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# AMENDED AND RESTATED BYLAWS OF THE MENLO COMMONS ASSOCIATION

## NOTICE

If this document contains any restriction based on race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the California *Government Code*. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

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THE MENLO COMMONS ASSOCIATION**

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1  
2 **AMENDED AND RESTATED BYLAWS OF**  
3 **THE MENLO COMMONS ASSOCIATION**  
4  
5

6 **ARTICLE 1 ORGANIZATION**  
7

- 8 1.1 Name and Location. The name of the corporation is THE MENLO COMMONS  
9 ASSOCIATION, which is hereinafter referred to as the "Association." The  
10 principal office of the Association shall be located in San Mateo County, State of  
11 California or at such other place reasonably convenient to the Project as the  
12 Board of Directors may from time to time establish.  
13  
14 1.2 Purpose. The purpose of the Association shall be as set forth in its Articles of  
15 Incorporation.  
16  
17 1.3 Successor Entity. In the event the Association as a corporate entity is dissolved,  
18 a nonprofit unincorporated association shall forthwith and without further action  
19 or notice be formed to succeed to all the rights and duties of the Association.  
20 The affairs of such unincorporated association will be governed by the laws of  
21 the State of California, and to the extent consistent therewith, by the Declaration,  
22 the Articles, and these Bylaws as if they were created for the purpose of  
23 governing the affairs of an unincorporated association.  
24  
25

26 **ARTICLE 2 DEFINITIONS**  
27

28 Any capitalized terms that are not defined below shall have the meaning set forth  
29 in **Article 1 of the Declaration** ("Definitions").  
30

- 31 2.1 Articles of Incorporation. "Articles of Incorporation" shall mean the Amended and  
32 Restated Articles of Incorporation of The Menlo Commons Association, as they  
33 may be amended from time to time, and as filed with the Office of the Secretary  
34 of State of California.  
35  
36 2.2 Assessments. "Assessments," "Regular Assessments," "Special Assessments,"  
37 "Reimbursement Assessments," and "Enforcement Assessments" shall have the  
38 meanings defined for those terms in the Declaration.  
39  
40 2.3 Association. "Association" shall mean The Menlo Commons Association, a  
41 California nonprofit mutual benefit corporation, its successors and assigns.  
42  
43 2.4 Board of Directors. "Board of Directors" or "Board" shall mean the governing  
44 body of the Association.  
45



- 1 2.5 Bylaws. “Bylaws” shall mean the Amended and Restated Bylaws of the  
2 Association as they shall be duly adopted by the Board of Directors and the  
3 Members and any duly-adopted amendments thereof.  
4
- 5 2.6 Civil Code. “*Civil Code*” shall mean the California *Civil Code* as amended from  
6 time to time.  
7
- 8 2.7 Committee of the Board. “Committee of the Board” shall mean a committee  
9 consisting only of directors as described in *Corporations Code* section 7212.  
10
- 11 2.8 Common Area. “Common Area” shall mean all of the property comprising the  
12 Project within Parcels A and B as shown on the Map, title to each of said Parcels  
13 being held by the Owners as tenants-in-common of the Units located within the  
14 respective Parcels, but excluding the Units therein.  
15
- 16 2.9 Condominium. “Condominium” shall mean an estate in real property, as defined  
17 in *Civil Code* sections 783 and 4125, consisting of an undivided interest in all or  
18 any portion of the Common Area together with a separate fee interest in a Unit  
19 and all easements or other interests appurtenant thereto.  
20
- 21 2.10 Contract Purchaser / Contract Seller. “Contract Purchaser” and “Contract Seller”  
22 shall mean the purchaser and the seller, respectively, under an installment land  
23 contract in which title to the property is transferred after the final installment  
24 payment is made.  
25
- 26 2.11 Corporations Code. “*Corporations Code*” shall mean the California *Corporations*  
27 *Code* as amended from time to time.  
28
- 29 2.12 Declaration. “Declaration” shall mean the Third Amended and Restated  
30 Declaration of Covenants, Conditions and Restrictions of The Menlo Commons  
31 Association, recorded in the Office of the County Recorder of San Mateo County,  
32 State of California, and any duly-recorded amendments thereof.  
33
- 34 2.13 Delivery, When Effective. As provided for in *Civil Code* section 4050: (i) if notice  
35 is sent by United States mail, such notice shall be deemed delivered upon  
36 deposit in the United States mail, postage prepaid; (ii) if such notice is sent by  
37 electronic means, delivery is complete at the time of the transmission.  
38
- 39 2.14 General Delivery / General Notice. “General Delivery” or “General Notice” shall  
40 mean delivery to a Member or Members by one (1) or more of the following  
41 methods, as provided in *Civil Code* section 4045:  
42
- 43 (a) By any method provided for delivery of an Individual Notice pursuant to  
44 *Civil Code* section 4040 which includes but is not limited to first-class mail  
45 or express mail or by overnight delivery by an express service carrier;  
46

- 1 (b) By inclusion in a billing statement, newsletter, or other document that is  
2 delivered by General Delivery;  
3  
4 (c) By posting a printed document in a prominent location that is accessible to  
5 all Members, if the location has been designated for the posting of  
6 General Notices by the Association in the annual policy statement,  
7 prepared pursuant to *Civil Code* section 5310;  
8  
9 (d) If the Association broadcasts television programming for the purpose of  
10 distributing information on Association business to its Members, by  
11 inclusion in the Association broadcast television programming.  
12  
13 (e) If the Association maintains an internet website for the purpose of  
14 distributing information on Association business to the Members, by  
15 posting the notice on the Association's internet website in a prominent  
16 location that is accessible to all Members if designated as a location for  
17 posting general notices in the annual policy statement prepared pursuant  
18 to *Civil Code* section 5310.

19  
20 Notwithstanding the foregoing, if a Member has requested to receive  
21 General Notices by Individual Delivery, then all "General Notices" to that  
22 Member shall be delivered by "Individual Delivery."  
23

24 2.15 Governing Documents. "Governing Documents" shall mean the Articles of  
25 Incorporation, Bylaws, Declaration, and Rules (including but not limited to the  
26 Senior Housing Residency Rules).  
27

28 2.16 Individual Delivery / Individual Notice. "Individual Delivery" or "Individual Notice"  
29 shall mean delivery to a Member or Members by the "preferred delivery method"  
30 specified by the Member pursuant to *Civil Code* section 4041. If a Member has  
31 not provided a valid delivery method pursuant to *Civil Code* section 4041, the  
32 Association shall deliver the document by first-class mail, registered or certified  
33 mail, express mail, or overnight delivery by an express service carrier addressed  
34 to the recipient at the address last shown on the books of the Association. Upon  
35 receipt of a written request by a Member, in compliance with *Civil Code* section  
36 5260, identifying a secondary email or mailing address for delivery of notices, the  
37 Association shall deliver an additional copy of both of the following to such  
38 secondary address:  
39

- 40 (a) The documents to be delivered to the Member pursuant to *Civil Code*  
41 sections 5300 through 5320; and  
42  
43 (b) The documents to be delivered to the Member pursuant to *Civil Code*  
44 sections 5650 through 5690, and *Civil Code* section 5710.  
45

46 2.17 Majority of a Quorum. "Majority of a Quorum" shall mean a majority of the votes  
47 cast by Members in Good Standing in any lawful vote or election by the Members

1 in which the number of ballots cast equals or exceeds the number required to  
2 establish a quorum as provided in **Section 4.5** (“Quorum Requirements”).

3  
4 2.18 Member. “Member” shall mean an Owner.

5  
6 2.19 Member in Good Standing. “Member in Good Standing” shall mean a Member of  
7 the Association who is current in the payment of all Regular Assessments and  
8 Special Assessments, imposed in accordance with the Governing Documents  
9 and who is in compliance with all of the provisions of the Governing Documents.  
10 A Member shall be deemed to be in Good Standing unless, after notice and an  
11 opportunity for hearing, pursuant to **Article 14 of the Declaration** (“Enforcement;  
12 Notice; Hearings”), the Board has found the Member to be not in Good Standing  
13 and has so notified the Member in accordance with *Civil Code* section 5855.

14  
15 2.20 Owner. “Owner” shall mean the record owner, whether one (1) or more persons  
16 or entities, of the fee simple title to any Condominium, including Contract Sellers  
17 but excluding Contract Purchasers, and excluding those persons having such  
18 interest merely as security for the performance of an obligation.

19  
20 2.21 Project. “Project” shall mean all of the real property described in the Declaration  
21 as comprising The Menlo Commons condominium project, and any additional  
22 real property as may hereafter be brought within the jurisdiction of the  
23 Association.

24  
25 2.22 Proxy. “Proxy” shall mean a written authorization signed by a Member or a  
26 Member’s attorney-in-fact giving another person or persons power to vote for  
27 such Member, as defined in *Corporations Code* section 5069, other than (i) a  
28 designated authorized representative casting a vote pursuant to **Section 3.6.3**  
29 (“Trusts, Corporations, Other Entities”), or (ii) a person casting a vote pursuant to  
30 **Section 3.6.4** (“Conservator, Guardian, Parent of Minor, Executor, Attorney-in-  
31 Fact”).

32  
33 2.23 Resident. “Resident” shall mean any person who resides in a Unit within the  
34 Project whether or not such person is an Owner.

35  
36 2.24 Rules. “Rules” shall mean the policies, rules, and regulations governing the  
37 administration, management, operation, use, and occupancy of the Project,  
38 including the use of the Common Area and facilities, the personal conduct of  
39 Members and Residents, members of their household, pets, tenants, invitees,  
40 and guests within the Project, enforcement of the Governing Documents, and  
41 any other matter that is within the jurisdiction of the Association, as adopted,  
42 published, or amended by the Board from time to time and subject to applicable  
43 law including *Civil Code* section 4340 and following.

