

RECORDING REQUESTED BY AND  
WHEN RECORDED RETURN TO:

ACACIA GARDENS HOMEOWNERS  
ASSOCIATION  
c/o Hamilton Financial Services  
211 N. State Street, Ste. 108  
Hemet, CA 92543

SECOND RESTATEMENT OF  
DECLARATION OF ESTABLISHMENT OF COVENANTS  
CONDITIONS AND RESTRICTIONS  
ACACIA GARDENS CONDOMINIUMS  
HEMET, CALIFORNIA

THIS SECOND RESTATEMENT ("Declaration") is made this \_\_\_\_\_ day of May, 2006 by ACACIA GARDENS HOMEOWNERS ASSOCIATION, INC., A California non-profit corporation ("Association").

WITNESSETH

WHEREAS, this Declaration encumbers certain real property located in the City of Hemet ("City"), County of Riverside ("County"), State of California, described as follows:

LOT 1 of Tract Number 13982, as shown on a Map recorded in Book 106, Pages 67 and 68 of Maps, Riverside County Records ("Property").

WHEREAS, the Property is subject to that certain First Amended Declaration of Establishment of Covenants, Conditions and Restrictions – Acacia Gardens Condominiums, Hemet, California, recorded in the Official Records of the Riverside County Recorder's Office on August 18, 1980 as Document No. 148911, as amended by that certain Amendments to First Amended Declaration of Establishment of Covenants, Conditions and Restrictions – Acacia Gardens Condominiums, Hemet, California, recorded in the Official Records of the Riverside County Recorder's Office on February 25, 1998 as Document No. 066350 as restated by that certain Restatement of Declaration of Establishment of Covenants, Conditions and Restrictions – Acacia Gardens Condominiums, Hemet, California, recorded in the Official Records of the Riverside County Recorder's Office on November 21, 2002 as Document No. 2002-686241 ("Original Declaration"). The Project is planned to consist of a total of 100 Units; however, the Association makes no guaranty that the Project will be completed as presently proposed. It is the desire and intention of Association to restate the Original Declaration for the benefit of all Condominium estates.

WHEREAS, there has been filed a Condominium plan pursuant to Section 1351 of the California Civil Code in the office of the County Recorder of Riverside County, which plan included: (1) a description or Survey Map of the surface of the land included within the

Project; (2) diagrammatic floor plans of the building constructed thereon in sufficient detail to identify the Unit, its relative location and approximate dimensions and (3) a certificate consenting to the recordation of such Plan as required by said section signed and acknowledged by the Owner of such property and all holders of security interests therein which Condominium plan is hereinafter referred to as the "Condominium Plan."

NOW, THEREFORE, Association hereby declares that the aforesaid real property is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, occupied, and improved, subject to the following limitations, restrictions, covenants and conditions, all of which are declared and agreed to be in furtherance of a plan of Condominium ownership as described in California Civil Code Section 1350 et seq. or any successor statutes or laws for the subdivision, improvement and maintenance of Condominiums within the Property, and all of which are established and agreed upon for the purpose of enhancing and perfecting the value and attractiveness of the Property and every part thereof. All remedies, covenants, restrictions and conditions shall run with the land, and each estate therein and shall be binding on all parties having or acquiring any right, title or interest thereon or any part thereof, and shall be for the benefit of each Owner of any portion of the Property or any interest therein and shall inure to the benefit of and be binding upon each successor in interest of the Owner thereof.

## ARTICLE I DEFINITIONS

Whenever used in this Declaration, the following terms shall mean:

Section 1. Condominium shall mean an estate in real property as defined in California Civil Code Section 1351(f), or any successor statutes or laws, consisting of an undivided percentage interest as a tenant-in-common in all or any portion of the Common Area, together with a separate fee interest in a Unit, together with such other separate interests in the Property as may be described in this Declaration, the Condominium Plan or in the deed conveying the Condominium.

Section 2. Unit means the elements of a Condominium which are not owned in common with Owners of other Condominiums in the Project and shall consist of a Residential Element and one or more Garage Elements as shown and described on the Condominium Plan.

Section 3. Residential Element means that portion of a Unit designated on the Condominium Plan by a Unit number. The dimensions of a Residential Unit are measured from the unfinished floor, walls, ceiling, except as otherwise noted herein. The Residential Unit includes all Improvements situated within its boundaries, and includes, without limitation, (i) interior walls (except interior bearing walls), (ii) the interior undercoated surfaces of bearing walls and perimeter walls, floors and ceilings, (iii) any door or window including any sliding glass doors, (iv) appliances, cabinets, interior doors, and all electrical, heating, plumbing and other utility fixtures, (v) the openings and outlets of all Utility Facilities that are located partially within the Residential Unit and partially in the Common Area, such as electrical outlets, and that exclusively serve the Residential Unit, (vi) all Utility Facilities located within the Unit, and (vii) the fire box of any fireplace located in the Residential Unit. The following are not part of any Residential Unit: bearing walls, columns, floors, roofs, foundations, stairways, and Utility

Facilities, wherever located, except those Utility Facilities and the outlets thereof that are located within the Unit.

Section 4. Common Area shall mean and refer to those areas of land shown on the recorded subdivision map identified as Lot 1, except for the Units, being all that real property set aside of the common use and enjoyment of the Owners of the Units. The individual Owners shall have an undivided interest in and to the Common Area and the Association shall be responsible for the management and maintenance of the Common Area.

Section 5. Owner shall mean the Owner or Owners, if more than one, of a Condominium in the Project, excluding those having such interest merely as security for the performance of an obligation.

Section 6. Project shall mean the entire Property, divided into Condominiums, including all structures and Improvements thereon and the Common Area.

Section 7. Association shall mean the ACACIA GARDENS HOMEOWNERS ASSOCIATION, INC., a California non-profit mutual benefit corporation, consisting of all Owners of Condominiums in the Project, and its successors and assigns.

Section 8. Board shall mean the Board of Directors of the Association.

Section 9. Mortgage means and includes a recorded deed of trust as well as a mortgage encumbering a Condominium in the Project.

Section 10. Mortgagee shall mean the beneficiary under a deed of trust to or a Holder of a Mortgage, of all or any part of the Project.

Section 11. Condominium Plan means (i) the condominium plan recorded pursuant to California Civil Code Section 1351, and any amendments to the plan, (ii) any recorded condominium plan or plans, including amendments thereto affecting the Second Phase, and (iii) any Supplementary Condominium Plans (as defined below), recorded pursuant to the provisions of this Declaration.

Section 12. Cost Center refers to the reserve costs for each separate Phase that are attributable to the components within the Project that are maintained by the Association ("Cost Center Component"), as set forth in Exhibit "B" attached hereto and incorporated herein. The reserve costs relating to the replacement of Cost Center Components in the First Phase will be included in one Cost Center and the reserve costs relating to the replacement of Cost Center Components in the Second Phase will be included in another Cost Center. If any Cost Center Component requires repairs costing in excess of Five Thousand Dollars (\$5,000), as adjusted for inflation at an annual rate of three percent (3%), such work shall be considered a replacement and such costs shall be deemed to be a part of the applicable Cost Center. All reserve costs associated with each of the Cost Centers will be imposed on the Owners of Units within each such Cost Center, as provided in the Cost Center Budget.

Section 13. Cost Center Budget refers to the portion of the budget for the Association which itemizes the cost components to be assessed against the Units within each Cost Center, as provided in this Declaration and the Bylaws.

Section 14. Eligible Holder means any First Mortgagee who has given written notice to the Association specifying the name and address of the Condominium subject to the Mortgage and requesting written notice of any or all of the events specified in this Declaration.

Section 15. First Phase refers to the fifty (50) Units that have been constructed in the Project as of the Date of recordation of this Declaration.

Section 16. First Mortgage means a Mortgage which has priority under the recording statutes of the State of California over all other Mortgages encumbering a specific Condominium in the Project.

Section 17. First Mortgagee means the Mortgagee of a First Mortgage.

Section 18. Garage Element. means the portion of a Unit described in the Condominium Plan as a “Garage”.

Section 19. Governing Documents collectively means this Declaration, the Articles of Incorporation, Bylaws, Architectural Guidelines, the Association’s rules and any Supplementary Declarations.

Section 20. Improvements. means: (i) all buildings and structures and appurtenances thereto of every type and kind, including, but not limited to, residences and other buildings, walkways, swimming pools and other recreational facilities, garages, sidewalks, fences, screening walls, block walls, retaining walls, awnings, patio and balcony covers, stairs, decks, balconies, trellises, landscaping irrigation systems, the exterior surfaces of any visible structure, paintings, antennae, poles, signs, solar or wind powered energy systems or equipment and water softener, heater or air conditioning and heating fixtures or equipment; (ii) the grading, excavation, filling or similar disturbance to the surface of the land; and (iii) any change or alteration of any previously installed improvement, including any change of exterior appearance, color or texture.

Section 21. Institutional Mortgagee. The term “Institutional Mortgagee” means a First Mortgagee which is (i) a bank, savings and loan association, insurance or mortgage company or other entity or institution chartered under federal and/or state law; (ii) an insurer or governmental guarantor of a First Mortgage; or (iii) any Federal or State Agency.

Section 22. Invitee means any person whose presence within the Project is approved by or is at the request of a particular Owner, including, but not limited to, tenants and the family, guests, employees or licensees of Owners or tenants.

Section 23. Member means every person or entity who holds a membership in the Association.

Section 24. Phase(s) means, individually, either the First Phase or the Second Phase, or, collectively, both the First Phase and the Second Phase, as the context may require.

Section 25. Second Phase refers to the fifty (50) additional Units that are anticipated, though not guaranteed, to be constructed on the eastern half of the Project.

Section 26. Supplementary Condominium Plan means any Condominium Plan which supplements a previously recorded Condominium Plan. A Supplementary Condominium Plan shall also include a Condominium Plan which is recorded by the Declarant (i) to correct technical errors in the originally recorded Condominium Plan, or (ii) after the completion of construction to show the actual “as-built” locations or dimensions of any component of the Project, which Supplemental Condominium Plan described in subsections (i) and (ii) above shall not require the consent of the Owners or the Association.

Section 27. Supplementary Declaration means those certain declarations of covenants, conditions and restrictions, or similar instruments, which may do any or all of the following: (a) identify areas referenced in this Declaration to be maintained by the Association, (b) make such other complementary additions and/or modifications necessary to reflect the different character of the Second Phase, (c) impose additional covenants and restrictions on the Second Phase, and/or (d) make technical or minor corrections to the provisions of this Declaration or previously recorded supplementary declaration(s).

Section 28. Utility Facilities means all utility facilities including intake and exhaust systems, storm and sanitary sewer systems, drainage systems, ducting systems for ventilation and utility services, domestic water systems, natural gas systems, heating and air conditioning systems, electrical systems, fire protection water and sprinkler systems, fireplace flues, telephone systems, cable television systems, telecommunications systems, water systems, sump pumps, pool equipment, central utility services and all other utility systems and facilities reasonably necessary to service any Improvement situated in, on, over and under the Project.

## ARTICLE II BOUNDARY LINES OF A SPACE IN A UNIT

The boundaries of each Unit granted are those as shown and defined in the Condominium Plan. In interpreting deeds and plans, the then existing physical boundaries of a Unit whether in its original state or reconstructed in substantial accordance with the original plans, shall be conclusively presumed to be its boundaries, rather than metes and bounds or other description expressed in the deed, Condominium Plan or any other recorded document, regardless of minor variance between boundaries shown on the Condominium Plan, the deed or any other recorded document, and those of the building.

## ARTICLE III COMMON AREA

Each Owner, concurrently with the purchase of a Unit, has been conveyed an undivided interest in fee simple title to the Common Area, free and clear of all encumbrances and liens, and a membership in the Association.

## Section 1. Easements.

(a) The Common Area shall contain the driveways and roadways, walkways, recreational areas, storage and trash areas, and all other areas of the Project excluding the Units. The Common Area located within the First Phase shall be for the use, enjoyment and convenience of the Owners of Units within the First Phase. The Common Area located within the Second Phase shall be for the use, enjoyment and convenience of the Owners of Units within the Second Phase. There is hereby declared to be appurtenant to each Unit within the Project a non-exclusive easement over all of the Common Area located within the Phase in which the Unit is located for the benefit of the Units in such Phase, the Owners of such Units, and each of them, and for their respective Invitees, for all of the purposes and uses hereinabove and hereinafter set forth, and without limiting the generality of the foregoing, for the recreational and parking purposes and use and for ingress and egress over and through the Common Area in such Phase. In furtherance of the establishment of this easement, the individual grant deeds to the Units may, but shall not be required to, set forth the foregoing easements.

(b) There is hereby declared to be appurtenant to each Unit within the Project a non-exclusive easement over each adjacent Unit and the Common Area for the purposes of accommodating any encroachments due to engineering errors, errors in original construction, settlement or shifting of the building or any other cause. There shall be valid easements for the maintenance of said encroachment; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful misconduct of said Owner or Owners. In the event a structure on the Property is partially or totally destroyed and then repaired or rebuilt pursuant to the original construction design, the Owners of each Unit agree that minor encroachments shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

(c) There is hereby specifically granted to the Association such easements as are necessary to perform the duties and obligations of the Associations as are hereinafter set forth.

