

AMENDED AND RESTATED BYLAWS

OF

HIGH SIERRA PROPERTY OWNERS ASSOCIATION, INC.

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**AMENDED AND RESTATED BYLAWS
OF
HIGH SIERRA PROPERTY OWNERS ASSOCIATION, INC.**

**ARTICLE I.
RECITALS AND DEFINITIONS**

Section 1.01 Name of Corporation. The name of this corporation shall be High Sierra Property Owners Association, Inc., a California nonprofit mutual benefit corporation and shall be referred to herein as the “Association.”

Section 1.02 Corporation Is Nonprofit. The Association is subject to the California Nonprofit Mutual Benefit Corporation Law (Cal. Corp. Code §7110 et seq.) as a nonprofit mutual benefit corporation and is an association as defined by California Civil Code §1351(a).

Section 1.03 Specific Purpose. The specific and primary purpose of this Association shall be to own, repair, maintain, and manage the Common Area and Common Facilities within the High Sierra Meadows Subdivision (the “Development”) located in the County of Madera, to enforce the Rules and Regulations adopted by the Board of Directors, from time to time, and the terms and conditions of the Declaration, and to otherwise enhance and promote the use and enjoyment of the Development.

Section 1.04 Definitions.

- (a) County. “County” means the County of Madera, State of California.
- (b) Declaration. “Declaration” means the Amended and Restated Declaration of Covenants, Conditions and Restrictions for High Sierra Property Owners Association recorded on July 14, 2009, as Document No. 2009023031 of the Official Records of Madera County, as such Declaration may be supplemented, amended or modified by a duly recorded subsequent Declaration, or amendment thereto.
- (c) Majority of a Quorum. “Majority of a Quorum” means the vote of a majority of the votes cast at a meeting or by written ballot when the number of Members attending the membership meeting or the number of ballots cast equals or exceeds the quorum requirement specified in Section 5.05, below. Any Member may be represented at a membership meeting by proxy.
- (d) Voting Power. “Voting Power” means those Members who are eligible to vote for the election of directors, or with respect to any other matter, issue or proposal, properly presented to the Members for approval at the time any determination of voting power is made.
- (e) Other Definitions Incorporated by Reference. The terms defined in the Declaration shall have the same meaning, when used herein, unless the context clearly indicates a contrary intention.

**ARTICLE II.
LOCATION OF PRINCIPAL OFFICE**

The principal office of the Association will be located at such place as the Board may designate from time to time by resolution.

**ARTICLE III.
MEMBERSHIP**

Section 3.01 Members of the Association. Every Owner of a Lot within the Development is a Member of the Association. Membership in the Association is appurtenant to, and may not be separated from, ownership of any Lot.

Section 3.02 Term of Membership. Each Owner shall remain a Member until he/she no longer qualifies as such under Section 3.01, above. Upon the sale, conveyance or other transfer of an Owner's interest in a Lot, the Owner's membership interest appurtenant to the Lot shall automatically transfer to the Lot's new Owner(s).

Section 3.03 Multiple Ownership of Lot. Ownership of a Lot shall give rise to a single membership vote in the Association. Accordingly, if more than one person owns a Lot, all of said persons shall be deemed to be one Member for voting purposes, although all such Owners shall have equal rights as Members to use and enjoy the Common Area. Any one of the multiple Owners shall be entitled to vote the membership, unless the secretary of the Association is notified in writing of the Owner designated by his/her co-Owners as having the sole right to vote the membership on their behalf. If such notification does not occur and more than one of the multiple Owners votes a membership, the majority of such votes shall be the vote pertaining to said Lot. If there is not a majority of such votes, the vote of such membership shall not be considered as either in favor of or opposed to the issue or issues which are the subject of the vote, but the membership shall be considered for purposes of determining whether the quorum requirements applicable to the vote or meeting have been met.

Section 3.04 Furnishing Evidence of Membership. A person shall not be entitled to exercise the rights of a Member until such person has advised the secretary in writing that he/she is qualified to be a Member under Section 3.01, above, and, if requested by the secretary, has provided the secretary with evidence of such qualification, in the form of a certified copy of a recorded grant deed or a currently-effective policy of title insurance, indicating that the person is the Owner of a Lot within the Development. Exercise of membership rights shall be further subject to the rules regarding record dates for notice, voting, and actions by written ballot and eligibility for voting set forth in Section 5.08, below.

**ARTICLE IV.
MEMBERSHIP VOTING**

Section 4.01 Single Class of Membership. The Association shall have one class of voting membership consisting of the Owners of Lots within the Development.

Section 4.02 Member Voting Rights. On each matter submitted to a vote of the Members, each Member shall be entitled to cast one vote for each Lot owned by such Member.

Single memberships in which two or more persons have an indivisible interest shall be voted as provided in Section 3.03, above.

Section 4.03 Eligibility to Vote. Only Members in good standing shall be entitled to vote at any membership meeting. In order to be in good standing, a Member must be current in the payment of all assessments levied against the Member's Lot(s) and not be subject to any suspension of voting privileges as a result of any disciplinary proceeding conducted in accordance with the Declaration. A Member's good standing shall be determined as of the record date established in accordance with Section 5.08, below. In accordance with Civil Code §1363(h), the Association (Board of Directors or Committee appointed for such purpose) shall be obligated to conduct a hearing in order to suspend a Member's voting privileges on the basis of the nonpayment of assessments or fines.

Section 4.04 Rules for Election Procedure. The Association shall adopt rules, in accordance with the procedures prescribed by Article 4 [commencing with Civil Code §1357.100 of Chapter 2 of the Davis-Stirling Common Interest Development Act (Civil Code §§1350, et seq.)], that meet all the requirements as may be applicable under Civil Code §1363.03, or any replacement statute.

Section 4.05 Majority Vote of Members Represented at Meeting Required for Valid Action. At a meeting, the affirmative vote of a Majority of a Quorum of the Members who are entitled to vote and voting on any matter (other than the election of directors), shall be the act of the Members, unless the vote of a greater number is required by the California Nonprofit Mutual Benefit Corporation Law or by the Declaration. In the case of director elections, the candidates receiving the highest number of votes, up to the number of directors to be elected, shall be elected to the vacant director positions.

ARTICLE V. MEMBERSHIP MEETINGS

Section 5.01 Place of Meeting. The meetings of the Members shall be at such reasonable place (within the County) and at such time as may be designated by the Board in the notice of the meeting.

Section 5.02 Annual Meeting. The Board shall designate the date for the annual meeting of the Members. The date, time, and location of the meeting shall be set forth in the notice of meeting sent to the Members, in accordance with Section 5.04, below.

Section 5.03 Special Meetings.

(a) **Persons Entitled to Call Special Meetings.** A majority of the Board, the president, or five percent (5%), or more, of the Members may call a special meeting of the Members at any time to consider any lawful business of the Association.

(b) **Procedures for Calling Special Meetings Requested by Members.** If a special meeting is called by Members other than the Board of Directors or the president, the request shall be submitted by such Members, in writing, specifying the general nature of the business proposed to be transacted, and shall be delivered personally, or sent by first-

class, certified or registered mail or by telegraphic or other facsimile transmission to the president, any vice president, or the secretary of the Association. The officer receiving the request shall cause notice to be promptly given to the Members entitled to vote, in accordance with the provisions of Section 5.04, below, that a meeting will be held, and the date, time, and purpose for such meeting, which date shall be not less than thirty-five (35) nor more than ninety (90) days following the receipt of the request. If the notice is not given within the twenty (20) days after receipt of the request, the persons requesting the meeting may give the notice. Nothing contained in this subsection shall be construed as limiting, fixing, or affecting the time when a meeting of Members may be held when the meeting is called by action of the Board of Directors or the president.

Section 5.04 Notice of Members' Meetings.

(a) Requirement That Notice Be Given. Notice of all regular and special meetings of the Members shall be sent, or otherwise given in writing, to each Member who is eligible to vote at the meeting as of the record date for notice established in accordance with Section 5.08, below.

(b) Time Requirements for Notice. The notice of membership meetings shall be given in the manner specified in subparagraph (e) of this section, not less than ten (10) nor more than ninety (90) days before the date of the meeting. If notice is given by mail and the notice is not given by first-class, registered, or certified mail, the notice shall be given not less than twenty (20) days (nor more than ninety (90) days)) before the meeting.

