

Recording Requested By and  
When Recorded Return To:

St. Tropez Villas I, Inc.  
% Jeffrey A. French  
GREEN BRYANT & FRENCH, LLP  
1230 Columbia Street, Suite 700  
San Diego, CA 92101 (619) 239-7900

DOC # 2006-0309380  
04/28/2006

Conformed Copy

Has not been compared with original

Larry W Ward  
County of Riverside  
Assessor, County Clerk & Recorder

## ST. TROPEZ VILLAS I, INC.

### First Restated Declaration of Covenants, Conditions and Restrictions

# Summary of Contents

|  |    |
|--|----|
| RECITALS .....   | 1  |
| ARTICLE I      Definitions .....                       | 2  |
| ARTICLE II     Property Rights of Owners .....         | 5  |
| ARTICLE III    Powers and Duties of the HOA .....      | 7  |
| ARTICLE IV     Owner Responsibilities .....            | 9  |
| ARTICLE V      Use Restrictions .....                  | 13 |
| ARTICLE VI     Common Area Uses and Improvements ..... | 16 |
| ARTICLE VII    Membership and Voting Rights .....      | 17 |
| ARTICLE VIII   Assessments .....                       | 18 |
| ARTICLE IX     Architectural Control .....             | 23 |
| ARTICLE X      Renting or Leasing .....                | 25 |
| ARTICLE XI     Dispute Resolution Procedure .....      | 27 |
| ARTICLE XII    Alternative Dispute Resolution .....    | 28 |
| ARTICLE XIII   Rights of Lenders .....                 | 29 |

ARTICLE XIV Insurance, Condemnation and Destruction ..... 31

ARTICLE XV Condemnation and Partition ..... 34

ARTICLE XVI General Provisions ..... 35

# Table of Contents

## RECITALS

### ARTICLE I Definitions

|              |                                       |   |
|--------------|---------------------------------------|---|
| Section 1.1  | Adjacent Owners                       | 2 |
| Section 1.2  | Architectural Guidelines              | 2 |
| Section 1.3  | Articles                              | 2 |
| Section 1.4  | Architectural Review Committee or ARC | 2 |
| Section 1.5  | Assessment                            | 2 |
| Section 1.6  | Association                           | 2 |
| Section 1.7  | Beneficiary                           | 2 |
| Section 1.8  | Board of Directors or the Board       | 2 |
| Section 1.9  | Bylaws                                | 2 |
| Section 1.10 | CC&Rs                                 | 3 |
| Section 1.11 | Common Area                           | 3 |
| Section 1.12 | Common Expenses                       | 3 |
| Section 1.13 | Common Facilities                     | 3 |
| Section 1.14 | Condominium                           | 3 |
| Section 1.15 | Condominium Plan                      | 3 |
| Section 1.16 | Declaration                           | 3 |
| Section 1.17 | Development                           | 3 |
| Section 1.18 | Eligible Insurer, Guarantor           | 3 |
| Section 1.19 | Eligible Mortgage Holder              | 3 |
| Section 1.20 | Exclusive Use Common Area             | 3 |
| Section 1.21 | Fiscal Year                           | 4 |
| Section 1.22 | Governing Documents                   | 4 |
| Section 1.23 | Guest                                 | 4 |
| Section 1.24 | Improvements                          | 4 |
| Section 1.25 | Living Unit                           | 4 |
| Section 1.26 | Member                                | 4 |
| Section 1.27 | Mortgage                              | 4 |
| Section 1.28 | Mortgagee                             | 4 |
| Section 1.29 | Professional Manager                  | 4 |
| Section 1.30 | Quorum                                | 4 |
| Section 1.31 | Owner                                 | 4 |
| Section 1.32 | Residents                             | 4 |

|              |   |    |
|--------------|---|----|
| Section 1.33 | Regular Assessment .....  | 4  |
| Section 1.34 | Reimbursement Assessment .....                                      | 4  |
| Section 1.35 | Rules and Regulations .....   | 5  |
| Section 1.36 | Special Assessment .....  | 5  |
| Section 1.37 | Unit .....  | 5  |
| <br>         |   |    |
| ARTICLE II   | Property Rights of Owners   |    |
| Section 2.1  | Individual Unit .....   | 5  |
| Section 2.2  | Undivided Interest in Common Area .....                             | 5  |
| Section 2.3  | Property Rights Subject to CC&Rs and Association<br>Authority ..... | 6  |
| Section 2.4  | Assumption of Lease .....   | 6  |
| Section 2.5  | No Partition of Common Areas .....                                  | 6  |
| Section 2.6  | Easements .....   | 6  |
| <br>         |   |    |
| ARTICLE III  | Powers and Duties of the HOA  |    |
| Section 3.1  | Management and Control by the Board .....                           | 7  |
| Section 3.2  | Board of Directors and Officers .....                               | 7  |
| Section 3.3  | Powers and Responsibilities of the HOA .....                        | 7  |
| Section 3.4  | Limitation of Liability .....                                       | 9  |
| <br>         |   |    |
| ARTICLE IV   | Owner Responsibilities  |    |
| Section 4.1  | Maintenance .....   | 9  |
| Section 4.2  | Maintenance Standards .....   | 11 |
| Section 4.3  | Failure of Owner to Carry Out Maintenance<br>Responsibilities ..... | 11 |
| Section 4.4  | Alternation of Units .....  | 11 |
| Section 4.5  | Minor Modifications to the Unit .....                               | 12 |
| Section 4.6  | Repair of Units .....   | 12 |
| Section 4.7  | Mutual Easements .....  | 12 |
| Section 4.8  | Interior Damage of Units .....                                      | 12 |
| <br>         |   |    |
| ARTICLE V    | Use Restrictions  |    |
| Section 5.1  | Residential Use .....   | 13 |
| Section 5.2  | Pets and Animals .....  | 13 |
| Section 5.3  | Commercial and Recreational Vehicles .....                          | 14 |

|              |  |    |
|--------------|--|----|
| Section 5.4  | Parking . . . . .                                      | 14 |
| Section 5.5  | Parking Spaces . . . . .                               | 14 |
| Section 5.6  | Parking Regulations . . . . .                          | 14 |
| Section 5.7  | Window Coverings . . . . .                             | 14 |
| Section 5.8  | Dangerous Use of Units . . . . .                       | 14 |
| Section 5.9  | Use of Common Area . . . . .                           | 15 |
| Section 5.10 | Outside Drying Facilities . . . . .                    | 15 |
| Section 5.11 | Antennae . . . . .                                     | 15 |
| Section 5.12 | Signs and Flags . . . . .                              | 15 |
| Section 5.13 | No Equipment Repair . . . . .                          | 15 |
| Section 5.14 | Diseases and Insects . . . . .                         | 15 |
| Section 5.15 | Impairment of Development and Easements . . . . .      | 15 |
| Section 5.16 | Nuisance . . . . .                                     | 16 |
| Section 5.17 | Unsightly or Unkempt Conditions . . . . .              | 16 |
| Section 5.18 | Responsibility for Damage to the Common Area . . . . . | 16 |
| Section 5.19 | No Timeshares . . . . .                                | 16 |
| Section 5.20 | Patios and Decks . . . . .                             | 16 |
| Section 5.21 | Trash Removal . . . . .                                | 16 |
| Section 5.22 | Temporary Structure . . . . .                          | 16 |

## ARTICLE VI Common Area Uses and Improvements

|             |   |    |
|-------------|---|----|
| Section 6.1 | Easements for Maintenance . . . . .       | 16 |
| Section 6.2 | Limitation on Alterations . . . . .       | 17 |
| Section 6.3 | Owner's Easement of Enjoyment . . . . .   | 17 |
| Section 6.4 | Damage by Wood-Destroying Pests . . . . . | 17 |

## ARTICLE VII Membership and Voting Rights

|             |                                      |    |
|-------------|--------------------------------------|----|
| Section 7.1 | Memberships . . . . .                | 17 |
| Section 7.2 | Voting . . . . .                     | 17 |
| Section 7.3 | Right to Books and Records . . . . . | 18 |

## ARTICLE VIII Assessments

|             |  |    |
|-------------|--|----|
| Section 8.1 | Purpose of Assessments . . . . .                 | 18 |
| Section 8.2 | Types of Assessments . . . . .                   | 18 |
| Section 8.3 | Obligation for Assessments . . . . .             | 18 |
| Section 8.4 | Assessment Lien and Personal Liability . . . . . | 18 |
| Section 8.5 | No Avoidance of Assessment Obligations . . . . . | 19 |

## ARTICLE XI Dispute Resolution Procedure

|              |                             |    |
|--------------|-----------------------------|----|
| Section 11.1 | Application .....           | 27 |
| Section 11.2 | Procedure .....             | 27 |
| Section 11.3 | Enforceable Agreement ..... | 27 |
| Section 11.4 | Fees .....                  | 28 |

## ARTICLE XII Alternative Dispute Resolution

|              |  |    |
|--------------|--|----|
| Section 12.1 | Subsequent Prelitigation Procedure .....     | 28 |
| Section 12.2 | Applicable Disputes .....                    | 28 |
| Section 12.3 | Request for Resolution .....                 | 28 |
| Section 12.4 | Response to Request for Resolution .....     | 28 |
| Section 12.5 | Certificate of Completion .....              | 29 |
| Section 12.6 | Cost of Alternative Dispute Resolution ..... | 29 |
| Section 12.7 | Failure to Comply .....                      | 29 |

## ARTICLE XIII Rights of Lenders

|              |                                       |    |
|--------------|---------------------------------------|----|
| Section 13.1 | Liability of Unpaid Assessments ..... | 29 |
| Section 13.2 | Subordination of Lien .....           | 29 |
| Section 13.3 | Superiority of Lien .....             | 29 |
| Section 13.4 | Mortgage Protection .....             | 30 |
| Section 13.5 | Additional Lien Rights .....          | 30 |