44  
45 2.25 Total Voting Power. “Total Voting Power” shall mean the total number of votes of  
46 all Members entitled to vote at a particular time, calculated on the basis of one  
47 (1) vote for each Unit.

1  
2 2.26 Unit. “Unit” shall mean the elements of a Condominium that are not owned in  
3 common with the Owners of other Condominiums in the Project, as more  
4 particularly set forth in the Declaration. There are one hundred twenty-two (122)  
5 Units in the Project.  
6

7  
8 **ARTICLE 3 MEMBERSHIP AND VOTING RIGHTS; QUALIFICATION OF**  
9 **RESIDENTS**

---

10  
11 3.1 Membership Appurtenant to Unit Ownership. Membership in the Association  
12 shall include, and shall be limited to, all Owners of any Unit located within the  
13 Project. Ownership of a Unit is the sole qualification to be a Member.  
14 Membership shall be appurtenant to and may not be separated from ownership  
15 of a Unit. Upon becoming the Owner of a Unit, each Owner shall automatically be  
16 a Member of the Association and shall remain a Member until such time as his or  
17 her or its Unit ownership ceases for any reason. Membership in the Association  
18 shall not be transferred, encumbered, pledged, alienated, or hypothecated in any  
19 way, except upon the transfer or encumbrance of the Unit to which it is  
20 appurtenant and then only to the transferee or mortgagee, as the case may be,  
21 of such Unit. Any attempt to make a prohibited transfer is void. Upon any  
22 transfer of title to a Unit, including a transfer upon the death of an Owner,  
23 membership in the Association shall pass automatically to the transferee.  
24

25 3.2 Ownership Does Not Grant Right of Occupancy; Qualification of Residents.  
26 Membership in the Association and Ownership of a Unit does not grant the  
27 Member the right of occupancy of that Unit or any other Unit within the Project.  
28 All prospective Residents must be approved by the Board in advance as  
29 provided in **Section 6.8 of the Declaration** (“Senior Citizen Residential Use;  
30 Qualification for Residency”).  
31

32 3.3 Owner’s Duty to Annually Provide Address, Other Information. As required by  
33 *Civil Code* section 4041, each Member shall annually provide written notice to  
34 the Association of all of the following: (i) the Member’s preferred delivery method  
35 for receiving notices from the Association, including either a mailing address, a  
36 valid email address, or both, (ii) an alternative or secondary delivery method, if  
37 any, to which notices from the Association are to be delivered, including either a  
38 mailing address, a valid email address, or both, (iii) the name, mailing address  
39 and valid email address (if available) of the Owner’s legal representative, if any,  
40 including any person with power of attorney or other person who can be  
41 contacted in the event of the Member’s extended absence from the Unit, and (iv)  
42 whether the Unit is Owner-occupied, is rented out, or if the Unit is vacant. If a  
43 Member fails to provide notice to the Association of the information set forth in (i),  
44 (ii), and (iii) above, the last mailing address provided in writing by the Member or,  
45 if none, the Unit property address, is deemed to be the address to which the  
46 Association shall deliver notices. For purposes of this **Section 3.3**, a “valid email

1 address” is one that, after a notice is sent, does not result in a bounce back or  
2 other error notification indicating failure of the message to be delivered. If the  
3 Association delivers a notice to a Member’s email address and finds that the  
4 email address provided is not valid, the Association shall resend the notice by  
5 Individual Delivery to a mailing or email address provided by the Members.  
6

7 3.4 Notice of Transfer of Title. Upon transfer of title to a Unit, the transferee shall be  
8 responsible for notifying the Association of such transfer. The notification shall  
9 set forth the address of the Unit, the names of the transferee and the transferor,  
10 and the date of sale or other transfer. Prior to receipt of such notification, any  
11 and all communications required or permitted to be given by the Association or  
12 the Board to the Unit Owner shall be deemed to be duly made and given to the  
13 transferee if duly and timely made and given to the person shown as the Owner  
14 of the Unit and at the address in the Association’s records.  
15

16 3.5 Proof of Membership. No person shall exercise the rights of a Member until  
17 satisfactory proof of membership has been furnished to the Association. Such  
18 proof may consist of either a duly-executed and acknowledged grant deed or a  
19 title insurance policy showing that the person is an Owner as defined in **Section**  
20 **2.20** (“Owner”). Such deed or policy shall be deemed conclusive proof of  
21 ownership in the absence of a conflicting claim based on a later deed or policy.  
22

23 3.6 Voting Rights; Joint Owners.  
24

25 3.6.1 One Vote per Unit. Only Members shall be entitled to vote on any  
26 issue or matter presented to the Members for approval or membership  
27 vote. Members shall be entitled to cast one (1) vote for each Unit  
28 owned.  
29

30 3.6.2 Joint Owners. In the event more than one (1) person owns a given  
31 Unit, the vote for such Unit shall be exercised as the Owners among  
32 themselves shall determine, but in no event shall more than one (1)  
33 vote be cast with respect to any Unit. If the joint Owners of a Unit are  
34 unable to agree among themselves as to how their vote is to be cast,  
35 they shall lose their right to vote on the matter in question. If any joint  
36 Owner of a Unit casts a vote representing a certain Unit, it will  
37 thereafter be conclusively presumed for all purposes that such Owner  
38 was acting with the authority and consent of the other Owners of that  
39 Unit.  
40

41 3.6.3 Trusts, Corporations, Other Entities. In the case of an Owner that is  
42 not a natural person (such as a corporate trustee, corporation or other  
43 entity), the vote of such Owner may be cast by any authorized  
44 representative of the Owner designated by notice in writing to the  
45 Association.  
46

1           3.6.4    Conservator, Guardian, Parent of Minor, Executor, Attorney-in-Fact.  
2                    The power to cast a particular Member’s vote may be exercised by (i)  
3                    the Member’s conservator, (ii) the guardian of the Member’s estate, (iii)  
4                    the parent(s) entitled to custody of a Member if the Member is a minor,  
5                    (iv) the executor or administrator of a deceased Member’s estate if the  
6                    Member’s interest in the Lot is subject to administration in his or her  
7                    estate, or (v) a person with a general power of attorney for a Member.  
8

9    3.7    Record Date for Voting. Consistent with *Corporations Code* section 7611(c), the  
10           Board may fix a date not more than sixty (60) days before the date of any mailing  
11           or delivery of ballots as the record date for determining Members entitled to vote  
12           and only Members as shown in the records of the Association as of the record  
13           date for voting shall be entitled to vote in such vote or election. If no record date  
14           for voting is set by the Board, Members on the day of the mailing or delivery of  
15           ballots who are otherwise eligible to vote shall be entitled to vote in such vote or  
16           election.  
17  
18

19    **ARTICLE 4                    VOTING BY MEMBERS**

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20  
21    4.1    Voting by Members; Members’ Request for Vote. All membership votes,  
22           including any vote pursuant to a written request of Members as described in  
23           *Corporations Code* section 7510(e), shall be by “secret ballot” pursuant to *Civil*  
24           *Code* sections 5100 through 5145; *provided, however,* that in the case of a  
25           membership vote on any matter not specified in *Civil Code* section 5100(a), the  
26           deadline for returning a secret ballot may be a reasonable time that is less than  
27           thirty (30) days. Voting by the method described in *Corporations Code* section  
28           7513 shall not be permitted.  
29

30    4.2    Proxies Are Prohibited. Use of Proxies in connection with membership votes or  
31           membership meetings is expressly prohibited.  
32

33    4.3    Inspector(s) of Election. To the extent required pursuant to *Civil Code* section  
34           5110, prior to any election or vote by the Members, the Board shall appoint one  
35           (1) or three (3) inspectors of election, whose powers and duties shall be as set  
36           forth in such statute and in the Rules described in **Section 4.4** (“Voting and  
37           Election Rules”).  
38

39    4.4    Voting and Election Rules. The Board shall adopt Rules governing membership  
40           voting and elections of directors in conformity with *Civil Code* section 5105.  
41           Election Rules adopted pursuant to *Civil Code* section 5105 shall not be  
42           amended less than ninety (90) days prior to an election.  
43

44    4.5    Quorum Requirements. The number of ballots that must be cast in order to  
45           establish a quorum shall be as follows:  
46

- 1           4.5.1     Election of Directors. In any election of one (1) or more directors, the  
2                     number of valid ballots received shall constitute a quorum.  
3
- 4           4.5.2     Assessment Votes. To the extent required by *Civil Code* section 5605,  
5                     notwithstanding any other provision in the Governing Documents, for  
6                     purposes of voting on a Special Assessment or an increase in the  
7                     Regular Assessment that by law must be approved by the Members, a  
8                     quorum shall mean more than fifty percent (50%) of the Members, or  
9                     such other quorum requirement as may be specified by law.  
10
- 11          4.5.3     All Other Member Votes. For any other vote or election by the  
12                     Members, a quorum shall be one-third (1/3) of the Total Voting Power.  
13
- 14          4.5.4     Meetings to Count Ballots. There shall be no quorum requirement for  
15                     Member attendance at any meeting of the Members held for the  
16                     purpose of tabulating ballots pursuant to *Civil Code* section 5120(a)  
17                     and no action by the Members shall be conducted at any such meeting  
18                     other than the tabulation of ballots by the inspector(s) of election.  
19
- 20   4.6     Act of Members Requires Majority of a Quorum. Except where the Governing  
21             Documents specify a higher percentage of a quorum or require a specified  
22             percentage of the Total Voting Power of the Members for any action that may be  
23             taken by the Members, the affirmative vote of a Majority of a Quorum of the  
24             Members shall constitute the action of the Members.  
25
- 26   4.7     Results of Membership Votes. To the extent required by *Civil Code* section  
27             5120(b), the Board shall within fifteen (15) days of an election give General  
28             Notice of the tabulated results to all the Members. To the extent required by  
29             *Corporations Code* section 8325, for a period of sixty (60) days following the  
30             conclusion of any membership vote (or, if applicable, an annual, regular, or  
31             special meeting of Members), a Member shall, upon written request, be informed  
32             forthwith of the result of any particular vote of the Members, including the number  
33             of memberships voting for, the number of memberships voting against, and the  
34             number of memberships abstaining or withheld from voting. If the matter voted  
35             on was the election of directors, the Association shall report the number of votes  
36             cast for each nominee for director.  
37
- 38   4.8     Meetings of Members. To the extent any vote or election by the Members is  
39             required by law to be conducted at a meeting of the Members, the provisions of  
40             the *Corporations Code*, including *Corporations Code* sections 7510 and 7511,  
41             that would otherwise apply shall apply; any such meeting of Members shall be  
42             conducted in accordance with a recognized system of parliamentary procedure  
43             or such parliamentary procedures as the Association may adopt; and to the  
44             extent required pursuant to *Civil Code* sections 4925(b) and 5000(b), a  
45             reasonable time limit for all Members to speak at a meeting of the Members shall  
46             be established by the Board.  
47

