

**SECOND RESTATED**  
**COVENANTS, CONDITIONS AND RESTRICTIONS**  
**FOR**  
**GLENSHIRE/DEVONSHIRE RESIDENTS' ASSOCIATION**

**"If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code by submitting a "Restrictive Covenant Modification" form, together with a copy of the attached document with the unlawful provision redacted to the county recorder's office. The "Restrictive Covenant Modification" form can be obtained from the county recorder's office and may be available on its internet website. The form may also be available from the party that provided you with this document. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status."**

Nevada County Recorder  
Gregory J. Diaz  
Document#: 20140006464  
Wednesday April 09 2014, at 12:24:48 PM  
Rec Fee:\$233.00  
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WHEN RECORDED, RETURN TO:

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Residents Association**  
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**SECOND RESTATED DECLARATION**  
  
**OF**  
  
**COVENANTS, CONDITIONS AND RESTRICTIONS**  
  
**FOR**  
  
**GLENSHIRE/DEVONSHIRE**

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**SECOND RESTATED DECLARATION  
OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR  
GLENSHIRE/DEVONSHIRE**

Those certain declarations of protective restrictions listed in Exhibit "A" (collectively, the "Original Declarations"), which were executed by the subdivision developers listed in Section 1.12, below (collectively, the "Declarants"), and Recorded in the Official Records of Nevada County, California, at the book and page numbers of the Official Records identified in Exhibit "A", are hereby consolidated into this single Declaration covering all the Properties and are amended, consolidated and restated in their entirety to read as follows:

**RECITALS**

A. The Declarants were the original owners and subdividers of that certain real property located in the County of Nevada, State of California, which is more particularly described in Exhibit "B" attached hereto and incorporated herein by reference (the "Properties"). The Properties are commonly known as Glenshire/Devonshire.

B. Declarants conveyed the Properties, subject to certain easements, protective covenants, conditions, restrictions, reservations, liens and charges as set forth in the Original Declarations referred to above, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of Properties and all of which shall run with the Properties and be binding on all parties having or acquiring any right, title or interest in the Properties, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

C. It was the further intention of the Declarants to sell and convey residential Lots within the Properties to the Owners, subject to the protective covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes between Declarants and such Owners which are set forth in this Declaration and which are intended to be in furtherance of a general plan for the subdivision, development, sale and use of the Properties as a "planned development" as that term is defined in California Civil Code section 1351(k). Finally, it was the intention of Declarants that the "Common Areas" and "Common Facilities" be owned and maintained by the Association, but reserved exclusively for the use and enjoyment of the Members, their tenants, lessees, guests and invitees, all subject to the terms and conditions of the Governing Documents.



D. On October 6, 1997, the Owners of Lots representing a Majority of a Quorum of the Members of the Association acted pursuant to Section 21.05, of the Original Declarations to vote by written ballot to amend consolidate and restate the Original Declarations, all in accordance with the procedures for amendment set forth in the Original Declarations. It was the intention of the Owners to replace the Original Declarations, in their entirety, with the Recordation of this Declaration. The Owners' action to amend and restate the Original Declarations as set forth herein and the fact that the requisite percentage of affirmative votes required in the Original Declarations was achieved, is attested by the execution of this First Restated Declaration by duly authorized officers of the Association, as required by California Civil Code section 4270 (a) As so amended and restated, the easements, covenants, restrictions and conditions set forth herein shall run with the Properties and shall be binding upon all parties having or acquiring any right, title or interest in the Properties or any portion thereof, and shall inure to the benefit of each Owner thereof.

## ARTICLE I

### Definitions

Section 1.01. "Annexation" means the process that is more particularly described in Section 17.02, below, whereby real property is brought into the Glenshire/Devonshire common interest development and subjected to this Declaration and the jurisdiction of the Association.

Section 1.02. "Articles" means the Articles of Incorporation of the Association, which are filed in the Office of the California Secretary of State, as such Articles may be amended from time to time.

Section 1.03. "Assessment" means any Regular, Special or Special Individual Assessment made or assessed by the Association against an Owner and his or her Lot in accordance with the provisions of Article IV, below.

Section 1.04. "Association" means Glenshire/Devonshire Residents Association, a California nonprofit mutual benefit corporation, its successors and assigns. The Association is an "association" as defined in California Civil Code section 4080 .

Section 1.05. "Association Rules" means the rules, regulations and policies adopted by the Board of Directors pursuant to Section 3.05, below, as the same may be in effect from time to time. Design Guidelines adopted pursuant to Section 5.06, below, shall constitute a part of the Association Rules.

Section 1.06. "Board of Directors" or "Board" means the Board of Directors of the Association.

**Section 1.07.** "Bylaws" means the Bylaws of the Association, as such Bylaws may be amended from time to time.

**Section 1.08.** "Common Area" means all real property owned by the Association for the common use and enjoyment of the Owners. The Common Area owned by the Association at the time of the Recordation of this Declaration is described in Exhibit "C", attached hereto. Unless the context clearly indicates a contrary intent, any reference herein to the "Common Areas" shall also include any Common Facilities located thereon.

**Section 1.09.** "Common Expense" means any use of Association funds authorized by Article IV, below, and Article IX of the Bylaws and includes, without limitation: (a) All expenses or charges incurred by or on behalf of the Association for the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common Area or Common Facilities; (b) all expenses or charges reasonably incurred to procure insurance for the protection of the Association and its directors, officers and corporate agents; (c) any amounts reasonably necessary for reserves for maintenance, repair and replacement of the Common Areas and Common Facilities, and for nonpayment of any Assessments; or (d) the use of such funds to defray the costs and expenses incurred by the Association in the performance of its functions or in the proper discharge of the responsibilities of the Board as provided in the Governing Documents.

**Section 1.10.** "Common Facilities" means the clubhouse, swimming and wading pools, tennis courts, play area, picnic area, open space areas, and the trees, landscaping, fences, utilities, berms, pipes, lines, lighting fixtures, buildings, structures and other facilities constructed or installed, or to be constructed or installed, or currently located within the Common Area.

**Section 1.11.** "County" means the County of Nevada, State of California, and its various departments, divisions, employees and representatives.

**Section 1.12.** "Declarant" means the original developers of the Properties, namely the Innisfree Corporation, a California corporation and General American Development Corporation, a California corporation.

**Section 1.13.** "Declaration" means this instrument, as it may be amended from time to time. The "Original Declarations" means and refers to the documents referenced in Exhibit "A" together with all amendments and annexations thereto adopted prior to adoption of this Declaration.

**Section 1.14.** "Design Review Committee" or "Committee" means the committee created in accordance with Article V, below.

**Section 1.15.** "Governing Documents" is a collective term that means and refers to this Declaration and to the Articles, the Bylaws and the Association Rules.

**Section 1.16.** "Improvements" shall be defined as set forth in Section 5.01, below.

**Section 1.17.** "Lot" means any parcel of real property designated by a number on the original Subdivision Map for any portion of the Properties, excluding the Common Area. When appropriate within the context of this Declaration, the term "Lot" shall also include the residence and other Improvements constructed or to be constructed on a Lot.

**Section 1.18.** "Majority of a Quorum" means the vote of a majority of the votes cast at a meeting or by written ballot when the number of Members attending the meeting in person or by proxy or casting written ballots equals or exceeds the minimum quorum requirement for Member action, as specified in the Bylaws or by statute.

**Section 1.19.** "Member" means every person or entity who holds a membership in the Association and whose rights as a Member are not suspended pursuant to Section 13.06, below.

**Section 1.20.** "Mortgage" means any security device encumbering all or any portion of the Properties, including any deed of trust. "Mortgagee" shall refer to a beneficiary under a deed of trust as well as to a mortgagee in the conventional sense.

**Section 1.21.** "Owner" means any person, firm, corporation or other entity which owns a fee simple interest in any Lot. Except where the context otherwise requires, the term "Owner" shall include the family, guests, tenants and invitees of an Owner.

**Section 1.22.** "Owner of Record" includes an Owner and means any person, firm, corporation or other entity in which title to a Lot is vested as shown by the Official Records of the Office of the County Recorder.

**Section 1.23.** "Properties" means all parcels of real property (Common Area and Lots) described in Exhibit "B", together with all buildings, structures, utilities, Common Facilities, and other Improvements now located or hereafter constructed or installed thereon, and all appurtenances thereto.

**Section 1.24.** "Record" and "Recordation" means, with respect to any document, the recordation or filing of such document in the Office of the Nevada County Recorder.

**Section 1.25.** "Regular Assessment" means an Assessment levied against an Owner and his or her Lot in accordance with Section 4.02, below.

**Section 1.26.** "Single Family Residential Use" means occupancy and use of a residence for single family dwelling purposes in conformity with this Declaration and the requirements imposed by applicable zoning or other applicable laws or governmental regulations limiting the number of persons who may occupy single family residential dwellings.

**Section 1.27.** "Special Assessment" means an Assessment levied against an Owner and his or her Lot in accordance with Section 4.03, below.

**Section 1.28.** "Special Individual Assessment" means an Assessment levied against an Owner and his or her Lot in accordance with Section 4.04, below.

**Section 1.29.** "Subdivision Map" means the map for any portion of the Properties.

## ARTICLE II

### Property Rights and Obligations of Owners

**Section 2.01. Owners' Nonexclusive Easements of Enjoyment.** Every Owner shall have a nonexclusive right and easement of enjoyment in and to the Common Areas within the Properties, including ingress and egress to and from his or her Lot, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to charge reasonable admission and other fees or to limit the number of guests of Members who may use any recreational Common Facilities.

(b) The right of the Association to adopt Association Rules as provided in Section 3.05, below, regulating the use and enjoyment of the Common Areas and Common Facilities for the benefit and well-being of the Owners in common, and, in the event of the breach of such rules or any provision of any Governing Document by any Owner or tenant, to initiate disciplinary action against the violating Owner or tenant in accordance with Section 13.06, below.

(c) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed by the Owners; provided, however, that no such dedication or transfer shall be effective unless an instrument, approved by at least two-thirds of the voting power of the Members, and their first Mortgagees consenting to such dedication or transfer has been Recorded. Furthermore, no dedication shall be permitted that impairs the ingress and egress to any Lot. The instrument approving the dedication may be executed in counterparts so long as each counterpart is in recordable form.



(d) All easements affecting the Common Area which are described in Article IX, below.

**Section 2.02. Persons Subject to Governing Documents.** All present and future Owners, tenants and occupants of Lots within the Properties shall be subject to, and shall comply with, each and every provision of the Governing Documents, as the same or any of them shall be amended from time to time, unless a particular provision is specifically restricted in its application to one or more of such classes or persons (i.e. Owners, tenants, invitees, etc.). The acceptance of a deed to any Lot, the entering into a lease, sublease or contract of sale with respect to any Lot, or the occupancy of any Lot shall constitute the consent and agreement of such Owner, tenant, contract purchaser, or occupant that each and all of the provisions of this Declaration, as the same or any of them may be amended from time to time, shall be binding upon him or her and that he or she will observe and comply with the Governing Documents.

**Section 2.03. Delegation of Use.**

(a) **Delegation of Use and Leasing of Residences.** Any Owner may delegate his or her rights to use and enjoy the Common Area and Common Facilities to his or her family members, tenants, lessees or contract purchasers who reside in the Owner's residence. Individuals who are renting or leasing a residence within the Properties shall have the same obligations as Owners to comply with all property use restrictions, since any rental or lease of a residence is subject to the provisions of the Governing Documents. Each Owner-lessor of a residence within the Properties shall provide any tenant or lessee with a current copy of all Governing Documents. Owners who lease their residences shall be responsible for compliance by the tenant or lessee with all of the provisions of the Governing Documents during the tenant's/lessee's occupancy and use of the residence.

With the exception of vacation and seasonal rentals, any rental or lease of a residence may only be to a single family for Single Family Residential Use. The restrictions on multiple family occupancy imposed by this paragraph are intended to protect, enhance and maintain the single family residential atmosphere which exists within the Properties and to avoid an overburdening of Association Common Areas and Common Facilities. In no event shall any residence be owned or used on a time-share basis as defined in California Business and Professions Code section 11003.5 or comparable superseding statute.

(b) **Discipline of Lessees.** Subject to subparagraph (c) below, in the event that any tenant or lessee fails to honor the provisions of any Governing Document, the Association shall be entitled to take such corrective action as it deems necessary or appropriate under the circumstances which may include, suspension of the tenant's privileges to use any recreational Common Facilities or the imposition of fines and penalties against the Owner-lessor. The Association shall have a right of action directly against any tenant, lessee or contract purchaser of an Owner, as well as against the Owner, for nonperformance by, or

violation of, any provisions of the Governing Documents by the tenant, lessee or contract purchaser (or any family member, guest or invitee of such persons), to the same extent as such rights of action exist in favor of the Association with respect to the Owner of the Lot.

(c) Due Process Requirements for Disciplinary Action. Except for circumstances in which immediate corrective action is necessary to prevent damage or destruction to the Properties or to preserve the rights of quiet enjoyment of other Owners, the Association shall have no right to initiate disciplinary action against an Owner-lessor (or the Owner's lessee or tenant) on account of the misconduct of the Owner's lessee or tenant unless and until the alleged violator has received notice and an opportunity to be heard on the matter in accordance with Section 13.06, below.

Section 2.04. Obligations of Owners. Owners of Lots within the Properties shall be subject to the following:

(a) Owner's Duty to Notify Association of Tenants and Contract Purchasers. Each Owner shall notify the General Manager of the Association, of the names of any contract purchaser or tenant residing on the Owner's Lot for periods in excess of 30 days. The purpose of these requirements is to facilitate communications between the Association and the tenants and thereby promote voluntary compliance with the Governing Documents and shall not apply to short-term rentals permitted by Section 2.03(a), above.

(b) Contract Purchasers. Occasionally persons sell their Lots pursuant to a contract which does not call for the conveyance of title to the Lot until such time as the buyer has completed all installment payments towards the purchase price (i.e., a contract of sale). A contract seller of a Lot must delegate his or her voting rights as a Member and his or her right to use and enjoy the Common Area and Common Facilities to any contract purchaser in possession of the property subject to the contract of sale. Notwithstanding the foregoing, the contract seller shall remain liable for any default in the payment of Assessments by the contract purchaser until title to the property sold has been transferred to the purchaser.

(c) Notification Regarding Governing Documents.

(i) As more particularly provided in section 4525 of the California Civil Code, as soon as practicable before transfer of title or the execution of a real property sales contract with respect to any Separate Interest, the Owner thereof must give the prospective purchaser:

(A) a copy of the Governing Documents;

(B) a copy of the most recent documents that the Association is required to distribute to the Owners pursuant to Civil Code section 5300 et seq. (such documents being the Association's proforma operating budget or budget summary, the most recent year-



end financial report; the Association's most recent financial statement; a statement of the Association's assessment collection and lien policies; and summaries of the Association's property and general liability insurance);

(C) a true statement in writing from an authorized representative of the Association as to: (1) the amount of any delinquent Assessments, together with information relating to late charges, attorneys' fees, interest, and costs of collection which, as of the date the statement is issued, are or may become a lien against the Separate Interest being sold; and (2) the amount of the Association's current Regular and Special Assessments and fees; and

(D) any change in the Association's current Regular and Special Assessments and fees which have been approved by the Board but have not become due and payable as of the date the information is provided.

(ii) Within 10 days of the mailing or delivery of a written request for the information described in subparagraph (c)(i), above, the Association shall provide the Owner with copies of the requested items. The Association shall be entitled to impose a fee for providing the requested items equal to (but not more than) the reasonable cost of preparing and reproducing the requested items.

(iii) The provisions of this section, except for those provisions relating to the furnishing of a delinquency statement, shall not apply to any Owner subject to the requirements of section 11018.1 of the California Business and Professions Code (i.e., Owners who are selling Separate Interests pursuant to a Department of Real Estate Public Report.

(d) Payment of Assessments and Compliance With Rules. Each Owner shall pay, when due, each Regular, Special, and Special Individual Assessment levied against the Owner and his or her Lot and shall observe, comply with and abide by any and all rules and regulations set forth in, or promulgated by the Association pursuant to, any Governing Document for the purpose of protecting the interests of all Owners or protecting, preserving and enhancing the Common Area and Common Facilities.

(e) Discharge of Assessment Liens. Each Owner shall promptly discharge any Assessment lien that may hereafter become a charge against his or her Lot.

(f) Joint Ownership of Lots. In the event of joint ownership of any Lot, the obligations and liabilities of the multiple Owners under the Governing Documents shall be joint and several. Without limiting the foregoing, this subparagraph (f) shall apply to all obligations, duties and responsibilities of Owners as set forth in this Declaration, including, without limitation, the payment of all Assessments duly imposed against the co-Owners and their Lot(s).

**ARTICLE III**  
**Glenshire/Devonshire Residents Association**

**Section 3.01. Association Membership.** Every Owner of a Lot within the Properties shall be a Member of the Glenshire/Devonshire Residents Association. Each Owner shall hold one membership in the Association for each Lot owned and each membership shall be appurtenant to the Member's Lot. Sole or joint ownership of a Lot shall be the only qualification for membership in the Association.

Where Lots are owned by more than one person, the Board shall have the right, pursuant to Section 3.05, below, to adopt a rule designating the minimum percentage ownership of a Lot to qualify the Owner as a Member for purposes of using any recreational Common Facility or for determining eligibility to serve as a director. The voting rights of Members shall be as set forth in the Association's Bylaws, and may be temporarily suspended under those circumstances described in Section 13.06, below.