## ARTICLE XIV Insurance, Condemnation and Destruction

|               |  |    |
|---------------|--|----|
| Section 14.1  | Fire and Casualty Insurance .....                                    | 31 |
| Section 14.2  | General Liability Insurance .....                                    | 31 |
| Section 14.3  | Directors and Office Liability Insurance .....                       | 31 |
| Section 14.4  | Fidelity Coverage .....  | 31 |
| Section 14.5  | Other Association Insurance .....                                    | 32 |
| Section 14.6  | Review of Insurance; Notice of Cancellation or<br>Modification ..... | 32 |
| Section 14.7  | Qualification of Insurance Carriers .....                            | 32 |
| Section 14.8  | Failure to Acquire Insurance .....                                   | 32 |
| Section 14.9  | Trustee for Policies .....   | 33 |
| Section 14.10 | Insurance Premiums .....   | 33 |

|               |  |    |
|---------------|--|----|
| Section 14.11 | Insurance Policy Deductibles .....     | 33 |
| Section 14.12 | Insurance Disclosures .....            | 33 |
| Section 14.13 | Individual Property Insurance .....    | 34 |
| Section 14.14 | Individual Liability Insurance .....   | 34 |
| <br>          |  |    |
| ARTICLE XV    | Condemnation and Partition             |    |
| Section 15.1  | Condemnation of Entire Project .....   | 34 |
| Section 15.2  | Partial Taking .....                   | 35 |
| Section 15.3  | Partition Prohibited; Exceptions ..... | 35 |
| Section 15.4  | Power of Attorney .....                | 35 |
| <br>          |  |    |
| ARTICLE XVI   | General Provisions                     |    |
| Section 16.1  | Notice to Owners .....                 | 35 |
| Section 16.2  | Annexation by Association .....        | 36 |
| Section 16.3  | Enforcement .....                      | 36 |
| Section 16.4  | Severability .....                     | 36 |
| Section 16.5  | Amendments .....                       | 36 |
| Section 16.6  | Required Amendments .....              | 36 |
| Section 16.7  | Extension by Declaration .....         | 37 |



# ST. TROPEZ VILLAS I, INC.

## First Restated Declaration of Covenants, Conditions and Restrictions

THIS FIRST RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made as of this 12<sup>TH</sup> day of APRIL, 2008, by the St. Tropez Villas, I, Inc. with reference to the following:

### RECITALS

- A. ST. TROPEZ VILLAS I, Inc., a California non-profit mutual benefit corporation the "HOA" is the governing organization for the common interest development commonly known as St. Tropez Villas I, Inc., located in the City of Palm Springs, County of Riverside, State of California, more particularly described as:

Lot 1, Tract No. 13688, as shown on a map thereof recorded in Book 111, Pages 77-78 of Maps, Official Records of said County.

- B. The HOA is a Common Interest Development as defined by the *Davis-Stirling Common Interest Development Act, California Civil Code section 1350*, et. seq.
- C. The HOA has the duty, responsibility and authority to perform certain functions set forth in the Governing Documents for the HOA, including the original Declaration of Covenants, Conditions and Restrictions recorded on October 14, 1980, in File No., 187969 (the "Original Declaration") in the Official Records of Riverside County Recorder's Office.
- D. All of the said limitations, covenants, conditions, restrictions, reservations, easements, liens and charges are hereby established and imposed upon each and every individual condominium unit, the common areas, the project as a whole, and upon each owner thereof and upon each owner of an interest of any kind or character in the said project or condominium unit or any interest in the said property whatsoever, and that the same shall run with the land and the estates or interests therein and shall be for the benefit of each owner of any portion of the project, or any interest, therein, and shall inure to the benefit of and be binding upon each successor in interest and all parties having or requiring any right, title or interest in the said property or any portion thereof, whether as owner, mortgagee, lessee, assignee, tenant, occupant or otherwise. Each of the foregoing parties, and the homeowner's association herein after provided for, shall have the right to enforce the said

limitations, covenants, conditions, restrictions, reservations, easements, liens and charges as hereinafter provided and as provided for by law or in equity.

In accordance and compliance with the Governing Documents, the HOA establishes this First Restated Declaration of Covenants, Conditions and Restrictions ("CC&Rs") for the protection and benefit of the Development. These First Restated CC&Rs entirely replace and supersede the Original Declaration as well as any amendments to the Original Declaration. Upon the recordation of these First Restated CC&Rs, the Original Declaration as well as any amendments thereto shall immediately cease to have any force and effect.

## ARTICLE I Definitions

Section 1.1 **Adjacent Owners.** Owners of Units separated by a Party Wall.

Section 1.2 **Architectural Guidelines.** The policies and procedures established by the Board and the Architectural Review Committee governing any proposed changes to the Development.

Section 1.3 **Articles.** The Articles of Incorporation of the St. Tropez Villas I, Inc., a California non-profit, mutual benefit corporation.

Section 1.4 **Architectural Review Committee or ARC.** The committee established by the Board in accordance with these CC&Rs to review changes to the Development proposed by Owners. If no ARC exists, then the Board is the ARC.

Section 1.5 **Assessment.** Any regular, special or reimbursement assessment as defined in these CC&Rs and the *Davis-Stirling Common Interest Development Act*.

Section 1.6 **Association.** St. Tropez Villas I, Inc., a California non-profit mutual benefit corporation exercising the powers and duties of a California non-profit, mutual benefit corporation pursuant to the Civil Code section 1350 et. seq; a common interest development. Also referred to as "HOA"

Section 1.7 **Beneficiary.** A mortgagee, or the beneficiary or holder of a note secured by a Deed of Trust, and/or the assignees of a mortgagee, beneficiary or holder.

Section 1.8 **Board of Directors or the Board.** The governing body of the HOA, as set forth in the governing documents.

Section 1.9 **Bylaws.** The First Restated Bylaws of the HOA.

- Section 1.10 **CC&Rs.** This First Restated Declaration of Covenants, Conditions and Restrictions. Also referred to as the “Declaration”.
- Section 1.11 **Common Area.** The entire Development except for the Units, the private patio areas and balconies. Unless stated to the contrary, reference to the Common Area also refers to all Common Facilities.
- Section 1.12 **Common Expenses.** Any cost for which use of HOA funds is authorized by the Governing Documents or applicable laws.
- Section 1.13 **Common Facilities.** Every part of the Development except the Units and the real property.
- Section 1.14 **Condominium.** A condominium as defined in California Civil Code Section 783, being an estate in real property consisting of (1) a individual leasehold interest in the space within a unit, and (2) the exclusive right to possession of the “private patio areas” appurtenant to a unit, and (3) an individed 1/64 leasehold interest as a tenant in common in the common area of Lot 1, Tract 13688; all as shown on the Condominium Plan for Tract No. 13688.
- Section 1.15 **Condominium Plan.** The document which describes and defines the entire Development, filed on July 16, 1979, in book 1979, Page 147821 in the Official Records of Riverside County Recorder’s Office for Tract No. 13688.
- Section 1.16 **Declaration.** This First Restated Declaration of Covenants, Conditions and Restrictions. The Declaration may also be referred to as the “CC&Rs”.
- Section 1.17 **Development.** All of the real property and improvements commonly known as the St. Tropez Villas I, Inc., as depicted on the Condominium Plan.
- Section 1.18 **Eligible Insurer, Guarantor.** An insurer or guarantor who has requested notice of certain matters as set forth in these CC&Rs.
- Section 1.19 **Eligible Mortgage Holder.** An insurer or guarantor who has requested notice of certain matters as set forth in these CC&Rs.
- Section 1.20 **Exclusive Use Common Area.** Those portions of the Common Area for the exclusive use of one or more, but fewer than all of the Owners in accordance with *California Civil Code* section 1351(i), including but not limited to utilities servicing each individual Unit, to the point that the utilities join the service to another Unit or the Common Area, whether located within or outside the Unit.

- Section 1.21 **Fiscal Year.** The accounting period selected by the Board covering 12 consecutive months, at the end of which the HOA's books are closed.
- Section 1.22 **Governing Documents.** As used in the *Davis-Stirling Common Interest Development Act*, a collective term that refers to these CC&Rs, as well as all other documents enacted by the HOA or recorded or filed with any governmental agency with respect to the Development and the HOA.
- Section 1.23 **Guest.** Anyone who is in the Development but who is not a Resident (including Owners who have rented or leased their Unit).
- Section 1.24 **Improvements.** Any change to any part of the Development, and any part of the Development other than the real property.
- Section 1.25 **Living Unit.** Portions of the condominium property shown and described as such on the condominium plan and consistent with Cal. Civil Code Section 1351(f).
- Section 1.26 **Member.** Any owner of a Unit in the Development. All Members are Owners in the HOA.
- Section 1.27 **Mortgage.** Any security interest encumbering all or any portion of a Unit.
- Section 1.28 **Mortgagee.** The beneficiary of a mortgage encumbering all or any portion of a Unit.
- Section 1.29 **Professional Manager.** The property management company and/or its representative.
- Section 1.30 **Quorum.** A quorum of the Board or the Members constituting a majority thereof, unless specifically stated otherwise in a particular provision of these CC&Rs or the Bylaws.
- Section 1.31 **Owner.** Any Owner of any Unit in the Development. All Owners are Members of the HOA.
- Section 1.32 **Residents.** The people living in the Development, regardless of whether they are Owners.
- Section 1.33 **Regular Assessment.** The assessment levied by the HOA with respect to all Units, used for paying regular expenses and funding reserves.
- Section 1.34 **Reimbursement Assessment.** An assessment levied by the HOA with respect to one or more Owners for reimbursement of costs and expenses of any kind, including attorney fees, incurred by the HOA on behalf or as a result of the Owner(s) subject

to the assessment.

Section 1.35 **Rules and Regulations.** Policies and procedures enacted and implemented by the Board pursuant to the Governing Documents. Also referred to as "Rules".

Section 1.36 **Special Assessment.** An assessment levied with respect to all Units for payment of extraordinary expenses of the HOA.

Section 1.37 **Unit.** An estate according to Civil Code section 1351(f), defined by the Condominium Plan. The boundaries of the Units of the within Project are designated and described on the Condominium Plan.

## ARTICLE II PROPERTY RIGHTS OF OWNERS

Section 2.1 **Individual Unit.** Every conveyance to an owner, or owners of a Condominium in Tract 13688 shall be of a unit consisting of a partial assignment of a leasehold for years in the air space thereof as shown and described in the Condominium Plan for Tract No. 13688. The boundaries of the said unit are the interior surfaces of the perimeter walls, floors, ceilings, windows and doors thereof, and the unit includes both the portions of the building so described herein and the airspace so encompassed and shown on the Condominium Plan for the said Tract No. 13688. The following are not part of the unit: Bearing walls, columns, floors, roofs, foundations, shafts, reservoirs, tanks, pumps and other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations, wherever located, except the outlets thereof when located within the unit.

Each condominium owner shall have the exclusive right to paint, repaint, tile, wash, paper, or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his or her own unit.

Each condominium owner shall be charged and responsible for the upkeep, maintenance, repair and/or replacement of his or her individual unit and the boundaries thereof as specified herein, at his or her sole expense, including the unit's heating and air conditioning equipment pertaining thereto.