(d) There are reserved and granted for the benefit of the Units, and the Common Area, over, under, across and through the Project, reciprocal, non-exclusive easements for the maintenance, repair and replacement of the utility facilities.

(e) Each of the easements hereinabove referred to shall be deemed to have been established upon the first conveyance of a Unit and shall henceforth be deemed to be covenants running with the land for the use and benefit of the Owners, the Condominiums, the Association and the Common Area.

Section 2. Property Rights. Every Owner shall have a right and easement of enjoyment in and to the Common Area located within the Phase in which such Owner's Unit is located. Each Owner may delegate his or her right of enjoyment of the Common Area and facilities to Members of his or her family or his or her tenants or contract purchasers who reside on the property. Every right and easement shall be appurtenant to, and shall pass with the title to every Unit, subject to the following provisions:

(a) The right of the Association to limit upon any reasonable conditions, the number of activities of Invitees of Owners. Any such limitation or restrictions shall be set forth in the Association rules;

(b) The right of the Association, after notice and hearing as set forth in Article VI.6, to suspend the voting rights and right to use of the recreational facilities by an Owner and his Invitees;

(c) The right of the Association, at a special meeting and upon the written approval of two-thirds (2/3) of the membership, to dedicate or transfer all or any part of the common properties to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the Members at the special meeting; and

(d) The right of the Association, in accordance with its Articles of Incorporation and Bylaws, to borrow money for the purpose of improving the Common Area and facilities and in aid thereof to mortgage said property, and the rights of such Mortgagees in said properties shall be subordinate to the rights of the Owners hereunder; provided that, the borrowing of any money or hypothecation of any real or personal property in excess of five percent (5%) of the budgeted gross expenses of the Association shall require the approval by written ballot of a majority of the Members.

#### **ARTICLE IV** **PARTITION**

An action may be brought by one or more of the persons owning Units for partition of the Project by sale of the entire Project, as if the Owners of all Condominiums in the Project were tenants-in-common in the entire Project, in the same proportion as their interest appears in the Common Areas; provided, however, that a partition shall be made only on a showing that: (a) three (3) years after damage to or destruction of the Project which renders a material part (defined as twenty-five (25%) percent of the total floor space of the building including Common Area) thereof unfit for its use prior thereto, the Project has not been rebuilt or repaired substantially to its state prior to its damage or destruction; or (b) three-fourths (3/4) or more of the Project has been destroyed or substantially damaged (defined as unfit for its prior use) and Unit Owners holding in the aggregate more than a fifty percent (50%) interest in the Common Area are opposed to repair or restoration of the Project; or (c) the Project has been in existence in excess of fifty (50) years, is obsolete and uneconomic and Unit Owners holding in the aggregate more than a fifty (50%) percent interest in the Common Area are opposed to repair or restoration thereof; and (d) the conditions for such sale set forth herein have been met.

#### **ARTICLE V** **MEMBERSHIP IN THE ASSOCIATION**

Each person or entity who is an Owner of any Unit or Units which is part of the Project shall be a Member of the Association; provided that no Member shall hold more than one membership for each Condominium owned, and further provided that any such person or entity who holds any interest in a Unit merely as security for the performance of an obligation shall not be a Member, except as otherwise herein provided.

The membership held by any Owner of a Unit shall not be transferred, pledged, or alienated in any way, except upon the sale of such Unit and then only to the purchaser of such Unit, the membership being appurtenant to such Unit. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event the Owner of any Unit should fail or refuse to transfer the membership registered in his name to the purchaser of such Unit, the association shall have the right to record the transfer upon the books of the Association and issue a new certificate to the purchaser, and thereupon any old certificate outstanding in the name of the seller shall be null and void as though the same had been surrendered.

## ARTICLE VI MANAGEMENT

The project shall be managed by a Board composed of directors who shall be owners of Units in the project, as set forth in the Bylaws. The Board shall not enter into any contract which binds the Board for a period in excess of one (1) year, unless said contract is approved by a majority of the Association members, with the following exceptions: (a) a contract with a public utility company if the rates charged for materials or services are regulated by the Public Utilities Commission, provided that the term of the contract shall not exceed the shortest rate for which the supplier will contract at the regulated rate; (b) prepaid casualty and/or liability insurance policies are not to exceed three (3) years' duration; provided that the policy permits for short rate cancellation by the insured; and (c) a contract for a term not to exceed three (3) years that is terminable by the Association after no longer than one (1) year without cause, penalty or other obligations upon ninety (90) days written notice of termination to the other party.

All members shall be entitled one (1) vote for each Unit which is subject to assessment as shown on the recorded Condominium Plan. When more than one person holds such interest in any Unit, all such persons shall be members. The one (1) vote of each Unit shall be exercised as the Unit owners among themselves determine, but, in no event shall more than one (1) vote be cast with respect to any Unit.

The voting rights for each Condominium may not be cast on a fractional basis. If the joint Owners of a Condominium are unable to agree among themselves as to how their voting rights shall be cast, they shall forfeit the vote on the matter in question. If any Owner exercises the voting rights of a particular Condominium, it will be conclusively presumed for all purposes that such Owner was acting with the authority and consent of all other Owners of the same Condominium. If more than one (1) person or entity exercises the voting rights for a particular Condominium, their votes shall not be counted and shall be deemed void.

Where a Condominium is owned by two or more persons jointly, or as tenants-in-common, or as a partnership or otherwise, said Owners shall designate by written notice addressed to and filed with the Board, the person from among their number who shall vote for the Condominium at all Association meetings. Such designation shall be revocable at any time by written notice filed with the Board signed by at least a majority of Owners of the Condominium(s) concerned. The rights of an Owner of a Condominium and such powers of designation and revocation may be exercised by the personal representative of the Owner's estate during the administration of any Owner's estate where the decedent's interest in said property is



subject to administration in his or her estate or by his or her conservator, or, in the case of a minor, his guardian. If a minor has no guardian, by the parent entitled to his or her custody. Where no designation is made or where a designation has been made, the Member representing a Condominium owned by two or more persons shall be the person who shall act as such Member only by majority vote of such Owners; no vote shall be counted for any Condominium where a majority vote of such Owners cannot be obtained.

Every member entitled to vote or execute consents shall have the right to do so either in person or by one or more agents authorized by a written proxy executed by such person or his duly authorized agent and filed with the secretary of the Association. Any proxy duly executed is not revoked and continues in full force and effect until: (i) an instrument revoking it or a duly executed proxy bearing a later date is filed with the secretary of the Association prior to the vote pursuant thereto, (ii) the person executing the proxy attends the meeting and votes in person, or (iii) written notice of the death or incapacity of the maker of such proxy is received by the Association before the vote pursuant thereto is counted; provided that no such proxy shall be valid after the expiration of eleven (11) months from the date of its execution, unless the person executing it specified therein the length of time for which such proxy is to continue in force. Notwithstanding the foregoing, a proxy may be made irrevocable pursuant to the provisions of Section 7613 of the California Corporations Code. The form of proxy shall be governed by the provisions of Section 604 of the California General Corporation Law, where applicable.

The Mortgagee under any mortgage of the interest of any Owner in a Condominium to whom such Owner's voting power has been transferred, or to whom such Owner has granted a proxy, shall have the right and option to either serve as a Member thereof, or to designate a person to serve as a Member of the Association, in which event such person shall have the right to exercise the vote of such Owner, all in the place and stead of the actual Owner, but only during such time as such Mortgagee has the right to exercise such Owner's voting power pursuant to the provisions of ARTICLE IX (Mortgagee Protection) hereof. Except as provided above and in ARTICLE IX, the rights and powers of the Owner of a Condominium must be exercised by such Owner and no such proxy or power of attorney shall be recognized for such purpose.

Section 1. Authority of Board of Directors. The Board, for the benefit of the Condominiums and Owners thereof, shall enforce the provisions hereof and shall have all the powers of a nonprofit corporation under California law and as set forth below, subject only to limitations on the exercise of such powers as are set forth in the Governing Documents. It shall have the power to do any lawful thing that may be authorized, required, or permitted to be done by the Association under the Governing Documents and to do and perform any act that may be necessary or proper for or incidental to, the exercise of any of the express powers of the Association, including, without limitation, the powers set forth below. Notwithstanding the foregoing, in no event shall the Association take any actions that are prohibited by the California Code of Regulations Title 10 Chapter 6, or California Civil Code Section 1350 et seq.

(a) Rules. To conduct, manage and control the affairs of the Project and to promulgate such additional reasonable rules and regulations therefor and to modify and/or amend the Association rules as the Board shall deem to be in the best interests of the Condominium Owners. In the event of any inconsistency between the provisions of this Declaration and the Association rules, the provisions of this Declaration shall control.

(b) Management. To appoint an agent or manager for the Project and to delegate such of its powers to such agent or manager as may be required to its proper functioning; provided that any agreement for professional management of the Project shall be for a term not to exceed one (1) year without the consent of a majority of each class of Members; provided, however, that in no event shall such an agreement exceed a term of three (3) years. Any such agreement shall provide that the agreement may be terminated by either party without cause and without payment of a termination fee upon not more than ninety (90) days written notice.

(c) Utilities. To operate and maintain the private sewer system connected to the public sewer, as well as for water, garbage, electrical, gas, telephone and other necessary utility services for the Common Area and if not separately metered or charged, for the individual Units.

(d) Worker's Compensation. To obtain or require that any agent or contractor employed by the Association carry worker's compensation insurance to the extent necessary to comply with any applicable laws and other employee benefit insurance.

(e) Legal and Accounting Fees. To contract to pay legal and accounting fees and other professional services necessary or proper for the operation of the Project or enforcement of the restrictions and covenants herein contained.

(f) Upkeep. To contract for painting, maintenance and repair of the Project, including the Common Area, including gardening and common utilities (but not including interior surfaces of Units which the respective Owners shall paint, maintain and repair) and the furnishing of such equipment and furniture for the Common Area as the Board deems necessary or desirable, and the Board shall have the exclusive right and duty to acquire and maintain the same for the Project including the Common Area, in a good, sanitary and attractive condition. In connection with the exterior painting of any building, the Board shall cause the same to be repainted not less than every seven (7) years from the date of recordation of the original Declaration; accumulation of reserves for exterior painting shall be segregated and kept in a separate "Reserve Funds for Exterior Repainting" account.

(g) Expenses for Supplies. To pay for all expenses for any other materials, supplies, furniture, labor, services, maintenance, repairs or structural alterations which the Board is required to secure to pay for, pursuant to the terms of this Declaration or by law, or which, in the option of the Board, shall be necessary or desirable for the operation of the Project or enforcement of this Declaration; provided that if any such materials, supplies, furniture, labor, services, maintenance, repairs or structural alterations are provided for a single unit or a group of units less than all the units, the costs thereof shall be specifically assessed pro rate to the owner(s) of such unit(s) as the case may be.

(h) Discharge of Liens. To pay any amount necessary to discharge any lien or encumbrance levied against the entire Project or any part thereof which may, in the opinion of the Board, constitutes a lien against the entire Project or against the Project including the Common Area rather than merely against the interest therein of particular Owners, except that where one or more Owners are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it.

(i) Maintenance of Units. To incur and pay expenses for maintenance and repair of any Unit, if such maintenance and repair are necessary, in the opinion of the Board, to protect the Project, including the Common Area or any other portion of the Project, in a good, sanitary and attractive condition, and the Owner or Owners of said Unit have refused or failed to perform said maintenance or repair within a reasonable time after written notice of the necessity of said maintenance or repair is delivered by the Board to said Owner or Owners; provided that the Board shall levy a special assessment against the Owner or Owners of any such Unit to pay for the costs or expenses arising out of or incident to said maintenance and repair and the assessment therefore.

(j) Taxes. To pay taxes and assessments which are or could become a lien on the Project or the Common Area.

Section 2. Insurance. The Board shall acquire and pay for as a Common Expense, insurance on the Project as follows:

(a) Property Insurance. The Association shall keep (i) any Improvements in the Common Area and certain components of the Units described in this Section 2(a) below insured against loss by fire and the risks covered by a "Standard All-Risk of Loss or Perils" insurance policy in the amount of the maximum insurable replacement value thereof (except that there may be lower dollar limits for specified items as is customarily provided in property insurance policies) and (ii) all personal property owned by the Association insured with coverage in the maximum insurable fair market value of such personal property as determined annually by an insurance carrier selected by the Association. Insurance proceeds for Improvements in the Common Area (excluding Units) and personal property owned by the Association, shall be payable to the Association. In the event of any loss, damage or destruction to the Common Area, the Association shall cause the same to be replaced, repaired or rebuilt in accordance with the provisions of this Declaration. The policy shall cover the following real and personal property:

(i) Common Area. All Improvements within the Common Area, including buildings and any additions or extensions thereto; all fixtures, machinery and equipment permanently affixed to the condominium building and not located within a Unit; fences; monuments; lighting fixtures; exterior signs; and personal property owned or maintained by the Association; and recreational facilities; but excluding land; foundations, excavations, and other items typically excluded from property insurance coverage;

(ii) Units. Interior walls and doors; ceiling, utility fixtures (including gas, electrical and plumbing); windows; cabinets; built-in appliances; heating and air-conditioning systems; water heaters, but excluding any personal property located in the Unit; and excluding any Improvements or upgrades to any of the foregoing installed by the Owner to the extent of any such Improvement or upgrade; and

(iii) Landscaping. Lawn, trees, shrubs and plants located in the Common Area.

