

**PALM DESERT COUNTRY CLUB ASSOCIATION**

**FIRST RESTATED DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS OF  
PALM DESERT COUNTRY CLUB ASSOCIATION**



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## **FIRST RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF PALM DESERT COUNTRY CLUB ASSOCIATION**

The Declaration of Restrictions for PALM CITY ASSOCIATION, a non-profit California corporation doing business as PALM DESERT COUNTRY CLUB ASSOCIATION, executed by Marnel Development Company ("Declarant:") is hereby amended and restated in its entirety to read as follows:

### **RECITALS**

- A. Declarant was the original owner of that certain real property ("properties") now located in the City of Palm Desert, County of Riverside, and State of California, which is more particularly described in Exhibit "A" attached hereto. (hereinafter sometimes referred to as Tracts 2283 and 2137.)
- B. Declarant conveyed the Properties, subject to certain easements, protective covenants, conditions, restrictions, reservations, liens and charges as set forth in the Original Declarations, and amendments thereto as referred to above, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the Properties, and all of which shall run with the Properties and be binding on all parties having or acquiring any right, title or interest in the properties, or any part thereof, their heirs, successors and assigns, and shall endure to the benefit of each Owner thereof.
- C. It was the further intention of the Declarant to sell and convey individual residential Lots originally constructed by the Declarant to the Owners, subject to the protective covenants, conditions, restrictions, limitations, reservations, grants of easements, rights, rights-of-way, liens, charges and equitable servitudes between Declarant and such Owners which are set forth in this Declaration and which are intended to be in furtherance of a general plan for the subdivision, development, sale and use of the Properties as a common interest development as that term is defined in Section 1351C of the California Civil Code.

It was the intention of Declarant that the "Common Areas" and Common Facilities" be owned and maintained by the Association, but reserved exclusively for the use and enjoyment of the Members of the Association, their tenants, lessees, guests and invitees, subject to the terms and conditions of the Governing Documents.

- D. It is also contemplated that additional properties may, from time to time, become subject to this declaration, pursuant to the annexation provisions of this Declaration.

## **ARTICLE I DEFINITIONS**

**Section 1.** “Annexation” means any addition of property to the Properties subject to the jurisdiction of this Declaration and the Association (“Annexed Territory”), as more fully described in Article XVI herein.

**Section 2.** “Architectural Control Committee” means the Committee created in accordance with Article VII of this Declaration.

**Section 3.** “Articles” means the Articles of Incorporation of PALM CITY ASSOCIATION, a nonprofit California corporation doing business as PALM DESERT COUNTRY CLUB ASSOCIATION, filed on March 2, 1961 and the Certificate of Amendment thereto filed on April 19, 1977, in the Office of the Secretary of State of the State of California, and as such Articles may be amended from time to time.

**Section 4.** “Assessment” means any Regular, Special or Special Individual/Reimbursement Assessment made or assessed by the Association against an Owner and his or her Lot or Separate Interest in accordance with the provisions of Article V of this Declaration.

**Section 5.** “Association” means the PALM CITY ASSOCIATION, a nonprofit California corporation doing business as PALM DESERT COUNTRY CLUB ASSOCIATION (formed pursuant to the Nonprofit Mutual Benefit Corporation Law of the State of California), its successors and assigns. The Association is an “association” as defined in California Civil Code Section 1351(a).

**Section 6.** “Association Rules” means the rules, regulations and policies adopted by the Board of Directors of the Association, pursuant to Article IV, Section 2 of this Declaration, as the same may be in effect from time to time.

**Section 7.** “Beneficiary” means a mortgagee under a mortgage or, as the case may be, the beneficiary of or holder of a note secured by a Deed of Trust, and/or the assignees of such mortgagee, beneficiary or holder.

**Section 8.** “Board of Directors” or “Board” means the Board of Directors of the Association.

**Section 9.** “Bylaws” means the Bylaws of the Association, as such Bylaws may be amended from time to time.

**Section 10.** “City” means the City of Palm Desert, and it’s various departments, divisions, employees and representatives.

**Section 11.** “Common Area” means Lot 27 of tract 2137, and the Recreation Area and recreational and club facilities located thereon. Unless the context clearly indicates a contrary intention, and reference herein to the “Common Area” shall also include any Common Facilities located thereon.

