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FOOTHILL KNOLLS OWNERS ASSOCIATION

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## BYLAWS

of

FOOTHILL KNOLLS OWNERS ASSOCIATION  
a California Nonprofit Mutual Benefit Corporation

ARTICLE IOFFICESSection 1.1. Principal Office.

The corporation's principal office shall be fixed and located in the County of Alameda, State of California, at such place as the Board (as hereinafter defined) shall determine. The Board is granted full power and authority to change said principal office from one location to another.

Section 1.2. Other Offices.

Branch or subordinate offices may be established at any time by the Board at any place or places.

ARTICLE IIDEFINITIONSSection 2.1. Board.

"Board" means and refers to the board of directors of the corporation.

Section 2.2. Declaration.

"Declaration" means the Declaration of Covenants, Conditions and Restrictions recorded in the Office of the County Recorder of Alameda County, California, covering the Project (as hereinafter defined), including such amendments, supplements or modifications thereto as may from time to time be recorded.

Section 2.3. Declarant.

"Declarant" means and refers to Falcon Development Company, a California general partnership and its successors and assigns.

Section 2.4. Final Tract Map.

"Final Tract Map" means those certain maps filed in Map Book 140, Pages 54 through 60, inclusive, Alameda County Records, Alameda County, California.

Section 2.5. Lot.

"Lot" means any numbered plot of land shown upon the Final Tract Map of the Property, or any portion thereof.

Section 2.6. Mortgage.

"Mortgage" means both a deed of trust and the conveyance of any Lot or other portion of the Property to secure the performance of an obligation, which conveyance shall be void upon the due performance of said obligation.

Section 2.7. Mortgagee/Mortgagor.

"Mortgagee" means a person or entity to whom a Mortgage is made, its successors and assigns, and the beneficiary of a deed of trust, and its successors and assigns;

"Mortgagor" means a person or entity who mortgages property to another, i.e., the maker of a Mortgage, and the trustor of a deed of trust.

Section 2.8. Owner.

"Owner" means the record owner, whether one or more persons or entities, of a Lot which is a part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation. Owner shall also include a contract of \_\_\_\_\_ under a Real Property Sales Contract, provided that such Real Property Sales Contract complies with the provisions of § 2985-2985.6 of the California Civil Code.

Section 2.9. Property.

"Property" means and refers to that certain real property located in Alameda County, California, described as such in the Declaration recorded on \_\_\_\_\_, in Book \_\_\_\_\_, Pages \_\_\_\_\_, inclusive, of Official Records in the Office of the County Recorder of Alameda County, California, owners of Lots and which are required to be members of the corporation, and such additions thereto as may hereafter be brought within the jurisdiction of the corporation.

ARTICLE III

MEMBERSHIP

Section 3.1. Classes.

There shall be two classes of members:

Class A. Class A members shall be all owners with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot owned. When more than one person holds an ownership interest in any Lot, all such persons shall be members, and, subject to the provisions of Section 7612 of the California Nonprofit Mutual Benefit Corporation Law (the "Law"), the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. Class B members shall be the Declarant. Class B members shall be entitled to three votes for each Lot which it owns. Class B membership shall forever cease to exist and be converted to Class A membership on the happening of any of the following events, whichever occurs earliest:

(i) When the total number of votes in Class A equal the total number of votes in Class B; or

(ii) The second anniversary of the date of issuance of the most recently issued final public report for the Project.

Section 3.2 Membership Assessments.

Each member shall pay a membership fee and periodic dues and assessments in such amounts and at such times as shall be determined by the Board.

(a) Regular Assessments. The Board shall fix and determine from time to time regular assessments to be paid by each Owner for the purpose of operating and maintaining the Association Property as defined in the Declaration, paying the expenditures of the corporation as provided in these Bylaws and the Declaration, and establishing and operating a reserve fund and reserve for replacement, all as set forth in the Declaration.

(b) Special Assessments. In addition to the regular assessments authorized above, the Board may levy special assessments for the purpose of defraying, in whole or in part, the cost of any capital improvement to the Association Property or such other purpose as may be determined by the Board, all as set forth in the Declaration.

(c) Lien Rights. As provided in the Declaration, the corporation shall have a lien against the interest of each Owner

and each Lot to secure the full and prompt payment of all assessments levied by the corporation in compliance with these Bylaws, and in the event of default by any Owner said interest of such Owner may be foreclosed by the corporation and in the manner as a realty mortgage may be enforced by sale pursuant to Sections 2932, 2924(a), 2924(d), 2924(c) and 1356 of the California Civil Code, and to that end a power of sale is hereby conferred upon the corporation, and any redemption thereafter shall be subject to the lien hereby created as to other or future events of default; provided, however, that the lien hereby created shall, at all times, be subordinate and inferior to the lien of the first Mortgage placed on any Lot or any part thereof. Any assessments which are not paid when due shall be delinquent. If the assessments are not paid within 10 days after the due date, the assessment shall bear interest from the due date at the rate of 10% per annum, to the extent legally enforceable, and the corporation may bring an action at law against the member personally obligated to pay the same and, in addition thereto or in lieu thereof, may foreclose the lien above provided, and interest, costs and reasonable attorneys' fees incurred in any such action shall be added to the amount of such assessments. A member may not waive or otherwise escape liability for the assessments provided for hereby by nonuse of the Easement Areas or abandonment of any Lot.

(d) Payment of Assessments by Declarant. Declarant shall pay all assessments levied by the corporation against any Lot owned by it at the same time, in the same manner and in the same amounts as any other Owner.

(e) Commencement of Regular Assessments. The regular assessments shall commence as to all Lots on the first day of the calendar month following the close of the first sale of a Lot by Declarant.

### Section 3.3. Eligibility of Members.

Every Owner of a Lot shall automatically become a member of this corporation, which membership shall be appurtenant to the Lot. A membership in the corporation shall automatically terminate upon transfer of title of the Lot to which it is appurtenant. Membership may be transferred only in conjunction with the transfer of title of the Lot to which it is appurtenant, and then only to the transferee of title. Upon such transfer and termination, the transferee shall automatically become a member of the corporation.

### Section 3.4. Membership Rights and Privileges.

No member shall have the right without the prior approval of the Board to exercise any of the powers or to perform any of the acts by these Bylaws delegated to the Board as may be

provided more fully below. Unless otherwise provided in the Declaration and subject to the rules and regulations adopted by the Board, each member of the corporation, such member's immediate family, guests and tenants shall have the right to use and enjoy the Easement Areas. The membership rights and privileges, together with the voting rights of any member of the corporation may be suspended by the Board for any period of time during which the assessment on his Lot remains unpaid, and for a period not exceeding 30 days for any infraction of the corporation's published Rules and Regulations after reasonable notice and an opportunity for a hearing before the Board. The published Rules and Regulations shall include fair and reasonable provisions for notice and an opportunity for a hearing. Monetary penalties may be adopted by the corporation provided the adoption of such penalties is approved by 51% of the Owners, excluding Declarant.