Section 2.2 **Undivided Interest in Common Area.** Every conveyance to any Owner, or Owners, of a Condominium in Tract No. 13688 shall, in addition to an individual unit, be an undivided one sixty-fourth (1/64) leasehold interest, or a tenant in common. In and to the Common Area of said Tract No. 13688. Declarant, its successors, assigns and transferees, covenant and agree that the undivided interests in the Common Area and the title to an individual Unit shall not be separately conveyed, and each such

undivided interest in the Common Area shall be deemed to be conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the title to the individual Unit.

Except for the areas designated as "patio areas", which are appurtenant with and to individual Units and are described in the Condominium Plan for said Tract No. 13688 and to which each Owner of said Unit has the exclusive right of possession and occupancy, every Member shall have the right and nonexclusive easement of enjoyment, ingress and egress in, to, over and through the Common Area.

Section 2.3 **Property Rights Subject to CC&Rs and Association Authority.** Each Condominium hereof and each Owner, or Owners, thereof are, and shall be subject to this Declaration, the rights, duties, liabilities and obligations thereof, the authority of the Association as provided for herein, and by its Articles and By-laws, and each owner hereby and by acceptance of his or her conveyance, including Declarant, does irrevocably appoint the Association his or her attorney in fact to enforce and carry out the provisions of this Declaration on their respective behalf in its own name and capacity.

Section 2.4 **Assumption of Lease.** Each Owner, or Owners, of a Condominium in Tract No. 13688 hereof by his purchase thereof expressly acknowledges that his conveyance thereof and his ownership is that of a leasehold interest and estate for years by way of partial assignment of a portion of the real property under a United States Department of the Interior, Bureau of Indian Affairs Business Lease. No. PSL-246, dated June 2, 1978, a copy of which shall be delivered to each Owner. As applicable to each Owner's or Owners' Condominium and conveyance, each Owner, hereby expressly agrees to and assumes all the obligations of the said lease on his or her part to be performed.

Section 2.5 **No Partition of Common Areas.** Except as provided in California Civil Code Section 1354, as now provided or hereinafter amended or succeeded, the Common Areas shall remain undivided, and there shall be no judicial partition thereof. Nothing herein shall be deemed to prevent partition of a co-tenancy in a Condominium hereof. Each Unit shall have appurtenant to it a membership in the HOA, a California nonprofit mutual benefit corporation Association, which will be the management body of the overall Condominium project.

Section 2.6 **Easements.** Each Unit, Condominium and/or condominium building is hereby declared to have an easement over all adjoining Units, Condominiums and/or unit buildings for the purposes of accommodating any encroachment 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 such encroachments so long as they shall exist, and the rights and obligations of the

respective Owners shall not be altered in any way by said encroachments so long as they shall exist, and the rights and obligations of owners shall not be altered in any way by said encroachments, settlement or shifting, providing, however, that in no event shall a valid easement for encroachments be created in favor of an Owner or Owners if said encroachments occurred due to the willful or negligent misconduct of any Owners or Owner. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the Owners of each Unit, Condominium and/or undivided interest to a unit building hereby agrees that minor encroachments over adjoining Units, Condominiums and/or Common Area shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

### ARTICLE III POWERS AND DUTIES OF THE HOA

Section 3.1 **Management and Control by the Board.** Except as otherwise specifically provided in the Governing Documents, the Board has the obligation and sole authority to manage, operate and control the Development, and to interpret the Governing Documents.

Section 3.2 **Board of Directors and Officers.** The number, qualifications, election, term of office, vacancies, removal and duties of the membership of the Board of Directors and of the officers of the association shall be as provided by law or Bylaws of the association. The Board of Directors of the Association, and such officers as are appointed or elected, shall conduct the affairs of the association in accordance with the Articles and By-laws thereof, as may be amended from time to time.

Section 3.3 **Powers and Responsibilities of the HOA.**

- A. The HOA has the right to adopt and amend rules and regulations relating to any use of the Development, and a reasonable fining policy for enforcement. All such rules or amendments thereto shall be adopted in conformance with California Civil Code § 1357.100 et. seq. as the same may be amended from time to time. A copy of the rules must be:
- (1) Maintained in the office of the HOA and be available for inspection during regular business hours; and,
  - (2) Given to each Owner whenever amended, and given to each new Owner within a reasonable time after the HOA has notice of occupancy of a Unit. Amendments must be given to each Owner at least 30 days prior to the effective date.

- B. The HOA has the right to limit the number of Guests using the Common Areas. Owners shall not have greater than ten (10) guests present in the Common Area at any time without first having the written approval of the Association. Members having greater than ten (10) guests present in the Common Area at any time may be fined or receive other discipline consistent with the Governing Documents.
- C. The HOA has the right to suspend the right to use the Common Area for any period during which any assessment against a Unit remains delinquent, and for a period up to sixty (60) days for any single infraction of the Governing Documents, except that suspension of the right to use the Common Area may not impede access to and from any Unit.
- D. The HOA has the right to enforce the Governing Documents, when the HOA has knowledge of a violation thereof. Penalties may be imposed by the HOA for violation of the Governing Documents, including levy of a Reimbursement Assessment, suspension of use of the Common Area, suspension of voting privileges and reasonable fines.
- E. The HOA may impose and receive deposits, payments, fees or charges for the temporary, individual use of the Common Area by Owners.
- F. The HOA may grant permits, licenses and easements under, through or over the Common Area, which the Board deems necessary or prudent for maintenance or operation of the Development, or for the benefit of the Development or the Members. Unless the governing document states otherwise or unless excepted by California Law, the affirmative vote of Owners owning at least sixty-seven percent (67%) of the separate interests shall be required before the Board may grant exclusive use of any portion of the common area to any Owner.
- G. The HOA must pay all taxes and charges levied against the Common Area.
- H. The HOA must maintain, repair, and where necessary replace all portions of the Common Area, and improvements thereon.
- I. The HOA must provide for and cause repair of water, sewer, gas, electrical service, refuse collection and gardening service for the Common Area.
- J. The HOA may borrow money for improving or restoring the Common Area and for litigation related to the Development, but may not pledge assessments as security for any loan except with approval of a majority of a quorum of Owners.



- K. The HOA shall secure and maintain policies of insurance, as provided by the Governing Documents and by law.
- L. The HOA may take any lawful action which is in furtherance of its obligation to preserve, protect, maintain and enhance the Development.
- M. The HOA may enter into contracts for the benefit of the Development not exceeding one year in duration, except for the exceptions set forth below and in the Bylaws.
  - (1) A managing contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration.
  - (2) 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.
  - (3) Prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration provided that the policies permit for short-rate cancellation by the insured.
  - (4) A contract with a vendor for services, such as landscaping, whereby the contract amount is more favorable if the term of the contract exceeds one year but no such contract shall exceed five years. Any such contract going beyond one year must have among its terms a unilateral right of termination by the Association after thirty (30) days' written notice whether for cause or no cause.

Section 3.4 **Limitation of Liability.** No Member of the Board of Directors may be held individually or personally liable or obligated for performance or failure of performance of his or her duties or responsibilities, unless he or she fails to act in good faith, or is grossly negligent.

## ARTICLE IV OWNER RESPONSIBILITIES

Section 4.1 **Maintenance.** Consistent with the Responsibility Matrix, which is attached herewith as Exhibit "A" and incorporated by reference herein, Owners are responsible to maintain their Units and the Exclusive Use Common Area associated therewith, including but not limited to maintenance and repair of the following:

- A. All interior portions of the decks and patios, provided no permanent planting or landscaping or interior decorating placed on the private patio shall exceed

the height of the respective patio wall or screening as originally built by the Developer, unless previously approved in writing by the Architectural Committee, or Board of Directors. Nor shall any decoration be exposed to view from the ground level of adjoining condominiums, common areas, streets and driveways. In addition, Owners shall maintain all interior surfaces of any fences and railings, doors, screen doors, security doors, sliding glass doors, and all windows, including skylights. Items to be Owner maintained further include but are not limited to interior and exterior, knobs, locks, hardware, frames, tracks, seals, waterproofing, caulking and flashing, except exterior painted surfaces of exterior doors. With regard to doors and windows, Owners shall be responsible for the maintenance and repair of the interior surfaces as well as the screens, glass, frames, flashing and exterior surfaces.

- B. The interior surfaces of the Unit, including interior, non-bearing walls and the surfaces of interior bearing walls.
- C. All Owner modifications.
- D. All appliances and cabinets whether "built-in" or free-standing within the Unit.
- E. The plumbing servicing the Unit, regardless of location, to the point that it joins service to another Unit or common service.
- F. The telephone wiring servicing the Unit
- G. Electrical systems servicing the Unit, regardless of location, to the point that it joins service to another Unit or common service, including exterior fixtures, sockets, switches, plates, etc.
- H. Gas systems servicing the Unit.
- I. Heating, ventilation and air conditioning equipment and systems servicing the Unit.
- J. Television cable equipment and connections servicing the Unit, to the point that it joins service to another Unit.
- K. Doorbell systems, including the interior and exterior components and all electrical connections.

- L. Drains and drainage systems of any kind servicing the Unit, including any portion that also services an adjacent Unit, to the point that it joins the main, common area drain; provided, however, that disputes arising due to blockages between two units are to be determined by the two owners.
- M. Pest control within Units.
- N. All damage to the Unit interior, from whatever source, including damage arising out of or relating to a common area component. However, Owners shall not be responsible to repair damage to the Unit caused by the gross negligence of the Association in failing to maintain or repair the common area.

Section 4.2 **Maintenance Standards.** Owners shall maintain and repair the items listed above in a manner deemed reasonable and necessary to preserve an attractive appearance and protect property values. Maintenance, repair or replacement that results in a change of appearance visible from outside a Unit requires prior written approval from the ARC obtained in accordance with these CC&Rs

Section 4.3 **Failure of Owner to Carry Out Maintenance Responsibilities.** If an owner fails to perform maintenance responsibilities that directly affect the Common Area or another Member, the Board shall have the right but not the obligation through itself or its agents, to perform appropriate maintenance and/or repairs at the expense of the owner. In such event, in addition to other penalties and disciplinary measures imposed by the Board, the Board may levy a reimbursement assessment against such owners in an amount equal to all direct and indirect reasonable costs and expenses incurred by the Board in its performance of such maintenance and/or repairs. Each Owner expressly consents to the Association's unilateral right of entry upon their property to carry out maintenance and/or repairs which the Owner has failed to perform. The Association shall only exercise its unilateral right of entry after providing reasonable notice to the Owner, however, no such notice shall be required in the event of an emergency involving risk to life, health, safety or property.

