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WHEN RECORDED, MAIL TO:**

**SPROUL TROST, LLP  
Attn: Curtis C. Sproul, Esq.  
3200 Douglas Boulevard, Suite 300  
Roseville, California 95661**

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*(Space Above For Recorder's Use)*

**FIRST AMENDMENT OF THE SECOND AMENDED AND RESTATED  
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
FOR ROCKY RIDGE**

**FIRST AMENDMENT OF THE  
SECOND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR ROCKY RIDGE**

This First Amendment of the Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Rocky Ridge (the "*First Amendment*") is made by the Rocky Ridge Properties Owners Association, a California nonprofit mutual benefit corporation (the "*Association*"), with the approval of its Members, as attested below.

**RECITALS**

A Previously, on August 15, 2018 the Association, with the approval of its Members, recorded in the Official Records of Placer County, California as Document No. 2018-0058916-00 a "Second Amended and Restated Declaration of Covenants, Conditions and Restrictions for Rocky Ridge" (the "*Second Restated Declaration*").

B The Second Restated Declaration affects that certain common interest development situated within the unincorporated area of Placer County, California that is more particularly known as Rocky Ridge, Tahoe City, California (the "*Development*").

C The Association is an association, as defined in California Civil Code section 4080, whose Members are comprised of the Owners of Lots in the Development. The Development includes one hundred (100) Townhome Residences located in twenty-nine (29) buildings (the "*Townhome Residences*"), two (2) free-standing, detached Residences (the "*Individual Residences*") and private roads, landscaped areas, and recreation facilities (the "*Common Areas and Common Facilities*"). The Association operates, manages and maintains the Common Areas and Common Facilities within the Development and performs certain other duties and obligations that are set forth in the Second Restated Declaration, the Association Bylaws, and the other Governing Documents. The Townhome Residences and the Individual Residences are sometimes referred to herein collectively as the "*Residences*". Pursuant to Section 9.01(b) of the Second Restated Declaration, the Association also maintains policies of fire and casualty insurance on the Townhome Residences and on the Common Areas and the Common Facilities. Those policies of insurance do not provide casualty coverage for the Individual Residences.

D Article XII of the Second Restated Declaration provides that the Declaration can be amended with the prior approval of a simple majority of the Voting Power of the Members of the Association. By executing this First Amendment on behalf of the Association, the undersigned President and Secretary of the Association hereby certify, pursuant to California Civil Code section 4270(a)(2), that the requisite number of affirmative Member votes required to amend the Second Restated Declaration were in fact obtained, as more particularly described in Section 6.01(b) of the Second Restated Declaration.

E. The primary purposes of this First Amendment are: (i) to clarify the allocation of Association duties and responsibilities with respect to the maintenance, repair, and damage to Townhome Residences on the one hand and the Individual Residences on the other hand; (ii) to clarify the casualty insurance obligations of the Association and the Owners of the Individual

Residences and the Townhome Residences; (iii) to clarify certain rights and responsibilities of the Owners and the Association with respect to repair, replacement and potential sale of improvements following a casualty event; and (iv) to fairly allocate the Association's Annual and Special Assessment obligations as between the Owners of Townhome Residences and the Owners of the Individual Residences.

### AMENDMENT

1. The following new defined terms shall be added to Article I of the Second Restated Declaration if this First Amendment is approved and in that event the numbering of subsections in Article I, and any subsequent cross-references to any Article I defined terms, shall be revised to include the new defined terms in chronological order in the conformed copy of the Second Restated Declaration that is recorded in the Official Records of Placer County, California pursuant to Paragraph 16 of this First Amendment:

*"Additional Restrictions"* shall be as defined in Section 10.06(b)(i), below.

*"Anticipated Common Area Repair Costs"* shall be as defined in Section 10.02(b)(i), below.

*"Anticipated Common Area Insurance/Reserve Resources"* shall be as defined in Section 10.02(b)(ii), below.

*"Anticipated Townhome Repair Costs"* shall be as defined in Section 10.02(a)(i), below.

*"Anticipated Townhome Insurance/Reserve Resources"* shall be as defined in Section 10.02(a)(ii), below

*"Covered Damage Event"* shall be as defined in Section 9.01(b), below.

*"Damaged Townhome Component"* shall be as defined in Section 10.02, below.

*"Major Common Area Damage or Destruction"* is a term that is used in this Declaration to refer to fire, earthquake or other casualty events that result in damage or total destruction to Common Areas or Common Facilities that causes damage to Common Areas or Common Facilities (either individually or in the aggregate) in an amount that, in order to repair or replace, is estimated to cost more than One Hundred Thousand Dollars (\$100,000.00) (as said figure shall be increased by an amount proportional to any increases in the consumer price index in the Reno area from January 1, 2021 through the date of the casualty event, as reasonably determined by the Board).

*"Major Damage or Destruction"* is a collective term that means and refers to an event constituting either a Major Common Area Damage or Destruction event or a Major Townhome Damage or Destruction event.

*"Major Townhome Damage or Destruction"* is a term that is used in this Declaration to refer to fire, earthquake or other casualty events that result in damage or total destruction

to Townhome Residences components for which the Association has maintenance and repair responsibilities when:

(i) a casualty event occurs and the damage is within the scope of damages covered by the type of insurance that the Association is required to maintain pursuant to Sections 9.01(a) or (b), below (whether or not that insurance has actually been procured as of the date of the casualty event); and

(ii) the casualty event causes damage to Townhome Residences (either individually or in the aggregate) in an amount that, in order to repair or replace, is estimated to cost more than One Hundred Fifty Thousand Dollars (\$150,000.00) (as said figure shall be increased by an amount proportional to any increase in the consumer price index in the Reno area from January 1, 2021 through the date of the casualty event, as reasonably determined by the Board).

**"Project Sale Offer"** shall be as defined in Section 10.08, below.

**"Repair Election"** shall be as defined in Section 10.03(e), below.

**"Repair Election Deadline"** shall be as defined in Section 10.03(e), below.

**"Repair Plan"** shall be as defined in Section 10.03(d), below (i.e., a plan adopted by the Board and presented to the Owners for raising the necessary funds required to fully cover Anticipated Townhome Repair Costs and Anticipated Common Area Repair Costs where available insurance and Reserve proceeds do not fully cover the estimated repair costs).

**"Shell"** means and refers to those elements of each Townhome Residence improvements that are customarily covered by an "All-Risk" master policy of property insurance providing coverage against loss or damage by fire or other casualty to the extent provided by what the insurance industry commonly refers to as "bare walls coverage" (see Section 9.01(b), below).

2. Section 1.17 of the Second Restated Declaration is amended in full to read as follows:

Section 1.17. **"Common Expense"** means any use of Common Funds authorized by Article IV, below, and Article IX of the Bylaws and includes, without limitation all expenses or charges incurred by or on behalf of the Association for: (a) the management, maintenance, administration, insurance, operation, repairs, additions, alterations or reconstruction of the Common Areas and Common Facilities; (b) maintenance, repair and eventual replacement of those portions of the Townhome Residences that the Association is obligated to maintain, repair and replace; (c) expenses incurred for removal of snow from the driveways and walkways to the Individual and Townhome Residences in accordance with Section 6.01, subparagraphs (c) and (d), below (including, without limitation, any insurance premiums that the Association pays to protect against exposure to liability arising out of any activities related to such work); (d)

all expenses or charges reasonably incurred to procure insurance for the protection of the Association and its Board of Directors and casualty insurance for the Townhome Residences to the extent required by Article IX, below; (e) any amounts reasonably necessary for Reserves for maintenance, repair and replacement of the Common Areas and Common Facilities or any portion of the Townhome Residences that the Association is obligated to maintain, repair, or replace, and for nonpayment of any Assessments; and (f) 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 this Declaration and the other Governing Documents of the Association.

3. Section 1.30 of the Second Restated Declaration is amended in full to read as follows:

Section 1.30. "**Lot**" shall mean any plot of land shown upon any recorded Subdivision Map of the Development upon which a Residence has been constructed, with the exception of the Common Areas. Unless expressly indicated to the contrary, any reference to "Lot" or "Lots" shall also mean and refer to both (a) the Walsh Lot (Section 1.47) and the Arnett Lot (Section 1.07), each of which are sometimes referred to herein as the "**Individual Residence Lots**" and (b) each of the other one hundred (100) Lots, which are, at times, referred to herein collectively as the "**Townhome Residence Lots**". Each Individual Residence Lot and Townhome Residence Lot sometimes is referred to herein as a "**Residence Lot**."

4. Section 1.42 of the Second Restated Declaration is amended in full to read as follows:

Section 1.42. "**Residence**" shall mean a structure located upon a Lot which is designed for human residential use and occupancy. Within the Development there are one hundred (100) **Townhome Residences** and two (2) **Individual Residences**.

5. The first sentence of Section 3.03 of the Second Restated Declaration is amended in full to read as follows:

Section 3.03. Member Voting Rights. In accordance with Civil Code section 5105(g), all Members shall be entitled to vote in the election or recall of directors and other matters requiring approval of the Members under the Governing Documents or by law, unless the person was not a Member at the time when ballots are distributed. Members may cast one vote for each Residence Lot that the Member owns, regardless of the number of co-Owners of a Lot or the manner in which title to a Lot is held (trust, corporation, partnership, limited liability company, etc.).

6. Section 3.10 ("**Access to Residences**") is amended to add the following sentences at the end of that Section:

Residence Owners are encouraged to provide management with an access key to the Owner's Residence to facilitate access when the Residence is unoccupied. Access keys provided to management will not be provided or shared with any individuals other than authorized management personnel without the Owner's authorization. If an access key is not provided and entry to a Residence in an emergency is compromised, the resulting loss shall be at the Owner's sole expense, subject to the coverage terms of insurance policies maintained by the Association or the Owners of the impacted Residence Lot.

7. Section 4.02(c) of the Second Restated Declaration is amended in full to read as follows:

(c) Allocation and Payment of Annual Assessments.

(i) Allocation of Annual Assessments, Generally. In accordance with Civil Code sections 5600 and 5300(b) and except as provided in subparagraph (c)(ii) below and subject to the Member approval requirements stated in subparagraph (b), above, the Board shall levy Annual Assessments sufficient to perform its obligations under the Governing Documents and the Davis-Stirling Act and shall allocate and assess the amount of estimated required funds to defray Common Expenses equally among the Residence Lots by dividing the estimated amount by the number of Residence Lots within the Development.

(ii) Exemption of Individual Lot and Residence Owners from Certain Annual Assessments. Notwithstanding the equal allocation of Annual Assessments in accordance with subparagraph (c)(i), above, for all fiscal years commencing after December 31, 2020, the Owners of the Individual Residence Lots shall be exempt from the payment of any portion of the Annual Assessment that is identified in the Association's annual budget report as being levied to fund the Association's costs and expenses of: (A) maintaining certain elements of the Townhome Residence buildings or contributions to Reserves for the eventual major repair or replacement of those elements of the Townhome Residence buildings that are identified in Section 6.01(b), below; or (B) procuring insurance in accordance with Article IX, below, to cover damages arising out of fire or other casualty events to the Townhome Residences.

In preparing the annual budget of the Association for fiscal years commencing after December 31, 2020, the Association Board shall make reasonable efforts to identify and to segregate the costs, expenses and insurance premiums incurred in the maintenance of Common Areas and Common Facilities, on the one hand, and the costs, expenses and insurance premiums that are budgeted for Common Expenses exclusively relating to the Townhome Residence buildings, on the other hand.

(iii) Waiver for Allocations for Periods Prior to December 31, 2020. All Owners waive any claims or rights to object to the allocations of expenses incurred

for fiscal years prior to December 31, 2020 for purposes of calculating the amount of the Annual Assessment allocable to each Owner for such periods.

(iv) Payment of Annual Assessments. Unless the Board shall designate otherwise, Annual Assessments shall be levied on an annual basis and shall be paid in four (4) equal quarterly installments in advance during each fiscal year, and each installment shall be due and payable on the first day of each calendar quarter. Installments of Annual Assessments shall be delinquent if not paid within thirty (30) days of the due date as established by the Board.