Section 3.5. Place of Meetings.

All meetings of members shall be held at the Project or such other location in Alameda County, California, as close to the Project as possible, as may be designated in the notice of meeting by the Board.

Section 3.6. Annual Meetings.

The first annual meeting of the corporation shall be held within the six months following the close of escrow for the sale of the first Lot in the Project, or within 45 days following the close of escrow for the sale of 51% of the Lots within the Project (as authorized under the sale of 51% of the Lots within the Project), whichever shall first occur. Subsequent annual meetings of members shall be held on the annual anniversary of the first annual meeting of members. Should any annual meeting day fall on a legal holiday, then such annual meeting of members shall be held at the same time and place on the next day thereafter ensuing which is not a legal holiday. In any year in which directors are elected, the election shall be held at the annual meeting. Any other proper business may be transacted at the annual meeting.

Section 3.7. Special Meetings.

Special meetings of members may be called at any time by a majority of the quorum of the Board, the Chairman of the Board, the President or not less than five percent of the members. Upon request in writing to the Chairman of the Board, the President, any Vice President or the Secretary by any person (other than the Board) entitled to call a special meeting of members, the officer forthwith shall cause notice to be given to the members entitled to vote that a meeting will be held at a time fixed by the Board, not less than 35 or more than 90 days after



the receipt of the request. If the notice is not given within 20 days after receipt of the request, the persons entitled to call the meeting may give the notice.

Section 3.8. Notice of Annual or Special Meetings.

(a) Written notice of each annual or special meeting of members shall be given not less than 10 nor more than 90 days before the date of the meeting to each member entitled to notice thereof; provided, however, that if notice is given by mail, and the notice is not mailed by first-class, registered or certified mail, the notice shall be given not less than 20 days before the meeting. Such notice shall state 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 be transacted, or (2) in the case of the annual meeting, those matters which the Board, at the time of the mailing of the notice, intends to present for action by the members, but, subject to the provisions of applicable law, any proper matter may be presented at the meeting for action. The notice of any meeting at which directors are to be elected shall include the names of all those who are nominees at the time the notice is sent to the members.

(b) Notice of a members' meeting shall be given either personally or by mail or by other means of written communication as is appropriate for the Project, and shall be addressed to a member at the address of such member appearing on the books of the corporation or given by the member to the corporation for the purpose of notice; or, if no such address appears or is given, at the place where the principal office of the corporation is located or by publication at least once in a newspaper of general circulation in the county in which the principal office is located. In addition, upon written request therefor, written notice shall be given to all first Mortgagees either personally, by mail or by other written notice as described below. Notice by mail shall be deemed to have been given at the time a written notice is deposited in the United States mails, postage prepaid. Any other written notice shall be deemed to have been given at the time it is personally delivered to the recipient or is delivered to a common carrier for transmission or is transmitted by the person giving the notice by electronic means, to the recipient. Oral notice shall be deemed to have been given at the time it is communicated, in person or by telephone or wireless, to the recipient or to a person at the office of the recipient who the person giving the notice has reason to believe will promptly communicate it to the receiver.

Section 3.9. Quorum.

One third of the voting power, represented in person or by proxy, shall constitute a quorum at any meeting of members. If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting entitled to vote and voting on any matter, shall be the act of the members, unless the vote of a greater number or voting by classes is required by law, by the Articles, by these Bylaws or by the Declaration.

Section 3.10. Adjourned Meetings and Notice Thereof.

Any members' meeting, whether or not a quorum is present, may be adjourned from time to time by the vote of a majority of the votes represented either in person or by proxy, but in the absence of a quorum, no other business may be transacted at such meeting. It shall not be necessary to give any notice of the time and place of the adjourned meeting or of the business to be transacted thereat, other than by announcement at the meeting at which such adjournment is taken; provided, however, when any members' meeting is adjourned for less than five days or more than 30 days or, if after adjournment a new record date is fixed for the adjourned meeting, notice of the adjourned meeting shall be given as in the case of the meeting as originally called, whether annual or special.

Section 3.11. Voting.

(a) The members entitled to notice of any meeting or to vote at any such meeting shall be only those persons in whose name memberships stand on the records of the corporation on the record date for notice determined in accordance with Section - 3.12.

(b) Elections need not be by ballot; provided, however, that all elections for directors must be by secret written ballot. In any election of directors, the candidates receiving the highest number of votes are elected.

(c) If a membership stands of record in the names of two or more persons, whether fiduciaries, members of a partnership, joint tenants, tenants in common, husband and wife as community property, tenants by the entirety, voting trustees, persons entitled to vote under a voting agreement or otherwise, or if two or more persons (including proxyholders) have the same fiduciary relationship respecting the same membership, unless the Secretary of the corporation is given written notice to the contrary and is furnished with a copy of the instrument or order appointing them or creating the relationship wherein it is so provided, their acts with respect to voting shall have the following effect:

- (1) If only one votes, such act binds all; or

(2) If more than one vote, the act of the majority so voting binds all.

(d) Voting shall in all cases be subject to the provisions of Sections 7610 through 7616 of the Law.

(e) Subject to the provisions of Section 7615 of the Law, every member entitled to vote at any election of directors may cumulate such member's votes and give one candidate a number of votes equal to the number of directors to be elected multiplied by the number of votes to which the member is normally entitled, or distribute the member's votes on the same principle among as many candidates as the member thinks fit. No member shall be entitled to cumulate votes for a candidate or candidates unless such candidate's name or candidates' names have been placed in nomination prior to the voting and a member has given notice at the meeting prior to the voting of the member's intention to cumulate the member's votes. If any one member has given such notice, all members may cumulate their votes for candidates in nomination.

(f) Any provision in these Bylaws or in the Declaration calling for approval by a "majority of Members" or "majority of the voting power" for action to be taken by the corporation, except provisions with respect to action to enforce the obligations of Declarant under any completion bond, shall require the vote or written assent of 51% of each class of membership during the time that there are two outstanding classes of membership. From and after the cessation of two-class voting, "majority of Members" or "majority of the voting power" shall mean those members holding 51% of the total voting power of the corporation.