Section 4.4 **Alteration of Units.** With prior written permission from the HOA, Owners may:

1. Make structural alterations within a Unit.
2. Modify a Unit, at the Owner's expense, to facilitate access for handicapped persons in accordance with Civil Code Section 1360. The HOA may require removal of the modifications when the person needing them no longer occupies the Unit.

Section 4.5     **Minor Modifications to the Unit.** Minor modifications that do not impact on the structural integrity of the Unit, other Units or the Common Area do not require prior permission from the HOA.

Section 4.6     **Repair of Units.** Each Owner shall have the right, at his sole cost and expense, to maintain, repair, paint, paper, panel, plaster, pile and finish the interior surfaces of the ceilings, floors, window frames, door frames, trim and perimeter wall for the Living Unit, and the surfaces of the bearing walls and partitions located within Living Unit. Owner shall have the right to substitute new finish surfaces in place of those existing on the ceilings, floors, walls and doors of the Living Unit.

Section 4.7     **Mutual Easements.** Each Owner grants an easement to all other Owners and to the HOA to enter each Unit to repair shared or common components of the Development. Entry into a Unit for other than emergency repairs shall be made only after 10 days notice has been given to the Resident and the Resident has consented, which consent shall not be unreasonably withheld. In case of emergency involving immediate threat to life, safety or immediate, irreversible property damage the right to enter any Unit is immediate. In an emergency situation, however, a reasonable attempt must be made to notify the Resident and the Owner, prior to entering a Unit.

Section 4.8     **Interior Damage of Units.** Each Owner shall be responsible for interior damage (which includes, but is not necessarily limited to, water damage and mold infestation), maintenance or repair to the interior of the Unit, or his or her personal property within the Unit, which results from water, sewage or other substance which may leak or flow into such interior from the outside of any Unit or from any part of the building, or from any pipes, drains, conduits, appliances or equipment, or from any other place or cause, unless caused by the gross negligence of the Association, its board, officers, or agents. Each Owner may purchase insurance against such damage, consistent with his Declaration. Every Owner must perform promptly all maintenance and repair work within his or her own Unit, which if omitted would affect the Development as a whole or in part belonging to other Owners, and shall be expressly responsible for damages and liabilities that his or her failure and/or inaction may engender.

## ARTICLE V    USE RESTRICTIONS

Section 5.1    **Residential Use.** Units may be used for single family residential use only. No building shall be erected, altered, placed or permitted to remain other than structures used as single family dwellings and no such building shall exceed the maximum height above the ground level specified in the original plans and specifications. Conducting a business is prohibited except as permitted and regulated by the applicable Municipal Code, which is incorporated herein by this reference as though set forth in full. Regardless of compliance with the Municipal Code, however, the HOA has the right to prohibit any business activity that is disruptive to the Development and which has resulted in unresolved complaints.

Section 5.2    **Pets and Animals.** The HOA reserves the right to control or expel from the Development any pet which becomes a nuisance, as determined in the sole discretion of the Board. The following guidelines apply to all pets and are interpreted and conclusively determined in the sole discretion of the Board.

- A.    Pets are allowed in the common area provided that they are appropriately supervised and not causing damage to the Common Area or the Units.
- B.    No animal may be permitted to create excessive or disruptive noise, or to pose a threat to other animals or to people.
- C.    Only animals permitted by the HOA may be kept as household pets, and provided they are not kept, bred, or raised for commercial purposes or in unreasonable quantities as defined by the City of Palm Springs.
- D.    Droppings deposited by animals in the Common Area must be immediately removed by the Owner.
- E.    Animals may not be tied to trees, stakes, or any exterior building structure, or left unattended, at any time.
- F.    Dogs must be kept on a leash held by a person capable of controlling the animal.
- G.    No structure for housing any animal may be maintained so as to be visible from any part of the Common Area, except with the prior approval of the HOA.
- H.    The Owner of a Unit is jointly and severally liable for the activity of any animal associated with or living in the Unit, regardless of ownership of the animal.

Section 5.3     **Commercial and Recreational Vehicles.** No trailer, motor home, recreational vehicle, camper, commercial vehicle, boat or other vehicle deemed inappropriate by the Board, in its sole discretion, is permitted in the Common Area, except for temporary loading or unloading. Commercial vehicles are permitted in the Development only for the limited duration necessary to conduct business with the HOA or a Resident.

Section 5.4     **Parking.** Each Owner must park in his garage to design capacity and may only then park overflow vehicles in the Common Area parking spaces on a first-come, first-served basis provided that the parking complies with Article V of the CC&Rs. Driveways may also be utilized to accommodate overflow parking and guest parking to the extent that the driveway parking does not unreasonably obstruct the flow of traffic or impede the ingress and egress for other Units.

Section 5.5     **Parking Spaces.** No Common Area parking space shall be used in such a manner that interferes with the parking of a vehicle in the parking space. Only currently registered and operable vehicles may be parked in any Common Area parking space. The storage of vehicles is prohibited. Vehicles parked in the Common Area spaces shall be moved at least once every 72 hours. No Common Area parking space may be used to wash or clean any vehicle. The parking of Commercial Vehicles within Common Area parking spaces is prohibited. Parking in parking spaces shall be permitted in conformance with a parking policy as determined in the sole discretion of the Board of Directors. No parking space shall be used for storage so as to restrict the parking of a vehicle therein. Parking spaces shall be used for parking of permitted vehicles only and shall not be converted to any other purpose unless approved in writing by the Board.

Section 5.6     **Parking Regulations.** The Board of Directors shall have the power to draft and adopt additional Rules and Regulations concerning parking within the Development consistent with the procedure set forth in Cal. Civil Code § 1357.100 et seq.

Section 5.7     **Window Coverings.** Windows may not be covered with non-standard window coverings such as foil or cardboard, and if visible from the Common Area window coverings must be consistent with aesthetic appearance of the Development, as determined by the Board.

Section 5.8     **Dangerous Use of Units.** No part of the Development may be used in any manner that causes it to be uninsurable against loss by fire or the perils of the extended coverage endorsement to the California Standard Fire Policy form, which causes any policy of insurance to be canceled or suspended, which causes a company issuing a policy to refuse renewal, or which causes the cost of insurance to rise, except with prior written consent of the HOA.

- Section 5.9 **Use of Common Area.** No part of the Common Area may be obstructed so as to interfere with its intended, ordinary use. No part of the Common Area may be used for storage, except for storage of maintenance equipment used exclusively to maintain the Common Area.
- Section 5.10 **Outside Drying Facilities.** Outside drying facilities visible from the Common Area are prohibited, including items draped or placed outside of any Unit.
- Section 5.11 **Antennae.** No outside television, radio pole, satellite dish or antenna shall be constructed, erected or maintained on any lot located in such a manner as to be visible from the outside of any such building except by and with the prior written consent of the Association. However, the Association shall not withhold permission and shall permit the installation and maintenance of all such reception devices, including satellite, dishes measuring less than 36 inches in diameter, consistent with Federal and State law as the same may be amended from time to time. Written application must be made to the Association and approved by the Association in writing before installation.
- Section 5.12 **Signs and Flags.** The HOA shall be permitted to display any flags or signs which are reasonably related to its purposes of managing, operating, maintaining and repairing the portions of the Development for which it is responsible. Individual Owners may post or display non-commercial signs, posters, flags or banners on or in an Owner's separate interest, except as required for the protection of public health or safety or if the posting or display would violate a local, state, or Federal law. For purposes of this Section, a noncommercial sign, poster, flag, or banner may be made of paper, cardboard, cloth, plastic or fabric, and may be posted or displayed from the yard, window, door, balcony, or outside wall of the separate interest, but may not be made of lights, roofing, siding, paving materials, flora or balloons. No non-commercial signs and posters greater than 9 square feet in size or non-commercial flags or banners greater than 15 square feet in size shall be displayed.
- Section 5.13 **No Equipment Repair.** Automobiles may not be dismantled, repaired or serviced in the Common Area, except emergency repairs necessary to remove the equipment or vehicle from the Development.
- Section 5.14 **Diseases and Insects.** Residents may not permit any thing or condition to exist in the Development that may induce, breed or harbor infectious plants, diseases or insects.
- Section 5.15 **Impairment of Development and Easements.** Residents may not do anything that will impair the structural soundness or integrity of any part of the Development, nor impair any easement, nor do any act or allow any condition to exist which impairs use.

Section 5.16 **Nuisance.** All noxious, illegal, offensive or any activity which endangers the health of, or unreasonably annoys or disturbs other Residents, as determined in the sole discretion of the Board, is prohibited. The terms of this paragraph will be interpreted in the sole discretion of the Board, except that Board can not affect the rights of an Owner to pursue their individual remedies and proceed individually under the terms of this paragraph. The Board has the discretion to determine that activities within the terms of this paragraph must nevertheless be resolved by the Owner or Owners involved, and not by the HOA.

Section 5.17 **Unsightly or Unkempt Conditions.** Activities which cause disorderly, unsightly, or unkempt conditions, as determined in the sole discretion of the Board to have a negative affect upon the Development, are prohibited. Pursuant to Article IV, Section 4.3 of these CC&Rs, the Association shall have a right of entry after the provision of reasonable notice to the Owner to go on to an Owner's property and remedy such unsightly or unkempt condition if an Owner refuses to do so in a timely manner.

Section 5.18 **Responsibility for Damage to the Common Area.** Any person who damages the Common Area is liable to the HOA for the damage, and the Owner of the Unit with which the person causing the damage is associated is jointly and severally liable to the HOA.

Section 5.19 **No Timeshares.** Timeshare developments, timeshare estates, timeshare programs and timeshare uses, as defined by section 11003.5 of the *California Business and Professions Code*, of Units are prohibited, and timeshares and timeshare programs or use similar to a timeshare arrangement of a Unit is prohibited.

Section 5.20 **Patios and Decks.** Each Owner shall have the right to place furniture and potted plants upon their patio and decks, and in the entry way. However, no unsightly or unkept conditions may be maintained on the patios or decks, and in no event may the patio or decks be used for storage.

Section 5.21 **Trash Removal.** All rubbish, trash and garbage shall be regularly removed from an owner's unit and shall not be permitted to accumulate.

Section 5.22 **Temporary Structure.** No temporary structures, including but not limited to tents, shacks, sheds or other outbuilding shall be used at any condominium.