**Section 12.** “Common Expense” means any use of Common Funds authorized by this Declaration and Article VI of the Bylaws and includes, without limitations:

- (a) All expenses or charges incurred by or on behalf of the Association for the management, maintenance, administration, insurance, taxes, operation, repairs, additions, alterations or reconstruction of the Common Area, Common Facilities;
- (b) All expenses or charges reasonably incurred to procure insurance for the protection of the Association and its Board of Directors;
- (c) Any amounts reasonably necessary for reserves for maintenance, repair and replacement of the Common Area and Common Facilities and for non payment of any Assessments; and
- (d) The use of such funds to defray the costs and expenses incurred by the Association in the performance of its functions or in the proper discharge of the responsibilities of the Board as provided in the Governing Documents.
- (e) Any expense reasonably incurred to protect, preserve and maintain the Association in the discretion of the Board of Directors.

**Section 13.** “Common Facilities” means the recreational and club facilities, pool, and garden area located on Lot 27 of tract 2137, and structures and other facilities constructed or installed, or to be constructed or installed, or currently located within the Common Area.

**Section 14.** “Declarant” means the original Developer of the Properties, namely Marnel Development Company.

**Section 15.** “Declaration” means this instrument, including all of the Exhibits referred to herein (all of which shall be deemed incorporated herein by reference), as the same may be amended from time to time. The “Original Declaration” means and refers to the documents referenced in the preamble to this Declaration.

**Section 16.** “Deed of Trust” or “Trust Deed” means a first mortgage or a first Deed of Trust, as the case may be.

**Section 17.** “Governing Documents” is a collective term that means and refers to this Declaration and to the Articles, the Bylaws and the Association Rules and Regulations, as they may be amended from time to time.

**Section 18.** “Improvement” includes, without limitations, the construction, installation, alteration, or remodeling of any buildings, walls, decks, fences swimming pools, landscaping, landscape structures, skylights, solar heating equipment, spas, antennas, utility lines, or any structure of any kind. In no event shall the term “Improvement” be interpreted to include improvements which are restricted to the interior of any Residence on a Lot.

**Section 19.** “Lot” means each of the Lots within the development which is subject to this Declaration including a single family residential Lot or one-fourth individual interest in any cooperative apartment Lot. When appropriate within the context of the Declaration, the term “Lot” shall also include the Residence and other Improvements constructed or to be constructed on a Lot.

**Section 20.** “Member” means every person or entity who holds a membership in the Association and whose rights as a Member are not suspended pursuant to Article II, Section 1 hereof.

**Section 21.** “Mortgage” means any security devise encumbering all or any portion of the Properties, including any Deed of Trust. “Mortgagee” shall refer to the beneficiary of, or the holder of Note secured by a first Deed of Trust (Trust Deed) or, as the case may be, the mortgagee under a first mortgage, and/or the assignee of such beneficiary, holder or mortgagee.

**Section 22.** “Owner” means any person, firm, corporation or other entity which owns a fee simple interest in a Lot.

**Section 23.** “Owner of Record” and “Member of the Association” include an Owner and mean any person, firm, corporation or other entity in which title to a Lot has vested as shown by the official records of the Office of the County Recorder.

**Section 24.** “Properties” means all real property subject to this Declaration or which hereafter may be made subject to this Declaration, together with all buildings, structures, utilities, Common Facilities; and all other improvements now located or hereafter constructed or installed thereon, and all appurtenances thereto.

**Section 25.** "Recreation Area" means the recreational and club facilities, pool and garden area located on Lot 27 of Tract 2137, and such other portions of the Common Area as shall be designated as such by the Board from time to time, except that the same shall not include any Private Street.

**Section 26.** "Regular Assessment" means an Assessment levied on an Owner and his or her Lot in accordance with Article V, Section 3 hereof.

**Section 27.** "Residence" means a residential dwelling constructed on a Lot, intended for use and occupancy by a single family.

**Section 28.** "Rules and Regulations" means such rules and regulations as may be adopted from time to time by the Board with respect to the use of the Common Area and Residences by the Owners and by their tenants, guests, invitees and licensees.

**Section 29.** "Single Family Residential Use" means occupancy and use of a Residence for single family dwelling purposes in conformity with this Declaration and the requirements imposed by applicable zoning or other applicable laws or governmental regulations limiting the number of persons who may occupy single family residential dwellings.

**Section 30.** "Special Assessment" means an Assessment levied against an owner and his/her Lot in accordance with Article V, Section 4 hereof.

## **ARTICLE II MEMBERSHIP AND VOTING RIGHTS IN ASSOCIATION**

**Section 1. Membership.** All Owners of Lots against which assessments are levied pursuant to this Declaration, shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot. Each Owner is obligated promptly, fully and faithfully to comply with and conform to the Articles, this Declaration, the Bylaws and the Rules and Regulations adopted thereunder from time to time by the Board.