The policy shall provide coverage against losses caused by fire and all other hazards normally covered by a "special form" policy or its equivalent. The policy shall be primary and noncontributing with any other insurance policy covering the same loss. The policy

shall contain the following endorsements or their equivalents: agreed amount, boiler and machinery (to the extent applicable) inflation guard, ordinance or law, and replacement costs, and such other endorsements as the Board in its discretion shall elect. The policy shall name as insured the Association, the Owners and Declarant, as long as Declarant is the Owner of any Condominium, and all Mortgagees as their respective interests may appear, and may contain a loss payable endorsement in favor of an insurance trustee selected under the provisions of Section 2(j) below.

At the sole option of the Board, the Association may switch to a "Bare Walls" policy or industry equivalent policy or policies of fire and casualty insurance, with coverage for the full insurable replacement value of the Improvements in the Common Area, and excluding the Units. The "Bare Walls" policy will not cover the Unit interior, including but not limited to flooring, wall coverings, cabinets, personal property, interior finishes, appliances, fixtures, owner improvements, or other such items located therein. The Board may, at its sole option, obtain an extended coverage endorsement if it desires to extend the scope of the coverage to include some other portions of the Unit. If the Board elects to switch to a Bare Walls policy, the Board shall provide sixty (60) days prior written notice thereof to all Owners along with a copy of the new policy describing the extent of the coverage of the Bare Walls policy, and shall, in such notice, specifically notify the Owners that they will be required to increase their individual property insurance to cover those items being deleted from the Association's property insurance policy.

(b) Waiver of Subrogation. Except as provided in Article VI, Section 2(k) and Section 13(h), all rights of subrogation between the Association and the Owners and their Invitees and First Mortgagees are waived. The insurance policies obtained by the Association shall include a waiver of all subrogation rights of the Association's insurer against any Owner and their Invitees and First Mortgagees; provided, however, that any failure to obtain such a waiver from the insurer shall not defeat or impair the foregoing waiver between the Association and the Owners and their Invitees and First Mortgagees set forth herein. Insurance proceeds for Improvements in the Common Area and personal property owned by the Association shall be payable to the Association.

(c) A commercial general liability policy or policies (including coverage for medical payments) insuring the Association, the Board and each and all of the Owners and management agent, if any, and their Invitees, against any liability to the public or to the Owners or any other person resulting from or incident to the Ownership, management and use of the Project by the Association, the Board, the Owners, their Invitees and tenants and Members of the public. Such policy shall include, if obtainable, a cross-liability or severability of interest endorsement insuring each insured against liability to each other insured. The limits of such insurance shall not be less than Two Million Dollars (\$2,000,000) and shall at all times be in confirmation with the requirements of California Civil Code Section 1365.9. Such insurance shall cover all claims for death, personal injury and property damage arising out of a single occurrence. Such insurance shall include coverage against water damage liability, property of others, and any other liability or risk customarily covered with respect to projects similar in construction, location, and use.

(d) The Board may also obtain such errors and omissions insurance, insuring the Board and each Member thereof and committees of the Board against any liability for their negligent acts or omissions while acting in their capacity as officers and directors. The limits of

such insurance shall be not less than One Million Dollars (\$1,000,000) for all claims arising out of a single occurrence or such other minimum amount which meets the requirements of California Civil Code Section 1365.7.

(e) The premiums for insurance purchased pursuant to this insurance provision shall be a Common Expense. If any additional insurance is required due to extra hazardous use made of any Condominium or because of improvements to any Condominium installed by its Owner which increases the premiums for the required coverage amount, the cost shall be assessed to the Owner of such Condominium.

(f) Each Owner shall maintain property insurance against losses to personal property located within the Unit and to any floor and wall surface materials (e.g. paint, wallpaper, mirrors, carpets, tile and hardwood floors), upgrades to the Improvements or Improvements installed by an Owner located within the Unit (including landscaping Improvements) and liability insurance against any liability resulting from any injury or damage occurring within the Unit. In addition, if the Association elects to switch to a Bare Walls policy as described in Subsection (a) above, each Owner shall increase the coverage of its property insurance to cover those items deleted from the Association's property insurance policy. Each Owner shall provide a copy of such insurance policy to the Board. In addition, an Owner may carry whatever personal liability and property damage liability insurance with respect to his Condominium that he desires. The Association's insurance policies will not provide coverage against any of the foregoing. All Owners hereby waive all rights of subrogation against the Association and any insurance maintained by an Owner must contain a waiver of subrogation rights by the insurer as to the Association and any first Mortgagee of a First Mortgage on the Owner's Condominium; provided, however, that a failure or inability of an Owner to obtain such a waiver shall not defeat or impair the waiver of subrogation rights between the Owners and the Association set forth herein. No Owner shall separately insure any property covered by the Association's property insurance policy as described above. If any Owner violates this provision and, as a result, there is a diminution in insurance proceeds otherwise payable to the Association, the Owner will be liable to the Association to the extent of the diminution. The Association may levy an Enforcement Assessment against the Owner's Condominium to collect the amount of the diminution.

(g) All insurance policies purchased by the Board for the mutual benefit of all Owners shall contain a provision that each Owner will receive notice from the insurance company that said policy is in effect and that each Owner will receive thirty (30) days notice prior to cancellation or termination of said policy for any reason whatsoever.

(h) The Association shall maintain other types of insurance as the Board determines to be necessary to fully protect the interests of the Owners.

(i) Subject to the provisions of ARTICLE VI, Section 2(a) and the requirements regarding insurance set forth in the Bylaws, the Board shall have the power and right to deviate from the insurance requirements contained in this Section 2 in any manner that the Board, in its reasonable business discretion, considers to be in the best interests of the Association. If the Board elects to materially reduce the coverage from the coverage required in this Section 2, the Board shall make all reasonable efforts to notify the Members of the reduction in coverage and the reasons therefor at least thirty (30) days prior to the effective date of the

reduction. The Association, and its directors and officers, shall have no liability to any Owner or Mortgagee if, after a good faith effort, the Association is unable to obtain any insurance required hereunder because the insurance is no longer available, or, if available, the insurance can be obtained only at a cost that the Board, in its sole discretion, determines is unreasonable under the circumstances, or the Members fail to approve any assessment increase needed to fund the insurance premiums.

(j) The Board is appointed attorney-in-fact by each Owner to negotiate and agree on the value and extent of any loss under any policy carried by the Association pursuant to this Declaration. The Board is granted full right and authority to compromise and settle any claim or enforce any claim by legal action or otherwise and to execute releases in favor of any insurer. All property insurance proceeds payable to the Association, subject to the rights of Mortgagees hereunder, may be paid to a trustee as designated by the Board to be held and expended for the benefit of the Owners and Mortgagees, as their respective interests shall appear. The trustee shall be a commercial bank or other financial institution with trust powers in the country in which the Project is located that agrees in writing to accept such trust.

(k) The Board of Directors shall have the power, in its sole discretion, to determine the amount of any deductible applicable to any insurance policy carried by the Association. In the event of a loss for which Association insurance coverage is used, the responsibility for payment of any deductible shall be as follows:

(i) Owners shall be responsible for the cost of any deductible if the damage or loss occurs to the Owners' real or personal property, or other property for which the Owner is responsible ("Owner Property")

(ii) The Association shall be responsible for the cost of any deductible if the damage or loss occurs to any real or personal property owned by the Association, or other property for which the Association is responsible ("Association Property").

(iii) If the damage or loss occurs to any Owner Property and any Association Property or to more than one Owners Property, the responsibility for the payment of any deductible shall be apportioned among the affected parties on the basis of the ratio of each party's cost of repair to the total costs of repair.

(iv) The foregoing notwithstanding, if the damage or loss is caused by the negligence or misconduct of any Owner, tenant or Invitee of an Owner, such Owner shall be liable for the full amount of the deductible.

Section 3. Right of Entry. The Board or its agent may enter in an emergency the interior of any Condominium when necessary, in the opinion of such persons, in connection with any maintenance or abatement procedure which may be required by such emergency. In addition, the Board or its agent may likewise enter any balcony area for maintenance, repair, construction or painting. Such entry shall be made with as little inconvenience to the Owner as possible and any damage caused thereby shall be repaired by the Board at the expense of the maintenance fund. There is hereby expressly reserved an easement for ingress and egress to each Condominium in, over and upon each Condominium for such purposes which shall be exercised by or on authority of the Board. The Board, management company and their agents, are expressly held harmless

for any damage or loss cause if forcible entry to a Condominium is necessary pursuant to this Section.

Section 4. Non-Profit Corporation. Nothing herein shall be construed to give the Board authority to conduct, within the Project, a business for profit on behalf of all the Owners or any of them.

Section 5. Capital Improvements. In any fiscal year, the Board may not, without the vote or written assent of a majority of the voting power of the Association, levy special assessments to defray the costs of any action or undertaking on behalf of the Association which in the aggregate exceeds five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. Every special assessment shall be levied upon the same basis as that prescribed for the levying of regular assessments. The foregoing with respect to special assessments does not apply in the case where the special assessment against a member is a remedy utilized by the Board to reimburse the Association for costs incurred in bringing the member and his subdivision interest into compliance with provisions of this Declaration and/or the By-Laws.

Notwithstanding the foregoing, a special assessment against owners for the rebuilding or major repair of the structural common area housing units of the project shall be levied upon the basis of the ratio of the square footage or the floor area of the unit to be assessed to the total square footage of floor area of all units to be assessed.

Section 6. Penalty for Non-Payment of Assessments. The Board shall have the right to suspend the voting rights and right to use the common area of a member of the Association for any period during which assessments against his condominium remain unpaid and delinquent; provided however, that any suspension of such voting rights or right to use the common area, shall be made only by the Board after ten (10) days' prior written notice of a hearing before the Board, and the opportunity to address the Board at such meeting, has been given to the applicable Owner in accordance with California Civil Code Section 1363. Additionally, the Board shall provide written notice of any sanctions to be imposed not more than fifteen (15) days following the Board action. Any notices required under this Section may be personally served on the person to whom notice is directed or if by mail, it must be first class or registered or certified mail sent to the last address of the member shown on the Association's records. The Board shall further have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, liens, reservations and charges now or hereafter imposed by the provision of this Declaration or any amendment hereto.

Section 7. Delegation of Board Powers. The Board shall have the power to delegate its powers to committees, officers, agents or employees for the purpose of facilitating its work.

Section 8. Board's Authority to Contract. The Board shall ordinarily be prohibited from taking any of the following actions, except with the vote or written assent of a majority of the voting power of the Association (1) Entering into a contract with a third person wherein the third person will furnish goods or services for the Common Area or the Association for a term longer than one (1) year with the following exceptions: (a) a contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate; (b) prepaid casualty and/or liability insurance policies

are not to exceed three (3) years duration, provided that the policy permits for short-rate cancellation by the insured; (2) incurring aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses for the Association for that fiscal year; (3) selling, during any fiscal year, property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year; (4) paying compensation to Members of the Board or to officers of the Association for services performed in the conduct of the Association's business, provided, that the Board may cause a Member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

Section 9. Meetings of the Board. Unless otherwise stated herein or by law, actions by the Board shall be by unanimous written consent of members of the Board or by majority vote of those present, taken at a meeting held for that purpose at which a quorum is present. To have a quorum, it shall be necessary that there be at least fifty-one (51%) percent of the Board members present. Regular meetings of the Board shall be held at the Project site on a monthly or quarterly basis, at a time and date determined by the Board. Notice of the time and place of such meeting shall be posted at a prominent place or places within the common area and shall be communicated to governing body members not less than four (4) days prior to the meeting unless any member has signed a waiver of notice or a written consent to holding of the meeting. Should the day for the meeting fall on a legal holiday, then the meeting shall be held at the same time on the next day thereafter which is not a legal holiday. The first meeting of the Board shall be held as promptly as possible following the annual meeting of the owners.

Section 10. Adjournment of Board Meeting. A quorum of Board members may adjourn any Board meeting to meet again at a later date and time, provided that in the absence of a quorum a majority of members present at any Board meeting, either regular or special, may adjourn from time to time until time fixed for the next regular meeting of the Board.

Section 11. Election of President of the Board. A President of the Board shall be elected at the first regular meeting of the Board every two years. The President shall preside at all meetings of the Board and exercise and perform such other powers and duties as may, from time to time, be assigned to him or her by the Board. If there shall occur, during any calendar year, a vacancy in this office because of resignation, removal, disqualification, death or other cause, a new President of the Board shall be elected to fill the vacancy so created, to serve in such capacity until the first regular meeting of the Board in the following calendar year.

