices used by the Association, including the right of the Association to the reasonable costs of collection. In addition, any payments toward such a debt shall first be applied to the principal owed, and only after the principal owed is paid in full shall such payments be applied to interest or collection expenses.

(b) A delinquent Assessment or installment thereof, together with any accompanying late charges, interest, costs (including reasonable attorneys' fees), and penalties as may be authorized under this Declaration, shall become a lien (an "Assessment Lien") on the Unit against which the Assessment was levied on the recordation of a notice of delinquent Assessment in the Placer County Records and shall be prior to all other liens recorded subsequent to the notice. The notice shall describe the amount of the delinquent Assessment or installment thereof, the related charges authorized by this Declaration, a description of the Unit, the name of the record Owner, and if the lien is to be enforced by power of sale under nonjudicial foreclosure proceedings, the name and address of the trustee authorized by the Association to enforce the Assessment Lien by sale. The notice shall be signed by any Officer or by any employee or agent of the Association authorized to do so by the Board.

(c) Unless the Board considers the immediate recording of the notice of delinquent Assessment to be in the best interests of the Association, the notice of delinquent Assessment shall not be recorded until fifteen (15) calendar days after the Association has delivered a written notice of default and demand for payment. If the delinquent Assessment or installment thereof and related charges are paid or otherwise satisfied, the Association shall record a notice of satisfaction and release of lien.

#### **7.18 Foreclosure under Assessment Lien.**

The Association may enforce any Assessment Lien established under Section 7.17 above by filing an action for judicial foreclosure or, if the notice of delinquent Assessment contains the name and address of the trustee authorized by the Association to enforce the Assessment Lien by nonjudicial foreclosure, by recording a notice of default in the form described in California Civil

Code Section 2924c(b)(1) to commence a nonjudicial foreclosure. Any nonjudicial foreclosure shall be conducted, as allowed by the Act, in accordance with the requirements of California Civil Code Sections 2924, 2924b, 2924c, 2924f, 2924g, 2924h, and 2924j that apply to nonjudicial foreclosures of mortgages or deeds of trust. The sale shall be conducted by the trustee named in the notice of delinquent Assessment or by a trustee substituted in accordance with the provisions of California Civil Code Section 2934a. The Association may bid on the Unit at the sale, and may hold, lease, mortgage, and convey the acquired Unit. If the default is cured before the sale or before completing a judicial foreclosure, including payment of all costs and expenses incurred by the Association, the Association shall record a notice of satisfaction and release of lien, and on receipt of a written request by the Owner, a notice of rescission of the declaration of default and demand for sale.

#### **7.19 Waiver of Homestead Exemption.**

By acceptance of the deed or other instrument of conveyance of a Unit, an Owner irrevocably waives the homestead exemption provided by Sections 704.710 through 704.995 of the California Code of Civil Procedure, as amended, as the same otherwise may apply to the Assessment Lien.

#### **7.20 Estoppel Certificates; Notices to Mortgagees.**

(a) The Association shall furnish to an Owner or such Owner's designee or to a Mortgagee or its designee within ten (10) days of the mailing or delivery of written request by an Owner, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the Association's registered agent, a statement setting forth the amount of unpaid Assessments currently levied against such Owner's Unit. The statement is binding on the Association, the Board and every Owner. The Board shall provide the Owner with a written statement containing the following information: (i) whether, to the knowledge of the Association, the Owner or the Owner's Unit is in violation of any of the provisions of the Association Documents; (ii) the amount of Regular, Special, Limited and Property Tax Assessments, including installment payments thereof paid by the Owner during the fiscal year in which the request is received; and (iii) the amount of any delinquent Assessments, penalties, interest, attorneys' fees, and other charges on the Owner's Unit as provided by the Association Documents.

(b) The Board may charge the Owner a fee to recover its reasonable costs in preparing the statement. Any prospective purchaser or mortgagee of the Owner's Unit may rely on the information in the written statement, provided that reliance may not extend to any violation of the Association Documents of which the Association does not have actual knowledge.

(c) If, after the Board receives a written request of Owner made pursuant to paragraph 7.20(a) above, no statement is furnished to the Owner, the Mortgagee or their designee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, then the Association shall have no right to assert the priority of its Assessment Lien upon the Unit for unpaid Assessments which were due as of the date of the request.

(d) If a First Mortgagee delivers to the Association a written request for notice of unpaid Assessments levied against a Unit subject to a First Mortgage held by that First

Mortgagee, the Association shall report to the First Mortgagee any unpaid Assessments levied against such Unit that remain unpaid for more than sixty (60) days after the same shall have become due. The First Mortgagee may pay any such unpaid Assessments, together with any and all costs and expenses incurred with respect to any Assessment Liens securing such unpaid Assessments.

#### **7.21 Reserve Account.**

(a) The Association shall have the right to maintain Reserves for the repair, restoration, replacement or maintenance of, or litigation involving the repair, restoration, replacement or maintenance of, the Major Components that the Association is obligated to repair, restore, replace or maintain, the exterior maintenance of the Units and for such other contingencies as are required for good business practice. The Reserve Account will be funded and managed as set forth herein.

(b) Upon the sale of a Unit to a Purchaser, the Association shall not be obligated to return to the transferor any funds held in reserve.

(c) Funds that the Association collects for Reserves shall, within ten (10) days after receipt, be deposited into an interest bearing account with a bank or savings and loan association selected by the Association, or invested in treasury bills or certificates of deposit or otherwise prudently invested, which shall collectively be referred to as the "Reserve Account." Funds deposited into the Reserve Account shall be held in trust, in one (1) or more accounts, and may be used by the Association only for the purposes for which such amounts have been collected.

(d) Notwithstanding paragraph 7.21(a) above, the Board may authorize (and cause) the temporary transfer of money from the Reserve Account to the Association's general operating fund to meet short-term cash flow requirements or other expenses, on the condition that the Board has made a written finding, recorded in the Board's minutes, explaining the reasons the transfer is needed and describing when and how the money will be returned to the Reserve Account. The transferred funds shall be restored to the Reserve Account within one (1) year after the date of the initial transfer, except that the Board may, upon making a finding supported by documentation that a temporary delay would be in the best interests of the Association, temporarily delay the restoration. The Board shall exercise prudent fiscal management in delaying restoration of these funds and in restoring the expended funds to the Reserve Account, and shall, if necessary, levy a Special Assessment to recover the full amount of the expended funds within the time limits required by this paragraph 7.21(d). This Special Assessment is subject to the limitation imposed by Section 7.09 above. The Board may, in its discretion, extend the date on which the payment of the Special Assessment is due. Any extension shall not prevent the Board from pursuing any legal remedy to enforce the collection of any unpaid Special Assessment.

(e) When the decision is made to use funds deposited in the Reserve Account or to temporarily transfer money from the Reserve Account to pay for litigation, the Board shall notify the Owners of that decision in the next available mailing to all members pursuant to Section 5016 of the California Corporations Code, and of the availability of an accounting of those expenses. The Board shall cause an accounting to be made of expenses related to the

litigation on at least a quarterly basis. The accounting shall be made available for inspection by the Owners at the Association's office.

(f) Notwithstanding any other provision of this Declaration, the Parking Units shall not be subject to pay amounts at any time towards the reserve account.

#### **7.22 Reserve Account Study.**

(a) This Section is intended to implement the reserve account study and review requirements established by Section 1365.5 of the Act. To the extent that Section 1365.5 is amended or replaced, the provisions of this Section shall be automatically amended and replaced by the new statutory provisions. Further, if the limitations set forth in Section 1365.5 are repealed, the provisions of this Section 7.22 shall no longer have any force or effect.

(b) At least once every three (3) years the Board shall cause to be conducted a reasonably competent and diligent visual inspection of the accessible areas of the Major Components which the Association is obligated to repair, replace, restore, or maintain as part of a study of the reserve account requirements of the Association to be conducted if the current replacement value of the Major Components that the Association is obligated to repair, replace, restore, or maintain is equal to or greater than one-half (V2) of the gross budget of the Association for any fiscal year (which excludes the Association's Reserve Account for that period). The Board shall review this study annually and shall consider and implement necessary adjustments to the Board's analysis of the Reserve Account requirements as a result of that review.

(c) At a minimum, the study required by paragraph 7.22(b) above shall include:

(i) identification of the Major Components of the Common Area and exterior of the Units that the Association is obligated to repair, replace, restore or maintain, for which Reserves have been maintained under paragraph 7.21(a) above, and which, as the date of the study, have a remaining useful life of less than thirty (30) years;

(ii) identification of the probable remaining useful life of the Major Components identified in (i) above, as of the date of the study;

(iii) an estimate of the cost of repair, replacement, restoration, or maintenance of each Major Component identified in (i) above, during and at the end of its useful life; and

(iv) an estimate of the total annual contribution necessary to defray the cost to repair, replace, restore or maintain each Major Component identified in (i) above, during and at the end of its useful life, after subtracting the total in the Reserve Account as of the date of the study.

(d) The term "reserve account requirements" as used in this Section 7.22 shall mean the estimated funds which the Board has determined are required to repair, replace, restore or maintain those Major Components that the Association is obligated to repair, replace, restore or maintain.

### **7.23 Parking Unit Assessments and Charges.**

(a) The Regular Assessments levied against the Lower Parking Unit labeled P3 on the Plan for the Phase One Property shall equal the sum of \$9,340.50 annually for the first fiscal year of the Association, and the Regular Assessments levied against the Lower Parking Unit labeled P6 on the Plan for the Phase Two Property if the Phase Two Property is annexed shall equal the sum of \$9,340.50 annually for the Association's fiscal year in which the Phase Two Property is annexed, which amounts shall be adjusted each fiscal year by the proportional change in the Consumer Price Index for the November preceding the payment dates as compared with the Consumer Price Index for November one (1) year earlier. The Owners of the Lower Parking Units shall pay such Regular Assessments to the Association on the first day of each fiscal year of the Association. The Lower Parking Units shall also be subject to Default Assessments provided in Section 7.12 above, delinquency charges provided in Section 7.14 above, and costs and fees for collection together with the Assessment Lien provided in Sections 7.16, 7.17 and 7.18 above. The foregoing annual Regular Assessment is intended to capture all (i) indirect costs and (ii) reasonable direct costs and expenses benefitting the Lower Parking Units and associated with or related to the operation, maintenance, repair, replacement or servicing of the parking garage drainage facilities and floor drains, the sump pump and related mechanisms, the interior parking garage access ramp serving the Lower Parking Units, the parking garage ventilation and heating systems and mechanisms, the carbon monoxide monitoring system, the fire alarm system, the sprinkler system, the structural components of the Condominium Project below the ground level, the stairways accessing the Lower Parking Units, the emergency lighting system, the parking garage door and related mechanisms, the swipe card entry mechanism and the insurance maintained by the Association for the Condominium Project. In the event that the aforesaid direct costs and expenses are significantly higher than the Regular Assessment set forth above, the Association may assess the Lower Parking Units such increase in direct costs as part of the Regular Assessment or as a Special Assessment on the condition that prior to imposing any such increased Regular Assessment or Special Assessment, the Association shall employ a professional consultant with at least five (5) years experience preparing condominium budgets in California, and such consultant shall certify that the increased Regular Assessment or Special Assessment is wholly attributable to the direct costs or expenses of the Lower Parking Units listed above in this Section 7.23. In addition, all utility and other services provided for in Section 8.01 below which are separately metered or sub-metered for the Lower Parking Units shall be billed to, and paid by, the Owners of the Lower Parking Units as and when such bills become due.

(b) The Regular Assessments levied against the Upper Parking Unit labeled P1 on the Plan for the Phase One Property shall equal the sum of \$15,925.00 annually for the first fiscal year of the Association, and the Regular Assessments levied against the Upper Parking Unit labeled P4 on the Plan for the Phase Two Property if the Phase Two Property is annexed shall equal the sum of \$6,313.00 annually for the Association's fiscal year in which the Phase Two Property is annexed, which amounts shall be adjusted each fiscal year by the proportional change in the Consumer Price Index for the November preceding the payment dates as compared with the Consumer Price Index for the preceding the payment dates as compared with the Consumer Price Index for the November one (1) year earlier. The Owners of the Upper Parking Units shall pay such Regular Assessments to the Association on the first day of each fiscal year of the Association. The Upper Parking Units shall also be subject to Default Assessments provided in

Section 7.12 above, delinquency charges provided in Section 7.14 above, and costs and fees for collection together with the Assessment Lien provided in Sections 7.16, 7.17 and 7.18 above. The foregoing annual Regular Assessment is intended to capture all (i) indirect costs and (ii) reasonable direct costs and expenses benefitting the Upper Parking Units and associated with or related to the operation, maintenance, repair, replacement or servicing of the parking garage drainage facilities and floor drains, the sump pump and related mechanisms, the interior parking garage access ramp serving the Upper Parking Units, the parking garage ventilation and heating systems and mechanisms, the carbon monoxide monitoring system, the fire alarm system, the sprinkler system, the structural components of the Condominium Project, the stairways accessing the Upper Parking Units, the emergency lighting system, the parking garage door and related mechanisms, the swipe card entry mechanism and the insurance maintained by the Association for the Condominium Project. In the event that the aforesaid direct costs and expenses are actually higher than the Regular Assessment set forth above, the Association may assess the Upper Parking Units as part of the Regular Assessment, or as a Special Assessment, such increase in direct costs. In addition, all utility and other services provided for in Section 8.01 below which are separately metered or sub-metered for the Upper Parking Units shall be billed to, and paid by, the Owners of the Upper Parking Units as and when such bills become due.

(c) The costs, expenses and liabilities relating to owning, managing, operating, insuring, improving, replacing and maintaining the Parking Units shall be expended, paid and incurred by the Owners of the Parking Units directly whenever such costs and expense can be separately apportioned to the Parking Units. Such costs and expenses shall include all material direct and sub-metered utility services, including, but not limited to, those services listed in paragraph 8.01(b) below.

(d) Except as set forth in this Section 7.22, the Upper Parking Units and the Lower Parking Units shall not be subject to any other Assessments (whether as Regular Assessments, Special Assessments or otherwise), charges, fees or levies by the Association under the terms of this Declaration.

## **ARTICLE VIII. UTILITY AND OTHER SERVICES.**

### **8.01 Water and Sewer Services.**

(a) Unless separately obtained by an Owner, the Association shall be responsible for obtaining water and sewer services for all portions of the Condominium Project.

(b) The Association shall separately measure or meter the use of water and sewer services by the Commercial Units and shall allocate all costs, expenses, fees, rates and other charges incurred in connection therewith among each of the Commercial Units with the measured or metered amounts.

(c) The Association shall separately measure or meter the use of water and sewer services by the Neighbourhood Company, if any, in connection with its maintenance and operation of the Neighbourhood Company Property and the plaza areas, heat tracing systems and other improvements owned or maintained and operated by the Neighbourhood Company. All costs, expenses, fees, rates and other charges incurred in connection therewith shall be billed to

**22 Station at the Village of Squaw Valley USA**

*Drafted by Angius & Terry LLP, 3001 Lava Ridge Court, Ste. 130, Roseville, CA 95661, (916) 567-1400*



and paid by the Neighbourhood Company directly to the service provider or to the Association if the account is in the name of the Association.

(d) The Association shall separately measure or meter the use of all water and sewer services by the Residential Units and all Common Areas restricted to use by the Owners of Residential Units and shall allocate all costs, expenses, fees, rates and other charges incurred among each of the Residential Units in accordance with their Share of Common Expenses.

(e) The Association shall separately measure or meter the use of all water and sewer services by the Parking Units and shall allocate all costs and expenses for such services to the respective Parking Units in accordance with the measured or metered amounts.

### **8.02 Electricity.**

(a) The use of all electricity services by each individual Commercial Unit shall be separately measured or metered and the Owner of each Commercial Unit shall be billed directly and shall pay all costs, expenses, fees, rates and other charges incurred directly to the service provider.

(b) The use of all electricity services by the Residential Units and the Common Areas restricted to use by the Owners of Residential Units shall be separately measured or metered and the Association shall allocate all costs, expenses, fees, rates and other charges incurred in connection therewith among each of the Residential Units in accordance with their Share of Common Expenses.

(c) The use of all electricity services by the Parking Units shall be separately measured or metered and the Owner of the Parking Units shall be billed directly and shall pay all costs, expenses, fees, rates and other charges incurred in connection therewith directly to the service provider.