**Section 2. Classes of Membership.** The Association shall have one class of membership and the rights, duties, obligations and privileges of the Members shall be as set forth in the Governing Documents. The Board shall have the power to establish other classes of membership, including, but not limited to, associate memberships, for non-residents' use of the pool area and recreational facilities, and establish fees for such memberships, to limit the number of such memberships and use of such facilities by said members and to revoke memberships.

**Section 3. Voting.** Subject to the provisions of the Governing Documents, each Owner of a Lot against which assessments are levied shall be entitled to vote on all matters upon which members of the Association are entitled to vote pursuant to the Declaration and in accordance with the Articles and Bylaws which are incorporated herein. Each Lot against which assessments are levied shall be entitled to one (1) vote.

**Section 4. Multiple Ownership.** Multiple owners shall be deemed to be one Member for voting purposes, and are entitled to one vote per Lot owned and against which assessments are levied. Notwithstanding this Section, each Owner of Record shall have equal rights as Members to use and enjoy the Common Area and Common Facilities. Multiple Owners of a Lot shall designate one Owner of Record as the voting member, and shall give notice to the Secretary of the Association of such designation. If no such notification is received, the Secretary may accept the vote of any Owner of Record or the proxy holder of such Owner as the vote cast for that Lot. However, if the multiple Owners attempt to vote in a fashion inconsistent with that of the designated voting member, the Secretary or other persons designated by the Board of Directors as inspectors of election may refuse to count any ballot pertaining to said Lot.

**Section 5. Transfer.** Membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of the Lot to which it is appurtenant, and then only to the purchaser. The transfer of title or sale of a Lot and transfer of possession thereof to the purchaser shall automatically transfer the membership appurtenant to such Lot to the transferee. Any attempt to make a prohibited transfer is void, and will not be reflected upon the books and records of the Association. In the event an Owner should fail or refuse to transfer the membership registered in his or her name to the purchaser of such Lot, the Association shall have the right to record the transfer upon the books of the Association.

### **ARTICLE III PROPERTY RIGHTS AND OBLIGATIONS OF OWNERS**

**Section 1. Owner's Nonexclusive Easements of Enjoyment.**

Every Member shall have a nonexclusive easement for use and enjoyment in and to the Common Area and the recreational and club facilities located thereon. Such right shall be appurtenant to and shall pass with the ownership of a Lot, subject to all the easement, covenants, conditions, restrictions and other provisions contained in this Declaration, including, without limitation, the following provisions:

- (A) The right of the Association to limit the number of guests of Members;
- (B) The right of the Association to limit the use of the recreational and club facilities located on the Common Area, by persons who own but who are not in possession of their Lot;
- (C) The right of the Association to establish reasonable Rules and Regulations pertaining to the use of the Common Area and recreational and club facilities located thereon;
- (D) The right of the Association to temporarily suspend the voting rights and right to use the recreational and club facilities by an Owner for any period during which any assessments remain unpaid. In addition, the Association may suspend a Member's right to use the recreational and club facilities for any infraction of this Declaration, the Bylaws and/or the published Rules and Regulations by that Member, his or her lessees, or guests. Any action to suspend a Member's right shall only be valid after hearing by the Board, in accordance with the provisions of the Bylaws and Section 7341 of the California Corporations Code.
- (E) The right of the Association to grant easements on, over and under the Common Area to public utilities or governmental entities or agencies; provided that such easement shall not unreasonably interfere with the right of any Owner to the use and enjoyment of his or her Lot and the Common Area and Common Facilities.

**Section 2. Persons subject to Governing Documents.**

All present and future Owners, tenants and occupants of Residences within the properties shall be subject to, and shall comply with, each and every provision of the Governing Documents, as the same or any of them shall be amended from time to time, unless a particular provision is specifically restricted in its application to one or more of such classes of persons (i.e. Owners, tenants, invitees, etc.). The acceptance of a deed to any Lot, the entering into a lease, sublease or contract of sale with respect to any Lot, or the occupancy of any Residence shall constitute the consent and agreement of such Owner, tenant or occupant that each and all of the provisions of this Declaration, as the same or any of them may be amended from time to time, shall be binding upon said person and that said person will observe and comply with the Governing Documents.

**Section 3. Waiver of Use.**

No member may exempt himself or herself from personal liability for assessments duly levied by the Association, nor release the Lot owned by him or her from the liens, charges and other provisions of this Declaration, the Articles, Bylaws and Rules and Regulations, by waiver of the use and enjoyment of the Common Area, Common Facilities or the abandonment of his or her Lot.