Section 12. Committees. The Board, by at least a majority of affirmative votes of its Members, may designate an Executive Committee and such other committees as it may, from time to time, deem desirable and may delegate to any committee so created any of the powers and authority of the Board in the management of the Project, except: (a) the power to fill vacancies on the Board or on any committee; (b) the authority to fix the compensation of directors or of any committee Member; (c) the power to amend or repeal any by-law or the adoption of new by-laws; (d) the power to amend or repeal any resolution of the Board; (e) the power to establish committees of the Board or the Members thereof; (f) the expenditure of corporate funds to support a nominee for director; and (g) the approval of any transaction in which one or more Members of the committee have a monetary interest, whether direct or indirect.



Each such committee shall be composed of not less than three (3) Members, each of whom shall be a Member of the Association. Action taken by any such committee shall be by vote of a majority of the Members of such committee taken at a meeting thereof, or by unanimous written consent of Members of such committee. The appointment of any such committee and delegation thereto of powers and authority of the Board shall not relieve the Board from responsibility for any action taken by that committee, nor shall any such delegation of authority prevent the Board from directly exercising any of its powers or authority whether or not so delegated. Notwithstanding the foregoing, the powers and authority of the Board set forth in ARTICLE XIV (Damage and Destruction) may not be delegated to any such committee and such powers and authority may be exercised only by the Board, itself, in the manner set forth therein by action taken by the Board in accordance with the provisions of this ARTICLE VI (Management).

Section 13. Authority of Owners Association. In addition to any other powers and authority provided for herein, the Members of the Association shall have the following authority and control over actions by the Board:

(a) Amendments to Declaration. To effect necessary amendments to this Declaration in the manner provided in ARTICLE XVIII (Amendments) hereto.

(b) Election of a Board Member to Fill a Vacancy. To elect any member to the Board to fill a vacancy by affirmative vote of a majority of the voting power of members at a duly noticed meeting of the Association.

(c) Review of Special Assessments. To subject any action taken by the Board to levy a further assessment, as provided herein, to review by the Association. Such review may be had only on petition to the Board, signed by owners of at least fifty-one (51%) percent of the Condominiums in the project and delivered to the Board within fifteen (15) days from the date of notice of any further assessment. On receipt of such petition, the Board shall be obligated to call a meeting of the Association as promptly as possible and, in the event of at least a two-thirds (2/3) vote of the voting strength of the Association at such meeting, to nullify the further assessment so obtained and such vote shall be binding on the Board.

(d) Special Meetings of the Association. A special meeting of members of the Association shall be promptly called by the Board upon: (a) the vote for such a meeting by a majority of a quorum of the Board; (b) receipt of a written request therefore, signed by members representing at least five (5%) percent of the total voting power of the Association. In such event, the calling of such meeting, at the earliest possible time, shall be mandatory on the Board. Such written request shall state the matter(s) which the members desire to discuss at such special meeting.

(e) Meetings of the Association. Regular meetings of members of the Association shall be held not less frequently than one (1) each calendar year at a time and place prescribed by the By-Laws. Meetings of the Association shall be held within the project site, or as close thereto as practicable within the City of Hemet. Unless unusual conditions exist, members meetings shall not be held outside of Riverside County. Written notice of regular and special meetings shall be given to the members by the Board by any means which is appropriate. Except in emergency situations, notice shall be given not less than ten (10) nor more than ninety

(90) days before the date of any meeting. The notice shall specify the date, place and time of the meeting and, in the case of a special meeting, the nature of the business to be undertaken.

(f) Limitation of Liability. Neither the Board nor any Member thereof, nor any Member of any committee appointed by the Board, nor the officers of the Board, nor any of them, nor the management agent, nor the manager, if any, nor his or her staff (each a "Management Party"), shall be personally liable to any Owner, or to any other party, including the Association, for any act or omission of any Management Party if such Person has, on the basis of such information as may be possessed by him or her, acted in good faith without willful, wanton or gross misconduct within the scope of the Person's Association duties (collectively, an "Official Act").

(g) Indemnification. The Association shall and does hereby indemnify defend, protect and hold harmless each Management Party for all damages, and expenses incurred (including, without limitation, reasonable attorneys' fees), and satisfy any judgment or fine levied as a result of any action or threatened action brought because of an act or omission what such Person reasonably believed was an Official Act.

(h) Personal Injury or Property Damage. In the event any personal injury or property damage is sustained by any person while physically within a Condominium or any balcony attached thereto which shall result in a claim or suit against any other Owner or the Association, any of its officers, Members of its Board, the management agent, manager, if any, or his or her staff, the Owner of such Condominium or balcony within which such damage or injury occurred shall and does hereby agree to fully indemnify and hold harmless such other Owner and/or the Association, officers, directors, management agent, manager, if any, or Member of his or her staff, against whom such claim or suit is brought; and does hereby agree to defend, at his or her own cost and expense, any litigation resulting therefrom in which such other Owner and/or the Association, officers, directors, management agent, manager, if any, or Member of his or her staff, has been made a party; provided that no such obligation shall exist with respect to such Owner or person whose negligence or willful misconduct caused or contributed to the cause of any such injury or damage.

(i) Association Not Responsible for Loss. Neither the Association, nor any Member of its Board, nor any Member of any committee appointed by the Board, its officers, management agent, manager, if any, nor any Member of his or her staff, shall be responsible to any Owner, nor to any Member of his or her family, his or her Invitees, for any loss or damage suffered as a result of any article, vehicle or thing which may be stored by such Owner or other person in or on any balcony, storage area, parking area, Condominium or other portion of the Common Area.

Section 14. Cost Centers. Subject to the restrictions set forth in Article VII.2 of this Declaration, the Association shall have the duty to administer and perform any obligations regarding the Cost Centers in accordance with the terms and provisions of this Declaration and the Bylaws. In connection with the administration of the Cost Center, the Association shall have the power to establish advisory committees for any Cost Center, comprised of Owners whose Units are within the applicable Cost Center. Such advisory committees may propose special rules and regulations with respect to a Cost Center which may be adopted by the Board. The Board shall also adopt special election procedures for the election of Members of such advisory

committees. Notwithstanding any other provisions of the Governing Documents, any action relating solely to the Cost Centers shall require the approval of the prescribed percentage of the Members of only those Owners within such Cost Center. Any amendment of this Declaration to eliminate or change the provisions of this Declaration relating to Cost Centers shall require the approval of the prescribed percentage of the Members of those Owners within such Cost Center.

Section 15. Right to Request Documents. Notwithstanding anything to the contrary contained herein, the Association shall make available, and each Owner shall have the right to inspect and make copies of, certain Association documents and records in accordance with California Civil Code Section 1365.2.

Section 16. Right to Grant Exclusive Use of Common Area. Notwithstanding anything to the contrary contained herein, and except as may be associated with the conveyance of a Condominium from Developer to a homebuyer, the affirmative vote of at least sixty-seven percent (67%) of the Owners shall be required before the Board may grant an exclusive easement over any portion of the Common Area to an Owner, subject to the exceptions and provisions of California Civil Code Section 1363.07.

## ARTICLE VII MAINTENANCE FUND – ASSESSMENTS

Section 1. Estimated Annual Charges. Within thirty (30) days prior to the beginning of each fiscal year, the Board shall estimate the net charges required to be paid in performing its functions within the project during such fiscal year, including reasonable provisions for reserves and contingencies and less any surplus from the prior year's funds. Said estimated cash requirement shall be assessed to the owners, pro rata, in accordance with their percentage ownership interest in the common area in equal shares, for the following fiscal year. Unless otherwise specified by the Board, regular assessments shall be due and payable in monthly installments on the first day of each month during the term of this Declaration. However, any increase in the regular assessment made by the Board which exceeds twenty (20%) percent of the regular assessment for the immediately preceding fiscal year, must be consented to by vote or written consent of the voting power of the Association in accordance with California Civil Code Section 1366. In the event the regular monthly assessments are insufficient for any reason, the Board shall have authority to levy a special assessment to make up the deficiency in the maintenance fund on the same basis as a regular assessment. However, on any proposed special assessment or any capital improvement assessment in any fiscal year, the Board may not, without the vote or written assent of the voting power in accordance with California Civil Code Section 1366, levy special assessments to defray costs of any action or undertaking on behalf of the Association which, in the aggregate, exceeds five percent (5%) of the budgeted gross expenses of the Association for that fiscal year. The provisions herein with respect to special assessments do not apply where the special assessment against a member is a remedy utilized by the Board to reimburse the Association for costs incurred in bringing the member and his or her subdivision interest into compliance with the provisions of this Declaration. Each owner shall be obligated, and by acceptance of a deed to his or her condominium, agrees to pay assessments levied pursuant to this ARTICLE VII, to the Board or its designee, in equal monthly installments commencing on the first day of the month in the fiscal year following assessment. Assessments not paid within ten (10) days after their due date shall be subject to a penalty charge of twenty (\$20.00) dollars plus ten (10%) percent of the delinquent assessment per month.

Section 2. Allocation of Assessment to Units. The Assessments shall be allocated to each assessable Residential Unit as set forth below.

(a) General Assessment Component. Regular assessments exclusive of the common expenses included within the Cost Center Budget shall be allocated among the Owners and their respective Units as provided in the base budget (“General Assessment Component”) and shall be collected on a monthly basis and shall be determined by dividing the amount of assessments by the total number of Condominiums then in the Project and subject to assessment.

(b) Assessment Component. The portion of the regular assessments budgeted exclusively to any particular Cost Center in the Cost Center Budget shall be assessed solely to the Owners of Units within the applicable Cost Center, at a uniform rate determined by dividing the amount of the assessment by the total number of Units within the Cost Center subject to such assessment (“Cost Center Assessment Component”). The Cost Center Assessment Component may include, without limitation, estimated or actual costs and expenses incurred by the Association for administering and maintaining the Cost Center, obtaining and maintaining insurance coverage related to the Cost Center, providing utility service to the Cost Center and funding reasonable reserves for the repair or replacement of the Cost Center. The Association shall provide for a separate accounting for the funds which are collected and expended on behalf of a Cost Center. The Association shall also provide for a reserve study and the annual review and disclosure of the reserves applicable to a Cost Center to the same extent required for the other budgetary components.

(c) Other Community Assessments. Special assessments and capital improvement assessments shall be allocated in the same manner as regular assessments. enforcement assessments shall be levied directly to the individual Residential Units, in a manner consistent with the provisions of Section 4 below.

Section 3. Capital Improvement Assessment. In addition to any other assessments provided for hereunder, the Association may levy a capital improvement assessment for the purpose of defraying, in whole or in part, the cost of any construction or replacement of a capital improvement. Capital improvement assessments shall be due and payable by all Owners in such installments and during such period or periods as the Board shall designate. Increases in capital improvement assessments shall be subject to the limitations set forth in ARTICLE VII, Section 1 above.

Section 4. Enforcement Assessments. The Association may levy an enforcement assessment against any Owner who causes damage to the Common Area or any other areas which the Association is obligated to maintain, for bringing an Owner or his or her Condominium into compliance with the provisions of the Governing Documents, and/or any other charge designated an enforcement assessment in the Governing Documents, together with attorneys’ fees, interest and other charges related thereto as provided in this Declaration. If the Association undertakes to provide materials or services which benefit individual Owners, then such Owners in accepting such materials or services agree that the costs thereof shall be an enforcement assessment. The Board shall have the authority to adopt a reasonable schedule of enforcement assessments for any violation of the Governing Documents.

Section 5. Assessments to Cover Estimated Annual Cash Requirements. As promptly as possible following its election, the Board shall determine the estimated cash requirement for the balance of the fiscal year. Assessments shall be levied against the then owners in the manner provided for above in ARTICLE VII, Section 1.

Section 6. Collection of Maintenance Fund. All funds collected hereunder, together with special assessments as provided in other sections hereof, shall be controlled by the Board or its designee and shall constitute the maintenance fund referred to herein.

Section 7. Financial Accounting Report. Within one hundred twenty (120) days after the end of each fiscal year, the Board shall prepare and distribute to all owners of condominiums an annual report consisting of a balance sheet as of the end of the fiscal year, an operating (income) statement for the fiscal year, and a statement of cash receipts and disbursements and any amount remaining in the fund as of the end of such year. In addition, the Board shall distribute a pro forma operating statement within sixty (60) days before the beginning of the fiscal year.

Section 8. Commencement of Assessments. As of the date of recordation of this Declaration, assessments have commenced on the Units within the First Phase. On the first day of the first month following receipt of a Certificate of Occupancy, or equivalent document allowing for occupancy of the Units in the Second Phase (“Second Phase Assessment Commencement Date”), the assessments in the budget shall be reallocated among all Condominiums in the Project, including those in the Second Phase. Notice of the new regular assessment to be levied against each Condominium in the Project shall be delivered by the Association to the Owners and Declarant within sixty (60) days after the Second Phase Assessment Commencement Date. The regular assessments shall commence as to all of the Condominiums within the Second Phase upon the Second Phase Assessment Commencement Date or such earlier date as may be selected by Declarant for the commencement of assessments in the Second Phase.