- 1 4.9 Place of Member Meetings. Meetings of the Members shall be held at a location  
2 within the Project or the Board may designate by resolution a convenient place  
3 located as close as reasonably practicable to the Project.  
4
- 5 4.10 Annual Meeting. The annual meeting of Members shall be held in the month of  
6 October or as soon thereafter as is practical.  
7
- 8 4.11 Special Meetings of Members. Special meetings of the Members shall be held in  
9 response to a request by the Board President, or by vote of a majority of the  
10 Board, or upon written request of Members representing five percent (5%) (seven  
11 (7) Members) of the Total Voting Power of the Members.  
12
- 13 4.12 Notice of Member Meetings. Written notice of Member meetings shall be given  
14 to each Member by Individual Delivery at least ten (10) days but not more than  
15 ninety (90) days before such meeting; *except that*, in the case of a special  
16 meeting called pursuant to written request of Members, notice of such special  
17 meeting shall be given by the Board to Members by Individual Delivery within  
18 twenty (20) days after receipt of a written request by the Board, and the date for  
19 such special meeting shall be not less than thirty-five (35) days nor later than  
20 ninety (90) days after the date of the Board's receipt of the written request. The  
21 notice shall state the date, time and place of the meeting, and in the case of a  
22 special meeting, shall state the purpose for the meeting.  
23  
24

25 **ARTICLE 5 BOARD OF DIRECTORS: NOMINATION, SELECTION, TERM**  
26 **OF OFFICE, REMOVAL**  
27

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- 28 5.1 Number of Directors. The affairs of this Association shall be managed by or  
29 under the direction of, and the corporate powers shall be exercised by, a Board  
30 of Directors. The authorized number of directors shall be five (5).  
31
- 32 5.2 Time of Annual Election of Directors. Directors shall be elected annually in the  
33 month of October or as soon thereafter as is practical.  
34
- 35 5.3 Qualification of Directors. Only persons who satisfy all of the following  
36 qualifications shall be eligible to be elected to or serve on the Board: (i) is an  
37 Owner who is a Member in Good Standing or in the case of a Member in Good  
38 Standing that is not a natural person (such as a corporation, trust or other entity),  
39 an officer, director, principal, or authorized representative of the entity; and (ii)  
40 does not have a criminal conviction that would, if elected, prevent the Association  
41 from purchasing the fidelity bond coverage required by *Civil Code* section 5806  
42 or terminate the Association's existing insurance coverage required by *Civil Code*  
43 section 5806 as to that person should the person be elected. Co-Owners of one  
44 (1) or more Units may not be nominated for or serve on the Board at the same  
45 time.  
46



1 5.4 Nomination Procedures. Nominations of candidates for election to the Board of  
2 Directors may be made by a Nominating Committee (hereinafter, "Nominating  
3 Committee") or by self-nomination, as follows:  
4

5 5.4.1 By Nominating Committee. Prior to any election of directors, the Board  
6 may appoint a Nominating Committee to nominate candidates for  
7 election to the Board. If appointed, the Nominating Committee shall  
8 nominate as many candidates for election to the Board as it shall in its  
9 discretion determine, but shall endeavor to nominate not less than the  
10 number of positions on the Board that are to be filled in the election.  
11 All nominations shall be made from among persons who satisfy the  
12 qualifications set forth in **Section 5.3** ("Qualification of Directors") and  
13 shall be made prior to the deadline for nominations.  
14

15 5.4.2 By Self-nomination. Any Member who satisfies the qualifications set  
16 forth in **Section 5.3** ("Qualification of Directors") may place his or her  
17 name in nomination for election to the Board by giving written notice to  
18 the President or Secretary of the Association. Notice of self-  
19 nomination must be received prior to the deadline for nominations.  
20

21 5.5 Deadline for Nominations. The deadline for nominations shall be set by the  
22 Board and shall be not less than thirty (30) days prior to the date of the mailing or  
23 delivery of ballots for any election of directors. All nominations, whether by a  
24 Nominating Committee or by self-nomination, must be received prior to the  
25 deadline for nominations.  
26

27 5.6 Publication of Deadline for Nominations. The date and time of the deadline for  
28 nominations and the procedure for submitting a nomination shall be provided to  
29 the Members by General Delivery (and by Individual Delivery if so requested by a  
30 Member) at least thirty (30) days in advance of the nomination deadline.  
31

32 5.7 Election by Acclamation. Notwithstanding the secret balloting requirements of  
33 **Section 4.1** ("Voting by Members; Members' Request for Vote") or anything to the  
34 contrary in the Governing Documents, if, as of the published deadline for  
35 nominations, the number of qualified candidates nominated is not more than the  
36 number of directors to be elected, as determined by the inspector(s) of elections,  
37 then the persons nominated and qualified to be elected may be declared elected  
38 by acclamation if all of the following conditions have been met:  
39

40 5.7.1 Elections Held at Least Once Every Three Years. The Association has  
41 held a regular election for directors in the last three (3) years. The  
42 three-year time period shall be calculated from the date ballots were  
43 due in the last full election to the start of voting for the proposed  
44 election.  
45

46 5.7.2 Individual Notice of Nomination Procedure Provided. The Association  
47 provided individual notice of the election and the procedure for

1 nominating candidates at least ninety (90) days before the deadline for  
2 submitting nominations that includes all of the following:

- 3
- 4 (i) the number of Board positions to be filled at the election.
- 5
- 6 (ii) the deadline for submitting nominations.
- 7
- 8 (iii) the manner in which nominations can be submitted.
- 9
- 10 (iv) a statement informing Members that if, at the close of the time  
11 period for nominations, there are the same number or fewer  
12 qualified candidates as there are Board positions to be filled,  
13 then the Board may, after voting to do so, seat the qualified  
14 candidates by acclamation without balloting.

15

16 5.7.3 Reminder Notice Provided. The Association provided a reminder  
17 notice between seven (7) and thirty (30) days before the deadline for  
18 submitting nominations that includes all of the following:

- 19
- 20 (i) the number of Board positions to be filled at the election.
- 21
- 22 (ii) the deadline for submitting nominations.
- 23
- 24 (iii) a list of the names of all of the qualified candidates to fill the  
25 Board positions as of the date of the reminder notice.
- 26
- 27 (iv) a statement reminding Members that if, as of the deadline for  
28 nominations, there are the same number or fewer qualified  
29 candidates as there are Board positions to be filled, then the  
30 Board may, after voting to do so, seat the qualified candidates  
31 by acclamation without balloting. This statement is not required  
32 if, at the time the reminder notice will be delivered, the number  
33 of qualified candidates already exceeds the number of Board  
34 positions to be filled.

35

36 5.7.4 Acknowledgment of Nomination Provided. The Association provides,  
37 within seven (7) business days of receiving a nomination, a written or  
38 electronic communication acknowledging receipt of the nomination to  
39 the Member who submitted the nomination, and if the nominee and the  
40 Member who submitted the nomination are not the same person, then  
41 a written or electronic communication to the nominee within the same  
42 time period indicating the following:

- 43
- 44 (i) the nominee is a qualified candidate for the Board; or
- 45
- 46 (ii) the nominee is not a qualified candidate for the Board, the basis  
47 for the disqualification, and the Association's internal dispute

1 resolution procedure, which shall comply with *Civil Code* section  
2 5900 et al., by which the nominee may appeal the  
3 disqualification.  
4

5 5.7.5 All Qualified Candidates Allowed. The Association permits all  
6 candidates to run for election, except for any nominees disqualified  
7 from running as allowed or required pursuant to **Section 5.3**  
8 (“Qualification of Directors”).  
9

10 5.7.6 Board’s Vote at Open Meeting. The Board votes to consider the  
11 qualified candidates elected by acclamation at an open meeting for  
12 which the agenda item reflects the name of each qualified candidate  
13 that will be seated by acclamation if the item is approved.  
14

15 5.8 List of Known Candidate Names. A list of the names of all persons known by the  
16 Board to be qualified candidates for election to the Board as of the published  
17 deadline for nominations shall be prepared and distributed as set forth in *Civil*  
18 *Code* section 5115(b) and in the Rules described in **Section 4.4** (“Voting and  
19 Election Rules”).  
20

21 5.9 Candidate Night. The Board may, but shall not be obligated to, conduct a  
22 “candidates night” or similar event in connection with any election of directors. If  
23 conducted, such event shall be held after the deadline for nominations has  
24 passed.  
25

26 5.10 Voting for Directors; No Cumulative Voting; No Write-ins. In all elections of  
27 directors, every Member may cast, in respect to each position on the Board to be  
28 filled, one (1) vote for each Unit owned. The persons receiving the largest  
29 number of votes shall be elected. Cumulative voting (i.e., giving more than one  
30 vote to any candidate) shall not be permitted.  
31

32 5.11 Tied Votes. In the case of a tied vote for one (1) or more positions on the Board,  
33 the candidates shall draw lots to determine the winner or winners.  
34

35 5.12 Election and Term of Office. In the annual election of directors, the Members  
36 shall, in alternate years, elect three (3) directors and two (2) directors,  
37 respectively, for terms of two (2) years each. Each director shall serve until the  
38 expiration of his or her term and thereafter until a successor is elected, or until  
39 the earlier disqualification, death, resignation, or removal of such director.  
40

41 5.13 Removal of Directors by the Members. Consistent with *Corporations Code*  
42 section 7222, any director may be removed from the Board, with or without  
43 cause, by the vote of a Majority of a Quorum of the Members.  
44

45 5.14 Reduction of Number of Directors. Any reduction of the authorized number of  
46 directors shall be subject to the provisions of *Corporations Code* section 7222(c).  
47

1 5.15 Vacancies, Resignation, Disqualification of Directors. A vacancy shall exist on  
2 the Board (i) in the event of the death, resignation, or removal (by the Members)  
3 of any director, (ii) in the event of a declaration of a vacancy by the Board as  
4 provided below in this **Section 5.15**, (iii) if the authorized number of directors is  
5 increased, or (iv) if the Members fail to elect the full authorized number of  
6 directors.