(d) Each Owner of a heated Unit shall ensure that its Unit is sufficiently heated to prevent the freezing of water and sewer lines serving the Condominium Project.

### **8.03 Propane Gas.**

(a) The use of all propane gas services by each individual Commercial Unit shall be separately measured or metered and the Owner of each Commercial Unit shall be billed directly and shall pay all costs, expenses, fees, rates and other charges incurred directly to the service provider or to the Association if the account is in the name of the Association.

(b) The use of all propane gas services by the Residential Units and the Common Areas restricted to use by the Owners of Residential Units shall be separately measured or metered and the Association shall allocate all costs, expenses, fees, rates and other charges incurred in connection therewith among each of the Residential Units in accordance with their Share of Common Expenses.

(c) The use, if any, of all propane gas services by the Parking Units shall be separately measured or metered and the Owner of the Parking Units shall be billed directly and shall pay all costs, expenses, fees, rates and other charges incurred in connection therewith

directly to the service provider or to the Association if the account is in the name of the Association.

#### **8.04 Trash Removal Services.**

Unless separately obtained by an Owner, and except as provided by the Neighbourhood Company, the Association shall be responsible for obtaining trash removal services for all portions of the Condominium Project. The Association shall allocate all costs and expenses for trash removal services among the Residential and Commercial Units in accordance with their Share of Common Expenses.

#### **8.05 Cable Television.**

(a) The Association shall obtain cable or satellite television services for the Units (other than the Parking Units) and the Common Areas appurtenant thereto.

(b) Common Expenses for cable or satellite television services shall be allocated among all Units (other than the Parking Units) equally and charged to the Owners of the Units as Regular Assessments. Notwithstanding the foregoing, the Association may contract with any Person to provide switchboard services to all of the Units (other than the Parking Units).

#### **8.06 Telephone.**

Each Owner shall be responsible for obtaining telephone services for its Unit and the Exclusive Use Common Area designed to serve only its Unit and shall pay all costs, expenses, fees, rates and other charges incurred in connection therewith, including, but not limited to, any connection fees, directly to the telephone company providing the same. Notwithstanding the foregoing, the Association may contract with any Person to provide switchboard services to all of the Units (other than the Parking Units).

#### **8.07 Snow Removal and Storage Services.**

(a) The Association shall be responsible for providing or procuring snow removal and storage services for all portions of the Condominium Project (including, but not limited to, the removal of snow from rooftops in the event the depth of snow accumulation exceeds eight (8) feet) and removal of any snow accumulation from all entrances to and exits from the Condominium Project, in accordance with the removal and storage plans approved by Placer County from time to time.

(b) All costs incurred by the Association for snow removal and storage services shall be charged to Owners as Regular or Special Assessments in accordance with Article VII above.

#### **8.08 Other Utilities.**

If the Association incurs Common Expenses for any utility service not described above, or if the manner of providing or metering any utility service described above changes from the manner in which such service is provided or metered as of the date of this Declaration, the Association may allocate the Common Expenses incurred for such new utility service or changed

utility service in any reasonable and equitable manner approved by at least a Majority of the Board.

## **ARTICLE IX. MAINTENANCE OF COMMON AREA, EASEMENTS AND UNITS.**

### **9.01 Maintenance of Common Area.**

Except as otherwise provided in this Declaration, the Association, or its duly designated agent, shall maintain the Common Area and the other Association property in good order and condition and shall otherwise manage and operate the Common Area as it deems necessary or appropriate (including, but not limited to, snow removal operations). In addition, the Association shall ensure that all heated Common Areas are sufficiently heated to prevent the freezing of water and sewer lines serving the Condominium Project. In this regard, the Association may:

(a) construct, modify, add to, repair, replace or renovate any Improvements that are located on or constitute a part of any Common Area;

(b) plant and replace trees, flowers, shrubs and other vegetation on any Common Area subject to the Neighbourhood Company's right to regulate, approve, plant and replace all vegetation that is visible from the exterior of any building;

(c) place, maintain and replace signs upon any Common Area;

(d) adopt and enforce Rules and Regulations regulating the use of the Common Area; and

(e) take any other actions as the Association deems necessary or advisable to protect, maintain, operate, repair, manage or regulate the use of the Common Area.

### **9.02 Maintenance of Units.**

Each Owner, at such Owner's sole cost and expense, shall maintain in good order and repair its Unit (including all fixtures located therein) and any Exclusive Use Common Areas assigned solely to that Unit, other than those portions, if any, of an Exclusive Use Common Area that the Association chooses to maintain for reasons of uniformity or structural considerations. Without limiting the generality of the preceding sentence, the Association may maintain all exterior patios, roofs, decks, trellises, window boxes, skylights, windows and other exterior portions of the Condominium Project, even if such portions are Exclusive Use Common Area appurtenant to a single Unit, and all costs incurred by the Association in that regard shall be charged to Owners as Limited Assessments in accordance with Section 7.11 above. Notwithstanding the foregoing, the Neighbourhood Company shall have an easement over balconies and decks for the purpose of installing, maintaining, repairing and replacing, planting, re-planting and watering flower boxes on windows, balconies and decks as the Neighbourhood Company deems necessary or appropriate.

### **9.03 Maintenance of Roadways, Utilities, and Drainage Facility Easements.**

Except as otherwise provided in this Declaration and unless otherwise maintained by the Neighbourhood Company, the Association, or its duly designated agent, shall maintain the roadways, pedestrian pathways, utilities, and drainage facilities that are established by Easement Agreements in good order and condition as it deems necessary or appropriate. Without limiting the generality of the preceding sentence, the Association shall maintain all of the foregoing facilities in accordance with the terms and conditions of the Easement Agreements, and all costs incurred by the Association in that regard shall be charged to Owners as Assessments in accordance with Article VII above.

### **9.04 Mechanics' Liens and Indemnification.**

No labor performed or materials furnished and incorporated into a Unit with the consent or at the request of an Owner or an agent, contractor or subcontractor of an Owner shall be the basis either for filing a lien against the Unit of any other Owner not expressly requesting or consenting to the same or against the Common Area. Each Owner shall indemnify and hold harmless each of the other Owners and any Mortgagee from and against all liability arising from any claim or lien against the Unit of any other Owner or against the Common Area for construction performed or for labor, materials, services or supplies incorporated in the Owner's Unit at the Owner's request or at the request of the Owner's agent, contractor or subcontractor.

### **9.05 The Neighbourhood Company.**

The rights and obligations of the Association and the Owners under this Article IX are subject to the rights of the Neighbourhood Company under the Neighbourhood Company Documents and the Cost Sharing Agreement.

## **ARTICLE X. USE RESTRICTIONS.**

### **10.01 Applicability of Covenants, Conditions and Restrictions.**

Except as otherwise provided in this Declaration, the covenants, conditions and restrictions set forth in this Article X shall apply to all Units and the Common Area.

### **10.02 Association Documents.**

Each Owner shall comply with, and shall require its Guests to comply with, all provisions of the Association Documents that apply to such Owner, such Owner's Unit or the Common Area. The Association Documents shall not impair, burden or prevent the use of the Lower Parking Units for passenger vehicle parking purposes.

### **10.03 Notice of Conveyance, Assignment or Encumbrance.**

(a) Promptly after a conveyance of a fee simple interest in a Unit or portion thereof, the grantee shall furnish a copy of the conveyance deed to the Association and to the Neighbourhood Company.

(b) At any time after an encumbrance of a fee simple interest in a Unit or portion thereof, if the Board requests, the Owner shall promptly furnish the Association and the Neighbourhood Company with a copy of the Mortgage creating the encumbrance.

### **10.04 Use of Commercial Units.**

(a) The Commercial Unit designated on the Plan as the Commercial Unit PM may be used in connection with (i) rental management of the Property, (ii) rental management of other property managed or operated by the Management Agent, and (iii) subject to the provisions of this Declaration, any other lawful use.

(b) The Owner of any Commercial Units, other than the Commercial Unit PM, may, subject to the provisions of this Declaration, use such Commercial Units for any lawful use subject to the provisions of the Commercial Space Covenants. Such an Owner may lease all or any portion of its Commercial Unit, subject to the provisions of this Declaration, for any lawful purpose subject to the provisions of the Commercial Space Covenants.

(c) Owners of Commercial Units shall not use, and shall not permit their Guests to use, any entrance to or exit from the Condominium Project which is designated on the Plan for exclusive use by Owners of Residential Units or by Owners of Parking Units. This prohibition shall not apply to the Owner of the Commercial Unit PM or to any other property management company operating in the due course of providing services to the Condominium Project or any of its Owners or by Owners of Parking Units.

(d) Owners of Commercial Units, other than the Commercial Unit PM, shall not use, and shall not permit their Guests to use, any waiting area, library, stairway, elevator, patio, walkway, hallway, hot tub, fitness room, spa, storage area, restroom or other portion of the Condominium Project which is designated on the Plan for exclusive use by Owners of Residential Units, Owners of the Commercial Unit PM and/or Owners of Parking Units.

(e) Notwithstanding anything to the contrary contained in this Declaration, an Owner of a Commercial Unit may make Improvements or alterations to its Commercial Unit and the Exclusive Use Common Area designed to serve only its Commercial Unit, including, but not limited to, the erection of partitions as permitted under paragraph 3.02(b)(iii) above, without the consent of any Owner or the Association, on the conditions that:

(i) the Improvement or alteration does not impair any other Unit or the Common Area designed to serve any Residential Unit;

(ii) the Owner of the Commercial Unit repairs any damage to any portion of the Common Area caused thereby at its cost and expense; and

(iii) the Improvement or alteration complies with all applicable requirements of the Association and the Neighbourhood Company Documents. If any such Improvement or alteration will impair any other Unit or any Exclusive Use Common Area assigned to serve any other Unit, the Owner of the Commercial Unit may not make the Improvement or alteration without the prior written consent of the Owners of the Units or the Owners of the Units served by that Exclusive Use Common Area that will be impaired thereby, as the case may be.

(f) Notwithstanding anything to the contrary contained in this Declaration, and in addition to the rights of an Owner of a Commercial Unit under paragraph 10.04(e) above:

(i) the Owner of a Commercial Unit shall have a nonexclusive perpetual easement across, through, over and under any and all portions of the Common Area, and the Parking Units, without the consent of any Owner or the Association, for the purposes of installation, operation, maintenance, repair and replacement of any utility and mechanical service lines, facilities and systems serving the Commercial Units, and any electric, gas, water, sewer, telephone, cable communication, heating, ventilating, and air conditioning lines, wires, circuits, cables, conduits, ducts, vents, and any and all improvements related thereto (the "Facilities"), on the conditions that: (A) the Owner of the Commercial Unit, at its sole cost and expense, shall repair any damage to the Common Area and the Parking Units caused by the exercise of easement rights granted hereby and relandscape or revegetate any area damaged or disturbed in connection with the exercise of easement rights; (B) the Owner of the Commercial Unit shall use its best efforts to install, operate, maintain, repair and replace the Facilities without disturbing the uses of the Owners, the Association and other utility and service providers; (C) such installation, maintenance, repair or replacement complies with all applicable requirements of the Association and Neighbourhood Company Documents; and (D) such installation, maintenance, repair or replacement does not unreasonably interfere with the ownership and operation of the Parking Units. In the circumstance in which it is not reasonably practical to locate the Facilities serving the Commercial Units outside of the Lower Parking Units, so long as such Facilities are located along the ceiling of the Lower Parking Units to maintain a minimum vehicle clearance of 8'2" within the Lower Parking Units, the Commercial Unit Owner or the Association may apply to the Owner of the Lower Parking Units affected by the Facilities and such Owners shall grant without charge, but with normal commercial conditions and restrictions, a non-exclusive perpetual easement for the purposes of installation, operation, maintenance, repair and replacement of the Facilities within such Lower Parking Units, subject to the right of relocation within the Lower Parking Units at the cost and expense of the Lower Parking Unit Owner;

(ii) the Owner of a Commercial Unit shall have the right to alter that portion of the Condominium Project's building facade that serves as the boundary of that Commercial Unit and other Common Area located immediately adjacent to that Commercial Unit (including, but not limited to, the creation, removal and relocation of entrances, exits, windows, window boxes, signage and other architectural features), without the consent of any Owner or the Association, on the condition that (A) the Owner of the Commercial Unit repairs any damage to any Common Area caused thereby at its expense and (B) such alteration complies with all applicable requirements of the Association and Neighbourhood Company Documents;

(iii) notwithstanding anything to the contrary in this Article X, the Owners of any Commercial Unit, and its tenants, shall have the right to use the Upper Parking Units for the

purpose of pedestrian access to and from areas designated on the Plan as EUCA for such Commercial Unit; and

(iv) notwithstanding anything to the contrary in this Article X, the Owner of Commercial Unit PM shall have the right to use the Upper Parking Units for the purpose of vehicular and pedestrian access to and from areas designated on the Plan as EUCA for such Commercial Unit PM.

(g) Notwithstanding anything to the contrary in this Article X, the Owner of a Commercial Unit may:

(i) perform such activities within its Commercial Unit as are common to or necessary for the conduct of commercial operations, including, but not limited to, restaurant, nightclub, lounge and retail operations, and any lights, sounds and odors which result from such activities shall not violate the terms of this Article X;

(ii) erect and attach signs, banners, window boxes, decorations and other similar items on the exterior of the Condominium Project or projections from the exterior of the Condominium Project on the condition that such signs, banners, window boxes, decorations and other similar items and their locations are approved by the Neighbourhood Company's design review board and otherwise comply with the Association and Neighbourhood Company Documents; and

(iii) apply for and obtain special use permits and licenses (e.g., liquor licenses) which are necessary or appropriate for the conduct of commercial activities in its Unit in accordance with this Declaration, the other Association Documents and the Neighbourhood Company Documents, without obtaining the approval otherwise required under paragraph 10.14(b) below, on the condition that such permits and licenses are consistent with the existing zoning and actual uses of the Commercial Unit at the time the permit or license is applied for.

#### **10.05 Use of Common Area.**

All Owners and their Guests may use the Common Area and the Exclusive Use Common Areas designed to serve their respective Units for the purposes for which such Common Area is intended. Notwithstanding the preceding sentence, neither an Owner nor a Guest may use any Common Area in any manner that unreasonably interferes with the rights of other Owners in and to the Common Area. Without limiting the generality of the foregoing, no Owner shall cause, or permit its Guests to cause, waste to any Common Area.

#### **10.06 Alterations.**

(a) Except as otherwise expressly permitted in this Declaration, no Improvements, including, but not limited to, any building, fence, wall, spa, cover, tent, awning, carport, carport cover, trellis, window box or landscaping, shall be commenced, installed, erected, painted, repainted or maintained upon the Condominium Project, nor shall any alteration of any Improvement of any kind be made, until the same has been approved in writing by the Board. Except as otherwise expressly provided in this Declaration, an Owner of a Unit may not make any Improvement or alteration to a Common Area or any Improvement or alteration to its

Unit that affects any Common Area or any other Unit, without the prior written consent of the Board.

(b) Notwithstanding paragraph 10.06(a) above, an Owner who owns adjoining Commercial Units may remove or alter any intervening partition, even if the partition in whole or in part is a Common Area, if those acts do not impair the structural integrity, electrical systems, or mechanical systems or lessen the support of any portion of the Condominium Project. No Owner of a Residential Unit may perform any such alterations without the prior written consent of the Association.

(c) No new Improvement shall be constructed on the Property and no construction, alterations, installations or other work to or affecting the exterior surface of any existing Improvement shall be made without the prior written consent of the Board.

(d) Without limiting the generality of paragraphs 10.06(a) through (c) above, an Owner of a Unit may not, without the prior written consent of the Board, install or erect any Improvement, mechanical system or fixture that either:

(i) protrudes beyond the boundaries of the Owner's Unit; or

(ii) is located wholly outside the Owner's Unit (even if located within an Exclusive Use Common Area that is assigned solely to the Owner's Unit).

(e) Without limiting the generality of paragraphs 10.06(a) through (d) above, Owners may improve or alter any Improvements within the interior boundaries of the Owner's Unit provided that such Improvements and alterations do not impair the structural or acoustical integrity of any Common Area, any utilities or other systems servicing any portion of the Common Area or any other Unit, or any Unit. Plans and specifications showing the nature, kind, shape, color, size, materials and location of any proposed Improvement or alterations shall be submitted to the Board to enable the Board to confirm compliance with the requirements of this paragraph 10.06(e). Notwithstanding the foregoing, no Owner shall be permitted to install or operate any spa or hot tub within the Owner's Unit or Exclusive Use Common Area appurtenant to such Unit.