#### **Section 4. Obligation of Owners.**

Each Owner of a Lot within the Properties shall be subject to the following:

(A) *Owner's Duty to Notify Association of Tenants and Contract Purchaser's.* Each Owner shall notify the secretary of the Association or the Association's property manager, if any, of the names of any contract purchaser or tenant of the Owner's Separate Interest. Each Owner, contract purchaser or tenant shall also notify the secretary of the Association of the names of all persons to whom such Owner, contract purchaser or tenant has delegated any rights to use and enjoy the Properties and the relationship that each such person bears to the Owner, contract purchaser or tenant.

(B) *Payment of Assessments and Compliance With Rules.* Each Owner shall pay when due each Regular, Special and Special individual/Reimbursement Assessment levied against the Owner and his or her Lot and shall observe, comply with and abide by any and all rules and regulations set forth in, or promulgated by the Association pursuant to, any Governing Document for the purpose of protecting the interests of all Owners or protecting the Common Area and Common Facilities.

(C) *Discharge of Assessment Liens.* Each Owner shall discharge any Assessment lien that may hereafter become a charge against his or her Lot within the time prescribed in Article V of this Declaration.

(D) *Joint ownership of Lots.* In the event of joint ownership of any Lot, the obligations and liabilities of the multiple Owners under the Governing Documents shall be joint and several. Without limiting the foregoing, this subparagraph shall apply to all obligations, duties and responsibilities of Owners as set forth in this Declaration, including, without limitation, the payment of all Assessments.

(E) *Prohibition on Avoidance of Obligation.* No Owner, by non-use of the Common Area or Common Facilities, abandonment of the Owner's Lot, or otherwise may avoid the burdens and obligations imposed on such Owner by the Governing Documents, including, without limitation, the payment of Assessments levied against the Owner and his or her Lot pursuant to this Declaration.

(F) *Termination of Obligations.* Upon the conveyance, sale, assignment or other transfer of a Lot to a new Owner, the transferor-Owner shall not be liable for any Assessments due after the date of recording of the deed evidencing said transfer and, upon such recording, all Association membership rights possessed by the transferor by virtue of the ownership of said Lot shall cease.



**ARTICLE IV**  
**POWER AND DUTIES OF THE ASSOCIATION**

**Section 1. Management and Control of the Board**

The Association, through its Board, except as otherwise provided herein, shall have the obligation, sole authority, and duty to manage, make decisions, operate, control, repair, replace or restore all of the Common Area or any portion thereof, together with the improvements and landscape thereon, all as more fully set forth in this Declaration, the Articles and the Bylaws.

In the event the Board shall determine that any portion of the Properties which are required to be maintained by the Association is damaged or destroyed by any negligent or malicious act or omission of any Owner, his or her guests, tenants, servants, agents or licensees, such Owner shall be responsible for the cost of repairing the damage. In the event that the Owner fails to pay the cost for the repairs, then the Association shall make such repairs or replacements and the cost thereof shall be levied against such Owner and his/her Lot as a Special Assessment.

Subject to the provisions of the Governing Documents, the Board shall have the right to adopt reasonable rules and to amend the same from time to time relating to the use of the Common Area, and all other facilities situated thereon by Owners and by their tenants or guests, and the conduct of such persons with respect to, including but not limited to, automobile parking, use of the pool and recreational facilities, control of pets and other activities reasonably contemplated under the Association's Governing Documents. The Rules and Regulations may be amended by the vote of a majority of the Board.

**Section 2. Powers and Responsibilities of the Board.**

(A)*Rule-Making Power.* The Board may, from time to time and subject to the provisions of this Declaration, propose, enact and amend reasonable rules and regulations governing the use, occupancy, and maintenance of all Properties which are subject to the Declaration, and which are not inconsistent with this Declaration, including the activities within the Lots which affect other portions of the Properties. A copy of such rules and regulations shall be:

- (i) Maintained in the office of the Association and be available for inspection at all reasonable times; and
- (ii) Given to each Owner within a reasonable time after the Association has notice of his or her occupancy of a Lot.

(B) *Enforcement Power.* The Board shall enforce use restrictions, Declaration and Bylaw provisions, and Rules and Regulations by the imposition of reasonable monetary fines, special assessments for costs incurred in compelling compliance with the Association's Governing documents (Articles, Declaration of Restriction, Bylaws and Rules and Regulations), and suspension of Owner's use of common facilities and voting privileges. These powers, however, shall not be construed to limit and other legal means of enforcing the use restrictions or rules and regulations of the Association. Any fines and/or special assessments so imposed shall be considered an assessment against the Lot and may be collected in the manner provided for collection of other assessments.