7  
8 5.15.1 Resignation. Any director may resign by giving written notice to the  
9 Board. The resignation shall be effective on the date specified in the  
10 notice. Unless otherwise provided in the notice, the acceptance of a  
11 resignation shall not be necessary to make it effective.

12  
13 5.15.2 Disqualification of a Director. As provided in *Corporations Code*  
14 section 7221(b), the Board of Directors, by a majority vote of the  
15 directors who meet all of the qualifications for directors as set forth in  
16 **Section 5.3** ("Qualification of Directors"), may declare vacant the office  
17 of any director who fails or ceases to meet any required qualification  
18 that was in effect at the beginning of that director's current term of  
19 office.

20  
21 5.15.3 Failure to Perform Duties. Pursuant to *Corporations Code* section  
22 7221(a), the Board, by vote of a majority of a quorum, may declare  
23 vacant the office of any director who: (i) fails within sixty (60) days  
24 after receiving notice of election to accept office, either in writing or by  
25 attending a meeting of the Board as a director, (ii) is absent from two  
26 (2) consecutive meetings of the Board or refuses to sign or violates the  
27 provisions of the Menlo Commons Board of Director's Code of  
28 Conduct.

29  
30 5.16 Filling Vacancies.

31  
32 5.16.1 Removal by Members. Pursuant to *Corporations Code* section 7224,  
33 vacancies on the Board created by the removal of a director by the  
34 Members shall be filled by approval of the Members. A director  
35 elected by the Members to fill such a vacancy shall serve the  
36 remainder of the term of office of the director whom he or she replaces.

37  
38 5.16.2 Other Vacancies. Any vacancy occurring on the Board of Directors,  
39 except a vacancy created by the removal of a director by the Members  
40 may be filled (i) by approval of the Board of Directors; or (ii) by a sole  
41 remaining director. If the Board accepts the resignation of a director  
42 tendered to take effect at a future time, the Board, including the  
43 resigning director, may choose or, if the Board fails to act, the  
44 Members may elect, a successor to take office when the resignation  
45 becomes effective. The Members may elect a director at any time to  
46 fill any vacancy not filled by the directors. A director chosen by the  
47 Board in accordance with this **Section 5.16** to fill a vacancy shall serve

1 the remainder of the term of office of the director whom he or she  
2 replaces.

3  
4 5.17 Removal of Entire Board; Replacement Directors. In the case of a vote by the  
5 Members to remove the entire Board of Directors, the incumbent directors shall  
6 not be removed from office unless and until one (1) or more replacement  
7 directors have been elected by the Members. If, in such election, the Members  
8 fail to elect the full number of replacement directors, the vacancies then existing  
9 on the Board may be filled by the elected replacement directors pursuant to  
10 clause (i) or clause (ii) of **Section 5.16** ("Filling Vacancies"). All of the directors  
11 replacing those removed by the Members shall serve until the next annual  
12 election of directors at which time: (i) five (5) directors shall be elected and the  
13 three (3) directors who receive the largest number of votes shall serve a two-year  
14 term and the other two (2) directors shall serve a one-year term, in order to  
15 create staggered terms of office; or (ii) alternatively, if the number of qualified  
16 candidates for the next annual election is less than or equal to five (5), the  
17 directors shall be elected by acclamation pursuant to **Section 5.7** ("Election by  
18 Acclamation") and shall draw lots to determine one-year or two-year terms to  
19 create staggered terms of office.  
20

21 5.18 Directors' Conflict of Interest. As provided in *Civil Code* section 5350, no director  
22 or member of a committee shall be permitted to vote on matters of (i) discipline of  
23 the director or committee member, (ii) an assessment against the director or  
24 committee member for damage to the Common Area or facilities, (iii) a request,  
25 by the director or committee member, for a payment plan for overdue  
26 assessments, (iv) a decision whether to foreclose on a lien on the separate  
27 interest of the director or committee member, (v) review of a proposed physical  
28 change to the separate interest of the director or committee member, (vi) a grant  
29 of exclusive use of Common Area to the director or committee member, and (vii)  
30 as provided in *Corporations Code* section 7233, any contract or other transaction  
31 in which a director or committee member has a material financial interest. As  
32 provided in *Corporations Code* section 7234, the interested director or committee  
33 member may be counted in determining the presence of a quorum at a meeting  
34 of the Board or of a committee.  
35

36 5.19 No Compensation of Directors. No director shall receive compensation for any  
37 service he or she may render to the Association as a director. However, upon  
38 approval by the Board, any director may be reimbursed for his or her expenses  
39 actually incurred in the performance of his or her duties.  
40

41 5.20 Directors' Standard of Care. As provided in *Corporations Code* section 7231, a  
42 director shall perform the duties of a director, including duties as a member of  
43 any Committee of the Board upon which the director may serve, in good faith, in  
44 a manner such director believes to be in the best interests of the corporation and  
45 with such care, including reasonable inquiry, as an ordinarily prudent person in a  
46 like position would use under similar circumstances.  
47

1 5.21 Limitation of Liability of Officers and Directors. As provided in *Corporations Code*  
2 section 7231, no director, officer, committee member, employee, or other agent  
3 of the Association shall be liable to any Owner or any other person or entity,  
4 including the Association, for any damage, loss, or prejudice suffered or claimed  
5 on account of any act, omission, error, or negligence of any such person if such  
6 person acted in good faith and in a manner such person reasonably believed to  
7 be in the best interests of the Association.  
8  
9

## 10 **ARTICLE 6 MEETINGS OF DIRECTORS**

---

11  
12 6.1 Definition of Meeting of the Board. As defined in *Civil Code* section 4090, a  
13 “meeting” of the Board shall mean either: (a) a congregation, at the same time  
14 and place, of a sufficient number of directors to establish a quorum of the Board,  
15 to hear, discuss, or deliberate upon any item of business that is within the  
16 authority of the Board or (b) a teleconference, where a sufficient number of  
17 directors to establish a quorum of the Board, in different locations, are connected  
18 by electronic means, through audio or video or both. The foregoing includes  
19 executive session meetings of the Board.  
20

21 6.2 Teleconference Meetings. As provided in *Civil Code* section 4090(b), a  
22 teleconference meeting shall be conducted in a manner that protects the rights of  
23 Members of the Association and otherwise complies with the requirements of the  
24 Davis-Stirling Common Interest Development Act (*Civil Code* section 4000 and  
25 following). Except for a meeting that will be held solely in executive session or  
26 conducted under *Civil Code* section 5450 when a local, state or federal state of  
27 emergency has been declared, the notice of the teleconference meeting shall  
28 identify at least one (1) physical location so that Members of the Association may  
29 attend, and at least one (1) director or a person designated by the Board shall be  
30 present at the location. Participation by directors in a teleconference meeting  
31 constitutes presence at that meeting as long as all directors participating are able  
32 to hear one another, as well as Members of the Association speaking on matters  
33 before the Board.  
34

35 6.3 Organizational Meeting. As soon as possible, but in any event within thirty (30)  
36 days, after each annual election of directors, the Board of Directors shall hold a  
37 meeting for the purpose of organization, appointment of officers, and transaction  
38 of other business, as appropriate.  
39

40 6.4 Regular Meetings of the Board. Regular meetings of the Board shall be held at  
41 least once every three (3) months upon proper notice which conforms to the  
42 provisions of **Section 6.7** (“Notice to Directors”) and **Section 6.8** (“Notice to  
43 Members; Agenda”), at the place, day, and time set forth in such notice.  
44

45 6.5 Special Meetings of the Board. Special meetings of the Board shall be held  
46 when called by the President of the Association or by any two (2) directors.

1  
2 6.6 Emergency Meetings of the Board. As provided in *Civil Code* section 4923,  
3 emergency meetings of the Board may be called by the President or by any two  
4 (2) directors other than the President, if there are circumstances that could not  
5 have been reasonably foreseen which require immediate attention and possible  
6 action by the Board, and which of necessity make it impracticable to provide the  
7 notice required by *Civil Code* section 4920.

8  
9 6.7 Notice to Directors. Regular meetings of the Board may be held, without further  
10 notice to the Board, at a place within or reasonably convenient to the Project and  
11 on a day and time fixed by resolution by the Board. If not fixed by resolution of  
12 the Board, notice of each meeting of the Board shall be communicated to the  
13 directors not less than four (4) days prior to a regular meeting, and not less than  
14 forty-eight (48) hours prior to a special meeting; provided that shorter notice may  
15 be given in the case of a bona fide emergency; and *provided, further*, that notice  
16 of a meeting need not be given to any director who signed a waiver of notice or a  
17 written consent to holding the meeting, whether before or after the meeting.