Without limiting the generality of paragraphs 10.06(a) through (e) above, no television or radio poles, antennae, satellite dishes, flag poles, clotheslines, patio furniture, barbecue facilities, fences, awnings, screens, sunshades, window boxes or other external fixtures of any kind other than those originally installed by Declarant or approved by the prior written consent of the Board, shall be constructed, erected, or maintained on or within the Common Area.

(g) Notwithstanding anything to the contrary set forth in this Section 10.06, no consents or approvals of the Association or the Board or any other Person shall be required in connection with the exercise by the Declarant, or any Successor Declarant, of any rights reserved in this Declaration or in the Cost Sharing Agreement relating to the annexation of the Phase Two Property and the construction of Phase Two of the Condominium Project.

(h) A physically impaired Owner may make modifications to the Owner's Unit and Common Area leading to the Unit, upon approval of the Association, in accordance with the



terms, conditions and restrictions set forth in Section 4760 of the California Civil Code, as may be amended from time to time.

In addition to the requirements set forth in paragraphs 10.06(a) through (h) above, any and all new Improvements and alterations to existing Improvements, including, but not limited to, any building, fence, spa cover, tent, awning, carport, carport cover, trellis, window box or landscaping, which will be visible from the exterior of any building shall require the prior written approval of the Neighbourhood Company design review board.

#### **10.07 Television or Radio Equipment.**

(a) No Owner shall install, or cause to be installed, any television, video, radio, "Citizen Band" or "C.B." Antenna, satellite dish or other similar electronic receiving or broadcasting device (individually and collectively the "Antenna Equipment") on the exterior of any Unit or elsewhere within the Common Area, unless such Antenna Equipment is: (i) contained entirely within a Unit or other approved structure; and (ii) reasonably obscured from view from any public streets or other part of the Condominium Project. Any screening materials or structure enclosing Antenna Equipment shall be approved by the Neighbourhood Company design review board. Each Owner, by acceptance of a deed for conveyance of a Unit in the Condominium Project, acknowledges, understands and agrees that provisions of this Section shall at all times be subject to current federal and state laws pertaining to the placement, installation and use of antennas, satellite dishes, etc. In the event of any conflict between the provisions set forth herein, the Declaration shall be deemed to be superceded to the extent of any conflict. This Section 10.07 shall not apply to a master antennae or cable television antennae system installed by Declarant or by a franchise cable television operator.

(b) Notwithstanding the provisions of the foregoing paragraph, each Owner, by acceptance of a deed to a Unit, understands and acknowledges that Section 1376 of the Act, as the same may be amended from time to time, sets forth certain provisions regarding the installation of television and video antennas, including satellite dishes with a diameter of one meter (1m) or less. The following restrictions may be imposed by the Association as "reasonable restrictions," as defined in the foregoing Code Section:

(i) the installation of a video or television antenna system, including a satellite dish with a diameter of one meter (1m) or less, shall be deemed an Improvement and shall require the approval of the Neighbourhood Company design review board, which approval shall not be unreasonably withheld;

(ii) the Association shall be permitted to impose on an applicant, reasonable requirements pertaining to the installation, maintenance and repair of such system and the roofs or other building structures or improvements to which such system may be affixed; and

(iii) each Owner shall be liable to the Association for any property damage or financial loss related to the installation and maintenance of the system, and for any mechanic's liens and materialman's liens which may be recorded in the Common Area as a result of the installation maintenance, use and repair of such system.

### **10.08 Nuisances, Hazardous Activities and Unsightliness.**

(a) Except as set forth in paragraph 10.08(e) below, no Person shall conduct any activity on the Property that creates a nuisance.

(b) No Person shall conduct any activity on the Property that is or might be hazardous to any Person or property. Without limiting the generality of the foregoing:

(i) no firearms may be discharged; and

(ii) no hunting may be conducted.

(c) No unsightliness shall be permitted at the Property. Without limiting the generality of the foregoing:

(i) all exterior mechanical equipment, lines, wires, pipes and other facilities shall either be buried or enclosed within a structure approved by the Board; and

(ii) all trash, garbage, and waste materials shall be kept in covered containers in accordance with Section 10.16 below.

(d) Normal construction activities shall not be considered to violate the terms and conditions of this Section 10.08. By accepting a deed to a Unit, an Owner acknowledges that construction activities may exist on or near the Property, at any time and from time to time. The Board shall have the power, but not the obligation, to grant variances from the terms and conditions of this Section 10.08 from time to time as it deems necessary.

(e) Notwithstanding anything to the contrary contained in this Declaration or the Association Documents, retail stores, restaurants, bars, nightclubs, theaters and other recreational and entertainment facilities conducted within the Commercial Units, other than the Commercial Unit PM, may be open for business with the general public during the hours of 5 a.m. through 2 a.m. Pacific Time. Rental and property management activities within the Commercial Unit PM may be conducted at all times, twenty-four (24) hours a day. By accepting a deed to a Unit, an Owner acknowledges that the Condominium Project is a part of The Village at Squaw Valley USA and that noises, lights and odors common to commercial activities and construction activities may exist on or near the Property, at any time and from time to time. Accordingly, all Owners take their Units subject to such noises, lights and odors common to commercial activities and construction activities and such Owners expressly waive any and all claims arising from such noises, lights and odors. Notwithstanding the foregoing, no restaurant, bar, nightclub or theatre may be operated on the Property unless and until applicable permits, licenses and approvals have been obtained from the appropriate regulatory agency. No amendment or modification may be made to this paragraph without the express written consent of the Owner of any and all Commercial Units that may be affected by any such change.

### **10.09 Signs.**

(a) No sign of any kind shall be displayed to the public view on or from any Unit or on any portion of the Condominium Project without the approval of the Neighbourhood Company or its design review board except as follows:

(i) one sign of customary and reasonable dimensions advertising a Unit for sale, lease, rent or exchange, displayed from a Unit;

(ii) such signs as may be used by Declarant or its assignees in connection with the development of the Condominium Project and sale of Units;

(iii) such other signs or notices as are required by law or as are otherwise necessary to perfect a right provided for at law;

(iv) signs (A) advertising and marketing real property available for sale on the Neighboring Property, (B) giving directions to the location of said real property, and (C) permanently monumenting the development located or to be located on the Neighboring Property; and

(v) signs identifying the Commercial Units' businesses.

(b) Notwithstanding anything to the contrary in subparagraphs 10.09(a) above, all signs (except for signs used by Declarant or its assignees in connection with the development of the Condominium Project and sale of Units) shall comply with sign guidelines established by the Neighbourhood Company.

(c) Without limiting the generality of paragraph 10.09(a) above, posting and maintenance of speed limit and other signs shall be the responsibility of the Neighbourhood Company except within the Lower Parking Units which shall be the responsibility of the Owners of the Lower Parking Units.

#### **10.10 Compliance with Laws.**

Nothing shall be done or kept at the Property in violation of any law, ordinance, rule, regulation or other requirement of any governmental or quasi-governmental authority.

#### **10.11 Acoustical Standards.**

Except with the prior written consent of the Board, no change in the floor covering materials originally installed in the Units (other than Parking Units) shall be permitted except as permitted pursuant to this Section 10.11. In order to maintain noise transference levels between Units (other than Parking Units) and to comply with applicable building standards, floor covering materials shall be replaced only with materials of equal or better quality and noise transference specifications.

#### **10.12 Window Boxes/Window Coverings.**

Except with the written consent of the Board and the Neighbourhood Company, no change in any window boxes attached to the exterior of a Unit or to an Exclusive Use Common Area appurtenant to a Unit, or the window covering materials originally installed in the Units shall be permitted except as permitted pursuant to this Section 10.12. All window boxes, flowers, shrubberies, draperies, curtains, window coverings, shutters, or blinds visible from the exterior of the Units shall be of the type, color, material and design approved for use in the Condominium Project by the Board and shall satisfy the requirements of the Neighbourhood Company's design

review board. No Owner shall be permitted to apply any window tint to the surface of any window without the prior written consent of the Board.

#### **10.13 Compliance with Insurance.**

Except as may be approved in writing by the Board, nothing shall be done or kept at the Property that may result in the cancellation of any insurance maintained by the Association or that may result in an increase in the rates charged for any such insurance.

#### **10.14 Subdivision, Rezoning and Timesharing.**

(a) No Unit may be subdivided, unless the subdivision has been approved by one hundred percent (100%) of the votes allocated to all Owners, except that the Commercial Units may be subdivided in accordance with the Commercial Space Covenants.

(b) No application for rezoning any portion of the Property, and no applications for variances or use permits, shall be filed with any governmental or quasi-governmental authority, unless the proposed rezoning has been approved by one hundred percent (100%) of the votes allocated to all Owners and the uses that would be permitted under the rezoning comply with the requirements of this Declaration, the other Association Documents and the Neighbourhood Company Documents; provided, however, an application by the Owners of the Lower Parking Units as a part of a development plan, use permit or other form of filing shall not require approval of the other Owners or the Association on the condition that the application and related development (i) shall not change the use of the Lower Parking Units permitted under paragraph 10.15(0 below, (ii) shall not propose or require the fractionalization or division of ownership of the Lower Parking Units into more than one (1) Owner, and (iii) complies with the requirements of Section 18.07 below governing the division of the Lower Parking Units.

(c) No Owner shall offer or sell any interest in any Unit under a "timesharing" or "interval ownership" plan, a Vacation Club, or similar plan.

(d) The covenants, conditions and restrictions set forth in paragraphs 10.14(a) through (c) above shall not apply to Declarant's development of the Property including, but not limited to, Declarant's development of any Residential Units as a Vacation Club.

#### **10.15 Parking Units, Vehicles and Parking.**

(a) No motor vehicle classed by manufacturer rating as exceeding three-quarter ton and no mobile home, recreational vehicle, trailer, detached camper or camper shell, boat or other similar equipment or vehicle may be kept or parked at the Property. Without limiting the generality of the foregoing, no boat, truck, trailer, van, camper, recreational vehicle, or tent shall be used as a living area while located within the Condominium Project.

(b) No motor vehicle shall be constructed, repaired or serviced at the Property.

(c) An Owner, other than an Owner of a Lower Parking Unit, shall not sell, lease or otherwise convey all or any part of the parking rights it has by virtue of its ownership of a Unit or membership in the Association or in the Neighbourhood Company, and any attempted sale, lease, or other conveyance shall be void.

(d) During construction of the Condominium Project, the Declarant may find it necessary to temporarily limit or restrict access to, or close portions of, the Condominium Project's parking facility. Declarant reserves the right to so limit, restrict or close portions of the parking facility so long as adequate alternate parking is provided.

(c) Vehicle access to the Lower Parking Units shall be over and across a portion of the Upper Parking Unit and the Lower access ramp as provided in the Lower Access Easement. Unless pet/flitted by separate easement agreement, Owners of the Lower Parking Units shall not use, and shall not permit their Guests to use, any entrance to or exit from the Condominium Project which is designated on the Plan for exclusive use by Owners of Units other than the Lower Parking Units. Unless permitted by separate easement agreement, Owners of the Lower Parking Units shall not use, and shall not permit their Guests to use, any waiting area, library, stairway, elevator, patio, walkway, hallway, hot tub, fitness room, spa, storage area, restroom or other portion of the Condominium Project which is designated on the Plan for exclusive use by Owners of Units other than the Lower Parking Units. The Condominium Project at all times shall provide for reasonable access through stairways, doors and hallways for the Owners of the Lower Parking Units and their Guests to gain reasonable pedestrian access to and from the Lower Parking Units in accordance with such access ways shown on the Plan. Owners of the Lower Parking Units shall not be permitted to use any elevators within the Condominium Project. Unless permitted by separate easement agreement, Owners of the Upper Parking Units, the Commercial Units and the Residential Units shall not use, and shall not permit their Guests to use any stairways, access ways or other areas designated on the Plan for exclusive use by Owners of the Lower Parking Units.

(f) The Lower Parking Units shall be used for passenger vehicle parking and shall not be used for any other residential or commercial uses. The Owners of the Lower Parking Units may use the Lower Parking Units as vehicle parking either within, or to support residential, recreational, commercial and other types of developments located outside of; The Village at Squaw Valley USA. The Owners of the Lower Parking Units shall not make Improvements or alterations to the Lower Parking Units or any EUCA designed to serve such Lower Parking Units without first complying with all applicable requirements of the Association Documents, including, but not limited to, paragraph 10.06(e) above and the Neighbourhood Company Documents.

(g) Notwithstanding anything to the contrary contained in this Declaration, an Owner of an Upper Parking Unit may make Improvements or alterations to its Upper Parking Unit and the Exclusive Use Common Area designed to serve only its Upper Parking Unit, including , but not limited to, the erection of partitions, without the consent of any Owner or the Association, on the conditions that:

(i) the Improvement or alteration does not impair any other Unit or the Common Area designed to serve any Residential Unit;

(ii) the Owner of the Upper Parking Unit repairs any damage to any portion of the Common Area caused thereby at its cost and expense; and

(iii) the Improvement or alteration complies with all applicable requirements of the Association Documents and the Neighbourhood Company Documents. If any such Improvement or alteration will impair any other Unit or any Exclusive Use Common Area assigned to serve any other Unit, the Owner of the Upper Parking Unit may not make the Improvement or alteration without prior written consent of the Owners of the Units, or the Owners of the Units served by that Exclusive Use Common Area that will be impaired thereby, as the case may be.

#### **10.16 Deliveries, Trash Removal and Other Services.**

(a) By acceptance of a deed to a Unit, an Owner agrees that all deliveries, all trash removal services, and all other such services to that Owner or its Unit may be effected only at those locations designated by the Board from time to time for such purposes.

(b) Unless otherwise directed by the Board, Owners and their Guests shall place all trash and other waste from the Units in receptacles located in the Condominium Project and designated for that purpose.

(c) Owners shall not litter or permit their Guests to litter. No burning of trash, garbage or other waste materials will be permitted at the Property.

#### **10.17 Outside Laundering and Drying.**

No exterior clothesline shall be erected or maintained, and there shall be no exterior drying or laundering of clothes on balconies, patios, porches, or any other outside area.

#### **10.18 Flags, Pennants, Banners.**

There shall be no exhibition, flying or hanging of any flags, pennants, banners, kites, or other similar items on the Property, except for such items identifying the Project or the Commercial Units' businesses, and except as permitted by paragraph 10.04(g)(ii) above or as may be expressly permitted or approved by the Neighbourhood Company or its design review board.

#### **10.19 Exterior Storage.**

No Owner shall store, suspend, or hang any materials or items on, in, or about any Common Area or Common Area Improvement, other than such portions of the Common Area designated on the Plan as a "residential storage area" and any other areas designed for that purpose, such as ski lockers, and then only in strict accordance with the terms and conditions of the Association Documents.

#### **10.20 Landscaping.**

No Owner shall cut, trim, prune, remove, replace, or otherwise alter or affect the appearance or location of any tree, plant, vegetation, or other landscaping located in any portion of the Common Area without the prior written consent of the Board.

### **10.21 Animals.**

Except as otherwise required by the Americans with Disabilities Act or similar laws, Owners of Residential Units shall be permitted to keep not more than one domestic animal within each Residential Unit. For purposes of this Section 10.21, domestic animals include a domesticated bird, cat, dog or aquatic animal kept within an aquarium. No domestic animal shall be pet witted to run free outside of its Owner's Residential Unit and at all times that any domestic animal is outside of its Owner's Residential Unit, the Owner shall keep such domestic animal on a leash not exceeding eight (8) feet in length and shall immediately clean up after such domestic animal. Prior to bringing any domestic animal into The Village at Squaw Valley USA, the Owner shall register the domestic animal with the Neighbourhood Company or its designated agent. No domestic animal belonging to any Guest of an Owner shall be permitted to be brought to, or kept within, The Village at Squaw Valley USA. The keeping of all domestic animals within The Village at Squaw Valley USA shall be subject to the Neighbourhood Company Documents. Except as set forth in this Section 10.21, no other domestic animals shall be permitted within the Condominium Project.

### **10.22 Fire Protection Regulations.**

The Property may be located within a "State Responsibility Area" or the Tahoe National Forest and, as such, may be subject to fire protection regulations established by the State Board of Forestry or the National Forest. Such regulations may include provisions applicable to residential construction and may subject Owners to maintenance requirements as set forth in Section 4291 of the California Public Resources Code.