(c) Minimum Requirements Regarding Content of Notice. The notice of any membership meeting shall specify the place, date, and hour of the meeting and: (1) in the case of a special meeting, the general nature of the business to be transacted, and no other business may, in that case, be transacted; or (2) in the case of a regular meeting, those matters which the Board of Directors, at the time of giving the notice, intends to present for action by the Members; but any proper matter may be presented at the meeting for such action, so long as a quorum is present. The notice of any meeting at which directors are to be elected, shall include the names of all those individuals who are nominees at the time the notice is given to the Members.

(d) Specification of Certain Significant Actions. If action is proposed to be taken at any membership meeting for approval of any of the following matters, the vote shall be held by secret ballot in accordance with the procedures set forth in Civil Code §1363.03 or any replacement statute:

(i) To vote on approval of regular or special assessments, as required under Civil Code §1366(b);

(ii) Election of Directors (except, if after the close of nominations, the number of people nominated for the Board is not more than the number of directors to be elected);

(iii) Amendments to the Governing Documents [except as provided in Civil Code §§1355.5 and/or 1352.5]; and

(iv) A grant of exclusive use of Common Areas under Civil Code §1363.07 [except as provided in Civil Code §1363.07(a)(1-3)]

(e) Manner of Service. Notice of any meeting of Members shall be given either personally or by first-class mail, telegraphic, electronic transmission, or other written communication, charges prepaid, addressed to each Member either at the address of that Member appearing on the books of the Association or the address given by the Member to the Association for the purpose of notice. If no address appears on the Association's books and no other has been given, notice shall be deemed to have been given if either: (1) notice is sent to that Member by first-class mail or telegraphic or other written communication to the Association's principal office; or (2) notice is published at least once in a newspaper of general circulation in the County. Notice shall be deemed to have been given at the time the notice is delivered to the Member personally or deposited in the mail (postage prepaid) or sent by telegram or other means of written or electronic communication to the Member as specified above. Notice given by electronic transmission shall be valid only if it complies with Corporations Code §20 or any replacement statute.

(f) Affidavit of Mailing. An affidavit of the mailing or other means of giving any notice of any Members' meeting may be executed by the secretary or the assistant secretary of the Association, and, if so executed, shall be filed and maintained in the minute book of the Association. Such affidavit shall constitute prima facie evidence that proper notice was given.

Section 5.05 Quorum Requirements.

(a) Quorum Requirements Generally. The following quorum requirements must be satisfied in order to take valid action at any meeting of the Members or by written ballot in accordance with Section 4.04 above and/or Civil Code §1363.03 or any replacement statute:

(i) Quorum. In the case of any membership meeting or written ballot called or conducted for the purpose of voting on any purpose, the quorum requirement for valid action on the proposal shall be a majority of members of the Association (except as to those matters which require a higher percentage vote under the Common Interest Development Act or the Declaration).

(b) Members Represented By Proxy. Members present at a membership meeting in person or by proxy shall be counted towards satisfaction of the quorum requirements specified herein.

(c) Effect of Departure of Members From Meeting. The Members present in person or by proxy at a duly called or duly held meeting at which a quorum is present may continue to transact business until adjournment, notwithstanding the withdrawal of

enough Members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the Members required to constitute a quorum. If a quorum is never established for the meeting, a majority of those Members who are present may vote to adjourn the meeting for lack of a quorum, but no other action may be taken or business transacted.

Section 5.06 Adjourned Meeting.

(a) Adjournment, Generally. Any Members' meeting, annual or special, whether or not a quorum is present, may be adjourned to another time and/or place (but not for more than forty-five (45) days) by the vote of the majority of Members present at the meeting either in person or by proxy. Unless there is an absence of a quorum (in which case no other business other than adjournment may be transacted), the reconvened meeting may take any action which might have been transacted at the original meeting.

(b) Notice Requirements for Adjourned Meetings. When a Members' meeting is adjourned to another time or place, notice need not be given of the new meeting if the time and place thereof are announced at the meeting at which the adjournment is taken. Notwithstanding the foregoing, if after adjournment a new record date is fixed for notice or voting, a notice of the rescheduled meeting must be given to each Member who on the record date for notice of the meeting is entitled to vote thereat.

Section 5.07 Waiver of Notice or Consent by Absent Members.

(a) Waivers and Consents, Generally. If decisions are made or action is otherwise taken by the Members at a meeting where a quorum is present, but for which proper notice was not given to all Members for whatever reason, the decisions or actions made at that meeting will be valid if, either before or after the meeting, each person entitled to vote who was not present at the meeting (in person or by proxy) consents to the meeting by signing: (1) a written waiver of notice; (2) a consent to holding the meeting; or (3) an approval of the minutes. The waiver of notice or consent need not specify the purpose or general nature of business to be transacted at such meeting unless action was taken or is proposed to be taken with respect to any matters specified in Section 5.04(d), above, in which case, the waiver of notice or consent must state the general nature of such matter(s). All such waivers, consents or approvals shall be filed with the Association records or be made part of the minutes of the meeting.

(b) Effect of a Member's Attendance at a Meeting. Attendance by a Member or his/her proxy holder at a meeting shall also constitute a waiver of any objections such person may have with respect to notice of that meeting, except when the Member or proxy holder attends the meeting for the sole purpose of objecting at the beginning of the meeting to the transaction of any business due to the inadequacy or illegality of the notice. Attendance at a meeting is not a waiver of any right to object to the consideration of matters not included in the notice of the meeting which are required to be described therein pursuant to Section 5.04(d), above, if that objection is expressly made at the meeting.

Section 5.08 Record Dates for Member Notice, Voting, and Giving Consents.

(a) Record Dates Established By the Board of Directors. For the purpose of determining which Members are entitled to receive notice of any meeting, vote, act by written ballot without a meeting or exercise any rights in respect to any other lawful action, the Board of Directors may fix, in advance, a “record date” and only Members of record on the date so fixed are entitled to notice, to vote, or to take action by written ballot or otherwise, as the case may be, notwithstanding any transfer of any membership on the books of the Association after the record date, except as otherwise provided in the Articles of Incorporation, by agreement, or in the California Nonprofit Mutual Benefit Corporation Law. The record dates established by the Board pursuant to this section must be in accordance with the following requirements:

(i) Record Date for Notice of Meetings. In the case of determining those Members entitled to notice of a meeting, the record date shall not be more than ninety (90) days, nor less than ten (10) days before the date of the meeting;

(ii) Record Date for Voting. In the case of determining those Members entitled to vote at a meeting, the record date shall not be more than sixty (60) days before the date of the meeting;

(iii) Record Date for Action By Written Ballot Without Meeting. In the case of determining Members entitled to cast written ballots, the record date shall not be more than sixty (60) days before the day on which the first written ballot is mailed or solicited; and

(iv) Record Date for Other Lawful Action. In the case of determining Members entitled to exercise any rights in respect to other lawful action requiring Member approval, the record date shall not be more than sixty (60) days prior to the date of such other action.

(b) Failure of Board to Fix a Record Date. If the Board, for any reason, fails to establish a record date, the following rules shall apply:

(i) Record Date for Notice of Meetings. The record date for determining those Members entitled to receive notice of a meeting of Members, shall be the business day preceding the day on which notice is given, or, if notice is waived, the business day preceding the day on which the meeting is held.

(ii) Record Date for Voting. The record date for determining those Members entitled to vote at a meeting of Members shall be the day of the meeting, or in the case of an adjourned meeting, the day of the adjourned meeting.

(iii) Record Date for Action by Written Ballot Without Meeting. The record date for determining those Members entitled to vote by written ballot on proposed Association actions without a meeting shall be the day on which the first written ballot is mailed or solicited.

(iv) Record Date for Other Lawful Action. The record date for determining those Members entitled to exercise any rights in respect to any other lawful action shall be Members at the close of business on the day on which the Board adopts the resolution relating thereto, or the sixtieth (60th) day prior to the date of such other action, whichever is later.

(v) “Record Date” Means as of Close of Business. For purposes of this subparagraph (b), a person holding a membership as of the close of business on the record date shall be deemed to be the Member of record.

ARTICLE VI. MEMBERSHIP RIGHTS

Subject to the provisions hereof and the provisions of the Declaration, the Members shall have the following rights:

Section 6.01 Use and Enjoyment of Common Areas by Members and Family. Each Member and the members of his/her Family who also occupy and/ use a Member’s Lot, shall be entitled to the use and enjoyment of all Common Areas (as used herein Common Areas shall include Common Facilities as defined in the Declaration) within the Development.

Section 6.02 Permitted Tenants and Lessees.