**Section 3.02. Assessments.** The Association shall have the power to establish, fix and levy Assessments against the Owners of Lots within the Properties and to enforce payment of such Assessments in accordance with Article IV, below.

**Section 3.03. Transfer of Memberships.** Membership in the Association shall not be transferred, encumbered, pledged or alienated in any way, except upon the sale of the Lot to which it is appurtenant and then, only to the purchaser. In the case of a sale, the membership appurtenant to the transferred Lot shall pass automatically to the purchaser upon Recording of a deed evidencing the transfer of title. In the case of an encumbrance of such Lot, a Mortgagee does not have membership rights until he or she becomes an Owner by foreclosure or deed in lieu thereof. When an Owner-lessor executes a written transfer of privileges to a tenant to use and enjoy recreational Common Facilities, the tenant does not thereby become a Member of the Association, although the tenant and his or her family and guests shall, at all times, be subject to the provisions of all Governing Documents. Any attempt by an Owner to make a prohibited transfer of membership rights is void.

**Section 3.04. Powers and Authority of the Association.**

(a) **Powers, Generally.** The Association owns, and shall have the responsibility of managing and maintaining, the Common Areas and Common Facilities and discharging the other duties and responsibilities imposed on the Association by the Governing Documents. In the discharge of such responsibilities and duties, the Association shall have all of the powers of a nonprofit mutual benefit corporation organized under the laws of the State of California, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Governing Documents. The Association and its Board of Directors shall have the power to do any and all lawful things which may be authorized, required or

permitted to be done under and by virtue of the Governing Documents, and to do and perform any and all acts which may be necessary or proper for, or incidental to, the exercise of any of the express powers of the Association for the peace, health, comfort, safety or general welfare of the Owners of Lots and the residents of Glenshire/Devonshire. The specific powers of the Association and the limitations thereon shall be as set forth in Article IX of the Bylaws.

(b) Association's Right of Entry.

(i) Right of Entry. Generally. Without limiting the foregoing description of powers, but in addition thereto, the Association and/or its agents shall have the right, when necessary, to enter any Lot to perform the Association's obligations under this Declaration, including:

(A) obligations to enforce the architectural, minimum construction standards, and land use restrictions of Articles V, VI and VIII, below;

(B) any obligations with respect to construction, maintenance and repair of adjacent Common Facilities; or

(C) to make necessary repairs that an Owner has failed to perform which, if left undone, will pose a threat to, or cause an unreasonable interference with, Association property or the Owners in common.

(ii) Limitations on Exercise of Right. The Association's right of entry pursuant to this subparagraph (b) shall be subject to the following:

(A) The Association's rights hereunder shall not include the right to enter any private residence and, with the exception of actions taken in response to emergency situations, the Association shall have no right to initiate any corrective action or alter any improvement on the Owner's Lot without complying with the notice and due process requirements described in Article XIII, below.

(B) The Association shall have an immediate right of entry in the case of an emergency originating in or threatening the Lot where entry is required, or any adjoining Lots or Common Area, and the Association's work may be performed under such circumstances whether or not the Owner or his or her lessee is present.

(C) On a regular basis it is necessary for the Design Review Committee (DRC) and other Association or fire personnel to access Lots within the Properties to inspect ongoing construction projects or to inspect conditions and/or improvements which are or may become a fire hazard. Notice of such inspections may be given in the Association newsletter (in the case of regular, periodic inspections) or as part

of the DRC construction approval process (in the case of DRC inspections of ongoing construction projects); and

(D) In all other non-emergency situations the Association, or its agents, shall furnish the Owner or his or her lessee with at least 24 hours' prior written notice of its intent to enter the Lot, specifying the purpose and scheduled time of such entry. In the case of all entries other than entries required to respond to emergency situations, the Association shall make every reasonable effort to perform its work and schedule its entry in a manner that respects the privacy of the persons residing on the Lot.

### Section 3.05. Association Rules.

(a) Rule Making Power. The Board may, from time to time and subject to the provisions of this Declaration, propose, enact and amend rules and regulations of general application to the Owners ("Association Rules"). The Association Rules may concern, but need not be limited to: (i) matters pertaining to the maintenance, repair, management and use of the Common Area and Common Facilities; (ii) Design Guidelines adopted by the Design Review Committee pursuant to Section 5.05, below; (iii) the conduct of disciplinary proceedings in accordance with Section 13.06, below; (iv) any property use restriction set forth in Article VIII, below; (v) minimum standards for the maintenance of Improvements on any Lot; and (vi) any other subject or matter within the jurisdiction of the Association as provided in the Governing Documents.

Notwithstanding the foregoing grant of authority, the Association Rules shall not be inconsistent with or materially alter any provision of the other Governing Documents or the rights, preferences and privileges of Members thereunder. In the event of any material conflict between any Association Rule and any provision of the other Governing Documents, the conflicting provisions contained in the other Governing Documents shall be deemed to prevail.

(b) Distribution of Rules. A copy of the Association Rules, as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. A copy of the Association Rules shall also be available and open for inspection during normal business hours at the principal office of the Association.

(c) Adoption and Amendment of Rules. Association Rules may be adopted or amended from time to time by majority vote of the Board, provided, however, that no Association Rule or amendment thereto shall be adopted by the Board until the proposed rule or rule amendment has been posted in the clubhouse for at least 30 days; and has been published in the Association newsletter, or, otherwise communicated to the Owners in writing. The notice describing the proposed rule or amendment shall also set forth the date, time and location of the Board meeting at which action on the proposal is scheduled to occur.



Any duly adopted rule or amendment to the Association Rules shall become effective immediately following the date of adoption thereof by the Board, or at such later date as the Board may deem appropriate. Any duly adopted rule or rule amendment shall be distributed to the Owners by mail.

**Section 3.06. Breach of Rules or Restrictions.** Any breach of the Association Rules or of any other Governing Document provision shall give rise to the rights and remedies set forth in Article XIII, below.

**Section 3.07. Limitation on Liability of the Association's Directors and Officers.**

(a) **Claims Regarding Breach of Duty.** No director or officer of the Association (collectively and individually referred to as the "Released Party") shall be personally liable to any of the Members or to any other person, for any error or omission in the discharge of his or her duties and responsibilities or for his or her failure to provide any service required under the Governing Documents; provided that such Released Party has, upon the basis of such information as he or she possessed, acted in good faith, in a manner the Released Party believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent person would use under similar circumstances.

Without limiting the generality of the foregoing, this standard of care and limitation of liability shall extend to such matters as the establishment of the Association's annual financial budget, the funding of Association capital replacement and reserve accounts, repair and maintenance of Common Areas and Common Facilities and enforcement of the Governing Documents.

(b) **Other Claims Involving Tortious Acts and Property Damage.** No person who suffers bodily injury (including, without limitation, emotional distress or wrongful death) as a result of the tortious act or omission of a volunteer member of the Board or volunteer officer of the Association shall recover damages from such Board member or officer if all of the following conditions are satisfied:

- (i) The Board member or officer owns no more than two Lots;
- (ii) The act or omission was performed within the scope of the volunteer Board member's or officer's Association duties;
- (iii) The act or omission was performed in good faith;
- (iv) The act or omission was not willful, wanton, or grossly negligent;

(v) The Association maintained and had in effect at the time the act or omission occurred and at the time a claim is made general liability insurance with coverage of at least One Million Dollars (\$1,000,000).

The payment of actual expenses incurred by a Board member or officer in the execution of such person's Association duties shall not affect such person's status as a volunteer Board member or officer for the purposes of this section. The provisions of this subparagraph (b) are intended to reflect the protections accorded to volunteer directors and officers of community associations pursuant to California Civil Code section 5800. In the event said Civil Code section is amended or superseded by another, similar provision of the California statutes, this subparagraph (b) shall be deemed amended, without the necessity of further Member approval, to correspond to the amended or successor Civil Code provision.

#### ARTICLE IV Assessments

##### Section 4.01. Assessments Generally.

(a) Covenant to Pay Assessments. Each Owner of a Lot, by acceptance of a deed or other conveyance therefor (whether or not it shall be so expressed in such deed or conveyance), covenants and agrees to pay to the Association: (i) Regular Assessments; (ii) Special Assessments; and (iii) Special Individual Assessments. Each such Assessment shall be established and collected as hereinafter provided.

(b) Extent of Owner's Personal Obligation for Assessments. All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorneys' fees) for the collection thereof, shall be a debt and a personal obligation of the person who is the Owner of the Lot at the time the Assessment is levied. Each Owner who acquires title to a Lot (whether by conventional conveyance, at judicial sale, trustee's sale or otherwise) shall be personally liable only for Assessments attributable to the Lot which become due and payable after the date that the person acquires title. Accordingly, when a person acquires title to a Lot, he or she shall not be personally liable for delinquent Assessments of prior Owners unless the new Owner expressly assumes the personal liability. However, if the acquired Lot is conveyed subject to a valid lien for delinquent Assessments (and related costs of collection), the Association may continue to exercise its foreclosure remedies against the Lot, regardless of the change of ownership, and/or the Association may pursue its collection remedies against the prior Owner, individually.

(c) Creation of Assessment Lien. All Assessments, together with late charges, interest, and reasonable costs (including reasonable attorneys' fees) for the collection thereof, shall be a charge on the Lot constitute a continuing lien upon the Lot against which such



Assessment is made. Any lien for unpaid Assessments created pursuant to the provisions of this Article may be subject to foreclosure, to the extent and in the manner provided in Section 4.10(b), below.

(d) No Avoidance of Assessment Obligations. No Owner may exempt himself/herself from personal liability for Assessments duly levied by the Association, nor release the Lot or other property owned by him/her from the liens and charges hereof, by waiver of the use and enjoyment of the Common Area or any facilities thereon or by abandonment or non-use of his/her Lot or any other portion of the Properties.

#### Section 4.02. Regular Assessments.

(a) Preparation of Annual Budget: Establishment of Regular Assessments. Not less than 45 days nor more than 60 days prior to the beginning of the Association's fiscal year, the Board shall estimate the total amount required to fund the Association's anticipated Common Expenses for the next succeeding fiscal year (including additions to any reserve fund established to defray the costs of future repairs, replacement or additions to the Common Facilities) by preparing and distributing to all Members a budget satisfying the requirements of Section 12.05 of the Bylaws. If the Board fails to distribute the budget for any fiscal year within the time period specified in this section, the Board shall not be permitted to increase Regular Assessments for that fiscal year unless the Board first obtains the Members' approval in accordance with Section 4.08, below.

(b) Establishment of Regular Assessment by Board/Membership Approval Requirements. The total annual expenses estimated in the Association's budget (less projected income from sources other than Assessments) shall become the aggregate Regular Assessment for the next succeeding fiscal year; provided, however, that, except as provided in Section 4.05, below, the Board of Directors may not impose a Regular Assessment that is more than 20 percent greater than the Regular Assessment for the Association's immediately preceding fiscal year without the Members' prior approval in accordance with Section 4.08, below.

(c) Allocation of Regular Assessment. The total estimated Common Expenses, determined in accordance with subparagraph (a), shall be allocated among, assessed against, and charged to each Owner according to the ratio of the number of Lots within the Properties owned by the assessed Owner to the total number of Lots subject to Assessments so that each Lot bears an equal share of the total Regular Assessment.

(d) Assessment Roll. That portion of the estimated Common Expenses assessed against and charged to each Owner shall be set forth and recorded in an Assessment roll which shall be maintained and available with the records of the Association. The Assessment roll shall show, for each Lot, the name and address of the Owner of Record, all Regular, Special and Special Individual Assessments levied against each Owner and his or

her Lot, and the amount of such Assessments which have been paid or remain unpaid. The delinquency statement required by Section 2.04(c)(i)(C), above, shall be conclusive upon the Association and the Owner of such Lot as to the amount of such indebtedness appearing on the Association's Assessment roll as of the date of such statement, in favor of all persons who rely thereon in good faith.

(e) Failure to Make Estimate. If, for any reason, the Board of Directors fails to make an estimate of the Common Expenses for any fiscal year, then the Regular Assessment made for the preceding fiscal year, together with any Special Assessment made pursuant to Section 4.03(a)(i), above, for that year, shall be assessed against each Owner and his or her Lot on account of the then current fiscal year, and installment payments (as hereinafter provided) based upon such automatic Assessment shall be payable on the regular payment dates established by the Board.

(f) Payment of Regular Assessment. The regular annual Assessment is due on January 1st of each year and shall be delinquent if not paid on or before the first day of February; provided, however, that the Board, in its discretion, may institute an installment payment program for annual assessments if the Board determines that such a program will facilitate the timely payment of Assessments. However, the collection of Regular Assessments in installments as hereinabove provided is for the convenience of the Association only. The total Regular Assessment is levied as of the commencement of the Association's fiscal year and in the event of a default in the payment of any installment, the Association may declare the entire balance of the Regular Assessment to be in default and pursue the remedies set forth in Section 4.09, below, as to the delinquency.

#### Section 4.03. Special Assessments.

(a) Purposes for Which Special Assessments May Be Levied. Subject to the membership approval requirements set forth in subparagraph (b), below, the Board of Directors shall have the authority to levy Special Assessments against the Owners and their Lots for the following purposes:

(i) Regular Assessment Insufficient in Amount. If, at any time, the Regular Assessment for any fiscal year is insufficient in amount due to extraordinary expenses not contemplated in the budget prepared for that fiscal year, then, except as prohibited by Section 4.02(a), above, the Board of Directors shall levy and collect a Special Assessment, applicable to the remainder of such year only, for the purpose of defraying, in whole or in part, any deficit which the Association may incur in the performance of its duties and the discharge of its obligations hereunder.

(ii) Capital Improvements. The Board may also levy Special Assessments for additional capital Improvements within the Common Area (i.e., Improvements not in existence on the date of this Declaration that are unrelated to repairs for damage to, or

destruction of, the existing Common Facilities). The Special Assessment power conferred hereunder is not intended to diminish the Board's obligation to plan and budget for normal maintenance, and replacement repair of the Common Area or existing Common Facilities through Regular Assessments (including the funding of reasonable reserves) and to maintain adequate insurance on the Common Area and the Common Facilities in accordance with Article X, below.

(b) Special Assessments Requiring Membership Approval. The following Special Assessments require prior membership approval in accordance with Section 4.08, below: (i) any Special Assessments which, in the aggregate, exceed 5 percent of the Association's budgeted gross expenses for the fiscal year in which the Special Assessment(s) is/are levied; and (ii) any Special Assessments imposed pursuant to subparagraph (a)(i) of this section when the Board has failed to distribute a budget to the Members within the time specified in Section 4.02(a), above. The foregoing Member approval requirements shall not apply, however, to any Special Assessment imposed to address any "emergency situation" as defined in Section 4.05, below.

(c) Allocation and Payment of Special Assessments. When levied by the Board or approved by the Members as provided above, the Special Assessment shall be divided among, assessed against and charged to each Owner and his or her Lot in the same manner prescribed for the allocation of Regular Assessments pursuant to Section 4.02(c), above. The Special Assessment so levied shall be recorded on the Association's Assessment roll and notice thereof shall be mailed to each Owner.

Special Assessments for purposes described in subparagraph (a)(i) of this section shall be due as a separate debt of the Owner and a lien against his or her Lot, and shall be payable to the Association in equal monthly installments during the remainder of the then current fiscal year. Special Assessments for purposes described in subparagraph (a)(ii) shall be due as a separate debt of the Owner and a lien against his or her Lot, and shall be payable in full to the Association within 30 days after the mailing of such notice or within such extended period as the Board shall determine to be appropriate under the circumstances giving rise to the Special Assessment.

#### Section 4.04. Special Individual Assessments.

(a) Circumstances Giving Rise to Special Individual Assessments. In addition to the Special Assessments levied against all Owners in accordance with Section 4.03, above, the Board of Directors may impose Special Individual Assessments against an Owner in any of the circumstances described in subparagraphs (i) through (iii) below; provided, however, that no Special Individual Assessments may be imposed against an Owner pursuant to this section until the Owner has been afforded the notice and hearing rights to which the Owner is entitled pursuant to Section 13.06, below, and, if appropriate, has been given a reasonable opportunity to comply voluntarily with the Governing Documents. Subject to the foregoing,



the acts and circumstances giving rise to liability for Special Individual Assessments include the following:

(i) Damage to Common Area or Common Facilities. In the event that any damage to, or destruction of, any portion of the Common Area or the Common Facilities is caused by the willful misconduct or negligent act or omission of any Owner, any member of his or her family, or any of his or her tenants, guests, servants, employees, licensees or invitees, the Board shall cause the same to be repaired or replaced, and all costs and expenses incurred in connection therewith (to the extent not compensated by insurance proceeds) shall be assessed and charged solely to and against such Owner as a Special Individual Assessment.

(ii) Expenses Incurred in Gaining Member Compliance. In the event that the Association incurs any costs or expenses to: (A) accomplish the payment of delinquent Assessments, (B) perform any repair, maintenance or replacement to any portion of the Properties that the Owner is responsible to maintain under the Governing Documents but has failed to undertake or complete in a timely fashion or (C) otherwise bring the Owner and/or his or her Lot into compliance with any provision of the Governing Documents, the amount incurred by the Association (including reasonable fines and penalties duly imposed hereunder, title company fees, accounting fees, court costs and reasonable attorneys fees) shall be assessed and charged solely to and against such Owner as a Special Individual Assessment.