(g) Where these Bylaws or the Declaration require the vote or written assent of each class of membership for the initiation of action by or in the name of the corporation, except with respect to action to enforce the obligations of Declarant under any completion bond and except with respect to amendments to these Bylaws or the Declaration, any requirement that the vote of the Declarant shall be excluded in any such determination shall be applicable only if there has been a conversion of Class B to Class A membership and only for so long as the Declarant holds or directly controls 25% or more of the voting power of the corporation.

#### Section 3.12. Record Date.

The Board may fix, in advance, a date as the record date for the determination of the members entitled to notice of a meeting of members. The record date so fixed shall not be more than 60 nor less than 10 days before the day of the meeting. Such a determination of members shall apply to any adjournment of

the meeting unless the Board fixes a new record date for the adjourned meeting. The Board shall fix a new record date if the meeting is adjourned for more than 45 days.

The Board may also fix, in advance, a record date for the purposes of determining the members entitled to vote at any meeting of the members. Such record date shall not be more than 15 days before the meeting.

Section 3.13. Consent of Absentees.

The transactions of any meeting of members, however called and noticed and wherever held, are as valid as though had at a meeting duly held after regular call and notice if a quorum is present either in person or by proxy, and if, either before or after the meeting, each of the persons entitled to vote, not present in person or by proxy, signs a written waiver of notice or a consent to the holding of the meeting or an approval of the minutes thereof. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting. Attendance of a person at a meeting shall constitute a waiver of notice of and presence at such meeting, except when the person objects at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened and except that attendance at a meeting is not a waiver of any right to object to the consideration of matters required by the Law to be included in the notice but not so included, if such objection is expressly made at the meeting. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of members need be specified in any written waiver of notice, consent to the holding of the meeting or approval of the minutes thereof, except as provided in Section 7511(f) of the Law.

Section 3.14. Conduct of Meeting.

The President shall preside as chairman at all meetings of the members. The chairman shall conduct each such meeting in a businesslike and fair manner, but shall not be obligated to follow any technical, formal or parliamentary rules or principles of procedure. The chairman shall have all of the powers usually vested in the chairman of a meeting of members. Without limiting the generality of the foregoing, the chairman's rulings on procedural matters shall be conclusive and binding on all members, unless at the time of a ruling a request for a vote is made to the members entitled to vote and which are represented in person or by proxy at the meeting, in which case the decision of a majority of such members shall be conclusive and binding on all members.

Section 3.15. Inspectors of Election.

In advance of any meeting of members, the Board may appoint inspectors of election to act at such meeting and any adjournment thereof. If inspectors of election be not so appointed, or if any persons so appointed fail to appear or refuse to act, the chairman of any such meeting may, and on the request of any member or member's proxy shall, make such appointment at the meeting. The number of inspectors shall be either one or three. If appointed at a meeting on the request of one or more members or proxies, the majority of members represented in person or by proxy shall determine whether one or three inspectors are to be appointed.

The duties of such inspectors shall be as prescribed by Section 7614(b) of the Law and shall include: determining the number of memberships outstanding and the voting power of each; determining the memberships represented at the meeting; determining the existence of a quorum; determining the authenticity, validity and effect of proxies; receiving votes, ballots or consents; hearing and determining all challenges and questions in any way arising in connection with the right to vote; counting and tabulating all votes or consents; determining when the polls shall close; determining the result; and doing such acts as may be proper to conduct the election or vote with fairness to all members. On request of the chairman or any member, the inspectors of election shall make a report in writing concerning the performance of their duties and execute a certificate of any fact found by them. Any report or certificate made by the inspectors shall be prima facie evidence of the facts stated therein. If there are three inspectors of election, the decision, act or certificate of a majority is effective in all respects as the decision, act or certificate of all.

Section 3.16. Proxies.

Every person entitled to vote a membership has the right to do so either in person or by one or more persons authorized by a written proxy executed by such member and filed with the Secretary. No proxy shall be valid after the expiration of 11 months from the date of its execution unless otherwise provided in the proxy. The maximum term of any proxy shall be three years from the date of execution. Every proxy shall continue in full force and effect until revoked by the person executing it prior to the vote pursuant thereto. Such revocation may be effected either:

(a) by a writing delivered to the Secretary of the Corporation stating that the proxy is revoked;

(b) by a subsequent proxy executed by the person executing the prior proxy and presented to the meeting; or

(c) as to any meeting, by attendance at the meeting and voting in person by the person executing the proxy.

Section 3.17. Action Without Meeting by Written Ballot.

(a) Any action which may be taken at any regular or special meeting of members may be taken without a meeting provided there is satisfaction of the following ballot requirements:

(1) The corporation distributes a written ballot to every member entitled to vote on the matter.

(2) The ballot sets forth the proposed action, provides an opportunity to specify approval or disapproval of any proposal, and provides a reasonable time within which to return the ballot to the corporation;

(3) The number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action; and

(4) The number of approvals equals or exceeds the number of votes that would be required to approve the matter at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(b) Directors may be elected by written ballot except that election by written ballot shall not be permitted where the directors are elected by cumulative voting pursuant to Section 7615 of the Law.

(c) The ballot shall be solicited in a manner consistent with subsection (b) of Section 3.8 and Section 3.18. All such solicitations shall indicate the number of responses needed to meet the quorum requirement and, with respect to ballots other than for the elections of directors, shall state the percentage of approvals necessary to pass the measures submitted. The solicitation shall specify the time by which the ballot must be received in order to be counted.

(d) A written ballot may not be revoked.

Section 3.18. Form of Proxy or Written Ballot.

When and if this corporation has 100 or more members, the form of any written ballot or proxy distributed to 10 or more of its members shall afford an opportunity on the form of written ballot or proxy to specify a choice between approval and disapproval of each matter or group of related matters intended, at the time the written ballot or proxy is distributed, to be acted on by such written ballot or proxy. The form shall also provide,

subject to reasonable specified conditions, that where the person solicited specifies a choice with respect to any such matter, the vote must be cast in accordance therewith. In any election of directors, any form of written ballot or proxy in which the directors to be voted on are named therein as candidates and which is marked by a member "withhold" or otherwise marked in a manner indicating that the authority to vote for the election of directors is withheld shall not be voted either for or against the election of a director.

Section 3.19. Notice and Hearing Procedure.