## ARTICLE VIII LIENS

Section 1. Creation of Lien. The Board shall have authority to create a lien with power of sale on each separate condominium to secure the payment of the amount of any assessment, whether regular or special, assessed to the owners thereof as set forth in, and subject to the restrictions of, Sections 1367, 1367.1, 1367.4 and 1367.5 of the California Civil Code; provided that no action shall be brought to foreclose such lien or proceed under a power of sale less than thirty (30) days after a Notice of Lien is mailed to the owner of such condominium at his or her address appearing on the Association records. Such Notice of Lien may be recorded and an action may be brought to foreclose same or exercise the power of sale only by the Board. Reasonable attorneys’ fees and expenses in connection with the collection of the debt secured by such lien or foreclosure of lien shall be paid by the owner against whom such action is brought and secured by the lien. Such lien and right to foreclosure and sale shall be in addition to and not in substitution for all other rights and remedies which the owners and the Board may have hereunder and by law.

A certificate, signed and acknowledged, confirming the existence of the indebtedness secured by the lien of any condominium hereunder shall be conclusive on the Board and the owners of estates as to the amount of such indebtedness, on the date of the certificate, as to all persons who rely thereon in good faith and such certificate shall be furnished to any condominium owner upon request at a reasonable fee, not to exceed fifty (\$50.00) dollars.

Section 2. Rejection of Defective Tenders. Unless otherwise stated herein or mandated by California law, the Association, its legal counsel, or its collection agent may reject any partial or otherwise defective tender submitted by an Owner whose account is delinquent until the such delinquent account is brought current and paid in full. It shall be the delinquent Owner's obligation and responsibility to submit full, complete and unequivocal tenders to the Association, its legal counsel, its collection agent, or whomever is designated as the payee.

## ARTICLE IX MORTGAGEE PROTECTION

Notwithstanding all other provisions hereof:

Section 1. Written Notice to Mortgagees. A Mortgagee, upon request, is entitled to written notice from the Board of any default in the performance of an individual Condominium mortgagor of any obligation under this Declaration, the Bylaws and Articles of Incorporation, which is not cured within sixty (60) days. It shall be the responsibility of each Owner of a Condominium to notify the Association within thirty (30) days of the close of his or her escrow to purchase a Condominium of the name and address of the holder of his or her first mortgage on his or her particular Condominium.

Section 2. Subordination of Assessment Lien to Mortgages. Any holder of a First Mortgage or any third party purchaser who obtains title to a Condominium pursuant to the remedies provided in the mortgage or foreclosure of the mortgage shall take the property free of any claim for unpaid assessments or charges against the mortgaged Condominium which accrue prior to the time such person comes into possession of the Condominium. The lien for assessments provided for herein shall be subordinate to the lien of any First Mortgage or first deed of trust now or hereafter placed on a Condominium subject to assessment; provided that such subordination shall apply only to the assessments which have become due and payable prior to a sale or transfer of such property pursuant to a decree of foreclosure of trustee's sale. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due nor from the lien of any such subsequent assessment.

Section 3. Prior Approval of First Mortgage Holders. For the purpose of this Section, a Mortgagee shall be entitled to one (1) vote for each First Mortgage owned. Unless at least seventy-five (75%) percent of the Eligible Holders and a majority of the Owners have given their prior written approval, neither the Association nor any individual Owner shall (a) by act or omission seek to abandon or terminate the Project; (b) change the method of determining the obligations to any individual Unit for purposes of levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; and for determining the pro rata share of Ownership of each Condominium in appurtenant real estate and any improvements thereon which are owned by Condominium Owners in the Project in undivided pro rata interest (Common Area); (c) by act or omission change, waive or abandon any scheme of regulation or

enforcement thereof pertaining to the architectural design or exterior appearance of any Condominiums, exterior maintenance of Condominiums, maintenance of driveways or upkeep of landscaping in the Project; (d) partition or subdivide any Condominium; (e) by act or omission seek to abandon, terminate, partition, subdivide, encumber, release, hypothecate, sell or transfer the Common Area or any property or improvements owned, directly or indirectly, by the Association for the benefit of the Condominiums and the Owners. The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area by the Project shall not be deemed a transfer within the meaning of this clause; (f) fail to maintain fire and extended coverage on insurable Project common property and Condominiums on a current replacement cost basis in an amount not less than one hundred (100%) percent of the insurable value, based on current replacement costs; (g) use hazard insurance proceeds for losses to any Project common property for other than repair, replacement or reconstruction of such improvements.

Section 4. Examination of Books and Records. First Mortgagees shall have the right to examine and copy the membership register, books of account, and minutes of meetings of the Members, of the Board and of committees of the Board at any reasonable time and for any purpose reasonably related to his, her or its interest, at the office of the Association or at such other place as the Board shall prescribe.

Section 5. Taxes, Assessments and Charges. All taxes, charges and assessments which may become liens prior to First Mortgages under the local law shall relate only to the individual Condominiums and not to the Project as a whole. Institutional Mortgagees of Condominiums may jointly or singly pay taxes or other charges which are in default and which may or have become a charge against the Common Area and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for such Common Area and Institutional Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

Section 6. Reserves for Replacement. An adequate reserve fund for replacement of the Common Area facilities must be established by the Association and must be funded by regular monthly assessments rather than by special assessments.

Section 7. Condemnation/No Priority Over Rights of First Mortgagees. No provision herein shall give a Condominium Owner or any other party priority over any rights of Institutional Mortgagees of Condominiums pursuant to their Mortgages in the case of a distribution to Condominium Owners of insurance proceeds or condemnation awards for losses to or a taking of Condominium and/or Common Area. All applicable fire and all physical loss or extended coverage insurance policies shall contain loss payable clauses acceptable to the effected Institutional Mortgagees naming the Mortgagees, as their interests may appear. Additionally, if any Condominium or portion thereof is made the subject matter of any condemnation or eminent domain proceeding, no provision herein shall entitle the Owner of a Condominium or any other party to priority over a First Mortgagee of a Condominium with respect to any distribution to such Condominium of the proceeds of any award or settlement. Such first Mortgagees shall be entitled to timely written notice of any such proceeding or proposed acquisition.

Section 8. Further Notice to Lenders. The Association shall give written notice to any First Mortgagee, upon such Mortgagee's request, of all meetings of the Association. Each such

Mortgagee shall have the right to be represented at such meeting, but shall have no voting rights unless it has succeeded to title to one or more of the Condominiums by foreclosure. The Association shall deliver to each First Mortgagee, a copy of the Association's annual audited statement within ninety (90) days after written request therefor from any First Mortgagee.

Section 9. Mortgagee Protection. This Section shall apply to the Second Phase only. A breach of any of the conditions contained in this Declaration shall not defeat nor render invalid the lien of any First Mortgage made in good faith and for value as to any Condominium in the Project; provided, however, that the conditions contained in this Declaration shall be binding upon and effective against any Owner of a Condominium if the Condominium is acquired by foreclosure, trustee's sale or otherwise.

Section 10. Voting Rights on Default. This Section shall apply to the Second Phase only. In case of default by any Owner in any payment due under the terms of any Institutional Mortgage encumbering such Owner's Condominium, or the promissory note secured by the Mortgage, the Mortgagee or his representative, on giving written notice to such defaulting Owner or Owners, and placing of record a notice of default, is hereby granted a proxy and can exercise the voting rights of such defaulting Owner attributable to such Condominium at any regular or special meeting of the Members held during such time as such default may continue.

Section 11. Conflict. If there is any conflict between any provisions of this Article and any other provisions in this Declaration or in the Association Bylaws, the language of this Article shall control.

## ARTICLE X TAXES AND ASSESSMENTS

Each Owner shall execute such instruments and take such action as may be reasonably requested by the Board to obtain separate tax assessment of each Condominium. If any taxes and/or assessments may, in the opinion of the Board, nevertheless be a lien on the entire Project, or any part of the Common Area, or on any personal property owned by the Association, they shall be paid by the Board and shall be assessed by the Board to the Owners. Each Owner shall be obligated to pay the taxes or assessments assessed by the County Assessor or any other municipal authority against his or her own Condominium, personal property and interest in the Common Area. Each Owner shall be obligated to pay any assessments by the Board for the portion of any taxes or assessments assessed by the County Assessor or any other municipal authority against the entire Project or any party of the Common Area, in proportion to his or her interest in the Common Area. Such payments shall be made to the Board at least thirty (30) days prior to delinquency of such tax or assessment by the County or other municipal authority. Such Board assessments are secured by the lien authorized to be created pursuant to ARTICLE VIII (Liens) hereof.

## ARTICLE XI RESTRICTIONS OF USE AND OCCUPANCY OF UNITS AND COMMON AREA

In addition to restrictions established by law and reasonable house rules and regulations which may, from time to time be promulgated by the Board, the following restrictions shall be observed by the Owners:



Section 1. Residential Use. Each of the Units shall be used for residential purposes, only. Residential purpose may be construed to include lease or sublease. No Owner shall operate a home business or a home child care center in its Condominium.

Section 2. Alterations. Each Owner shall have the right, at his or her sole cost and expense, to paint, tile, finish, alter, substitute, add or remove any fixtures attached to the ceilings, floors or walls of the Unit owned by him or her. With respect to any alteration or modification of a Unit requiring a building permit from the City of Hemet, the plans must be first submitted in writing to the Board. No Owner shall interfere with or damage the structural integrity of the building in which the Unit is located or interfere with the use and enjoyment of the Common Area, or of the other Condominiums. No Owner shall install or construct any alteration, modification, awning enclosure or addition to a balcony, without the exact plan, including color and fabric, if any, first being approved in writing by the Board. Plans and resubmittals of same shall be approved or disapproved within thirty (30) days. Failure by the Board to respond to a submittal or resubmittal of plans within such period shall be deemed to be approval of the plans as submitted or resubmitted.

Section 3. Common Area. There shall be no obstruction of the Common Area, nor shall anything be stored in or on the Common Area without the prior written approval of the Board, except as hereinafter expressly provided. Nothing shall be altered or constructed in or removed from the Common Area, except upon written consent of the Board.

Section 4. Restrictions on Common Area. Notwithstanding anything to the contrary contained herein, the Owners of Units located within the First Phase shall have no right to enter upon, use or enjoy the pool and spa area located within the Second Phase. Likewise, the Owners of Units within the Second Phase shall have no right to enter upon, use or enjoy the pool and spa area located within the First Phase.

Section 5. Balconies. Each Owner shall have the right to place good-conditioned patio furniture on his balcony area; provided, however, absolutely no modification or addition (including, but not limited to, enclosures, awnings, sunshades, screens, fences, railings, glass enclosures) shall be permitted under any circumstances unless first approved in writing by the Board. This provision is intended as an absolute prohibition to alter, modify, paint or add to any balcony, without first obtaining the prior written approval of the Board. No plants or hanging vines shall be allowed to extend beyond the interior edge of any balcony or ledge, nor shall any items be placed temporarily or permanently on any ledge. Each Owner shall comply with the Rules and Regulations regarding the use of the balconies.

Section 6. Insurance. Nothing shall be done or kept in any Condominium or in or upon the Common Area, including , but not limited to, the use of waterbeds, which will increase the rate of insurance on the Project, without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his Condominium or in, on or upon the Common Area which would result in the cancellation of insurance on the Project or any portion thereof, or which would be in violation of any law.

Section 7. Signage. No sign of any kind shall be displayed to the public view on or from any Condominium or the Common Area without the prior written consent of the Board, except for (i) "For Sale" or "For Rent" sign of reasonable size (not to exceed eighteen inches

(18”) by twenty-four inches (24”) and in an area designated by the Board) subject to California Civil Code Sections 712 and 713, (ii) non-commercial signs permitted by Civil Code Section 1353.6; and (iii) such other signs or displays authorized by the Board. Nothing herein shall be construed as limiting the restrictions against leasing or renting, as set forth under ARTICLE XI, Section 12 below.

Section 8. Animals. No animals, livestock or poultry of any kind shall be raised, bred, or kept in any Condominium, or in, on or upon the Common Area, except that one (1) small dog, or one (1) household cat, subject to the Rules and Regulations that may be adopted by the Board, provided they are not kept, bred or maintained for any commercial purposes. The responsibilities of the Condominium Owners with regard to pets is set forth in the Association rules. The Board shall specifically have the power to prohibit the keeping or maintenance of any animal, which, in the opinion of the Board, after Notice and Hearing, is deemed by the Board to constitute a nuisance to any other Owner in the sole and exclusive opinion of the Board. Each person bringing or keeping a pet within the Project shall be absolutely liable to other Owners and their Invitees for any damage to persons or property caused by any pet brought upon or kept upon the Project by such person or by members of his or her family, his or her Invitees. Each Owner shall clean up after such animals that have deposited droppings or otherwise used any portion of the Project or public street abutting or visible from the Property. Animals belonging to Owners or Invitees of any Owner must be kept within an enclosure or on a leash held by a person capable of controlling the animal when outside the Unit.

Section 9. Offensive Activity. No noxious or offensive activity shall be carried on in any Condominium or in, on or upon the Common Area, nor shall anything be done therein which may or would become an annoyance or nuisance to the other Owners.

Section 10. Structural Integrity. Nothing shall be done in any Condominium or in, on or upon the Common Area which will impair the structural integrity of the building or which would structurally change the building without the prior written consent of the Board.

Section 11. Drilling/Mining. No drilling or mining operations of any kind shall be permitted on the Common Area.