18  
19 6.8 Notice to Members; Agenda. To the extent required pursuant to *Civil Code*  
20 section 4920, except for bona fide emergency meetings (whether open meeting  
21 or executive session), prior written notice of the day, time, and place of each  
22 meeting of the Board of Directors shall be given to all Members. The notice shall  
23 contain the agenda for the meeting, subject to the provisions of *Civil Code*  
24 section 4930.

25  
26 6.8.1 Timing of Notice to Members. Notice of open Board meetings shall be  
27 given at least four (4) days before the meeting. Notice of a Board  
28 meeting that is held exclusively in executive session shall be given at  
29 least two (2) days before the meeting.

30  
31 6.8.2 Delivery of Notice to Members. The notice to the Members shall be  
32 given by General Delivery in accordance with *Civil Code* section 4045.

33  
34 6.9 Open Meeting. To the extent required pursuant to *Civil Code* section 4925(a),  
35 regular and special meetings of the Board of Directors shall be open to all  
36 Members of the Association, except when the Board meets in executive session.  
37 Pursuant to *Civil Code* section 4925(b), a reasonable time limit for all Members to  
38 speak to the Board shall be established by the Board; however, the right to speak  
39 to the Board shall not entitle any Member to participate in the Board's  
40 deliberations on any matters unless requested to do so by the Board.

41  
42 6.10 Executive Session. To the fullest extent permitted by law, including *Civil Code*  
43 section 4935, the Board may meet in executive session to confer with legal  
44 counsel or to discuss and/or vote upon personnel matters, Member discipline,  
45 litigation in which the Association is or may become involved, matters that relate  
46 to the formation of contracts between the Association and others, and for the  
47 purpose of meeting with a Member, upon such Member's request, regarding the

1 Member's payment of Assessments. In any matter relating to the discipline of a  
2 Member, the Board shall meet in executive session if requested to do so by that  
3 Member, and that Member and any other person(s) whose participation is, in the  
4 judgment of the Board, necessary or appropriate, shall be entitled to attend the  
5 executive session; *provided, however*, that (i) to the extent required by *Civil Code*  
6 section 5673, a decision by the Board to record a lien for delinquent  
7 Assessments shall be made at an open meeting of the Board, and (ii) to the  
8 extent required by *Civil Code* section 5705(c), a vote of the Board to initiate  
9 foreclosure of a lien for delinquent Assessment shall be taken in executive  
10 session but shall be recorded in the minutes of the next following open meeting  
11 of the Board. There shall be no requirement that the Board convene an open  
12 meeting in order to meet in executive session.  
13

14 6.11 Board's Action by Unanimous Written Consent. To the extent provided in *Civil*  
15 *Code* section 4910, the Board may not take action by unanimous written consent  
16 without a meeting except in case of emergency and then only by electronic  
17 transmission, including email as provided in *Civil Code* section 4910(b)(2). Any  
18 such written consents shall be filed with the minutes of the proceedings of the  
19 Board.  
20

21 6.12 Quorum for Board's Action. A majority of the number of directors then in office  
22 (but not less than two) shall constitute a quorum for the transaction of business.  
23 Every act or decision done or made by a majority of the directors present at a  
24 duly-held meeting at which a quorum is present shall be regarded as the act of  
25 the Board. A meeting at which a quorum is initially present may continue to  
26 transact business, notwithstanding the withdrawal of directors, if any action taken  
27 is approved by a majority of the required quorum for that meeting.  
28

29 6.13 Voting by Directors. Pursuant to *Corporations Code* section 7211(c), each  
30 director shall be entitled to one (1) vote and a director may not vote by proxy or  
31 otherwise delegate his or her right to vote on any matter before the Board.  
32

33 6.14 Minutes of Meetings of Directors. To the extent required by *Civil Code* section  
34 4950(a), within thirty (30) days after the date of any meeting of the Board, the  
35 Board shall make available to the Members either (i) the minutes of that meeting  
36 as adopted by the Board, (ii) if the minutes have not yet been adopted by the  
37 Board, the minutes as proposed for adoption which shall be marked to indicate  
38 draft status, or (iii) a summary of the minutes. To the extent required by *Civil*  
39 *Code* section 4935(e), any matter discussed in an executive session shall be  
40 generally noted in the minutes of the Board and minutes of executive sessions  
41 shall not otherwise be required. Copies of the minutes, proposed minutes, or  
42 summary of minutes shall be provided to any Member of the Association upon  
43 request and upon reimbursement of the Association's costs in providing such  
44 copies.  
45  
46



1 **ARTICLE 7** **DUTIES OF THE BOARD OF DIRECTORS**  
2

---

3 The Board shall be ultimately responsible for the management and conduct of  
4 the affairs of the Association. Without limiting the generality of the foregoing, the  
5 specific duties of the Board shall include the following:  
6

7 7.1 Supervision. The Board shall supervise all officers, agents, and employees of  
8 the Association, if any, and see that their duties are properly performed.  
9

10 7.2 Records and Minutes. The Board shall cause to be kept a complete record of all  
11 its acts and the corporate affairs, including a membership list described in *Civil*  
12 *Code* section 5200(a)(9), adequate and correct books and records of account,  
13 and minutes of the proceedings of the Members, the Board, Committees of the  
14 Board, and any other committee appointed by the Board having decision-making  
15 authority.  
16

17 7.3 Maintain Insurance. The Board shall procure and maintain adequate casualty,  
18 liability and other insurance as the Board shall determine consistent with the  
19 provisions of **Article 11 of the Declaration** (“Insurance”).  
20

21 7.4 Enforcement of Governing Documents. The Board shall enforce the Governing  
22 Documents on its own initiative or upon receipt of written complaint from an  
23 Owner or a Resident, in accordance with the procedures set forth in **Article 14 of**  
24 **the Declaration** (“Enforcement; Notice; Hearings”).  
25

26 7.5 Annual Budget Report. In accordance with *Civil Code* section 5300(a), the  
27 Association shall distribute an annual budget report, not less than thirty (30) days  
28 and not more than ninety (90) days prior to the end of the Association’s fiscal  
29 year. The annual budget report shall conform to the requirements of *Civil Code*  
30 section 5300(b) and (e) and section 5550 concerning the following and any other  
31 matters as may be required by law:  
32

33 7.5.1 Pro Forma Operating Budget. A “pro forma operating budget” showing  
34 the estimated revenue and expenses on an accrual basis.  
35

36 7.5.2 Reserves Summary. A summary of the Association’s reserves,  
37 prepared in accordance with *Civil Code* section 5565.  
38

39 7.5.3 Reserves Funding Plan. A summary of the reserve funding plan  
40 adopted by the Board in accordance with *Civil Code* section  
41 5550(b)(5). The summary shall include notice to Members that the full  
42 reserve study is available on request, and the Association shall provide  
43 the full reserve funding plan to any Member upon request.  
44

45 7.5.4 Statement of Deferred Repairs. A statement as to whether the Board  
46 has determined to defer repairs or replacement of any major

1 component with a remaining life of thirty (30) years or less, including a  
2 justification for decision not to make repairs or replacement.

3  
4 7.5.5 Statement of Anticipated Special Assessments. A statement,  
5 consistent with the reserves funding plan, as to whether the Board has  
6 determined that one (1) or more Special Assessments will be required  
7 to repair, replace or restore any major component or to provide for  
8 adequate reserves for such repair, replacement or restoration. The  
9 statement shall set out the estimated amount, commencement date  
10 and duration of the assessment, if anticipated.

11  
12 7.5.6 Mechanisms for Funding Reserves. A statement as to the mechanism  
13 or mechanisms by which the Board will fund reserves to repair or  
14 replace major components, including Assessments, borrowing, use of  
15 other assets, deferral of selected replacements or repairs, or  
16 alternative mechanisms.

17  
18 7.5.7 Statement of Reserve Calculations. A general statement addressing  
19 the procedures used for the calculation and establishment of those  
20 reserves to defray the future repair, replacement, or additions to those  
21 major components that the Association is obligated to maintain. The  
22 statement shall include, but need not be limited to, reserve calculations  
23 made using the formula described in *Civil Code* section 5570(b)(4),  
24 and may not assume a rate of return on cash reserves in excess of two  
25 percent (2%) above the discount rate published by the Federal  
26 Reserve Bank of San Francisco at the time the calculation was made.

27  
28 7.5.8 Statement of Outstanding Loans. A statement as to whether the  
29 Association has any outstanding loans with an original term of more  
30 than one (1) year, including the payee, interest rate, amount  
31 outstanding, annual payment, and when the loan is scheduled to be  
32 retired.

33  
34 7.5.9 Summary of Association's Insurance Policies. A summary of the  
35 Association's property, general liability, earthquake, flood, and fidelity  
36 insurance policies; and for each policy, the summary shall include the  
37 name of the insurer, the type of insurance, the policy limit, and the  
38 amount of the deductible, if any. To the extent that any of the required  
39 information is specified in the insurance policy declaration page, the  
40 Association may meet its obligation to disclose that information by  
41 making copies of that page and distributing it with the annual budget  
42 report. The summary distributed pursuant to this paragraph shall  
43 contain, in at least 10-point boldface type, the following statement:

44  
45 "This summary of the association's policies of insurance provides only  
46 certain information, as required by Section 5300 of the Civil Code, and  
47 should not be considered a substitute for the complete policy terms

1 and conditions contained in the actual policies of insurance. Any  
2 association member may, upon request and provision of reasonable  
3 notice, review the association's insurance policies and, upon request  
4 and payment of reasonable duplication charges, obtain copies of those  
5 policies. Although the association maintains the policies of insurance  
6 specified in this summary, the association's policies of insurance may  
7 not cover your property, including personal property or real property  
8 improvements to or around your dwelling, or personal injuries or other  
9 losses that occur within or around your dwelling. Even if a loss is  
10 covered, you may nevertheless be responsible for paying all or a  
11 portion of any deductible that applies. Association members should  
12 consult with their individual insurance broker or agent for appropriate  
13 additional coverage."