(a) Suspension of Privileges. In the event of an alleged violation of the Declaration, these Bylaws or the Rules and Regulations of the corporation by an Owner or an Owner's tenants or guests, and after written notice of such alleged failure is delivered personally or mailed to said Owner or any agent of said Owner ("respondent") in the manner herein provided, by certified mail, return receipt requested, the Board shall have the right, after affording the respondent an opportunity for an appropriate hearing as hereinafter provided, and upon an affirmative vote of a majority of all Directors on the Board, to take any one or more of the following actions: (1) levy a Special Assessment as provided in the Declaration; (2) suspend said Owner's voting privileges as Owner, as further provided in the Declaration; or (3) record a notice of noncompliance encumbering the Lot of the respondent. Any such suspension shall be for a period of not more than 30 days for any noncontinuing infraction, but in the case of a continuing infraction (including nonpayment of any assessment after the same became delinquent) may be imposed for so long as the violation continues. The remedies set forth above and otherwise provided by these Bylaws shall be cumulative and none shall be exclusive. However, any individual Owner must exhaust all available internal remedies of the corporation prescribed by these Bylaws, or by the Rules and Regulations of the corporation, before the Owner may resort to a course of law for relief with respect to any alleged violation of the Declaration, these Bylaws or the Rules and Regulations of the corporation by another Owner, provided that the foregoing limitation pertaining to exhausting administrative remedies shall not apply to the Board or to any Owner where the complaint alleges nonpayment of general or special assessments.

(b) Written Complaint. A hearing to determine whether a right or privilege of the respondent under the Declaration or these Bylaws should be suspended or conditioned, or whether a Special Assessment should be levied, shall be initiated by the filing of a written complaint by any Owner or by any officer or member of the Board with the President of the corporation or other presiding member of the Board. The complaint shall constitute a written statement of charges which shall set forth in ordinary

and concise language the acts or omissions with which the respondent is charged, and a reference to the specific provisions of the Declaration, these Bylaws or the Rules and Regulations of the corporation which the respondent is alleged to have violated. A copy of the complaint shall be delivered to the respondent in accordance with the notice procedures set forth in the Declaration, together with a statement which shall be substantially in the following form:

"Unless a written request for a hearing signed by or on behalf of the person named as respondent in the accompanying complaint is delivered or mailed to the Board of Directors of the corporation within 45 days after the complaint, the Board of Directors may proceed upon the complaint without a hearing, and you will have thus waived your right to a hearing. The request for a hearing may be made by delivering or mailing the enclosed form entitled 'Notice of Defense' to the Board of Directors at the following address:

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You may, but need not, be represented by counsel at any or all stages of these proceedings. If you desire the names and addresses of witnesses or an opportunity to inspect any relevant writings or items on file in connection with this matter in the possession, custody or control of the Board of Directors, you may contact \_\_\_\_\_."

#### ARTICLE IV

#### DIRECTORS

#### Section 4.1. Powers.

Subject to the limitations of the Articles, these Bylaws, or in the California Nonprofit Mutual Benefit Corporation Law relating to action required to be approved by the members or by a majority of members, the activities and affairs of the corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board. The Board may delegate the management of the activities of the corporation to any person or persons, a management company or committees, however composed, provided that the activities and affairs of the corporation shall be managed and all corporate powers shall be exercised under the ultimate direction of the Board. Without



prejudice to such general powers, but subject to the same limitations, it is hereby expressly declared that the Board shall have the following powers in addition to the other powers enumerated in these Bylaws:

(a) To select and remove all officers, agents and employees of the corporation, prescribe powers and duties for them as may not be inconsistent with law, the Articles, these Bylaws, or the Declaration, fix their compensation and require from them such security, if any, for faithful service as the Board may deem appropriate.

(b) To conduct, manage and control the affairs and activities of the corporation, including those actions described in the Declaration now or hereafter as the powers, rights and duties of the corporation, unless expressly provided otherwise, and to make such rules and regulations therefor not inconsistent with law, the Articles, these Bylaws, or the Declaration, as they may deem appropriate.

(c) To borrow money and incur indebtedness for the purposes of the corporation, and to cause to be executed and delivered therefor, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations or other evidences of debt and securities therefor.

#### Section 4.2. Number of Directors.

The authorized number of directors shall, prior to the first annual meeting, be composed of three persons. From and after the first annual meeting, the Board shall be composed of five persons until changed by amendment of the Articles or these Bylaws, duly adopted with the approval of the members.

#### Section 4.3. Election and Term of Office.

(a) At the first annual meeting of members, three directors shall be elected for a term of one year and two directors shall be elected for a term of two years. Thereafter, directors shall be elected at each annual meeting of members to fill the vacancies of those directors whose terms then expire and the term of each such director so elected shall be two years. Voting for the Board shall be by secret written ballot. If any annual meeting is not held or the directors are not elected thereat, the directors may be elected at any special meeting of members held for that purpose. All directors shall hold office until their successors are elected.

(b) At any meeting of members at which directors are to be elected, from the first election of the directors of the Board and thereafter for so long as a majority of the voting

power of the corporation resides in Declarant or so long as there are two outstanding classes of membership in the corporation, not less than 20% of the members of the Board shall have been elected solely by the votes of members other than Declarant. At any meeting of members at which directors are to be elected while a majority of the voting power of the corporation resides in Declarant or while there are two outstanding classes of membership, a special election of directors shall be conducted, if necessary, in order to comply with the requirement that 20% of the members of the Board shall have been elected solely by the votes of members other than Declarant. Said special election shall be conducted in accordance with the following procedures:

(i) Nominations for election to the Board shall be made from the floor only by said members (excluding Declarant);

(ii) Such nominations may be made from among members or non-members;

(iii) The nominee or nominees receiving the highest number of votes shall be elected;

(iv) The Declarant shall not vote at said election;

(v) Any such special election shall be held immediately prior to the regular election of directors at the same meeting. At the regular election the number of directors to be elected shall be reduced accordingly so that the total number of directors elected at the special and regular elections will equal the number of directors to be elected at the meeting but in all other respects such regular election shall be held and conducted in the normal manner in accordance with the provisions of these Bylaws. All members (including those voting at the special election) shall be entitled to vote at the regular election.

(vi) Directors elected to the Board solely by the votes of members other than Declarant may be removed from the Board prior to the expiration of their term on the Board only by the vote of members, other than Declarant, holding not less than 51% of the voting power of the corporation.

#### Section 4.4 Vacancies.

(a) Any director may resign effective upon giving written notice to the Chairman of the Board, the President, the Secretary or the Board, unless the notice specifies a later time for the effectiveness of such resignation. If the resignation is effective at a future time, a successor may be selected before such time, to take office when the resignation becomes effective.

(b) Vacancies on the Board, except those existing as a result of a removal of a director by the members, may be filled by a majority of the remaining directors, although less than a quorum, or by a sole remaining director at any regular or special meeting of the Board, and each director so elected shall hold office until the expiration of the term of the replaced director and until a successor has been elected and qualified.

(c) A vacancy or vacancies on the Board shall be deemed to exist in case of the death, resignation or removal of any director or an increase in the authorized number of directors, or if the members fail, at any regular or special meeting of members at which any director or directors are elected, to elect the full authorized number of directors to be voted for at that meeting.