Section 12. Association Rules. There shall be no violation of reasonable rules and regulations for the use of Condominiums or the Common Area adopted by the Board for the purpose of protecting the interests of all Owners or protecting the Condominiums or the Common Area and furnished to the Owners in writing, and the Board is specifically authorized to adopt such reasonable rules and regulations.

Section 13. Rental. An Owner shall have the right to lease its Condominiums subject to the requirements and restrictions as set forth below.

(a) No Owner shall be permitted to lease his or her residence for transient or hotel purposes. Any lease which is either for a period of fewer than thirty (30) days or pursuant to which the lessor provides any services normally associated with a hotel shall be deemed to be for transient or hotel purposes.

(b) All leases by Owners shall be in writing and shall be required to provide that the terms of the lease shall be subject to, in all respects, the provisions of this Declaration, the Association rules and the Bylaws and that any failure by the lessee to comply with the term of such documents shall be a default under the lease. A copy of the rental or lease agreement shall, upon request, be provided to the Association.

(c) The Owners shall, at all times, be responsible for their tenant's or lessee's compliance with all of the provisions of this Declaration pursuant to the occupancy and use of the Condominium.

(d) A lessee shall have no obligation to the Association to pay assessments imposed by the Association nor shall any lessee have any voting rights in the Association.

(e) Upon written request from the Association, tenants must pay to the Association that portion of the rent necessary to satisfy any obligation of the Owner of the Condominium to the Association for payment of delinquent assessments. All payments thus made will reduce the tenant's obligation to Owner of the Condominium by like amount. Payment of assessments is deemed necessary for the habitability of the Condominiums.

(f) Owners must give their tenants copies of this Declaration, the Bylaws, and the Association Rules. If a tenant violates the Governing Documents resulting in a special assessment, all Owners and tenants associated with the Condominium will be jointly and severally liable to pay the assessment.

(g) Owners hereby delegate and assign to the Association the power and authority of enforcement against tenants for breach of a lease resulting from violation of the Governing Documents, including the power and authority to evict the tenant on behalf of and for the benefit of the Owner. The Association must give the Owner and the tenant thirty (30) days written notice prior to initiating eviction proceedings. If the Association proceeds to evict a tenant, all costs, including attorneys' fees and court costs associated with the eviction may become a special assessment payable by the Owner of the Condominium.

(h) Owners transfer and assign to tenant(s), for the duration of lawful tenancy, all rights and privileges that the Owner has to use the Common Area.

(i) Leases existing on the effective date of this Declaration are permitted to continue in accordance with the terms of the Original Declaration. However, any assignment, extension, renewal, or modification of any lease agreement, including, but not limited to, changes in the terms, rental amount or duration of occupancy, will be deemed a termination of the existing lease for purposes of application of this Declaration.

(j) This Section 12 does not apply to any leasing transaction entered into by the holder of any first mortgage on a Condominium which becomes the Owner of the Condominium through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by the mortgage.

Section 14. Children. Each Owner shall be accountable to the remaining Owners for the conduct and behavior of children residing in or visiting in the Condominium.

Section 15. Parking Spaces. Garage Elements shall not be leased or rented to others not a resident of a Condominium within the Project. All Garage Elements shall only be used for parking (as distinguished from storage) of four-wheeled vehicles (as distinguished from campers, boats, trailers or other recreational type vehicles). All Owners shall be required to have and keep in force, property damage insurance on their automobiles. All vehicles owned or operated by or within the control of an Owner and kept within the Project shall be parked in that Owner's Garage Element. There shall be no parking in the Project that obstructs free traffic flow, constitutes a nuisance, violates the Association Rules, or otherwise creates a safety hazard. No maintenance, repair, restoration, or construction of any vehicle shall be conducted on the Property. The Board may establish additional regulations regarding parking areas not assigned to Condominiums, including designated "parking," "guest parking" and "no parking" areas. The Board may take all actions necessary to enforce all parking and vehicle use regulations for the Property, including removing violating vehicles from the Project pursuant to California Vehicle Code Section 22658.2 or other applicable laws. Doors to garages shall be kept closed except during the removal or entry of vehicles therefrom or thereto. Each Owner shall ensure that any such garage accommodates at least the number of vehicles for which it was originally constructed by Declarant.

Section 16. Mechanic's Liens. No Owner may cause or permit any mechanic's lien to be filed against the Project for labor or materials alleged to have been furnished or delivered to the Project or any Unit for such Owner, and any Owner who does so shall immediately cause the lien to be discharged within five (5) days after notice to the Owner from the Board. If any Owner fails to remove such mechanic's lien, the Board may discharge the lien and charge the Owner a Special Assessment for such cost of discharge.

Section 17. Vibrations. No Owner shall install or use in its Unit any fixtures or equipment which will cause unreasonable vibrations, noise or annoyance to the Owners of the other Units.

Section 18. Trash Disposal. No garbage, trash, rubbish, or other waste material shall be kept or permitted on the Project except in garbage cans, trash containers, trash chutes, or other waste receptacles located on the Project provided for the use of all Owners. All trash must be bagged or otherwise sealed before using any trash receptacle located in the Project. No odor shall emanate therefrom so as to be unreasonably unsanitary, unsightly, offensive or detrimental to the Owners in the Project. Under no circumstances may explosives, fireworks, or highly flammable materials such as gasoline, kerosene, oil, oil-based paints, or solvents, be disposed of in the trash chutes or anywhere else in the Project. Any and all costs incurred by the Association for the removal of combustible or toxic materials from the trash chutes shall be borne by the offending Owner at such Owner's sole cost and expense.

Section 19. Drainage and Erosion Control. There shall be no interference with the established drainage pattern over the Property, unless an adequate alternative provision is made for proper drainage with the prior written approval of the Board. For the purpose hereof, "established" drainage is defined as the drainage that exists at the time of the first close of escrow for the sale of a Condominium, or that which is shown on any plans approved by the Board. Each Owner shall regularly inspect and, if necessary, clean out any drainage facilities located within such Owner's balcony. If such Owner fails to maintain such drainage as a result, imminent danger to person or property may result, then the Association shall have the right of

access onto the Condominium for the purpose of clearing debris and other material so as to not impede the flow of water. This right of access shall be exercised only for the purpose of preventing damage to persons and property and the entering party ("Entering Party") shall use reasonable care so as to not cause any damage to the Condominium. The Owner shall reimburse the Association for any costs and expenses incurred in clearing such debris pursuant to the provisions of this Declaration.

Section 20. Compliance with Laws, Etc. No Owner or the Association shall permit anything to be done or kept in his or her Unit or the Common Area that violates any law, ordinance, statute, rule or regulation of any local, county, state or federal body, including any laws, ordinances or statutes pertaining to the use or storage of any hazardous, contaminated or toxic materials.

## ARTICLE XII DEVELOPMENT RIGHTS

Section 1. Limitations of Restrictions. APE Holdings, LLC, a California limited liability company or its nominee ("Developer") is undertaking the work of developing Units and other Improvements within the Second Phase located on the eastern half the Project. The completion of the Second Phase work and the marketing and sale, rental and other disposition of the Units therein is essential to the operation and welfare of the Property a first-class Condominium community. In order that the work may be completed nothing in this Declaration shall be interpreted to deny Developer the rights set forth in this Article.

Section 2. Rights of Access and Completion of Construction. Until the third (3rd) anniversary of the recordation of this Declaration, Developer, its contractors and subcontractors shall have the rights set forth below.

(a) Access. Developer, its contractors and subcontractors shall have the right to obtain reasonable access over and across the Common Area of the Project or do within any Unit owned by it within the Second Phase whatever is reasonably necessary or advisable in connection with the completion of the Project and the marketing and maintenance thereof.

(b) Construct Improvements. Developer, its contractors and subcontractors shall have the right to erect, construct and maintain on the Common Area of the Second Phase or within any Unit owned by it within the Second Phase such structures or Improvements, including, but not limited to, sales offices and signs, as may be reasonably necessary for the conduct of its business to complete the Second Phase work, and dispose of interests in the Second Phase by sale, lease or otherwise, as determined by Developer in its sole discretion.

(c) Grant Easements. Developer, its contractors and subcontractors shall have the right to establish and/or grant over and across the Common Area in the Second Phase such easements and rights of way on, over, under or across all or any part thereof to or for the benefit of the State of California, the City, the County or any other political subdivision or public organization, or any public utility entity or cable television provider, for the purpose of constructing, erecting, operating and maintaining Improvements thereon, therein or thereunder at that time or at any time in the future, including: (i) roads, streets, walks, driveways, trails, parkways and park areas; (ii) poles, wires and conduits for transmission of electricity, providing

telephone service and cable television service to the Project and for the necessary attachments in connection therewith; and (iii) public and private sewers, sewage disposal systems, storm water drains, land drains and pipes, water systems, sprinkling systems, water, heating and gas lines or pipes and any and all equipment in connection therewith. Said public utilities easement shall inure and run to all franchised utility companies and to the City, the County and the State and shall include the right of ingress and egress over the Common Area by vehicles of the City, the County and the State and such utility companies to properly install, maintain, repair, replace and otherwise service such utility facilities. The grant of said public utility easement shall not be interpreted to imply any obligation or responsibility of any such utility company or the City, the County or the State for maintenance or operation of any of the Common Area or the facilities located thereon or the repair, replacement or reconstruction thereof except for those Improvements owned by the utility companies, the City, the County, or the State, and except as occasioned by the negligence or willful misconduct of the utility companies, the City, the County, or the State. Except for lawful and proper fences, structures and facilities placed upon the Common Area by utility companies, the Common Area subject to the public utility easement shall be kept open and free from buildings and structures. The City and County furthermore is granted an easement across the Common Area for ingress and egress for use by emergency vehicles of the City or County.

Section 3. Size and Appearance of Project. Developer shall not be prevented from changing the exterior appearance of structures constructed by Developer, the landscaping or any other matter directly or indirectly connected with the Project in any manner deemed desirable by Developer, if Developer obtains governmental consents required by law.

Section 4. Marketing Rights.

(a) General Rights. Subject to the limitations of this Declaration, Developer shall have the right to: (i) maintain model homes, sales offices, storage areas and related facilities in any unsold Units or Common Area within the Second Phase as are necessary or reasonable, in the opinion of Developer, for the sale or disposition of the Units in the Second Phase; (ii) make reasonable use of the Common Area and facilities in the Second Phase for the sale of Residential Units; (iii) post signs, flags and banners in connection with its marketing; and (iv) conduct its business of disposing of Units by sale, lease or otherwise.

(b) Agreement for Extended Use. If following the third (3rd) anniversary of the recordation of this Declaration, Developer requires exclusive use of any portion of the Common Area in the Second Phase for marketing purposes, Developer may use the Common Area in the Second Phase only if an agreement is entered into between Developer and the Association. The agreement must specifically provide for a limited duration for such use and must provide for a specific reasonable rate of compensation to the Association by Developer. Compensation shall be commensurate with the nature, extent and duration of the use proposed by Developer. In no event, however, shall Developer be denied the rights to use the Common Area in the Second Phase and any Units owned by Developer as an Owner.

Section 5. Title Rights. The rights of Developer under this Declaration may be assigned to any successor(s) by an express assignment in a recorded instrument, including without limitation, a deed, option or lease. This Declaration shall not be construed to limit the right of Developer at any time prior to such an assignment to establish additional licenses, reservations

and rights-of-way to itself, to utility companies, to the City, to the County, to the State, or to others as may be reasonably necessary to the proper development and disposal of property owned by Developer.

Section 6. Power of Attorney. Each Owner of a Condominium in the Second Phase, by accepting a deed to a Condominium, shall be deemed to have irrevocably appointed Developer, for so long as Developer owns all or any portion of the Second Phase, as his or her Attorney-in-Fact, for himself or herself and each of his or her Mortgagees, optionees, grantees, licensees, trustees, receivers, lessee, tenants, judgment creditors, heirs, legatees, devisees, administrators, executors, legal representatives, successors and assigns, whether voluntary or involuntary, and thereby to have conveyed a Power of Attorney coupled with an interest to Developer as his or her Attorney-in-Fact to prepare, execute, acknowledge and record any Condominium Plan or amendment to the Condominium Plan for all or any portion of the Second Phase regardless of whether Developer owns any interest in the property which is the subject of such Condominium Plan or amendment to such Condominium Plan. However, nothing set forth herein shall be deemed or construed as an agreement by Developer that any Owner shall be entitled to any participation in or discretion over the preparation and recordation of a Condominium Plan or amendment to a Condominium Plan for all or any portion of the Second Phase. The acceptance or creation of any Mortgage or other encumbrance, whether or not voluntary, created in good faith, or given for value, shall be deemed to be accepted or created subject to each of the terms and conditions of the Power of Attorney described in this Section.

Section 7. Amendment. The provisions of this Article may not be amended without the consent of Developer until all of the Units in the Project owned by Developer have been conveyed.

Section 8. Supplementary Declaration and Supplementary Condominium Plans. So long as Developer owns any portion of the Property, Supplementary Declarations and Supplementary Condominium Plans may be recorded by Developer, without the consent of any Owner, for any of the purposes for which a Supplementary Condominium Plan or a Supplementary Declaration may be recorded with regard to the Second Phase property only.