8. Subparagraph (f) of Section 4.02 of the Second Restated Declaration is hereby deleted.

9. Subparagraph (a)(iv) of Section 4.03 of the Second Restated Declaration is hereby amended to read in its entirety as follows:

“(iv) Major Capital Repair and Replacement Works of Improvement. As more particularly provided in Section 10.03, below, the Board shall be entitled to levy a Special Assessment to fund the costs of repairing or replacing Damaged Townhome Components or damaged components of the Common Facilities, to the extent that insurance proceeds are not sufficient to cover the costs thereof. Any such levy may be subject to the Member approval requirements set forth in Section 4.03, Section 4.08 and Section 10.03 hereof.”

10. The following sentence shall be added at the end of Section 4.03(c)(i) of the Second Restated Declaration:

"In accordance with Section 4.02(c)(ii), above, Owners of the Individual Residences and Individual Residence Lots shall not be responsible for any portion of a Special Assessment that is levied by the Association to fund uninsured repair or reconstruction costs incurred from or after December 31, 2020 relating to those portions of the Townhome Residences and Townhome Residence Lots that the Association is obligated to maintain, repair and/or replace."

11. The following sentence shall be added at the end of Section 4.04(a)(i) of the Second Restated Declaration:

"The obligations of an Owner to make payments pursuant to this Section 4.04(a)(i) are subject to Section 9.05 of this Declaration (entitled "***Limitation on Liability***")."

12. The following sentence shall be added at the end of Section 4.08 of the Second Restated Declaration:

"In the event that an increase in the Annual Assessment or a Special Assessment is required solely to fund Common Expenses for which the Individual Residence/Lot Owners are exempt pursuant to Sections 4.02(c) and 4.03(c),

above, any Member approval required by this Section 4.08 shall be limited to a vote of the Owners of the Townhome Residence Lots (and the Owners of the Individual Residence Lots shall not be considered as eligible voting Members for purposes of any such vote)."

13. Article VI of the Declaration ("**Association and Owner Maintenance Responsibilities**") shall be amended in its entirety to read as set forth in Exhibit "A" of this First Amendment.

14. Article IX of the Declaration ("**Insurance**") shall be amended in its entirety to read as set forth in Exhibit "B" of this First Amendment.

15. Article X of the Declaration ("**Damage, Destruction, and Condemnation**") shall be amended in its entirety to read as set forth in Exhibit "C" of this First Amendment.

16. Except as herein amended, the Second Restated Declaration referenced in Recital "A", above is confirmed and remains in full force and effect. All capitalized terms used in this First Amendment that are not defined herein shall have the meanings given to those terms in the Second Restated Declaration. Upon approval of this First Amendment the Board of Directors is authorized and empowered to prepare and record in the Official Records of Placer County, California, a conformed copy of the Second Restated Declaration that includes the revisions and amendments approved by this First Amendment so long as the facing page of the conformed copy that is recorded in the Official Records of Placer County clearly states that the document includes the provisions of this First Amendment.

Dated: \_\_\_\_\_, 2021

**ROCKY RIDGE PROPERTIES OWNERS ASSOCIATION**, a  
California nonprofit mutual benefit corporation

By: \_\_\_\_\_  
*Steve Dohrmann, President*

By: \_\_\_\_\_  
*Bruce Shepherd, Secretary*



## ACKNOWLEDGMENT

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

State of California  
County of \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_  
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

## ACKNOWLEDGMENT

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

State of California  
County of \_\_\_\_\_)

On \_\_\_\_\_ before me, \_\_\_\_\_  
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**EXHIBIT "A"**

**ARTICLE VI**  
**ASSOCIATION AND OWNER MAINTENANCE RESPONSIBILITIES**

Section 6.01. Association Maintenance Responsibilities. Subject to the provisions of Article X ("*Damage & Destruction*"), below, which shall apply to the extent of any inconsistency with the provisions of this Article VI, the provisions of this Article VI shall define the Association's maintenance, repair and replacement obligations within the Development:

(a) Maintenance of the Common Areas and Common Facilities. To ensure the continued attractive appearance and appeal of the Development, the Association shall take all necessary steps to either perform or have performed all maintenance which in the discretion of the Board, in consultation with the Manager, is necessary or appropriate to maintain a standard of quality and appearance that is commensurate with other similar planned developments and condominium projects in Tahoe City and along the north and west shores of Lake Tahoe.

(i) The Association shall provide maintenance, repair, and replacement of the Common Areas and all Common Facilities of the Development that are necessary or appropriate to keep such property in good condition and repair to the standard stated in subparagraph (a), above. The Association's obligations hereunder shall include, without limitation, the following Common Facilities: (A) the Association beach area and its clubhouse and other amenities; (B) the community pier, the buoys and buoy field; (C) the swimming pools, and tennis courts, the bocce ball and basketball courts; (D) the Development's private streets and driveways (and the entrance gate and its electronic components); (E) the walkways leading to the Townhome Residences; (F) Common Area landscaping; (G) utility facilities (except for those utility facilities that are maintained by public or private utility companies or agencies); and (H) other miscellaneous Common Facility improvements and other real and/or personal property that may be acquired by the Association.

(ii) To the extent the Association must repair or replace any Common Area or Common Facility, the Board shall determine the nature and scope of the repair and replacement work to be undertaken. In making such determination, the Board shall not be obligated to reinstitute the same Common Areas and Common Facilities as existed previously, although the Association shall endeavor to cause the repaired or replaced Common Areas and/or Common Facilities to be reasonably compatible with the layout, design and architectural scheme of the overall Development. The Board in its discretion: (A) may adjust the repair and replacement of the particular Common Areas or Common Facilities so as to achieve, to the extent reasonably possible, repaired or replaced Common Areas and Common Facilities which the Board believes are appropriate in scope and overall quality of the Rocky Ridge Development as originally planned and conceived, and (B) may modify or eliminate components of the Common Areas and Common Facilities so as to reduce the anticipated total repair and replacement costs and/or implement necessary changes in Building or Fire Code requirements. The Board's decisions in this regard may be impacted by the scope of resources available for such repairs or replacements, and the Board is authorized to pursue and implement such repairs or replacements as the Board deems to be in the best interests of the Association and its Members in the context of the resources available to complete the repair or replacement work.

However, in the event that any major changes are being considered by the Board of Directors to the Common Areas or Common Facilities, a Board meeting that is open to attendance by the Members shall be required to present the proposed modifications and their anticipated costs as part of the agenda materials for the meeting (see Bylaws at Sections 8.05(d) and 8.06(c)).

(b) Association Responsibilities with Respect to the Maintenance of Townhome Residences. The Association shall provide maintenance, repair and replacement to the Townhome Residences on each Lot, but not with respect to the Individual Residences on the Individual Residence Lots, as follows:

- (i) Foundations of the Townhome Residences;
- (ii) The exterior elements and the "*Shell*" (as such term is used and defined in Section 9.01(b), below) of each Townhome Residence, including but not limited to (A) the exterior siding, (B) the structural elements of the floors or walls, (C) the structural elements of the roofs and other elements of the roofs, and (D) exterior wood doors, trim, decks, patios, balconies, exterior staircases, railings, windows (exclusive of window and sliding door glass and frame components, unless replacement of such windows or sliding door glass and frame components is needed due to an event of Major Townhome Damage or Destruction, in which case the replacement of such elements shall be the responsibility of the Association).
- (iii) Inspection and cleaning of fireplace chimneys and chimney flues (other than routine removal of ash from fireplace boxes within the Townhome Residences, which shall be disposed of by the Owner of the Townhome Residence in a safe manner);
- (iv) Annual inspection of furnaces and changing of furnace filters in the Townhome Residences. In the event that the inspection discloses other repair and replacement issues that are beyond the Association's routine maintenance and inspection duties, the Association shall so notify the Owner and it shall be the Owner's responsibility to initiate further remediation work that the Owner considers to be necessary or appropriate.

Maintenance of Townhome Residences by the Association shall include, but shall not be limited to: painting, staining, and caulking of Townhome Residence decks and building exteriors, and replacement of materials involved in such tasks, including upgrades where necessary due to changes in applicable Building or Fire Codes, or as deemed to be appropriate in the sole discretion of the Board in consultation with the Manager. If the Association is required to repair or replace any Townhome Residence elements pursuant to this Section 6.01(b), it shall make such repair or replacement as the Association deems to be in the best interest of the Association, provided that (A) the repair or replacement shall be reasonably consistent with the previously existing layout, design and architectural scheme of the Townhome Residence or

Residences in question (taking advantage of technological advances or changes mandated by current applicable Building or Fire Codes), and (B) the work and materials shall be of as good or better quality as the previously existing improvements. In the event an Owner has modified or made additions to a Townhome Residence in an area of the Townhome Residence or to a component of the Residence that would otherwise be the maintenance responsibility of the Association and which modifications increase the maintenance cost to the Association, the Owner shall reimburse the Association for the cost of this additional maintenance obligation which may be subject to a Reimbursement Assessment pursuant to Section 4.04 of this Declaration.

Except as provided in this Section 6.01(b), all other maintenance and repair to Townhome Residences shall be done by and at the expense of the Owner of the Townhome Residence pursuant to Section 6.02, below.

(c) Maintenance of the Individual Residences. With the exception of: (i) snow removal as needed to provide access to the front door of the Individual Residences on the Individual Residence Lots and (ii) maintenance of the asphalt surface of the driveways, walkways or pathways providing access to the front doors of the Individual Residences in accordance with subparagraph (d), below, the Association shall have no responsibility for the repair or maintenance of the Individual Residence Lots and the Individual Residences, it being the responsibility of the Owners of those Individual Residence Lots to repair and maintain the Individual Residence Lots and Individual Residences thereon in a neat, attractive and fire-safe condition.

(d) Association Responsibilities with Respect to Roads, Driveways, Walkways and Pathways; Snow Removal. The Association shall maintain the surfaces (paving and sealing) of:

- (i) all Common Area roads and driveways;
- (ii) the paved driveways, walkways or pathways providing access to the front door of all Townhome Residences; and
- (iii) the paved driveways, walkways and pathways providing access to the front door of the Individual Residences.

The Association shall also provide for snow removal from the driveways, walkways, and pathways to the front doors of the Residences throughout the Development as deemed appropriate in the discretion of the Board. In times of extremely heavy snow storms, immediate removal of accumulated snow from pathways and access ways to the front doors of Residences cannot be guaranteed. Owners who are planning to occupy their Residences during projected heavy snow events are encouraged to contact the Association's management in advance of their arrival date.

(e) Authority of the Association to Enter Lots and Residences. Most Residences in the Rocky Ridge development are second homes which make it difficult if not impossible to provide timely prior notice to Owners when the Association and its maintenance personnel require access to a Townhome Residence to perform routine maintenance or repair

responsibilities to Townhome Residence buildings or emergency repairs that are the Association's responsibility. Accordingly, the Association, its management personnel, or other agents may enter any Lot or Townhome Residence whenever such entry is necessary: (i) in connection with the performance of any maintenance, repair, construction, or replacement for which the Association is responsible or other work that the Association is authorized to perform under this Declaration; or (ii) when entry is necessary to respond to an emergency threatening the Townhome Residence or an adjoining Townhome Residence when no person is occupying the Residence (such as a burst water line). Such entry shall be made with as little inconvenience to any persons occupying a Townhome Residence as reasonably practicable (see also Section 3.10, above).

(f) Limited Association Liability. The Association's liability for maintenance of Individual Residence Lots is limited as set forth in Section 6.01(c) and Section 6.01(d), above, except to the extent that the need for such maintenance, repair, or replacement results from the negligence or fault of the Association, its employees, contractors, or agents (it being understood that the Association's liability for any such negligence or fault is further subject to Section 9.05, below).

#### Section 6.02. Owner Maintenance and Repair Responsibilities.

(a) Maintenance of Townhome Residences and Townhome Residence Lots. As provided in Section 6.01(b), except to the extent that maintenance of any improvement on a Townhome Residence Lot is expressly and clearly made the responsibility of the Association pursuant to said Section, each Owner of a Townhome Residence Lot shall be responsible for the maintenance, repair and replacement of his or her Townhome Residence and Lot and all improvements thereon. Such responsibility of each Owner includes in particular all fixtures, screens, screen doors, water heaters, windows (including the replacement of double pane windows that exhibit moisture intrusion), slider glass doors, and HVAC systems (except, in the case of the windows and slider doors, as expressly provided in Section 6.01(b)(ii), above).