(a) Delegation of Rights to Permitted Tenants and Lessees. Each Member shall have the right to assign his/her rights as a Member (other than voting rights) to a permitted tenant to occupy and/ use a Member’s Lot; provided, however, that all the requirements of Section 2.04 of the Declaration are met, including that such rental or lease shall only be to a single family for Single Family Resort Uses and for a term not less than a full Season. Such assignment shall only be effective so long as said tenant is using and/or occupying said Lot and is in compliance with the Declaration and the Association Rules as the same may exist from time to time. At all times, the Owner shall remain responsible for compliance by Owner’s lessee or tenant with the provisions of the Governing Documents.

(b) Requirement of Notice to Secretary. Assignment of an Owner’s right to use the Common Areas to a tenant or lessee shall not be effective until such time as the Owner-Member has given the secretary written notice thereof, setting forth the name of the assignee and the members of his/her family who will be entitled to the use and enjoyment of the Common Areas within the Development by virtue of said assignment.

Section 6.03 Invitees and Guests. The invitees and guests of a Member shall have the right to use and enjoy the Common Areas within the Development. Any such guest or invitee shall be subject to the same obligations imposed on the Owner to observe the rules, restrictions, and regulations of the Association as set forth in the Governing Documents.

Section 6.04 Association Rules and Regulations. The right of any person to use and enjoy the Common Areas shall, at all times, be subject to the rules, limitations, and restrictions set forth herein, in the Declaration, and in the Association’s published rules and regulations, as

promulgated by the Board, from time to time. The validity of rules and the procedures for making rule changes shall be in accordance with the procedures set forth in the Common Interest Development Act (Civil Code §§1357.100 through 1357.150). With the exception of the right of use of the Common Areas, the Board shall have the right to impose monetary penalties, or to temporarily suspend the Member's voting rights, for the failure of a Member to pay any Assessments when due under the Declaration, or to comply with any other rule or regulation imposed upon such Member, his/her tenants or guests, pursuant to the Governing Documents; provided, however, that any such suspension shall only be imposed after such person has been afforded the notice and hearing rights more particularly described in the Declaration.

ARTICLE VII. BOARD OF DIRECTORS

Section 7.01 General Association Powers. Subject to the provisions of the California Nonprofit Mutual Benefit Corporation Law, the Davis-Stirling Common Interest Development Act (Cal. Civ. Code §1350 et seq.), and any limitations contained in any of the Governing Documents relating to action required to be approved by the Members, the business and affairs of the Association shall be vested in and exercised by, the Association's Board of Directors. Subject to the limitations expressed in Section 9.02, below, the Board may delegate the management of the activities of the Association to any person or persons, management company, or committee, provided that, notwithstanding any such delegation the activities and affairs of the Association shall continue to be managed and all Association powers shall continue to be exercised under the ultimate direction of the Board.

Section 7.02 Number and Qualification of Directors. The Board of Directors shall consist of five (5) individuals who shall be Owners of Lots whose memberships are in good standing with all Assessments current and are not subject to any suspension of membership rights. In the case of any Lot that is in multiple ownership (including married individuals), both of the co-Owners shall be eligible to serve on the Board at any time.

Section 7.03 Term of Office. The directors shall hold office for a term of two (2) years with three (3) directors elected in the odd-numbered years and two (2) elected in the even numbered years. There shall be no limitation upon the number of consecutive terms to which a director may be reelected. Each director, including a director elected to fill a vacancy or elected at a special meeting of Members, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

Section 7.04 Nomination of Directors. Individuals can become candidates for election to the Board of Directors in any of the following ways:

- (a) Candidates Selected by Nominating Committee. At least ninety (90) days prior to the date of any election of directors, the president may appoint a nominating committee to select qualified candidates for election to those positions on the Board of Directors held by directors whose terms of office are then expiring. The nominating committee shall consist of three (3) Members of the Association who may, or may not be, Board members. The nominating committee shall make its report at least sixty (60) days before the date of the election; and the secretary shall forward to each Member, with the notice

of the meeting at which the election is scheduled to take place (see Section 5.04), a list of the nominees. The nominating committee shall make as many nominations for election to the Board as it shall, in its discretion, determine, but not less than the number of vacancies on the Board to be filled.

(b) Nominations From the Floor. Any Member present, in person, or by proxy, at a meeting to elect directors, may place names in nomination.

(c) Petition Procedure. A person can become a candidate by filing with the secretary a petition nominating himself or herself no later than thirty (30) calendar days and no earlier than fifty (50) calendar days prior to the annual election.

(d) Good-Standing Requirement. In order to be eligible for nomination and election to the Board, the Association secretary must certify that the candidate-Member is in good standing with the Association and is current in the payment of his/her Assessments.

Section 7.05 Election of Directors.

(a) Directors Elected by Written Ballot. The annual election of directors, to fill those positions on the Board held by directors whose terms of office are then expiring, shall be conducted by written ballot in accordance with the current rules adopted in accordance with Civil Code §1363.03, or any replacement statute.

(b) Determination of Election Results/Succession to Office. The candidates receiving the highest number of votes shall be elected as directors and shall take office immediately following their election. In the event there is a tie vote between those candidates who receive the lowest number of votes necessary to qualify the candidate for election, the tie shall be broken by lot.

Section 7.06 Vacancies on Board of Directors.

(a) Vacancies, Generally. A vacancy, or vacancies, in the Board of Directors shall be deemed to exist on the occurrence of any of the following: (i) the death, resignation, or removal of a director pursuant to subparagraphs (c) and (d) hereof; (ii) an increase of the authorized number of directors; or (iii) the failure of the Members, at any meeting of Members at which any director or directors are to be elected, to elect the number of directors to be elected at such meeting.

(b) Resignation of Directors. Except as provided in this subparagraph, any director may resign, which resignation shall be effective on giving written notice to the president, the secretary, or the Board of Directors, unless the notice specifies a later time for the resignation to become effective. If the resignation of a director is effective at a future time, the Board of Directors may elect a successor to take office when the resignation becomes effective.

(c) Authority of Board to Remove Directors. The Board of Directors shall have the power and authority to remove a director and declare his/her office vacant if he/she: (i) has been declared of unsound mind by a final order of court; (ii) has been convicted of

a felony; or (iii) fails to attend three consecutive regular meetings of the Board of Directors which have been duly noticed in accordance with California Law.

(d) Authority of Members to Remove Directors. Except as otherwise provided in subparagraphs (c) and (e) hereof, a director may only be removed from office prior to expiration of his/her term by the affirmative vote of a Majority of a Quorum of the Members. Any membership action to recall or remove a director shall be conducted in accordance with the following procedures:

(i) A petition must be presented in person to the president, vice president, or secretary of the Association that carries the signatures of Members in good standing who represented at least five percent (5%) of the Voting Power of the Association. Such petition must set forth the reason(s) the petitioners are seeking the director's removal, the signature and Lot number(s) of each petitioner in his/her own handwriting, the name(s) of the sponsor(s) of the petition, and fulfill all other requirements required by law.

(ii) Within twenty (20) days after receipt of such petition, the Board shall either call a special meeting or announce the procedures for conducting a written ballot of the Members to vote upon the requested recall. Such meeting, or written ballot, shall be conducted not less than thirty-five (35) nor more than ninety (90) days after the petition is presented. If the Board fails to set a date for, and give the Members notice of, such meeting or written ballot within twenty (20) days, the Members initiating the petition may call such meeting, on their own initiative, without Board approval or sanction.

(iii) The director, whose removal is being sought, shall have the right to rebut the allegations contained in the petition orally, in writing, or both. If in writing, such rebuttal shall be mailed by the Association, or otherwise provided to all Members, together with the recall ballot.

(iv) If the quorum requirement for a valid membership action is not satisfied or if the recall vote results in a tie, the removal action will have failed.

(e) Removal by Court Action. The County Superior Court may, in response to a suit filed by any director or the lesser of twenty (20) Members or five percent (5%) of the Members, remove any director determined to be guilty of fraudulent or dishonest acts or gross abuse of authority or discretion with reference to the Association. The Association shall be made a party to any such action.

(f) Filling of Vacancies. Vacancies on the Board of Directors shall be filled by a majority vote of the remaining directors, though less than a quorum, or by a sole remaining director, unless the vacancy is created through removal of a director by action of the Members, in which case the vacancy shall be filled by a vote of the Members. Furthermore, the Members may elect a director, or directors, at any time to fill any vacancy, or vacancies, not filled by the directors by an election at a duly held meeting of the Members, or written ballot

(g) Reduction in Number of Directors. No reduction of the authorized number of directors shall have the effect of removing any director before that director's term of office expires.