Section 9. Developer Mitigation. Developer shall restrict construction activities on the Second Phase to the hours between 7:00 a.m. and 6:00 p.m. unless otherwise approved by the Board. While performing construction activities associated with the Second Phase, Developer shall make all reasonable efforts to minimize interference with the use and enjoyment of the existing portion of the Project and the individual Owners. Developer shall also make all reasonable efforts to minimize noise, erosion, and dust associated with its construction activities, and shall attempt to maintain the Second Phase and surrounding areas in a neat and safe condition at the end of each work day. To the extent Developer exercises any easement rights or access rights over the Project, Developer shall be responsible for restoring any damage to the Project and shall take steps to ensure at the end of each work day that the Project is left in a clean and safe manner.

## ARTICLE XIII MAINTENANCE

### Section 1. Maintenance Obligations of Owners.

(a) Maintenance of Condominiums. Each Owner is responsible for the care and maintenance of those components of each Owner's Unit designated for maintenance by the Owner on the Maintenance Responsibility Chart attached hereto as Exhibit "A". As set forth in the Maintenance Chart, each Owner is responsible for maintaining, repairing and replacing the HVAC unit on the roof of the Condominium Building; provided, however, that Owners shall be required to use contractors pre-approved by the Association for the maintenance of roof mounted HVAC equipment. All such maintenance shall be performed in such a manner as shall be deemed necessary in the judgment of the Board to preserve the attractive appearance thereof, protect the value thereof and to maintain the established system of drainage. Any such maintenance, repair or replacement of any of the foregoing which is visible from outside of a Unit shall be consistent with the existing design, aesthetics and architecture of the Project and shall be approved by the Board. The Board and its agents shall, after giving reasonable notice, have the right to enter any Unit to inspect the established system of drainage located thereon, provided that the Association repairs any damage which might result from such inspection.

Section 2. Owner's Failure to Maintain. If an Owner fails to maintain the areas and items as provided above or make repairs thereto in such manner as shall be deemed necessary in the judgment of the Board to preserve the attractive appearance thereof and protect the value thereof, the Board shall give written notice to such Owner, stating with particularity the work or maintenance or repair which the Board finds to be required and requesting that the same be carried out within a period of thirty (30) days from the giving of such notice. In the event the Owner fails to carry out such maintenance or repair within the period specified by the notice, the Board shall cause such work to be completed and shall assess the cost thereof to such Owner as an enforcement assessment in accordance with the procedures set forth in this Declaration.

Section 3. Maintenance Obligations of Association. The Association is responsible for the care and maintenance of those components of the Project designated for maintenance by the Association on the Maintenance Responsibility Chart. The Association shall keep such portions of the Project in good condition and repair, provide for all necessary services and cause all acts to be done which may be necessary or proper to assure the maintenance of such areas. The Association shall also be responsible for maintaining any Improvements that a majority of the voting power of the Association designates for maintenance by the Association.

Section 4. Termite Eradication. If the Association adopts an inspection and preventive program for the prevention and eradication of infestation by wood destroying pests and organisms, the Association, on no less than fifteen (15) nor more than thirty (30) days notice, may require each Owner and occupants of the Owner's Residence to vacate such Unit to accommodate Association efforts to eradicate such infestation. The notice must state the reason for the temporary relocation, the date and time of the beginning of treatment, the anticipated date and time of termination of treatment, and that the occupants will be responsible for their own accommodations during the temporary relocation. Any damage caused to a Unit by such entry by the Association or by any person authorized by the Association shall be repaired by the Association as a Common Expense. All costs involved in operating the inspection and



preventive program as well as repairing and replacing the Common Area and Improvements thereon when the need for such maintenance, repair or replacement is the result of wood destroying pests or organisms are a Common Expense.

Section 5. Damage By Owners. Each Owner is liable to the Association for any damage to the Common Area if the damage is sustained due to the act of an Owner, or such Owner's Invitees, or any other persons deriving their right to use the Common Area from the Owner, or such Owner's respective Invitees. The Association may, after Notice and Hearing, (a) determine whether any claim shall be made on the Association's insurance, and (b) levy a special assessment equal to the cost of repairing the damage or any deductible paid and the increase, if any, in insurance premiums directly attributable to the damage caused by such Owner or the person for whom such Owner may be liable as described in this Declaration. If a Condominium is jointly owned, the liability of its Owners is joint and several, except to the extent that the Association has previously contracted in writing with the joint owners to the contrary. After notice and hearing, the cost of correcting the damage shall be a Special Assessment against such Owner.

Section 6. Inspection of the Project. This Section shall not become effective until the date that assessments commence on the Second Phase. The Association shall inspect (on at least an annual basis), maintain and repair the Common Area, including without limitation, the landscaping, drainage and irrigation systems serving or within the Common Area. The Association shall employ the services of such contractors, experts and consultants as are necessary to assist the Association in performing its duties hereunder. The Board shall promptly cause all matters identified as requiring attention to be maintained, repaired, or otherwise pursued in accordance with prudent business practices and the recommendations of the inspectors and shall keep a record of all such matters in the Board's minutes. Should such inspection require the inspection of any Unit, there is hereby created a non-exclusive easement in favor of the Association, and its officers, agents, employees and independent contractors, to conduct such inspections and to provide such maintenance, repair and replacement, provided that entrance is made at reasonable hours and with at least three (3) days advance notice to the Owner, except in case of emergency. Any damage to any structure, landscaping or other improvements caused by the Association, or any of its officers, agents, employees or independent contractors, while performing such maintenance, repair or replacement work shall be repaired by the Association at its sole cost and expense.

#### ARTICLE XIV DAMAGE AND DESTRUCTION

The provisions hereof shall govern the repair or other disposition of the project and any one or more condominiums located therein if any part of the project is damaged by fire or other casualty. The provisions herein shall likewise govern the collection, holding, application and disposition of the proceeds of any insurance policy for coverage obtained either pursuant to the provisions under Article VI (Management) or by the owner or owners of any condominium(s) affected by such damage. Where provision is made herein for payment or distribution of all or any funds, whether insurance proceeds, assessments or net proceeds of the sale of all or a portion of the project, the payment to each of the owners shall be proportioned according to the respective fair market value of the units at the time of the destruction as determined by an

independent appraisal. Should an owner's interest in the project be subject to one or more mortgages, the payment due said owner shall be paid to the various mortgagees in order of their priority to the extent necessary to satisfy the obligations secured, prior to any payment to the owner. Any amount paid to a mortgagee hereunder shall be paid to satisfy the obligations secured by the mortgage involved.

Section 1. Establishment of Trustee. In the event of such damage, all funds collected toward the repair of such damage shall be deposited with a commercial bank as shall be designated by the Board and approved by the owners of any condominiums which may have been damaged and by the mortgage holding a first mortgage on any such condominium(s), if any, as Trustee for the Board, the owners and the mortgagees, as their respective interests may appear. In the event such proceeds shall have been paid to the Board or to any owner, all of said funds shall be immediately paid over to the Trustee. The Trustee shall, upon instruction of the Board, the owners or the mortgagees, disburse such sums for the purpose of repairing damaged portions of the project as the work progresses or upon its completion, according to the terms of any contract entered into for such repair.

Section 2. Inadequate Insurance. In the event and to the extent funds available from insurance policies covering casualty damage to any portion of the project are insufficient to repair such damage and the insufficiency results from a failure of the Board to maintain adequate insurance as provided under Article VI (Management) hereof, then such insufficiency shall be made up by an assessment upon the basis of the ratio of the square footage of the floor area of the unit to be assessed to the total square footage of floor area of all units to be assessed. Should any insufficiency of funds for repair of a particular condominium not result from the failure to maintain adequate insurance, then the owner of any such condominium shall be assessed his or her proportionate share of such insufficiency.

Section 3. Excess of Proceeds. In the event the total insurance proceeds actually received for repair of any damaged portion of the project exceed the cost of such repair, the excess shall be paid to the Association.

Section 4. Commencement of Repair. In any event, repair to any portion of the project damaged by fire or other casualty shall be commenced within forty-five (45) days following receipt of proceeds of any insurance covering such casualty loss, unless weather conditions prevent or make impracticable the immediate commencement, in which case the forty-five (45) day period shall be extended to such later date as weather conditions permit, but in no event later than the first day of June in the year following receipt of such proceeds.

Section 5. Damage Involving Common Area. In the event damage extends to one or more condominiums and any part of the lot or the common area, or is confined solely to the common area, the following provisions shall govern the repair of the project or other disposition thereof:

If the cost of repair does not exceed the amount of available insurance proceeds by the higher of five (5%) percent of such cost or two hundred thousand (\$200,000.00) dollars, then such insurance proceeds shall be deposited with the Trustee as set forth in Section 1, above, and shall be disbursed for purposes of repairing such damage as the work progresses or upon completion. The Board shall contract to repair any such damaged portions of the project,

including both condominiums damaged and the common area damaged. In the event no contract is entered into within the period provided in Section 4, above, then all proceeds held by the Trustee shall be paid to the mortgagees and to the owners of the condominiums according to their respective interests.

If the cost of repair exceeds the amount of available insurance proceeds by the higher of five (5%) percent or two hundred thousand (\$200,000.00) dollars, said proceeds shall be paid to the Trustee, as set forth under Section 1, above, for disbursement. The Board shall obtain bids from two or more reputable contractors to repair the portion of the project damaged or destroyed to its condition immediately prior to such damage or destruction. Within forty-five (45) days thereafter at a special meeting, the owners shall consider such bids and if they (by majority vote) shall elect to accept such bids, the Board, as soon as possible thereafter, acting as agent for the owners, shall enter into appropriate contracts for the repair of the project and take such other action as is appropriate to cause the repair, including the levying of assessments and deposit of same and all insurance proceeds with the Trustee.

Section 6. Vote to Rebuild. If the owners, by at least a majority of affirmative votes, elect not to rebuild, either by rejecting all bids presented or by failure to act and failure to commence rebuilding and repairing of such damage within the period allowed under Section 5, above, the Board, as soon as possible, acting as agent for the owners, shall sell the entire project in its then existing condition on terms approved by at least a majority vote of the owners, provided that it is pursuant to an order of a court of competent jurisdiction, and these covenants, conditions and restrictions shall terminate upon such sale. The owners appoint the Board as their agent for said sale and said agency shall be deemed coupled with an interest and said appointment shall be irrevocable. The manager, or the Board, or, if they do not, any owner or owner's mortgagees, may record a sworn declaration setting forth such decision or failure and reciting that under the provisions of this document, any prohibition against judicial partition provided for herein has terminated and that judicial partition of the project may be obtained pursuant to Section 1359 of the Civil Code. Upon final judgment of a court of competent jurisdiction, decreeing such partition, these covenants, conditions and restrictions shall terminate.

Section 7. Thirty-Five day Notice of Damage. Within thirty-five (35) days after any such damage occurs, the manager or the Board, or if they do not, any owner, the insurer, the insurance trustee or any owner's mortgagee may record a sworn declaration stating that such damage has occurred, describing it, identifying the improvement suffering such damage, the name of the insurer against whom a claim is made, and the name of any insurance trustee reciting that the sworn declaration is recorded pursuant to this Article and that a copy of such sworn declaration has been served on the owners and any mortgagee which has required notice by the same means as specified on an owner.

Section 8. Requirements of the City.

(a) In case of partial or total destruction of the condominium project, it may be rebuilt only in conformity with the then current codes and with plans first approved by the City of Hemet.

(b) If the Association is permanently abolished and if the project is not to be rebuilt after partial or total destruction, a reversion to acreage or a new subdivision tract map, first approved by the City, shall be recorded prior to the sale of all or any part of the property.

Section 9. Reductions and Assessments. Nothing contained herein shall prohibit the Board from making, and the board is hereby authorized to make, equitable reductions in the assessments against any condominium which are authorized in this Article XIV in the event of any insufficiency in the proceeds of insurance obtained by the Board when the owner or owners of such condominium(s) have obtained insurance at his or their own expense and the proceeds thereof have been made available for repair or any portion of the project. Such equitable reduction shall in no event exceed the amount of such proceeds which are so made available for repair.

Section 10. Sixty-Six and Two-Thirds Consent to Amend. The provisions of this particular Article XIV cannot be amended without a sixty-six and two-thirds (66-2/3%) percent of the owners and their mortgagees giving their written consent.

#### ARTICLE XV AUDIT

Any Owner may , at any time and at his or her own expense, cause an audit or inspection to be made of the books and records of the Board or any manager appointed by the Board.

#### ARTICLE XVI INTERPRETATION

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Project. Failure to enforce any provision hereof shall not constitute a waiver of the right to do so thereafter. However, there is no purported power in the Association to cause a forfeiture or abridgement of an Owner's rights to the full use and enjoyment of his or her individually owned Condominium because of a failure by the Owner to comply with the provisions of this Declaration, the Bylaws or Association rules established by the Board for the operation of the Common Area and facilities, except where the loss or forfeiture is the result of the judgment of a court or a decision arising out of arbitration or because of a foreclosure or sale under a power of sale for failure by the Owner to pay assessments levied by the Association.