(b) Maintenance of Individual Residence Lots. Except as provided in Section 6.01(c) or Section 6.01(d) above, the Owners of the two Individual Residence Lots shall be solely responsible for the maintenance, repair and replacement of all improvements, including Individual Residence structures and landscaping on their respective Individual Residence Lots. Said responsibility shall include clearing and cleaning the Individual Residence Lots (and the Improvements thereon) to restore the Individual Residence Lot to a reasonably attractive state following a casualty affecting the Lot.

(c) Compliance with Architectural Guidelines and Local Governmental Regulations. The right and responsibility of all Owners to repair, maintain and replace any portions of his or her Lot and Residence shall be subject to any applicable provisions of the Governing Documents relating to landscaping and architectural review and approval, including Article V, above and any governmental regulations applicable at the time the repair project is required. To the extent that repair or replacement of any component of an HVAC system requires any breach of the exterior surfaces of a Townhome Residence, the project must be approved in advance by the Architectural Control Committee.

(d) Board Discretion. The Board shall have the absolute discretion to determine whether any maintenance, repair, or replacement, which is the responsibility of an Owner, is necessary to preserve the appearance and value of the property within the Development or any portion thereof and may notify an Owner of the work the Board deems necessary with respect to the Owner's Residence (involving elements or components that are not the responsibility of the Association under 6.01, above) and the Association's notice shall include a description of the desired maintenance, repair or replacement remedial work. If an Owner fails to perform the described remedial work within sixty (60) days after notification by the Board to the Owner (or, if the remedial work reasonably requires greater than sixty (60) days to complete, if the Owner fails to commence the remedial work within the sixty (60) day period and to thereafter reasonably prosecute the remedial work to completion), then the Board may, after providing Individual Notice to the Owner (which shall afford the Owner an opportunity for a hearing before the Board) cause such work to be done and charge the cost thereof to the Owner as a Reimbursement Assessment.

(e) Chimneys/Flues. The Association may conduct periodic inspections of Townhome Residence fireplace chimneys/flues for conditions that may present a fire hazard. If such conditions are found, the Board will inform the Owner of the subject Townhome Residence in writing and require that specified repairs be made, at the Owner's expense (and at no expense to the Association). If the Owner fails to make the specified repairs within a reasonable time, the Association may have the repairs made and collect all costs thereof from the Owner as a Reimbursement Assessment.

(f) Shut-Off Water Valves. In order to prevent insurance claims arising from plumbing failures and resulting water damage during periods when the Townhome Residences are not occupied, each Townhome Residence shall have installed and maintained a water service shut-off valve. Townhome Residence Owners shall be solely responsible for closing the shut-off valve when their property is likely to be vacant for more than forty-eight (48) consecutive hours and shall be solely responsible for advising non-Owner occupants of the Townhome Residence of this obligation. In the event water damage occurs to a Townhome Residence resulting from failure to install, maintain or close a shut-off valve as required herein, or due to an Owner's failure to comply with the Townhome Residence heating requirements set forth in subparagraph (g), below, the Association shall have no responsibility to repair any such resultant damage, and the Owner of the damaged Townhome Residence shall not submit a claim to any insurance maintained by the Association which may be applicable to the loss. In the event that Association insurance responds to any such loss, and that response results in an increase in premiums or other financial detriment to the Association, the Owner of the subject damaged Residence shall reimburse the Association for all such financial damage as a Reimbursement Assessment in accordance with Section 4.04 of this Declaration.

(g) Seasonal Townhome Residence Heating Requirements. To reduce the risk of freezing water causing a breach in water and sewer lines within Townhome Residences, in the months of September through May of each year, Owners, guests, and tenants shall maintain Townhome Residence thermostats at a minimum of fifty (50) degrees Fahrenheit. The September through May timeframe is advisory only and Owners should take into consideration actual weather, temperature, and storm patterns in any particular year. If the primary residence of a Townhome Residence Owner is not within a reasonably proximate distance from the

Development, it is recommended that the thermostat temperature remain at fifty (50) degrees for most of the year.

(h) Owner Liability for Damage to Townhome Residences Regardless of the Stated Allocation of Association and Owner Maintenance and Repair Responsibilities: If the following elements are established, any repair, replacement or restoration shall be the responsibility of the Owner of the Townhome Residence:

(i) A component of a Townhome Residence which the Association is charged to maintain under the terms of this Declaration requires maintenance, repair or replacement, and

(ii) The need for the maintenance, repair or replacement is caused by a willful or negligent act or omission of an Owner or an Owner's family, tenants, contract purchaser, guests, invitees, or household pets.

Under those circumstances, the cost of such maintenance, repair, or replacement (including the cost of materials, labor, supplies, and services involved with such maintenance, repair or replacement, to the extent not covered by insurance proceeds (or to the extent borne by the Association as a portion of a deductible applicable to such insurance), shall be charged to, and paid by, such Owner in the form of a Reimbursement Assessment pursuant to Section 4.04, above; provided, however that such Owner's liability for any such maintenance, repair or replacement shall be subject to Section 9.05, below.



## EXHIBIT "B"

### ARTICLE IX INSURANCE

Section 9.01. Association Insurance Obligations and Types of Coverage. The Board shall obtain and maintain the insurance policies enumerated in this Section 9.01, below, unless the Board determines in accordance with the annual review of Association insurance obligations described in Section 9.02(k), below, that the cost is so significant (in relation to premium costs in prior recent years) as to make maintenance of the insurance not in the best interest of the Association and its Members. Subject to Section 9.02(k) and (l), below, the Association shall be obligated to maintain the following types of insurance:

(a) Common Area Property Insurance. A Special Form or "All-Risk" master policy of property insurance providing coverage for loss or damage to all insurable Common Facilities and other Common Area improvements, excluding earthquake, flood and other perils commonly excluded. Said insurance shall include coverage: (i) for loss or damage caused by fire or other insured casualty; (ii) for any such loss or damage to fixtures and building service equipment owned by the Association; and (iii) coverage in an amount equal to the full replacement cost (without respect to depreciation). A replacement cost endorsement shall be part of the policy.

(b) Association's Obligation to Provide Blanket Property Insurance Covering Certain Elements of the Townhome Residence Structures. A Special Form or "All-Risk" master policy of property insurance for all Townhome Residences providing coverage against loss or damage by fire or other casualty in an amount equal to the cost of rebuilding all Townhome Residences to a "Shell" (without respect to depreciation). References to the "*Shell*" of Townhome Residences means and refers to the Association's obligation to provide a master policy of casualty insurance coverage, to the extent obtainable, that will repair, reconstruct or rebuild the following elements of the Townhome Residence:

(i) all exterior improvements;

(ii) all interior improvements to, and including, the walls, the sheetrock or other wall coverings (such as plywood) as constructed by the original contractor, and the structural elements (including the floors) in damaged Townhome Residences (but excluding non-structural finish work pertaining to the same, such as carpeting, tile or enhanced wood flooring);

(iii) wiring, piping, ducting and other infrastructure required for connections for electricity, gas, plumbing and other utilities (but excluding the internal fixtures for provision of the same, such as light fixtures and electrical appliances) at the point where the utility service enters the interior wall of the Townhome Residence;

(iv) coverage against loss or damage to exterior windows and sliding glass doors to the extent caused by an event of Major Townhome Damage or Destruction (see Section 6.01(b)(ii), above);

(v) coverage for changes in applicable Building Codes where current Building Codes provide for upgraded construction items and procedures;

(vi) to the extent obtainable, coverage for professional fees incurred to evaluate the scope of required remedial work, obtain necessary permits, and provide competent project management and oversight; and

(vii) in the discretion of the Board such additional perils such as earthquake or flood coverage in accordance with standards recommended by the insurance agents and prevailing in other comparable townhome and condominium projects in Tahoe City and along the north and west shores of Lake Tahoe.

For purposes of clarification, reference to the Association's repair, reconstruction and replacement obligations encompassing and being limited to the "*Shell*" of the Townhome Residences is intended to include those elements of the Townhome Residence improvements that are customarily covered by what the insurance industry commonly refers to as "bare walls coverage". That form of casualty insurance coverage does not include the following Townhome Residence elements which are the responsibility of the Townhome Residence Owner: fixtures, cabinets, counters, countertops, carpeting or other floor coverings or surfaces, interior paint or wall surfaces or coverings that were not part of the original construction of the Townhome Residence, hot water heaters, or any other Townhome Residence improvements beyond the Shell elements of the Townhome Residences. The Association's policy shall also exclude the HVAC system components servicing a Townhome Residence, other than the replacement of ductwork. The Association's insurance also provides no coverage for the personal property in the Townhome Residences, or the personal liability of Townhome Owners or residents for damages or injuries occurring within the Townhome Residences.

The Association also shall endeavor to cause the insurance procured pursuant to this Section 9.01(b) to establish a time period of at least ninety (90) days (following the date that the Association knew or should have known of the occurrence of a "*Covered Damage Event*", as such term is used in Section 9.04, below), for the Association or an Owner to file a claim with the insurer with respect to such Covered Damage Event (or any loss or damage arising out of such Covered Damage Event) without the Association or the Owner suffering any diminution in the losses or damages covered by the insurance policy with respect to such Covered Damage Event.

(c) Liability Insurance. A combined single limit policy of liability insurance in an amount not less than Five Million Dollars (\$5,000,000.00) covering the Common Area and Common Facilities, and all damage or injury caused by the Association, the Board or any of its agents or the Owners against any liability to the public or to any Owner incident to the use of, or resulting from, any accident or act of an Owner or a third party occurring (i) in or about any Common Area or Common Facility or (ii) as a result of acts or omissions arising in connection with the performance by the Association of its obligations under Article VI, above. If available, each policy shall contain a cross liability endorsement in which the rights of the named insured shall not be prejudiced with respect to any action by one named insured against another named insured, although the Association's policy may be written as a primary or umbrella policy.

(d) Worker's Compensation Insurance. Worker's compensation insurance to the extent necessary to comply with all applicable laws of the State of California or the regulations of any governmental body or authority having jurisdiction over the Project.

(e) Directors and Officers. Errors and omissions insurance covering individual liability of Directors and Officers for their negligent acts or omissions while acting in their capacities as Directors and Officers in an amount equal to at least Seven Million Five Hundred Thousand Dollars (\$7,500,000.00).

(f) Other Insurance. Other types of insurance as the Board determines in the reasonable exercise of its discretion to be necessary to fully protect the interests of the Owners.

Section 9.02. Other Matters Pertaining to Association Insurance Obligations. All insurance policies maintained by the Association pursuant to Section 9.01(a) through (e), above, shall be subject to and, where applicable, shall contain the following provisions and limitations:

(a) Named Insured. Unless otherwise provided in this Section, the named insured shall be the Association or its authorized representatives, as a trustee for the Owners. However, all policies covering Townhome Residences shall be for the benefit of Owners and their Mortgagees, as their interests may appear.

(b) Statement of the Board's Authority to Negotiate. Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board; provided, however, that (i) no Mortgagee having an interest in such losses may be prohibited from participating in any settlement negotiations related thereto and (ii) the provisions of this Section 9.02(b) shall not limit the rights of Owners under Section 9.04, below.

(c) Contribution. The insurance coverage obtained and maintained by the Association will be excess to other valid and collectible insurance purchased by Owners or their Mortgagees.

(d) General Provisions. The Board, in its sole discretion, shall make every reasonable effort, given reasonable availability and including economic considerations, to secure insurance policies providing for the following:

- (i) The policy or policies shall provide that the policy may not be canceled or substantially modified without at least thirty (30) days' prior written notice to the Association;
- (ii) An agreed amount endorsement;
- (iii) A guaranteed replacement cost or replacement cost endorsement;
- (iv) An inflation guard endorsement; and
- (v) An endorsement assuring the Association that it will not be treated as a co-insurer (even if the Association proves to be under-insured).