ARTICLE VIII. BOARD MEETINGS

Section 8.01 Place of Meetings; Meetings by Conference Telephone. Regular and special meetings of the Board of Directors may be held at any place that has been designated from time to time by resolution of the Board and stated in the notice of the meeting. Notwithstanding the above provisions of this section, a regular or special meeting of the Board may be held at any place consented to in writing by all the Board members, either before or after the meeting. If consents are given, they shall be filed with the minutes of the meeting. Any meeting defined as an "emergency meeting" in Section 8.05(c), below, may be held by conference telephone or similar communication equipment, so long as all directors participating in the meeting can hear one another, and all such directors shall be deemed to be present, in person, at such meeting. Actions taken by the Board, by means of a telephone conference call, shall be communicated to the Members by any means the Board deems appropriate.

Section 8.02 Annual Meeting of Directors. Immediately following each annual meeting of Members, the Board of Directors shall hold a regular meeting for the purpose of organization, election of officers, and the transaction of other business. Notice of this meeting shall not be required.

Section 8.03 Other Regular Meetings. Other Regular meetings of the Board shall be conducted at the discretion of the Board. If the Board adopts an annual schedule for the conduct of regular meetings (such as a schedule that calls for regular meetings to be held at a specific time and location on the third Thursday of each month), and that schedule is communicated to all directors at the inception of the year, no further notice of a regular meeting shall be required, unless the date, time, or location for a particular regular meeting is changed for any reason, in which case, notice shall be provided to directors in accordance with Section 8.05, below.

Section 8.04 Special Meetings of the Board. Special meetings of the Board of Directors for any purpose may be called at any time by the president or any two directors.

Section 8.05 Notice of Board Meetings.

(a) Manner of Giving Notice to Directors. In the case of any special meeting of the Board, and if the Board has not fixed the time and location for regular meetings and provided each director with the schedule for the conduct of regular meetings, notice shall be communicated to each Board member not less than four (4) days prior to the date of the meeting, if notice is given by first-class mail, or not less than forty-eight (48) hours before the meeting, if notice is delivered personally or by telephone, including a voice messaging system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail, or other electronic means. Notice of a meeting of the Board need not be given to any director who has signed a waiver of notice or a written consent to the conduct of the meeting or an approval of the minutes of the

meeting (whether before or after the meeting), or who attends the meeting without protesting, prior thereto or at the commencement of the meeting, the lack of notice to that director. All such notices shall be given or sent to the director's address or telephone number as shown on the records of the Association. Notwithstanding the foregoing, notice of a meeting need not be given to any director who has signed a written waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, as more particularly provided in Section 8.08, below.

(b) Notice Contents. The notice of any meeting of the Board shall state the time, place, and purpose of the meeting.

(c) Members' Right to Receive Notice of Board Meetings. All Members of the Association shall be given notice of the time and place of all Board meetings, except for "emergency meetings", at least four (4) days prior to the date of the meeting. This notice to the Members shall be given by posting the notice in a prominent place or places within the Common Area and by mail to any Member who has requested notification of Board meetings by mail (with the notice sent to the address requested by the Member). Notice may also be given by mail or delivery of the notice to each Lot within the Development, or by newsletter or by electronic posting or similar means of communication. Notice given by electronic posting shall be valid only if it complies with Corporations Code §20 or any replacement statute. For purposes of this Section 8.05, an "emergency meeting" of the Board means a meeting called by the president, or by any two members of the Board, under circumstances that could not have been reasonably foreseen, which require immediate attention and possible action by the Board, and which of necessity, make it impracticable to provide prior notice to the Members as required by the Open Meeting Act (see Section 8.06, below).

In addition to the foregoing general notice requirements for Members, if a particular Member or Members are scheduled for possible disciplinary action on the agenda for a Board meeting, the Board must notify the subject Member(s) in writing, by either personal delivery or first-class mail, at least ten (10) days prior to the date of the meeting. Any such special notice of possible disciplinary action must contain, at a minimum, the date, time, and location of the meeting, the nature of the alleged violation for which the Member(s) is/are being considered for disciplinary action, and a statement that the Member(s) has/have a right to attend the meeting and address the Board concerning the disciplinary matter.

Section 8.06 Attendance by Members; Common Interest Development Open Meeting Act Provisions. The following provisions reflect the California Common Interest Development Open Meeting Act (Cal. Civ. Code §1363.05):

(a) Meetings Generally Open to Members. With the exception of executive sessions of the Board (see subparagraph (b), below) and any meetings conducted by conference telephone, any Member of the Association may attend meetings of the Board of Directors, provided, however, that non-director Members may only participate in deliberations or discussions of the Board when expressly authorized by a vote of a majority of the directors present at the meeting at which a quorum has been established or by the Board member chairing the meeting. For purposes of the Open Meeting Act, the

term “meeting” includes any congregation of a majority of the members of the Board, at the same time and place, to hear, discuss, or deliberate upon any item of business scheduled to be heard by the Board, except those matters that may be discussed in executive session.

(b) Right of Members to Speak at Meetings. The Board of Directors shall permit any Member to speak at any meeting of the Members or of the Board of Directors, except for Board meetings that are held in executive session pursuant to subparagraph (c), below. Reasonable time limitations can be imposed by the Board, or the chairman of the meeting, on presentations or statements by Members; and, in the case of Board meetings, the agenda for the meeting can designate a specific time for Member statements and comments.

(c) Executive Sessions. The Board, on the affirmative vote of a majority of the directors present at a meeting at which a quorum has been established, shall be entitled to adjourn at any time for purposes of reconvening in executive session to discuss: (i) litigation in which the Association is or may become a party; (ii) matters relating to the formation of contracts with third parties; (iii) Member discipline; (iv) personnel matters; or, (v) to meet with a Member, upon the Member’s request, regarding the Member’s payment of Assessments, as specified in Civil Code §1367.1. The Board must meet in executive session, if requested by a Member who may be subject to a fine, penalty, or other form of discipline; and the Member, who is the subject of the disciplinary proceeding, shall be entitled to attend the executive session. Any matter discussed in executive session shall be generally noted in the minutes of the immediately following Board meeting that is open to the entire membership.

(d) Board Meeting Minutes. The minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any meeting of the Board of Directors, other than minutes of an executive session, shall be available to the Members within thirty (30) days of the meeting. The minutes, proposed minutes, or summary minutes shall be distributed to any Member, upon request and upon reimbursement of the Association’s costs, in making that distribution.

Section 8.07 Quorum Requirements. A majority of the authorized number of directors shall constitute a quorum for the transaction of business, except to adjourn as provided in Section 8.09, below. Every act or decision done, or made by a majority of the directors present at a meeting duly held at which a quorum is present, shall be regarded as the act of the Board of Directors, subject to the provisions of the California Nonprofit Mutual Benefit Corporation Law, especially those provisions relating to (i) approval of contracts or transactions in which a director has a direct or indirect material financial interest, (ii) appointment of committees, and (iii) indemnification of directors. A meeting at which a quorum is initially present may continue to transact business, notwithstanding the withdrawal of directors below a quorum, if any action taken is approved by at least a majority of the required quorum for that meeting, or such greater number as is required by these Bylaws, the Articles, or by law.

Section 8.08 Waiver of Notice. The transaction of any meeting of the Board of Directors, however called and noticed or wherever held, shall be as valid as though taken at a

meeting duly held after regular call and notice, if (a) a quorum is present, and (b) either before or after the meeting, each of the directors not present, individually or collectively, signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. All waivers, consents, and approvals shall be filed with the Association records or made a part of the minutes of the meeting and shall have the same force and effect as a unanimous vote of the Board. The requirement of notice of a meeting shall also be deemed to have been waived by any director who attends the meeting without protesting the lack of proper notice either before, or at the inception of, the meeting.

Section 8.09 Adjournment. A majority of the directors present, whether or not constituting a quorum, may adjourn any meeting to another time and place. If the meeting is adjourned for more than twenty-four (24) hours, notice of adjournment to any other time or place shall be given, prior to the time of the adjourned meeting, to the directors who are not present at the time of the adjournment. Except as provided above, notice of adjournment need not be given.

Section 8.10 Action Without a Meeting. Any action required or permitted to be taken by the Board of Directors may be taken without a meeting, if all members of the Board, individually or collectively, consent in writing to that action. Such action by written consent shall have the same force and effect as an unanimous vote of the Board of Directors.

If the Board of Directors resolves, by unanimous written consent, to take action, an explanation of the action taken shall be communicated to the Members by any means the Board deems appropriate. Any written consent, or consents, of the Board shall be filed with the minutes of the proceedings of the Board.