(C) The Board may grant permits, licenses, utility easements, and other easements, permits, or licenses necessary for the proper maintenance or operation of the Development under, through, or over the Common Area, as may be reasonably necessary to or desirable for the ongoing development and operation of the Properties.

(D) The Board shall maintain and otherwise manage all of the Common Area and Common Facilities, including all recreational facilities, improvements and landscaping thereon, and all property subsequently acquired by the Association.

(E) The Board shall maintain in good repair all Common Area structures, improvements and appurtenances, including walkways and fences.

(F) The Board may pay real or personal property taxes or other charges assessed against the Common Area.

(G) The Board shall provide water, sewer, gas, electrical, refuse collection and gardening service for the Common area. The Board may make cable television service and such other utilities available to owners as the Board may determine.

(H) The Board may borrow money for the purposes of improving or restoration of the Common Area and facilities thereon not to exceed ten percent (10%) of the Association's gross fiscal budget.

(I) The Board may suspend the voting rights and right to use the recreational and club facilities located on the Common Area of a Member who is in default in the payment of any assessment or for any infraction of its published Governing Documents, including published Rules and Regulations after notice and an opportunity for a hearing before the Board in accordance with California Corporations Code Section 7341.

(J) The Board may adopt and implement rules which may provide that the Owner of a Lot whose occupant stores or disposes of property in or around the Common Area in violation of the rules may be specially assessed, after appropriate notice and an opportunity for a hearing before the Board, to cover the expense incurred by the Association in removing such property and the storing or disposing thereof.

(K) The Board shall secure and maintain policies of insurance, as provided in Article XII herein.

### **Section 3. Right of Entry**

The Association, and its officers, agents, or employees, shall have the right to enter onto a Lot for the purpose of inspecting any Lot and any structures, buildings or improvements located thereon to determine whether such Lot is in compliance with the provisions of the Governing Documents, for the benefit of the owners in common, to repair, restore or maintain a Lot which the Owner has failed to properly maintain as more fully set forth in Article X, Section 3, or for any other purpose reasonably related to the performance of the Board of its responsibilities under the Declaration. Such entry shall not be considered trespass on said Lot.

The Association shall give reasonable notice to the Owner(s) of the Lot prior to entering onto any Lot, or any portion thereof, and shall only have the right to enter/inspect the Lot during reasonable hours. For the purposes of this Section 3, "reasonable notice" shall mean at least five (5) days prior to entry. Entry shall be made with as little inconvenience to the Owner as possible, and the Association shall repair any damage caused by said entry.

In addition to and not in limitation of all other rights, the Association may enter into Residences for emergency, security, or safety purposes, which right may be exercised by the Association's Board of Directors, officers, agents, employees, managers, and all policemen, firemen, ambulance personnel, and similar emergency personnel in the performance of their respective duties. In an emergency situation, if practicable, prior to entering the Residence, a reasonable attempt will be made to notify the occupant and the Owner of the Residence of the Association's need and intent to enter the Residence.

Except during an emergency, there shall be no entry onto a Lot without the Owner's written consent, which consent shall not unreasonably be withheld.

### **Section 4. Limitation of Liability.**

In discharging their duties and responsibilities, the Board acts on behalf of and as representative of the Association, which acts on behalf of and as representative of the Owners, and no Member of the Board of Directors shall be individually or personally liable or obligated for performance or failure of performance of such duties or responsibilities unless he or she fails to act in good faith.

**ARTICLE V**  
**COVENANT FOR MAINTENANCE ASSESSMENTS TO ASSOCIATION**

**Section 1. Assessments Generally.**

(A) *Purpose of Assessments.* The assessments for common expenses provided for herein shall be used for the general purpose of the preservation and proper operation of the Development and promotion of the recreation, health, safety, welfare, common benefit, and enjoyment of the Owners and/or occupants of the Lots in the Development, as may be more specifically authorized from time to time by the Board.

(B) *No avoidance of Assessment Obligations.* No Owner may exempt himself or herself from personal liability for Assessments duly levied by the Association, nor release the Lot or other property owned by him or her from the liens and discharges hereof, by waiver of the use and enjoyment of the Common Area or any facilities thereon or by abandonment or non-use of his or her Lot or any other portion of the Properties.