## ARTICLE VI COMMON AREA USES AND IMPROVEMENTS

Section 6.1 **Easement for Maintenance.** Owners grant the HOA an easement over, under, upon and across the Common Area for the purpose of maintaining and altering the Development.



Section 6.2    **Limitation on Alterations.** No person or entity other than the HOA may alter the Development, except as otherwise provided in the Governing Documents.

Section 6.3    **Owner's Easement of Enjoyment.** Every Owner has an easement for access to and from and for enjoyment of the Common Area, subject to the rights and duties of the HOA and other Owners, as described in the Governing Documents.

Section 6.4    **Damage by Wood-Destroying Pests.** The HOA is responsible for the repair and maintenance of the Common Area occasioned by wood-destroying pests or organisms. Each Owner is responsible for repairing, replacing or maintaining his separate interest occasioned by wood-destroying pests or organisms. The cost of temporary relocation of Residents must be borne by the Resident of the Unit affected. The HOA may require the temporary relocation of any Resident for reasonable periods of time as may be necessary for prompt, effective treatment of wood-destroying pests or organisms.

## ARTICLE VII                      MEMBERSHIP AND VOTING RIGHTS

Section 7.1    **Membership.** Every Owner of a Unit by virtue of accepting a deed is a Member of the Homeowners Association and subject to the CC&Rs, with all rights and obligations associated with Membership. Membership is appurtenant to, and may not be separated from ownership of a Unit. Any transfer of the unit shall operate automatically to transfer the membership in the Association appurtenant thereto to the new owner thereof.

Section 7.2    **Voting.** All Members have the right to vote, unless the right to vote is suspended by the HOA. Each "member in good standing" shall be entitled to vote and serve on the Board or one of its Committees for so long as they remain in good standing. Members not in good standing shall not be permitted to vote, serve on the Board and serve on a Committee for so long as they are not in good standing. There shall be one vote for each condominium in the project. The vote for each condominium shall be cast as a single vote; fractional votes shall not be allowed. The qualification of members and their voting rights shall be as provided by law and by the Articles or By-laws of the association, as may be amended from time to time. A "member in good standing" shall be current on all assessments, have no outstanding fines and have no outstanding violations of the governing documents.

- A. Members are entitled to 1 vote, including 1 cumulative vote, for each Unit owned. Cumulative voting is permitted for all elections in which two or more Directors are to be elected. When two or more people hold an interest in a Unit, the vote for the Unit must be exercised as they between or among themselves determine, but only one full vote may be cast for each Unit.

- B. The HOA may refuse to accept a vote from any Member if the HOA has written notice of a voting dispute between or among co-owners, in which case the Unit may be counted only to establish a quorum.

Section 7.3 **Right to Books and Records.** Consistent with and pursuant to California Civil Code Section 1365.2, the HOA shall make available Association Records and enhanced Association Records for inspection and copying by an Owner, subject to the requirements and restrictions set forth in Section 1365.2, and any successor statute.

## ARTICLE VIII                      ASSESSMENTS

Section 8.1 **Purpose of Assessments.** Assessments must be used to pay for costs and expenses associated with preservation, protection, maintenance and enhancement the Development, to reimburse the HOA for costs incurred on behalf of any Owner(s), for litigation related to the Development, and for any other purpose determined to be appropriate by the Board and permitted by law.

Section 8.2 **Types of Assessments.** The HOA may impose any or all of the following assessments:

- A. *Regular Assessments:* assessments used to pay the HOA's operating expenses and to fund reserves.
- B. *Special Assessments:* assessments for extraordinary expenses, including but not limited to, for operating expenses, to fund reserves, and for litigation related to the Development. Unexpected repairs, construction or reconstruction of any capital improvements to or upon common area.
- C. *Reimbursement Assessments:* assessments to recoup funds expended by the HOA, on behalf of a Member or to bring a Member into compliance with the Governing Documents, including but not limited to attorney fees and costs attributable to an Owner or the Owner's tenants, guests and/or invitees.

Section 8.3 **Obligation for Assessments.** All Owners, by acceptance of the conveyance of a Condominium consisting of a partial interest in a leasehold, covenant and agree to pay all Assessments, whether or not so expressed in the conveyance documents.

Section 8.4 **Assessment Lien and Personal Liability.** All assessments together with late charges, interest, costs, and all attorney fees are a charge and a continuing lien upon the Unit against which each assessment is made. Assessments are also the personal obligation of any person who held an ownership interest in the Unit at the time when the assessment fell due. Each Owner of a Unit is jointly and severally liable for the

entire assessment.

Section 8.5 **No Avoidance of Assessment Obligations.** No Owner is exempt from personal liability for assessments by waiver of the use and enjoyment of the Common Area, by abandonment or non-use of the Unit or any other portion of the Development or in any other manner, except as specifically provided by law.

Section 8.6 **No Withholding of Assessments.** Payment of assessments may not be withheld because of non-use of the Common Area, for the Association's failure to perform its duties or meet its obligations, or for any other reason, except as specifically provided by law.

Section 8.7 **Regular Assessments.**

- A. Not fewer than 30 nor more than 90 days prior to the beginning of the HOA's Fiscal Year, the Board shall estimate the total amount required to fund the anticipated Common Expenses for the next succeeding Fiscal Year, and shall prepare and distribute to all Members a budget. If the Board fails to distribute a budget accordingly, Regular Assessments may not be increased for that Fiscal Year, except with vote or written assent of a majority of a quorum of Owners. Quorum for purposes of this Subpart shall mean more than 50% of the total membership.
- B. The HOA's total annual estimated expenses, including deposits to reserves, and less projected income other than assessments, will be the aggregate Regular Assessment for each Fiscal Year, provided that the Board may not impose a Regular Assessment that is more than 20% greater than the Regular Assessment for the HOA's preceding fiscal year without the vote or written assent of a majority of a quorum of Members. Quorum for purposes of this subpart shall mean more than 50% of the total membership.
- C. Prior to raising the Regular Assessments, except when an increase is set forth in an annual budget provided to all Owners, the HOA shall provide 30 days written notice of the proposed increase to all Members.
- D. The requirement of a membership vote to approve Regular Assessment increases in excess of 20% of the previous Fiscal Year's Regular Assessment does not apply to assessment increases necessary to address emergency situations. An emergency situation is any of the following:
  - (1) An extraordinary expense related to an order of a court.
  - (2) An extraordinary expense where a threat to personal safety is discovered.

(3) An extraordinary expense necessary to repair or maintain the Common Area that could not have been reasonably foreseen by the Board in preparing the annual budget, provided that prior to the imposition or collection of an assessment under this paragraph, the Board must pass a resolution containing written findings as to the necessity of the extraordinary expense and why the expense could not have been reasonably foreseen. The Board's resolution must be distributed to the Members together with the notice of assessment.

E. If the HOA fails to make an estimate of the Common Expenses for any Fiscal Year then the Regular Assessment made for the preceding fiscal year will be assessed against each Owner for the then current Fiscal Year. Nothing in this section E may be interpreted to limit the HOA's authority to impose any assessment or increase.

Section 8.8 **Special Assessments.** Special Assessments may not exceed, in the aggregate during any Fiscal Year, an amount equal to 5% of the budgeted gross expenses of the HOA for that Fiscal Year, without the vote or written assent of a majority of a quorum vote of Owners. Quorum for purposes of this subpart shall mean more than 50% of the total membership.

Section 8.9 **Special Assessment Against Owner Causing Damage.** Notwithstanding the provisions of 8.7 and 8.8 hereinabove set forth, and subject to the provisions relating to insurance hereinafter specified. If the common area, its improvements, appliances, equipment or personal property of any nature, or any portion thereof, (including, but not limited to, common walls, roofs, structures, appliances or other personal property of a building) are damaged or destroyed through or by the act of an owner, his agents, guests or members of his family (normal wear and tear excepted) the owner shall be liable to other owners and to the Association for all costs and damages incurred by reason of such damage or destruction, and the Association shall have the right to assess against such owner any and all amounts incurred, less any insurance coverage therefore, sustained to such common area for its replacement, reconstruction and/or repair. The Association shall have the right to file a lien upon a Unit to recover any assessment levied under this Section, and may foreclose upon the Unit to recover the lien amount as well as any fees and costs associated with the collection effort.

Section 8.10 **Reimbursement Assessments.** Reimbursement Assessments may be levied by the Board to recoup amounts spent by the Association to bring an owner into compliance with the Governing Documents, or to repair damage to any portion of the Development caused by an owner or his guests, family, invitees or tenants. Reimbursement Assessments are due and payable after notice pursuant to these CC&Rs is given to the Owner subject to the assessment. The Association shall have the right to file a lien upon a Unit to recover an outstanding reimbursement assessment, and may foreclose upon the Unit.

Section 8.11 **Exemption From Assessments.** The following real property subject to these CC&Rs, unless devoted to use as a residential dwelling, is exempt from Assessments:

- A. Part of the Development dedicated to and accepted by a governmental agency;
- B. The Common Area; and
- C. Any real property owned or leased by the HOA.

Section 8.12 **Effect of Non-Payment of Assessments.** As more particularly provided in *California Civil Code §§1367, 1367.1, and 1367.4* after any assessments, including Reimbursement Assessments, have become delinquent the HOA may file for recording in the Office of the Riverside County Recorder a notice of delinquency/assessment lien ("lien") as to the Unit, provided all pre-lien requirements have been met. The HOA will not record the lien until thirty (30) days after the delivery to the delinquent owner, or the certified mailing to the last known address, of a written notice of default and demand to cure the default, and failure of the owner to cure the default within the thirty (30) day period. The lien must state all amounts which have become delinquent, interest which has accrued, costs (including attorney fees) and the amount of any assessments relating to the Unit which are due and payable, although not delinquent. The lien must also include a description of the Unit and the name of the record or reputed record Owner. The lien must be signed by an officer of the HOA, or by the HOA's attorney.

Immediately upon recording a lien, the amount set forth in the notice will become a lien upon the Unit described therein. The lien will also secure all other payments, assessments, costs, including attorney fees, penalties and interest which become due and payable with respect to the Unit following recording, until all amounts secured thereby are fully paid or otherwise satisfied.

If the delinquent assessments and all other assessments which have become due and payable with respect to the Unit, together with all costs, including attorney fees, late fees and interest which have accrued on the amounts, are fully paid or otherwise satisfied prior to the completion of a sale held to foreclose the HOA's lien, the HOA shall record a subsequent notice stating the satisfaction and releasing the lien.