Section 8.11 Compensation. Directors, officers, and members of committees shall not be entitled to compensation for their services, as such; although, they may be reimbursed for such actual expenses, as may be determined by resolution of the Board of Directors, to be just and reasonable. Expenses for which reimbursement is sought shall be supported by a proper receipt or invoice.

Section 8.12 Protocol at Board Meetings. At each meeting of the Board, the President, or, if he/she is absent, the Vice President, or, if he/she is absent, a Director chosen by a majority of the Directors present, shall act as Chairperson and preside over such meeting. The Secretary, or, if he/she is absent, the person (who shall be an assistant secretary, if any, and if present) whom the Chairperson of such meeting shall appoint, shall act as Secretary of such meeting and keep the minutes thereof.

ARTICLE IX. DUTIES AND POWERS OF THE BOARD

Section 9.01 Specific Powers. Without prejudice to the general powers of the Board of Directors, set forth in Section 7.01, above, the directors shall have the power to:

- (a) Exercise all powers vested in the Board, under the Governing Documents and under the laws of the State of California.

- (b) Appoint and remove all officers of the Association, the General Manager of the Association, if any (subject to any contractual commitments which may exist), and other Association employees; prescribe any powers and duties for such persons that are consistent with law, the Articles of Incorporation, and these Bylaws; and fix their compensation.
- (c) Appoint such agents and employ such other employees, including attorneys and accountants, as it sees fit to assist in the operation of the Association, and to fix their duties, and to establish their compensation.
- (d) Adopt and establish rules and regulations, subject to the provisions of the Declaration, governing the use of the Common Areas within the Development, and the personal conduct of the Members and their guests thereon, and take such steps, as it deems necessary, for the enforcement of such rules and regulations, including the imposition of monetary penalties and/or the suspension of voting rights; provided notice and a hearing are provided, as required by California law. Rules and regulations adopted by the Board may contain reasonable variations and distinctions as between Owners and tenants.
- (e) Enforce all applicable provisions of the Governing Documents relating to the control, management, and use of the Lots and Common Areas within the Development.
- (f) Contract for and pay premiums for fire, casualty, liability, and other insurance and bonds (including indemnity bonds), which may be required, from time to time, by the Association.
- (g) Contract for and pay for maintenance, landscaping, utilities, materials, supplies, labor, and services that may be required, from time to time, in relation to the Development.
- (h) Pay all taxes, special assessments and other assessments and charges which are or would become a lien on any portion of the Development.
- (i) Contract for and pay for construction or reconstruction of any portion or portions of the Common Areas which have been damaged, or destroyed, and which are to be rebuilt.
- (j) Delegate its duties and powers hereunder to the officers of the Association, or to committees established by the Board, subject to the limitations expressed in Section 10.01, below.
- (k) Levy and collect Assessments from the Members of the Association in accordance with the Declaration.
- (l) Perform all acts required of the Board under the Declaration.
- (m) Prepare budgets and maintain a full set of books and records showing the financial condition of the affairs of the Association in a manner consistent with generally

accepted accounting principles; and, at no greater than annual intervals, prepare an annual financial report, a copy of which shall be delivered to each Member as provided in Section 12.05, below.

(n) Appoint a nominating committee for the nomination of persons to be elected to the Board; and prescribe rules under which said nominating committee is to act, all as more particularly described in Section 7.04, above.

(o) Appoint such other committees as it deems necessary, from time to time, in connection with the affairs of the Association, in accordance with Article X, below.

(p) Fill vacancies on the Board of Directors or in any committee, except for a vacancy created by the removal of a Board member.

(q) Open bank accounts and borrow money on behalf of the Association, and designate the signatories to such bank accounts.

(r) Bring and defend actions on behalf of the Members in common or the Association, to protect the interests of the Members in common or the Association, as such, so long as the action is pertinent to the operations of the Association; and assess the Members for the cost of such litigation.

(s) Enter any Lots, as necessary, subject to the notice requirements of the Declaration, in connection with construction, maintenance, or emergency repairs for the Common Areas for the benefit of the Owners.

Section 9.02 Limitations on Powers of the Board.

(a) Prohibited Actions. The Association is prohibited from taking any of the following actions:

(i) Except as otherwise provided in law, an order of the Court, or an order pursuant to a final and binding arbitration decision, the Association shall not deny an Owner or occupant physical access to his/her Lot, or by restricting access through the Common Area Roads;

(ii) The Association may not voluntarily assign or pledge the Association's right to collect payments or assessments or to enforce or foreclose a lien to a third party, except when the assignment or pledge is made to a financial institution or lender chartered or licensed under federal or State law when acting within the scope of that charter or license as security for a loan obtained by the Association; however, the foregoing provision may not restrict the right or ability of the Association to assign any unpaid obligations of a former Member to a third party for purposes of collection; or

(iii) Adopt an Association Rule or regulation that arbitrarily or unreasonably restricts an Owner's ability to market the Owner's Lot.

(b) Board Actions Requiring Member Approval. The Board shall not take any of the following actions, except with the approval of Members constituting a majority of the Voting Power of the Association or by a Member vote conducted by written ballot without a meeting, pursuant to Corporations Code §7513, or any successor statute, of the Members of the Association. These actions include the following:

(i) Actions Requiring Approval By Majority of Total Voting Power.

(A) Enter into a contract with a third person, wherein the third person will furnish goods or services for repair or maintenance of the Common Areas or the Association, for a term longer than one (1) year with the following exceptions:

(1) A contract with a public utility company, if the rates charged for materials or services are regulated by the Public Utilities Commission; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

(2) Prepaid casualty and/or liability insurance policies, if not to exceed three (3) years duration, provided that the policy permits short-rate cancellation by the insured.

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

(C) Sell, during any fiscal year, Development of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses, of the Association for that fiscal year.

(D) Pay compensation to members of the Board of Directors, or the officers of the Association; provided, however, that directors and officers can be reimbursed for reasonable, out-of-pocket expenses, verified in writing, incurred in carrying on the business of the Association.

ARTICLE X. COMMITTEES

Section 10.01 Committees of Directors. In addition to the nominating committee appointed and constituted pursuant to Section 7.04(a), the Board may, by resolution adopted by a majority of the directors then in office, designate one, or more, committees, each consisting of two, or more, Members (who may also be directors), to serve at the pleasure of the Board. Committees shall have all the authority of the Board, with respect to matters within their area of assigned responsibility, except that no committee, regardless of Board resolution, may:

(a) Take any final action on any matter, which, under the California Nonprofit Mutual Benefit Corporation Law, also requires approval of the Members.

- (b) Fill vacancies on the Board of Directors, or on any committee, which has been delegated any authority of the Board.
- (c) Amend or repeal Bylaws, or adopt new Bylaws.
- (d) Amend or repeal any resolution of the Board of Directors, which, by its express terms, is not so amendable or repealable.
- (e) Appoint any other committees of the Board of Directors, or designate the members of those committees.
- (f) Approve any transaction: (1) to which the Association is a party and one, or more, directors have a material financial interest; or (2) between the Association and one, or more, of its directors, or between the Association or any person in which one, or more, of its directors have a material financial interest.

Section 10.02 Meetings and Actions of Committees. Meetings and actions of committees shall be governed by, and held and taken in accordance with, the provisions of Article VIII, above, concerning meetings of directors, with such changes in the context of those Bylaws as are necessary to substitute the committee and its members for the Board of Directors and its members, except that the time for regular meetings of committees may be determined either by resolution of the Board of Directors or by resolution of the committee. Special meetings of committees may also be called by resolution of the Board of Directors. Notice of special meetings of committees shall also be given to any and all alternate members, who shall have the right to attend all meetings of the committee. Unless otherwise provided in the Board resolution establishing the committee, minutes shall be kept of each meeting of any committee and shall be filed with the Association records. The Board of Directors may adopt additional rules, not inconsistent with the provisions of these Bylaws, for the governance of any committee.

ARTICLE XI. OFFICERS

Section 11.01 Officers. The officers of the Association shall be a president, a vice president, a secretary, and a chief financial officer. The Association may also have, at the discretion of the Board, one or more assistant secretaries, one or more assistant treasurers, and such other officers as may be appointed in accordance with the provisions of Section 11.03, below. Any person may hold two, or more, offices; except that neither the secretary, nor the chief financial officer, may serve concurrently as president.