(d) The Board may declare vacant the office of a director who has been declared of unsound mind by a final order of court, or convicted of a felony, or been found by a final court or judgment of any court to have breached any duty arising under Section 7238 of the Law, or has been absent from three consecutive meetings of the Board.

(e) The members may elect a director or directors at any time to fill any vacancy or vacancies not filled by the Board.

(f) No reduction of the authorized number of directors shall have the effect of removing any director prior to the expiration of the director's term of office.

Section 4.5. Removal of Board Members.

At any regular or special meeting of members duly called, any one or more of the Board members may be removed with or without cause by a majority of the members, and a successor may then and there be elected to fill the vacancy thus created. Any Board member whose removal has been proposed by the members shall be given an opportunity to be heard at the meeting. Unless the entire Board is removed from office by the vote of members, no individual Board member shall be removed prior to the expiration of that Board member's term of office if the votes cast against removal would be sufficient to elect the Board member if voted cumulatively at an election at which the same total number of votes were cast and the entire number of Board members authorized at the time of the most recent election of the Board member were then being elected; provided, however, that a Board member who has been elected to office solely by the votes of members of the corporation other than the Declarant may be removed prior to the expiration of that Board member's term only by the vote of at

least a simple majority of the voting power residing in corporation members other than the Declarant.

Section 4.6. Place of Meeting.

All meetings of the Board shall be held within the Project.

Section 4.7. Annual Meetings.

The Board shall hold an annual meeting for the purposes of organization, selection of directors and officers and the transaction of other business. Annual meetings of the Board shall be held immediately following each annual meeting of members. No notice of such annual meeting need be given.

Section 4.8. Regular Meetings.

Regular meetings of the Board may be held on such dates, at such times and in such place within the Project as may be fixed, from time to time, by the Board, but at least one such meeting shall be held each month, unless business to be transacted does not justify such frequent meetings, in which case the Board shall meet at least every three months.

Section 4.9. Special Meetings.

Special meetings of the Board for any purpose or purposes may be called at any time by the Chairman of the Board, or any two directors other than the Chairman.

Section 4.10. Notice to the Board.

Regular and special meetings of the Board shall be held upon at least four days' notice by first-class mail or given personally or by telephone, telegraph, telex or other similar means of communication. Any such notice for a regular meeting shall state the time and place of the meeting. Any such notice for a special meeting shall state the time and place of the meeting and the nature of any special business to be considered.

Any such notice shall be addressed or delivered to each director at such director's address as it is shown upon the records of the corporation or as may have been given to the corporation by the director for purposes of notice or, if such address is not shown on such records or is not readily ascertainable, at the place where the meetings of the directors are regularly held.

Notice by mail shall be deemed to have been given at the time a written notice is deposited in the United States mails, postage prepaid. Any other written notice shall be deemed

to have been given at the time it is personally delivered to the recipient or is delivered to a common carrier for transmission, or actually transmitted by the person giving the notice by electronic means, to the recipient. Oral notice shall be deemed to have been given at the time it is communicated, in person or by telephone or wireless, to the recipient or to a person at the office of the recipient who the person giving the notice has reason to believe will promptly communicate it to the receiver.

Section 4.11. Quorum.

A majority of the authorized number of directors constitutes a quorum of the Board for the transaction of business, except to adjourn as provided in Section 4.13. 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, unless a greater number be required by law or by the Articles, except as provided in the next sentence. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting.

Section 4.12. Participation in Meetings by Conference Telephone.

Directors may participate in a meeting of the Board, or a committee meeting, through use of a conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another.

Section 4.13. Waiver of Notice.

Notice of a meeting need not be given to any director who signs a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meeting.

Section 4.14. Adjournment.

A majority of the directors present, whether or not a quorum is present, may adjourn any directors' meeting to another time and place. Notice of the time and place of holding an adjourned meeting need not be given to absent directors if the time and place be fixed at the meeting adjourned, except as provided in the next sentence. If the meeting is adjourned for more than 24 hours, reasonable notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting.

to the directors who were not present at the time of the adjournment.

Section 4.15. Action Without Meeting.

(a) Any action required or permitted to be taken by the Board may be taken without a meeting if all members of the Board shall individually or collectively consent in writing to such action. Such consent or consents shall have the same effect as a unanimous vote of the Board and shall be filed with the minutes of the proceedings of the Board.

(b) An explanation of any action taken by the Board without a meeting shall be posted at a prominent place or places within the Project within three days after the written consents of all Board members have been obtained.

Section 4.16. Rights of Inspection.

Every director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the corporation.

Section 4.17. Notice to Members and Attendance at Meetings and Executive Sessions.

(a) Notice of the time and place of all regular and special Board meetings shall be posted at a prominent place or places within the Project. Notice of regular and special meetings shall be so posted at least four days prior to such meeting.

(b) Regular and special meetings of the Board shall be open to all members of the corporation; provided, however, that members who are not on the Board may not participate on any deliberation or discussion unless expressly so authorized for the vote of a majority of a quorum of the Board. The Board may, upon the vote of a majority of a quorum, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the corporation is or may become involved, and other matters of business of a similar nature. Only members of the Board shall be entitled to attend executive sessions. The nature of any and all business to be considered in executive session shall first be announced in open session.

Section 4.18. Executive Committee.

The Board may, by resolution adopted by a majority of the number of directors then in office, establish an executive committee consisting of such number of directors as may be determined by the Board which, except when the Board is in session,

and except as its powers may be otherwise limited by the Board, shall have and may exercise the powers of the Board in the management of the business and affairs of the corporation and may authorize the seal of the corporation to be affixed to all papers which may require it.

The executive committee shall also have the power of general supervision, management and control of the business of the corporation and over its several officers.

Appointments to the executive committee shall be by a majority vote of the directors then in office. A majority of all the members of the executive committee may determine its rules of procedure unless the Board shall otherwise provide. The Board shall have the power to change the members of the executive committee at any time, either with or without cause and to fill vacancies, provided that all appointments to the executive committee shall be by a majority vote of the directors then in office. The compensation, if any, of each member of the executive committee shall be as prescribed from time to time by the Board.

Any action which under the provisions of the Law may be taken at a meeting of the executive committee, may be taken without a meeting if authorized by a writing signed by all members of the executive committee who would be entitled to vote at a meeting for such purpose and filed with the Secretary of the corporation.

#### Section 4.19. Standing or Special Committees.

In the event that the Board determines that the management of the corporation would be benefited by the establishment of one or more standing or special committees in addition to the executive committee, the Board may from time to time establish one or more such committees.