(iii) Required Maintenance on Lots. As more particularly provided in Section 3.03, below, if any Lot is maintained so as to become a nuisance, fire or safety hazard for any reason, including, without limitation, the accumulation of trash, junk automobiles, or improper weed or vegetation control, the Association shall have the right to enter the Lot, correct the condition and recover the cost of such action through imposition of a Special Individual Assessment against the offending Owner. Any entry on the property of any Owner by the Association shall be effected in accordance with Section 3.04(b), above.

(b) Levy of Special Individual Assessment and Payment. Once a Special Individual Assessment has been levied against an Owner for any reason described, and subject to the conditions imposed in subparagraph (a) of this section, such Special Individual Assessment shall be recorded on the Association's Assessment roll and notice thereof shall be mailed to the affected Owner. The Special Individual Assessment shall thereafter be due as a separate debt of the Owner payable in full to the Association within 30 days after the mailing of notice of the Assessment. Special Individual Assessments may be collected in accordance with the Association's published assessment collection policies in any manner permitted by law.

Section 4.05. Assessments to Address Emergency Situations. The requirement of a membership vote to approve (a) Regular Assessment increases in excess of 20 percent of

the previous year's Regular Assessment, or (b) Special Assessments which, in the aggregate, exceed 5 percent of the Association's budgeted gross expenses for the fiscal year in which the Special Assessment(s) is/are levied, shall not apply to Assessments which are necessary to address emergency situations. For purposes of this section, an emergency situation is any of the following:

- (i) An extraordinary expense required by an order of a court.
- (ii) An extraordinary expense necessary to repair or maintain the Common Areas and/or Common Facilities where a threat to personal safety is discovered.
- (iii) An extraordinary expense necessary to repair or maintain the Common Areas and/or Common Facilities that could not have been reasonably foreseen by the Board in preparing and distributing the budget pursuant to Section 4.02(a), above; provided, however, that prior to the imposition or collection of an assessment under this subparagraph (iii), the Board shall 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. The Board's resolution shall be distributed to the Members together with the notice of assessment.

**Section 4.06. Purpose and Reasonableness of Assessments.** Each Assessment made in accordance with the provisions of this Declaration is hereby declared and agreed to be for use exclusively: (a) to promote the recreation, health, safety and welfare of individuals residing within the Properties; (b) to promote the enjoyment and use of the Properties by the Owners and their families, tenants, invitees, licensees, guests and employees; and (c) to provide for the repair, maintenance, replacement and protection of the Common Area and Common Facilities. Each and every Assessment levied hereunder is further declared and agreed to be a reasonable Assessment, and to constitute a separate, distinct and personal obligation (with respect to which a separate lien may be created hereby) of the Owner of the Lot against which the Assessment is imposed that shall be binding on the Owner's heirs, successors and assigns.

**Section 4.07. Exemption of Certain of the Properties From Assessments.** The following real property subject to this Declaration shall, unless devoted to the use as a residential dwelling, be exempt from the Assessments and the lien thereof provided herein:

- (a) Any portion of the Properties dedicated and accepted by a local public authority;
- (b) The Common Area and Common Facilities; and
- (c) Any Lot owned by the Association.

**Section 4.08. Notice and Procedure for Member Approval Pursuant to Sections 4.02 and 4.03.** If Member approval is required in connection with any increase or imposition of Assessments pursuant to Sections 4.02 and 4.03, above, the affirmative vote required to approve the increase shall be a Majority of a Quorum of the Members. The quorum required for such membership action shall be a majority of the Members.

**Section 4.09. Maintenance of Assessment Funds.**

(a) **Bank Accounts.** All sums received or collected by the Association from Assessments, together with any interest or late charges thereon, shall be promptly deposited in one or more insured checking, savings or money market accounts in a federally insured bank or other financial institution selected by the Board of Directors. In addition, the Board shall be entitled to make prudent investment of reserve funds in insured certificates of deposit, money market funds or similar investments consistent with the investment standards normally observed by trustees. The Board and such officers or agents of the Association as the Board shall designate shall have exclusive control of the account(s) and investments and shall be responsible to the Owners for the maintenance at all times of accurate records thereof. The withdrawal of funds from Association accounts shall be subject to the minimum signature requirements imposed by applicable California law (see Section 12.02 of the Bylaws). Any interest received on such deposits shall be credited proportionately to the balances of the various Assessment fund accounts maintained on the books of the Association as provided in subparagraph (b), below.

(b) **Expenditure of Assessment Funds.** Except as provided below, the proceeds of each Assessment shall be used only for the purpose for which such Assessment was made, and such funds shall be received and held in trust by the Association for such purpose. Notwithstanding the foregoing, the Board, in its discretion, may make appropriate adjustments among the various line items in the Board's approved general operating budget if the Board determines that it is prudent and in the best interest of the Association and its Members to make such adjustments. If the proceeds of any Special Assessment exceed the requirement of which such Assessment was levied, such surplus may, in the Board's discretion, be: (i) returned proportionately to the contributors thereof; (ii) reallocated among the Association's reserve accounts if any such account is, in the Board's opinion, under funded; or (iii) credited proportionately on account of the Owners' future Regular Assessment obligations. Funds held in capital replacement reserve accounts shall only be used for the purposes permitted by sub-paragraph (d), below.

(c) **Separate Accounts; Commingling of Funds.** To preclude a multiplicity of bank accounts, the proceeds of all Assessments may be commingled in one or more accounts and need not be deposited in separate accounts so long as the separate accounting records described herein are maintained. For purposes of accounting, but without requiring any physical segregation of assets, the Association shall keep a separate accounting of all funds received by it in payment of each Assessment and of all disbursements made thereon;



provided, however, that receipts and disbursements of Special Assessments made pursuant to Section 4.03(a)(i), above, shall be accounted for together with the receipts and disbursements of Regular Assessments, and a separate accounting shall be maintained for each capital improvement for which reserve funds for replacement are allocated.

Unless the Association is exempt from federal or state taxes, all sums allocated to capital replacement funds shall be accounted for as contributions to the capital of the Association and as trust funds segregated from the regular income of the Association or in any other manner authorized by law or regulations of the Internal Revenue Service and the California Franchise Tax Board that will prevent such funds from being taxed as income of the Association.

(d) Reserve Funds. The Board shall not expend funds designated as reserve funds for any purpose other than the repair, restoration, replacement, or maintenance of, or litigation involving the repair, restoration, replacement, or maintenance of, major components which the Association is obligated to repair, restore, replace, or maintain and for which the reserve fund was established. However, the Board may authorize the temporary transfer of money from a reserve fund to the Association's general operating fund to meet short-term cash-flow requirements or other expenses, provided the Board has made a written finding, recorded in the Board's minutes, explaining the reasons that the transfer is needed, and describing when and how the money will be repaid to the reserve fund.

The transferred funds shall be restored to the reserve fund within one year of 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 Properties, temporarily delay the restoration. The Board shall exercise prudent fiscal management in maintaining the integrity of reserve accounts, and shall, if necessary, levy a Special Assessment to recover the full amount of the expended funds within the time limits required by this subparagraph (d). This Special Assessment is subject to the Member approval requirements imposed by California Civil Code section 5605 and Section 4.03(b), above, if the assessment will exceed five percent of the Association's budgeted gross expenses (for the Year in which the Special Assessment is imposed). The Board may, at its discretion, extend the date the payment on the Special Assessment is due. Any extension shall not prevent the Board from pursuing any legal remedy to enforce the collection of an unpaid Special Assessment.

When the decision is made to use reserve funds or to temporarily transfer money from the reserve fund to pay for litigation, the Association shall notify the Members of that decision in the next available general mailing to all Members, and of the availability of an accounting of those expenses. The Association shall make an accounting of expenses related to the litigation on at least a quarterly basis. The accounting shall be made available for inspection by Members at the Association's principal office.

**Section 4.10. Collection of Assessments; Enforcement of Liens.**

(a) **Delinquent Assessments.** If any installment payment of a Regular Assessment or lump sum or installment payment of any Special Assessment or Special Individual Assessment assessed to any Owner is not paid within 15 days after the same becomes due, such payment is deemed by State law to be delinquent and the amount thereof may, at the Board's election, bear interest at the maximum rate allowed by law commencing 30 days after the due date until the same is paid. In addition to the accrual of interest, the Board of Directors is authorized and empowered to promulgate a schedule of reasonable late charges for any delinquent Assessments, subject to the limitations imposed by applicable California law.

(b) **Effect of Nonpayment of Assessments.**

(i) **Creation and Imposition of a Lien for Delinquent Assessments.** The equitable servitudes imposed on all Lots within the Properties by the Recordation of this Declaration create a continuing lien as to any Assessments duly imposed on the Lot in accordance with this Article IV. In the event that an Owner becomes delinquent in the payment of any Assessment, the delinquent sums, together with interest, late charges and reasonable costs of collection, may be recovered in accordance with the Association's published assessment collection policies and as otherwise permitted by law. Without limiting the foregoing, any lien which has been duly created in favor of the Association on any Lot for which Assessments are delinquent, may be enforced by the Association in any manner permitted by law, including sale by the court, sale by the trustee designated in the notice of delinquent assessment, or sale by a trustee substituted pursuant to section 2934a of the Civil Code. Any sale by a trustee shall be conducted in accordance with the provisions of sections 2924, 2924b and 2924c of the Civil Code applicable to the exercise of powers of sale in mortgages and deeds of trust.

(ii) In addition to pursuing the lien and foreclosure remedies described in this subparagraph (b)(ii), above, the Association has the alternative of pursuing an action against the delinquent Owner personally to recover the sums for which a lien has been created, or the Association may accept a deed in lieu of foreclosure.

(c) **Release of Assessment Lien:** Upon payment in full of the sums specified in the Association's Notice of Delinquent Assessment recorded in accordance with this Declaration and applicable law, the Association shall record a further notice stating the satisfaction and release of the lien thereof.

**Section 4.11. Transfer of Lot by Sale or Foreclosure.** The following rules shall govern the right of the Association to enforce its Assessment collection remedies following the sale or foreclosure of a Lot:

(a) Except as provided in subparagraph (b), below, the sale or transfer of any Lot shall not affect any Assessment lien which has been duly Recorded against the Lot prior to the sale or transfer, and the Association can continue to foreclose its lien in spite of the change in ownership.

(b) The Association's Assessment lien shall be extinguished as to all delinquent sums, late charges, interest and costs of collection incurred prior to the sale or transfer of a Lot pursuant to a foreclosure or exercise of a power of sale by the holder of any first Mortgage (meaning any Recorded Mortgage with first priority over other Mortgages) or other Mortgage made or incurred in good faith and for value (but not pursuant to a deed-in-lieu of foreclosure) and recorded against the Owner's Lot prior to the recordation of the Association's notice of default. The Association's assessment lien created as provided herein, shall be subordinate only to: (i) the lien of any taxes, bonds, assessments and other levies which, by law, would be superior thereto; and (ii) the lien or charge of any Mortgage of record made in good faith and for value; provided, however, that such subordination to Mortgages shall apply only to the Association assessments which have become due and payable prior to the transfer of the encumbered Lot pursuant to the exercise of a power of sale or a judicial foreclosure involving a default under any such Mortgage or governmental obligation. No sale or transfer of a Lot as the result of foreclosure, exercise of a power of sale, or otherwise, shall relieve the new Owner of such Lot (whether it be the former beneficiary of the foreclosed Mortgage or a third party acquiring an interest in the Lot) from liability for any Assessments which thereafter become due with respect to the Lot or from the lien thereof.

(c) No sale or transfer of a Lot as the result of foreclosure, exercise of a power of sale, or otherwise, shall affect the Association's right to maintain an action against the foreclosed previous Owner personally to collect the delinquent Assessments, late charges, interest and associated costs of collection incurred prior to and/or in connection with the sale or transfer.

**Section 4.12. Unallocated Taxes.** In the event that any taxes are assessed against the Common Area, or the personal property of the Association, rather than being assessed to the Lots, such taxes shall be included in the Regular Assessments imposed pursuant to Section 4.02, above, and, if necessary, a Special Assessment may be levied against the Lots in an amount equal to such taxes to be paid in two installments, thirty days prior to the due date of each tax installment.

**ARTICLE V**  
**Design and Architectural Review**

**Section 5.01. Design Review Committee Approval of Improvements.**

(a) **Approval Generally.** Before commencing construction or installation of any Improvement within the Properties, the Owner who desires to initiate the Improvement project must first submit a written request for approval to the Design Review Committee. The application shall include the information described in Section 5.04, below, and such additional information as the Committee may reasonably request, either by Design Guidelines relating to plan submittals or while a particular project is under review. Unless the Committee's approval of the proposal is first obtained, no work on the Improvement shall be undertaken. The Design Review Committee shall base its decision to approve, disapprove or conditionally approve the proposed Improvement on the criteria described in Section 5.07, below.

(b) **Definition of "Improvement".** The term "Improvement" as used herein includes, without limitation, the construction, installation, alteration or remodeling of any buildings, walls, decks, fences, landscape structures, exterior structure alterations, antennas, satellite dishes (including those designed to receive direct video transmissions and other multi-point distribution equipment designed to receive signals from either satellites or ground-based signal distribution points), utility lines, or any other structure of any kind. In no event shall the term "Improvement" be interpreted to include Improvement projects which are confined to the interior of a residence. No excavation, grading, placement of fill, tree removal or construction may proceed prior to issuance of a permit by the Design Review Committee, which in no event shall be granted prior to the stakeout inspection (see Section 5.05(f), below). Any prosecution of construction activity by an Owner or his or her contractor without a proper permit from the Design Review Committee will result in automatic forfeiture of all deposits as well as possible legal action to compel the Owner's compliance with the Governing Documents.

(c) **Modifications to Approved Plans Must Also Be Approved.** Once a proposed work of Improvement has been duly approved by the Design Review Committee, no material modifications shall be made in the approved plans and specifications therefore and no subsequent alteration, relocation, addition or modification shall be made to the work of Improvement, as approved, without a separate submittal to, and review and approval by, the Committee; provided, however, that the Design Guidelines may identify certain commonly recurring projects (such as repainting or re-roofing with the same colors or materials) for summary approval by the Committee or by the General Manager. If the proposed modification will have, or is likely to have, a material affect on other aspects or components of the work, the Committee, in its discretion, may order the Owner and his or her contractors and agents to cease working not only on the modified component of the Improvement, but also on any other affected component.



In the event that it comes to the knowledge and attention of the Association, its Design Review Committee, or the agents or employees of either, that a work of Improvement, or any modification thereof, is proceeding without proper approval, the Association shall be entitled to exercise the enforcement remedies specified in Section 5.12, below, including, without limitation, ordering an immediate cessation and abatement of all aspects of the work of Improvement until such time as proper Design Review Committee review and approval is obtained.

**Section 5.02. Composition of the Design Review Committee.** The Committee shall be composed of not less than three nor more than five Members of the Association appointed by the Board. The General Manager or his or her staff designee shall also serve on the Committee, ex-officio. In selecting members for the Committee, the Board shall endeavor to select individuals whose occupations or education will provide technical knowledge and expertise relevant to matters within the Committee's jurisdiction. Committee members shall serve one-year terms subject to the Board's power to remove any Committee member and to appoint his or her successor or to continue Committee members for consecutive terms. Neither the members of the Committee nor its designated representatives shall be entitled to any compensation for services performed pursuant hereto.

**Section 5.03. Duties of the Committee.** The Committee shall have the duty to consider and act upon the proposals and plans for Improvements submitted to it pursuant to this Declaration, to adopt Design Guidelines pursuant to Section 5.06, below, to perform other duties delegated to the Committee by the Board of Directors and to carry out all other architectural review duties imposed upon it by this Declaration.

**Section 5.04. Content of Plans and Specifications.** Unless the Design Guidelines exempt the Owner's proposed Improvement project from the necessity of complying with some or all of the following requirements, the Committee shall have no obligation to review an application for approval of an Improvement project until plans and specifications meeting the following requirements are presented:

(a) **Construction Plans for the Proposed Improvement.** Two complete sets of working drawings, including floor plans indicating net livable area (including garages, decks, accessory buildings, and other incidental structures) shall be presented. Plans should represent the actual construction that the Owner intends to undertake on the proposed site. The Committee, in its discretion, may require more detailed elevations and/or drawings and may disapprove elevations and drawings which the Committee finds to be aesthetically incompatible with the physical site, with improvements on neighboring Lots or the general environment and aesthetics of the Glenshire/Devonshire development.

(b) **Plot or Site Plans.** Two copies of a plot plan which shall include at least the following details and information:

(i) All setback dimensions, including lot lines and front/side curb lines, any easements affecting the site, and the edge of the pavement of all adjacent streets and the contours of the site at two foot intervals;

(ii) The contours of the site at two foot intervals;

(iii) All trees that are over four inches in diameter (measured three feet above grade) shall be shown on the Owner's plans and any trees that are proposed to be removed and any rock outcroppings or other natural features of the site that are intended to be altered shall be clearly noted on the plot plan. Extreme care shall be taken to protect all remaining trees and ground cover on the job site, to minimize erosion and damage to the Natural landscape that would result from cuts, fills and extensive grading beyond the building site;

(iv) The location of adjacent homes shall be indicated in outline form on the plot plan; and

(v) The location and size of drives and sidewalks shall be designated, clearly indicating the dimensions for the off-street parking area (a minimum of 700 square feet of asphalt, brick or concrete parking area shall be provided on the Lot). The type of paving material to be used on driveways and/or parking areas shall be designated. Garages shall not be included in calculating the required minimum square footage of a home. Garages shall be included in the required off-street parking.