### **10.23 Solid-Fuel Burning Devices.**

No solid-the] burning devices shall be used, kept or stored on the Property except as may be approved by the Board. Only propane or natural gas fireplace inserts shall be permitted within the Condominium Project.

### **10.24 Restrictions on Delegation of Use.**

(a) Any Owner may delegate its rights of use and enjoyment of the Condominium Project, including any recreational facilities, to its Guests and to such other Persons as may be permitted by the Association Documents; however, if an Owner has sold its Unit to a contract Purchaser or has leased or rented it, then that Owner shall not be entitled to use and enjoy any of such rights in the Condominium Project while the Owner's Unit is occupied by the contract Purchaser or tenant. Instead, the contract Purchaser or tenant, while occupying such Unit, shall be entitled to use and enjoy such rights, including the recreational facilities, and to delegate the rights of use and enjoyment in the same manner as if such contract Purchaser or tenant were an Owner during the period of its occupancy.

(b) Each Owner shall notify the secretary of the Association of the names of any contract Purchasers or tenants of such Owner's Unit. Each Owner, contract Purchaser or tenant also shall notify the Association of the names of all Persons to whom such Owner, contract Purchaser or tenant has delegated any rights of use and enjoyment and of the relationship that each such Person bears to the Owner, contract Purchaser or tenant.

(c) Any delegated rights of use and enjoyment are subject to suspension to the same extent as are the rights of Owners. No such delegation shall relieve an Owner from liability to the Association or to other Owners for payment of Assessments or performance of the covenants, conditions and restrictions contained in this Declaration.

(d) Any lease, rental agreement or contract of sale entered into between an Owner and a tenant or contract Purchaser of a Unit shall require compliance by the tenant or contract Purchaser with all of the covenants, conditions and restrictions contained in this Declaration, such compliance being for the express benefit of the Association and each Owner. The Association and each Owner shall have a right of action directly against any tenant or contract Purchaser of an Owner, as well as against the Owner, for nonperformance of any of the provisions of this Declaration to the same extent that such right of action exists against such Owner.

#### **10.25 Transient Occupancy Tax.**

Any Owner who rents his Residential Unit to one Person for thirty (30) consecutive days or less may be required to pay to the County such County's transient occupancy tax in accordance with the County's ordinances and regulations. Such Owner shall also deliver to the County such occupancy or similar rental information as may be requested by the Town.

#### **10.26 Use of Residential Units.**

(a) Except as otherwise expressly permitted by this Declaration, an Owner of a Residential Unit may use such Residential Unit only as a residence for itself and its Guests. No Owner of a Residential Unit shall conduct any business, profession, occupation or trade from its Unit, including, but not limited to, the operation of a so-called "bed and breakfast" or "chalet."

(b) Notwithstanding the restriction set forth in paragraph 10.26(a) above:

(i) an Owner may use its Residential Unit as its private office on the condition that the Owner does not invite others to its Unit to conduct business; and

(ii) the Owners of the Residential Units identified as Units 101, 103, 105 and 107 on the Plan for the Phase Two of the Condominium Project (collectively, the "Flex Units") may use such Flex Units for the limited commercial purpose of providing meeting or conference room space to be rented or leased on a daily basis by the Owners of the Flex Units to small groups for meeting and conference purposes.

#### **10.27 Declarant's Exemption.**

Nothing contained in this Declaration or in any other Association Document shall be construed to prevent:

(a) Declarant's exercise and enjoyment of any rights of Declarant under this Declaration or any other Association Document; or

(b) the conduct by Declarant or its employees, agents or contractors of any activity, including, but not limited to, the erection or maintenance of temporary structures,



improvements or signs necessary or convenient to the development, construction, marketing or sale of property within or adjacent to the Condominium Project.

## **ARTICLE XI. EASEMENTS AND RESERVATIONS**

### **11.01 Declarant's Easements Over Common Area.**

(a) Declarant hereby reserves for itself, its successors and assigns, including, but not limited to, Successor Declarants, a general easement over, across, through and under the Common Area and the Upper Parking Units to:

- (i) discharge Declarant's obligations under this Declaration;
- (ii) exercise any of Declarant's Special Declarant Rights under this Declaration; and
- (iii) make Improvements at the Property or any other real estate owned by Declarant.

(b) Declarant hereby reserves for itself, its successors and assigns, the right to:

(i) establish from time to time utility and other easements, permits or licenses over, across, through and under the Common Area, the Upper Parking Units and the Neighbourhood Company Property; and

(ii) create other reservations, exceptions and exclusions in the Common Area for the best interest of the Association.

(c) In addition, until such time as Declarant annexes the Phase Two Property to the Condominium Project, Declarant shall have whatever easements are reasonably necessary or desirable across the Property for construction of, access to, utility services for, or maintenance of the Phase Two Property.

### **11.02 Utility and Other Easements.**

(a) Subject to the terms and conditions of this Declaration and all other Association Documents, Declarant hereby creates a general easement over, across, through and under the Property and the Neighbourhood Company Property for ingress to, egress from, and installation, replacement, repair and maintenance of, all utility and service lines and systems, including, but not limited to, water, sewer, gas, telephone, electricity and cable communication that service the Property and the Neighbourhood Company Property or any portion thereof, as well as any such lines and systems that service or will service the property described in Exhibit F attached hereto and made a part hereof (the "Neighboring Property"). The Declarant and the Association may, but are not obligated to, authorize the release of portions of the general easement created pursuant to this Section 11.02 upon the request of any Owner showing good cause therefor.

(b) Declarant or the Association shall have the right and power to grant and convey in the name of all the Owners as their attorney-in-fact (or in the name of the Association as to any property to which the Association holds title) to any Owner or other Person easements and rights-of-way in, on, over, or under the Common Area for the purpose of establishing Exclusive Use Common Area in favor of an Owner or for the purpose of constructing, erecting, operating or maintaining lines, cables, wires, conduits, or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm water drains and pipes, or any similar public or quasi-public improvements or facilities. Each Purchaser, in accepting a deed to a Unit, expressly consents to such easements and rights-of-way and authorizes and appoints the Association and Declarant (as long as Declarant owns one (1) or more Units) as attorney-in-fact of such Owner to execute any and all instruments conveying or creating such easements or rights-of-way. No such easement can be granted, however, if it would permanently and unreasonably interfere with the use, occupancy, or enjoyment by any Owner of his Unit unless approved by the vote or written consent of the holders of not less than seventy-five percent (75%) of the voting rights of Owners in each class of membership and their First Mortgagees. Notwithstanding the foregoing, no such easement can be granted if it would interfere with or otherwise reduce the clearance for vehicles within the Lower Parking Units below a minimum of 8' 2".

(c) Pursuant to this easement, a utility or service company may install and maintain facilities and equipment on the Property and affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of Improvements to provide service to the Units or the Common Area. Notwithstanding anything to the contrary contained in this Section 11.02, no sewers, electrical lines, water lines or other utilities or service lines may be installed or relocated on any portion of the Property, except in accordance with the terms and conditions of Section 10.07 above. Any utility or service company using this general easement shall use its best efforts to install, repair, replace and maintain its lines and systems without disturbing the uses of Owners, the Association, Declarant and other utility and service companies.

(d) If any utility or service company furnishing utilities or services to the Property or any portion thereof or the Neighboring Property as permitted under paragraph 11.02(a) above requests a specific easement by separate recordable document, the Association shall have the right and authority, but not the obligation, to grant such easement over, across, through and under any portion of the Property.

### **11.03 The Association's Easement.**

(a) The Association shall have a general easement over, across, through and under each Unit and all of the Common Area to:

(i) exercise any right or power held by the Association under this Declaration, the Cost Sharing Agreement, or any other Association Document;

(ii) clean and remove snow from decks and balconies appurtenant to each Unit;

(iii) grant temporary or permanent rights of encroachment into, through and upon Common Area without the consent or permission of individual Owners; and

(iv) perform any obligation imposed upon the Association by this Declaration, the Cost Sharing Agreement, or any other Association Document.

(b) Notwithstanding the foregoing, the Association shall not enter any Unit without reasonable prior notice to the Owner thereof, except in cases of emergency.

#### **11.04 Easements for Encroachments.**

To the extent that any Unit or Common Area encroaches on any other Unit or Common Area, an easement shall exist for that encroachment and for the maintenance thereof so long as the encroachment continues to exist, and all Units and Common Area are made subject to such easements. If any structure containing a Unit is partially or totally destroyed and then rebuilt, and any encroachment on the Common Area results, a valid easement exists for such encroachment and for the maintenance thereof for so long as such encroachment remains, and all Units and the Common Area are made subject to such easements.

#### **11.05 Emergency Access Easements.**

Declarant hereby grants a general easement to all police, sheriff, fire protection, ambulance and all other similar emergency agencies or Persons to enter upon the Property or any portion thereof in the proper performance of their duties.

#### **11.06 The Neighbourhood Company's Easement.**

(a) Declarant hereby reserves for the benefit of and grants unto the Neighbourhood Company a general easement over, across, through and under each Unit and all of the Common Area to:

(i) exercise any right or power held by the Neighbourhood Company under this Declaration or any other Neighbourhood Company Document;

(ii) grant temporary or permanent rights of encroachment into, through and upon Common Area and the Neighbourhood Company Property without the consent or permission of individual Owners; and

(iii) perform any obligation imposed upon the Neighbourhood Company by this Declaration or any other Neighbourhood Company Document.

(b) Notwithstanding the foregoing, the Neighbourhood Company shall not enter any Unit without reasonable prior notice to the Owner thereof, except in cases of emergency.

#### **11.07 Declarants Right to Improve the P2 and P5 Parking Units.**

Declarant hereby reserves for itself, its successors and assigns, including, but not limited to, Successor Declarants, the right to improve, construct and develop the Upper Parking Unit labeled P2 on the Plan for the Phase One Property, and the Upper Parking Unit labeled P5 on the Plan for the Phase Two Property if the Phase Two Property is annexed, for parking garage tunnels, connections, drive aisles and parking spaces from time to time as it deems necessary in connection with the development of future phases within The Village at Squaw Valley USA.

## **ARTICLE XII. INSURANCE.**

### **12.01 Insurance Required to be Obtained by the Association.**

The Association shall obtain and maintain all insurance required to be obtained and maintained by the Association under the Act or regulations adopted thereunder or that may be necessary under the Act or regulations adopted thereunder to achieve civil liability protection for the Owners (including, but not limited to, the civil liability protection offered in Section 5805 of the Act), as well as any additional insurance that the Board deems necessary.

### **12.02 General Liability Insurance.**

The Association shall obtain and maintain one (1) or more policies of insurance covering the Association against general liability in an aggregate amount that is not less than the amount specified, from time to time, in the Act or said regulations, which minimum amount is currently Three Million Dollars (\$3,000,000).

### **12.03 Provision for Fire and Casualty Insurance.**

The Association shall obtain and maintain a master or blanket policy of fire and casualty insurance coverage for no less than the full insurable value of all of the Improvements. The form, content, and term of the policy and its endorsements and the issuing company must be satisfactory to all Institutional Mortgagees. If Units are encumbered by Mortgages from different Institutional Mortgagees, then the policy, endorsements, and issuing company shall meet the maximum or strictest standards of the various Institutional Mortgagees represented in the Condominium Project. Without in any way limiting the foregoing requirement that the policy must satisfy the requirement of all Institutional Mortgagees, the policy shall contain each of the following features, to the extent that such features are, in the reasonable discretion of the Board, available at reasonable cost: coverage for at least ninety percent (90%) of the replacement cost of the Improvements or higher level if needed to achieve waiver of the co-insurance clause; an agreed-amount endorsement or its equivalent; an increased-cost-of-construction endorsement or a contingent-liability-from-operation-of building-laws endorsement or their equivalent; an extended-coverage endorsement; vandalism and malicious mischief coverage; a special-form endorsement; and a determinable-cash-adjustment clause or a similar clause to permit cash settlement covering full value of the Improvements in case of partial destruction and a decision not to rebuild. The policy shall name as insureds the Association and the Owners (including Declarant, so long as Declarant is the Owner of any Unit). The policy shall include standard loss-payee endorsements in favor of all Mortgagees in form satisfactory to all of the Institutional Mortgagees and may contain a loss payable endorsement in favor of the trustee described in Section 12.04 below.

### **12.04 Provision Appointing Trustee.**

All fire and casualty insurance proceeds payable for losses to real property and Improvements, subject to the rights of Mortgagees, may be paid to a trustee, to be held and expended for the benefit of the Owners, Mortgagees, and others, as their respective interests shall appear. The trustee shall be a commercial bank or other financial institution with trust powers in the County in which the Condominium Project is located that agrees in writing to accept such

trust. If repair or reconstruction is authorized, the Association shall have the duty to contract for such work as provided for in this Declaration.

#### **12.05 Individual Fire Insurance Limited.**

Except as provided in this clause, no Owner shall separately insure its Unit against loss by fire or other casualty covered by any insurance carried under Section 12.03 above. If any Owner violates this provision, any diminution in insurance proceeds otherwise payable under policies described in Section 12.03 above that results from the existence of such other insurance will be chargeable to the Owner who acquired other insurance, and such Owner will be liable to the Association to the extent of any such diminution. An Owner can insure its personal property against loss. In addition, any Improvements made by an Owner within its Unit may be separately insured by the Owner, but the insurance is to be limited to the type and nature of coverage commonly known as "tenant's improvements." All such insurance that is individually carried must contain a waiver of subrogation rights by the insurer as to other Owners, the Association, Declarant, and Mortgagees of the Unit.

#### **12.06 Demolition, Workers' Compensation and Other Association Insurance.**

The Association may and, if required by any Institutional Mortgagee, shall purchase and maintain demolition insurance in adequate amounts to cover demolition, in case of total or partial destruction of the Condominium Project and a decision not to rebuild, and a blanket policy of flood insurance. The Association also shall purchase and maintain workers' compensation insurance, to the extent that it is required by law, for all employees or uninsured contractors of the Association. The Association also shall purchase and maintain fidelity bonds or insurance (which shall be in an amount not less than one hundred fifty percent (150%) of each year's estimated annual operating expenses and Reserves and shall contain an endorsement of coverage of any Person who may serve without compensation) sufficient to meet the requirements of any Institutional Mortgagee. The Association shall purchase and maintain such insurance on personal property owned by the Association as well as any other insurance that it deems necessary or that is required by any Institutional Mortgagee.

#### **12.07 Earthquake Endorsement.**

The Association shall carry an earthquake endorsement unless a Majority of the total voting power of the Owners elect not to carry such insurance. If canceled, the Association shall make reasonable efforts to notify the Owners of the cancellation at least thirty (30) days before the effective date of the cancellation.

#### **12.08 Board's Authority to Revise Insurance Coverage.**

(a) Subject to any restrictions imposed by the Act or any Institutional Mortgagees, the Board shall have the power and right to deviate from the insurance requirements contained in this Article XII in any manner that the Board, in its discretion, considers to be in the best interests of the Association. If the Board elects to materially reduce the coverage from the coverage required in this Article XII, the Board shall make all reasonable efforts to notify the Owners of the reduction in coverage and the reasons therefor at least thirty (30) days before the effective date of the reduction.

(b) The Association and its Directors and Officers shall have no liability to any Owner or Mortgagee if, after a good faith effort, (i) the Association is unable to obtain any insurance required hereunder because the insurance is no longer available, (ii) the insurance, if available, can be obtained only at a cost that the Board, in its sole discretion, determines is unreasonable under the circumstances, or (iii) the Owners fail to approve any Assessment increase needed to fund the insurance premiums.

(c) The Board is authorized to negotiate and agree on the value and extent of any loss under any policy carried by the Association, including, but not limited to, the right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer.

(d) Each Owner, by acceptance of a deed to a Unit, irrevocably appoints the Association or the trustee described in Section 12.04 above, as that Owner's attorney-in-fact for purposes of procuring, negotiating, accepting, compromising, releasing, settling, distributing, and taking other related actions in connection with any insurance policy maintained by the Association and any losses or claims related thereto and agrees to be bound by the actions so taken as if the Owner had personally taken the action.

#### **12.09 Periodic Insurance Review.**

The Board periodically (and not less than once every three (3) years) shall review the Association's insurance policies and make such adjustments to the policies' terms and conditions as the Board considers to be in the best interests of the Association. The review shall include an appraisal by a qualified appraiser of the current replacement costs of all covered property under the Association's policy unless the Board is satisfied that the current dollar limit of the property policy, coupled with the amount of actual Reserves on hand, is equal to or greater than the current replacement costs.