The establishment of a standing or special committee shall be effected by a resolution of the Board approved by the vote of the majority of the directors then in office, which specifically sets forth the powers and duties delegated to such committee. Each such committee shall consist of two or more directors and shall be presided over by a director selected by the Board.

The term "standing committee" or "special committee" shall mean any committee appointed by the Board which is authorized by specific delegation, without further Board action, to make and implement decisions on behalf of the Board, or to implement, with some degree of discretion, decisions of the Board pursuant to guidelines established by the Board. Notice of, and procedures for, meetings of standing or special committees shall

be as prescribed by the chairman of each such standing or special committee, and meetings of standing or special committees may be called by the Board or the chairman of the standing or special committee.

Section 4.20. Limitations Upon Committees of the Board.

No committee of the Board shall have any of the authority of the Board with respect to:

(a) the approval of any action for which the Law also requires approval of the members or approval of a majority of all members;

(b) the filling of vacancies on the Board or on any committee which has the authority of the Board;

(c) the fixing of compensation of the directors for serving on the Board or on any committee which has the authority of the Board;

(d) the amendment or repeal of Bylaws or the adoption of new Bylaws;

(e) the amendment or repeal of any resolution of the Board which by its express terms is not so amendable or repealable;

(f) the appointment of other committees of the Board or the members thereof if such committee will have the authority of the Board;

(g) the expenditure of corporate funds to support a nominee for director after there are more people nominated for director than can be elected; or

(h) with respect to any assets held in charitable trust, the approval of any self-dealing transaction, except that when it is not reasonably practicable to obtain approval of the Board prior to entering into such a transaction, a committee authorized by the Board may approve the transaction in a manner consistent with the standards set forth in Section 5233(d) of the Law subject to ratification by a majority of the directors then in office (without counting the vote of any interested director) at the next meeting of the Board.

Section 4.21. Advisory Commissions.

The Chairman of the Board, the Board, the executive committee or the President may from time to time appoint such advisory commissions as deemed appropriate, consisting of



directors or persons who are not directors, but such advisory commissions shall not be deemed committees of the Board and shall not exercise any powers of the Board. Notice of, and procedures for, meetings of advisory commissions shall be as prescribed by the chairman of each such advisory commission, and meetings of advisory commissions may be called by the Chairman of the Board, the Board, the executive committee, the President or the chairman of the advisory commission.

Section 4.22. Fees and Compensation.

Directors, members of committees or commissions and officers may receive such compensation, if any, for their services, and such reimbursement for expenses, as may be fixed or determined by the Board, provided, however, that any such compensation in excess of reimbursement for expenses incurred in carrying on the business of the corporation must be approved by the vote or written consent of a majority of the voting power of the members other than Declarant.

Notwithstanding the foregoing, this corporation shall not make any loan of money or property to, or guarantee the obligation of, any director or officer, unless approved by the Attorney General; provided, however, that the corporation may advance money to a director or officer of the corporation for expenses reasonably anticipated to be incurred in the performance of the duties of such officer or director, provided that in the absence of any such advance, such director or officer would be entitled to be reimbursed for such expenses by the corporation. Subject to the provisions of Section 3.4, nothing contained in this section shall be construed to preclude any director from serving the corporation in any other capacity as an officer, agent, employee or otherwise, and receiving compensation therefor.

ARTICLE V

OFFICERS

Section 5.1. Officers.

The officers of the corporation shall be a President, a Secretary and a Treasurer. The corporation may also have, at the discretion of the Board, a Chairman of the Board, one or more Vice Presidents, one or more Assistant Secretaries, one or more Assistant Treasurers, and such other officers as may be elected or appointed in accordance with the provisions of Section 5.3. Any number of offices may be held by the same person except that neither the Secretary nor the Chief Financial Officer may serve concurrently as the President or Chairman of the Board.

Section 5.2. Election.

The officers of the corporation, except such officers as may be elected or appointed in accordance with the provisions of Section 5.3 or Section 5.5, shall be chosen annually by, and shall serve at the pleasure of, the Board, and shall hold their respective offices until their resignation, removal or other disqualification from service, or until their respective successors shall be elected.

Section 5.3. Subordinate Officers.

The Board may elect, and may empower the President to appoint, such other officers as the business of the corporation may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in these Bylaws or as the Board may from time to time determine.

Section 5.4. Removal and Resignation.

Any officer may be removed, either with or without cause, by the Board at any time or, except in the case of an officer chosen by the Board, by any officer upon whom such power of removal may be conferred by the Board. Any such removal shall be without prejudice to the rights, if any, of the officer under any contract of employment of the officer.

Any officer may resign at any time by giving written notice to the corporation, but without prejudice to the rights, if any, of the corporation under any contract to which the officer is a party. 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.

Section 5.5. Vacancies.

A vacancy in any office because of death, resignation, removal, disqualification or any other cause shall be filled in the manner prescribed in these Bylaws for regular election or appointment to such office, provided that such vacancies shall be filled as they occur and not on an annual basis.

Section 5.6. Chairman of the Board.

The Chairman of the Board, if there be such an officer, shall, if present, preside at all meetings of the Board and exercise and perform such other powers and duties as may be from time to time be assigned by the Board.

Section 5.7. President.

Subject to such powers, if any, as may be given by the Board to the Chairman of the Board, if there be such an officer, the President is the general manager and chief executive officer of the corporation and has, subject to the control of the Board, general supervision, direction and control of the business and officers of the corporation. In the absence of the Chairman of the Board, or if there be none, the President shall preside at all meetings of the Board. The President has the general powers and duties of management usually vested in the office of president and general manager of a corporation and such other powers and duties as may be prescribed by the Board.

Section 5.8. Vice Presidents.

In the absence or disability of the President, the Vice Presidents, if any be appointed, in order of their rank as fixed by the Board or, if not ranked, the Vice President designated by the Board, 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. The Vice Presidents shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board.

Section 5.9. Secretary.

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 the Board and its committees, with the time and place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at Board and committee meetings, and the proceedings thereof. The Secretary shall keep, or cause to be kept, at the principal office in the State of California, the original or a copy of the corporation's Articles and Bylaws, as amended to date.

The Secretary shall give, or cause to be given, notice of all meetings of the Board and any committees thereof required by law or by these Bylaws to be given, shall keep the seal of the corporation in safe custody, and shall have such other powers and perform such other duties as may be prescribed by the Board.

Section 5.10. Treasurer.

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 corporation. The books of account shall at all times be open to inspection by any director.

The Treasurer shall deposit all monies and other valuables in the name and to the credit of the corporation with such depositaries as may be designated by the Board. The Treasurer shall disburse the funds of the corporation as may be ordered by the Board, shall render to the President and the directors, whenever they request it, an account of all transactions as Treasurer and of the financial condition of the corporation, and shall have such other powers and perform such other duties as may be prescribed by the Board.