Section 8.13 **Foreclosure of Assessment Lien.** Subject to the threshold requirements and other requirements set forth in California Civil Code Section Sections 1367.1 and 1367.4, each assessment lien may be foreclosed upon in the same manner as the foreclosure of a mortgage upon real property, or may be enforced by sale, and to that end a power of sale is hereby conferred upon the HOA. And, if there is a judicial foreclosure, the Court may award reasonable attorney fees.

Section 8.14 **Acceptance of Payments by the HOA.** Payments to the HOA must be applied to the Owner's account in the following priority:

- A. Regular Assessments;
- B. Special Assessments;
- C. Reimbursement Assessments;
- D. Interest and late charges; and,
- E. Attorneys Fees and costs.

However, the HOA reserves its right to reject partial payments and tenders that are insufficient or otherwise invalid.

Section 8.15 **Uniform Rate of Assessment.** Regular and Special assessments must be fixed at a uniform rate for all Units regardless of size, location or square footage.

Section 8.16 **Non-Payment of Assessments.**

- A. Any assessment not paid on the date due is delinquent.
- B. Any assessment not paid within 15 days of the date due is subject to a late fee of \$10, or 10% of the outstanding assessment, whichever amount is greater.
- C. Any assessment not paid within 30 days after the date due may bear interest from the date due at the rate of 12% per annum.

Section 8.17 **Estoppel Certificate.** Upon request of any person, the HOA shall within (10) days after demand and upon payment of a reasonable fee for cost of preparation, furnish a certificate setting forth all accounts payable and receivable for any Unit. A properly executed certificate is binding upon the HOA as of the date of its issuance for any period of time set forth therein, or if not stated, for 1 day.

Section 8.18 **Assignment of Rents.** Each Owner assigns to the HOA, absolutely and regardless of possession of the property, all money now due or to become due under any agreement for the use or occupation of any part of any Unit, now existing or hereafter made, for the purpose of collecting all Assessments and costs and expenses due the HOA which are delinquent. The HOA confers on each Owner the authority to collect and retain money due under any agreement for the use or occupation of any part of any Unit, provided that the HOA may revoke the authority at any time by written notice of a default in the payment of any Assessments. Upon revocation the HOA may collect and retain the money until the delinquent Assessments and related charges are satisfied, whether the money is past due and unpaid or current.

The HOA's rights under this provision are subordinate to the rights of any first mortgagee.

Section 8.19 **Legal Action.** In addition to the right of lien and the enforcement thereof as provided for hereinabove, the HOA may bring an action by law or in equity against any delinquent owner to enforce his assessment obligation. Any judgment rendered in such an action shall include a sum for and as reasonable attorney's fees in the amount as determined by the Court.

Section 8.20 **Right of Association to Bid at Foreclosure of Lien.** The Association shall have the power to bid on the Condominium at the foreclosure sale thereof to hold, lease, convey mortgage or hypothecate the same, all proceeds therefrom to be deposited in and used for the benefit of the association and its members respecting the condominium project.

## ARTICLE IX ARCHITECTURAL CONTROL

Section 9.1 **Architectural Approval .** Any architectural change to the Development visible from any Unit, the Common Area or public area surrounding the Development, or resulting in a structural change or change in drainage must be approved in advance, in writing by the HOA. The HOA has the authority to grant conditional approval, which approval may be automatically withdrawn if conditions imposed are not met, or cease to exist.

Section 9.2 **Architectural Review Committee.** The Board of Directors may appoint an Architectural Review Committee ("ARC") which should consist of at least three Members, and no more than five, who may also be a Director. If no ARC is appointed, the Board shall be the ARC. All references to the ARC are to the ARC if it exists, or otherwise to the Board. Members of the ARC may not receive any compensation for services rendered. The qualifications appointment and meetings of the members shall be as prescribed by the Governing documents.

Section 9.3 **Duties of the Committee.** The ARC shall consider and act upon all proposals submitted in accordance with the Governing Documents, subject to Board approval. The Association shall provide a fair, reasonable, and expeditious procedure for making its decision. The procedure shall provide for prompt deadlines. The procedures set forth herein shall be consistent with California Civil Code Section 1378.

Section 9.4 **Meetings and Actions.** The ARC shall meet from time to time to perform its duties.

Section 9.5 **Architectural Guidelines.** The ARC may, with the approval of the Board, adopt, amend and/or repeal Architectural Guidelines. The Architectural Guidelines may interpret and implement the Governing Documents by setting forth the standards and procedures for ARC review, and the guidelines for design and placement of alterations.

Section 9.6 **Approval by ARC.** Approval of the ARC must be granted by majority decision of the Members of the ARC, unless a unanimous decision of the Committee is required by the Architectural Guidelines or by the Board and reviewed and approved by a majority of the Board. The vote or written consent of a majority of the ARC members constitutes the act of the ARC. No approval is final without approval by the Board.

Section 9.7 **Approval of Improvements.**

- A. The ARC should approve or disapprove plans submitted to it within 60 days of receipt. If the ARC fails to approve plans within 60 days, upon demand the applicant is entitled to hearing at the next regularly scheduled Board meeting to discuss the plans. The Board must make a final decision by the date of the second regularly scheduled Board meeting following receipt of the appeal.
- B. Once plans have been approved by the ARC, no material modifications may be made to the approved plans and no subsequent alteration, relocation, or addition may be made without a separate written approval by the ARC.

Section 9.8 **Appeal.** Any decision of the ARC may be appealed by submission of a written request for review to the Board, within 30 days of receipt of the decision of the ARC. The Board must make a final decision by the date of the second regularly scheduled Board meeting following receipt of the appeal.

Section 9.9 **Variances.** The ARC may allow reasonable variances with respect to this Article or any restrictions specified in the Governing Documents, except the Condominium Plan, in order to overcome practical difficulties and to avoid unnecessary hardships, provided that the following conditions are met:

- A. If a variance will necessitate deviation from or modification of a use restriction that would otherwise apply under these CC&Rs, the ARC must conduct a hearing on the proposed variance after giving at least 30 days' prior written notice to the Board and to all Owners in immediately adjacent Units. The Owners receiving notice of the proposed variance will have 30 days to submit to the Board or ARC written comments or objections with respect to



the variance. No decision may be made with respect to the proposed variance until the 30-day comment period has expired.

- B. In order to grant a variance, the ARC must make a good faith determination that:
- (1) The variance will not constitute a material deviation from the overall plan and scheme of development, and that the proposal allows the objective of the violated requirements to be substantially achieved despite noncompliance; and
  - (2) The variance relates to a requirement or restriction that it is unnecessary or burdensome under the circumstances; and
  - (3) The variance, if granted, will not result in a material detriment, or create an unreasonable nuisance with respect to any other Unit, the Common Area, Residents, or any part of the Development.

Section 9.10 **No Waiver Based Upon Prior Approval.** Approval by the ARC of any matter may not be deemed to constitute a waiver of the right to withhold approval of the same or a similar matter subsequently submitted for approval.

Section 9.11 **No Liability of ARC.** Neither the ARC nor any member of the committee who has acted in good faith and who has not been grossly negligent may be liable to the Association, any Owner or to any other party for any damage suffered or claimed on account of the approval or disapproval of any plans, drawings, or specifications, or the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications.

## ARTICLE X RENTING OR LEASING

Section 10.1 **Renting or Leasing.** This Article applies to any situation involving occupancy of a Unit by any person who pays the Owner of the Unit consideration for living in the Unit. Any reference in these CC&Rs to any form of the word "lease" means the corresponding form of the word "rent", and vice versa.

Section 10.2 **Terms.** Leasing a Unit must be pursuant to a written document which is subject to the Governing Documents, including but not limited to the following provisions:

- A. The HOA may request reasonable information from Owners about tenants, including the names of the tenants and the terms and conditions of the lease.

B. Leases must contain the following language, and if it is not expressly contained in the lease then the following language is deemed to be incorporated into the lease by existence of these CC&Rs. All Owners, and Tenants by occupancy of a Unit, agree to the incorporation of the following terms into the lease:

- (1) Units may not be rented for transient purposes. All rentals must be for a term of no fewer than 30 consecutive days in any 1 calendar year, except month-to-month tenancy created by law following a lease period of at least 30 days.
- (2) Upon written request from the HOA, Tenants must pay to the Association that portion of the rent necessary to satisfy any obligation of the Owner of the Unit to the HOA for payment of delinquent assessments, the payment of which is deemed necessary for the habitability of the Units.
- (3) Owners must give Tenants copies of these CC&Rs, the Bylaws, and any Rules. Tenants shall comply with all provisions of the Governing Documents, and violation thereof will constitute a default under any lease. If a Tenant or Resident violates the Governing Documents resulting in a Reimbursement Assessment, all Owners, Residents and Tenants associated with the Unit are jointly and severally liable to pay the assessment.

Section 10.3 **Delegation of Right to Evict Tenant.** Owners hereby delegate and assign to the HOA 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 HOA must give the Owner and the Tenant 30 days written notice prior to initiating eviction proceedings. If the Association proceeds to evict a Tenant, all costs, including but not limited to attorney fees and court costs associated with the eviction, may become a Reimbursement Assessment payable by the Owner of the Unit.

Section 10.4 **Use of Common Area.** Owners transfer and assign to Tenant(s) all rights and privileges that the Owner has to use the Common Area, for the duration of a lawful tenancy.

Section 10.5 **Existing Leases.** Leases existing on the effective date of these CC&Rs 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, shall be deemed a termination of the existing lease for purposes of application of these CC&Rs.

Section 10.6 **Non-Application of Article.** This Article does not apply to any leasing transaction entered into by the holder of any first mortgage on a Unit where the holder of the mortgage becomes the Owner of the Unit through foreclosure or any other means pursuant to the satisfaction of the indebtedness secured by the mortgage.

## ARTICLE XI DISPUTE RESOLUTION PROCEDURE

Section 11.1 **Application.** This Article XI applies to a dispute between the Association and an Owner involving their rights, duties or liabilities under *California Civil Code* Section 1363.810, under the Nonprofit Mutual Benefit Corporation Law, or under the governing documents of the Association. This procedure referenced in this Article XI shall be initiated prior to initiating the dispute resolution procedure referenced in Article XII below, if applicable. This Article XI applies to the applicable disputes referenced in Section 12.2.