### **ARTICLE XIII. CASUALTY.**

#### **13.01 Casualty to Common Area.**

The Association shall respond to any damage to or destruction of any Common Area in accordance with the terms and conditions of the Act.

#### **13.02 Destruction: Proceeds Exceed Eighty-Five Percent of Reconstruction Costs.**

If there is a total or partial destruction of the Improvements, and if the available proceeds of the insurance carried pursuant to Article XII are sufficient to cover not less than eighty-five percent (85%) of the costs of repair and reconstruction, the Improvements shall be promptly rebuilt unless, within ninety (90) days from the date of destruction, Owners then holding at least seventy-five percent (75%) of the total voting power of each class of membership present and entitled to vote, in person or by proxy, at a duly constituted meeting, determine that repair and reconstruction shall not take place. If such a meeting is called, the Association shall solicit and obtain bids from at least two (2) or more reputable contractors to repair and reconstruct the Improvements in accordance with the original plans and shall present this information to the

Owners at the meeting. If repair and reconstruction is to take place, the Association shall be required to execute, acknowledge, and record in the Placer County Records, not later than one hundred twenty (120) days from the date of destruction, a certificate declaring the intention of the Owners to rebuild.

### **13.03 Destruction: Proceeds Less Than Eight Five Percent of Reconstruction Costs.**

If the proceeds of insurance carried pursuant to Article XII are less than eighty-five percent (85%) of the costs of repair and reconstruction, the Improvements shall be promptly rebuilt unless, within ninety (90) days from the date of destruction, Owners then holding at least seventy-five percent (75%) of the total voting power of each class of membership present and entitled to vote, in person or by proxy, at a duly constituted meeting, determine that repair and reconstruction shall not take place. If such a meeting is called, the Association shall solicit and obtain bids from at least two (2) or more reputable contractors to repair and reconstruct the Improvements in accordance with the original plans and shall present this information to the Owners at the meeting. If repair and reconstruction is to take place, the Association shall execute, acknowledge, and record in the Placer County Records, not later than one hundred twenty (120) days from the date of destruction, a certificate declaring the intention of the Owners to rebuild.

### **13.04 Apportionment of Assessments for Reconstruction**

If the Improvements are to be rebuilt pursuant to Section 13.02 or 13.03 above, each Owner shall be obligated to contribute its proportionate share of the cost of reconstruction or restoration over and above the available insurance proceeds. The proportionate share of each Owner shall be based on the ratio that the appraised value of that Owner's Unit bears to the total appraised value of all of the Units. If any Owner fails or refuses to pay its proportionate share, the Board, notwithstanding any other provision of this Declaration, may levy a Special Assessment against the Unit of such Owner, which Assessment may be enforced and shall be secured by an Assessment Lien as in the case of other Special Assessments as set forth in Article VII of this Declaration.

### **13.05 Association Purchase of Uninhabitable Units.**

(a) If the Owners determine not to rebuild, and if prior to the expiration of one hundred twenty (120) days from the date of destruction, members holding seventy-five percent (75%) of the total voting power of each class of membership consent in writing or by vote at a duly constituted meeting and seventy-five percent (75%) of First Mortgagees consent, the Association shall have the right to purchase the Units rendered uninhabitable by such damage or destruction at their fair market value immediately prior to the damage or destruction, as determined by an appraiser in accordance with the provisions set forth below, using the available proceeds of insurance for such purchase. This right to purchase shall not apply to the Parking Units.

(b) For purposes of this Section 13.05, the determination of fair market value of the Units as of a date immediately prior to any damage or destruction shall be determined by an appraisal by an independent appraiser selected by the Board, who shall be a member of the Society of Real Estate Appraisers or any other nationally recognized appraiser organization and

who shall apply its or such other organization's standards in determining the value or fair market value of each Unit. The costs of such appraisals shall be paid from the sale or insurance proceeds, as the case may be.

(c) Any shortage of insurance proceeds shall be made up by a Special Assessment levied against all remaining Owners in the manner described in Article VII (but without the consent or approval of Owners, despite any contrary provisions in the Declaration). The Board's decision as to whether a Unit is uninhabitable shall be final and binding on all parties. Any payment of the purchase price shall be made jointly to the selling Owner and all Mortgagees of that Owner's Unit, and each Owner by accepting a deed to a Unit agrees to be bound by these provisions and to sell his or her Unit and to convey it by grant deed to the Association as provided in this paragraph 13.05(c). Concurrently with such purchase, the Association or individuals authorized by the Board, acting as attorney-in-fact of all Owners, shall amend the Plan and this Declaration to eliminate from the Condominium Project the Units so purchased and to adjust the undivided ownership interest of the remaining Owners to reflect the reduced number of Units in the Condominium Project. In addition, the Association shall convey to each remaining Owner a proportionate share of the undivided interests in the Common Area represented by the Units purchased. This proportion shall be in the ratio that each remaining Owner's undivided interest in the Common Area bears to all remaining Owners' undivided interest in the Common Area.

(d) Notwithstanding the determination not to rebuild uninhabitable Units pursuant to this Section 13.05, if the uninhabitable Units are to be purchased by the Association, then any Units that have not been rendered uninhabitable shall be repaired and restored to a condition as near as possible to their condition immediately before such damage or destruction. Such repair and restoration shall be paid for, first from the insurance proceeds, if any, remaining after the purchase of units, and second, from a special assessment levied against all remaining Owners.

### **13.06 Apportionment if Purchase Not Authorized.**

If the Owners elect not to rebuild, and if the required seventy-five percent (75%) of all Owners and Mortgagees do not consent to the purchase of the Units that were rendered uninhabitable, an appraiser shall determine the relative fair market values of all Units in the Condominium Project in accordance with the provisions in Section 13.05 above as of a date immediately prior to any damage or destruction, and the proceeds of insurance shall be apportioned among all Owners and their respective Mortgagees, in proportion to such relative values. The Board shall have the duty, within one hundred twenty (120) days from the date of destruction, to execute, acknowledge, and record in the office of the Placer County Recorder, a certificate declaring the intention of the Owners not to rebuild. On recordation of the certificate, the right of any Owner to partition through legal action as described in California Civil Code Section 4710 shall revive immediately.

### **13.07 Casualty to a Unit.**

To the extent that the Association is not obligated to make any such repairs or replacements, each Owner shall repair or replace any damage or destruction to the interior of its Unit as soon as is reasonably practical after such damage or destruction occurs.



## **ARTICLE XIV. CONDEMNATION**

### **14.01 Condemnation of Common Area.**

(a) If any Common Area is taken by condemnation or similar proceeding, any condemnation award payable in connection therewith shall be paid to the Association and used by the Association:

(i) first, to repair any damage to Common Area resulting from the condemnation or similar taking; and

(ii) second, for any other Common Expenses.

(b) The Association shall not be required to pay all or any portion of the condemnation award received for the condemnation or similar taking of an Exclusive Use Common Area to the Owners of the Units served by such Exclusive Use Common Area, unless the Association deems it necessary or appropriate to do so.

### **14.02 Form: Power of Attorney.**

Each of the Owners irrevocably appoints the Association as attorney-in-fact and irrevocably grants to the Association full power in the name and stead of such Owner to sell the entire Condominium Project and to execute deeds and conveyances to it, in one (1) or more transactions, for the benefit of all Owners when partition of the Condominium Project may be had under Section 1359 of the Act and under the circumstances authorizing partition under this Declaration. The power of attorney shall (a) be binding on all Owners, whether they assume the obligations under this Declaration or not, (b) be exercisable by a majority of the Board acting on behalf of the Association, subject to obtaining the prior approval by vote or written consent of seventy-five percent (75%) of the Owners and seventy-five percent (75%) of all First Mortgagees, and (c) be exercisable only after recordation with the Placer County Recorder of a certificate executed by those who have power to exercise the power of attorney that is properly exercisable under the authority of this Declaration. This certificate shall be conclusive evidence of proper exercise in favor of any Person relying on it in good faith.

## **ARTICLE XV. SPECIAL DECLARANT RIGHTS**

### **15.01 Special Declarant Rights, Generally.**

(a) The rights and powers set forth in this Article XV, together with all other rights and powers reserved specifically to Declarant elsewhere in this Declaration, are collectively called "Special Declarant Rights."

(b) In exercising any of the Special Declarant Rights that require, under the Act or regulations thereunder, an amendment to this Declaration, Declarant or the Successor Declarant thereto shall execute and record in the Placer County Records an amendment to this Declaration in accordance with the requirements of the Act or the regulations.

### **15.02 Development Rights.**

Subject to the provisions of the Neighbourhood Company Documents, Declarant hereby reserves for itself, its successors and assigns, including, but not limited to, Successor Declarants:

- (a) Before the close of the first sale of a Unit in any Phase to a Purchaser:
  - (i) the right to subdivide any Unit in that Phase owned by Declarant;
  - (ii) the right to combine any Units in that Phase owned by Declarant; and
  - (iii) the right to convert any Unit in that Phase owned by Declarant into Common Area.
- (b) After the close of the first sale of a Unit in any Phase to a Purchaser:
  - (i) the right to subdivide any Unit in that Phase owned by Declarant; and
  - (ii) the right to combine any Units in that Phase owned by Declarant.
- (c) During the time period set forth in Section 18.08 below, the right to annex all or any portion of the Phase Two Property to the Property.
- (d) Subject to the terms of the Commercial Space Covenants, the right to convert any Unit owned by Declarant into a Commercial Unit.
- (e) The right to determine the uses of the Commercial Units subject to the Commercial Space Covenants.

### **15.03 Limitation of Restrictions on Declarant.**

Nothing in this Declaration shall be understood or construed to:

- (a) Prevent Declarant, any Successor Declarant, and their respective contractors or subcontractors from doing on the Condominium Project or any Unit whatever is reasonably necessary or advisable in connection with the completion of the Condominium Project;
- (b) Prevent Declarant, any Successor Declarant, and their respective agents or representatives from erecting, constructing or maintaining on any part or parts of the Property such structures as may be reasonable and necessary for the conduct of its business of completing the Condominium Project, including, but not limited to, Phase Two of the Condominium Project;
- (c) Prevent Declarant, any Successor Declarant, and their respective agents or representatives from conducting on any part of the Property its business of completing the Condominium Project; or
- (d) Prevent Declarant, any Successor Declarant, and their respective agents or representatives from maintaining such sign or signs on any of the Property as may be necessary for the completion and sale, lease or disposition of the entire Condominium Project including,

but not limited to, Phase Two of the Condominium Project; provided, however, that the maintenance of any such sign shall not unreasonably interfere with the use by any Owner of its Unit or the Common Area.

#### **15.04 Sales Offices, Models and Marketing Displays.**

Without limiting the generality of Section 15.03 above, Declarant hereby reserves for itself and its Successor Declarants the right, power, and privilege to maintain sales offices, management offices and models within any Unit owned or leased by Declarant. Declarant reserves for itself, and also for the benefit of the Owner of Commercial Unit PM, the right, power, and privilege to construct and maintain marketing and advertising displays, including, but not limited to, signs advertising the Condominium Project or any part thereof on and within the Common Area.

#### **15.05 Future Construction.**

Nothing in this Declaration or the other Association Documents shall limit the right of the Declarant or its successor or assigns, including, but not limited to, the Neighbourhood Company, to complete construction of Improvements to the Common Area, or to Units owned by Declarant or the Neighbourhood Company, or to the Phase Two Property, or to alter the same, or to construct additional Improvements on the Property as Declarant deems appropriate before the completion and sale of the entire Condominium Project, including, but not limited to, Phase Two of the Condominium Project or the Neighboring Property. Without limiting the generality of the foregoing provisions of this Section 15.05 and Section 15.03 above, Declarant reserves the right during the construction of Phase Two of the Condominium Project to use such portions of the Parking Units, as Declarant may determine necessary and appropriate for the construction of Phase Two of the Condominium Project, including, but not limited to, temporarily or permanently altering access, or temporarily closing access, to portions of the Parking Units and temporarily reducing the number of available parking spaces.

#### **15.06 Exercising Special Declarant Rights.**

Declarant may exercise its Special Declarant Rights at any time prior to the date which is the latter to occur of the following:

(a) On the third anniversary of the first conveyance of a Unit to a Purchaser of a Unit in the most recent Phase of the Condominium Project; or

(b) On the sixth anniversary of the first conveyance of a Unit to a Purchaser of a Unit in Phase One of the Condominium Project. Notwithstanding anything to the contrary contained in this Declaration, but subject to the provisions of the Neighbourhood Company Documents, Declarant may exercise any Special Declarant Right without the consent of the Association or any of the Owners provided, however, the exercise of Special Declarant Rights shall not diminish the use of the Lower Parking Units without the prior written consent of the Owners thereof.

### **15.07 Interference with Special Declarant Rights.**

Neither the Association nor any Owner may, without Declarant's prior written consent, take any action or adopt any provision in the Rules and Regulations that interferes with or diminishes any Special Declarant Right. Any action taken in violation of this Article XV shall be null and void and have no force or effect.

### **15.08 Rights Transferable.**

Declarant may transfer any or all of the Special Declarant Rights in accordance with the terms and conditions of the Act.

## **ARTICLE XVI. MORTGAGEE PROTECTIONS.**

### **16.01 Benefit of Mortgagees.**

This Article XVI establishes certain standards and covenants that are for the benefit of Mortgagees. This Article XVI is supplemental to, and not in substitution for, any other provisions of this Declaration; but in the case of any conflict, this Article XVI shall control.

### **16.02 Notice of Actions.**

If requested in writing to do so, the Association shall give prompt written notice of the following to each First Mortgagee making such request:

(a) any condemnation loss or any casualty loss that affects a material portion of the Common Area or any Unit in which an interest is held by the Mortgagee;

(b) any delinquency in the payment of Assessments which remains uncured for sixty (60) days by an Owner whose Unit is encumbered by a Mortgage;

(c) any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association;

(d) any proposed action that would require the consent of First Mortgagees as set forth in this Article XVI; and

(e) any judgment rendered against the Association.

### **16.03 Consent Required.**

Notwithstanding anything to the contrary contained in this Declaration, the Association may not take any of the following actions without the consent of a Majority of the First Mortgagees (based on one (1) vote for each Unit encumbered by a First Mortgage):

(a) by act or omission seek to abandon or terminate the Condominium Project, except after condemnation or substantial casualty;

(b) except as provided herein for condemnation and casualty, and except for the exercise of Special Declarant Rights, change the Interests in Common Area, Shares of Common Expenses or votes in the Association of any Unit;

(c) subdivide, partition, or relocate the boundaries of any Residential Unit, except as permitted with respect to Special Declarant Rights;

(d) abandon, subdivide, partition, encumber, sell, or transfer the Common Area or any portion thereof (the granting of easements for public utilities or for other purposes provided for in this Declaration shall not be deemed transfers);

(e) use casualty insurance proceeds for losses to any portion of the Common Area for other than repair, replacement, or reconstruction of such Common Area, except as provided by the Act; or

(f) merge the Condominium Project with any other common interest community.

#### **16.04 Control of Amendment or Revocation of Project Documents.**

(a) In addition to the requirements of Section 16.03 above, and unless a greater percentage is expressly required by this Declaration, by any other Association Document, or by law, approval by Owners who represent at least seventy-five percent (75%) of the total allocated votes in the Association and by eligible First Mortgages who represent at least a Majority of the votes of Units that are subject to Mortgages held by First Mortgagees must be obtained prior to any action respecting, or adoption of any amendment of a material nature affecting, any of the following matters:

(i) Voting rights;

(ii) Increases in Assessments that raise the previously assessed amount by more than twenty-five percent (25%), Assessment Liens, or the priority of Assessment Liens;

(iii) Reductions in Reserves for maintenance, repair, or replacement of the Common Area Improvements;

(iv) Responsibility for maintenance and repairs;

(v) Reallocation of interests in the Common Area or in the Exclusive Use Common Area or rights to use thereof;

(vi) Redefinition of any Unit boundary;

(vii) Convertibility of Units into Common Area or Common Area into Units;

(viii) Expansion or contraction of the Condominium Project or the addition, annexation, or withdrawal of property to or from the Condominium Project, except that the annexation of additional real property shall be governed by the requirements of Section 18.08 below;

- (ix) Casualty or fidelity insurance requirements;
- (x) Imposition of any restrictions on the leasing of Units;
- (xi) Imposition of any restrictions on a Unit Owner's right to sell or transfer its Unit;
- (xii) Restoration or repair of the Condominium Project (after damage, destruction or partial condemnation) in a manner other than that specified in this Declaration;
- (xiii) Any provisions that expressly benefit Mortgagees or any insurers or guarantors of Mortgage indebtedness;
- (xiv) Any action to terminate the legal status of the Condominium Project after substantial destruction or condemnation occurs; or
- (xv) A decision by the Association to establish self-management when professional management had been required previously by the Association Documents or by an eligible Mortgagee.