(c) Erosion Control Plans. The plans shall include a temporary (during course of construction) and permanent erosion control plan, including, but not limited to, retaining walls, rip-rap banks, and proposed vegetation plan. The plans should indicate the height of all cut and fill banks and the proximity of the cuts to existing trees. Erosion control and drainage plans must meet the requirements of any existing Town of Truckee, County, State and/or Federal agencies with appropriate jurisdiction.

(d) Exterior Colors. Color chips for exterior stain and paint colors shall accompany plans and exterior colors shall be limited to those colors indicated on a list of approved colors maintained by the Committee. Color selection should complement existing homes and other improvements in the neighborhood. Both original exterior painting projects, as well as any re-painting projects, are subject to prior Committee approval.

(e) Information Concerning Contractor of Owner-Builder. The name, address, business license number and telephone number of the contractor or of the Owner (if the Owner intends to be an owner-builder on the project) should be noted on the plans.



**Section 5.05. Plan Review Procedures.**

(a) **Location for Submittal of Plans.** Plans and specifications meeting the minimum requirements stated in Section 5.04, above, shall be delivered to the Committee at 15726 Glenshire Drive, Truckee, California, 96161. The application must be signed by the Owner and must certify that the Owner has read, understands and will comply with the requirements outlined in this Declaration and in the Design Guidelines. The application must also certify that the Owner has provided neighboring property owners with a Notice of Intention to undertake the project (see subparagraph (c), below). It shall remain the Owner's responsibility to ensure that his or her contractor also honors all requirements of this Declaration, any conditions imposed on the project's approval, and the applicable provisions of the Design Guidelines.

If a submitted application package is considered incomplete, the Owner-applicant shall be so advised and the additional information requested by the Committee must be submitted within 30 days of the Committee's notification to the Owner that his or her application is not complete. If no response is received by the Committee within 60 days of that notice, the application shall lapse and all application materials previously submitted shall be returned to the Owner. Fees paid by the Owner under such circumstances shall be forfeited, but the any deposit shall be refunded to the Owner unless the Owner's approval has lapsed due to his or her failure to commence work within the six month period provided in Section 5.09, below.

(b) **Stakeout and Inspection.** Once a complete application package is received, the Owner-applicant shall prepare the job site for a stakeout inspection which shall take place at least 10 days prior to the date of the meeting of the Committee at which the applicant's application is scheduled to be considered for the first time. The measurements of the staked site must be consistent with the dimensions of the project as shown on the plans and all property corners, side property lines, easements, and building footprints must be identified by an appropriate staking which shall be visible above vegetation or snow when viewed from the adjacent street. The tops of the stakes shall be flagged by brightly colored ribbon or cloth. To avoid property boundary litigation, Owners are responsible for locating the original survey markers of their Lot.

(c) **Meetings of the Committee: Deadlines for Taking Action.** The Committee shall meet at least once every month to perform its duties. The vote or written consent of a majority of the Committee shall constitute the Committee's action, unless otherwise required by this Declaration. The Committee shall have 30 days to respond once a complete application is received. If the Committee fails to approve, disapprove or to conditionally approve the Owner's application within 30 days, the plans shall be deemed to have been approved as submitted; provided, however, that if snow or other weather conditions make it impossible or impractical to inspect or to properly stake the construction site, the Committee can so advise the applicant within the 30 day period and the period of review

shall then run for the date that the site is reasonably available for access and inspection. If the Committee recommends that the plans and specifications be modified, the Owner-Applicant may implement the requested changes and, within 90 days, resubmit plans incorporating the proposed changes. The Committee shall have an additional 30 days to review and act upon any resubmitted plans.

(d) Persons Who Are Entitled To Appear At Committee Meetings. The Owner-applicant shall be entitled to appear at any meeting of the Committee at which the Owner's proposal has been scheduled for review and consideration. The applicant shall be entitled to be heard on the matter and may be accompanied by his or her architect, engineer and/or contractor. Reasonable notice of the time, place and proposed agenda for Committee meetings shall be communicated before the date of the meeting to any applicant whose plans are scheduled for review and the agenda shall be posted in the Association's clubhouse.

The Association maintains a packet of materials, including a Notice of Intention form, which Owner-applicants must use to inform owners of Lots that are adjacent to the applicant's Lot and across the street from the applicant's Lot (as defined by the Association) of the proposed project. It shall be the duty of the Owner-applicant to mail, by first-class mail a Notice of Intention to undertake an improvement project to each of the neighbors who are entitled to notice under this paragraph at least 10 days prior to the date when the Committee is scheduled to first consider the Owner's application. On the application, the Owner-applicant must certify that this notice has been given and if it is determined that proper notice was not provided to neighboring Owners, the application may be denied on that basis.

(e) Effect of Disapproval of Plans. If an Owner's plans are disapproved by the Committee, the Committee must indicate the reasons for its disapproval and any remedial measures which, if undertaken, will result in plan approval. An Owner may either appeal the Committee's decision to the Board (see subparagraph (f), below, or resubmit modified plans within 90 days from the date of the disapproval. If neither action is taken, the Owner's application shall lapse and all materials will be returned to the Owner.

(f) Appeals from Committee Actions.

(i) Appeal by Owner-Applicant. If the Committee disapproves or conditionally approves plans and specifications, and the Owner or any neighboring property Owner disagrees with the Committee's actions, the Owner or neighbor may appeal the decision to the Association's Board of Directors, in accordance with the appeal procedures set forth in the Design Guidelines. The Board shall endeavor, in good faith to address and resolve the matter promptly as reasonably. In all cases, the appellant must be notified of the Board's ruling on the appeal within a period of 60 days after the appeal is presented or the Owner's project shall be deemed approved by the Board. The Board's decision shall be final.

(ii) Appeals by Neighboring Owners. Neighboring Owners who are entitled to receive a notice of intention from the Owner-applicant (see subparagraph (d), above) shall be deemed to have received notice of the final decision of the Committee on an application if the neighbor is present at the meeting where final action is taken or, if the neighbor is not present, then by the Committee's posting of a written notice of the decision at the Association's offices. If a neighbor presented written comments on the project proposal while it was under consideration, the neighbor shall have a period of 48 hours after actual or posted notice of the final decision in which to file a written petition to the Board of Directors appealing the Committee's decision to approve the project. That petition shall be filed with the General Manager at the Association's office and shall contain a brief description of the reasons for an appeal of the decision. No less than 5 days and no more than 15 days after receipt of a timely appeal, the Board shall review the application de novo and both the Owner-applicant and the appealing neighbor shall receive at least 72 hours prior notice of the meeting at which the Board shall consider the matter. Within 5 days following that meeting, the Board shall render its decision in writing and a copy of the decision shall be posted in the Association's offices and delivered to the Owner-applicant. During the pendency of any timely appeal by a neighbor with standing to appeal, the Owner-applicant must cease all construction activity on the site.

(g) Transferability of Approved Plans and Permits. If a project is approved and the Owner-applicant subsequently conveys title to the subject Lot prior to commencement or completion of the project, the new Owner of the Lot must make a new application to the Design Review Committee for approval of the project, even if the new Owner intends to use the previously approved plans. In this way the Committee will become aware of the change in ownership and the identity of the new Owner. The new Owner's application shall be subject to summary approval if it does not contain any material modifications of previously approved plans and specifications and new periods for commencement and completion of the project shall begin with the new approval. If an Owner's plans are approved.

Section 5.06. Design Guidelines. The Board of Directors, upon recommendation from the Design Review Committee, may, from time to time, adopt, amend and repeal rules and regulations to be known as "Design Guidelines" which shall constitute a portion of the Association Rules. Notwithstanding the foregoing, no Design Guideline shall be in derogation of the minimum standards required by this Declaration. In the event of any conflict between the Design Guidelines and this Declaration, the provisions of the Declaration shall prevail.

The Design Guidelines shall interpret and implement the provisions of this Article V and Article VI (Minimum Construction Standards) by setting forth:

(a) Procedures for Review and Approval of Plans. Additional procedures for Committee review and approval of Owner submittals of proposed Improvement projects to supplement, clarify or further define the requirements of Section 5.05, above;



(b) Guidelines for Particular Projects. Guidelines for the construction of particular Improvements, including, without limitation, architectural design, placement on Lots, color schemes, exterior finishes and materials and similar features which are recommended or required for use on any Improvements or categories of Improvements within the Properties. Such Guidelines may include charts of approved colors, typical plans and specifications for commonly recurring projects, such as fencing, and the manner in which the height or number of stories of a residence are to be determined (particularly in the case of residences built on sloping Lots);

(c) Projects Eligible for Expedited Approval. The Design Guidelines can identify categories of Improvement projects or components of the plan review and approval process which can be administered by the Association staff or other designee of the Committee without the need for direct involvement by the Committee in order to expedite the processing of applications for approval of minor projects or projects designed in accordance with specifications included in the Guidelines pursuant to subparagraph (b). In the event that the Committee determines that certain project approvals or plan processing requirements can appropriately be administered by the Association staff or other Committee designee, such delegation and the scope thereof shall be specified in the Design Guidelines;

(d) Variance Criteria and Procedures. The criteria and procedures for requesting variances from any property use restrictions or minimum construction standards that would otherwise apply to the proposed Improvement under the Governing Documents (see Section 5.13, below, for a further discussion of variances);

(e) Regulation of Construction Activities. Minimum requirements for the maintenance, supervision and restoration of construction sites by Owners and their contractors. Without limiting the foregoing, the Design Guidelines may specifically regulate the activities of contractors and subcontractors (including, without limitation, hours of permitted construction activity, prohibitions on contractor pets at job sites and regulations restricting or prohibiting amplified music). The Guidelines may also require Owners to designate, by name, address and telephone number the contractor or contractor's representative who will be deemed to be the Owner's agent for purposes of rules enforcement;

(f) Landscaping and Erosion Control Measures. Minimum requirements for the landscaping of any areas of a Lot that are disturbed by construction activity or which require particular landscape improvements to control drainage, avoid harm to native trees, avoid erosion or to otherwise enhance the appearance of the Lot;

(g) Plan Review and Inspection Fees and Deposits. Any requirements for the payment of inspection/plan processing fees and cash deposits to assure the Owner's/contractor's proper and timely completion of Improvements in accordance with the



approved plans and specifications or to reimburse the Association for damage to Common Areas and Common Facilities; and

(h) Completion Times Applicable to Particular Projects. Subject to Sections 5.09 and 5.10, below, the Design Guidelines may impose uniform and reasonable time limitations for completion of approved Improvement projects or other duly noted compliance matters. Said rules may also include procedures to request an extension of the usual completion time in order to avoid hardship or to accommodate other factors beyond the Owner's reasonable control which have interrupted the progress of a particular Improvement project.

Section 5.07. Basis for Approval of Improvements. When a proposed Improvement is submitted to the Design Review Committee for review, the Committee shall grant the requested approval only if the Committee, in its sole discretion, makes the following findings regarding the proposed project:

(a) The Owner's plans and specifications conform to this Declaration and to the Design Guidelines in effect at the time such plans are submitted to the Committee;

(b) The Improvement will be in harmony with the external design of other structures and/or landscaping within the Properties;

(c) The Improvement, as a result of its appearance, location or anticipated use, will not interfere with the reasonable enjoyment of any other Owner of his or her property; and

(d) The proposed Improvement(s), if approved, will otherwise be consistent with the architectural and aesthetic standards prevailing within the Properties and with the overall plan and scheme of development within the Properties.

While it is recognized that the Committee's determination to approve or disapprove an Improvement will, of necessity, be subjective to some degree, the members of the Committee shall act reasonably and in good faith. Factors commonly considered by the Committee in reviewing proposed Improvements include the quality of workmanship and materials proposed for the Improvement project, the harmony of the proposed Improvement's exterior design, finish materials and color with that of other existing structures, and the proposed location of the Improvement in relation to existing topography, finished grade elevations, roads, Common Areas and other structures.

The Committee shall be entitled to determine that a proposed Improvement or component thereof is unacceptable when proposed on a particular Lot, even if the same or a similar Improvement/component has previously been approved for use at another location within the Properties if factors such as drainage, topography or visibility from roads, Common Areas or other Lots or prior adverse experience with the product or components used in construction of the Improvement, design of the Improvement or its use at other

locations within the Properties mitigate against erection of the Improvement or use of a particular component thereof on the Lot involved in the Owner's submittal. It is expressly agreed that the Committee shall be entitled to make subjective judgments and to consider the aesthetics of a proposed Improvement project, so long as the Committee acts reasonably and in good faith.

In approving a request for construction of an Improvement, the Committee may condition approval upon the adoption of modifications in the plans and specifications or observance of restrictions as to location, noise abatement or similar mitigating conditions.

(e) The approval by the Committee of any plans, drawings or specifications for any work of Improvement done or proposed, or for any other matter requiring the Committee's approval under this Declaration, or any waiver thereof, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval by the same or some other Owner. Different locations for Improvements, the size of the structure, proximity to other residences or Common Facilities and other factors may be taken into consideration by the Committee in reviewing a particular submittal.

Section 5.08. Inspection and Deposits. The Design Guidelines may require that the submission of plans and specifications be accompanied by a reasonable fee or construction deposit. While funds are being held by the Association, no interest shall accrue in favor of the Owner-applicant.

Section 5.09. Proceeding With Work. Upon receipt of approval of an Improvement project from the Committee, the Owner shall, as soon as practicable, satisfy all conditions thereof and diligently proceed with the commencement of construction and excavation pursuant to the approval. In all cases, work on an Improvement project shall commence within six months from the date the approval is given and shall be completed within two years of the date of approval. Reasonable extensions of time will be given if heavy snow conditions impede the commencement or completion of a project. If the Owner fails to comply with this paragraph, any approval given pursuant to this Article shall be deemed revoked unless the Committee, upon written request of the Owner prior to the expiration of the initial six month period, extends the time for commencement or completion. No such extension shall be granted except upon a finding by the Committee that there has been no change in the circumstances upon which the original approval was granted and that the Owner has a bona fide intention and ability to complete the Improvement project within the time specified in the extension request.

Section 5.10. Failure to Complete Work. Unless the Owner has been granted an extension of time to complete the project by the Committee, construction, reconstruction, refinishing or alteration of any such Improvement must be complete within two years after construction has commenced, except and for so long as such completion is rendered

impossible or would result in great hardship to the Owner because of strikes, fires, national emergencies, natural calamities or other supervening forces beyond the control of the Owner or his or her agents. In the case of building Improvements the requirements of this section shall be deemed to have been met if, within the one year construction period, the Owner has completed construction of the building's foundation and all exterior surfaces (including the roof, exterior walls, windows and doors).

If the Owner fails to comply with this section, the Committee shall notify the Board of such failure, and the Board shall proceed in accordance with the provisions of Section 5.11(c) and (d), below, as though the failure to complete the Improvement was a noncompliance with approved plans.

**Section 5.11. Inspection of Work by Design Review Committee.** Inspection of the work relating to any approved Improvement and correction of defects therein shall proceed as follows:

(a) During the course of construction, the Association's General Manager or other authorized staff person shall have the right to inspect the job site to confirm that the Improvement project is proceeding in accordance with the approved plans and specifications.

(b) Upon the completion of any work of Improvement for which Committee approval is required under this Article, the Owner shall give the Association notice that the project has been completed. This notice shall be given to the General Manager at the Association's office.

(c) Within 30 days thereafter, the Association's General Manager or other duly authorized member of the staff may inspect the Improvement to determine whether it was constructed, reconstructed, altered or refinished in substantial compliance with the approved plans. If the Committee finds that the Improvement was not erected, constructed or installed in substantial compliance with the Owner's approved plans, then within the 30-day inspection period the Committee shall give the Owner a written notice of noncompliance detailing those aspects of the Improvement project that must be modified, completed or corrected. If the violation or nonconforming work is not corrected, the Association and the Committee shall have the enforcement rights and remedies set forth in Section 5.12, below.

(d) If for any reason the Committee fails to notify the Owner of any noncompliance within 30 days after receipt of the Owner's notice of completion, the Improvement shall be deemed to have been constructed in accordance with the approved plans for the project, unless it can be demonstrated that the Owner knew of the noncompliance and intentionally misled the Committee with respect thereto.

(e) If a final inspection determines that the Owner, or his or her contractor, has constructed the Improvements in a fashion which, in the Committee's opinion, materially



departs from approved plans and specifications, among other legal remedies available to the Association pursuant to the Governing Documents and State law, the Association shall be entitled to impose a reasonable fine against the Owner and to deduct that fine from the Owner's deposit.

**Section 5.12. Enforcement of Design Review and Approval Requirements.** In addition to other enforcement remedies set forth in this Declaration, the Design Review Committee shall have enforcement rights with respect to any matters required to be submitted to and approved by it, and may enforce such architectural control by any proceeding at law or in equity. In addition, the Committee shall have the authority to order an abatement of any construction, alteration or other matter for which approval is required, to the extent that it has not been approved by the Committee or if it does not conform to the plans and specifications submitted to and approved by the Committee. No work for which approval is required shall be deemed to be approved simply because it has been completed without a complaint, notice of violation, or commencement of a suit to enjoin such work. If unapproved or nonconforming works of Improvement proceed, in spite of the Committee's request that work cease until the project is in compliance with the Governing Documents, the Association may file an action seeking an injunction or other remedy to enforce the Governing Documents. If such an action is filed, the prevailing party shall be entitled to recover reasonable attorneys' fees in addition to the costs of such proceedings.