Section 11.2 **Procedure.** Either party to a dispute within the scope of *Civil Code* Section 1363.810, et seq., may invoke the following procedure:

- A. The party may request the other party to meet and confer in an effort to resolve the dispute. The request shall be in writing.
- B. An Owner may refuse a request to meet and confer; however, the Association may not refuse a request to meet and confer;
- C. The Board shall designate a member of the Board to meet and confer;
- D. The parties shall meet promptly at a mutually convenient time and place, explain their positions to each other, and confer in good faith in an effort to resolve the dispute;
- E. A resolution of the dispute agreed to by the parties shall be memorialized in writing and signed by the parties, including the Board designee on behalf of the Association

Section 11.3 **Enforceable Agreement.** An agreement reached under Section 10.2(E) above binds the parties and is judicially enforceable if both of the following conditions are satisfied: (1) The agreement is not in conflict with law or the governing documents of the Association; and (2) the agreement is either consistent with the authority granted by the Board to its designee or the agreement is ratified by the Board.

Section 11.4 **Fees.** Unless otherwise stated by California law, an Owner may not be charged a fee to participate in the process described in this Article XI; however, an Owner may not use this Section to force the Association to pay his or her attorneys' fees or costs in representing the Owner in the process described in this Article XI and/or Article XII referenced below.

## ARTICLE XII ALTERNATIVE DISPUTE RESOLUTION

Section 12.1 **Subsequent Prelitigation Procedure.** After the dispute Resolution procedure set forth in Article XI is completed and complied with, the Alternative Dispute Resolution procedure set forth in this Article XII shall be initiated before litigation is commenced, provided this Article is applicable.

Section 12.2 **Applicable Disputes.** The Association or an Owner may not file an enforcement action in the Superior Court unless the parties have endeavored to submit their dispute to alternative dispute resolution, consistent with *California Civil Code* Sections 1369.510, et seq., and other successor California statutes and law. This Article applies to enforcement actions in the Superior Court solely for (1) declaratory relief; (2) injunctive relief; (3) writ relief; and (4) relief in conjunction with a claim for monetary damages not in excess of five thousand dollars (\$5,000.00). This Article does not apply to Small Claims actions and assessment disputes.

Section 12.3 **Request for Resolution.** Any party to a dispute may initiate Alternative Dispute Resolution under this Article by serving on another party to the dispute a Request for Resolution. Service of the Request for Resolution shall be by personal delivery, first-class mail, express mail, facsimile transmission, or other means reasonably calculated to provide the party on whom the request is served actual notice of the Request. The Request for Resolution must include:

- A. A brief description of the dispute between the parties;
- B. A request for alternative dispute resolution; and,
- C. A notice that the party receiving the Request for Resolution is required to respond within 30 days of receipt of the request, or it will be deemed rejected.

Section 12.4. **Response to Request For Resolution.** The party receiving a Request for Resolution has 30 days following receipt to accept or reject alternative dispute resolution. If not accepted within 30 days the Request may be deemed rejected. If alternative dispute resolution is accepted, it must be completed within 90 days of the date of receipt of the acceptance by the party initiating the Request, unless extended by written stipulation signed by both parties.

Section 12.5. **Certificate of Completion.** At the time of filing a civil action, the party filing the action shall file with the complaint a certificate stating that alternative dispute resolution has been completed in compliance with *California Civil Code* Section 1369.560 and these CC&Rs. Failure to file a certificate may be grounds for a demurrer or motion to strike unless the Court finds that dismissal of the action for failure to comply with this Article would result in substantial prejudice to one of the parties pursuant to Section 430.10 of the *California Code of Civil Procedure*.

Section 12.6. **Cost of Alternative Dispute Resolution.** The cost of the alternative dispute resolution hearing must be borne equally by the parties. Refusal to share costs equally constitutes rejection of alternative dispute resolution, regardless of prior acceptance.

Section 12.7. **Failure to Comply.** Failure of a Member to comply with the pre-filing requirements of these CC&Rs and *California Civil Code* Section 1369.510, et seq. may result in the loss of a party's right to pursue another Member or the HOA regarding enforcement of the Governing Documents.

## ARTICLE XIII      RIGHTS OF LENDERS

Section 13.1 **Liability for Unpaid Assessments.** Any first lender or first trust deed holder who obtains title to a Unit pursuant to the remedies provided in a mortgage or a foreclosure is not liable for unpaid assessments or charges against the Unit which accrued prior to the acquisition of title.

Section 13.2 **Subordination of Lien.** Every lien created pursuant to the Governing Documents is subordinate and subject to the lien of any real property mortgage or deed of trust encumbering any interest in a Unit given in good faith for value. If a lender acquires title to any interest in a Unit by judicial foreclosure, and thereafter conveys the interest in the Unit, any real property mortgage or deed of trust received by that lender as security for all or a portion of the purchase price of the interest in the Unit will be incontrovertibly deemed "given for value".

Section 13.3 **Superiority of Liens.** Notwithstanding any other provision in these CC&Rs, any lien created by or pursuant to the Governing Documents, including liens securing payments of assessments, accruing prior to sale of a Unit by a real property lender and prorated over the period of the lender's holding of title to the interest in a Unit is a lien superior to the lien of a real property mortgage or deed of trust received to secure a portion of the purchase price. All covenants, conditions, and restrictions set forth in this Declaration are binding upon and effective against any Owner whose title is derived through foreclosure at a trustee sale.

Section 13.4 **Mortgage Protection.** The liens authorized hereunder or by law are subject and subordinate to the rights of the obligee of any indebtedness secured by any recorded first mortgage upon a Unit made in good faith and for value, provided that after foreclosure of any mortgage, the Board has the authority to create a lien on the interest of the purchaser at the foreclosure sale to secure all assessments levied hereunder for or payable during any period after the date of the foreclosure sale, which lien will have the same effect and be enforced in the same manner as provided herein in the case of other liens for unpaid assessments.

Section 13.5 **Additional Lien Rights.** No amendment to any part of this Declaration will affect the rights of the mortgagee of any mortgage, recorded prior to the recordation of the amendment, who does not join in the execution thereof. The holder of the trust deed is entitled to written notification from the HOA, 30 days prior to the effective date of any change in the Governing Documents, upon request. The holder of the trust deed is entitled to written notification from the HOA of any default by the trustor of any Unit in the performance of the trustor's obligation under the Governing Documents, which is not cured within 30 days, upon request

Any beneficiary under a deed of trust which comes into possession of a Unit pursuant to the remedies provided by law, the conditions of the trust deed, or by a deed-in-lieu of foreclosure is exempt from any right of first-refusal or other restriction on the sale or rental of the Unit involved, including, but not limited to, restrictions on the age of Unit occupants.

Any holder of the trust deed which comes into possession of a Unit pursuant to the remedies provided by law, the deed of trust, or deed-in-lieu of foreclosure, shall take the property, free of any claims for unpaid assessments or charges against the Unit which accrue prior to the time the holder comes into possession of the Unit (except for claims for a pro rata share of such assessments or charges to all Units including the subject Unit).

No breach of these CC&Rs nor the enforcement of any lien provisions herein will defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value, but all of these covenants, conditions and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trustee's sale, or otherwise.

## ARTICLE XIV INSURANCE, CONDEMNATION AND DESTRUCTION

Section 14.1 **Fire and Casualty Insurance.** The Association shall obtain and maintain a policy or policies of fire and casualty insurance for the full insurable replacement value of the Common Area. The Association shall have no duty to obtain coverage for the Unit interiors, including but not limited to wall coverings, flooring, cabinets, owner improvements, appliances, paint, and personal property. The amount of any deductible shall be determined by the Board as well as the responsibility for the deductible. Notwithstanding the above, the Board may put in place a “bare walls” policy or policies of fire and casualty insurance if the Board determines that such policy type is more cost effective for the Association and reasonable notice is given to the Owners at the time of the change. This insurance shall be maintained for the benefit of the Association, the Owners, and their Lenders as their interests may appear as named insured, however, subject to any loss payment requirements set forth in this Restated Declaration. If required by any First Lender who notifies the Association of its requirement, and if economically feasible and available, such policies shall contain an agreed amount endorsement, an inflation guard endorsement, and a construction code endorsement.

Section 14.2 **General Liability Insurance.** The Association shall obtain and maintain a policy or policies insuring the Association, its Officers, Directors, agents and employees, the Owners, and the Owners’ relatives, invitees, guests, employees, and their agents against any liability for bodily injury, death, and property damage arising from the activities of the Association and its Members, with respect to the Common Area and any Units owned by the Association. Limits of liability under the insurance shall not be less than One Million Dollars covering all claims for death, personal injury, and property damage arising out of a single occurrence.

Section 14.3 **Directors and Officers Liability Insurance.** The Association shall obtain and maintain one or more policies of insurance which include coverage for individual liability of Officers and Directors of the Association for negligent acts or omissions of those persons acting in their capacity as Officers and Directors. Limits of liability under this insurance shall be determined by the Board at its sole discretion.

Section 14.4 **Fidelity Coverage.** The Association shall purchase and maintain fidelity coverage for any person or entity handling funds of the Association, whether or not such persons or entities are compensated for their services. If an agent handles Association funds, such agent shall be covered by the Association’s coverage, unless such agent provides similar coverage. The Association’s coverage may be in the form of a separate bond, a separate policy (e.g., crime policy), or may be added by endorsement to the general policies carried by the Association. The coverage may be in an amount

that is at least equal to the estimated maximum of funds, including reserve funds, in the custody of the Association or its managing agent at any given time during the term of each bond or policy. The bond or policy must contain a provision that it may not be cancelled or substantially modified without at least ten (10) days' prior written notice to the Association.

Section 14.5 **Other Association Insurance.** The Association may purchase and maintain workers' compensation insurance to the extent necessary to comply with any applicable laws. The Association also may purchase and maintain a blanket policy at flood insurance, and demolition insurance in an amount that is sufficient to cover any demolition that occurs following the total or partial destruction of the Project and a decision not to rebuild. The Association may purchase such other insurance the Board considers necessary or advisable, including earthquake insurance coverage.

Section 14.6 **Review of Insurance; Notice of Cancellation or Modification.** The limits and coverage of insurance carried by the Association shall be reviewed at least annually by the Board and increased or decreased in its discretion. Such policies shall include a provision for at least ten (10) days' prior written notice to the Association, and, if available, to each First Lender which is listed as a scheduled holder of a First Mortgage in the insurance policy, of any cancellation or substantial modification by any party.

Section 14.7 **Qualifications of Insurance Carriers.** The Association shall use generally acceptable insurance carriers from which to purchase and maintain the coverage required herein.

Section 14.8 **Failure to Acquire Insurance.** The Association, and its Directors and Officers, shall have no liability to any Owner or Lender if, after a good faith effort, it is unable to obtain any insurance required hereunder, because the insurance is no longer available or, if available, 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. In such event, the Board immediately shall notify each Member and any Lender entitled to notice that the specific insurance will not be obtained or renewed.