**Section 2. Creation of lien and personal Obligation for Assessments.**

Each Owner of any Lot, by acceptance of a deed therefore is deemed to covenant and agree to pay to the Association: (a) annual regular assessments or charges; (b) special assessments, to be established and collected as hereinafter provided; and (c) special individual assessments against any Lot which are established pursuant to the terms of the Association's Governing Documents.

(A) All such assessments, together with late charges, interest, costs, and all attorney's fees reasonably incurred, as provided in this Declaration and in the maximum amount permitted by the laws of the State of California, whichever is greater, shall be a charge on the Lot and shall be a continuing lien upon the Lot against which each assessment is made. Such amounts shall also be the personal obligation of the person who was the Owner of such Lot at the time when the assessment fell due. Each Owner of a Lot shall be jointly and severally liable for the entire assessment coming due while he or she is the Owner of his/her Lot. Unless otherwise stated in the Association's Governing Documents or Collection Policy Statement issued in accordance with Civil Code Section 1365(d), assessments shall be considered delinquent if not paid fifteen (15) days after the date on which they are due.

(B) Assessments shall be paid in such manner and on such dates as may be fixed by the Board. Unless otherwise provided, annual assessments shall be due on the first day of the year, or are due within thirty (30) days of acquiring ownership of a Lot.

(C) The personal obligation to pay assessments shall not pass to an Owner's bona fide and for value successors in title, unless expressly assumed by them.

(D) The payment of assessments is for the mutual benefit and protection of the entire development and for all Members of the Association and may not be legally withheld, postponed, offset, or reduced for any reason, including, without limitation, (i) a Member elects to make no use of the Common Area or Common Facilities, (ii) a claim that the Association is not properly exercising its duties and powers as provided in the Association's governing documents.

(E) Any assessment not paid within thirty (30) days after the date due shall bear interest from the date due at the rate provided for in the Association's Governing Documents or California law, whichever is greater.

(F) Payments to the Association shall be applied first to payment of fines, special individual/reimbursement assessments, special assessments, if any, and then to attorney's fees, interest, and late charges, if any, and then to the principal of regular assessments due.

### **Section 3. Regular Assessments.**

(A) *Establishment of Regular Assessments By Board/Membership Approval Requirements.* The total annual expenses estimated in the Association's budget (less projected income from sources other than assessments) shall be a guide to limiting the aggregate Regular Assessment for the next succeeding fiscal year, provided that, except as provided in subparagraph (B) below, the Board of Directors may not impose a Regular Assessment that is more than 20 percent (20%) greater than the Regular Assessment for the Association's immediately preceding fiscal year without the vote or written assent of Members, constituting a quorum, casting a majority of the votes as a meeting or election of the Association.

(B) *Assessments to Address Emergency Situations.* The requirement of a membership vote to approve Regular Assessment increases in excess of 20 percent of the previous year's Regular Assessment shall not apply to assessment increases necessary to address emergency situations. For purposes of this subparagraph (B), an emergency situation is any of the following:

1. An extraordinary expense required by an order of a court:
2. An extraordinary expense necessary to repair or maintain the Common Areas, Common Facilities or any portion of the Properties which the Association is obligated to maintain where a threat to personal safety on said Properties is discovered; or

3. An extraordinary expense necessary to repair or maintain the Common Areas, Common Facilities or any portion of the Properties which the Association is obligated to maintain that could not have been reasonably foreseen by the Board in preparing and distributing the budget pursuant to subparagraph (A) above, provided that, prior to the imposition or collection of an assessment under this paragraph, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. The Board's resolution shall be distributed to the Members together with the notice of Assessment.

(C) *Mailing Notice of Assessment.* The Board of Directors shall mail to each Owner at the street address of the Owner's Separate Interest, or at such other address as the Owner may from time to time designate in writing to the Association, a statement of the amount of the Regular Assessment for the next succeeding fiscal year no less than 45 days prior to the beginning of the next fiscal year.

(D) *Failure to Make Estimate.* If, for any reason, the Board of Directors fails to make an estimate of the Common Expenses for any fiscal year, then the Regular Assessment made for the preceding year, together with any Special Assessment made pursuant to Article V, Section 4 for that year, shall be assessed against each Owner and his or her Separate Interest on account of the then current fiscal year, and the Assessments shall be payable on the regular payment dates established by the Association.

(E) *Ability to Change Assessments.* The Board of Directors may change the rate of assessments, subject to subsection (A) above, at any time upon thirty (30) days prior written notice to the Membership.