#### **16.05 Notice of Objection.**

Unless a First Mortgagee provides the Association with written notice of its objection, if any, to any proposed amendment or action requiring the approval of First Mortgagees as set forth in Section 16.04 above, within thirty (30) days following the Mortgagee's receipt of notice of such proposed amendment or action, the First Mortgagee will be deemed conclusively to have consented to or approved the proposed amendment or action.

#### **16.06 First Mortgagee Rights Shall Not be Impaired.**

The Association Documents do not currently contain any rights of first refusal. If, however, the Association Documents did contain a right of first refusal or if the Association Documents are amended to include a right of first refusal, then any such right of first refusal in the Association Documents shall not impair the rights of a First Mortgagee (a) to foreclose or take title to a Unit in accordance with the remedies set forth in the First Mortgage of such First Mortgagee, (b) to accept a deed or assignment of a Unit in lieu of foreclosure in the event of default by the mortgagor under a First Mortgage, or (c) to sell or lease a Unit acquired pursuant to (a) or (b) of this Section 16.06.

#### **16.07 Limitations on Mortgagees' Rights.**

No requirement for approval or consent by a First Mortgagee provided in this Article XVI shall operate to:

(a) deny or delegate control over the general administrative affairs of the Association by the Owners or by the Board;

(b) prevent the Association or the Board from commencing, intervening and/or settling any legal proceeding; or

(c) prevent any insurance trustee or the Association from receiving and distributing any insurance proceeds in accordance with the requirements of the Article XII above.

#### **16.08 Declarant Rights.**

No provision or requirement of this Article XVI shall apply to any Special Declarant Rights or other rights reserved to Declarant in this Declaration.

### **ARTICLE XVII. ENFORCEMENT AND REMEDIES**

#### **17.01 Enforcement.**

Subject to Sections 4.09 and 4.10 above and to the requirements for alternative dispute resolution as currently set forth in Section 1354 of the Act:

(a) Each provision of this Declaration with respect to the Association or the Common Area shall be enforceable by Declarant or by any Owner by a proceeding for injunctive relief

(b) Each provision of this Declaration with respect to an Owner or a Unit shall be enforceable by Declarant or by the Association, after notice and hearing, by:

(i) a proceeding for injunctive relief;

(ii) a suit or action to recover damages; or

(iii) in the discretion of the Association, for so long as any Owner fails to comply with any such provisions, suspension of the rights of such Owner and its Guests from the use of any Common Area and from participation in any Association affairs.

(c) In addition to the rights and remedies described in paragraph 17.01(b) above, if an Owner fails to perform or observe any covenant or condition to be performed or observed by such Owner under this Declaration or any other Association Document, the Association shall have the following rights and remedies:

(i) The Association may, but is not obligated to, cure such failure to comply at the Owner's sole cost and expense. If the Association cures any such failure to comply, the Owner shall pay to the Association the amount of all costs incurred by the Association in connection therewith within thirty (30) days after the Owner receives a written invoice therefor from the Association;

(ii) The Association may, after notice and hearing, fine the Owner, as a Special Assessment, an amount not to exceed One Hundred Dollars (\$100) for each violation. The Owner shall pay any such fine to the Association within thirty (30) days after the Owner receives written invoice therefor from the Association;

(iii) With respect to an Owner's failure to pay an installment of any Assessment, the Association may accelerate the due date for the payment of the full amount of the Assessment; and

(iv) The Association shall have all other rights and remedies available to it under this Declaration, at law or in equity.

(d) All rights and remedies of the Association shall be cumulative and the exercise of one (1) right or remedy shall not preclude the exercise of any other right or remedy.

#### **17.02 Attorneys' Fees.**

In the event of any dispute under or with respect to this Declaration or any other Association Document, the prevailing party shall be entitled to recover from the nonprevailing party all of its costs and expenses in connection therewith, including, but not limited to, the fees and disbursements of any attorneys, accountants, engineers, appraisers or other professionals engaged by the prevailing party, including such costs, expenses, fees, and disbursements incurred in any appeal.

#### **17.03 Right to Notice and Hearing.**

Whenever an Association Document requires that an action be taken after "notice and hearing," the following procedure shall be observed:

(a) The party proposing to take the action (e.g., the Board or a committee or an Officer ) shall give at least three (3) days' prior written notice of the proposed action to all Owners whose interests would be significantly affected by the proposed action, as reasonably determined by the proposing party. The notice shall include a general statement of the proposed action and the date, time and place of the hearing.

(b) At the hearing, the party proposing to take the action and all affected Owners may give testimony orally, in writing or both (as specified in the notice), subject to reasonable rules of procedure established by the party conducting the hearing to assure a prompt and orderly resolution of the issues. Such evidence shall be considered in making the decision, but shall not bind the decision makers.

(c) Any affected Owner shall be notified of the decision in the same manner in which notice of the hearing was given.

(d) Any Owner having a right to notice and hearing shall have the right to appeal to the Board from a decision of a proposing party other than the Board. Such right of appeal may be exercised within ten (10) days after an Owner receives notice of the decision by filing a written notice of appeal with the Board. The Board shall conduct a hearing within forty-five (45) days thereafter, giving the same notice and observing the same procedures as were required for the original hearing.

#### **17.04 Association Discretion.**

The determination of whether to impose any of the foregoing sanctions shall be within the sole discretion of the Association. Any legal action may be brought in the name of the



Association on its own behalf and on behalf of any Owner who consents. The Association, in its sole discretion, may resolve or settle any dispute, including any legal action, under such terms and conditions as it considers appropriate.

#### **17.05 Nonwaiver.**

Failure by Declarant, the Association or any Owner to enforce any covenant, condition, restriction, reservation, easement, assessment, charge, lien or other provision of this Declaration or any other Association Document shall in no way be deemed to be a waiver of the right to do so thereafter.

### **ARTICLE XVIII. TERM AND AMENDMENTS**

#### **18.01 Term.**

The covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth in this Declaration shall run with and bind the Property and every part thereof for a term of fifty (50) years from the date this Declaration is recorded, after which time the Declaration shall be automatically extended for successive periods of ten (10) years, unless an instrument, signed by a majority of the then Owners agreeing to terminate said Declaration, in whole or in part, has been recorded within one (1) year prior to the termination of the initial fifty (50) year term or within one (1) year prior to the termination of any successive ten (10) year period.

#### **18.02 Termination.**

Subject to the rights of Mortgagees under Article XVI above, the Owners may terminate the Condominium Project and this Declaration by the vote of seventy-five percent (75%) of the voting power of each class of membership. If the necessary votes are obtained, the agreement of the Owners to terminate the Condominium Project and this Declaration shall be evidenced by a termination agreement or ratification thereof executed by the required number of Owners in accordance with the Act. Upon recordation of the termination agreement in the Placer County Records, the Condominium Project shall be terminated, this Declaration shall have no further force or effect, and the Association shall be dissolved. Notwithstanding any such termination of the Condominium Project, the Property shall remain subject to the covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth in the Neighbourhood Company Documents unless and until the applicable Neighbourhood Company Documents are terminated. Upon any such termination, all necessary and appropriate easements, rights of access and maintenance agreements shall be entered into by the Owners to provide for the preservation and utilization of all Owners' real property interests.

#### **18.03 Amendment Before Close of First Sale.**

Before the close of the first sale of a Unit to a Purchaser, this Declaration and any amendments to it may be amended in any respect or revoked by the execution by Declarant of an instrument amending or revoking this Declaration provided that Sections 10.22, 10.23 and 19.11 shall not be amended without the prior written consent of Placer County and provided that any

amendments to this Declaration pursuant to this sentence shall be subject to the approval rights of the Squaw Valley Ski Corporation. Before the close of the first sale to a Purchaser of a Unit in a second or subsequent Phase of the Condominium Project, including, but not limited to, Phase Two of the Condominium Project, any Declaration of Annexation recorded pursuant to Section 18.08 below with respect to such Phase may be amended in any respect or revoked by the execution of an instrument amending or revoking the Declaration of Annexation by Declarant. The amending or revoking instrument shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the Placer County Records.

#### **18.04 Amendment After Close of First Sale.**

After the close of the first sale of a Unit in the Condominium Project to a Purchaser, this Declaration may be amended or revoked in any respect by the vote or written consent of the holders of not less than seventy-five percent (75%) of the voting rights of each class of membership, or if a single class of membership is then in effect, by the vote or written consent of not less than (a) seventy-five percent (75%) of all the votes and (b) a Majority of the votes excluding Declarant. However, if any provision of this Declaration requires a greater or lesser percentage of the voting rights of any class of membership in order to take affirmative or negative action under such provision, the same percentage of such class or classes of membership shall be required to amend or revoke such provision. Also, if the consent or approval of any governmental authority, Mortgagee or other Person is required under this Declaration with respect to any amendment or revocation of any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. Without limitation, such consent includes the prior written consent of Placer County with respect to amendments to Sections 10.22, 10.23 and 19.11. Any amendment or revocation subsequent to the close of such first sale shall be evidenced by an instrument certified by the Secretary or other duly authorized officer of the Association and shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the Placer County Records. No amendment shall alter the application and requirements of the Neighbourhood Company Documents and the rights of the Owners of the Lower Parking Units as provided under the Neighbourhood Company Documents and this Declaration without the prior written consent of the Owners of the Lower Parking Units. In addition, any amendment either before the close of the first sale or after the close of the first sale shall in no way alter or modify the rights and duties owed by the Owners, occupants or agents and employees of the Owners and occupants of the Property in performing the terms and provisions of the Ski Corp Agreements, the Ski Corp Easements, the Design Guidelines and the Master Plan (as those terms are defined in the Neighbourhood Company Documents).

#### **18.05 Control if Amendment Provisions Conflict With Mortgagee Protection or Other Provisions.**

To the extent any provisions of this Article XVIII conflict with the provisions of Article XVI or any other provisions of this Declaration, the provisions of Article XVI or the other provisions shall control.

### **18.06 Reliance on Amendments.**

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

### **18.07 Division of Lower Parking Units.**

If (a) all of the Owners of the Lower Parking Units request in writing and obligate themselves to pay all reasonable costs of providing for (i) the division and subdivision of the real property interests and improvements represented by the Lower Parking Units, (ii) the easements to provide ingress, egress, utility use and support for both the Condominium Project and the Lower Parking Units, and (iii) all other documents required by the Association, all as deemed necessary by both the Association and all Owners of the Lower Parking Units, and (b) such subdivision or creation of a separate legal interest in real property together with the necessary documents, covenants and easements to provide for rights of access and support to preserve all other uses of the Association Owners and the Condominium Project is permitted by Placer County and any other governmental authority having jurisdiction, and (c) one hundred percent (100%) of all First Mortgagees approve of such action, then the Association shall deed, subject to such conditions, easements and instruments approved by the Association, all First Mortgagees and the Owners of the Lower Parking Units, the interest in real property represented by the Lower Parking Units to the Owners thereof From and after such date of the deed and conveyance, the Lower Parking Units shall no longer be Units under this Declaration, or any subsequent or amended Declaration. All costs and expenses including, but not limited to, attorneys' fees expended as a result of such subdivision shall be paid by, and shall be the responsibility of, the Owners of the Lower Parking Units.

### **18.08 Annexation of Additional Property.**

Additional real property may be annexed to and become subject to this Declaration by any of the methods set forth in this Section 18.08.

(a) The Phase Two Property or any portions thereof may be annexed to the Condominium Project and made subject to this Declaration at the written election of Declarant or a Successor Declarant made at any time and from time to time not later than (10) years after the original issuance of a final subdivision public report by the California Commissioner of Real Estate for Phase One of the Condominium Project, without the assent of the Association or the Owners. Notwithstanding the foregoing, any such Declaration of Annexation shall be approved by the California Department of Real Estate and Units within the Phase Two Property shall only be marketed and sold in accordance with the terms and conditions of a subdivision public report for the sale of the Units to be so annexed into the Condominium Project. No such Declaration of Annexation shall result in an unreasonable diminution of the benefits to, or an unreasonable increase in the burdens upon, existing Owners in the Condominium Project.

Such election shall be made by the recording of a Declaration of Annexation describing the applicable portions of the Phase Two Property to be annexed. Said Declaration may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added Phase Two Property, as are consistent with the scheme of this Declaration.

(b) Upon approval in writing of the Association, pursuant to vote or written consent of sixty-six and two-thirds percent (66-2/3%) of the total votes residing in Owners other than the Declarant, the Association and the owner of any real property (other than the Phase Two Property), who desires to add it to the scheme of this Declaration and to subject it to the jurisdiction of the Association, may file of record a Declaration of Annexation. The Declaration of Annexation shall describe the real property to be annexed and shall state that it is being effected pursuant to the terms of this Declaration for the purpose of annexing the property described in the Declaration of Annexation to the Declaration. Said Declaration of Annexation may contain such complementary additions and modifications of the covenants and restrictions contained in this Declaration as may be necessary to reflect the different character, if any, of the added property, as are consistent with the scheme of this Declaration. Said Declaration of Annexation shall include designation of Units and Common Areas for the purpose of this Declaration.

(c) Upon recording the Declaration of Annexation in accordance with the provisions of this Declaration, the real property described in the Declaration of Annexation shall be part of the Condominium Project and shall be subject to the provisions of this Declaration and to the rights and powers of the Association pursuant to the Association Documents. Thereafter, all of the Owners of Units constituting a portion of the annexed real property shall automatically be members of the Association with voting rights commencing on the date Regular Assessments commence.

(d) Any Declaration of Annexation recorded in accordance with the terms of this Section 18.08 shall be conclusive in favor of all Persons who relied on it in good faith.

(e) Assessments with respect to the annexed real property shall commence at the time and to the extent described in Sections 7.01 and 7.05 above and the Share of Common Expenses described in Section 7.04 shall be modified to take into account the greater number of Units in the Condominium Project, using the same method of calculating such ratios as is described in Section 7.04. Assessments collected from Owners of the Property may be expended by the Association without regard to the particular Phase from which such Assessments originated.

All Owners shall have ingress and egress to all portions of the Common Area throughout the Property, subject to the provisions of Association Documents in effect from time to time. Future Improvements to the Condominium Project will be consistent with the initial Improvements in terms of materials used and quality of construction.

(g) Declarant in such Declaration of Annexation shall expressly reserve for the benefit of all property that may from time to time be covered by this Declaration reciprocal easements of use, enjoyment, access, ingress and egress. Such easements may be used by Declarant, its successors, Purchasers, and all Owners and their Guests for other purposes reasonably necessary to the use and enjoyment of all Units in the Condominium Project. The Declaration of Annexation may contain complementary additions, amendments, and modifications to this Declaration as required by any First Mortgagee to make Units in the Condominium Project eligible for Mortgage purchase, guaranty, or insurance or as necessary to reflect the different character, if any, of the real property being annexed provided that such

additions, amendments, and modifications are not inconsistent with the general scheme of this Declaration.

(h) Upon recording the Declaration of Annexation for Phase Two of the Condominium Project in accordance with the provisions of this Declaration, the Phase Two Property shall become a part of the Condominium Project and owners of condominium units constructed as a part of Phase Two of the Condominium Project will benefit from the services, including lobby (with front desk), parking, parking management, and any other services and benefits provided to the Phase One Property in accordance with the terms and conditions set forth in this Declaration and the other Association Documents.

## **ARTICLE XIX. MISCELLANEOUS.**

### **19.01 Interpretation of the Declaration.**

Except for judicial construction, the Association, by its Board, shall have the exclusive right to construe and interpret the provisions of this Declaration. In the absence of any adjudication to the contrary by a court of competent jurisdiction, the Association's construction or interpretation of the provisions hereof shall be final, conclusive and binding as to all Persons and property benefitted or bound by the covenants and the provisions hereof.