(e) Waiver of Subrogation. Any insurance maintained by the Association pursuant to this Section shall contain a "waiver of subrogation" provision pursuant to which the insurer waives any right to become subrogated to the claims of the Association against its officers, directors, employees or agents of the Association, its Members, the Owners of Lots and their respective insurers and mortgagees; and, if obtainable through commercially reasonable efforts of the Association, the insurance also shall include a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured.

(f) Term. The period of each policy shall not exceed three (3) years. Any policy for a term greater than one year must permit short rate cancellation by the insureds.

(g) Insurance Deductibles. The policies of insurance maintained by the Association may contain a deductible in an amount determined by the Board and the amount of the deductible shall be added to the face amount of the policy in determining whether the insurance equals replacement cost. In the event the Association changes the deductible under the Association's master insurance policy, the Association is responsible for informing Owners of the change in order to comply with the requirement for loss assessment coverage pursuant to Section 9.03(a), below, in the event that the Board determines that such coverage must be maintained by Owners. Unless the Board determines otherwise, the Association shall pay deductibles required under any insurance claim from Association funds or from funds borrowed by the Association in accordance with this Declaration, in which event the Association shall levy a Special Assessment in accordance with Sections 4.04(a)(i) and 4.05, above, in the event that a loan must be procured to cover a portion of the deductible. Subject to section 9.05, below, Owners who are responsible for causing damage to elements of the Development that would otherwise be the Association's repair or replacement responsibility shall be responsible for the payment of any deductible in accordance with Section 4.04(a)(i) or 6.02(h), above, as applicable.

(h) Coverage Not Available. In the event any insurance policy, or any endorsement thereof, required by Section 9.01, above, is for any reason unavailable or prohibitively expensive, then the Association shall endeavor to obtain such other or substitute policy or endorsement as may be available which provides, as nearly as possible, the coverage stated in Section 9.01, above. The obligations of the Board under this Section 9.02(h) are subject to the provisions of Section 9.02(l), below.

(i) 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 by the Association pursuant to Section 9.01, above, including, without limitation, representing the Owners in any proceeding, negotiation, settlement or agreement. The Board is granted full right and authority to compromise and settle any claims or enforce any claim relating to the insurance maintained by the Association by legal action or otherwise and to execute releases in favor of any insured or insurer. The authority of the Board set forth in this Section 9.02(i) is subject to the provisions of Section 9.04, below.

(j) Copies of Policies. Copies of all insurance policies required to be maintained by the Association pursuant to Section 9.01, above (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.

(k) Annual Review of Association Insurance and Disclosure to Members.

The Board of Directors shall review the adequacy of all insurance that the Association is required to maintain pursuant to Section 9.01, including the amount of liability coverage and the amount of property damage coverage, at least once every year. At least once every three (3) years, the review shall include a replacement cost appraisal of all insurable Common Area Improvements without respect to depreciation. Subject to the Board's discretion exercised in accordance with Section 9.02(1), below, the Board shall adjust the policies to provide the amounts and types of coverage and protection that are customarily carried by prudent owners' associations operating in similar common interest developments in the Tahoe/Truckee region. In accordance with Civil Code section 5300(b)(9), annually the Association shall distribute to its Members a summary of the Association's property, liability, (if any), such distribution to be made as part of the Annual Budget that is distributed to the Members no earlier than ninety (90) days and no sooner than thirty (30) days prior to the end of the Association's fiscal year. To the extent that any of the information required to be disclosed pursuant to this paragraph is specified in the insurance policy declaration page, the Association may meet its obligation to disclose that information by making copies of that page and distributing it to all Members. The summary distributed pursuant to this subparagraph (k) shall contain in at least 10-point boldface type, the statement required by California Civil Code Section 5300(b)(9).

In accordance with Civil Code section 5810, the Association shall, as soon as reasonably practical, notify the Members by Individual Notice if any of the policies described in Section 9.01 that the Association is obligated to maintain have lapsed, been canceled, and are not immediately renewed, restored or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible, for any of those policies. If the Association receives any notice of nonrenewal of a policy described in this paragraph, the Association shall immediately notify the Members if replacement coverage will not be in effect by the date the existing coverage will lapse. The Association shall, as soon as reasonably practicable, provide Individual Notice pursuant to Section 4040 to all Members if any of the policies described in the Annual Budget Report pursuant to Section 5300 have lapsed, been canceled, and are not immediately renewed, restored, or replaced, or if there is a significant change, such as a reduction in coverage or limits or an increase in the deductible, as to any of those policies. If the Association receives any notice of nonrenewal of a policy described in the Annual Budget Report pursuant to Section 5300, the Association shall promptly notify the Members by some form of Individual Notice if replacement coverage will not be in effect by the date the existing coverage will lapse.

(l) Board's Authority to Revise Insurance Coverage; Member Disclosure Requirements. Notwithstanding any other provisions of this Declaration to the contrary:

(i) the Board of Directors shall have the power and right to deviate from the insurance requirements contained in Section 9.01, above, in any manner that the Board, in its reasonable business discretion, considers to be in the best interests of the Association (e.g., including adjustments in the coverage limits established by the policies, and adjustments to deductible amounts, taking into consideration advice received from the Association's insurance broker regarding prevailing insurance premium costs experienced by other owner associations in the Tahoe/Truckee region of a similar size and demographic); and

(ii) the Association, and its directors and officers, shall have no liability to any Owner or Mortgagee if: (A) after a good faith effort, the Association is unable to obtain any insurance required hereunder because the insurance is no longer available; (B) if available, the insurance can be obtained only at a cost that the Board, in its sole discretion, determines is unreasonable under the circumstances; or (C) the Members fail to approve any Assessment increase that is needed to fund the insurance premiums or a short-fall in available coverage maintained by the Association (under circumstances where Member approval for the Special Assessment is required in accordance with Civil Code section 5605(b) and Section 4.08. above).

Section 9.03. Insurance Obligations of Owners.

(a) Insurance Obligations of the Owners of the Townhome Lots.

(i) Townhome Owner Insurance Obligations, Generally. Each Owner of a Townhome Residence and Lot, at that Owner's sole cost and expense, shall obtain and maintain insurance coverage to protect that Owner and cover that Owner's Lot, Residence and personal property; provided, however, that no Owner shall be entitled to maintain insurance coverage in a manner so as to decrease the amount which the Association, on behalf of all Owners and their Mortgagees, may realize under any insurance policy that the Association may have in effect at any time. As more fully set forth in Section 9.01(b), above, insurance maintained by the Association, with respect to the Townhome Residences, is intended to cover only the "Shell" of the Townhome Residences with all contents, including fixtures, or improvements made by an Owner within his or her Townhome Residence being the responsibility of the Townhome Owner to replace and/or insure. The Owner's insurance shall be of the type and nature of coverage that is commonly known as "improvements insurance" or an "HO-6" policy. Notwithstanding the minimum coverage amounts required to be maintained by Townhome Owners pursuant to subparagraph (a)(ii) of this Section 9.03, it is not the intention of the Association, or the members of its Board of Directors, to imply that insurance maintained by individual Townhome Owners is adequate. That is a determination that each Owner should make in consultation with his or her insurance agent or broker or other professional advisor, giving consideration to any betterments or upgrades that an Owner may have made or installed in his or her Townhome Residence.

Accordingly, **Townhome Owners are strongly encouraged to provide their own insurance agent, broker or other professional advisor, with a copy of the Association's blanket policy of insurance and to inquire of their agent, broker or other professional advisor if the insurance that the Owner is maintaining with respect to betterments, fixtures, and contents within the Owner's Residence (1) is providing adequate coverage and (2) meets the requirements of this Declaration.** In this vein, Owners should consider; (i) the limitations on the repair and insurance obligations of the Association pursuant to Section 9.01(b) and as disclosed in the Association's Annual Budget Report (Civil Code section 5300), and the corresponding responsibility thereby assigned to each Owner; and (ii) the potential increased costs resulting from betterments or upgrades commissioned and installed by the Owner.

(ii) Required and Recommended Insurance Coverages. Each Townhome Owner's individual package of insurance policies shall include the following **minimum coverages**:

- (A) casualty insurance coverage of at least Two Hundred Thousand Dollars (\$200,000.00);
- (B) general liability insurance coverage of at least Two Hundred Fifty Thousand Dollars (\$250,000.00); and
- (C) loss assessment coverage of at least Forty Thousand Dollars (\$40,000.00). Loss assessment coverage provides a source of funds to cover the Owner's pro-rata share of any deductible under the Association's master policy of casualty insurance and any Special Assessment liability of an Owner for losses to the Owner's Townhome Residence that are not covered under the master policy maintained by the Association pursuant to Section 9.01(b), above, or the Owner's individual insurance policy.

In addition to the insurance coverages that are required to be maintained pursuant to subparagraphs (A) through (C), above, Owners are encouraged to discuss with their personal insurance agent, broker or other professional advisor the desirability of including, in their individual policy procured in accordance with Section 9.03(a)(ii), "loss of rents and loss of use coverage" which can provide a source of payment of all or a portion of ongoing Annual Assessments and mortgage payment obligations of Owners during any period when the insured Owner is denied use of his or her Townhome Residence as the result of an event of a fire or other casualty (see also Section 9.04(a), below.

(iii) Waiver of Subrogation. The Townhome Owners agree to make reasonable efforts to include within the insurance required by this Section a waiver of subrogation provision pursuant to which the insurer waives any right to become subrogated to the claims of the Townhome Owner against the Association or the Manager, other officers, directors, employees or agents, the other Owners (including the Owners of the Individual Residence Lots) and their respective Mortgagees, agents, guests and tenants. Reasonable efforts shall include providing a copy of this Article IV to the Owner's insurance agent, broker or other professional advisor.

(iv) Designation of the Association as a Certificate Holder. The individual insurance policy or policies maintained by Townhome Owners pursuant to this subparagraph (a) shall designate the Association as a "certificate holder" so that the Association can be notified if a particular Owner's policy has lapsed or been canceled.

(b) Certain Insurance Obligations of the Owners of the Individual Residence Lots. The Owners of the two Individual Residences acknowledge their awareness that the Association's blanket policy of fire and casualty insurance provides no coverage with respect to the Individual Residence Lots or the Residence or other improvements or personal property on those Lots. Instead, the Individual Residence/Lot Owners shall be solely responsible for

providing and maintaining fire and casualty insurance for any loss or damage to their Lots and improvements or personal property located on those Lots and general liability insurance. The Owners of the Individual Residence Lots shall apply reasonable efforts to cause all individual insurance maintained by said Owner pursuant to this subparagraph (b) to contain a waiver of subrogation provision pursuant to which the insurer waives any right to become subrogated to the claims of the Owner of the Individual Residence Lot against the Association or the Manager, or their officers, directors, employees, agents, the other Owners (including the Townhome Owners) and their respective Mortgagees, agents guests and tenants.

(c) Insurance Requirements for Owner Boats That Are Moored in the Association Buoy Field. Owners must carry public liability insurance in the amount of One Million Dollars (\$1,000,000.00) (or Five Hundred Thousand Dollars (\$500,000.00) and an umbrella policy of at least Five Hundred Thousand Dollars (\$500,000.00) and property damage insurance in the amount of Two Hundred and Fifty Thousand Dollars (\$250,000.00) for each boat allocated a buoy. Said insurance further shall include a waiver of subrogation provision pursuant to which the insurer waives any right to become subrogated to the claims of the Owner of the boat (or of any other persons using the Owner's boat) against the Association or the Manager, or their officers, directors, employees, agents, the other Owners (including the Townhome Owners) and their respective Mortgagees, agents, guests and tenants. Evidence of coverage must be provided with the buoy allocation application. Owners must add the Association as an additional insured to their liability coverage say that the owner's insurance must be primary and non-contributory. Owners bear all risk of damage to their boats or injuries to occupants of the boat that occurs while the boat is moored or is entering or leaving the Rocky Ridge mooring area (including on a buoy, at the pier, or in transit to, from and within the mooring field) regardless of cause.