#### **Section 4. Special Assessments.**

In addition to the Regular Assessments, authorized above, the Board may levy Special Assessments for the purpose of defraying, in whole or in part, the cost of any capital improvement to the Common Area or such other purpose as may be determined by the Board; provided, however, that no Special Assessment shall exceed, in the aggregate during any fiscal year of the Association, an amount equal to five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, without the vote or written assent of a majority vote of the Association's Membership. All such Special Assessments shall be levied upon each Lot in the same proportions as regular assessments are levied.

## **Section 5. Special Individual/Reimbursement Assessments:**

(A) *Circumstances Giving Rise to Special Individual/Reimbursement Assessments.* In addition to the Special Assessments levied against all Owners in accordance with Section 4 above, the Board of Directors may impose Special Individual/Reimbursement Assessments against an individual Owner in any of the circumstances, described, without limitation, in subparagraphs (1) through (3) below, provided that no Special Individual/Reimbursement Assessments may be imposed against an Owner pursuant to this Section 5 until the Owner has been afforded the notice and hearing rights to which the Owner is entitled pursuant to Article IV, Section 2(I), hereof, and, if appropriate, has been given a reasonable opportunity to comply voluntarily with the Association's Governing Documents. Subject to the foregoing, the acts and circumstances giving rise to liability for Special Individual/Reimbursement Assessments include, but not be limited to, the following:

**1. Damage to Common Area or Common Facilities.** In the event that any damage to, or destruction of, any portion of the Common Area or the Common Facilities, including any portion of the Lot structure which the Association is obligated to repair and maintain is caused by the willful misconduct or negligent act or omission of an Owner, any Member of his or her family, or any or his or her tenants, guests, servants, employees, licensees, or invitees, the Board shall cause the same to be repaired or replaced, and all costs and expenses incurred in connection therewith (to the extent not compensated by insurance proceeds) shall be assessed and charged solely to and against such Owner as a Special Individual/Reimbursement Assessment.

**2. Expenses Incurred in Gaining Membership Compliance.** In the event that the Association incurs any costs or expenses, to accomplish (a) the payment of delinquent Assessments, (b) any repair, maintenance or replacement to any portion of the Properties that the Owner is responsible to maintain under the Governing Documents but has failed to undertake or complete in a timely fashion, or (c) to otherwise bring the Owner and/or his or her Lot into compliance with any provision of the Governing Documents, the amount incurred by the Association (including reasonable fines and penalties duly imposed hereunder, title company fees, accounting fees, court costs and reasonable attorney's fees) shall be assessed and charged solely to and against such Owner as a Special Individual/Reimbursement Assessment.

**3. Required Maintenance Of A Lot.** As more particularly provided in Article X, Section 3, and without limiting the generality of that subparagraph, if any Lot is maintained so as to become a nuisance, fire or safety hazard for any reason, including without limitation, the accumulation of trash, junk automobiles, or improper weed or vegetation control, the Association shall have the right to enter said Lot, correct the offensive or hazardous condition and recover the cost of such action through imposition of a Special Individual/Reimbursement Assessment against the offending Owner.

(B) *Levy of Special Individual/Reimbursement Assessment.* Once a Special Individual/Reimbursement Assessment has been levied against an Owner for any reason described, and subject to the conditions imposed herein, notice thereof shall be mailed to the affected Owner and the Special Individual/Reimbursement Assessment shall thereafter be due and payable in full to the Association within 30 days after the mailing of notice of the Assessment.

**Section 6. Notice**

Annual written notice of an assessment shall be given to every Owner subject thereto. Assessments may be collected on an annual basis or otherwise as determined by the Board. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer or other agent of the Association setting forth whether the assessments of a specified Lot have been paid.

**Section 7. Exemption of Certain of the Properties From Assessment.**

The following real property subject to this Declaration shall, unless devoted to use as a residential dwelling, be exempted from the Assessments and the lien thereof provided herein:

- (A) Any portion of the Properties dedicated and accepted by a local public authority;
- (B) The Common Area and Common Facilities; and
- (C) Any Lot owned by the Association

**Section 8. Remedies of the Association for Non-Payment of Assessments**

The Association shall have the power to impose assessments as provided in these Governing Documents. Such assessments are the personal obligation of the Owner against whom they are assessed and are a lien against that Owner's Lot. The Association shall have the authority to create and enforce a lien with the power of sale on each Lot to secure payment of the amount of any Assessment, to the full extent permitted by applicable law. The obligation and the lien for assessments may also include:

- (A) a late or delinquency charge in the amount of (\$10.00) or ten percent (10%) of the amount of each assessment or installment, whichever is greater, not paid when due, or such higher amount as may be authorized by the laws of the State of California;



(B) interest on each assessment or installment not paid when due and on any delinquency fee or late charge pertaining thereto from the date the charge was first due and payable at the rate of twelve percent (12%) per annum, or such higher rate as may be authorized by the laws of the State of California;

(C) the costs of collection, including court costs, the expenses of sale, any expense required for the protection and preservation of the Lot, and reasonable attorney's fees actually incurred; and

(D) the fair rental value of the Lot from the time of institution of suit until the sale at foreclosure or other satisfaction of any judgment.