#### ARTICLE XVII SEVERANCE OF INTERESTS

Any interest in a Condominium, Ownership of the Common Area and any easements granted with respect thereto, may be severed or separately sold, transferred, conveyed or subjected to any lien or encumbrance and any sale, transfer or conveyance of the lien or encumbrance or claim affecting any Condominium shall cover and include the entire Project; provided that the foregoing shall not extend beyond the period in which the right to partition the Project is suspended under Section 1367 of the California Civil Code.

## ARTICLE XVIII AMENDMENT

Except as otherwise expressly provided for herein, the provisions of this Declaration may be amended by a written instrument, signed and acknowledged by an officer of the Association that the Amendment has been approved by at least a majority of the voting power of the Association Members, provided that the percentage of voting power necessary to amend a specific clause or provision herein shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. The amendment shall be effective upon recordation in the Office of the County Recorder of the County of Riverside. Such amendment shall become effective upon the recording of a Certificate of Amendment signed and acknowledged by the President or Vice President of the Association and the Secretary or Assistant Secretary of the Association certifying that such votes or approval by written ballot have been obtained. For the purposes of recording the Certificate of Amendment, the President or Vice-President and Secretary or Assistant Secretary of the Association are hereby granted an irrevocable power of attorney to act for and on behalf of each and every Owner in certifying and executing and recording with the Office of the County Recorder. Nothing in this Article or elsewhere herein, shall authorize or permit any amendment to ARTICLE XIV, unless each and every obligee of any obligation secured by a first mortgage in any Condominium joins in the adoption of any such amendment. All amendments or revocations of this Declaration shall comply with the provisions of California Business and Professions Code Section 11018.7 and any successor statutes or laws, to the extent such Section is applicable.

If any provision of this Declaration requires a greater or lesser percentage of the voting rights of Members in order to take affirmative or negative action under such provision, the same percentage of Members shall be required to amend or revoke such provision. Also, if the consent or approval of any governmental authority, Mortgagee or other person, firm, agency or entity is required under this Declaration with respect to any amendment or revocation of any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. Any amendment or revocation subsequent to the close of such first sale shall be evidenced by an instrument certified by the Secretary or other duly authorized officer of the Association and shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the office of the County Recorder.

## ARTICLE XIX ENFORCEMENT

### Section 1. Enforcement and Nonwaiver.

(a) Rights of Enforcement of Governing Documents. The Association or any Owner shall have a right of action against any Owner, and any Owner shall have a right of action against the Association, to enforce by proceedings at law or in equity, all covenants, conditions, and restrictions, now or hereafter imposed by the provisions of the Governing Documents or any amendment thereto, including the right to prevent the violation of such covenants, conditions and restrictions and the right to recover damages or other dues for such violation except that Owners shall not have any right of enforcement concerning Assessment liens. The Association shall have the exclusive right to the enforcement of provisions relating to architectural control and the

Association rules, unless the Association refuses or is unable to effectuate such enforcement, in which case any Owner who otherwise has standing shall have the right to undertake such enforcement. Failure of the Association, Declarant or any Owner to enforce any covenants or restrictions herein contained shall in no event be deemed a waiver of the right to do so thereafter.

(b) Procedure for Enforcement. Notwithstanding anything to the contrary set forth in Section 1(a) above, in enforcing any action under the Governing Documents for monetary damages, the parties shall comply with the provisions of California Civil Code Sections 1363.810 et seq., 1369.510 et seq., 1354, 1367.1, 1367.4 and 1367.5 and any successor statute or law.

## ARTICLE XX INVALIDITY OF ANY PROVISION

In the event any condition or restriction contained herein be invalid or held invalid or void by any court of competent jurisdiction, such invalidity or nullity shall in no way affect any other condition or restriction contained herein.

## ARTICLE XXI BINDING EFFECT OF COVENANTS, CONDITIONS AND RESTRICTIONS

Each Owner and any successor in interest of said Owner takes his or her rights, title, interest and estate subject to all covenants, conditions and restrictions set forth herein, and agrees to perform and to be bound thereby. The covenants, conditions and restrictions imposed hereby constitute a general scheme for the benefit of each Owner in the Project. Said covenants, conditions and restrictions may be enforced by the Association, the Board, by any Owner or by any combination of Owners and the City of Hemet. Said covenants, conditions and restrictions shall be a burden on and a benefit to not only each of the original purchasers of Condominiums but also their grantees and all subsequent Owners of Condominium interests in said Project. All covenants, conditions and restrictions herein are intended to and shall constitute covenants running with the land or equitable servitudes on the land as the case may be and are intended to and shall be binding on any future Owners of any Condominium.

## ARTICLE XXII WAIVER

Any waiver of a breach of any of the foregoing conditions or restrictions shall not be construed as a waiver of any succeeding breach or violation thereof or of any other condition or restriction.

## ARTICLE XXIII ATTORNEYS' FEES

In the event the Association, the Board or any Owners shall bring legal action against any Owner to enforce the terms, covenants, conditions and/or restrictions of this Declaration and they shall be the prevailing party in said lawsuit, the court shall award reasonable attorneys' fees and court costs to said prevailing party.

ARTICLE XXIV  
PARTIES SUBJECT TO PROVISIONS

This Declaration shall be for the benefit of and be binding on the heirs, legatees, executors, devisees, administrators, guardians, conservators, successors, purchasers, lessees, sublessees, encumbrancers, donees, grantees, Mortgagees, lienors and assigns of and from the parties hereto. An Owner who leases his or her Condominium shall be absolutely liable and responsible for the acts of his or her lessee, including but not limited to: (a) damage or destruction to any portion of the Common Area; (b) violation or threatened violation of the provisions of this Declaration or of the Association rules.

ARTICLE XXV  
TERM

The covenants contained herein shall run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2058, after which time the covenants shall be automatically extended for successive periods of twenty-one (21) years, unless an instrument executed by not less than a majority of the then Owners of Condominiums shall be recorded, canceling and terminating this Declaration.

ARTICLE XXVI  
GENERAL PROVISIONS

Section 1. Cumulative Remedies. Each remedy provided for in this Declaration shall be cumulative and not exclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver.

Section 2. Notification of Sale of Condominium. Concurrently with the consummation of the sale of any Condominium under circumstances whereby the transferee becomes an Owner thereof, or within five (5) business days thereafter, the transferee shall notify the Board in writing of such sale. Such notification shall set forth the name of the transferee and his or her Mortgagee and transferor, the common address of the Condominium purchased by the transferee, the transferee's and the Mortgagee's mailing address, and the date of sale. Prior to the receipt of such notification, any and all communications required or permitted to be given by the Association, the Board or the manager shall be deemed to be duly made and given to the transferee if duly and timely made and given to said transferee's transferor. Mailing addresses may be changed at any time upon written notification to the Board. Notices shall be deemed received forty-eight (48) hours after mailing if mailed to the transferee, or to his or her transferor if the Board has received no notice of transfer as above provided, by certified mail return receipt requested, at the mailing address above specified. Notices shall also be deemed received on the next business day after being sent by overnight courier or upon delivery if delivered personally to any occupant of a Condominium over the age of twelve (12) years.

Section 3. Exhibits. All exhibits referred to in this Declaration are attached to this Declaration and incorporated by reference.

Section 4. Minor Adjustments to the Declaration. The Board shall have the unilateral authority, by unanimous vote of the Board, to make minor amendments to this Declaration in

order to correct technical errors, or to remedy clerical errors or omissions associated with the restatement process and the recordation of this Declaration.

Section 5. Cost of Relocation. The Association shall not be responsible or liable for any costs or expenses associated with the relocation of an Owner, tenant, resident or any other person living in a Unit as a result of any maintenance, repairs or improvements that are made to the particular Unit, including but not limited to maintenance, repair or improvements made pursuant to California Civil Code section 1364.

IN WITNESS WHEREOF, this Declaration has been executed on the day and year first hereinabove written.

ACACIA GARDENS HOMEOWNERS  
ASSOCIATION, INC.

By: \_\_\_\_\_  
Ruth Ahlers, Secretary



COUNTY OF RIVERSIDE )

On May \_\_\_, 2006 before me, \_\_\_\_\_, personally appeared \_\_\_\_\_ personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name(s) are/is subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

(SEAL)

# EXHIBIT “A”

## MAINTENANCE RESPONSIBILITY CHART

Each Owner is responsible for the maintenance, repair and replacement of all elements of the Unit, except as otherwise set forth below or in the Governing Documents. The Association is responsible for all of the maintenance, repair and replacement of the Common Area. Notwithstanding the foregoing, in the event of a casualty, the Association shall repair and replace all items covered by the Association’s insurance.							
IMPROVEMENT	MAINTENANCE OBLIGATION & RESPONSIBLE PARTY						
	Clean	Maintain	Repair	Replace	Paint	Resurface	Repave
The interior of the Unit including, without limitation, all appliances, cabinets, plumbing fixtures and all other items within the Unit whether free-standing or built in	O	O	O	O	O	N/A	N/A
Utility facilities and equipment which exclusively service the Unit whether located in the Unit or the Common Area	O	O (including unclogging pipes exclusively servicing the Unit)	O (including unclogging pipes exclusively servicing the Unit)	O	N/A	N/A	N/A
Windows enclosing a Unit, including metal frames, tracks and exterior screens of glass doors and windows	O A (the exterior of inaccessible windows)	O A to weather-proof exterior only	O	O (with the prior approval of the Board, and by a Board-approved contractor)	O interior A exterior	N/A	N/A
Doors (including without limitation the garage door, garage door mechanism/springs and garage door opener) enclosing an Owner’s Unit or Garage Element	O interior A exterior	O	O	O	O interior A exterior	N/A	N/A

“O” indicates an obligation of the Owner.

“A” indicates an obligation of the Association.

“N/A” indicates an obligation that is “not applicable.”

Each Owner is responsible for the maintenance, repair and replacement of all elements of the Unit, except as otherwise set forth below or in the Governing Documents. The Association is responsible for all of the maintenance, repair and replacement of the Common Area. Notwithstanding the foregoing, in the event of a casualty, the Association shall repair and replace all items covered by the Association's insurance.

IMPROVEMENT	MAINTENANCE OBLIGATION & RESPONSIBLE PARTY						
	Clean	Maintain	Repair	Replace	Paint	Resurface	Repave
The (i) walls/ railings and floors of all Exclusive Use Balcony Areas and of the Exclusive Use Patio Areas in Phase II and (ii) concrete slab in the Exclusive Use Patio Areas in Phase I	O	A	A	A	A	A	N/A
The fences surrounding of Exclusive Use Patio Areas (Phase I only)	O	O	O	O	O	O	N/A
Exterior fixtures including light fixtures, photocells, and light bulbs <u>not</u> servicing the patio, balcony and front entry of the Unit.	A	A	A	A	A	N/A	N/A
Exterior fixtures including light fixtures, photocells and light bulbs servicing the balcony, patio and front entry of the Unit, if any	O	O	O	A  O (light bulb only)	A	N/A	N/A
The individual lock for the Unit's applicable mailbox (subject to Postal requirements)	O	O	O	O	N/A	N/A	N/A

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“N/A” indicates an obligation that is “not applicable.”

Each Owner is responsible for the maintenance, repair and replacement of all elements of the Unit, except as otherwise set forth below or in the Governing Documents. The Association is responsible for all of the maintenance, repair and replacement of the Common Area. Notwithstanding the foregoing, in the event of a casualty, the Association shall repair and replace all items covered by the Association's insurance.

IMPROVEMENT	MAINTENANCE OBLIGATION & RESPONSIBLE PARTY						
	Clean	Maintain	Repair	Replace	Paint	Resurface	Repave
Established system of drainage within the Owner's Balcony and/or Patio Area	O	A	A	A	N/A	N/A	N/A
All Common Area including without limitation, roof, structural components, bearing walls, foundations, except for any Balcony/Patio Areas as provided herein	A	A	A	A	A	A	A
All private utility facilities serving two or more Condominiums	N/A	A	A	A	N/A	N/A	N/A
Cluster Mailboxes (excluding locks on individual mailboxes)	A	A	A	A	A	N/A	N/A
Walls and railings on Common Area that do not enclose a Unit's Balcony/Patio Area	A	A	A	A	A	N/A	N/A
Recreational Facilities	A	A	A	A	A (if applicable)	A (if applicable)	A (if applicable)

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Each Owner is responsible for the maintenance, repair and replacement of all elements of the Unit, except as otherwise set forth below or in the Governing Documents. The Association is responsible for all of the maintenance, repair and replacement of the Common Area. Notwithstanding the foregoing, in the event of a casualty, the Association shall repair and replace all items covered by the Association's insurance.

IMPROVEMENT	MAINTENANCE OBLIGATION & RESPONSIBLE PARTY						
	Clean	Maintain	Repair	Replace	Paint	Resurface	Repave
The structural components of Garages Elements except for garage doors, garage door mechanism/springs and garage door openers	N/A	A	A	A	A	A (if applicable)	A (if applicable)
All stairways and railings serving Units	A	A	A	A	A	N/A	N/A

“O” indicates an obligation of the Owner.

“A” indicates an obligation of the Association.

“N/A” indicates an obligation that is “not applicable.”