Section 11.02 Election of Officers. The officers of the Association, except such officers as may be appointed in accordance with the provisions of Sections 11.03 and 11.06, below, shall be chosen annually by majority vote of the Board, at its first regular meeting following the annual meeting of the Members or the election of directors, and each shall hold his/her office until he/she shall resign or shall be removed or otherwise disqualified to serve, or his/her successor shall be elected and qualified.

Section 11.03 Subordinate Officers. The Board may appoint, and may empower the president to appoint, such other officers, as the affairs of the Association may require, each of

whom shall hold office for such period, have such authority, and perform such duties, as are provided in the Bylaws and as the Board may, from time to time, determine.

Section 11.04 Removal of Officers. Any officer may be removed, either with or without cause, by the Board at any regular or special meeting.

Section 11.05 Resignation of Officers. Any officer may resign at any time by giving written notice to the Board or to the president or to the secretary. Any such resignation shall take effect at the date of the receipt of such notice, or at any later time specified therein; and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Any resignation is without prejudice to the rights, if any, of the Association under any contract to which the officer is a party.

Section 11.06 Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause, shall be filled in the manner prescribed in the Bylaws for regular appointments to such office.

Section 11.07 President. The president shall be elected by the Board from among the directors. He/She shall be the chief executive officer of the Association; and shall, subject to the control of the Board, have general supervision, direction, and control of the affairs and officers of the Association. He/She shall preside at all meetings of the Board, and shall have the general power and duties of management usually vested in the office of president of a corporation, together, with such other powers and duties as may be prescribed by the Board or the Bylaws.

Section 11.08 Vice President. The vice president shall be elected by the Board from among the directors. In the absence or disability of the president, the vice president shall perform all the duties of the president, and when so acting, shall have all the powers of, and be subject to all the restrictions upon, the president. He/She shall have such other powers and perform such other duties as, from time to time, may be prescribed by the Board or by the Bylaws.

Section 11.09 Secretary. The secretary shall be elected by the Board from among the directors. The secretary shall keep, or cause to be kept at the principal office or such other place as the Board may order, a book of minutes of all meetings of directors and Members, with the time and place of holding same, whether regular or special; and, if special, how authorized, the notice thereof given, the names of those present at directors' meetings, the number of Members present in person or by proxy at Members' meetings, and the proceedings thereof. The secretary shall keep, or cause to be kept, appropriate current records showing the Members of the Association, together with their addresses. He/She shall give, or cause to be given, notice of all meetings of the Board required by the Bylaws or by law to be given; and he/she shall keep the seal of the Association in safe custody, and shall have such other powers, and perform such other duties, as may be prescribed by the Board or by the Bylaws.

Section 11.10 Chief Financial Officer. The chief financial officer shall be elected by the Board from among the directors. The chief financial officer, who shall be known as the treasurer, shall keep and maintain, or cause to be kept and maintained, adequate and correct accounts of the properties and business transactions of the Association, including accounts of its

assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and other matters customarily included in financial statements. The books and records shall, at all reasonable times, be open to inspection by any director or Member. The treasurer shall deposit all monies and other valuables in the name and to the credit of the Association with such depositories as may be designated by the Board. He/She shall disburse the funds of the Association as may be ordered by the Board, shall render to the president and directors whenever they request it, an account of all of his/her transactions as treasurer and of the financial condition of the Association; and shall have such other powers and perform such other duties as may be prescribed by the Board by or the Bylaws. If required by the Board, the treasurer shall give the Association a bond in the amount, and with the surety or sureties specified by the Board, for faithful performance of the duties of his/her office, and for restoration to the Association of all its books, papers, vouchers, money, and other Development of every kind in his/her possession or under his/her control on his/her death, resignation, retirement, or removal from office.

ARTICLE XII.

MEMBER ASSESSMENT OBLIGATIONS AND ASSOCIATION FINANCES

Section 12.01 Description of Assessments to Which Owners Are Subject. Owners of Lots within the Development are subject to Regular, Special and Special Individual Assessments that are more particularly described in Article IV of the Declaration.

Section 12.02 Checks. All checks or demands for money and notes of the Association shall be signed by the president and treasurer, or by such other officer or officers or such other person or persons as the Board of Directors may, from time to time, designate. Notwithstanding the foregoing, any withdrawal of funds from Association reserve accounts shall require the signature of two directors.

Section 12.03 Operating Account. There shall be established and maintained a cash deposit account to be known as the "Operating Account" into which shall be deposited the operating portion of all Regular and Special Assessments as fixed and determined for all Members. Disbursements from such account shall be for the general need of the Association's operation, including, but not limited to, wages, repairs, betterments, maintenance, and other operating expenses incurred by the Association in the performance of its duties and responsibilities under the Governing Documents, including, without limitation, repair, maintenance, and replacement of those portions of the Development that the Association is obligated to maintain.

Section 12.04 Other Accounts. The Board shall maintain any other accounts it shall deem necessary to carry out its purposes, including, and in accordance with, Civil Code §1365.5(f), or its successor statute, reserve accounts for (a) replacement of capital improvements, as more particularly set forth in Article IV of the Declaration; or (b) funds received and not yet expended or disposed from either a compensatory damage award or settlement for injury to real or personal Development as a result of any construction or design defects. All Association books of account shall be maintained in accordance with generally accepted accounting principles.

Section 12.05 Budgets and Financial Statements. The following financial statements and related information for the Association shall be regularly prepared and copies thereof shall be distributed to each Member of the Association:

(a) **Budget.** A pro forma operating budget meeting the requirements of this subparagraph (a) shall be distributed to Members not less than forty-five (45) days nor more than sixty (60) days prior to the beginning of the fiscal year. The budget shall include, at least, the following information:

(i) The Association's estimated revenue and expenses on an accrual basis;

(ii) A summary of the Association's reserves based upon the most recent review or study conducted pursuant to Section 12.06, below, and Civil Code §1365.5, which shall be printed in bold type and include all of the following:

(A) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component of the Common Area which the Association is obligated to repair, replace, restore, or maintain (collectively "Common Areas");

(B) As of the end of the fiscal year for which the reserve study is prepared:

(1) The current estimate of the amount of cash reserves necessary for Association Common Areas;

(2) The current amount of accumulated cash reserves actually set aside for Association Common Areas; and

(3) If applicable, the amount of funds received from either a compensatory damage award or settlement to the Association, from any person or entity for injuries to real or personal Development arising out of construction or design defects; and the expenditure or disposition of funds, including the amounts expended for the direct and indirect costs of repair of construction or design defects. Such amounts shall be reported, as a separate line item, under accumulated cash reserves, under subparagraph (2), above. In any year in which the Association is obligated to issue a review of their financial statement in accordance with subparagraph (b), below, in lieu of complying with this subparagraph (3), the Association may include a statement containing all of the information required by this subparagraph in such review.

(C) The percentage that the amount of accumulated cash reserves is of the estimated amount of necessary cash reserves calculated under subparagraph (B), above.

(iii) A statement as to (1) whether the Board of Directors has determined or anticipates that the levy of one or more special assessments will be required to repair, replace, or restore any major component, or to provide adequate reserves therefore (if so, the statement shall also set out the estimated amount, commencement date, and duration of the assessment); and (2) the mechanism, or mechanisms, by which the Board of Directors will fund reserves to repair or replace major components, including assessments, borrowing, use of other assets, deferral of selected replacement or repairs, or alternative mechanisms.

(iv) A general statement setting forth the procedures used by the Board of Directors in calculating and establishing reserves to defray the future costs of repair, replacement, or additions to major components of the Development, which the Association is obligated to maintain. The report shall include, but need not be limited to, reserve calculations made using the formula described in paragraph (4) of subdivision (b) of Civil Code §1365.2.5, and may not assume a rate of return on cash reserves in excess of two percent (2%) above the discount rate, published by the Federal Reserve Bank of San Francisco, at the time the calculation was made.

The summary of the Association's reserves disclosed pursuant to paragraph (a) (ii) above shall not be admissible in evidence to show improper financial management of the Association, provided that other relevant and competent evidence of the financial condition of the Association is not made inadmissible by this provision.

In lieu of distributing the complete pro forma operating budget, as specified above, the Board of Directors may elect to distribute a summary of the budget to the Members (within the time limits provided above), together with a notice that the complete budget is available at the Association's principal office; and that copies will be furnished, upon request, to any Member, at the Association's expense. This notice shall be presented on the front page of the budget summary in at least ten (10)-point bold type. If a Member requests a copy of the complete budget, the Association shall mail the material, via first class mail, within five (5) days.