14  
15 7.5.10 Statement of Status as FHA Approved Condominium Project. A  
16 statement describing the status of the common interest development  
17 as a Federal Housing Administration (hereinafter, "FHA") approved  
18 condominium project pursuant to FHA guidelines, including whether  
19 the common interest development is an FHA approved condominium  
20 project. The statement shall be in at least 10-point font on a separate  
21 piece of paper and in the following form:

22  
23 "Certification by the Federal Housing Administration may provide  
24 benefits to members of any association, including an improvement in  
25 an owner's ability to refinance a mortgage or obtain secondary  
26 financing and an increase in the pool of potential buyers of the  
27 separate interest.

28  
29 This common interest development [is/is not (circle one)] a  
30 condominium project. The association of this common interest  
31 development [is/is not (circle one)] certified by the Federal Housing  
32 Administration."

33  
34 7.5.11 Statement of VA Approved Condominium Project Status. A statement  
35 describing the status of the common interest development as a federal  
36 Department of Veterans Affairs (hereinafter, "VA") approved  
37 condominium project pursuant to VA guidelines, including whether the  
38 common interest development is a VA approved condominium project.  
39 The statement shall be in at least 10-point font on a separate piece of  
40 paper and in the following form:

41  
42 "Certification by the federal Department of Veterans Affairs may  
43 provide benefits to members of an association, including an  
44 improvement in an owner's ability to refinance a mortgage or obtain  
45 secondary financing and an increase in the pool of potential buyers of  
46 the separate interest.

1 This common interest development [is/is not (circle one)] a  
2 condominium project. The association of this common interest  
3 development [is/is not (circle one)] certified by the federal Department  
4 of Veterans Affairs.”  
5

6 7.5.12 Charges for Documents Provided Disclosure. The completed  
7 “Charges for Documents Provided” disclosure identified in *Civil Code*  
8 section 4528. For purposes of this **Section 7.5**, “completed” means  
9 that the “Fee for Document” section of the form individually identifies  
10 the costs associated with providing each document listed on the form.  
11

12 7.6 Notice of Certain Changes in Insurance. In accordance with *Civil Code* section  
13 5810, as soon as reasonably practicable, the Association shall provide Individual  
14 Notice to all Members if any of the policies described in **Section 7.5.9** (“Summary  
15 of Association’s Insurance Policies”) have lapsed or been canceled, and are not  
16 immediately renewed, restored, or replaced, or if there is a significant change,  
17 such as a reduction in coverage or limits or an increase in the deductible for any  
18 of those policies. If the Association receives any notice of non-renewal of a  
19 policy described in **Section 7.5.9** and replacement coverage will not be in effect  
20 by the date the existing coverage will lapse, the Association shall immediately  
21 provide Individual Notice thereof to the Members.  
22

23 7.7 Annual Policy Statement; Notifications to Members. In accordance with *Civil*  
24 *Code* section 5310(a)(1) through (12), not less than thirty (30) days and not more  
25 than ninety (90) days before the end of the fiscal year, the Board shall distribute  
26 to the Members an annual policy statement which shall include all of the  
27 following:  
28

29 7.7.1 Official Communications to Association. A statement notifying the  
30 Members of the name and address of the person designated to receive  
31 official communications to the Association, in the manner prescribed by  
32 *Civil Code* section 4035;  
33

34 7.7.2 Secondary Address for Certain Notices. A statement notifying the  
35 Members of an Owner’s right to submit to the Association, in  
36 accordance with *Civil Code* section 5260(b), a request to have notices  
37 sent to up to two (2) different addresses pursuant to *Civil Code* section  
38 4040(b) (concerning annual reports, enforcement of delinquent  
39 Assessments, sale by trustee);  
40

41 7.7.3 Location Designated for Posting General Notices. A statement  
42 notifying the Members of the location, if any, designated for posting  
43 General Notice pursuant to *Civil Code* section 4045(a)(3);  
44

45 7.7.4 Option to Receive General Notices by Individual Delivery. A statement  
46 notifying the Members of their option to receive General Notices by  
47 Individual Delivery in accordance with *Civil Code* section 4045(b);

- 1  
2 7.7.5 Notice of Members' Right to Receive Meeting Minutes. A statement  
3 notifying the Members of their right to receive meeting minutes in  
4 accordance with *Civil Code* section 4950(b);  
5  
6 7.7.6 Notice of Assessment Collection Policy. A statement of Assessment  
7 collection policies as required by *Civil Code* section 5730(a) printed in  
8 at least 12-point type;  
9  
10 7.7.7 Notice Regarding Liens and Foreclosure. A statement describing the  
11 Association's policies and practices in enforcing lien rights or other  
12 legal remedies for default in the payment of Assessments;  
13  
14 7.7.8 Notice of Discipline Policy. A statement describing the Association's  
15 discipline policy, if any, including any schedule of penalties for  
16 violations of the Governing Documents pursuant to *Civil Code* section  
17 5850;  
18  
19 7.7.9 Notice of Dispute Resolution Procedures. A summary of the statutory  
20 provisions relating to employing internal dispute resolution procedures  
21 and alternative dispute resolution procedures in certain matters related  
22 to enforcement of the Governing Documents, which specifically  
23 references *Civil Code* sections 5920 and 5965. The summary of the  
24 Association's internal dispute resolution procedure may consist of a  
25 copy of **Section 14.9 of the Declaration** ("Investigation of Complaints")  
26 through **Section 14.16 of the Declaration** ("Internal Dispute  
27 Resolution"). The summary of the statutory provisions relating to  
28 employing alternative dispute resolution procedures in certain matters  
29 related to enforcement of the Governing Documents may consist of a  
30 copy of **Section 14.17 of the Declaration** ("Alternative Dispute  
31 Resolution Before Initiating Lawsuit") through **Section 14.19 of the**  
32 **Declaration** ("Costs and Attorney Fees");  
33  
34 7.7.10 Notice of Required Architectural Approval. A notice of the requirement  
35 for Association approval of physical changes to property, as required  
36 by *Civil Code* section 4765 describing the types of changes that  
37 require Association approval and including a copy of the procedure for  
38 review and approval or disapproval which may consist of a copy of  
39 **Article 8 of the Declaration** ("Architectural and Unit Remodeling  
40 Considerations") and a copy of the Architectural Rules, if any;  
41  
42 7.7.11 Mailing Address for Overnight Payment of Assessments. A statement  
43 notifying the Members of the mailing address for overnight payment of  
44 Assessments in accordance with *Civil Code* section 5655(c); and  
45  
46 7.7.12 Other Required Information. A statement notifying the Members of  
47 other information required by law, or by the Governing Documents, or

1 that the Board determines in its sole judgment to be appropriate for  
2 inclusion in the annual policy statement.

3  
4 7.8 Documents Provided to Prospective Purchasers. To the extent required by *Civil*  
5 *Code* section 4530(a), the Board shall provide or cause to be provided to a  
6 requesting Owner, within ten (10) days of a written request therefor, the items  
7 specified in *Civil Code* section 4525(a), or any of them.

8  
9 7.9 Association's Duty to Annually Solicit Owner's Notice of Address, Other  
10 Information. As required by *Civil Code* section 4041, the Association shall  
11 annually solicit from each Owner the information as set forth in **Section 3.3**  
12 ("Owner's Duty to Annually Provide Address, Other Information"). The  
13 Association shall include in its annual solicitation of Owners both of the following:  
14 (i) that Members do not have to provide an email address to the Association, and  
15 (ii) a simple method for Members to inform the Association in writing if a Member  
16 wishes to change their preferred delivery method for receiving notices from the  
17 Association. The information obtained from each Owner shall be entered into the  
18 books and records of the Association at least thirty (30) days prior to sending its  
19 annual budget report as set forth in **Section 7.5** ("Annual Budget Report"). If a  
20 Member fails to provide the information to the Association as set forth in **Section**  
21 **3.3**, the last mailing address provided in writing by the Member or, if none, the  
22 Unit property address, is deemed to be the address to which the Association  
23 shall deliver notices.

24  
25 7.10 Review of Annual Financial Statement. To the extent required pursuant to *Civil*  
26 *Code* section 5305, for any fiscal year in which the gross income to the  
27 Association exceeds Seventy-five Thousand Dollars (\$75,000), the Board shall  
28 obtain a review of the financial statements of the Association prepared in  
29 accordance with generally accepted accounting principles by a licensee of the  
30 California State Board of Accountancy and shall distribute it to all Members of the  
31 Association within one hundred twenty (120) days after the close of such fiscal  
32 year by Individual Delivery; *provided, however*, that if audited financial  
33 statements are required pursuant to **Section 13.1.2 of the Declaration** ("Audited  
34 Financial Statements"), audited financial statements shall be obtained.