**Section 5.13. Variances.** The Design Review Committee, in its sole discretion, shall be entitled to allow reasonable variances in any procedures specified in this Article, the minimum construction standards specified in Article VI or in any land use restrictions specified in Article VIII to overcome practical difficulties, avoid unnecessary expense or prevent unnecessary hardship to Applicants, provided all of the following conditions are met:

(a) If the variance is proposed as part of a submission of plans and specifications for approval of an Improvement project, the request may be heard as part of the normal application process and notice to neighboring Owners (see Section 5.05(d), above) shall clearly note that the proposed Improvement project includes a request for a variance. If a proposed variance comes before the Design Review Committee as a matter unrelated to an Improvement project, the Committee shall conduct a hearing on the proposed variance after giving prior written notice to the Board and to all Owners who are entitled to receive a Notice of Intention pursuant to Section 5.05(d), above. The notice shall also be posted in the Association's principal office within the Properties. The notice shall be posted and mailed to the interested Owners at least 15 days prior to the date when the Design Review Committee is scheduled to act on the requested variance. No decision shall be made with respect to the proposed variance until the 15-day comment period has elapsed. If, in the Committee's discretion, the requested variance merits review and approval by the Board of Directors, the Committee may request that the variance be acted upon by the Board.



(b) The Design Review Committee must make a good faith written determination that the variance is consistent with one or more of the following criteria: (i) the requested variance will not constitute a material deviation from any restriction contained herein or that the variance proposal allows the objectives of the violated requirement(s) to be substantially achieved despite noncompliance; or (ii) that the variance relates to a requirement land use restriction or minimum construction standard otherwise applicable hereunder that is unnecessary or burdensome under the circumstances; or (iii) that the variance, if granted, will not result in a material detriment, or create an unreasonable nuisance with respect, to any other Lot or Common Area within the Properties.

**Section 5.14. Property and Building Compliance Certificate.** Within 30 days after a written request is delivered to the Design Review Committee by an Owner, and upon payment to the Association of a reasonable fee (as established from time to time by the Board), the Design Review Committee shall issue to the Owner a Compliance Certificate, certifying that, as of the date that the Certificate is issued, either: (a) all Improvements made and other work completed by the Owner are in compliance with this Declaration and the Design Guidelines; or (b) that Improvements or work on the Lot do not so comply, in which event the Certificate shall also identify the noncomplying Improvements or work and set forth with particularity the basis of such noncompliance. Any purchaser from the Owner, or from anyone deriving any interest in the Lot through the Owner, shall be entitled to rely on the Association's Compliance Certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, all Owners and any persons deriving any interest through them. Notwithstanding the foregoing, if a Compliance Certificate is issued in connection with a sale or conveyance of a Lot and an Improvement or condition in violation of the Governing Documents is overlooked, the failure to include a reference to the noncomplying condition shall not preclude the Association from noting the condition in any Compliance Certificate issued with respect to the same property in connection with a future sale or conveyance.

**Section 5.15. Limitation on Liability.** Neither the Association, nor the Board or the Design Review Committee or any member thereof, shall be liable to any Owner for any damage, loss or prejudice suffered or claimed on account of any mistakes in judgment, negligence or nonfeasance arising out of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective; (b) the construction or performance of any Improvement project, whether or not pursuant to approved plans, drawings or specifications; (c) the development of any Lot within the Properties; or (d) the execution of a compliance certificate pursuant to Section 5.14, above, whether or not the facts therein are correct; provided; however, that such member has acted in good faith on the basis of such information as he or she possessed at the time the act or omission occurred.

**Section 5.16. Compliance With Governmental Regulations.** Review and approval by the Committee of any proposals, plans or other submittals pertaining to Improvements shall in no way be deemed to constitute satisfaction of, or compliance with, any building permit

process or any other governmental requirements, the responsibility for which shall lie solely with the Owner who desires to construct, install, or modify the Improvement.

## ARTICLE VI Minimum Construction Standards

Unless a variance is requested from, and granted by, the Design Review Committee in accordance with Section 5.13, above, Improvements constructed on any Lot shall conform to the following minimum construction standards:

**Section 6.01. Compliance With Building Codes.** Residences and other appurtenant structures built or erected on any Lot shall be constructed shall be built in accordance with applicable governmental laws, ordinances or statutes and/or building codes.

**Section 6.02. Set-Backs.** No residence or other structure which includes living quarters shall be erected or permitted on any Lots nearer than: (i) 20 feet from the front property line of any Lot (for non-living quarter improvements this set-back shall be measured 20 feet from the edge of the pavement of the adjacent street); (ii) 10 feet from any street bordering the side of any Lot; (iii) 20 feet from the rear property line of any Lot; or (iv) nearer than 10 feet to any side Lot lines. The Committee encourages the placement of residences at least 30 feet from the street. Approval of the exact location of a residence on the Lot remains within the discretion of the Committee.

**Section 6.03. Height Limitations.** The mean average height of a residence may not exceed 35 feet. No principal residence shall have a living area, exclusive of garage, patio, terraces, and porches, of less than 1200 square feet.

**Section 6.04. Off-Street Parking.** Off-street parking of a minimum of 700 square feet of prepared surface (asphalt, brick, concrete or other solid surface material) must be constructed and maintained by the Lot Owner. Additional parking (in excess of 700 square feet) may be approved by the Committee without use of a solid surface material.

**Section 6.05. Tree Removal.** Removal of any tree for new construction must be tagged on the Lot and designated on the plans. The Committee, in its discretion, may require the planting of replacement trees in a number, size and type specified by the Committee. No natural tree with a trunk diameter of four inches or more (measured three feet above grade) shall be removed for any purpose without the prior approval of the Committee, regardless of whether the Lot is improved.

**Section 6.06. Location and Height of Fences, Walls, Etc.** Fences, walls, and hedges may be constructed on any Lot up to a height of six feet if located along the side or rear of

the Lot, or to a height of four feet if the fence is proposed in front of the Owner's residence. Fence height shall be measured from the natural grade of the Lot, as determined by the Design Review Committee after the proposed fence's location and construction materials have been approved by the Committee. No fence, wall or hedge may be constructed or maintained on any easement areas as defined in Article IX, without approval from all public agencies with jurisdiction. Painted or vinyl-coated chain link fences are permitted. All fences, regardless of height must be approved by the Committee as to materials and location and must comply with applicable local ordinances. All fence posts must be set in concrete and spaced in accordance with the load bearing capability of the fencing material. The Committee encourages owners to erect their fences at least 6 inches inside of their property lines.

**Section 6.07. Location of Trash Containers and Propane Tanks.** All garbage or trash containers, propane tanks and other such facilities must be placed in walled-in or screened areas so that they shall not be visible from any adjoining Lot or from the streets and so that the same shall be protected from vandalism and upset. The location of tanks and storage areas shall be approved by the Committee and shall comply with all applicable local, State and Federal regulations.

**Section 6.08. Waste Disposal Systems.** No residence shall be occupied until the same shall be connected to the development's sewage system. No cesspool or outside toilet shall be permitted.

**Section 6.09. Colors and Exterior Finishes.** All siding materials shall comply with the Town of Truckee and manufacturer specifications. All exterior metal, including windows, doors, garage doors, flues, flashing, etc., shall be painted with approved colors, or dressed with wood trim and stained or painted with approved colors. Vinyl window or door materials are generally acceptable, but are subject to color approval. All approved exterior building and finish materials shall be painted with approved colors and if the approved exterior materials are not wood, they shall be dressed with wood trim and stained or painted with approved colors and shall be maintained in an attractive condition. No reflective finishes (other than glass) shall be used on exterior surfaces (other than surfaces of hardware fixtures). Generally, exterior colors shall be restricted to those found in the immediate vicinity of the residence and colors found in nature will be favored. The Committee shall be authorized, as part of the Design Guidelines, to adopt a chart of approved colors and stains for exterior finishes.

**Section 6.10. Exterior Lighting and Fixtures.**

(a) Exterior structure lighting shall be minimized with an emphasis on safety and shall be consistent with the architectural design and overall light levels shall be compatible with the neighborhood light level with emphasis on a few well placed, low intensity lights from which the direct light source is not visible.



(b) Fluorescent, mercury vapor, sodium, or amber vapor lights, or standard outdoor lights of the type used for security must be enclosed in a manner that directs the light in a specified area without trespassing upon neighboring properties or public rights of-way. For the purposes of this subsection, the word "trespassing" means being able to see a shadow anywhere on the neighboring property or public right-of-way which is created by such light. Provided that under no circumstances shall exterior vapor lighting be installed unless it is a fully-shielded, compact, fluorescent lamp.

(c) All exterior lighting shall be directed downward and the light source shall be fully shielded with opaque material(s).

(d) High-intensity security lighting is allowed if it is installed with an infrared detector and a timer. The on-cycle for such lighting shall not exceed five (5) minutes. Detectors shall not be triggered by activity in public areas, rights-of-way or from neighbors property. Lights shall not blink, flash or change intensity.

**Section 6.11. Tract Housing Controls.** To discourage the appearance of tract-type housing within Glenshire/Devonshire, the Committee reviews proposed designs for similarity with adjacent structures and requires separation by at least six (6) lots for houses with the same or very similar design as viewed from the street. On a case-by-case basis, the Committee may require modification to street elevations to avoid duplication of design. The Committee emphasizes that although certain stock plans have been approved in general, final approval for any particular improvement project depends on how the project's proposed plan relates to the Lot, the terrain, the neighboring houses, and many other factors. The Committee strongly discourages conventional one-story L-shaped homes, and one-story rectangular homes. Roof style and pitch are dominant considerations of the Committee.

**Section 6.12. Height and Eave Requirements.** The mean average height of a home may not exceed 35 feet. A maximum eave encroachment of 2' - 0" will be permitted on all setback lines.

**Section 6.13. Mailboxes.** Mailboxes which are of U.S. Postal Service approved boxes in sizes = 1, 1.5 or 2 do not require Committee approval. All other styles of mailboxes must be approved by the Committee. The Association is not responsible for damage to any mailbox.

**Section 6.14. Use of Plastic Storm Window Covers.** The exterior use of plastic (i.e. visqueen, etc.) for storm windows and doors must be maintained in good repair

**Section 6.15. Storage of Personal Property and Construction Materials on Lots.**

(a) Personal property on any Lot shall be stored neatly and shall be located entirely within the Owner's residence, garage, other enclosed storage areas, or neatly stored



in an appropriate location consistent with the intention of this restriction to avoid having stored materials become a visual or aesthetic nuisance to the neighborhood. The Design Review Committee may also approve other methods of adequately screening stored personal property, including wood piles and construction equipment. The issue of whether a nuisance exists and/or whether a proposed screening method of structure is adequate shall be determined by the Design Review Committee in its sole discretion and on a case-by-case basis. It is acknowledged that screening approved in one instance may not be appropriate or adequate in other locations due to such factors as topography, the location of neighboring structures, or prior adverse experience and property owner complaints.

(b) The Association shall have the right to establish and maintain within the Common Areas appropriate storage yards and storage buildings for the maintenance of materials and equipment used by the Association in connection with its planting, building, repair, maintenance and preservation of the structures, landscaping and other Improvements within the Common Areas which the Association is obligated to repair and maintain.

(c) No storage of construction materials or other personal property shall be permitted on any unimproved Lot, unless (i) the unimproved Lot is utilized as an incorporated yard area of the adjacent improved Lot; or (ii) the materials are being stored in connection with a pending construction project that has received proper Design Review Committee approval.

**Section 6.16. Clotheslines.** No exterior clothesline shall be erected or maintained on any portion of a Lot other than in the back or side yard.

**Section 6.17. Antennas and Similar Devices.** Owners are entitled to maintain antennas on their residences which are designed for customary television and radio broadcast reception; provided however that the location of any exterior antenna or satellite dish shall be subject to the prior approval of the Architectural Committee. The Design Guidelines may also include specifications for satellite dishes, painting and screening requirements, to the full extent permitted by law. Furthermore, no activity shall be conducted on any Lot which causes an unreasonable broadcast interference with television or radio reception on any neighboring Lot.

**Section 6.18. Excavations.** No work or exploration for any minerals or drilling for any minerals or mining of any minerals or quarrying of any rock, minerals, soil, or mineral of any nature shall be conducted on any Lot nor shall any excavation of any nature be made upon the Properties or any portion thereof, except in connection with the installation of utility service, drainage lines, excavation incident to the grading a preparation of building sites, the construction of dwellings. Excavation may commence 48 hours after plans have been approved by the Design Review Committee, provided no appeal to the project has been received (see Section 5.05(f), above). Underground utility trenches shall be dug so as to minimize damage to adjacent natural vegetation. Excavations and grading in connection with

the construction or relocation of driveways are subject to the Committee approval requirements of this section; however the Design Guidelines may exempt landscaping, the addition of on-site parking areas or other minor projects.

**Section 6.19. Permitted Hours of Construction Activity.** Without the prior written consent of the Association, construction activities and equipment maintenance shall take place only between the hours of 7:00 A.M. and 8:00 P.M., Monday through Friday and 9:00 A.M. to 7:00 P.M. on Saturday and Sunday. Non-noise generating construction activity, such as interior painting, etc., shall not be subject to these restrictions.

**Section 6.20. Restrictions Regarding Construction Vehicle Access.** To preserve the natural vegetation at the construction site, vehicular access to the project Lot shall be restricted to the area of the intended driveway. In addition, the work area and heavy equipment movement on the Lot shall be limited to the footprint of the improvement and an additional area, not to exceed 25 feet in diameter (surrounding the footprint), unless a larger area exists without natural vegetation or the area will be incorporated in a landscape plan approved by the Committee.

## ARTICLE VII

### Association and Owner Maintenance Responsibilities

**Section 7.01. Common Areas.** The Association shall be solely responsible for all maintenance, repair, upkeep and replacement of all portions of the Common Areas. No person other than the Association or its duly authorized agents shall construct, reconstruct, refinish, alter or maintain any Improvement upon, or shall create any excavation or fill or change the natural or existing drainage of any portion of the Common Area. In addition, no person shall remove any tree, shrub or other vegetation from, or plant any tree, shrub, or other vegetation upon the Common Area without express approval of the Association.

**Section 7.02. Owner Maintenance Responsibility.** Each Owner shall be responsible for the maintenance and repair of his or her residence and Lot.

**Section 7.03. Association Recovery of Costs of Certain Repairs and Maintenance.** If the need for maintenance or repair, which would otherwise be the Association's responsibility hereunder, is caused through the willful or negligent acts of an Owner, his or her family, guests, tenants, or invitees, and is not covered or paid for by insurance policies maintained by the Association or the responsible Owner, the cost of such maintenance or repairs shall be subject to recovery by the Association through the imposition of a Special Individual Assessment against the offending Owner in accordance with Section 4.04, above.

**Section 7.0. Cooperative Maintenance Obligations.** To the extent necessary or desirable to accomplish the Association's maintenance and repair obligations hereunder, individual Owners shall cooperate with the Association and its agents and maintenance personnel in the prosecution of its work.

**Section 7.05. Drainage Structures, Ditches and Swales.**

(a) All drainage structures, culverts and canals improved by the Association for the major collection of storm runoff and any natural drainage courses within Common Areas shall be maintained regularly by the Association.

(b) Except as provided in subparagraph (a), above, each Owner shall keep drainage courses, ditches and swales on his or her Lot free and clear of all obstructions, and shall, in cooperation with contiguous property Owners (including the Association as to any contiguous parcels it owns), maintain all such drainage ditches, swales and culverts common to their Lots in good order.

(c) No Owner or resident shall alter or obstruct a natural drainage course, or materially add to the natural water volume of the drainage course without making adequate provisions with respect to neighboring Lots and Common Areas. Any such alterations, obstructions, or additions to water volume shall be considered a work of Improvement that is subject to prior review and approval by the Design Review Committee.

## ARTICLE VIII

### Use of Properties and Restrictions

In addition to the restrictions established by law or Association Rules promulgated by the Board of Directors (consistent with this Declaration), the following restrictions are hereby imposed upon the use of Lots, Common Areas and other parcels within the Properties.

**Section 8.01. Use of Lots.**

(a) All Lots within the Properties shall be used for residential purposes; provided, however, that the incidental uses permitted by Section 8.07, below, shall be authorized. In no event shall a residence be occupied by more individuals than permitted by applicable law, zoning or other local governmental regulation. If a person owns two adjacent Lots and has constructed a residence on one of the Lots, the adjacent Lot can be utilized as additional yard area without violating this use restriction. This single family residential use restriction is not intended to preclude construction of a "guest house" for the housing of occasional social

guests or servants' quarters for the housing of servants or the domestic employees on the premises.

(b) All residences and related structures erected on any Lot shall conform to the minimum construction standards set forth in Article VI, above, unless a variance has been granted by the Design Review Committee in accordance with Section 5.13, above.

(c) Each Lot shall be conveyed as a separately designated and legally described fee simple estate, subject to this Declaration. All Lots and the residences and other improvements erected or placed thereon shall at all times be maintained in such a manner as to prevent their becoming unsightly.