### **19.02 Severability.**

Any determination by any court of competent jurisdiction that any provision of this Declaration is invalid or unenforceable shall not affect the validity and enforceability of any other provision hereof

### **19.03 Disclaimer of Representations.**

Notwithstanding anything to the contrary contained in this Declaration, Declarant makes no warranties or representations whatsoever that the plan presently envisioned for the complete development of the Condominium Project can or will be carried out or that any land now owned or hereafter acquired by Declarant is or will be subject to this Declaration, or that any such land, whether or not it has been subjected to this Declaration, is or will be committed to or developed for a particular use, or that such use of any such land will continue in effect.

### **19.04 Reference to Declaration and Deeds.**

Deeds to and instruments affecting any Unit or any other part of the Condominium Project may contain the provisions set forth herein by reference to this Declaration, but regardless of whether any such reference is made in any deed or instrument, each and all of the covenants, conditions, restrictions, reservations, easements, assessments, charges and liens set forth herein shall be binding upon the grantee-owner or other Person claiming through any deed or other instrument and his heirs, executors, administrators, successors and assigns.

#### **19.05 No Discriminatory Restrictions.**

No Owner shall execute or cause to be recorded any instrument that imposes a restriction upon the sale, leasing, or occupancy of his Unit on the basis of race, sex, marital status, national ancestry, color, or religion.

#### **19.06 Violations as Nuisance.**

Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and, in addition to all other remedies set forth, may be abated or enjoined by any Owner, any Director, the Board, the Management Agent, or the Association.

#### **19.07 Successors and Assigns of Declarant.**

Any reference in this Declaration to Declarant shall include any successors or assignees of Declarant's rights and powers hereunder on the condition that Declarant's rights and powers may only be assigned by a written recorded instrument expressly assigning such rights and powers.

#### **19.08 Captions and Titles.**

All captions and titles of headings of Articles and Sections in this Declaration are for the purpose of reference and convenience and are not to be deemed to limit, modify or otherwise affect any of the provisions hereof or to be used in determining the intent or context thereof.

#### **19.09 Exhibits.**

All exhibits attached to this Declaration are a part of, and are incorporated into, this Declaration.

#### **19.10 Governing Law.**

This Declaration shall be governed by and construed in accordance with California law.

#### **19.11 Soils Report.**

A geotechnical report concerning the subsurface soil conditions and the buildability of the project site has been completed by a California registered civil engineer and has been submitted to the Department of Public Works for its approval.

#### **19.12 Notices.**

All Owners of each Unit shall have one and the same registered mailing address to be used by the Association or other Owners for notices, demands, and all other communications regarding Association matters. The Owner or the representative of the Owners of a Unit shall furnish such registered address to the secretary of the Association within ten (10) days after transfer of title to the Unit to such Owner or Owners. Such registration shall be in written form and signed by all of the Owners of the Unit or by such Persons as are authorized to represent the interests of all Owners of the Unit. If no address is registered or if all of the Owners cannot agree, then the address of the Unit shall be deemed their registered address of the Owner(s), and any notice shall be deemed duly given if delivered to the Unit. All notices and demands and

requests for notices intended to be served upon the Association shall be sent to the following address or such other address as the Association may designate from time to time by notice to the Owner(s):

22 Station Owners Association, Inc.  
1910 Squaw Valley Road, Second Floor  
P.O. Box 3710  
Olympic Valley, CA 93143-3710  
Attention: Secretary

### **19.13 Priority of the Neighbourhood Company Documents.**

This Declaration and the other Neighbourhood Company Documents shall be subject and subordinate to the Neighbourhood Company Documents. If there is any conflict or inconsistency between the terms and conditions of this Declaration or any of the other Association Documents and the terms and conditions of the Neighbourhood Company Documents, the terms and conditions of the Neighbourhood Company Documents shall control. The terms and conditions of this Section 19.13 may not be amended or deleted without the prior written consent of the Neighbourhood Company. No waiver by the Association of any right of the Association shall constitute a waiver by the Neighbourhood Company of any right of the Neighbourhood Company.

Declarant has caused its name to be signed by the signature of a duly authorized official as of the day and year first written above.

**CERTIFICATION**

We, the undersigned hereby certify, under penalty of perjury, that this Declaration of Covenants, Conditions and Restrictions set forth herein is the Association's previous Declaration with the only change being the Davis-Stirling Act sections corrected pursuant to State law at Civil Code Section 4235, and that this Declaration was duly adopted with the vote and consent of the Association's Board Members pursuant to State law at Civil Code Section 4235.

22 Station Owners Association, Inc.

Dated: 7/21/14

By President: MARGARET SHANE  
(print name)

Margaret Shane  
(sign name)

Dated: 7/21/14

By Secretary: Karen DeGroot  
(print name)

[Signature]  
(sign name)



**ACKNOWLEDGMENT**

State of California  
County of Placer )

On July 21, 2014 before me, Martina A. Ditto, Notary Public  
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature Martina A. Ditto (Seal)



EXHIBIT A

(Attached to and forming a part of Declaration of  
Covenants, Conditions and Restrictions for 22 Station at The Village  
at Squaw Valley USA)

LEGAL DESCRIPTION OF THE PHASE ONE PROPERTY

The three dimensional condominium building envelope more particularly described on  
the Condominium Plan for 22 Station at The Village at Squaw Valley USA recorded in the  
Official Records of Placer County, California on 3-22-2002, at 2002-32307, which  
condominium building envelope is located within Lot 1 of Tract Map 883, recorded in the  
Official Records of Placer County, California, on 3/22/02, at X-99.

**EXHIBIT B**  
**(Attached to and forming a part of Declaration of  
Covenants, Conditions and Restrictions for 22 Station at The Village  
at Squaw Valley USA)**

**[RESERVED]**

**EXHIBIT C**

(Attached to and forming a part of Declaration of  
Covenants, Conditions and Restrictions for 22 Station at The Village  
at Squaw Valley USA)

**NEIGHBOURHOOD COMPANY COMMON AREA EASEMENT AGREEMENTS**

1. Pedestrian and Vehicular Easement Agreement recorded on May 4, 2001 as Instrument Number 2001-0042907 in the Placer County Records.
2. Reservation of Easement and Covenant of Restrictions recorded on May 4, 2001 as Instrument Number 2001-0042910 in the Placer County Records.
3. Easement Agreement (Propane) recorded on August 18, 2000 as Instrument Number 2000-0060453 in the Placer County Records.
4. An easement for drainage purposes recorded as Instrument No. 2000-0095776 in the Placer County Records.
5. An easement for access and utilities recorded as Instrument No. 2000-0060456 in the Placer County Records.
6. An easement for access and construction recorded as Instrument No. 2000-0060459 in the Placer County Records.
7. Joint Advertising Agreement and the Village Employee Parking Plan.
8. Non-exclusive Access and Utility Easement recorded on August 18, 2000 as Instrument Number 2000-0060457 in the Placer County Records.
9. Declaration of Easement and Cost Sharing Agreement between the Neighbourhood Company and the Association pertaining to the common area snow melt system and recorded of even date with this Declaration in the Placer County Records.
10. Plaza and Landscaping Easement Agreement between the Neighbourhood Company and the Association recorded of even date with this Declaration in the Placer County Records.
11. Facade Easement Agreement between the Neighbourhood Company and the Association recorded of even date with this Declaration in the Placer County Records.
12. Pulse Lift Easement Agreement between Intrawest California Holdings, Inc., Squaw Valley Ski Corporation, and Squaw Valley Development Company recorded on May 4, 2001 as Instrument Number 2001-0042923, in the Placer County Records.

13. Grant of Easements and Cost Sharing Agreement Relating to Roadway Maintenance, Operation and Other Expenses Including Snow Removal Costs recorded on May 4, 2001, as Instrument Number 2001-0042919 in the Placer County Records.
14. Parking Easement (D12) recorded on May 4, 2001, as Instrument Number 2001-0042925 in the Placer County Records.
15. Utility Easement (Perimeter Roads) recorded on May 4, 2001, as Instrument Number, 2001-0042920 in the Placer County Records.
16. Propane Easement (A13) recorded on May 4, 2001, as Instrument Number 2001-0042922 in the Placer County Records.
17. Emergency Access Easement recorded as Instrument No. 2000-0101514 in the Placer County Records.
18. Emergency Access Easement recorded as Instrument No. 2000-0101515 in the Placer County Records.
19. Offer of dedication for road purposes and utility rights recorded as Instrument No. 2001-0102226 in the Placer County Records.
20. Offer of dedication for road purposes and utility rights recorded as Instrument No. 2001-0102227 in the Placer County Records.
21. Agreement Regarding Rights-of Way and Use of Rights-of-Way recorded as Instrument No. 2001-0113578 in the Placer County Records.
22. C5/C6 Easement Agreement recorded as Instrument No. 2001-0132090 in the Placer County Records.

**EXHIBIT D**

(Attached to and forming a part of Declaration of  
Covenants, Conditions and Restrictions for 22 Station at The Village  
at Squaw Valley USA)

**OFF-SITE EASEMENTS AND AGREEMENTS**

1. Grant of Easements and Cost Sharing Agreement Relating to Roadway Maintenance, Operation and Other Expenses, Including Snow Removal Costs recorded on August 18, 2000 as Instrument Number 2000-0060451 in the Placer County Records.
2. Easement for Access and Utilities (A4) recorded on August 18, 2000 as Instrument Number 2000-0060458 in the Placer County Records.
3. Commercial Parking Irrevocable License for Ski Corp Parking Lot recorded on May 4, 2001, as Instrument Number 2001-0042916 in the Placer County Records.
4. Grant of Easements and Cost Sharing Agreement Relating to Roadway Maintenance, Operation and Other Expenses Including Snow Removal Costs recorded on May 4, 2001, as Instrument Number 2001-0042919 in the Placer County Records.
5. Grading and Improvements Easement (D11) recorded on May 4, 2001, as Instrument Number 2001-0042924 in the Placer County Records.
6. Utility Easement (Perimeter Roads) recorded on May 4, 2001, as Instrument Number 2001-0042920 in the Placer County Records.
7. Agreement Regarding Rights-of-Way and Use of Rights-of-Way recorded as Instrument Number 2001-0113578 in the Placer County Records.
8. Propane Easement recorded as Instrument No. 2001-0042922 in the Placer County Records.
9. Declaration of Easement and Cost Sharing Agreement between the Neighbourhood Company and the Association pertaining to the common area snow melt system and recorded of even date with this Declaration in the Placer County Records.

**EXHIBIT E**

(Attached to and forming a part of Declaration of  
Covenants, Conditions and Restrictions for 22 Station at The Village  
at Squaw Valley USA)

**SHARE OF COMMON EXPENSES SCHEDULE**

**SCHEDULE WORKSHEET CONSISTING OF 1 PAGE(S)  
IS ATTACHED HERETO AND INCORPORATED HEREIN**

**22 STATION CONDOMINIUM ASSOCIATION (PHASE 1)  
 LOT 1, THE VILLAGE AT SQUAW VALLEY USA PHASE II a.k.a. 22 STATION PHASE ONE**

RE.623

BASE BUDGET

Page 14A of 15

**PRORATION SCHEDULE WORKSHEET**

**Section I Variable Assessment Computation**

**A. Variable Costs Description**

		Monthly Cost
1.	Insurance (Casualty + Earthquake)	\$ 6,141.00
2.	Domestic Gas (if common)	\$ _____
3.	Domestic Water (if common)	\$ _____
4.	Paint	\$ 722.50
5.	Roof	\$ 455.06
6.	Hot Water Heater (if common)	\$ _____
7.	Other	\$ _____
	<b>Total Variable Cost</b>	<b>7,318.56</b>

B. Total livable square footage of all units from condominium plan:	91,623 s.f.
C. Variable Factor ( <i>variable monthly costs ÷ square footage = variable factor</i> ):	<u>.07987689</u>

Multiply this factor by each unit size below in Section III.

**Section II Equal Assessment Computation**

A. Total Monthly Budget	\$ 19,627.00	
Less Variable Costs	\$ 7,318.56	
Total Monthly Equal Costs	\$ 12,308.44	
B. Monthly Base Assessment:	\$ 121.76	101.09 assessment units

*(total monthly cost ÷ number of units = monthly base assessment)*

**Section III Assessment Schedule**

	Unit Size	x	Variable Factor	=	Variable Assessment	+	Base Assessment	=	Total Mth. Assessment	x	Unit Count	=	Total Mth. Budget *
1.	643 s.f.	x	.0798768	=	51.36	+	121.76	=	173.12	x	20	=	3,462.40
2.	992 s.f.	x	.0798768	=	79.24	+	121.76	=	201.00	x	36	=	7,236.00
3.	1,519 s.f.	x	.0798768	=	121.33	+	121.76	=	243.09	x	10	=	2,430.90
4.	2,297 s.f.	x	.0798768	=	183.48	+	121.76	=	305.24	x	1	=	305.24
Comm.	750 s.f.	x	.0798768	=	59.91	+	121.76	=	181.67	x	34.09	=	6,193.13

**VERIFICATION OF COMPUTATIONS**

Total Monthly Budget (Section III)	19,627.67
Total Monthly Budget (Section IIA)	<u>19,627.00</u>

\* Total Assessment x number of units of each type.

**Section IV Variable Assessments**

Highest Assessment	-	Lowest Assessment	/	Lowest Assessment	=	% Differential
305.24	-	173.12	/	173.12	=	76 %

\*\* 25,564 s.f. / 750 assessments = 34.09 assessments.

110



EXHIBIT F

(Attached to and forming a part of Declaration of  
Covenants, Conditions and Restrictions for 22 Station at The Village  
at Squaw Valley USA)

LEGAL DESCRIPTION OF THE NEIGHBORING PROPERTY

ALL THAT REAL PROPERTY SITUATE IN THE COUNTY OF PLACER, STATE OF  
CALIFORNIA, DESCRIBED AS FOLLOWS:

BEING A PORTION OF THE NORTHWEST QUARTER OF SECTION 32, TOWNSHIP 16  
NORTH, RANGE 16 EAST, MOUNT DIABLO MERIDIAN, PLACER COUNTY  
CALIFORNIA, AS SHOWN ON THAT CERTAIN SUBDIVISION MAP ENTITLED "TRACT  
NO. 464, AMENDED MAP OF OLYMPIC VILLAGE SUBDIVISION" RECORDED IN  
BOOK "N" OF MAPS AT PAGE 60 AND ON THAT CERTAIN PARCEL MAP FILED IN  
BOOK 6 OF PARCEL MAPS AT PAGE 25, PLACER COUNTY RECORDS, BEING MORE  
PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE WEST LINE OF LOT "1" AS SAID LOT IS SHOWN ON  
THAT MAP ENTITLED "TRACT NO. 464 AMENDED MAP OF OLYMPIC VILLAGE  
SUBDIVISION", FROM WHICH POINT THE NORTHWEST CORNER OF SAID LOT "1"  
BEARS N 0°27'35" E, 274.30 FEET; THENCE FROM SAID POINT OF BEGINNING  
EASTERLY THE FOLLOWING COURSES AND DISTANCES: N 67°46'14" E 135.20 FEET  
TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTH HAVING A RADIUS OF  
700.00 FEET, EASTERLY 264.05 FEET ALONG SAID CURVE THROUGH A CENTRAL  
ANGLE OF 21°36'46", N 89°23'00" E 150.99 FEET, AND S 88°23'43" E 354.51 FEET;  
THENCE S 0°27'35" W, 528.00 FEET; THENCE S 71°49'18" W 564.92 FEET; THENCE N  
19°02'22" W 39.96 FEET; THENCE S 70°50'57" W 320.78 FEET; THENCE N 4°19'32" W  
267.98 FEET; THENCE S 88°59'14" W 13.85 FEET; THENCE N 0°27'35" N 409.90 FEET TO  
THE POINT OF BEGINNING.

CONTAINING 13.08 ACRES, MORE OR LESS

LESS AND EXCEPT LOTS 1 AND 2 OF TRACT 883, SHOWN ON MAP TITLED THE  
VILLAGE AT SQUAW VALLEY USA PHASE 2, A CONDOMINIUM PROJECT, FILED IN  
THE OFFICIAL RECORDS OF PLACER COUNTY, CALIFORNIA, IN BOOK X OF  
MAPS, AT PAGE 99.