Section 9.04. Restriction on Owners Claims Relating to Association Insurance. No Owner may make a claim to or put either the agent, or any insurance company providing insurance to the Association, on notice of any damages or claim covered by Association maintained insurance unless and until each of the following have occurred:

(a) Obligation of Owners to Notify the Association of Covered Damage Events. The Owner shall have notified the Association that an event has occurred which caused damage to his or her Townhome Lot or Residence and to which Association-maintained insurance may apply (such damage event referred to herein as "**Covered Damage Event**"). The notice shall include a description of the event and the nature of the damage which the Owner reasonably believes is required to be borne by the Association pursuant to the terms of this Declaration and the terms of the Association's insurance policies. (In addition, but not to be considered as a part of the Owner's Notice condition, should any Owner fail to so notify the Association within fifteen (15) days following the date upon which the Owner knew or reasonably should have known of the damage (taking into account, for this purpose, the fact that many Townhome Residence Owners use their Townhome Residences only on a periodic second home basis), then the Owner (rather than the Association) shall bear any reduction in insurance coverage available as a consequence of, or any premium increases resulting from, the delay (beyond such 15 day period) in the Owner providing such information to the Association.) The Owner further shall promptly upon request provide any further information reasonably requested by the Association (and controlled by the Owner) in order to permit the Association (i) to determine the amount of loss or damage resulting from such Covered Damage Event which is required to be borne by the Association (or



its insurer) pursuant to the terms of this Declaration and (ii) to file a claim with respect to the Covered Damage Event under its insurance policy.

(b) Association's Corresponding Obligation to Notify the Insurer of a Covered Damage Event. The Association shall have failed to provide the insurer, at least thirty (30) days prior to the deadline under the Association's insurance policy, with notice of the Covered Damage Event and such further information which is reasonably required in order to make a claim under the insurance policy with respect to the damage suffered by the Owner due to the Covered Damage Event. If the Association makes such claim, the Association further shall provide notice to the Owner of the filing of the claim with the insurer.

If the above conditions are satisfied as of the thirtieth (30<sup>th</sup>) day prior to the deadline under the insurance policy for the Association to provide notice to the insurer of the Covered Damage Event, then the Owner shall have the right to take all steps necessary or appropriate (e.g., filing a claim under the insurance policy) in order to pursue the Owner's right to coverage under the insurance policy maintained by the Association.

Section 9.05 Limitation on Liability. Notwithstanding any provision of this Declaration to the contrary:

(a) No Owner (or any servant, agent, guest or tenant of any Owner) shall be liable to the Association or any other Owner for loss or damage covered by insurance that is actually procured and carried as required by the terms of this Declaration, and the Association and each Owner waive any rights of recovery against each other Owner for injury or loss on account of such loss or damage; and

(b) Neither the Association, nor the Manager nor or their officers, directors, employees or agents, shall be liable to any Owner for loss or damage covered by insurance that is actually procured and carried as required by the terms of Declaration, and each Owner waives any rights of recovery against the Association or the Manager or their officers, directors, employees and agents for injury or loss on account of such loss or damage.

**EXHIBIT "C"**

**ARTICLE X**  
**DAMAGE, DESTRUCTION AND CONDEMNATION**

Section 10.01. Obligations of the Association in Response to Events of Damage and Destruction: In the event of damage to or destruction of any of the improvements within the Development, the Association and all Owners are under the obligations hereinafter set forth to either replace, repair, and restore the damaged or destroyed improvements or, in certain circumstances described in this Article X, to sell the Townhome Lots and the Common Areas of the Development.

Section 10.02. Estimates of Costs and Resources. If any components of Townhome Residences for which the Association is responsible for maintenance, repair or replacement expenses (each such component, to the extent damaged is referred to herein as a "***Damaged Townhome Component***"), or any components of the Common Areas, are damaged by fire or other casualty to more than a *de minimus* extent, then the Association (acting at the direction of the Board) shall take the following actions in a reasonably prompt manner:

(a) Damaged Townhome Components. For the Damaged Townhome Components, the Association shall promptly make an initial estimate of each of the following and report its findings to the Townhome Residence Owners at a meeting of the Board of Directors that is open to attendance by the Members and which is preceded by issuance of a notice of the meeting that includes an agenda and the following supporting documentation to the extent that the information can be reasonably determined prior to the date of the meeting:

(i) the cost to repair and restore the Damaged Townhome Components in accordance with the original as-built plans and specifications (except as may be required by changes in Building or Fire Codes) (the "***Anticipated Townhome Repair Costs***"); and

(ii) the financial resources available to the Association to repair the Damaged Townhome Components (the "***Anticipated Townhome Insurance/Reserve Resources***"), including separate projections as to the amounts of available insurance proceeds and available Reserve Funds that may be applied to such repair work.

Following that initial meeting the Board and management shall endeavor, in good faith and as expeditiously as reasonably possible, given the facts and information that are available, to respond to Townhome Owner inquiries concerning the Repair Plans of the Association. In the event of an event of Major Damage or Destruction, Members should anticipate that there will likely be a need for further open meetings and other communications from the Board to the Members regarding the extent and applicability of coverages maintained by the Association pursuant to Section 9.01, above. Accordingly, each Member is advised to make sure that he/she/it maintains with the Association current contact information pertaining to the Member, so as to facilitate communications between the Association and the Member.

(b) Damaged Common Areas. For the damaged components of the Common Areas, the Association also promptly shall make an initial estimate of each of:

(i) the cost to repair and replace the damaged elements of the Common Areas to a neat and attractive condition deemed appropriate by the Board (the "*Anticipated Common Area Repair Costs*"); and

(ii) the financial resources available to the Association for such repair and replacement work (the "*Anticipated Common Area Insurance/Reserve Resources*"), including separate projections as to the amounts of available insurance proceeds and available Reserve Funds that may be applied to such repair and replacement work.

In determining the repair and replacement costs for the Common Areas, the Board need not seek to reinstitute the same Common Areas and Common Facilities as existed prior to the casualty event. Rather, the Board in its discretion may adjust the plans for repair and replacement of the damaged components of the Common Areas so as to achieve, to the extent reasonably possible, repaired or replaced Common Areas and Common Facilities which the Board believes are appropriate in scope and quality for a development of the overall quality of the Rocky Ridge Development, it being understood that the Board, among other things and in its discretion, may modify or eliminate components of the Common Areas and Common Facilities so as to reduce the anticipated total repair and replacement costs for the Common Areas so they do not exceed the Anticipated Common Area Insurance/Reserve Resources (as the same may be supplemented by funds raised by debt or assessments approved for such purpose in accordance with this Article X).

Section 10.03. The Association's Repair Decision.

(a) Special Informational Meeting or Meetings with the Members After An Event Constituting Major Damage or Destruction. If the Board in its judgment concludes that an event constituting a Major Damage or Destruction has occurred, then the Association, after not less than thirty (30) days Individual Notice to each of the Members, shall hold a special informational meeting of the Members at a suitable location within or near the Development. At least fifteen (15) days prior to the special informational meeting, the Board further shall provide the Members with a brief written report describing (i) the Anticipated Townhome Repair Costs, (ii) the Anticipated Townhome Insurance/Reserve Resources, (iii) the Anticipated Common Area Repair Costs and (iv) the Anticipated Common Area Insurance/Reserve Resources. The report may include such further information as the Board may deem appropriate for discussion of the contemplated repair and replacement work (e.g., a description of the nature of the repair and replacement work that the Board has determined to be appropriate for the Association to undertake in response to the casualty event, an anticipated timeline for such work, and the Board's plans to cover the costs of such repair and replacement work). At the special informational meeting, Members shall be provided a reasonable opportunity to voice concerns and/or other thoughts and recommendations about the potential repair and replacement work. Depending on the extent of the damage, replacement cost funding issues, and other complexities of the reconstruction project, further informational meetings may be scheduled in the discretion of the Board. Depending on the circumstances and the extent of the damage it may be necessary to convene more than one meeting with the Members.

(b) Repair Decision When There Are Sufficient Insurance/Reserve Resources.

If the Board in its judgment concludes that (i) the Anticipated Townhome Insurance/Reserve Resources likely will equal or exceed the Anticipated Townhome Repair Costs and (ii) the Anticipated Common Area Insurance/Reserve Resources likely will equal or exceed the Anticipated Common Area Repair Costs, then the Association shall be deemed to have made a "Repair Election" (for purposes of Section 10.03(e), below) and the Association thereafter shall proceed to complete (and thereafter with reasonable diligence shall complete) the repair and replacement work (provided, however, that (A) if the holding of a special informational meeting of the Members is required pursuant to subparagraph 10.03(a), then the Association shall not commence, to any meaningful extent (except to the extent that the Board believes to be required to secure the site and to mitigate the risk of further damage to other persons or property), the physical work involved in such repair and restoration work unless and until it has held such special informational meeting and (B) the Board may make reasonable modifications to the contemplated work to address issues discussed at the special informational meeting of the Members).

(c) Repair Decision When the Anticipated Townhome Repair Costs Exceed Anticipated Townhome Insurance/Reserve Resources or the Anticipated Common Area Repair Costs Exceed the Anticipated Common Area Insurance/Reserve Resources. Conversely, if the Board in its judgment concludes that there is a reasonable likelihood that the Anticipated Townhome Repair Costs will exceed the Anticipated Townhome Insurance/Reserve Resources or the Anticipated Common Area Repair Costs will exceed the Anticipated Common Area Insurance/Reserve Resources, then the Association shall undertake further diligence to explore the prospects for repairing or replacing the Damaged Townhome Components and the damaged components of the Common Areas (and for covering the costs of such repair and replacement work), in accordance with subparagraph (d) and Section 10.04, below.

(d) Repair Plan. The Board shall be tasked with developing and proposing to the Members, by Individual Notice, a plan (a "**Repair Plan**") to fully cover the Anticipated Townhome Repair Costs and the Anticipated Common Area Repair Costs.

(i) Repair Plan When There are Sufficient Insurance/Reserve Resources. If Subparagraph 10.03(b) applies, then the "Repair Plan" shall be for the Association (A) to complete all of the repair and replacement work required for the Damaged Townhome Components as expeditiously as reasonably possible, using the Anticipated Townhome Insurance/Reserve Resources to cover the cost of such work, and (B) to complete all of the repair and replacement work for the damaged components of the Common Areas (to the extent specified by the Board in the Individual Notice), using the Anticipated Common Area Insurance/Reserve Resources to cover the cost of such work.

(ii) Repair Plan When There are Insufficient Insurance/Reserve Resources. Conversely, if subparagraph 10.03(c) applies, then the Board, as expeditiously as reasonably possible following the applicable casualty event, shall provide the Members with a Repair Plan which sets forth in a reasonable detail how the Board proposes for the Association to raise the funds required to fully cover the Anticipated Townhome Repair Costs and the Anticipated Common Area Repair Costs (it being understood that the delivery of the Repair Plan to the Members need not precede the special informational meeting described in subparagraph

(a) of this Section 10.03). The Repair Plan shall include a reasonable description of the nature of the repair and replacement work to be undertaken and an anticipated timeline for such work. The Repair Plan also shall identify the anticipated budget for the repair and replacement work (with separate budgets for the Anticipated Townhome Repair Costs and for the Anticipated Common Area Repair Costs; each such separate budget shall include line item specificity (in a manner deemed by the Board to be reasonable under the circumstances, in consultation with architects, engineers, construction managers or other qualified consultants (see Sections 10.04 and 10.07, below) and a contingency line item (again in an amount deemed by the Board to be reasonable under the circumstances)).

(iii) Application of Insurance and Reserve Proceeds. The Repair Plan shall call for (A) application of all Anticipated Townhome Insurance/Reserve Resources to the costs of the repair and replacement of the Damaged Townhome Components, and shall not permit insurance and Reserve Funds pertaining to the Townhomes to be applied to repair or replacement of the damaged components of the Common Areas, and (B) application of all Anticipated Common Area Insurance/Reserve Resources to the costs of the repair of the damaged components of the Common Areas, and shall not permit insurance and Reserve Funds pertaining to the Common Areas to be applied to the repair or replacement of the Damaged Townhome Components.