(d) The vegetation and landscaping on any Lot shall be planted or maintained by the Owner or resident in such a manner as to reduce the risk of fire, prevent or retard shifting or erosion of soils, encourage the growth of indigenous ground cover and to cause the proper diversion of water into streets and natural drainage channels.

(e) No camping, whether temporary or permanent, and no temporary structures of any kind shall be permitted on any Lot, except during active construction at the site. If a motor home, trailer, recreation vehicle or other temporary living quarters are maintained at a construction site, the same shall be maintained in a manner which does not become a nuisance to neighboring properties and the unit shall be connected to the development's sewer system.

(f) No more than one kitchen facility shall be installed or maintained in any residence. However this restriction shall not prohibit construction of servant's quarters or "grannie units" for members of the Owner's family or domestic help for the Owner's family. Such units shall not be rented to other parties who are not members of the Owner's family or domestic employees of the Owner.

(g) Small tractors and other machinery or equipment (including construction equipment) can be maintained on a Lot so long as the machinery or equipment can be stored within the Owner's garage or carport or in an area screened from view from neighboring Lots or from adjacent streets.

**Section 8.02. Common Areas.** The Common Areas shall be preserved as open space and used for recreational purposes and other purposes incidental and ancillary to the use of Lots. Such use shall be limited to the private use for aesthetic and recreational purposes by the Members, their tenants, families and guests, subject to the provisions of the Governing Documents. No Improvement, excavation or work which in any way alters any Common Area or Common Facility from its natural or existing state on the date such Common Area or Common Facility shall be made or done except by the Association and then only in strict compliance with the provisions of this Declaration.



**Section 8.03. Prohibition of Noxious Activities.** No illegal, noxious or offensive activities shall be carried out or conducted upon any Lot or Common Area nor shall anything be done within the Properties which is or could become an unreasonable annoyance or nuisance to neighboring property Owners. Without limiting the foregoing, no Owner shall permit noise, including, but not limited to barking dogs, stereo amplifier systems, unmuffled motor vehicles or power tools, to emanate from an Owner's Lot or from activities within the Common Area, which would unreasonably disturb any other Owner's or tenant's enjoyment of his or her Lot or the Common Area.

**Section 8.04. Temporary Structures.** Except as otherwise provided in Section 8.01(e), above, no structure of a temporary character, trailer, mobile home, camper, tent, shack, garage or other outbuilding shall be used on any Lot at any time as a residence, either temporarily or permanently. No guest house, garage, shed, tent, trailer, or temporary structure of any kind shall be erected, constructed, permitted or maintained on any portion of The Properties prior to commencement of the erection of a principal residence thereon. A construction shed may be placed on a lot and remain there temporarily during the course of active construction of a private residence.

**Section 8.05. Pets.** The following restrictions regarding the care and maintenance of pets within the Properties shall be observed by each Owner and resident:

(a) No animals nor fowl of any description shall be raised, housed, or kept on any Lot except that dogs and cats or other common household pets that are of such nature as not to interfere with the safety and comfort of neighboring residents may be so kept, provided that they are not bred or maintained thereon for any commercial purpose. Under no circumstances shall chickens, goats, pigs or other barnyard animals be considered as common household pets.

(b) On Lots that are at least one acre in size, Owners thereof may keep and maintain horses under the conditions described in this paragraph (b). Outside of Unit 1 of the Properties, if a Lot is at least an acre in size, horses may be maintained (subject to the following conditions) only if the prior consent of the Board of Directors is obtained and the Board receives no objections from adjacent neighbors.

(i) Not more than two horses may be kept or maintained on any Lot of one acre or more at any one period of time.

(ii) The area on the Lot where horses are kept and maintained shall be completely and adequately fenced.

(iii) All corrals, fences and other structures used in connection with the keeping and maintenance of horses shall be located consistent with applicable local

governmental set-back requirements or set-back requirements imposed by the Association pursuant to this Declaration and the Design Guidelines, whichever restrictions are most strict.

(iv) No horses shall be kept or maintained for any commercial purpose or in any manner so as to constitute a nuisance or in any manner which may violate any law or regulation.

(c) The Board of Directors shall have the right to establish and enforce additional rules and regulations defining in a uniform and nondiscriminatory manner, what constitutes a "reasonable number" of pets depending on their size, disposition and/or maintenance requirements and imposing standards for the reasonable control and keeping of household pets in, upon and around the Properties to ensure that the same do not interfere with the quiet and peaceful enjoyment of the Properties by the other Owners and residents.

**Section 8.06. Signs.** No signs or billboards of any kind shall be displayed on any Lot or posted within or upon any portion of the Common Area except that Owners may post the following signs on their Lots: (a) any signs required by legal proceedings; (b) a single "For Rent," "For Lease" or "For Sale" sign of reasonable dimensions; and (c) political signs, but only for a reasonable period of time prior to the election to which the sign pertains (and removed promptly following the election). A-frame or other directional signs of real estate brokers advertising Lots for sale or lease shall only be allowed within the Common Area or roadways within the Properties in strict compliance with applicable Association Rules.

**Section 8.07. Business Activities.** No business or commercial activities of any kind whatsoever shall be conducted in any residence, garage or out building or in any portion of any Lot without the prior written approval of the Board; provided, however, the foregoing restriction shall not apply to the activities, signs or activities of the Association in the discharge of its responsibilities under the Governing Documents. Furthermore, no restrictions contained in this section shall be construed in such a manner so as to prohibit any Owner from: (a) maintaining his or her personal library in his or her residence; (b) keeping his or her personal business records or accounts therein; (c) handling his or her personal or professional telephone calls or correspondence therefrom; (d) conducting any home business activity permitted by local ordinances on residential Lots, so long as the business does not involve exterior signage, more visitors (i.e., traffic) than would be customary of a single family residence or unusual noises or odors; (e) leasing or renting his or her residence in accordance with Section 2.03, above; or (f) conducting any other activities on the Owner's Lot otherwise compatible with residential use and the provisions of this Declaration which are permitted under applicable zoning laws or regulations without the necessity of first obtaining a special use permit or specific governmental authorization so long as any such activity does not involve exterior signage or create customer traffic within the Properties or cause unusual noise or odors. The uses described in (a) through (f), above, are expressly declared to be customarily incidental to the principal residential use and not in violation of this section.

**Section 8.08. Garbage.** No refuse pile, garbage, obnoxious or offensive material shall be allowed to be placed or to remain anywhere within the Properties and the Owner of any Lot or residence shall cause all refuse and other like material to be stored and disposed of by and in accordance with the accepted sanitary practice. In the event that the Owner of any Lot fails or refuses to keep the Lot or exterior premises of the Owner's residence free of all refuse piles or other unsightly growth or objects, then the Association or their successors and assigns, have the right to enter upon the land and remove the same at the expense of the Lot Owner who shall repay the same on demand and such entry shall not be deemed as trespass. Any entry by the Association shall be effected in accordance with Section 3.06(b), above.

**Section 8.09. Burning.** Burning shall be permitted on Lots only in compliance with all local governmental fire safety and permit regulations. No Owner or resident shall permit any condition to exist on his or her Lot, including, without limitation, trash piles, or weeds, which create a fire hazard or is in violation of local fire regulations. The foregoing restrictions shall not prohibit barbeques in conventional receptacles or the installation of a gas log fire pit so long as the pit's structure, design and placement are approved by the Design Review Committee.

**Section 8.10. Lot Splitting and Severance of Interests.** A Lot may be further subdivided into two or more smaller lots, so long as each of the resulting Lots is not less than the minimum lot size permitted by local zoning ordinances. In the event of a lot split pursuant to the authority conferred by this Section 8.10, and the Lot split has been duly recorded in the official records of the County, each Lot resulting from the split shall, upon such recording, be included in the definition of a "Lot" for purposes of this Declaration and shall be subject to assessment. There shall be no deed, conveyance, agreement, or other document executed with respect to any Lot by the terms of which there shall be a separation of the surface and subsurface rights into different ownerships. No Lots, as shown on any Subdivision Map for any portion of the Properties may be combined, so as to reduce the number of Lots within the development, without the prior approval of the Association's Board, which approval shall not be unreasonably withheld; provided, however, that the Board may require any Owner desiring to combine two or more Lots, to execute and cause to be recorded in the Official Records of Nevada County a document imparting notice that the combined Lots shall continue to be assessed for the Regular and Special Assessments at the same rate that would have applied to the combined Lots separately, so that Lot mergers or combinations do not adversely affect the revenue base of the Association.

**Section 8.11. Variances.** Upon application by any Owner, the Board of Directors shall be authorized and empowered to grant reasonable variances from the property use restrictions set forth in this Article, if specific application of the restriction will, in the sole discretion of the Board, either cause an undue hardship to the affected Owner or fail to further or preserve the common plan and scheme of development contemplated by this Declaration. In considering and acting upon any request for a variance, the Board shall



follow the procedures set forth in Section 5.13, above, for the granting of architectural variances.

**Section 8.12. Enforcement of Property Use Restrictions.** The objective of this Declaration shall be to promote and seek voluntary compliance by Owners and tenants with the environmental standards and property use restrictions contained herein. Accordingly, in the event that the Association becomes aware of an architectural or property use infraction that does not necessitate immediate corrective action under Section 8.06, above, the Owner or Tenant responsible for the violation shall receive written notice thereof and shall be given a reasonable opportunity to comply voluntarily with the pertinent Governing Document provision(s). Such notice shall describe the noncomplying condition, request that the Owner or tenant correct the condition within a reasonable time specified in the notice, and advise the Owner or tenant of his or her right to be heard on the matter.

## ARTICLE IX Easements

**Section 9.01. Blanket Utility Easement.** There is hereby created a blanket easement upon, across, over and under all of the Common Areas for ingress, egress, installation, replacing, repairing and maintaining all utilities, including but not limited to water, sewers, gas, telephones, drainage and electricity and the master television antenna or cable television system. By virtue of this easement, it shall be expressly permissible for the providing utility company to erect and maintain the necessary equipment and underground facilities on the Common Area. Notwithstanding the foregoing, no sewer, electrical lines, water lines, or other utilities may be installed or relocated on the Properties except as initially designed and approved by the Declarant or thereafter approved by the Board of Directors. The easements provided for in this section shall in no way affect any other Recorded easement on the Properties.

**Section 9.02. Utilities.** As an element of the common plan and scheme of development of the Properties, Declarant reserved certain easements for the purpose of installing, using and maintaining public utility facilities, pedestrian walkways, equestrian trails, drainage facilities, television cables, common recreational areas, and facilities, and for such other purposes incident to the development of the Properties, all as may be shown on the Subdivision Maps. In addition thereto, the Declarant for each phase of the Glenshire/Devonshire development reserved for itself, its successors, and assigns, the right to create, use and maintain, easements and rights of way across, under and over any Lot in the Properties; provided, however, that the said easements and rights of way will be located along one or more of the property lines and extending not more than 10 feet therefrom and the exercise of the rights thereunder do not interfere with any of the buildings or improvements located on the Lot. From and after the recordation of this First Restated



Declaration, the authority conferred by this Section 9.02 shall not be construed as permitting the Association to create or impose any easements affecting any Lot within the Properties, unless the Owner of the subject Lot(s) joins in the granting of the easement.

## ARTICLE X Insurance

**Section 10.01. Types of Insurance Coverage.** The Association shall purchase, obtain and maintain, with the premiums therefor being paid out of Common Funds, the following types of insurance, if and to the extent such insurance, with the coverages described below, is available at a reasonable premium cost:

(a) **Fire and Casualty Insurance.** A policy of fire and casualty insurance naming as parties insured the Association and any Mortgagee of the Common Area, and containing the standard extended coverage and replacement cost endorsements and such other or special endorsements as will afford protection and insure, for the full insurable, current replacement cost (excluding foundations and excavation, but without deduction for depreciation) as determined annually by the insurance carrier, all Common Facilities and the personal property of the Association for or against the following:

- (i) Loss or damage by fire or other risks covered by the standard extended coverage endorsement.
- (ii) Loss or damage from theft, vandalism or malicious mischief.
- (iii) Such other risks, perils or coverage as the Board of Directors may determine.

Such policy or the endorsement made a part thereof shall, to the extent available, provide that the insurer issuing the policy agrees to abide by the decision of the Association made in accordance with the provisions of Article XI, below, as to whether or not to repair, reconstruct or restore all or any damaged or destroyed portion of the Common Facilities.

(b) **Public Liability and Property Damage Insurance.** To the extent such insurance is reasonably obtainable, a policy of comprehensive public liability and property damage insurance naming as parties insured the Association, each member of the Board of Directors, any manager, the Owners and occupants of Lots, and such other persons as the Board may determine. The policy will insure each named party against any liability incident to the ownership and use of the Common Area and including, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than One Million Dollars

(\$1,000,000) covering all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall include coverage against water damage liability, liability for nonowned and hired automobiles, liability for property of others and any other liability or risk customarily covered with respect to projects similar in construction, location and use.

(c) Additional Insurance and Bonds. To the extent such insurance is reasonably obtainable, the Association may also purchase with Common Funds such additional insurance and bonds as it may, from time to time, determine to be necessary or desirable, including, without limiting the generality of this section, demolition insurance, flood insurance, and workers' compensation insurance. The Board shall also purchase and maintain fidelity bonds or insurance in an amount not less than 100 percent of each year's estimated annual operating expenses and shall contain an endorsement of any person who may serve without compensation. The Board shall purchase and maintain such insurance on personal property owned by the Association and any other insurance, including directors and officers liability insurance, that it deems necessary or desirable.

Section 10.02. Coverage Not Available. In the event any insurance policy, or any endorsement thereof, required by Section 10.01, above, is for any reason not available, then the Association shall obtain such other or substitute policy or endorsement as may be available which provides, as nearly as possible, the coverage hereinabove described. The Board shall notify the Owners of any material adverse changes in the Association's insurance coverage.

Section 10.03. Copies of Policies. Copies of all insurance policies (or certificates thereof showing the premiums thereon have been paid) shall be retained by the Association and shall be available for inspection by Owners at any reasonable time. Annually the Association shall provide all Owners with a summary of the insurance maintained by the Association containing the information required by Civil Code section 5300 .

Section 10.04. Adjustment of Losses. The Board is appointed attorney-in- fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried pursuant to Section 10.01, above. The Board is granted full right and authority to compromise and settle any claims or enforce any claim by legal action or otherwise and to execute releases in favor of any insured.

Section 10.05. Insurance on Lots and Residences. An Owner may carry whatever personal liability, property damage liability, fire and casualty insurance with respect to his or her Lot, residence and personal property as the Owner desires. The Association shall have no responsibility for the adequacy or extent of such insurance coverage.

**ARTICLE XI**  
**Damage or Destruction**

**Section 11.01. Common Facilities: Bids and Determination of Available Insurance Proceeds.** In the event any Common Facilities are ever damaged or destroyed, then, and in such event, as soon as practicable thereafter the Board of Directors shall: (a) obtain bids from at least two reputable, licensed contractors, which bids shall set forth in detail the work required to repair, reconstruct and restore the damaged or destroyed portions of the Common Facilities to substantially the same condition as they existed prior to the damage and the itemized price asked for such work; and (b) determine that amount of all insurance proceeds available to the Association for the purpose of effecting such repair, reconstruction and restoration.

**Section 11.02. Common Facilities: Sufficient Insurance Proceeds.** Subject to the provisions of Section 11.01, above, if, in the event of damage to or destruction of any portion of any Common Facility, the insurance proceeds available to the Association are sufficient to cover the costs of repair, reconstruction and restoration, then the Association may cause such facilities to be repaired, reconstruction and restored; provided, however, that in the event of destruction of all or substantially all of a Common Facility, the Association shall not be obligated to restore the damaged Common Facility to its prior appearance and condition if the Board's opinion, architectural or design modifications to the Facilities will result in providing the Members with an improved facility which is suitable for substantially the same use and enjoyment as the destroyed facility. The insurance proceeds shall be deemed to be sufficient if the cost of repair or restoration, does not exceed available insurance and capital replacement reserve funds (for the damaged facility) by an amount that is more than five percent of the Association's budgeted gross expenses for the year in which bids are solicited for the repair project. Under such circumstances, any short-fall in available insurance and reserve funds shall be funded by imposition of a Special Assessment.

**Section 11.03. Common Facilities: Insurance Proceeds Insufficient in an Amount Exceeding Five Percent of Budget.** In the event that any Common Facility is totally or substantially damaged or destroyed or, if, in the event of damage to or destruction of only a portion of the Common Facilities, the insurance proceeds available to the Association are insufficient to fully restore or re-build the damaged improvements and the unfunded portion exceeds five percent of the budgeted gross expenses of the Association (determined for the year when bids are solicited for the repair or reconstruction project), then the Owners shall be presented with a written ballot to determine whether: (a) to repair, reconstruct and restore the damaged or destroyed Common Facilities and specially assess all Owners for such additional funds as may be needed for such purpose; or (b) not to repair, reconstruct or restore the damaged or destroyed Common Facilities but rather to utilize the insurance proceeds available for such reconstruction, together with any other sums otherwise available to the Association for such purpose, to demolish and remove the damaged or destroyed Improvements from the Common Area and to level and landscape the sites thereof and apply

any balance of such proceeds and/or funds as the Members holding such voting power and their first mortgagees may determine. If a majority of a Quorum of the Members approve a Special Assessment to fully fund the repair, reconstruction or restoration project, the project shall proceed.