35  
36 7.11 Monthly Review of Accounts. The Board shall review the Association's operating  
37 and reserve accounts at least monthly in accordance with the minimum  
38 requirements set forth in *Civil Code* section 5500, as follows:

- 39  
40 (a) Review a current reconciliation of the Association's operating accounts on  
41 a monthly basis;
- 42  
43 (b) Review a current reconciliation of the Association's reserve accounts on a  
44 monthly basis;
- 45  
46 (c) Review, on a monthly basis, the current year's actual operating revenues  
47 and expenses compared to the current year's budget;

- 1  
2 (d) Review, on a monthly basis, the latest account statements prepared by  
3 the financial institutions where the Association keeps its operating and  
4 reserve accounts;  
5  
6 (e) Review, on a monthly basis, an income and expense statement for the  
7 Association's operating and reserve accounts; and  
8  
9 (f) Review, on a monthly basis, the check register, monthly general ledger,  
10 and delinquent assessment receivable reports.  
11

12 As used in this **Section 7.11**, the term "reserve accounts" shall have the  
13 meaning set forth in *Civil Code* section 4177. Pursuant to *Civil Code*  
14 section 5501, the review requirements of *Civil Code* section 5500 may be  
15 met when every member of the Board, or a subcommittee of the Board  
16 consisting of the Chief Financial Officer and at least one (1) other Board  
17 member, reviews the documents and statements described above outside  
18 of a Board meeting, so long as the review is ratified at the next Board  
19 meeting following the review and the ratification is reflected in the minutes  
20 of the Board meeting.  
21

22 7.12 Biennial Notice to Secretary of State. The Board shall file with the Secretary of  
23 State the biennial (every two years) statement of names of officers and of agent  
24 for service of process required pursuant to *Corporations Code* section 8210 and  
25 the statement required by *Civil Code* section 5405(a).  
26

27 7.13 Three-year Reserve Study and Annual Review. In accordance with *Civil Code*  
28 section 5550, at least once every three (3) years, the Board shall cause a study  
29 of the reserve account requirements of the Project to be conducted, which study  
30 shall include the minimum requirements specified in *Civil Code* section 5550(b)  
31 or successor statute. The Board shall review the reserve study annually and  
32 shall consider and implement necessary adjustments to the Board's analysis of  
33 the reserve account requirements as a result of that review.  
34

35 7.14 Prudent Management of Reserve Funds. The Board shall exercise prudent fiscal  
36 management in maintaining the integrity of the reserve account and, to the extent  
37 restricted by *Civil Code* section 5510(b), shall not expend funds designated as  
38 reserve funds for any purpose other than the maintenance, restoration, repair, or  
39 replacement of, or litigation involving the maintenance, restoration, repair, or  
40 replacement of, major components for which the Association is responsible and  
41 for which the reserve fund was established; *provided, however*, that the Board  
42 may authorize a temporary transfer of money from a reserve fund to the  
43 Association's general operating fund for the purposes and subject to *Civil Code*  
44 section 5520.  
45  
46

1 **ARTICLE 8 POWERS OF THE BOARD OF DIRECTORS**

---

2  
3 The Board of Directors shall have such powers as may be provided by law or  
4 expressly set forth in the Governing Documents. Without limiting the generality  
5 of the foregoing, the Board shall have the powers specified in this **Article 8**,  
6 subject to any limitations or conditions as may be set forth in the Articles, the  
7 Bylaws, or the Declaration.

8  
9 8.1 Make Contracts. The Board shall have the power to authorize any officer or  
10 officers to enter into any contract in the name of, or on behalf of, the Association.

11  
12 8.2 Consult Professional Advisors. The Board shall have the power to consult with,  
13 seek the advice of, and reasonably rely on the advice of attorneys, accountants,  
14 and other professionals in carrying out the Board's authority and responsibility  
15 under the Governing Documents and the law, and to pay for such professional  
16 services.

17  
18 8.3 Hire a Manager and Others. The Board shall have the power to engage the  
19 services of a manager or management company as either an employee or an  
20 independent contractor, and engage such other employees or independent  
21 contractors as the Board may deem necessary, and to prescribe their duties.

22  
23 8.4 Adopt and Enforce Rules. Subject to applicable law, including *Civil Code*  
24 sections 4340 through 4370 (regarding procedures for adopting or changing  
25 certain rules), the Board shall have the power to adopt, publish, amend, repeal,  
26 and enforce Rules.

27  
28 8.5 Collect Assessments by Foreclosure and/or Legal Action. As addressed in the  
29 Declaration, the Board shall have the power to collect Assessments levied by the  
30 Association by foreclosing the lien against any property for which Assessments  
31 are not paid as required by the Declaration and/or by bringing an action at law  
32 against the Owner personally obligated to pay the same.

33  
34 8.6 Impose Sanctions. Upon an explicit finding and for reasons specified by the  
35 Board following a hearing conducted in accordance with **Article 14 of the**  
36 **Declaration** ("Enforcement; Notice; Hearings"), the Board shall have the power to  
37 impose sanctions on a Member who is in default in the payment of any  
38 Assessment or other charge levied by the Board or is found to be in violation of  
39 any provision of the Governing Documents. Sanctions may include loss of good  
40 standing, suspension of other rights, and/or monetary penalties (fines), as  
41 described in **Section 14.8 of the Declaration** ("Imposing Sanctions").

42  
43 8.7 Pay Property Taxes. The Board shall have the power to pay all real property  
44 taxes and assessments levied upon any property within the Project to the extent  
45 not separately assessed to the Owners. Provided that any such taxes are paid  
46 or that a bond insuring the payment is posted, such taxes and assessments may



1 be contested or compromised by the Association prior to the sale or other  
2 disposition of any property to satisfy the payment of such taxes.

3  
4 8.8 Deal with Association's Property; Certain Limitations. The Board shall have the  
5 power to acquire and deal with real and personal property of the Association,  
6 subject to any applicable limitations set forth in the Governing Documents,  
7 including **Section 3.7 of the Declaration** ("Sale or Mortgage of Association's  
8 Property").

9  
10 8.9 Open Bank Accounts; Borrow. The Board shall have the power to open bank  
11 accounts, designate signatories upon such bank accounts (subject to the  
12 requirements of **Section 10.4** ("Checks, Drafts, and Evidences of Indebtedness")  
13 concerning withdrawal of reserve account funds), and borrow money on behalf of  
14 the Association, subject to any applicable provisions of **Section 3.7 of the**  
15 **Declaration** ("Sale or Mortgage of Association's Property").

16  
17 8.10 Pledge Assessments As Security. The Board shall have the power to assign or  
18 pledge Assessments of the Association as security for a loan, provided that such  
19 assignment or pledge is made to a financial institution or lender chartered or  
20 licensed under federal or state law to the extent required by *Civil Code* section  
21 5735; and *provided, further*, that approval of the Members shall be required if  
22 such assignment or pledge is in conjunction with an increase in the Regular  
23 Assessment or the imposition of a Special Assessment that by law requires  
24 approval of the Members, and such Member approval shall be the same as the  
25 Member approval required for such increase in the Regular Assessment or  
26 imposition of a Special Assessment.

27  
28 8.11 Invest Reserve Funds. The Board shall have the power to manage and invest  
29 Association reserve funds in prudent investments, provided it does so in a  
30 prudent manner designed to achieve the primary objective of preserving principal  
31 while realizing a reasonable return and to assure the availability of funds as they  
32 are needed based upon the Board's most recent review of the reserve fund study  
33 obtained by the Board as required in **Section 7.13** ("Three-year Reserve Study  
34 and Annual Review") and applicable law.

35  
36 8.12 Indemnify Agents. To the extent provided in *Corporations Code* section 7237,  
37 the Board on behalf of the Association shall have the power to and shall  
38 indemnify and hold harmless, to the maximum extent permitted by California law,  
39 each person who is or at any time was a director, officer, employee, or agent of  
40 the Association, or member of any committee appointed by the Board from and  
41 against any and all claims, liabilities, expenses, judgments, fines, settlements,  
42 and other amounts, as those terms are defined by California law, actually and  
43 reasonably incurred by any such person, and to which any such person shall  
44 become subject by reason of his or her being a director, officer, employee, or  
45 agent of the Association, or member of any committee appointed by the Board.

1 8.13 Appoint Committees. The Board may appoint an Architectural Committee, as  
2 provided in the Declaration, and may appoint a Nominating Committee, as  
3 provided in **Section 5.4** (“Nomination Procedures”), and may appoint such other  
4 committees as it deems appropriate in carrying out the powers and purposes of  
5 the Association except that the Board may not delegate its authority to hold  
6 hearings or impose sanctions. Any “Committee of the Board” (as defined in  
7 **Section 2.7**) shall consist of at least two (2) directors and shall have such powers  
8 and duties as the Board shall determine, subject to the limitations of *Corporations*  
9 *Code* section 7212. As provided in *Corporations Code* section 7212(b), a  
10 committee exercising the authority of the Board shall not include as members  
11 any persons who are not directors. All committees and committee members  
12 shall serve at the pleasure of the Board.  
13

14 8.14 Other Powers and Duties. The Board shall have the power to exercise for the  
15 Association all powers, duties, and authority vested in or delegated to the  
16 Association and not reserved to the Members by other provisions of the  
17 Governing Documents, and undertake any action on behalf of the Association as  
18 the Board shall deem necessary or proper in furtherance of the purposes and  
19 powers of the Association and/or the interests of the Association and its  
20 Members.  
21

## 22 **ARTICLE 9 OFFICERS AND THEIR DUTIES**

---

24 9.1 Enumeration of Principal Officers. The principal officers of this Association shall  
25 be a President, a Vice-President, a Secretary, and a Chief Financial Officer who  
26 shall at all times be members of the Board of Directors. The Board may, from  
27 time to time, by resolution appoint other officers as the Board may determine, as  
28 provided in **Section 9.4** (“Special Appointments”).  
29

30 9.2 Appointment of Principal Officers. The appointment of the principal officers shall  
31 take place at the first meeting of the Board following each annual election of  
32 directors.  
33

34 9.3 Term. The principal officers of this Association shall be appointed annually by  
35 the Board, and each shall hold office for one (1) year, unless he or she shall  
36 sooner resign, be removed by the Board, or otherwise be disqualified to serve.  
37