The Association, and its Directors and Officers, shall also have no liability to any Owner or Lender if it does not obtain any of the insurance referenced hereunder which is not required but may be obtained at the discretion of the Association. The Board may in good faith in its sole discretion, determine that obtaining any of the discretionary insurance is unreasonable or unnecessary under the circumstances. In making a determination as to whether to acquire any such discretionary insurance, the Board may base its decision upon, among other things, a vote of the Owners.



Section 14.9 **Trustee for Policies.** The Association, acting through its Board, is appointed and shall be deemed trustee of the interests of all named insureds under all insurance policies purchased and maintained by the Association. Owners shall work with the Association and/or its managing agent in submitting any claim on an Association policy of insurance. All insurance proceeds under any of those policies shall be paid to the Board as trustee. The Board shall use the proceeds for the repair or replacement of the property for which the insurance was carried or for the purposes described in Article XIII herein. The Board also is authorized to negotiate loss settlements with the appropriate insurance carriers, to compromise and settle any claim or enforce any claim by any lawful action, and to execute loss claim forms and release forms in connection with such settlements.

Section 14.10 **Insurance Premiums.** Insurance premiums for any insurance coverage obtained by the Association shall be included in the regular or special assessments. That portion of the assessments necessary for the required insurance premiums shall be used solely for the payment of the premiums when due.

Section 14.11 **Insurance Policy Deductibles.** 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:

- A. 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").
- B. 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 for which the Association is responsible ("Association Property").
- C. 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.
- D. The foregoing notwithstanding, if the damage or loss is caused by the negligence or misconduct of any Owner, or resident, guest, tenant or invitee of an Owner, such Owner shall be liable for the full amount of the deductible.

Section 14.12 **Insurance Disclosures.** The Association shall disclose such information regarding insurance coverage as and when required by any applicable statute or law. Failure to disclose such information shall not impose any liability upon the Association or Board other than that provided for in such statute or law.

Section 14.13 **Individual Property Insurance.** Each Owner shall obtain and maintain in effect at all times such insurance, at his or her sole expense, to protect against any damage to, or loss of the Owner's property, and the cost of repair or replacement of damaged items, including, but not limited to, any improvements made by an Owner, any personal property, decorations, floor and wall coverings, appliances, fixtures or other items therein, or any exterior items for which such Owner is responsible, such as landscaping, which is caused by any Common Area component or any component maintained by the Association or by any failure thereof. The Owner's policy shall be the primary policy for any claims for damages to or loss of Owner's property. The Association shall not be liable to any Owner or his or her tenants, guests or others, for damage to or loss of any such property, or the cost of repair or replacement of any damaged property or portions of such Owners' Unit or Exclusive Use Common Area, unless such damage is caused by the gross negligence of the Association, its Board, Officers, agents or employees.

All such insurance that is individually carried must contain a waiver of subrogation rights by the carrier as to other Owners, the Association, and any institutional First Lender of such Unit. Except as provided in this Section, no Owner can separately insure his or her Unit or any part of it, against loss by fire or other casualty covered by the Association's blanket insurance carried under Section 13.1. If any Owner violates this provision, any diminution in insurance proceeds otherwise payable pursuant to the provisions of Section 13.1 that results from the existence of such other insurance will be chargeable to the Owner who acquired such other insurance, and the Owner will be liable to the Association to the extent of any diminution.

Section 14.14 **Individual Liability Insurance.** An Owner may carry whatever personal liability and property damage liability insurance with respect to his or her Unit that he or she desires. However, any such policy shall include a waiver of subrogation clause acceptable by the Board and to any First Lender.

## ARTICLE XV                      CONDEMNATION AND PARTITION

Section 15.1 **Condemnation of Entire Project.** If an action for condemnation is proposed or commenced by any governmental body or authority having the right of eminent domain for the condemnation of the entire condominium project, subject to the provisions contained in the lease of the real property referred to in the recitals of this declaration, upon the unanimous vote and consent of all the owners, the project may be sold to such governmental body or authority prior to judgment and the proceeds of such sale shall be distributed to the owners or their mortgages, as their respective interests shall appear. Lacking such unanimous consent, the compensation for the taking shall be distributed in like manner, unless the judgment of eminent domain shall, by its terms, apportion such compensation among the individual unit owners and their mortgagees.

Section 15.2 **Partial Taking.** If such condemnation action, or proposed action, is for only a portion of the condominium project, the compensation for the taking shall be distributed to the owners and their respective mortgages as their interests appear; provided, however, that upon the vote of at least seventy-five percent (75%) of the owners and their first mortgages whose units are not taken, the remainder of the project may be partitioned.

Section 15.3 **Partition Prohibited; Exceptions.** Owners are prohibited from partitioning or in any other way severing or separating any part of the ownership of a Unit from any of the other part of the ownership of a Unit, except upon the showing that:

- A. Three (3) years after damage or destruction to the Development which renders a material part thereof unfit for its use prior thereto, the Development 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 Development is destroyed or substantially damaged and Owners holding in the aggregate more than a 50% interest in the Common Area are opposed to repair or restoration of the Development; or,
- C. The Development has been in existence in excess of 50 years, it is obsolete, and Owners holding in the aggregate more than a 50% interest in the Common Area are opposed to repair or restoration of the Development.

If any of the forgoing conditions are met the net proceeds from the sale and any proceeds of insurance carried by the HOA must be divided equally among the Units. Nothing herein may be deemed to prevent a judicial partition as between co-tenants. No Unit may be partitioned or subdivided without prior written approval of the first mortgage holder on the Unit.

Section 15.4 **Power of Attorney.** Owners grant the HOA an irrevocable power of attorney to sell the Development upon partition as described in this Article. This power of attorney does not apply to the Department of Veterans Affairs, or any officer of the United States of America.

## ARTICLE XVI      GENERAL PROVISIONS

Section 16.1 **Notice to Owners.** Notice to Owners other than to the entire membership must be given by first class mail sent to the address to which assessment notices are sent, within a reasonable time-frame based upon the subject matter of the notice. Notices sent in this manner are presumed delivered if not returned as undeliverable by the United States Post Office within 10 days of posting.

When the board of directors is to meet to consider or impose discipline upon a member, the board shall notify the member in writing, by either personal delivery or first-class mail, at least 10 days prior to the meeting. The notification shall contain, at a minimum, the date, time and place of the meeting, the nature of the alleged violation for which a member may be disciplined, and a statement that the member has a right to attend and may address the board at the meeting. If the board imposes discipline on a member, the board shall provide a notification of the disciplinary action by either personal delivery or first-class mail to the member within 15 days following the action. A disciplinary action shall not be effective against a member unless the board fulfills the requirements of this subdivision. Notwithstanding the foregoing or any other provision of these CC&Rs, all notice requirements are waived by any acknowledgment of receipt of notice.

Section 16.2 **Annexation by Association.** Additional property may be annexed to the Development or to this Declaration upon the vote or written assent of a majority of a quorum of Members of the HOA. Upon approval, the property must be annexed according to the terms of these CC&Rs, without alteration or exception.

Section 16.3 **Enforcement.** The HOA and any Owner have the right to enforce the Governing Documents. Failure by the HOA or any Owner to enforce the Governing Documents may not be deemed a waiver of the right to do so thereafter. In the event the Association or any owner commences litigation to enforce these Governing Documents, the prevailing party shall be entitled to costs of suit, including attorneys' fees.

Section 16.4 **Severability.** If any provision in these CC&Rs is void or becomes invalid or unenforceable in law or equity or by judgment or court order, the remaining provisions will remain in full force and effect, to which limited extent only, these CC&Rs are severable.

Section 16.5 **Amendments.** These CC&Rs may be amended at any time by an instrument in writing approved by a majority of the total voting power of the HOA. Also, by unanimous vote of the Board of Directors, these CC&Rs may be amended at any time to correct technical errors or omissions associated with the restatement process.

Section 16.6 **Required Amendments.** If any law applicable to the Development is enacted after the date of recording of these CC&Rs which directly contradicts, restricts, limits or changes any provision contained herein, these CC&Rs will be deemed amended by operation of law. Any provision herein to the contrary notwithstanding, if an amendment occurs by operation of law the Board may, by unanimous written consent, cause a document describing the amendment by operation of law to be distributed to the Members and recorded with the Riverside County Recorder's Office as an amendment to these CC&Rs.

Section 16.7 **Extension of Declaration.** This Declaration runs with and binds the land as an equitable servitude for a term of 20 years from the date of recording, and is automatically extended for successive periods of 10 years, unless all Owners have executed and recorded a written instrument in which it is agreed that these CC&Rs terminate.

CERTIFICATION

We, the undersigned, do hereby certify:

That we are the duly elected and acting President and Secretary of St. Tropez Villas I, Inc., a California non-profit mutual benefit corporation.

That we have counted the ballots of the First Restated Declaration of Covenants, Conditions, and Restrictions for St. Tropez Villas I, Inc., and they conform and are of the necessary number for amending said Declaration.

IN WITNESS WHEREOF, we have hereunto subscribed our names this 12<sup>th</sup> day of April, 2006.

St. Tropez Villas I, Inc. Robert C Ward Jr  
ROBERT C WARD JR  
(print name) , President

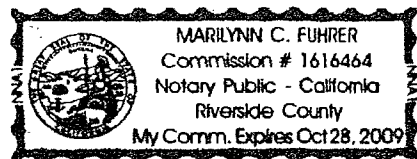
St. Tropez Villas I, Inc. Betty A Wilson  
Betty A Wilson  
(print name) , Secretary

STATE OF CALIFORNIA )  
) ss.  
COUNTY OF RIVERSIDE )

On this 12<sup>th</sup> day of April, 2006, before me, Marilynn C. Fuhrer, Notary Public, personally appeared Betty A. Wilson, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is are subscribed to the within instrument, and acknowledged to me that he she they executed the same in his her their authorized capacity(ies), and that by his her their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Marilynn C. Fuhrer  
Notary Public in and for said County and State. (Seal)



STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF RIVERSIDE )

On this 12<sup>th</sup> day of April, 2005, before me, Marilynn C. Fuhrer, Notary Public, personally appeared ROBERT C. WAID, JR., personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name is/are subscribed to the within instrument, and acknowledged to me that he/she/they executed the same in (his)her/their authorized capacity(ies), and that by (his)her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Marilynn C. Fuhrer  
Notary Public in and for said County and State.

(Seal)