**Section 11.04. Damage or Destruction of Residences.**

(a) **Obligation to Rebuild.** If all or any portion of any residence is damaged or destroyed by fire or other casualty it shall be the duty of the Owner of that residence to rebuild, repair or reconstruct the residence or remove the damaged structure or portions thereof and restore the Lot to a neat and attractive appearance.

(b) **Design Review Committee Approval.** Any Owner who has suffered damage shall apply to the Design Review Committee for approval of plans for the reconstruction, rebuilding, or repair of his or her residence in accordance with Article V, above. Application for such approval shall be made in writing together with full and complete plans, specifications, working drawing and elevations showing the proposed reconstruction and the end result of the reconstruction work.

(c) **Time Limitation for Reconstruction.** The Owner or Owners of any damaged residence(s), the Design Review Committee shall be obligated to proceed with all due diligence hereunder, and the Owner(s) shall commence reconstruction or removal of the damaged structure within three months after the damage occurs and complete any reconstruction project within one year after project approval pursuant to Article V, above, unless an extension of the time of completion is granted by the Design Review Committee (see Sections 5.09 and 5.10, above). Reasonable extensions of these construction commencement and completion deadlines shall be granted when the Committee, in its discretion, determines that adverse weather conditions or the nature or extent of the repair project merit additional time.

**ARTICLE XII  
Condemnation**

If all or part of the Common Area shall be taken or condemned by any authority having the power of eminent domain, all compensation and damages for or on account of the taking of the Common Area, exclusive of compensation for consequential damages to certain affected Lots, shall be payable to the Association as trustee for all Owners and mortgagees according to the loss or damages to their respective interest in the Common Area. The Association, acting through its Board of Directors, shall have the right to act on behalf of the Owners with respect to the negotiation, settlement and litigation of the issues with respect



to the taking and compensation affecting the Common Area. Each Owner hereby designates and appoints each Association as his or her attorney-in-fact for such purposes.

### **ARTICLE XIII**

#### **Breach and Default**

**Section 13.01. Remedy at Law Inadequate.** Except for the nonpayment of any Assessment, it is hereby expressly declared and agreed that the remedy at law to recover damages for the breach, default or violation of any of the covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration are inadequate and that the failure of any Owner, tenant, occupant or user of any Lot, or any portion of the Common Area or Common Facilities, to comply with any provision of the Governing Documents may be enjoined by appropriate legal proceedings instituted by any Owner, the Association, its officers or Board of Directors, or by their respective successors in interest.

**Section 13.02. Nuisance.** Without limiting the generality of the foregoing Section 13.01, above, the result of every act or omission whereby any covenant contained in this Declaration is violated in whole or in part is hereby declared to be a nuisance, and every remedy against nuisance, either public or private, shall be applicable against every such act or omission.

**Section 13.03. Costs and Attorneys' Fees.** In any action brought because of any alleged breach or default of any Owner or other party hereto under this Declaration, the court may award to the prevailing party in such action such attorneys' fees and other costs as it may deem just and reasonable.

**Section 13.04. Cumulative Remedies.** The respective rights and remedies provided by this Declaration or by law shall be cumulative, and the exercise of any one or more of such rights or remedies shall not preclude or affect the exercise, at the same or at different times, of any other such rights or remedies for the same or any different default or breach or for the same or any different failure of any Owner or others to perform or observe any provision of this Declaration.

**Section 13.05. Failure Not a Waiver.** The failure of any Owner, the Board of Directors, the Association or its officers or agents to enforce any of the covenants, conditions, restrictions, limitations, reservations, grants or easements, rights, rights-of-way, liens, charges or equitable servitudes contained in this Declaration shall not constitute a waiver of the right to enforce the same thereafter, nor shall such failure result in or impose any liability upon the Association or the Board, or any of its officers or agents.

Section 13.06. Rights and Remedies of the Association.

(a) Rights Generally. In the event of a breach or violation of any Association Rule or of any of the restrictions contained in any Governing Document by an Owner, his or her family, or the Owner's guests, employees, invitees, licensees, or tenants, the Board, for and on behalf of all other Owners, may enforce the obligations of each Owner to obey such Rules, covenants, or restrictions through the use of such remedies as are deemed appropriate by the Board and available in law or in equity, including but not limited to the hiring of legal counsel, the imposition of fines and monetary penalties, the pursuit of legal action, or the suspension of the Owner's right to use recreation Common Facilities or suspension of the Owner's voting rights as a Member; provided, however, the Association's right to undertake disciplinary action against its Members shall be subject to the conditions set forth in this section.

The decision of whether it is appropriate or necessary for the Association to take enforcement or disciplinary action in any particular instance shall be within the sole discretion of the Board or its duly authorized enforcement committee. If the Association declines to take action in any instance, any Owner shall have such rights of enforcement as exist by virtue of California Civil Code section 5975 or otherwise by law.

(b) Schedule of Fines. The Board may implement a schedule of reasonable fines and penalties for particular offenses that are common or recurring in nature and for which a uniform fine schedule is appropriate (such as fines for late payment of Assessments or illegally parked vehicles). Once imposed, a fine or penalty may be collected as a Special Individual Assessment. If the Board has adopted a fine schedule for commonly recurring infractions, a copy of that policy shall be distributed to the Members each year as part of the Association's statement of policies and practices for enforcing lien rights and collecting delinquent assessments.

(c) Definition of "Violation". A violation of the Governing Documents shall be defined as a single act or omission occurring on a single day. If the detrimental effect of a violation continues for additional days, discipline imposed by the Board may include one component for the violation and, according to the Board's discretion, a per diem component for so long as the detrimental effect continues. Similar violations on different days shall justify cumulative imposition of disciplinary measures. The Association shall take reasonable and prompt action to repair or avoid the continuing damaging effects of a violation or nuisance occurring within the Common Area at the cost of the responsible Owner.

(d) Limitations of Disciplinary Rights.

No penalty or temporary suspension of rights shall be imposed pursuant to this Article unless the Owner alleged to be in violation is given at least 15 days prior notice of

the proposed penalty or temporary suspension and is given an opportunity to be heard before the Board of Directors or appropriate committee established by the Board with respect to the alleged violation(s) at a hearing conducted at least 5 days before the effective date of the proposed disciplinary action.

Notwithstanding the foregoing, under circumstances involving conduct that constitutes: (i) an immediate and unreasonable infringement of, or threat to, the safety or quiet enjoyment of neighboring Owners; (ii) a traffic or fire hazard; (iii) a threat of material damage to, or destruction of, the Common Area or Common Facilities; or (ix) a violation of the Governing Documents that is of such a nature that there is no material question regarding the identity of the violator or whether a violation has occurred (such as late payment of Assessments or parking violations), the Board of Directors, or its duly authorized agents, may undertake immediate corrective or disciplinary action and, upon request of the offending Owner (which request must be received by the Association, in writing, within five days following the Association's disciplinary action), or on its own initiative, conduct a hearing as soon thereafter as reasonably possible.

If the Association acts on its own initiative to schedule a hearing, notice of the date, time and location of the hearing shall accompany the notice of disciplinary action. If the accused Owner desires a hearing, a written request therefor shall be delivered to the Association no later than five days following the date when the fine is levied.

The hearing shall be held no more than 15 days following the date of the disciplinary action or 15 days following receipt of the accused Owner's request for a hearing, whichever is later. Under such circumstances, any fine or other disciplinary action shall be held in abeyance and shall only become effective if affirmed at the hearing.

At the hearing the accused shall be given the opportunity to be heard, including the right to present evidence and to present or question witnesses. The Board shall notify the accused Owner, in writing, of the Board's decision within five business days following conclusion of the hearing. In no event shall the effective date of any disciplinary action commence sooner than five days following conclusion of the hearing unless (i) the hearing merely affirms summary disciplinary action initiated pursuant to the immediately preceding paragraph, or (ii) earlier commencement is necessary to preserve the quiet enjoyment of other residents or to prevent further damage to, or destruction of, the Properties or any portion thereof.

(e) Notices. Any notice required by this Article shall, at a minimum, set forth the date and time for the hearing, a brief description of the action or inaction constituting the alleged violation of the Governing Documents and a reference to the specific Governing Document provision alleged to have been violated. The notice shall be in writing and may be given by any method reasonably calculated to give actual notice; provided, however, that



if notice is given by mail it shall be sent by first-class or certified mail sent to the last address of the Member shown on the records of the Association.

(f) Rules Regarding Disciplinary Proceedings. The Board, or a Covenants Committee appointed by the Board to conduct and administer disciplinary hearings and related proceedings pursuant to Section 13.08, below, shall be entitled to adopt rules that further elaborate and refine the procedures for conducting disciplinary proceedings. Such rules, when approved and adopted by the Board, shall become a part of the Association Rules.

Section 13.07. Court Actions. Court actions to enforce the Governing Documents may only be initiated on behalf of the Association by resolution of the Board. Prior to the filing of any court action seeking declaratory or injunctive relief to interpret or enforce the Governing Documents (including either such action coupled with a claim for monetary damages not in excess of \$5,000), the Association shall first comply with the provisions of California Civil Code section 5925-5965 relating to alternative dispute resolution. The Association's own notice and hearing procedures may be drafted to satisfy these statutory requirements.

Section 13.08. Covenants Committee.

(a) Appointment of Committee. Acting pursuant to Section 10.01 of the Bylaws, the Board of Directors may establish a Covenants Committee to hear and decide cases involving alleged violations of the Governing Documents. If no committee is established, the Board shall perform this function.

(b) Jurisdiction and Hearing Procedures of the Committee. The Covenants Committee shall review written complaints from Owners, the Association's General Manager, or the Design Review Committee (for violations other than those relating to specific Improvement projects within the jurisdiction of the Design Review Committee) regarding alleged violations of the Governing Documents or Association Rules, and, when determined appropriate, conduct hearings and make findings regarding the alleged violation(s). The Covenants Committee may levy penalties and/or fines (pursuant to a Board-approved fine schedule) in the event the allegations regarding such violations are found to be true. To perform the foregoing, the Covenants Committee shall adopt rules of procedure for enforcement hearings and shall conduct its hearings in accordance with such rules after they have been approved by the Board. Notwithstanding the foregoing, enforcement of specific violations of the design review requirements relating to Improvement projects submitted to, and reviewed by, the Design Review Committee shall remain the jurisdiction of the Design Review Committee pursuant to Section 5.12, above, unless the Committee determines that a fair hearing process requires referral of a specific matter to the Covenants Committee.



(c) Appeals. The decisions of the Covenants Committee, if established, or the Design Review Committee (as to matters within that Committee's jurisdiction) shall be appealable to the Board of Directors within 10 calendar days following receipt of the committee's decision. The Board shall have the discretion to hear any appealed matter or decline to take the appeal and thus affirm the decision of the Committee. Any decision to decline an appeal shall be based on a reasonable determination from the record that the appeal lacks merit. Decisions of the Board shall be final. Procedures for appeal and the hearing of appeals shall be set forth in the Association Rules.

(d) Court Actions. Court actions to enforce the Governing Documents may only be initiated on behalf of the Association upon approval of the Board.

#### ARTICLE XIV

##### Notices

Section 14.01. Mailing Addresses. Any communication or notice of any kind permitted or required herein shall be in writing and may be served, as an alternative to personal service, by mailing the same as follows:

If to any Owner: To the street address of his or her Lot or to such other address as he or she may from time to time designate in writing to the Association.

If to the Association: Glenshire/Devonshire Residents Association, at the principal office of the Association (or to such other address as the Association may from time to time designate in writing to the Owners). That address is currently 15726 Glenshire Drive, Truckee, California, 96161.

Section 14.02. Personal Service Upon Co-Owners and Others. Personal service of a notice or demand to one of the co-Owners of any Lot, to any general partner of a partnership which is the Owner of Record of the Lot, or to any officer or agent for service of process of a corporation which is the Owner of Record of the Lot, shall be deemed delivered to all such co-Owners, to such partnership, or to such corporation, as the case may be.

Section 14.03. Deposit in United States Mails. All notices and demands served by mail shall be by first-class or certified mail, with postage prepaid, and shall be deemed delivered four days after deposit in the United States mail in the County.

**ARTICLE XV**  
**No Public Rights in the Properties**

Nothing contained in this Declaration shall be deemed to be gift or dedication of all or any portion of the Properties other than streets to the general public or for any public use or purpose whatsoever.

**ARTICLE XVI**  
**Amendment of Declaration**

**Section 16.01. Amendment in General.**

(a) **Board's Authority To Adopt Amendments to Reflect Changes in Law.** The Board of Directors may, by a vote of a two-thirds majority of all directors, adopt amendments to this Declaration when an amendment is needed to conform a particular provision or provisions of the Declaration to changes in applicable California State statutory law, and the amended provision was drafted to accurately state the statutory law as previously in effect. Before entertaining a motion to approve any such amendments both of the following three conditions must be satisfied: (i) the Board shall have received a written opinion from the Association's legal counsel confirming that a change or changes in California statutory law necessitates a corresponding amendment to this Declaration in order to make the provision(s) an accurate statement of the underlying statutory requirement(s) and that the revised statutory laws pertain to matters which the Association is bound to observe; (ii) the Board has posted notice at the Association's principal office for at least 45 days a notice of intention to adopt the amendment, which shall present the text of the proposed amendment, together with a copy of the opinion of counsel; and (iii) following expiration of the 45 day notice period, action on the amendment shall be taken at a duly noticed regular meeting of the Board.

(b) **Amendment by Approval of the Members.** Except as otherwise provided in subparagraph (a), above, this Declaration may only be amended or revoked in any respect by the vote or assent by written ballot of the holders of not less than a majority of the voting power of the Members of the Association.

**Section 16.02. Effective Date of Amendment.** The amendment will be effective upon the Recording a Certificate of Amendment, duly executed and certified by the president and secretary of the Association, setting forth in full the amendment so approved and that the approval requirements of Section 16.01, above, have been duly met. If the consent or approval of any governmental authority or other entity is required under this Declaration to amend or revoke any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained.

**Section 16.03. 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.

## ARTICLE XVII General Provisions

**Section 17.01. Term.** The covenants, conditions, restrictions, limitations, reservations, grants of easement, rights, rights-of-way, liens, charges and equitable servitudes contained in this Declaration shall run with, and shall benefit and burden the Lots and the Common Area as herein provided, and shall inure to the benefit of and be binding upon the Owners, the Association, its Board of Directors, and its officers and agents, and their respective successors in interest, for the term of 60 years from the date of the Recordation of the Original Declaration of Protective Restrictions for Glenshire, Unit No. 1, on July 3, 1969. After the expiration of the initial term, the term of this Declaration shall be automatically extended for successive periods of 10 years each unless, within 6 months prior to the expiration of the initial 60-year term or any such 10-year extension period, a recordable written instrument, approved by Owners entitled to vote and holding at least a majority of the voting power of the Association terminating the effectiveness of this Declaration, is Recorded.

### **Section 17.02. Annexation of Additional Property.**

(a) **Scope of Article/Nature of Annexation.** For purposes of this Section 17.02, an annexation is defined as any addition of property to the Properties included within the jurisdiction of this Declaration and of the Association. Once annexation occurs, the newly annexed territory, and the Owners of property therein, shall have the same rights, duties, and obligations as the Owners of any other property included within the Properties; subject to any modification of those rights, duties and/or obligations imposed by a Declaration of Annexation recorded pursuant to subparagraph (e), below. Any owner ("Annexation Proponent") of real property which is contiguous to any border of the Properties can make a written request to the Board of Directors that a proposed annexation be submitted to the Members for approval in accordance with subparagraphs (b) through (d), below. For purposes of this section, a parcel or parcels of property shall be considered contiguous to the Properties and, thus, eligible for annexation if the property shares a common boundary with any portion of the Properties or with any other parcel ("adjoining parcel") which shares a common boundary with any portion of the Properties and is proposed for annexation contemporaneously with the adjoining parcel. Parcels proposed for annexation (the "Annexation Parcel(s)") must be separate legal parcels and all governmental approvals required as a condition for annexation must be obtained by the Annexation Proponent at his or her sole cost and expense.

(b) Application for Annexation. In order to initiate a membership vote on the proposed annexation, the owner or owners of the Annexation Parcel shall present a written proposal for annexation to the Board of Directors which shall include at least the following information:

(i) A copy of the proposed Declaration of Annexation (see subparagraph (e), below) which shall be Recorded upon approval of the proposed annexation by the Board and the Members;

(ii) A reasonably detailed description of the intentions of the owner of the Annexation Parcel with respect to the development, subdivision, and use of such parcel, including, without limitation, the number of residential lots or units, the type and location of any commercial areas, any special development conditions imposed by any local governmental agency in connection with the approval of a subdivision map for the Annexation Parcel, and any proposal to create any local districts or County Service Areas with jurisdiction over the Annexation Parcel or any portion thereof;

(iii) If any additional Common Areas or Common Facilities are proposed within the Annexation Parcel, detailed financial budgets and projections disclosing the maintenance, repair, operations, and capital reserve obligations which are likely to be incurred by the Association as a result of the annexation and the proposed method of allocating assessments to defray those anticipated expenses.

(c) Board Approval. Upon receipt of a complete application for annexation, the Board shall have a period of 60 days to evaluate and act upon the proposal. If requested by the Annexation Proponent, a copy of the Annexation application shall be mailed to the Association's Members at the Proponent's sole expense within the first 30 days of the Board's evaluation period, together with a request for Member comments. At the conclusion of the 60 day evaluation period the Board shall take one of the following actions: (a) approve the proposal and call for a membership vote thereon by written ballot in accordance with subparagraph (d), below; (b) disapprove the proposal; or (c) approve the proposal subject to the satisfaction of specified conditions. Unless Board approval is obtained, the Association shall not be obligated to present the annexation proposal to the Members unless a petition requesting a membership vote on the matter, signed by at least five percent of the membership, is presented to the Board.