(iv) Use of Debt to Cover Costs of Repair to Damaged Townhome Components or Damaged Common Areas. The Repair Plan further may call for the Association to borrow monies to cover some of the Anticipated Townhome Repair Costs and/or some of the Anticipated Common Area Repair Costs, provided that the Association shall not undertake the proposed repair and replacement of the Damaged Townhome Components or the Damaged Common Areas unless and until the incurrence of such debt has been duly approved by the Association in accordance with any applicable requirements of the loan agreement, this Declaration, the Bylaws and the Davis-Stirling Act.

(v) Special Assessments. The Repair Plan may call for a Special Assessment to cover some or all of any shortfall in the Anticipated Townhome Insurance/Reserve Resources relative to the Anticipated Townhome Repair Costs, and/or to cover some or all of any shortfall in the Anticipated Common Area Insurance/Reserve Resources relative to the Anticipated Common Area Repair Costs. If the Board proposes such a Repair Plan, then the following provisions shall apply:

(A) To the extent that the Special Assessment is assessed to cover Anticipated Townhome Repair Costs, the Special Assessment shall be allocated and charged in equal shares to the Owners of the Townhome Lots (i.e., one share for each Townhome Lot). To the extent that the Special Assessment is assessed to cover Anticipated Common Area Repair Costs, the Special Assessment shall be allocated and charged in equal shares to the Owners of the Townhome Lots and the Owners of the Individual Residence Lots (i.e., one share for each such Townhome or Individual Residence Lot).

(B) If the Repair Plan calls for aggregate Special Assessments in an amount that is less than or equal to five percent (5%) of the budgeted gross

expenses of the Association for the fiscal year in which such destruction or damage occurs, then (1) in accordance with Section 4.03(b), above, the Special Assessment may be adopted and assessed by the Board without any requirement of further approval by any subset of the Members, and (2) accordingly, effective as of the delivery to the Members of the Individual Notice describing the Repair Plan, the Board shall be deemed to have made a "Repair Election" (for purposes of Section 10.03(e), below.) to implement said Repair Plan, and (3) subject to section 10.05, below, the Association, thereafter, shall take all steps necessary or appropriate to implement the Repair Plan and to expeditiously commence and complete the repair of the Damaged Townhome Components and the damaged components of the Common Facilities.

(C) If the Repair Plan calls for aggregate Special Assessments in excess of five percent (5%) of the budgeted gross expenses of the Association for the fiscal year in which such destruction or damage occurs, then the Association shall not undertake the repair work unless and until the Special Assessment first has been approved by a Majority of a Quorum of the Members in accordance with the requirements of this Declaration (see particularly Sections 1.33 and 4.08), the Bylaws and the Davis-Stirling Act. Effective as of any such approval, (1) the Board shall be deemed to have made a "**Repair Election**" (for purposes of Section 10.03(e), below) to implement said Repair Plan, and (2) the Association thereafter shall endeavor to prosecute the repair and replacement work with reasonable expediency and efficiency, subject to Section 10.05, below.

(e) Repair Election. The Board shall have the right, prior to the "**Repair Election Deadline**" (as hereinafter defined) and subject to the requirements of this Article X, to elect to proceed with the repair and replacement work and financing steps contemplated by a Repair Plan; provided, however, that if this Declaration provides that any component of a Repair Plan is subject to approval from a specified percentage of the Members, then such Repair Plan shall not be effective until such approval has been obtained. Any such election by the Board shall be referred to herein as a "**Repair Election**" with respect to the Repair Plan and such event of Major Damage or Destruction. The Board promptly (and in any event within thirty (30) days after the making of a Repair Election) shall provide Individual Notice thereof to the Members. The term "**Repair Election Deadline**" shall mean:

(A) If the Board determines that the sum of the Anticipated Townhome Repair Costs and the Anticipated Common Area Repair Costs with respect to the pertinent event of Major Damage or Destruction is less than Five Million Dollars (\$5,000,000.00) (as said figure shall be increased by an amount proportional to any increases in the consumer price index in the Reno area from January 1, 2021 through the date of the casualty event, as reasonably determined by the Board), then the Repair Election Deadline shall be three (3) years following the date of the casualty; and

(B) In all other circumstances, the Repair Election Deadline shall be five (5) years following the date of the casualty.

If the Board makes a timely Repair Election pursuant to this Section 10.03, then subject to Section 10.05 below, the Association thereafter shall take all steps reasonably appropriate to

implement and complete the Repair Plan (including completion of the contemplated repair and replacement work) in a reasonably expeditious and efficient manner. If the proposed Repair Plan must be funded by a Special Assessment or by a loan from an institutional lender that must be supported by a Special Assessment, then the Board's obligations shall include diligent prosecution of those funding alternatives, including the conduct of a Member vote to approve the necessary funding if required by the Governing Documents or by law.

Conversely, if following an event of Major Damage or Destruction the Board fails to make a Repair Election by the applicable Repair Election Deadline, then the Association, rather than proceeding further with such repair or replacement work, instead shall sell all of the Townhome Lots and the Lots constituting the Common Areas in accordance with Section 10.06, below.

Section 10.04. Authority to Consult with Experts; Contract Bid Process. In preparing any estimates, plans, decisions or other materials contemplated by Section 10.02 or 10.03, above, the Board may engage, on behalf of the Association, such experts and professionals as it concludes are reasonably necessary or appropriate in order to enable the Board to diligently complete such estimates, plans or other materials. Such experts may include, for example, architects, insurance experts, construction managers, contractors, attorneys, bankers and others. As part of this evaluation process, the Board shall endeavor to obtain guaranteed maximum price contract bids from at least three (3) qualified contractors (provided that the Board may dispense with pursuing such bids to the extent that it does not view them as being reasonably feasible or insightful). The Board further shall endeavor, in undertaking and preparing such estimates, plans and other materials, to take into account all factors which it deems to be reasonably pertinent to the decision as to whether, and how, to undertake any repair or replacement work, including, for example, cost efficiencies, aesthetics, constraints in materials supplies, construction duration, the nature and magnitude of disruptions during any construction period to the use of still useable portions of the Development, financing requirements, and other factors that retained consultants retained by the Association recommend.

Section 10.05. Membership Right to Veto the Board's Repair Election; Development Sale. Notwithstanding a timely Repair Election by the Board following an event of Major Damage or Destruction, the Members shall have the right to veto the Board's Repair Election if each of the following conditions is satisfied:

(a) the Repair Plan calls for a Special Assessment (provided, however, that: (i) the inclusion of a Special Assessment that meets the requirements of subparagraph 10.03(d)(v)(B) shall not give rise to the Members' veto right; and (ii) if the Repair Plan includes a Special Assessment that has been approved by the Members pursuant to Section 10.03(d)(v)(C), then the Members may not conduct a vote to veto the Board's Repair Election decision and Repair Plan at any time during the first thirty-six (36) months immediately following the Member vote approving the Special Assessment);

(b) the Anticipated Townhome Repair Costs for the Damaged Townhome Components are greater than Ten Million Dollars (\$10,000,000.00) (as said figure shall be increased by an amount proportional to any increases in the consumer price index in the Reno

area from January 1, 2021 through the date of the casualty event, as reasonably determined by the Board); and

(c) At least sixty-seven percent (67%) of the total voting power of the Members vote (in accordance with applicable election requirements under this Declaration, the Bylaws and the Davis-Stirling Act, and subject to Section 4.08, above) to cease further prosecution of the Repair Plan.

Notwithstanding the foregoing provisions of this Section 10.05, the Members shall not have the right to vote to veto a Repair Election (i) which the Board shall be deemed to have made pursuant to Section 10.03(b) or 10.03(d)(v)(B) or (ii) at any time after substantial completion of the repair and replacement work contemplated by a Repair Plan.

If the Members vote to veto a Repair Election and Repair Plan pursuant to this Section 10.05, then the Association, rather than proceeding further with the repair or replacement work contemplated by the Repair Plan, instead shall sell all of the Townhome Lots and the Lots constituting the Common Areas in accordance with Section 10.06, below. In pursuing such sale, the Board shall endeavor to consummate the sale of such properties (A) in one or more transactions consummated as expeditiously as the Board deems reasonably possible, and (B) in a manner which, in the reasonable judgment of the Board, will reasonably maximize the net sales proceeds arising from the sale(s).

Section 10.06. Additional Provisions Applicable to a Sale of All or Substantially All of the Development. If the provisions of Section 10.03(e) or 10.05, above, trigger an obligation of the Association to sell all of the Townhome Lots and the Lots constituting the Common Areas, then the provisions of Civil Code §4610 (regarding partition and sale) shall be deemed satisfied and the following additional provisions shall apply to the implementation of said sale:

(a) General. In pursuing such sale, the Board shall endeavor to consummate the sale of such properties (1) in one or more transactions consummated on an "as is basis" and as expeditiously as the Board deems reasonably possible, and (2) in a manner which, in the reasonable judgment of the Board, will reasonably maximize the net sales proceeds arising from the sale(s). The property conveyed in the sale of each Townhome shall include all attached fixtures within the Townhome, but shall exclude any unattached personal property (e.g., artwork, furnishings and furniture).

(b) Title Matters and Continuing Access Rights. The Townhome Lots and the Lots constituting the Common Areas shall be sold subject to such exceptions to title as may be approved by the Board and the buyer(s) of the particular properties involved in the sale, provided that unless otherwise approved by the Owners of the Individual Residence Lots, no such sale shall be effected unless the property involved in the sale is subject to easement and use rights in favor of the Owners of the Individual Residence Lots implementing the following substantive provisions:

(i) The buyer(s) of the real property and remaining improvements involved in the sale shall provide the Owners of the Individual Residences with access rights to access their respective Lots by using road improvements of a location, scope and quality



reasonably comparable to the road improvements existing immediately prior to the pertinent event of Major Damage or Destruction.

(ii) The buyer(s) of the real property and remaining improvements involved in the sale shall be responsible for reasonable maintenance of such road improvements, including ploughing and shoveling of periodic snowfall so as enable access to the front doors of the Individual Residences in a manner similar to that contemplated by Section 6.01(d) of this Declaration prior to the event of Major Damage or Destruction. All such maintenance shall be at the expense of the buyer(s), provided that the buyer(s) shall be permitted to charge each Owner of an Individual Residence Lot an amount no greater than the lesser of (i) one percent (1%) of the reasonable costs of providing such services and (ii) the general assessments charged by the Association to the Owner of the Individual Residence Lot under this Declaration immediately prior to the date of the event of Major Damage or Destruction, as increased by increases in the consumer price index in the Reno area since the date of such event of Major Damage or Destruction (as reasonably determined by the Board of Directors). Any dispute regarding the maintenance obligations of the parties pursuant to this subparagraph (b) shall be resolved in accordance with Civil Code section 845.

(c) Application of Net Sales Proceeds and Unspent Insurance Proceeds and Reserves. All net sales proceeds from the sale of the Townhome Lots and the Lots constituting the Common Areas, and all unspent insurance proceeds and Reserves which (in the reasonable judgment of the Board of Directors) are reasonably attributable to the Townhome Lots or the Lots constituting the Common Areas (such sum, the "*Net Disposition Proceeds*"), shall be allocated as follows:

(1) a portion (referred to herein as the "*Individual Residence Portion*" or the "*IR Portion*") equal to the product of (A) the Net Disposition Proceeds (but excluding therefrom any amounts consisting of (i) unspent Reserves which are reasonably attributable to the Townhome Lots, rather than to the Common Areas, or (ii) unspent insurance proceeds collected under Association procured insurance policies and arising on account of damages to the Townhome Lots, rather than on account of damages to the Common Areas, in each case as determined in the reasonable judgment of the Board of Directors) times (B) 2/102, shall be allocated in equal shares among the Owners of the Individual Residence Lots (i.e., one share for each such Individual Residence Lot Owner); and

(2) all of the balance of the Net Disposition Proceeds shall be allocated amongst the Owners of the Townhome Lots in proportion to the fair market values of the respective Townhome Lot(s) owned by each Owner (as determined by the Board pursuant to Section 10.06(c)(iii), below).