Section 5.11. Chief Financial Officer.

The Board may designate a person who need not be a member of the Board to serve as the Chief Financial Officer of the corporation. In the absence of such a designation, the Treasurer shall serve as the Chief Financial Officer of the corporation.

ARTICLE VI

INDEMNIFICATION

Section 6.1. Definitions.

For the purposes of this Article VI, the following definitions shall apply:

(a) "agent" means any person who is or was a director, officer, employee or other agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another foreign or domestic corporation, partnership, joint venture, trust or other enterprise, or was a director, officer, employee or agent of a foreign or domestic corporation which was a predecessor corporation of the corporation or of another enterprise at the request of such predecessor corporation;

(b) "proceeding" means any threatened, pending or completed action or proceeding, whether civil, criminal, administrative or investigative; and

(c) "expenses" includes, without limitation, attorneys' fees and any expenses of establishing a right to indemnification under Sections 5.4 or 5.5(b).

Section 6.2. Indemnification in Actions by Third Parties.

The corporation shall, to the maximum extent permitted by law, have the power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding, (other than an action by or in the right of the corporation to procure a judgment in its favor, an action brought under Section

5233 of the Law, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of the corporation, against expenses, judgments, fines, settlements and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the corporation and, in the case of a criminal proceeding, had not reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner which the person reasonably believed to be in the best interests of the corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

Section 6.3. Indemnification in Actions by or in the Right of the Corporation.

The corporation shall, to the maximum extent permitted by law, have the power to indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action by or in the right of the corporation, or brought under Section 5233 of the Law, or brought by the Attorney General or a person granted relator status by the Attorney General or a person granted relator status by the Attorney General for breach of duty relating to assets held in charitable trust, to procure a judgment in its favor by reason of the fact that such person is or was an agent of the corporation, against expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of the corporation and with such care including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this section:

(a) In respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the corporation in the performance of such person's duty to the corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses which such court shall determine;

(b) Of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or

(c) Of expenses incurred in defending a threatened or pending action which is settled or otherwise disposed of without court approval, unless it is settled with the approval of the Attorney General.

Section 6.4. Indemnification Against Expenses.

To the extent that an agent of the corporation has been successful on the merits in defense of any proceeding referred to in Sections 6.2 and 6.3 or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

Section 6.5. Required Determinations.

Except as provided in Section 6.4, any indemnification under this Article VI shall be made by the corporation only if authorized in the specific case, upon a determination that indemnification of the agent is proper in the circumstances because the agent has met the applicable standard of conduct set forth in Section 6.2 or 6.3, by:

(a) A majority vote of a quorum consisting of directors who are not parties to such proceeding; or

(b) Approval of the members, with the persons to be indemnified not being entitled to vote thereon; or

(c) The court in which such proceeding is or was pending upon application made by the corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney or other person is opposed by the corporation.

Section 6.6. Advance of Expenses.

Expenses incurred in defending any proceeding may be advanced by the corporation prior to the final disposition of such proceeding upon receipt of an undertaking by or on behalf of the agent to repay such amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article VI.

Section 6.7. Other Indemnification.

No provision made by the corporation to indemnify its or its subsidiary's directors or officers for the defense of any proceeding, whether contained in the Articles, Bylaws, a resolution of members or directors, an agreement or otherwise, shall be valid unless consistent with this Article VI. Nothing contained

in this Article VI shall affect any right to indemnification to which persons other than such directors and officers may be entitled by contract or otherwise.

Section 6.8. Forms of Indemnification Not Permitted.

No indemnification or advance shall be made under this Article VI, except as provided in Sections 6.4 or 6.5(b), in any circumstances where it appears:

(a) That it would be inconsistent with a provision of the Articles, these Bylaws or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid, which prohibits or otherwise limits indemnification; or

(b) That it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

Section 6.9. Insurance.

The corporation shall have the power to purchase and maintain insurance on behalf of any agent of the corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the corporation would have the power to indemnify the agent against such liability under the provisions of this Article V does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent of the corporation as defined in Section 6.1. The corporation shall have the power to indemnify such trustee, investment manager or other fiduciary to the extent permitted by subdivision (f) of Section 207 of the California General Corporation Law.

Section 6.10. Nonapplicability to Fiduciaries of Employee Benefit Plans.

This Article VI does not apply to any proceeding against any trustee, investment manager or other fiduciary of an employee benefit plan in such person's capacity as such, even though such person may also be an agent of the corporation as defined in Section 6.1. The corporation shall have power to indemnify such trustee, investment manager or other fiduciary to the extent permitted by subdivision (f) of Section 207 of the California General Corporation Law.

ARTICLE VII

OTHER PROVISIONS

Section 7.1. Inspection of Corporate Records.

(a) Subject to Sections 8330, 8331 and 8332 of the Law, a member may do either or both of the following for a purpose reasonably related to such member's interest as a member:

(1) Inspect and copy the record of all the members' names, addresses and voting rights, at reasonable times, upon five business days prior written demand upon the corporation, which demand shall state the purpose for which the inspection rights are requested; or

(2) Obtain from the Secretary of the corporation, upon written demand and tender of a reasonable charge, a list of the names, addresses and voting rights of those members entitled to vote for the election of directors, as of the most recent record date for which it has been compiled or as of a date specified by the member subsequent to the date of demand. The demand shall state the purpose for which the list is requested. The Secretary shall make the membership list available on or before the later of ten business days after the demand is received or after the date specified therein as the date as of which the list is to be compiled.

(b) The corporation may, within 10 business days after receiving a demand, as set forth above in subsection (a) of this Section, deliver to the person(s) making the demand a written offer of an alternative method providing access to or a copy of the membership list. Any rejection of the corporation's offer shall be in writing and shall indicate the reasons the alternative proposed by the corporation does not meet the proper purpose of the demand made pursuant to subsection (a) of this Section.

(c) The accounting books and records and minutes of proceedings of the members and the Board and committees of the Board shall be open to inspection and copying by any member of the corporation or by such member's duly appointed representative upon written demand on the corporation of any member at any reasonable time for a purpose reasonably related to such person's interests as a member. The Board may establish reasonable rules concerning notice to be given the custodian of such records by the member desiring inspection, hours and days of the week when such an inspection may be made, payment of reproductive costs for copies of documents requested by a member and the location for such inspection either at the office of the corporation or at such other place within the Project as the Board shall prescribe.