(b) Year-End Report. Within one hundred twenty (120) days after the close of the fiscal year, a copy of the Association's year-end report, consisting of at least the following, shall be distributed to Members:

- (i) A balance sheet as of the end of the fiscal year;
- (ii) An operating (income) statement for the fiscal year;
- (iii) A statement of cash flows for the fiscal year;
- (iv) A statement advising Members of the place where the names and addresses of the current Members are located; and
- (v) Any information required to be reported under Corporations Code §8322 requiring the disclosure of certain transactions in excess of \$50,000 per year between the Association and any director or officer of the Association and

indemnifications and advances to officers or directors in excess of \$10,000 per year.

The annual report shall be prepared in accordance with generally accepted accounting principles by a licensee of the State Board of Accountancy for any fiscal year in which the gross income of the Association exceeds \$75,000.00. If the annual report is not prepared by such a licensee, it shall be accompanied by the certificate of an authorized officer of the Association that the statement was prepared without an audit from the books and records of the Association.

(c) Annual Statement Regarding Delinquency/Foreclosure Policy. In addition to financial statements, the Board of Directors shall annually distribute, within sixty (60) days prior to the beginning of the fiscal year, a statement describing the Association's policies and practices in enforcing its remedies against Members for defaults in the payment of Regular and Special Assessments, including the recording and foreclosing of liens, against Members' Lots.

(d) Review of Accounts. On no less than a quarterly basis, the Board of Directors shall:

- (i) Review a current reconciliation of the Association's operating accounts;
- (ii) Review a current reconciliation of the Association's reserve accounts;
- (iii) Review the current year's actual reserve revenues and expenses compared to the current year's budget;
- (iv) Review the Association's latest account statements prepared by the financial institution(s) with whom the operating and reserve accounts are lodged; and
- (v) Review the Association's income and expense statement for the operating and reserve accounts.

Section 12.06 Required Reserve Studies. At least once every three years, the Board of Directors shall cause a study of the reserve account requirements of the Development to be conducted, if the current replacement value of the major components which the Association is obligated to repair, replace, restore, or maintain is equal to, or greater, than one-half of the gross budget of the Association for any fiscal year. The Board shall also review any reserve study, required hereunder, on an annual basis; and shall consider and implement necessary adjustments to the Board's analysis of the reserve account requirements, as a result of that review. The reserve study required hereunder shall include the minimum requirements specified in Civil Code §1365.5, or comparable successor statute.

**ARTICLE XIII.
MISCELLANEOUS**

Section 13.01 Inspection of Books and Records. The Members shall have the right to inspect the records of the Association as provided in Civil Code §1365.2, or any replacement statute.

Section 13.02 Director Inspection Rights. Every director shall have an absolute right, at any reasonable time, to inspect all books, records, documents, and minutes of the Association, and the physical properties owned by the Association. The right of inspection by a director includes the right to make extracts and copies of documents.

Section 13.03 Manager. The Board may, from time to time, employ the services of a manager to manage the affairs of the Association, and, to the extent not inconsistent with the laws of the State of California; and upon such conditions as are otherwise deemed advisable by the Board, the Board may delegate to the manager any of its day-to-day management and maintenance duties and powers under these Bylaws and the Declaration, provided that the manager shall, at all times, remain subject to the general control of the Board.

Section 13.04 Robert's Rules of Order. In the event of a question or dispute concerning the procedural aspects of any meetings which cannot be resolved by reference to these Bylaws or applicable law, the matter shall be resolved by reference to Robert's Rules of Order.

Section 13.05 Amendment or Repeal of Bylaws. Except as otherwise expressly provided herein, these Bylaws may only be amended or repealed, and new Bylaws adopted by the affirmative vote or assent by written ballot of a majority of a quorum of Members of the Association; provided, that if any provision of these Bylaws requires the vote of a larger proportion or all of the Members, such provisions may not be altered, amended, or repealed, except by such greater vote, unless otherwise specifically provided herein. Any amendment to these Bylaws shall become effective immediately upon approval by the Members. The secretary of the Association shall certify adoption of any duly approved amendment to the Bylaws and a copy of said certificate and the amendment shall be included in the Association's corporate records.

Section 13.06 Notice Requirements. Any notice, or other document permitted or required to be delivered, as provided herein, may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of same has been deposited in the United States mail, postage prepaid, and addressed as follows: If to the Association or the Board of Directors, at the principal office of the Association as designated from time to time by written notice to the Members; if to a director, at the address from time to time given by such director to the secretary for the purpose of service of such notice; if to a Member, at the address from time to time given by such Member to the secretary for the purpose of service of such notice; or, if no such address has been so given, to any Lot within the Development owned by such Member.

Section 13.07 Indemnification of Agents.

(a) Indemnification of Association. Each Owner shall be liable to the Association for any damage to the Common Areas caused by the negligence or willful misconduct of the Owner or his/her family, guests, invitees, or lessees, to the extent that the damage shall not be covered by insurance. Each Owner shall indemnify, hold harmless, and pay any costs of defense of each other Owner, from claims for personal injury or Development damage, occurring within any portion of the Common Areas, provided that this protection shall not extend to any indemnitee whose negligence or willful misconduct caused or contributed to the injury or damage. This section is not intended to be for the benefit of any insurer and shall not affect nor limit the duty of any insurer to pay any claim, which would be payable by said insurer, but for this section.

(b) Indemnification by Association of Directors and Officers, Employees, and Other Agents. To the fullest extent permitted by law, the Association shall indemnify its directors, officers, employees, and other agents, described in Corporations Code §7237, including, persons formerly occupying any such positions, against all expenses, judgments, fines, settlements, and other amounts actually, and reasonably, incurred by them in connection with any “proceeding”, as that term is used in that section, and including an action by or in the right of the Association, by reason of the fact that such person is or was a person described by that section. The term “Expenses”, as used in this section, shall have the same meaning as in Corporations Code §7237(a).

(c) Approval of Indemnity by Association. On written request, to the Board by any person seeking indemnification hereunder, the Board shall promptly determine, in accordance with Corporations Code §7237(e), whether the applicable standard of conduct set forth in Corporations Code §§7237(b) or 7237(c) has been met; and, if it has, the Board shall authorize indemnification. If the Board cannot authorize indemnification, because the number of directors, who are parties to the proceeding with respect to which indemnification is sought, prevents the formation of a quorum of directors who are not parties to the proceeding, the Board shall promptly call a meeting of Members. At that meeting, the Members shall determine, under Corporations Code §7237(e), whether the applicable standard of conduct, set forth in Corporations Code §§7237(b) or 7237(c), has been met; and, if it has, the Members present at the meeting in person, or by proxy, shall authorize indemnification.

(d) Advancement of Expenses. To the fullest extent permitted by law, and except as is otherwise determined by the Board in a specific instance, expenses incurred by a person seeking indemnification under paragraphs (b) and (c) of this section, in defending any proceeding covered by those sections, shall be advanced, by the Association before final disposition of the proceeding, on receipt by the Association of an undertaking by or on behalf of that person, that the advance will be repaid unless it is ultimately determined that the person is entitled to be indemnified by the Association for those expenses.

(e) Insurance. The Association shall have the power to purchase and maintain insurance on behalf of its directors, officers, employees, and other agents against other

liability asserted against, or incurred by, any director, officer, employee, or agent in such capacity; or arising out of the director's, officer's, employee's, or agent's status, as such.

Section 13.08 Notification to Members Regarding Insurance Coverage Maintained by the Association.

(a) **Scope of Required Summary Disclosures.** In accordance with Civil Code §1365, and at the times specified in subparagraph (c), below, the Association shall prepare and distribute to its Members a summary of the general liability insurance and directors' and officers' liability insurance, maintained by the Association. In addition, if the Association also maintains a policy of earthquake or flood insurance, a summary of that insurance shall also be provided to the Members. As to all three types of insurance coverage, the disclosure shall include the name of the insurer and the policy limits of the insurance. In addition, in the case of the Association's general liability insurance, the summary shall also disclose (1) whether the Association consulted with an insurance agent or broker regarding the coverage provided by the policy; and, if so, whether the recommendations of the broker or agent were followed; (2) the insurance deductible, and the person or entity responsible for paying the deductible, in the event of a loss; and (3) whether the policy covers real Development improvements of the Association. If the Association maintains earthquake or flood insurance, the summary pertaining to that insurance shall also include information concerning insurance deductibles, and the person or entity responsible for paying the deductible, in the event of a loss.

(b) **Use of Policy Declaration Page to Comply With Summary Disclosure Requirements.** In the case of all three types of insurance, the Association's disclosure obligations may be satisfied by distributing to the Members a copy of the policy declaration page, so long as that page presents the information specified above.