Notwithstanding the foregoing, the Board shall have the authority (but not the obligation) to negotiate to include within the sales terms certain "*Additional Restrictions*" for the benefit of the

Individual Residence Owners (i.e., in addition to the rights described in Section 10.06(a), above), in which case the split of the Net Disposition Proceeds shall be adjusted as provided in Section 10.06(c)(ii), below.

(i) The Additional Restrictions (if the Board in its judgement elects to include the same in the terms of sale) shall obligate the buyer(s) of the Townhome Lots and the Lots constituting the Common Areas in the following substantive manner:

(A) The buyer(s) shall be obligated to repair and replace, within three (3) years after the sale by the Association of the Townhome Lots and the Lots constituting the Common Areas, the Common Facilities improvements upon said Lots. This repair and replacement work shall be undertaken with these guiding principles in mind: (1) the Common Facilities improvements on said Lots shall be of a scope, quantity and quality which is at least reasonably equivalent to the Common Facilities existing immediately prior to the Event of Major Damage or Destruction; and (2) the residential improvements upon said Lots shall have an overall residential density which is no greater than the residential density existing on the Townhome Lots and the Lots constituting the Common Areas immediately prior to the event of Major Damage or Destruction.

(B) The buyer(s) shall provide the Owners of the Individual Residence Lots (and their guests and tenants) with access and use rights for the Common Facility improvements described in clause (A) above. The access and use rights shall be of a nature that are at least reasonably equivalent to those enjoyed by the Owners of the Individual Residences with respect to the Common Facilities immediately prior to the event of Major Damage or Destruction.

(C) The buyer(s) shall be responsible for all maintenance work reasonably required to maintain the improvements described in clauses (A) and (B), above, in a manner that provides continued access during the development or reconstruction work and in accordance with the terms of this Declaration, as modified by the adoption of an Additional Restrictions. All such maintenance shall be at the expense of the buyer(s), provided that the buyer(s) shall be permitted to charge each Owner of an Individual Residence Lot an amount no greater than the lesser of (i) one percent (1%) of the reasonable costs of providing such services and (ii) the general assessments charged by the Association to the Owner of the Individual Residence Lot under this Declaration immediately prior to the date of the event of Major Damage or Destruction, as increased by increases in the consumer price index in the Tahoe/Truckee area since the date of such event of Major Damage or Destruction (as reasonably determined by the Board of Directors).

(ii) If the Townhome Lots and the Lots constituting the Common Areas are sold subject to the Additional Restrictions, then rather than the division of net sales proceeds (and of unspent insurance proceeds or Reserves attributable to the Townhome Lots or the Lots constituting the Common Areas) as described in the first paragraph of Section 10.06(c), above, one hundred percent (100%) of the Net Disposition Proceeds instead shall be allocated exclusively amongst the Owners of the Townhome Lots in proportion to the fair market values of the respective Townhome Lot(s) owned by each Owner (as determined by the Board pursuant to Section 10.06(c)(iii), below). For purposes of clarification, this means that if the Townhome

Lots and the Lots constituting the Common Areas are sold subject to the Additional Restrictions, then there shall be no IR Portion (and no portion of the Net Disposition Proceeds will be allocated to the Owners of the Individual Residence Lots).

(iii) To the extent that the provisions of this Section 10.06 call for allocation of any portion of the Net Disposition Proceeds in proportion to the fair market values of the Townhome Lots, each of the following shall apply:

(A) Such fair market values shall be determined by the Board, in its reasonable judgment, (1) as of the date immediately preceding the casualty event giving rise to the need to determine the fair market values of the Townhome Lots and (2) without giving any value to any personal property within the Townhome Lot which, per the terms of this Declaration, is not to be included within the property conveyed as part of the sale of the Townhome Lot.

(B) The Board shall have the right to consider such factors as the Board, in its judgment, deems pertinent to the determination of said fair market values. Before announcing the fair market values of the Townhome Lots, the Board first shall notify the Owners of the Board's intent to establish such values, and the Board shall announce a date (the "FMV Submission Date") no earlier than thirty (30) days after the date of such notice by which each Owner may submit information to the Board which the Owner believes to be pertinent to the determination of the fair market value of its Lot. Each Owner further shall reasonably cooperate with other efforts of the Board to determine the fair market values of the Townhome Lots. Such efforts shall include providing access to the Townhome Lot to permit the Board or its designees to perform such inspections of the Townhome Lot which the Board, in its sole judgment, determines to be appropriate. The Board further may seek input from individuals or organizations, such as licensed residential real estate agents or brokers or appraisers, which the Board determines to be experienced in the estimation of the value of Townhomes in the Tahoe/Truckee area. To the extent that the Board determines the same to be appropriate, the Board may expend up to two percent (2%) of the Net Disposition Proceeds available for distribution to the Owners of the Townhome Lots in gathering information or judgments which the Board considers appropriate for the determination of the fair market values of the Townhome Lots (in which case the Net Disposition Proceeds available for distribution to the Townhome Lots shall be reduced by the aggregate amount of said costs, up to such cap).

(C) The Board shall produce (and distribute to the Owners of the Townhome Lots) a report which lists the fair market values of the Townhome Lots as determined by the Board. The Board shall endeavor to distribute such report to the Owners within one hundred and twenty (120) days after the FMV Submission Date, but the Board shall have the right, by notice to the Owners, to extend such date for distribution of the report up to an additional one hundred and twenty (120) days.

(D) Each Owner of a Townhome Lot (by filing a challenge with the Board by the date (the "FMV Challenge Deadline") which is thirty (30) days after the distribution by the Board to the Owners of the report referenced in Section 10.06(c) (iii) (C), above) shall have the right to contest the valuations determined by the Board with respect to the Townhome Lots. The report distributed by the Board shall identify the FMV Challenge

Deadline, so as to avoid confusion. Said challenge shall include any additional evidence which the Owner desires to submit on the valuation issues, provided that the Board shall have the right to establish reasonable limitations upon the volume of such additional information submitted by an Owner with respect to its own Townhome Lot or with respect to any other Townhome lot (it being understood that the Board in its discretion may establish separate volume limitations with respect to an Owner's Townhome Lot and with respect to lots not owned by the Owner, and that the Board in its discretion may disregard any information submitted after the FMV Challenge Deadline or exceeding the respective volume limitations).

(E) The Board shall endeavor to produce and distribute to the Owners, within forty-five (45) days after the FMV Challenge Deadline, a final report announcing the determinations of the Board as to fair market values of the Townhome Lots (but the Board shall have the right, by notice to the Owners, to extend such date for distribution of the report up to an additional forty-five (45) days}. Any determinations of the Board as to the fair market values of the Townhome Lots, so long as they reasonably comply with the foregoing provisions and are not the product of gross malfeasance, shall be final.

(d) Documentation of Title Provisions. The obligations of the buyer(s) under Section 10.06(a) and, if applicable, Section 10.06(c)(i), shall run to the benefit of the Owners of the Individual Residence Lots, and their successors, and shall bind the buyer(s) of the properties within the Townhome Lots and the Lots constituting the Common Areas (and the successors of the buyer(s)). The obligations shall constitute covenants running with the land pursuant to Civil Code section 1468. The obligations further shall be memorialized by a recorded document. Said document shall be subject to the approval of the Owners of the Individual Residences, with such approval not to be unreasonably withheld.

(e) Power of Attorney. For purposes of effecting a sale under this Section 10.06(e), each Owner grants to the Board, on behalf of the Association, an irrevocable power of attorney to sell all of the Townhome Lots, and the Lots constituting the Common Areas, (and any rights of said Owner therein) in accordance with the provisions of this Article X, and to thereafter terminate this Declaration and dissolve the Association (it being understood, however, that (i) such power of attorney shall not empower the Association to sell fee title to the Individual Residence Lots and (ii) if the Declaration is terminated and the Association dissolved, such termination and/or dissolution shall not diminish the continuing enforceability of the rights afforded to the Owners of the Individual Residence Lots pursuant to this Section 10.06 The Owners agree to execute and deliver such further documents as reasonably may be requested by the Association in order to effectuate a sale in accordance with this Section 10.06 and to wind up the affairs of the Association in accordance with Corporations Code sections 8610 et seq.

Section 10.07. Certain Mechanics Pertaining to Repairs and Restoration. If the estimated aggregate cost of the repair and restoration of the Damaged Townhome Components or any damaged components of the Common Areas exceeds Fifty Thousand Dollars (\$50,000.00), repair or restoration thereof shall be accomplished as hereinafter provided in this Section 10.07:

(a) Consultants-Contractors-Depository. The Board shall select and engage a construction consultant (the "**construction consultant**") and/or an architect (the "**architect**") to oversee the work of repair or restoration and a general contractor (the "**general contractor**") to

perform such work. The Board shall also select a commercial lending institution experienced in the disbursement of construction loan funds (the "*depository*") to receive, hold and disburse all funds to be used for such repair or restoration. See also Section 10.04, above.

(b) Plans and Specifications. All repairs and restoration shall be substantially in accordance with the original as-built plans and specifications for the impacted improvements, modified as may be required by applicable building codes and regulations in force at the time of such repair or restoration or in accordance with such other plans and specifications as may be approved by the Association in consultation with the Townhome Owners whose Townhome Residences are included in the scope of work pursuant to subparagraph (d), below.

(c) Handling of Funds. All funds provided by the Association and by individual Owners and their respective institutional lenders as well as the insurance proceeds payable on account of such damage or destruction shall be deposited with the depository and shall be disbursed in accordance with the normal construction loan practices of the depository upon request by the general contractor and certification by the construction consultant or the architect and by the general contractor dated not more than ten (10) days prior to any such request for disbursement, setting forth the following:

(i) That all of the work completed as of the date of such request for disbursement has been done in compliance with the approved plans and specifications;

(ii) That such disbursement request represents monies which have been paid by or on behalf of the general contractor to subcontractors, materialmen, engineers, and other persons (whose names and addresses shall be stated) who have rendered services or furnished materials for the work and giving a brief description of such services and materials and the principal subdivision or categories thereof and the respective amounts paid to each of said persons in respect thereof and stating the progress of the work up to the date of said certificate;

(iii) The requested sum shall be disbursed, plus all sums previously disbursed, not exceed the cost of the work insofar as actually accomplished up to the date of such certificate;

(iv) That no part of the cost of the services and materials described has been or is being made the basis for the disbursement of any funds in any previous or then pending application;

(v) That the amount held by the depository will, after payment of the amount requested in the pending disbursement request, be sufficient to pay in full the balance of the cost of such repair or reconstruction; and

(vi) That mechanics' lien releases have been obtained from those eligible to file lien claims.

If the cost of repair or reconstruction is less than Fifty Thousand Dollars (\$50,000.00), the Board shall disburse the available funds for the repair and reconstruction of the damaged or destroyed improvements under such procedures as the Board, in its discretion, deems appropriate under the circumstances.

Repair or reconstruction pursuant to this Article X shall commence as soon as reasonably practical after the date or duration of the event of damage or destruction and re-entry to the Development is approved by local authorities, and shall be completed as quickly as is reasonably practicable after commencement of the repairs or reconstruction, subject to delays that are beyond the control of the party responsible for making the repairs. The Owner(s) of any damaged or destroyed Townhome Residence improvements (and the Board in the case of events involving the damage or destruction of Common Facilities) immediately shall take such steps as may be reasonably necessary to secure any hazardous condition and to screen any unsightly areas caused by the event of damage or destruction.