(d) Membership Approval Required. In addition to receiving Board approval in accordance with subparagraph (c), above, any proposed annexation must also be approved by at least a two-thirds majority of the voting power of the Members of the Association. The annexation proposal shall be submitted to the Members within 30 days following Board approval or receipt of a Member petition meeting the requirements specified in subparagraph (c), above. The Member vote shall be conducted by written ballot in accordance with Section 4.06 of the Bylaws. The solicitation materials accompanying the ballot shall include



a copy of the proposed Declaration of Annexation, any financial analysis prepared in accordance with subparagraph (b)(iii), above, and any other information considered by the Board to be necessary or appropriate for an informed decision by the Members.

(e) Declaration of Annexation. Any annexations of real property to the Properties authorized under subparagraphs (c) and (d), above, shall be effected by Recording a Declaration of Annexation, or other similar instrument, with respect to the Annexation Parcel. The Declaration of Annexation: (i) shall be executed by the Annexation Proponent; (ii) shall extend the general plan and scheme of this Declaration to the Annexation Parcel; and (iii) may contain such additions to, and modifications of, the covenants, conditions, easements and restrictions contained in this Declaration as may be necessary to reflect the different character or nature of development, if any, of the Annexation Parcel (such as the construction of townhomes, condominiums or commercial structures or matters unique to new Common Facilities), or any allocation of Assessments which differs from the allocation provided in Article IV, above, so long as the supplemental restrictions were submitted to the Members for consideration at the time their votes were solicited and the supplemental restrictions are consistent with the general plan and scheme of this Declaration and all applicable laws and governmental regulations. Any such supplemental declaration may set forth use restrictions and the design and building standards which shall apply to the Annexation Parcel or may give blanket approval for development of the Annexation Parcel by the Annexation Proponent in accordance with specific architectural plans and drawings which are submitted by the owner of the Annexation Parcel together with the supplemental declaration.

The Recording of a Declaration of Annexation shall constitute and effectuate the annexation of the Annexation Parcel to the Properties and thereafter the Annexation Parcel shall be subject to, and encompassed within, the general plan and scheme of this Declaration. Lots and/or Units within the Annexation Parcel shall thereupon become subject to Assessment by the Association and to the functions, powers, and jurisdiction of the Association, and the Owners of Separate Interests within the Annexation Parcel shall automatically become Members of the Association.

Any Common Areas (including private roads) which are included within the Annexation Parcel shall be conveyed to the Association, free of all liens and encumbrances, other than liens, rights-of-way, or other encumbrances disclosed on the preliminary title report for the Annexation Parcel and approved by the Association. The conveyance to the Association of any Common Areas included within the Annexation Parcel shall occur immediately following Recordation of the Declaration of Annexation unless otherwise agreed in writing by the Annexation Proponent and the Board of Directors.

**Section 17.03. Construction.**

(a) **Restrictions Construed Together.** All of the covenants, conditions and restrictions of this Declaration shall be liberally construed together to promote and effectuate the fundamental concepts of the development of the Properties as set forth in the Recitals of this Declaration. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision in a subsequent application or any other provision hereof.

(b) **Restrictions Severable.** Notwithstanding the provisions of subparagraph (a) above, the covenants, conditions and restrictions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity of any provision or portion thereof shall not affect the validity or enforceability of any other provision.

(c) **Singular Includes Plural.** The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine or neuter shall each include the masculine, feminine and neuter, as the context requires.

(d) **Captions.** All captions or titles used in this Declaration are intended solely for convenience of reference and shall not affect the interpretation or application of any of the substantive terms or provisions of this Declaration.

(e) **Effective Date.** The effective date of this Declaration shall be the date that the Declaration has been duly approved by the Owners of Lots within the common interest development commonly known as Glenshire Devonshire and the Declaration has been recorded in the Official Records of Nevada County, California, except that any minimum construction standards set forth in Article VI which are not found in the Original Declarations (as defined in Section 1.13, above) shall not apply to any improvement project that has been duly approved by the Design Review Committee, but which has not yet commenced or which remains uncompleted as of the date this Declaration is recorded. In addition, if structural improvements exist on a Lot as of the effective date of this First Restated Declaration which do not conform with one or more of the minimum construction standards imposed by Article VI, the Owner of the Lot shall be entitled to repair and maintain the improvement and need only comply with the applicable minimum construction standard(s) if the improvement is substantially destroyed or work is undertaken to replace the improvement in its entirety.

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(f) **Exhibits.** All exhibits to which reference is made herein are deemed to be incorporated herein by reference, whether or not actually attached.

GLENSHIRE/DEVONSHIRE RESIDENTS ASSOCIATION

EXHIBIT A

- I. Covenants, conditions and restrictions embodied in the declaration recorded July 3, 1969, Book 479, Official Records, Page 600.

No reversionary clause.  
Also includes set back lines.

Amendment thereto recorded August 15, 1969, Book 483, Official Records,  
Page 498.

Amendment thereto recorded September 17, 1969, Book 486, Official Records,  
Page 493.

Supplemental thereto recorded March 17, 1970, Book 506, Official Records,  
Page 475.

Amendment thereto recorded December 12, 1990, Official Records, Document  
No. 90-39928.

Amendment thereto recorded June 26, 1991, Official Records, Document No.  
91-18699.

Amendment thereto recorded September 10, 1991, Official Records, Document  
No. 91-27661.



GLENSHIRE/DEVONSHIRE RESIDENTS ASSOCIATION

EXHIBIT B

UNIT 1: Lots 1 through 111, inclusive, as shown on the official map of said Subdivision, filed as GELNSHIRE Unit 1, for record in the Office of the Nevada County Recorder, State of California, on July 2, 1969 in book 3 of maps at page 32.

UNIT 2: Lots 1 through 262, inclusive, as shown on the official map of said Subdivision, filed as GLENSHIRE Unit 2, for record in the Office of the Nevada County Recorder, State of California, on September 30, 1969 in book 3 of maps at page 41.

UNIT 3: Lots 1 through 211, and 213 through 388, inclusive, as shown on the official map of said Subdivision, filed as GLENSHIRE Unit 3, for record in the Office of the Nevada County Recorder, State of California, on December 30, 1969 in book 3 of maps at page 46.

DEVONSHIRE: Lots 1 through 322, and 326 through 600 as shown on the official map of said Subdivision, filed as DEVONSHIRE, for record in the Office of the Nevada County Recorder, State of California, on July 28, 1971 in book 4 of maps at page 24.

## GLENSHIRE/DEVONSHIRE RESIDENTS ASSOCIATION

## EXHIBIT C

## COMMON AREA

APN's 40-110-01, 02, 03, 04, 05 & 06: All that certain real property described as "open space" on the official map of GLENSHIRE Unit 2, filed for record in the Office of the Nevada County Recorder, State of California, on September 30, 1969 in book 3 of maps at page 41. EXCEPTING therefrom all that portion of the above described parcel of land as was conveyed in the deed to Glenshire Mutual Water Company recorded February 6, 1970 in book 502, page 196, Nevada County Records.

APN's 40-150-01, 40-200-09, 40-210-27 & 49, 40-240-01, 40-250-01 & 40-260-04: All that certain real property described as "open space" on the official map of GLENSHIRE Unit 3, for record in the Office of the Nevada County Recorder, State of California, on December 30, 1969 in book 3 of maps at page 46.

APN's 40-270-10, 40-280-36, 40-290-31 & 32, 40-310-29, 40-330-01 & 12, 40-350-29, 40-360-33, 40-420-23, 40-460-07, and 40-470-01 & 02: All that certain real property described as Lots D, E, F, G, H, I, J, K, L and M as said Lots are shown on the official map of said Subdivision, filed as DEVONSHIRE, for record in the Office of the Nevada County Recorder, State of California, on July 28, 1971 in book 4 of maps at page 24. Reserving and excepting therefrom all rights to oil, gas, minerals and other hydrocarbon substances in and under or that may be produced from a depth below 500 feet from the surface of said land, without right of entry upon the surface of said land for the purpose of mining, drilling, exploring or extracting such oil, gas, minerals and other hydrocarbon substances or other use of or rights in or to any portion of the surface of said land to a depth of 500 feet below the surface thereof. Subject to the lien of current real property taxes not delinquent, all rights of way, easements and all other matters affecting title, including but not limited to: (i) the Supplemental Declaration of Covenants and Restrictions - Devonshire affecting the herein described real property and recorded July 28, 1971 in Book 563 at Page 19, Official Records, Nevada County, California; (ii) any rights of Glenshire Mutual Water Company in and to subterranean waters underlying the above described real property as contained in that certain instrument entitled "Easement and Conveyance of Water Rights" recorded in the Office of the Recorder of Nevada County, California on August 6, 1971, in Book 564 at Page 270; and (iii) an easement in favor of Glenshire Mutual Water Company for construction, reconstruction, development, operation and maintenance of certain water supply facilities affecting Lot F as hereinabove described, as contained in that certain instrument entitled "Easement and Conveyance of Water Rights" recorded in the Office of the Recorder of Nevada County, California on August 6, 1971, in Book 564 at Page 270.

APN's 49-240-09, 12 & 17: All that real property situated in the County of Nevada,

State of California as follows: All that portion of the Southeast quarter of Southeast quarter of Section 5, Township 17 North, Range 17 East, M.D.M., lying Easterly of the Strand, as shown upon Sheet number 7 of the Plat of Glenshire Unit number 3, filed in the Office of the Nevada County Recorder, State of California, on December 30, 1969 in book 3 of maps at page 46, EXCEPTING THEREFROM Lots 346, 347 and 348, and Covington Lane as shown upon said Plat of Glenshire Unit number 3.

All that real property situated in the County of Nevada, State of California as follows: All that portion of the North half of Southwest quarter of Section 4, Township 17 North, Range 17 East, M.D.M., lying Southerly of Lots 373 through 386, inclusive and lying Easterly of Lot 388, shown upon Sheet number 8 of the Plat of Glenshire Unit number 3, filed in the Office of the Nevada County Recorder, State of California, on December 30, 1969 in book 3 of maps at page 46; and lying Westerly of Lots 54 through 58, inclusive, and Donnington Lane, as shown upon Sheet number 5 of Glenshire Unit number 1, filed in the Office of the Nevada County Recorder, State of California, on July 2, 1969 in book 3 of maps at page 32.

All that real property situated in the County of Nevada, State of California as follows: All that portion of the Southwest quarter of Southeast quarter of Section 4, Township 17 North, Range 17 East, M.D.M., lying Easterly of Lots 183 through 191, inclusive, also Easterly of Marshall (Marsham) Street, Easterly and Southerly of Somerset Drive, Westerly of Lot 191 and Southerly of Lots 200 and 201, as shown upon Sheet number 5 of Plat of GLENSHIRE Unit 2, filed in the Office of the Nevada County Recorder, State of California, on September 30, 1969 in book 3 of maps at page 41. EXCEPTING THEREFROM all that portion thereof that lies within the lines of that certain parcel map known of record as "Juniper Hill" filed in the office of the County Recorder of said county in book 5 of Parcel Maps, page 6.

All that real property situated in the County of Nevada, State of California as follows: All that portion of the Northeast quarter of Southeast quarter of Section 4, Township 17 North, Range 17 East, M.D.M., lying East of Lot 18, and Northerly of Open Space lot of 2.949 acres, and Lots 28 through 32, inclusive, as shown upon Sheet number 4 of the Plat of GLENSHIRE Unit 2, filed in the Office of the Nevada County Recorder, State of California, on September 30, 1969 in book 3 of maps at page 41.

APN's 49-240-01, 02 & 03: All that real property situated in the County of Nevada, State of California as follows: All that portion of the Southwest one quarter of Section 4 and the Southeast one quarter of Section 5, Township 17 North, Range 17 East, M.D.B. & M., lying Westerly of the Strand and Easterly and Southeasterly of Lots 321 and 322 and Easterly and Northeasterly of Lots 20 and 21, as shown upon Sheet number 7 of the Official Map of Glenshire Unit number 3, filed in the Office of the Nevada County Recorder, State of California, on December 30, 1969 in book 3 of maps at page 46. EXCEPTING THEREFROM any portion thereof lying within Donnington Lane, as shown on the above referenced plat.

APN 40-420-32: All that real property situated in the County of Nevada, State of California as follows: All that portion of the Northeast one quarter of the Northeast one quarter of Section 5, Township 17 North, Range 17 East, M.D.B. & M., lying Easterly of the Easterly line of Lot "G" and Northeasterly of the Northeasterly line of Lot 359, as said lots are shown on the Official Map of DEVONSHIRE, filed for record in the Office of the Nevada County Recorder, State of California, on July 28, 1971 in book 4 of maps at page 24.

APN 40-420-33: All that real property situated in the County of Nevada, State of California as follows: All that portion of the Southwest quarter of the Southwest quarter Section 33, Township 18 North, Range 17 East, M.D.B. & M., being more particularly described as follows: Beginning at the Southwest corner of said section 33; thence from said point of beginning North 88 degrees 32' 24" East 124.71 feet; thence on a curve to the left with a radius of 290 feet, through an angle of 17 degrees 07' 44", for a distance of 86.70 feet; thence South 89 degrees 21' 42" West, 147.65 feet to a point on the Westerly line of said Section 33, thence Southerly along said Westerly line for a distance of 85.00 feet to the point of beginning.

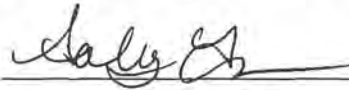
APN 49-130-16: All that real property situated in the County of Nevada, State of California as follows: Parcel C as shown on the Parcel Map of the re-subdivision of lots 10, 12 and 13 of Juniper Hill, filed in the office of the Nevada County Recorder on June 24, 1973 in Book 8 of Parcel Maps, at Page 92.



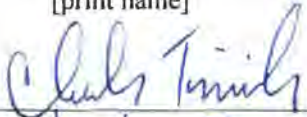
IN WITNESS WHEREOF, this Second Restated Declaration is duly approved by the required vote of the Board of Directors of the Association pursuant to Civil Code Section 4235, as documented in the attached resolution, see Exhibit "D". Any and all amendments to the First Restated Declaration, whether referenced above or not, shall remain in full force and effect, shall not be superseded or invalidated by this Second Restated Declaration.

DATED: 3-12, 2014

**GLENSHIRE/DEVONSHIRE RESIDENTS ASSOCIATION,**  
a California nonprofit mutual benefit corporation



SALLY LYON, President  
[print name]



Charles Timinsky, Secretary  
[print name]

## EXHIBIT "D"

### Glenshire/Devonshire Residents' Association RESOLUTION OF THE BOARD OF DIRECTORS

The following actions were approved by the Board of Directors (the "Board") of the Glenshire/Devonshire Residents' Association (the "Association") at its Board meeting on 3-12-2014, at which a quorum of the Directors was present. The Board finds and resolves as follows:

**WHEREAS**, the Association's governing documents, as that term is defined in Civil Code § 4150, were adopted prior to January 1, 2014;

**WHEREAS**, the Association's governing documents include citations and references to the *old* Davis-Stirling Common Interest Development Act's (the "Davis-Stirling Act") code sections, see Civil Code § 1350 et seq.;

**WHEREAS**, in accordance with Civil Code § 4235, if the governing documents include a reference to a provision of the Davis-Stirling Act that was repealed and continued in a new provision by the Davis-Stirling Act that added Civil Code § 4235, the Board may restate the governing documents, solely to correct the cross-reference, by adopting a board resolution that shows the corrections;

**WHEREAS**, the Association seeks to correct Civil Code section number references in its governing documents to refer to the *new* Davis-Stirling Act (see Civil Code § 4000 et seq.) to avoid confusion, facilitate compliance, and simplify governance;

**WHEREAS**, the Board with the assistance of its legal counsel restated the governing documents to show the new statutory references in the new Davis-Stirling Act; and

**WHEREAS**, member approval is not required for this resolution pursuant to Civil Code § 4235.

**NOW, THEREFORE, IT IS RESOLVED**, that the Board approves the decision to restate the Association's governing documents solely to correct citation numbers to correlate with the new Davis-Stirling Act's statute numbers pursuant to Civil Code § 4235;

**BE IT FURTHER RESOLVED**, that the changes to the governing documents reflect the new citation numbers and correlate with the new Davis-Stirling Act's statute numbers as shown in the restated governing documents; and

**BE IT FURTHER RESOLVED**, that the Board may, within 15 days following the adoption of the restated governing documents, notify the Association Members that the restated governing documents have been adopted.

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#### CERTIFICATE OF SECRETARY

I hereby certify that I am the Secretary of the Glenshire/Devonshire Residents Association, and the foregoing resolution was adopted by the required vote of the Board at its meeting on 3-12-2014, and that said Resolution remains in full force and effect.

Dated: 3-12-2014

By: Charles Timinsky  
[print name] Secretary

## ACKNOWLEDGMENT

State of California  
County of Nevada

On 3-12-2014 before me, Stacy Nicholls, Notary Public  
(insert name and title of the officer)

personally appeared Sally Lyon and Charles Timinoky  
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 su (Seal)