38 9.4 Special Appointments. The Board may appoint such other officers as the affairs  
39 of the Association may require (for example, one or more assistant vice-  
40 presidents or assistant secretaries or assistant treasurers), each of whom shall  
41 hold office for such period, have such authority, and perform such duties as the  
42 Board may, from time to time, determine. Officers appointed pursuant to this  
43 **Section 9.4** need not be members of the Board or Members of the Association.  
44  
45

1 9.5 Resignation and Removal. Any officer may be removed from office, with or  
2 without cause, by the Board. Any officer may resign at any time by giving written  
3 notice to the Board, the President, or the Secretary. Such resignation shall take  
4 effect on the date of receipt of such notice or at any later time specified therein  
5 and, unless otherwise specified therein, the acceptance of such resignation shall  
6 not be necessary to make it effective.  
7

8 9.6 Vacancies. A vacancy in any office may be filled by appointment by the Board.  
9 The officer appointed to such vacancy shall serve for the remainder of the term of  
10 the officer he or she replaces, subject to the Board's right to remove an officer.  
11

12 9.7 Multiple Offices. One (1) person may hold two (2) or more offices except that  
13 neither the Secretary or any assistant secretary nor the Chief Financial Officer or  
14 any assistant treasurer may serve concurrently as President. This provision is  
15 intended to prohibit a single individual from having apparent authority to bind the  
16 Association by virtue of holding both offices, pursuant to *Corporations Code*  
17 section 7214.  
18

19 9.8 Authority to Bind Association. Unless expressly authorized by resolution of the  
20 Board, no officer shall have any power or authority to bind the Association or to  
21 render the Association liable for any purpose or on any account.  
22

23 9.9 No Compensation of Officers. No officer shall receive compensation for any  
24 service he or she may render to the Association as an officer. However, upon  
25 approval by the Board, any officer may be reimbursed for his or her expenses  
26 actually incurred in the performance of his or her duties.  
27

28 9.10 President. The President shall be the chief executive officer of the Association  
29 and shall, subject to control of the Board of Directors, have general supervision,  
30 direction, and control of the affairs of the Association and of the other officers and  
31 the employees and agents of the Association. The President shall preside at all  
32 meetings of the Members and at all meetings of the Board, shall have the  
33 general powers and duties of management usually vested in the office of the  
34 President of an Association, and shall have such other powers and duties as may  
35 be prescribed by the Board of Directors and the Bylaws, subject, however, to any  
36 limitations contained in the Declaration.  
37

38 9.11 Vice-President. In the absence or disability of the President, the Vice-President  
39 shall perform all the duties of the President and, when so acting, shall have all of  
40 the powers of, and be subject to all of the restrictions upon, the President  
41 including the restriction on holding multiple offices as set forth in **Section 9.7**  
42 ("Multiple Offices"). The Vice-President shall have such other powers and  
43 perform such other duties as, from time to time, may be prescribed by the Board  
44 of Directors. In the absence or disability of both the President and the Vice-  
45 President, or if there is not a Vice-President in office, the Board shall designate  
46 another director to preside at a meeting of the Board or of the Members.  
47

1 9.12 Secretary. The Secretary shall keep or cause to be kept, at the principal office or  
2 such other place as the Board of Directors may prescribe, a book of minutes of  
3 all meetings of directors and Committees of the Board, all meetings of any other  
4 committee appointed by the Board that has decision-making authority, and all  
5 meetings and votes of Members. The Secretary shall give, or cause to be given,  
6 notice of all meetings of the Members and of the Board of Directors required by  
7 the Bylaws or by law to be given and shall maintain a proper record of the giving  
8 of such notice; shall keep or cause to be kept in safe custody the books, records,  
9 and documents of the Association; and shall have such other powers and  
10 perform such other duties as may be prescribed by the Board of Directors or the  
11 Bylaws.  
12

13 9.13 Chief Financial Officer. The Chief Financial Officer shall be responsible for the  
14 receipt and deposit in appropriate accounts of all monies of the Association and  
15 shall cause disbursement of such funds as directed by resolution of the Board of  
16 Directors; may sign all checks and promissory notes of the Association; shall  
17 keep or cause to be kept proper books of account; shall cause an annual review  
18 of the Association's books and financial statements to be made by a public  
19 accountant at the completion of any fiscal year for which such review is required  
20 by law or as determined by the Board; shall assist the Board in preparation of an  
21 annual budget and a statement of income and expenditures to be presented to  
22 the Members of the Association as provided by law; and shall have such other  
23 powers and perform such other duties as may be prescribed by the Board of  
24 Directors.  
25  
26

## 27 **ARTICLE 10 MINUTES; BOOKS AND RECORDS; FUNDS**

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28  
29 10.1 Minutes of Meetings. To the extent required by *Corporations Code* section  
30 8320(a)(2), the Association shall keep minutes of meetings and proceedings of  
31 the Members (including membership votes), meetings of the Board and  
32 Committees of the Board, and meetings of any other committee appointed by the  
33 Board that has decision-making authority. As provided in **Section 6.14** ("Minutes  
34 of Meetings of Directors"), any matter discussed in executive session shall be  
35 generally noted in the minutes of the next following open meeting of the Board,  
36 and minutes of executive sessions shall not otherwise be required. Minutes shall  
37 set forth the time and place of holding of such meetings; whether regular or  
38 special, and if special, how authorized; what notice was given; the names of  
39 those present at meetings of the directors or of any Committee of the Board or of  
40 any other committee appointed by the Board that has decision-making authority;  
41 the number of votes cast in any vote or election of the membership (or, if  
42 applicable, the number of memberships and votes present at Member meetings);  
43 and all the proceedings thereof.  
44

45 10.2 Members' Access to Minutes, Books, and Records. To the extent required by  
46 *Civil Code* sections 5200, 5205, 5210, 5215, 5220, 5225, and 5230, and subject

1 to a requesting Member's compliance with all applicable prerequisites and any  
2 applicable limitations (including but not limited to *Corporations Code* section  
3 8332 concerning protection of constitutional rights of other Members,  
4 *Corporations Code* section 8338 concerning use of memberships lists, and *Civil*  
5 *Code* section 5215 concerning withholding or redacting certain records), the  
6 Association shall make available for inspection and copying by any Member  
7 "Association records" (as defined in *Civil Code* section 5200) maintained by the  
8 Association. This provision does not require the Association to create or  
9 maintain any records not otherwise required by law to be maintained. The Board  
10 may adopt and publish reasonable rules and regulations establishing procedures  
11 relating to a Member's inspection and obtaining copies of Association records.  
12

13 10.3 Directors' Inspection Rights. As provided in *Corporations Code* section 8334,  
14 and subject to any limitations established by law, every director shall have the  
15 right at any reasonable time to inspect and copy all books, records, and  
16 documents and to inspect the physical properties of the Association.  
17

18 10.4 Checks, Drafts, and Evidences of Indebtedness.  
19

20 10.4.1 Operational Expenditures. All checks, drafts, or other orders for  
21 payment of money, or notes or other evidences of indebtedness issued  
22 in the name of the Association for operational expenditures shall be  
23 signed by the persons and in the manner specified by resolution of the  
24 Board of Directors.  
25

26 10.4.2 Reserve Expenditures. In accordance with *Civil Code* section 5510(a),  
27 the withdrawal of funds from the Association's reserve account shall  
28 require the signatures of at least two (2) persons who shall be  
29 members of the Board of Directors or one (1) member of the Board of  
30 Directors and one (1) officer who is not a member of the Board of  
31 Directors.  
32

33 10.5 Funds and Deposits. Any funds of the Association shall be deposited to the  
34 credit of the Association in such banks or other depositories as the Board of  
35 Directors shall, from time to time, determine. The managing agent of the  
36 Association, if any, shall manage the Association's funds in accordance with *Civil*  
37 *Code* section 5380.  
38

39 10.6 Fiscal Year. The fiscal year of the Association shall be as determined by  
40 resolution of the Board of Directors.  
41

## 42 **ARTICLE 11**            **AMENDMENTS**

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45 11.1 Amendments Generally. These Bylaws may be amended by approval of the  
46 Board and the affirmative vote of a Majority of a Quorum of the Members;

1 *provided, however,* that, upon advice of legal counsel licensed to practice law in  
2 the State of California, including the drafting by legal counsel of appropriate  
3 amendatory provisions, the Board shall have the authority without the  
4 requirement of Member approval to amend any provision of the Bylaws: (i) to  
5 resolve any conflict between the Bylaws and applicable law which may arise due  
6 to the enactment or amendment of a statute or due to a development in  
7 applicable case law or (ii) to conform the provisions of the Bylaws to changes in  
8 applicable statutory law that impose requirements that are non-discretionary.  
9

10 11.2 Record of Amendments. When an amendment or a new Bylaw provision is  
11 adopted, it shall be placed in the appropriate place in the minute book of the  
12 Association together with a certificate signed by the Secretary stating the date on  
13 which it was approved by the Board and whether at a meeting or by unanimous  
14 written consent of the directors, and the date on which it was approved by the  
15 Members.  
16

17  
18 **ARTICLE 12 MISCELLANEOUS**  
19

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20 12.1 Conflict in Governing Documents. In the case of any conflict between the  
21 Articles of Incorporation and these Bylaws, the Articles shall control; and in the  
22 case of any conflict between the Declaration and these Bylaws, the Declaration  
23 shall control.  
24

25 12.2 Amendments to Referenced Statutes; Time for Performance. References in the  
26 Bylaws to particular statutes, including sections of the *Civil Code* or the  
27 *Corporations Code*, shall be deemed to include any successor statute and any  
28 amendments to existing or successor statutes. Whenever these Bylaws state a  
29 time for the performance of any act by the Association which by law (as it may  
30 exist from time to time) must be performed at or within a specified time, the time  
31 for the performance of such act shall be deemed to be the widest timeframe  
32 permitted under then-applicable law.  
33