(d) Obligations of the Association to Coordinate its Work With the Owners of Impacted Townhome Residences. The Association acknowledges that in the event of damage to a Townhome Residence, the Owner or Owners of the damaged Townhome Residence(s) are likely to want to initiate construction and related work to complete repairs and restoration work involving the impacted Townhome Residences for which the Owner(s) is/are responsible as promptly as reasonably possible. The Association and the Owners shall endeavor to reasonably coordinate work undertaken by the Association's contractors, and by the Owner's contractors, so as to reasonably achieve efficiencies in the overall construction progress. The Board shall have discretion to establish reasonable rules for the prosecution of the repair and replacement work, including rules designed to implement an orderly and efficient progression of necessary repair and reconstruction work among the involved trades and contractors and rules to provide security to the impacted areas and to promote work site safety

Section 10.08. Right of First Refusal. Notwithstanding anything in this Declaration to the contrary, any Owner or group of Owners shall have the right of first refusal to match the terms and conditions of any offer made to the Association for the potential sale of the Townhome Lots and the Lots constituting the Common Areas under Section 10.06, above (a "***Project Sale Offer***"), provided this right of first refusal is exercised within one hundred and twenty (120) days of both (a) receipt by the Association of the written Project Sale Offer and (b) distribution of the Project Sale Offer to all Owners by some form of Individual Notice. If the Owner or group of Owners subsequently default on their offer to purchase the property comprising the Townhome Lots and the Lots constituting the Common Areas, (i) the defaulting Owners shall be liable to the other Owners and their respective Mortgagees for any damages resulting from the default and (ii) the Association may proceed to sell the Townhome Lots and the Lots constituting the Common Areas to the party that originally made the Project Sale Offer, but only if such sale is made on terms substantially consistent with those set forth in the Project Sale Offer.

If there are several Owners or groups of Owners who (after receipt and circulation by the Association of a Project Sale Offer) tender offers (pursuant to the Right of First Refusal set forth in this Section 10.08) to purchase the property comprising the Townhome Lots and the Lots constituting the Common Areas, then the Board shall accept the offer that, in the Board's determination, is the best offer from the standpoint of the Association; provided however, that if any Board member has an ownership or other financial interest in a prospective purchaser, whether directly or indirectly, personally or as an investor or owner in an entity, that Board member shall recuse himself or herself from voting on the best offer determination.

Section 10.09. Arbitration of Disputes Regarding Repairs and Reconstruction Following Major Damage Events. Occurrence of events involving Major Damage or Destruction to all or any portion of the Common Facilities or the Townhome Lots will present significant challenges to the Board of Directors, management, the Association's insurance advisors, adjustors, and construction consultants and directly impacted Townhome Owners and their advisors regarding the best means of responding to the repair or replacement of the Damaged Townhome Components and damaged components of the Common Areas. The Board of Directors should be accorded broad discretion in making decisions and taking actions that the Board believes, in consultation with qualified professionals, to be to the advantage and in the best interests of the property Owners as a whole, giving particular attention to the comments, recommendations and concerns of directly impacted Owners. If disputes cannot be resolved as promptly as possible through meetings with interested stakeholders, which shall include all Members in the event of damage to Common Areas, the matter shall be resolved by binding arbitration in accordance with the following provisions:

(a) ARBITRATION OF DISPUTES INVOLVING RECONSTRUCTION AND OTHER DECISIONS UNDER THIS ARTICLE X: ANY DISPUTES INVOLVING MAJOR DAMAGE OR DESTRUCTION THAT ARE NOT RESOLVED PURSUANT TO THE PROVISIONS OF ARTICLE X, ABOVE, SHALL BE RESOLVED BY BINDING ARBITRATION PURSUANT TO THE FEDERAL ARBITRATION ACT (TITLE 9 OF THE UNITED STATES CODE) AND THE CALIFORNIA ARBITRATION ACT (TO THE EXTENT THE CALIFORNIA ARBITRATION ACT IS CONSISTENT WITH THE FEDERAL ARBITRATION ACT) PURSUANT TO THIS SUBPARAGRAPH (a), AND THE TOWNHOME RESIDENCE OWNER(S) AND THE ASSOCIATION, ARE GIVING UP ANY RIGHTS EITHER OF THEM MAY OTHERWISE POSSESS TO HAVE THE CLAIM LITIGATED IN A COURT OR JURY TRIAL. THE ASSOCIATION AND THE OWNERS ARE GIVING UP THEIR RESPECTIVE JUDICIAL RIGHTS TO DISCOVERY AND APPEAL, UNLESS THOSE RIGHTS ARE SPECIFICALLY INCLUDED IN THIS SUBPARAGRAPH (a). IF EITHER THE ASSOCIATION OR THE OWNER(S) ASSERTING INVOLVED IN THE DISPUTE REFUSE TO SUBMIT TO ARBITRATION SUCH PARTY MAY BE COMPELLED TO ARBITRATE UNDER THE FEDERAL ARBITRATION ACT AND THE CALIFORNIA ARBITRATION ACT, TO THE EXTENT THE CALIFORNIA ARBITRATION ACT IS CONSISTENT WITH THE FEDERAL ARBITRATION ACT.

(i) RULES APPLICABLE TO ALL CASES. THE ARBITRATION WILL BE CONDUCTED BY JUDICIAL ARBITRATION AND MEDIATION SERVICES ("JAMS") IN ACCORDANCE WITH THE RULES OF JAMS IN EFFECT UPON THE INITIATION OF THE ARBITRATION ("JAMS RULES"), AS SUPPLEMENTED BY THIS DECLARATION. THE FOLLOWING SUPPLEMENTAL RULES SHALL APPLY TO ALL ARBITRATION PROCEEDINGS AND SHALL GOVERN IN THE EVENT OF A CONFLICT BETWEEN THE RULES SET FORTH BELOW AND THE RULES OF THE JAMS RULES.

(ii) QUALIFICATIONS OF ARBITRATORS. THE ARBITRATOR SHALL BE NEUTRAL AND IMPARTIAL AND THE ARBITRATOR SHALL BE EITHER A RETIRED JUDGE OF THE CALIFORNIA SUPERIOR COURT, A CALIFORNIA

COURT OF APPEAL, OR THE CALIFORNIA SUPREME COURT. IN SELECTING THE ARBITRATOR OR ARBITRATORS SIGNIFICANT CONSIDERATION SHALL BE GIVEN TO THE INDIVIDUAL'S EXPERIENCE WITH RESPECT TO REAL ESTATE, COMMON INTEREST AND INSURANCE LAWS.

(iii) APPOINTMENT OF ARBITRATOR. THE ARBITRATOR TO PRESIDE OVER THE DISPUTE SHALL BE SELECTED IN ACCORDANCE WITH THE JAMS RULES, BUT NO LATER THAN SIXTY (60) DAYS AFTER A NOTICE OF CLAIM IS FILED.

(iv) EXPENSES. INITIALLY ALL FEES CHARGED BY JAMS AND THE ARBITRATOR SHALL BE ADVANCED BY THE ASSOCIATION. IF THE ASSOCIATION IS THE PREVAILING PARTY IN THE ARBITRATION, THE ARBITRATOR MAY, IN HIS OR HER DISCRETION AND ONLY TO THE EXTENT PERMITTED BY LAW AND THE JAMS RULES, DIRECT THE OWNER ASSERTING THE CLAIM TO REIMBURSE THE ASSOCIATION FOR ALL OR PART OF THE JAMS FEE AND ARBITRATOR'S FEE INITIALLY ADVANCED BY THE ASSOCIATION.

(v) VENUE FOR THE ARBITRATION. THE VENUE OF THE ARBITRATION SHALL BE IN PLACER COUNTY, CALIFORNIA UNLESS THE PARTIES AGREE IN WRITING TO ANOTHER LOCATION.

(vi) PRELIMINARY PROCEDURES. IF STATE OR FEDERAL LAW REQUIRES THE OWNER ASSERTING THE CLAIM OR THE ASSOCIATION TO TAKE STEPS OR PROCEDURES BEFORE COMMENCING AN ACTION IN COURT, THEN THE OWNER OR THE ASSOCIATION MUST TAKE SUCH STEPS OR FOLLOW SUCH PROCEDURES, BEFORE COMMENCING THE ARBITRATION.

(vii) PARTICIPATION BY OTHER PARTIES. THE TOWNHOME OWNERS ASSERTING THE CLAIM AND THE ASSOCIATION SHALL BOTH BE ENTITLED TO HAVE ALL NECESSARY AND APPROPRIATE PARTIES INCLUDED AS PARTIES TO THE ARBITRATION, INCLUDING, WITHOUT LIMITATION OTHER LOT OWNERS.

(viii) RULES OF LAW. THE ARBITRATOR MUST FOLLOW CALIFORNIA SUBSTANTIVE LAW (INCLUDING STATUTES OF LIMITATIONS). HOWEVER STRICT CONFORMITY WITH THE RULES OF EVIDENCE IS NOT REQUIRED, EXCEPT THAT THE ARBITRATOR SHALL APPLY APPLICABLE LAW RELATING TO PRIVILEGE AND WORK PRODUCT. THE ARBITRATOR SHALL BE AUTHORIZED TO PROVIDE ALL RECOGNIZED REMEDIES AVAILABLE AT LAW OR EQUITY FOR ANY CAUSE OF ACTION.



(ix) ATTORNEYS' FEES AND COSTS. EACH PARTY SHALL BEAR ITS OWN ATTORNEYS FEES AND COSTS (INCLUDING EXPERT WITNESS COSTS) IN THE ARBITRATION.

(x) FINAL AND BINDING AWARD. THE DECISION OF THE ARBITRATOR OR, IF AN APPEAL IS HEARD, THE DECISION OF THE APPEAL ARBITRATORS, SHALL BE FINAL AND BINDING. A PETITION TO CONFIRM, VACATE, MODIFY OR CORRECT AN AWARD OF THE ARBITRATORS MAY BE FILED IN ANY COURT OF COMPETENT JURISDICTION IN PLACER COUNTY, BUT THE AWARD MAY BE VACATED, MODIFIED OR CORRECTED ONLY AS PERMITTED BY THE FEDERAL ARBITRATION ACT.

(xi) SEVERABILITY. IN ADDITION TO AND WITHOUT LIMITING THE EFFECT OF ANY GENERAL SEVERABILITY PROVISIONS OF THIS DECLARATION, IF THE ARBITRATOR OR ANY COURT DETERMINES THAT ANY PROVISIONS OF THIS SUBPARAGRAPH (A) ARE UNENFORCEABLE FOR ANY REASON, THAT PROVISION SHALL BE SEVERED AND THE PROCEEDINGS AGREED TO IN THIS SUBPARAGRAPH (a) SHALL BE CONDUCTED UNDER THE REMAINING ENFORCEABLE TERMS OF THIS SUBPARAGRAPH.

Section 10.10. Condemnation.

(a) Condemnation of Common Area. If at any time all or any portion of any Common Area, or any interest therein, shall be taken for any public or quasi-public use, under any statutes, by right of eminent domain, or by private purchase in lieu of eminent domain, the entire compensation or award in condemnation, to the extent such award is not apportioned among the Owners by court judgment or by agreement between the condemning authority and each of the affected Owners in the Development, shall be paid to the Association and shall be used in the manner determined by the Board, provided that such use shall not be inconsistent with the purposes of the Association. The Association shall represent the interests of all Owners in any proceedings relating to such condemnation to the extent such Owners have any interest in the Common Area (provided that the Owners of the Individual Residences shall have the right to represent their own independent interests in preserving access rights to such Individual Residences over any Lots constituting Common Areas, to the extent applicable).

(b) Condemnation of Residence Lots. If an entire Residence or Lot, or so much as to render the remainder unfit for use as a Residence, is condemned or taken for a public or quasi-public use pursuant to any statute, by right of eminent domain, or by private purchase in lieu of eminent domain, the Owner's membership in the Association shall terminate as of the last day of the month in which the condemner obtains the right to possession, or upon the Owner vacating the premises, whichever occurs last. If only a portion of such Residence or Lot is taken and the remainder is fit for use as a Residence, then (a) the Owner shall continue to be a Member of the Association and (b) the allocation amongst the Owners of the obligations to bear Annual or Special Assessments payable in accordance with the terms of the Declaration shall be adjusted as follows:

(i) With respect to each Assessment thereafter, the Owner of the condemned property shall bear a portion of the total Assessment amount calculated as follows:

(A) The total Assessment Amount divided by 102, times

(B) The number of square feet within the Owner's lot after giving effect to the condemnation, divided by the number of square feet within the Owner's Lot prior to the condemnation.

(ii) The amount by which the Assessment obligation of the condemned Owner is reduced (relative to the portion of the Assessment amount which said Owner would have paid prior to the condemnation event) shall be allocated amongst all other Owners that are not affected by the condemnation in equal shares.