**EXHIBIT G**

(Attached to and forming a part of Declaration of  
Covenants, Conditions and Restrictions for 22 Station at The Village  
at Squaw Valley USA)

**DESCRIPTION OF THE PARKING UNITS**

**SEE PAGES 6 AND 7 OF THE PLAN  
ATTACHED HERETO AND INCORPORATED HEREIN**

**NOTES:**

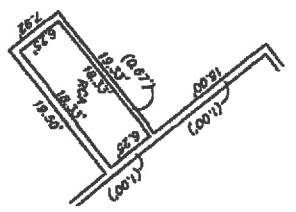
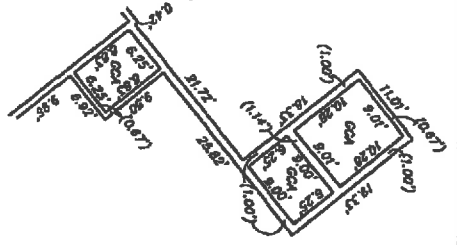
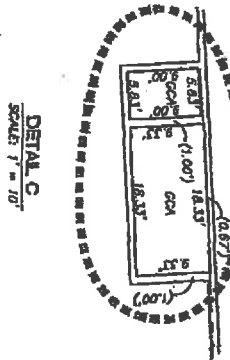
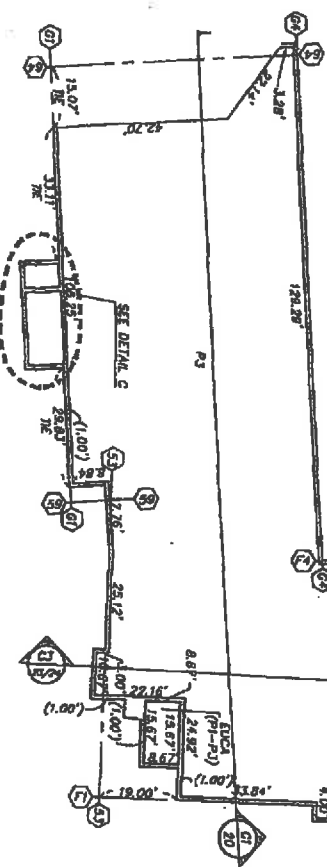
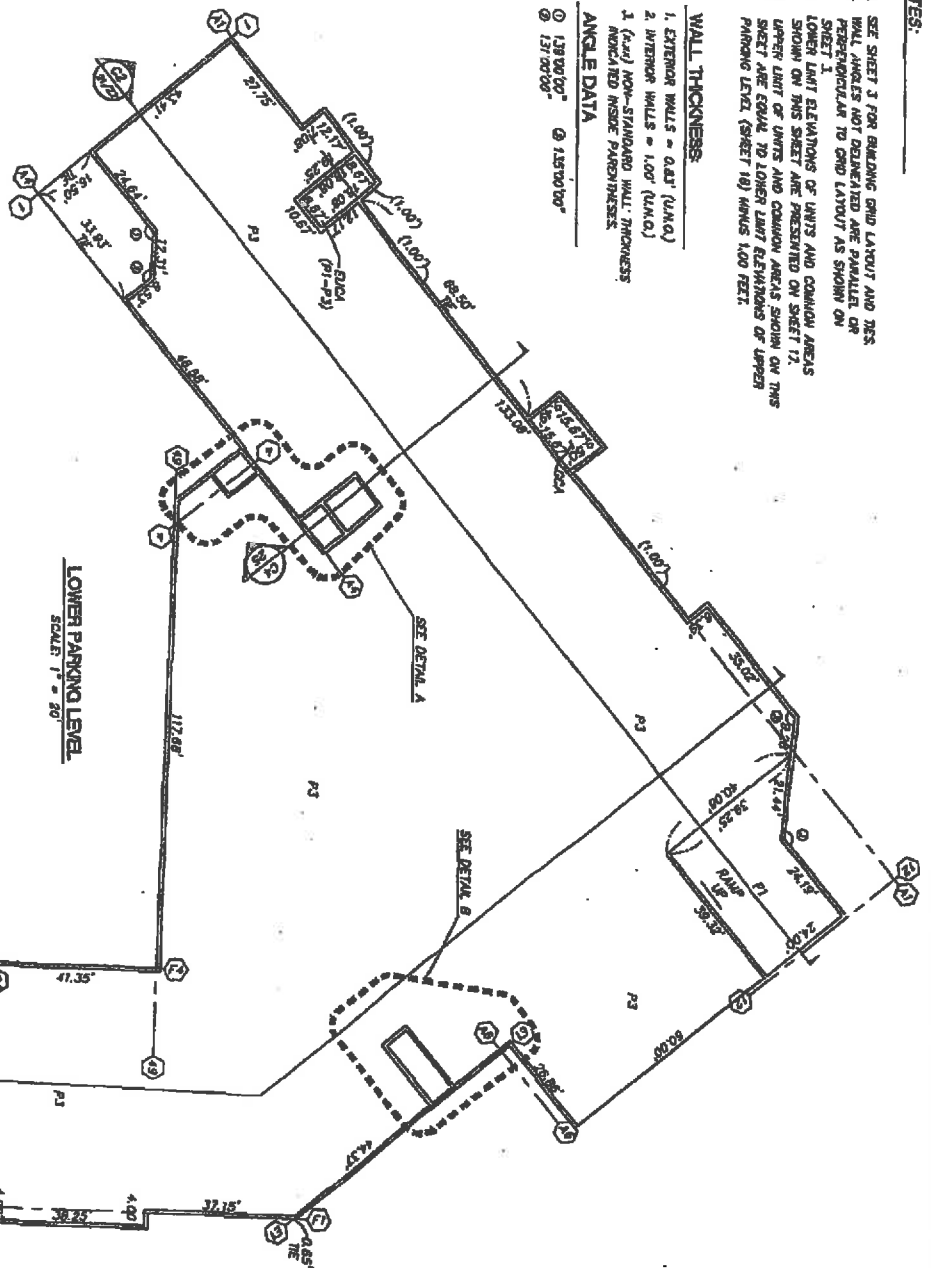
1. SEE SHEET 3 FOR BUILDING GRID LAYOUT AND NETS.
2. WALL ANGLES NOT DETAILED ARE PARALLEL OR PERPENDICULAR TO GRID LAYOUT AS SHOWN ON SHEET 1.
3. LOWER LIMIT ELEVATIONS OF UNITS AND COMMON AREAS SHOWN ON THIS SHEET ARE PRESENTED ON SHEET 7.
4. UPPER LIMIT OF UNITS AND COMMON AREAS SHOWN ON THIS SHEET ARE EQUAL TO LOWER LIMIT ELEVATIONS OF UPPER PARKING LEVEL (SHEET 18) MINUS 1.00 FEET.

**WALL THICKNESS:**

1. EXTERIOR WALLS = 0.83' (24.00)
2. INTERIOR WALLS = 1.00' (30.48)
3. (4.44) NON-STANDARD WALL THICKNESS INDICATED INSIDE PARENTHESIS.

**ANGLE DATA**

- ⊙ 131.00/02°
- ⊙ 133.00/02°
- ⊙ 137.00/02°



**THE VILLAGE AT SQUAW  
THE VALLEY USA PHASE II  
(22 STATION)  
BUILDING C  
CONDOMINIUM PLANS**

A PORTION OF SECTION 32  
TOWNSHIP 16 NORTH, RANGE 16 EAST, M.D.M.  
COUNTY OF PLACER  
MARCH, 2002

**AUERBACH ENGINEERING GROUP**  
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PHONE: (208) 338-2100 • FAX: (208) 338-2101 • WWW.AUERBACH-ENG.COM

110202B-C-025.0103

**NOTES:**

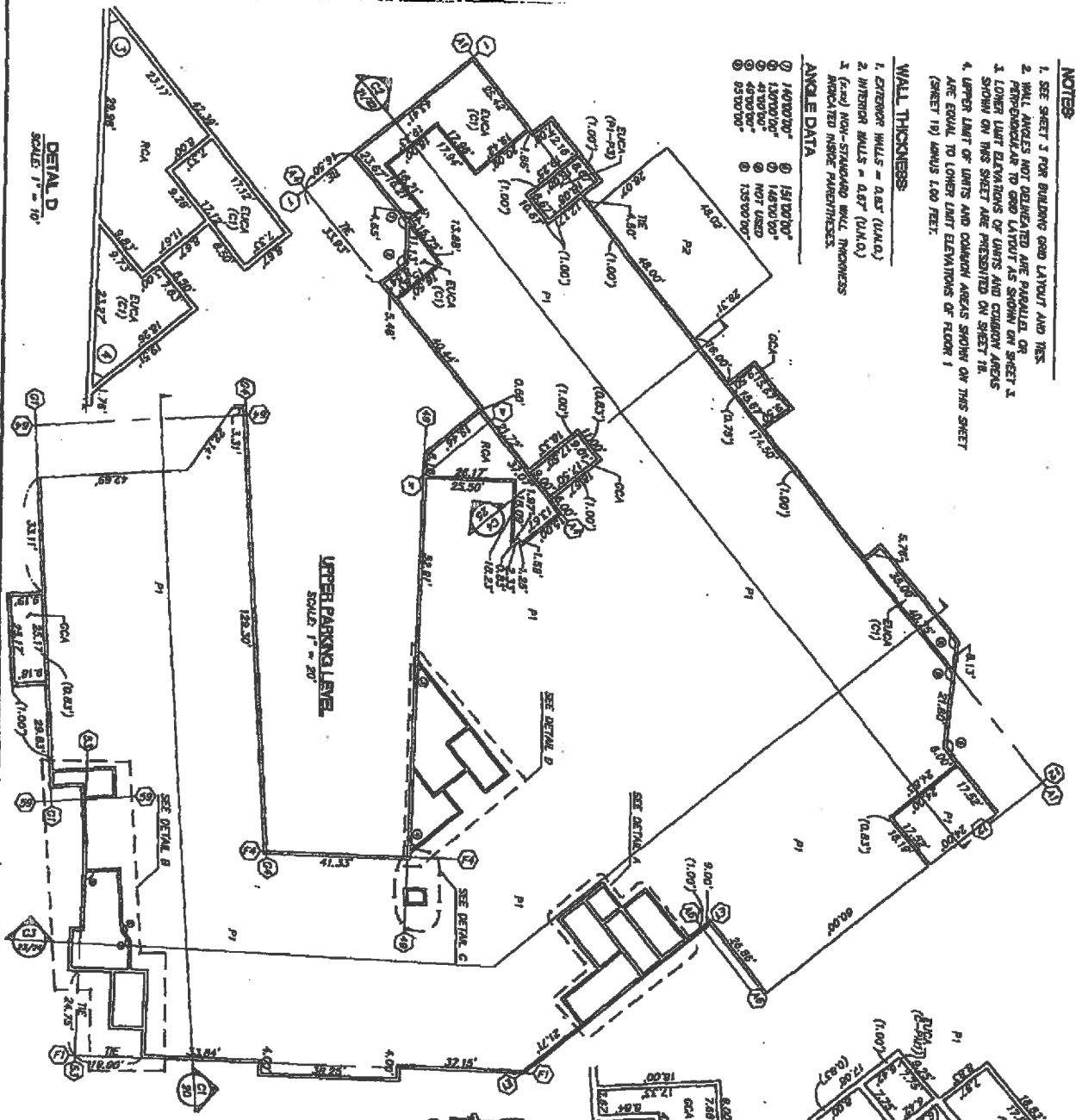
1. SEE SHEET 3 FOR BUILDING GRID LAYOUT AND TIES.
2. WALL ANGLES NOT DELINEATED ARE PARALLEL OR PERPENDICULAR TO GRID LAYOUT AS SHOWN ON SHEET 3.
3. LOWER LIMIT ELEVATIONS OF UNITS AND COMMON AREAS SHOWN ON THIS SHEET ARE PRESENTED ON SHEET 18.
4. UPPER LIMIT OF UNITS AND COMMON AREAS SHOWN ON THIS SHEET ARE EQUAL TO LOWER LIMIT ELEVATIONS OF FLOOR 1 (SHEET 18) UNLESS 1.00 FEET.

**WALL THICKNESSES:**

1. EXTERIOR WALLS = 0.67' (O.A.D.)
  2. INTERIOR WALLS = 0.67' (O.A.D.)
1. (2x4) NON-STANDARD WALL THICKNESSES INDICATED INSIDE PARENTHESES.

**ANGLE DATA:**

- ① 140°00'00"
- ② 151°00'00"
- ③ 130°00'00"
- ④ 146°00'00"
- ⑤ 47°00'00"
- ⑥ 49°00'00"
- ⑦ 85°00'00"
- ⑧ 151°00'00"
- ⑨ 146°00'00"
- ⑩ NOT USED
- ⑪ 135°00'00"



**DETAIL D**  
SCALE 1" = 10'

**DETAIL A**  
SCALE 1" = 10'

**DETAIL B**  
SCALE 1" = 10'

**DETAIL C**  
SCALE 1" = 10'

**THE VILLAGE AT SQUAW  
THE VALLEY USA PHASE II  
(222 STATION C)  
BUILDING C  
CONDOMINIUM PLANS**

A PORTION OF SECTION 32  
TOWNSHIP 16 NORTH, RANGE 16 EAST, M.D.M.  
COUNTY OF PLACER  
MARCH, 2002

**AUERBACH ENGINEERING GROUP**  
 civil engineering • land surveying • project development  
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 5500 Bus. Center Blvd., Suite 200 • Sacramento, CA 95820  
 (916) 486-8800 • Fax: (916) 486-8801 • www.auerbacheng.com

EXHIBIT A  
LEGAL DESCRIPTION OF THE PHASE TWO PROPERTY ..... A-1

EXHIBIT B  
RESERVED ..... B-1

EXHIBIT C  
NEIGHBOURHOOD COMPANY COMMON AREA EASEMENT AGREEMENTS C-1

EXHIBIT D  
OFF-SITE EASEMENTS AND AGREEMENTS ..... D-1

EXHIBIT E  
SHARE OF COMMON EXPENSES SCHEDULE ..... E-1

EXHIBIT F  
LEGAL DESCRIPTION OF THE NEIGHBORING PROPERTY ..... F-1

EXHIBIT G  
DESCRIPTION OF THE PARKING UNITS ..... G-1

*no/*

**22 STATION OWNERS ASSOCIATION, INC.**

**BOARD RESOLUTION TO CORRECT  
DAVIS-STIRLING ACT SECTION CROSS-REFERENCES IN CC&RS**

We the undersigned constitute the members of the Board of Directors of 22 Station Owners Association, Inc. ("Association"). We the undersigned, after due deliberation and consideration, hereby individually as members of the Board and collectively acting as the Board, consent and agree to the following action, adopt the following resolution, and transact the following business of and for the Association:

WHEREAS, the Association is a California mutual benefit non-profit corporation managing a community association, governed by the Declaration of Covenants, Conditions & Restrictions for 22 Station at the Village at Squaw Valley USA ("CC&Rs") recorded on March 22, 2002, as Document 2002-0032306 and Bylaws of 22 Station Owners Association, Inc. ("Bylaws");

WHEREAS, the Board believes that it is in the best interest of the Association and its members to correct the Davis-Stirling Act cross-references in the CC&Rs to the Davis-Stirling Act sections that has become effective in January 1, 2014 pursuant to the authorization pursuant to Civil Code Section 4235, which provides:

(a) Notwithstanding any other provision of law or provision of the governing documents, if the governing documents include a reference to a provision of the Davis-Stirling Common Interest Development Act that was repealed and continued in a new provision by the act that added this section, the board may amend the governing documents, solely to correct the cross-reference, by adopting a board resolution that shows the correction. Member approval is not required in order to adopt a resolution pursuant to this section.

(b) A declaration that is corrected under this section may be restated in corrected form and recorded, provided that a copy of the board resolution authorizing the corrections is recorded along with the restated declaration.

WHEREAS, at a duly noticed and called meeting of the Board, the Board Members voted affirmatively to adopt a resolution for the Association to correct the Davis-Stirling Act cross-references in the CC&Rs as stated above and as set forth on the CC&Rs to which this resolution is attached.

**NOW THEREFORE, IT IS RESOLVED THAT:**

1. The Association's Board is hereby authorized and empowered to correct the Davis-Stirling Act cross-references in the CC&Rs and Bylaws as stated above; and
2. The Association's Board hereby approves the Davis-Stirling Act cross-references in the CC&Rs and Bylaws as stated above and as set forth on the CC&Rs to which this resolution is attached.

Dated: 7/21/2014

By: Margaret Shane  
(sign name)  
MARGARET SHANE  
(print name)  
PRESIDENT  
(title)

By: Mike DeGroff  
(sign name)  
Mike  
(print name)  
Secretary  
(title)

By: Arthur Chiang  
(sign name)  
Arthur Chiang  
(print name)  
Treasurer  
(title)