(c) **Times When Insurance Summaries Must Be Provided.** The summary information required by this section shall be provided to each Member of the Association at the following times:

(i) With the first newsletter, annual budget, financial disclosure (Section 12.05, above), or other general mailing, to all Members by the Association next following the adoption of these Bylaws; and

(ii) With the newsletter, annual budget, financial disclosure, or other general mailing, to all Members by the Association next following any renewal or replacement of one, or more, of the insurance policies listed in subparagraph (a), where there is no lapse of coverage in connection with the renewal or replacement.

(d) **Notification of Cancellation.** In addition to distributing the insurance summaries described in subparagraph (a), above, as soon as reasonably practicable following any cancellation of a policy listed in subparagraph (a), the Association shall notify its Members of that event, unless the canceled policy is replaced immediately.

(e) Manner of Delivery of Insurance Summaries and Cancellation Notices. Any insurance summary, or summaries, provided in response to the events described in subparagraphs (c) (i) and (c) (ii), above, may be mailed, or personally delivered, to each Member. If the summaries are mailed, the class of postage used shall be the same as is customarily used to mail the newsletter, or other general communication, in which the summaries are included. Any notice sent to the Members to advise them of the cancellation and non-renewal of an insurance policy, must be sent by first-class mail to each Member. All mailings shall be to the Members at their respective addresses, as shown in the books and records of the Association.

To the extent one document provides the information required in more than one of the foregoing sections of this Article, any such requirements listed above may be satisfied by sending the Members the same document.

Section 13.09 Alternative Dispute Resolution (ADR) Disclosure. On an annual basis, the Board shall provide each Member a summary of the provisions of Civil Code §§1369.520, et. seq. The summary shall be provided either at the time the budget required by Section 12.05(a), above, is distributed; or, in the manner specified in Corporations Code §5016. This summary shall include a description of the Association's internal dispute resolution process, as required by Civil Code §1363.850, and set forth in Section 13.10, below.

Section 13.10 Internal Dispute Resolution.

(a) Application of Internal Dispute Resolution Procedure.

(i) This section applies to a dispute between the Association and a Member involving their rights, duties, or liabilities under the Common Interest Development Act (commencing with Civil Code §1350), under the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with section 7110) of Division 2 of Title 1 of the Corporations Code)), or under the governing documents of this Association.

(ii) This section supplements, and does not replace, Article 2 (commencing with Civil Code §1369.510) of Chapter 7, relating to alternative dispute resolution as a prerequisite to an enforcement action.

(b) Internal Dispute Resolution Procedure. Either party to a dispute, within the scope of Paragraph (a), above, may invoke the following procedure:

(i) The party may request the other party to meet and confer in an effort to resolve the dispute. The request shall be in writing.

(ii) A Member of the Association may refuse a request to meet and confer; the Association may not refuse a request to meet and confer.

(iii) The Association's Board of directors shall designate a Member of the Board to meet and confer.

- (iv) The parties shall meet promptly, at a mutually convenient time and place, explain their positions to each other, and confer, in good faith, in an effort to resolve the dispute.
 - (v) A resolution of the dispute agreed to by the parties shall be memorialized, in writing, and signed by the parties, including the Board designee, on behalf of the Association.
- (c) An agreement reached under this section binds the parties and is judicially enforceable, if both of the following conditions are satisfied:
- (i) The agreement is not in conflict with law or the governing documents of the Association.
 - (ii) The agreement is either consistent with the authority granted by the Board of directors to its designee, or the agreement is ratified by the Board of Directors.
- (d) A Member of the Association may not be charged a fee to participate in the process.

Section 13.11 Disclosure Required of Seller.

- (a) A Member shall, as soon as practicable before transfer of title to the Member's separate interest or execution of a real Development sales contract therefore, as defined in Civil Code §2985, provide the following to the prospective purchaser the documents required to be provided to a prospective purchaser under Civil Code §1368, or any replacement statute, including, without limitation, the following:
- (i) A copy of the governing documents of the Association, including any operating rules; and including a copy of the Association's articles of incorporation.
 - (ii) A copy of the most recent documents distributed, pursuant to Civil Code §1365.
 - (iii) A true statement, in writing, obtained from an authorized representative of the Association as to the amount of the Association's current regular and special assessments and fees; any assessments levied upon the Member's interest in the common interest development that are unpaid, on the date of the statement; and any monetary fines, or penalties, levied upon the Member's interest and unpaid, on the date of the statement. The statement obtained from an authorized representative shall also include true information on late charges, interest, and costs of collection, which, as of the date of the statement, are, or may be made a lien upon, the Member's interest in a common interest development pursuant to Civil Code §1367 or §1367.1.
 - (iv) A copy, or a summary, of any notice previously sent to the Member, pursuant to subdivision (h) of Civil Code §1363, that sets forth any alleged

violation of the governing documents that remains unresolved at the time of the request. The notice shall not be deemed a waiver of the Association's right to enforce the governing documents against the Member or the prospective purchaser of the separate interest with respect to any violation. This paragraph shall not be construed to require the Association to inspect the Member's separate interest.

(v) A copy of the latest information provided for in Civil Code §1375.1.

(vi) Any change in the Association's current regular and special assessments and fees which have been approved by the Association's Board of directors, but have not become due and payable as of the date disclosure is provided, pursuant to this subdivision.

(b) Upon written request, the Association shall, within ten (10) days of the mailing or delivery of the request, provide the Member with a copy of the requested items specified in paragraphs (i) to (vi), inclusive of subdivision (a). The items required to be made available pursuant to this section may be maintained in electronic form, and requesting parties shall have the option of receiving them by electronic transmission or machine-readable-storage media, if the Association maintains these items in electronic form. The Association may charge a reasonable fee for this service, based upon the Association's actual cost to procure, prepare, and reproduce the requested items.

Section 13.12 Construction and Definitions. Unless the context requires otherwise, or a term is specifically defined herein, the general provisions, rules of construction, and definitions in the California Nonprofit Mutual Benefit Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of the above, the masculine gender includes the feminine and neuter, the singular number includes the plural, and the plural number includes the singular. All captions and titles used in these Bylaws are intended solely for the reader's convenience of reference and shall not affect the interpretation or application of any of the terms or provisions contained herein.

Section 13.13 Statement of Outstanding Charges. Within ten (10) days following receipt of a written request by a Member, the Association shall provide the Member with a written statement, setting forth the following information, as of the date of the statement: (a) the amount of the Association's current Common Assessment and Special Assessments (if any), and fees; (b) the amount, and nature, of any assessments levied upon the Member's Lot which are unpaid, on the date of the statement; (c) true and correct information regarding late charges, interest, and costs of collection which, as of the date of the statement, are, or may be made, a lien on the Member's Lot which may be made a lien upon that Lot in accordance with Civil Code §1367; and (d) any change in the Association's current Common and/or Special Assessments and fees which have been approved by the Association's Board of Directors but have not become due and payable as of the date of the statement. The Association may impose a fee for providing the information stated in this Section 13.13, not to exceed the reasonable costs incurred to prepare and reproduce the requested items.

Section 13.14 Annual Notice Regarding Assessments and Foreclosure. As required by Civil Code §1365.1, the Association shall distribute to all Members, during the sixty (60)-day period immediately preceding the beginning of the Association's fiscal year, the notice regarding Association assessment authority, foreclosure, and other collection remedies as set forth in subparagraph (b) of Civil Code §1365.1. This notice shall be printed in at least twelve (12)-point type.

Section 13.15 Disclosure of Schedule of Fines or Other Monetary Penalties. If the Association adopts a schedule of fines for commonly recurring infractions of the Governing Documents, or any other policy imposing a monetary penalty, or a fee on any Member for violation of any Governing Document or the Association Rules, including any monetary penalty relating to the activities of a guest or invitee of a Member, the Board shall distribute the schedule, or policy, to the Members by either personal delivery or by first-class mail. This distribution obligation shall arise whenever such a schedule, or policy, is adopted, or subsequently, amended.

CERTIFICATE OF SECRETARY

The undersigned, secretary of the corporation known as High Sierra Property Owners Association, Inc., hereby certifies that the above and foregoing Amended and Restated Bylaws, consisting of thirty-one (31) pages, were duly adopted by written ballot of the Members of the Association on June 12, 2009, and that they now constitute the Bylaws of the Association.

**HIGH SIERRA PROPERTY OWNERS
ASSOCIATION, INC.**, a California nonprofit
mutual benefit corporation

By: Kim Marie Workman
Secretary