(d) Every Board member shall have the absolute right at any reasonable time to inspect all books, records and



documents of the corporation and the physical properties owned or controlled by the corporation. The right of inspection by any Board member includes the right to make extracts and copies of documents.

Section 7.2. Inspection of Articles and Bylaws.

The corporation shall keep in its principal office in the State of California the original or a copy of its Articles and of these Bylaws as amended to date, which shall be open to inspection by members at all reasonable times during office hours. If the corporation has no office in the State of California, it shall upon the written request of any member furnish to such member a copy of the Articles or Bylaws as amended to date.

Section 7.3. Endorsement of Documents; Contracts.

Subject to the provisions of applicable law, any note, mortgage, evidence of indebtedness, contract, conveyance or other instrument in writing and any assignment or endorsement thereof executed or entered into between the corporation and any other person, when signed by the Chairman of the Board, the President or any Vice President and the Secretary, any Assistant Secretary, the Treasurer or any Assistant Treasurer of the corporation shall be valid and binding on the corporation in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the same. Any such instruments may be signed by any other person or persons and in such manner as from time to time shall be determined by the Board, and, unless so authorized by the Board, no officer, agent or employee shall have any power or authority to bind the corporation by any contract or engagement or to pledge its credit or to render it liable for any purpose or amount.

Section 7.4. Representation of Shares of Other Corporations.

The President, or any other officer or officers authorized by the Board or the President, are each authorized to vote, represent and exercise on behalf of the corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of the corporation. The authority herein granted may be exercised either by such officer in person or by any other person authorized to do so by proxy or power of attorney duly executed by said officer.

Section 7.5. Construction and Definitions.

Unless the context otherwise requires, the general provisions, rules of construction and definitions contained in the General Provisions of the California Nonprofit Corporation Law

and in the California Nonprofit Public Benefit Corporation Law shall govern the construction of these Bylaws.

Section 7.6. Mortgagees.

An Owner who encumbers his Lot with a Mortgage or other security instrument shall notify the corporation through the management agent, if any, or the President in the event there is no management agent, of the name and address of his Mortgagee, and the corporation shall maintain such information in a book entitled "Mortgagees of Lots." Any such Owner shall likewise notify the corporation as to the release or discharge of any such Mortgage. The corporation shall, at the request of a Mortgagee of a Lot, report any unpaid assessments due from the Owner of such Lot.

Section 7.7. Amendments.

(a) These Bylaws may be amended or repealed only by approval of at least a bare majority of voting power of the corporation and at least a bare majority of the votes of members other than Declarant; provided, however, that the voting power of members necessary to amend a specific provision of these Bylaws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that provision.

(b) Notwithstanding the provisions of the foregoing subsections, no amendment that materially affects the ownership, possession or use of a Lot or would materially change such rights of an Owner, either directly or as a member of the corporation, shall be valid unless the prior written consent of the California Real Estate Commissioner is obtained, to the extent that such consent is required under Section 11018.7 of the California Business and Professions Code.

Section 7.8. Maintenance of Certain Records.

The accounting books, records, minutes of proceedings of the Board and the Executive Committee of the Board shall be kept at such place or places designated by the Board, or, in the absence of such designation, at the principal business office of the corporation. The minutes shall be kept in written or typed form, and the accounting books and records shall be kept either in written or typed form, or in any other form capable of being converted into written, typed or printed form.

Section 7.9. Annual Reports.

(a) The following financial and related information shall be regularly prepared and distributed by the governing body to all members of the Association:

(i) A budget for each fiscal year consisting of at least the following information shall be distributed not less than 45 days prior to the beginning of the fiscal year.

(ii) The amount of the total cash reserves of the Association currently available for replacement or major repair of common facilities and for contingencies.

(iii) An itemized estimate of the remaining life of, and the methods of funding to defray the costs of repair, replacement or additions to, major components of the common areas and facilities for which the Association is responsible.

(iv) A general statement setting forth the procedures used by the governing body in the calculation and establishment of reserves to defray the costs of repair, replacement or additions to major components of the common areas and facilities for which the Association is responsible.

(b) A balance sheet, as of an accounting date which is the last day of the month closest in time to six months from the date of closing of the first sale of an interest in the subdivision, and an operating statement for the period from the date of the first closing to the said accounting date, shall be distributed within 60 days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the number of the subdivision interest and the name of the entity assessed.

(c) A report consisting of the following shall be distributed within 120 days after the close of the fiscal year.

(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 changes in financial position for the fiscal year.

(iv) For any fiscal year in which the gross income to the Association exceeds \$75,000, a copy of the review of an annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy.

If the report referred to in (c) above is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the

statement was prepared from the books and records of the Association without independent audit or review.

Section 7.10. Annual Statement of Certain Transactions and Indemnifications.

(a) Pursuant to the Nonprofit Mutual Benefit Corporation Law, the corporation shall furnish annually to its members a statement of any covered transaction or indemnifications described below, if such covered transaction or indemnification took place. If the corporation issues an annual report to all members, the statement required by this Section shall be affixed to and sent with the annual report described in Section 7.9 of these Bylaws. A covered transaction under this section is a transaction in which the corporation was a party, and in which either of the following interested persons had a direct or indirect material financial interest (excluding a mere common directorship or a transaction approved by the members under the Nonprofit Mutual Benefit Corporation Law)::

1. Any director or officer of the corporation, or its parent or subsidiary.

2. Any holder of more than 10% of the voting power of the corporation, its parent or its subsidiary.

(b) The statement required by this section shall describe briefly:

1. Any covered transaction (including compensation of officers and directors) during the previous fiscal year involving more than \$40,000, or which was one of a number of covered transactions in which the same interested persons had a direct or indirect material financial interest and which transactions in the aggregate involve more than \$40,000.

2. The names of the interested persons involved in such transactions, stating such person's relationship to the corporation, the nature of such person's interest in the transaction, and, where practicable, the amount of such interest; provided that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated.


3. The amount and circumstances of any indemnifications or advances aggregating more than \$10,000 paid during the fiscal year to any officer or director of the corporation pursuant to Article VII of these Bylaws; provided that no such report need be made in the case of indemnification provided by the members under subdivision (e) (2) of Section 7237 of the Law.

CERTIFICATE OF ADOPTION OF BYLAWS BY  
SECRETARY OF  
FOOTHILL KNOLLS OWNERS ASSOCIATION  
A CALIFORNIA NONPROFIT CORPORATION

I DO HEREBY CERTIFY AS FOLLOWS:

That I am the duly elected, qualified, and acting secretary of the above-named corporation; that the foregoing Bylaws were adopted as the Bylaws of said corporation by the person appointed in the Articles of Incorporation to act as incorporator of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal this 7th day of July, 1984.

  
SALLY RICHARDS