**Section 9. Effect of Non-Payment of Assessments.**

At any time after any assessments levied by the Association affecting any Lot have become delinquent, the Association may file for recording in the Office of Riverside County Recorder a notice of delinquency as to such Lot, which notice shall state all amounts which have become delinquent with respect to such Lot and the costs (including attorney's fees) and interest which have accrued thereon, the amount of any assessments relating to such Lot with respect to which the delinquent assessments are owed, and the name of the record or reputed record Owner of such Lot. Such notice shall be signed by the President or other officer of the Board, by a majority of the Members of the Board, or by the Association's attorney.

Immediately upon the recording of any notice of delinquency pursuant to the foregoing provisions of this Section the amounts delinquent, as set forth in such notice, together with the costs (including attorney's fees), penalties and interest accruing thereon, shall be and become a lien upon the Lot described therein, which lien shall also secure other payments and/or assessments which shall become due and payable with respect to said Lot following such recording, and all costs (including attorney's fees), penalties and interest accruing thereon. Said lien shall continue until all amounts secured thereby are fully paid or otherwise satisfied.

In the event the delinquent assessments and all other assessments which have become due and payable with respect to the same Lot, together with all costs (including attorney's fees) and interest which have accrued on such amounts, are fully paid or otherwise satisfied prior to the completion of any sale held to foreclose the lien provided for in this Article, the Board shall record a further notice, similarly signed, stating the satisfaction and releasing of such lien.

**Section 10. Assignment of Rents.**

Each Owner does hereby presently assign to the Association, absolutely and regardless of possession of the property, all rents and other monies now due or hereafter to become due under any lease or agreement or otherwise for the use or occupation of any or all parts of any Lot owned by the Owner, now existing or hereafter made for the purpose of collecting all Assessments due the Association pursuant to this Declaration in the event of default. The Association hereby confers on each Owner the authority to collect and retain the rents and other monies derived from any such lease or agreement as they become due and payable, provided that the Association at its sole discretion, may revoke such authority at any time, upon written notice to the Owner of a default in the payment of any Assessment due hereunder. Upon revocation of such authority the Association may, pursuant to court order or by court-appointed receiver, collect and retain such monies, whether past due and unpaid or current. The Association's rights under this Section 10 shall be subordinate to the rights of any First Mortgagee.

**Section 11. Foreclosure of Assessment Lien**

Each assessment lien may be foreclosed upon as and in the same manner as the foreclosure of a mortgage upon real property under the laws of the State of California, or may be enforced by sale pursuant to California *Civil Code* section 2924 and following and Section 1367 of the California *Civil Code*, and to that end, a power of sale is hereby conferred upon the Association.

**Section 12. Subordination of Lien**

The lien of the assessments provided for herein shall be subordinate to the lien of any first Mortgage of record made in good faith and for value upon any Lot, provided that such subordination shall apply only to the assessments which have become due and payable prior to the transfer of such property pursuant to the exercise of a power of sale or a judicial foreclosure involving a default under such first Mortgage. Otherwise, sale or transfer of any Lot shall not affect the assessment lien.

**ARTICLE VI  
USE RESTRICTIONS**

**Section 1. Occupancy.**

Use restrictions regarding the use of Lots and the Common Area may be adopted by the Board in accordance with the terms hereof and as specified in the Bylaws of the Association as follows:

(A) *Single Family Occupancy.* The Residences within the Development are restricted exclusively to residential use, and no Residence shall be occupied by more than a single family. "Occupancy," for purposes of this Declaration, shall be defined as staying overnight in a Residence for a total of more than sixty (60) days, either consecutive or non-consecutive days, in any one (1) year.

"Family", for purposes of this Declaration, shall be defined as a group of persons bearing the generic character of a family unit as a relatively permanent household.

This single family occupancy restriction shall not apply to require the removal of any person occupying a Residence on the date on which this Declaration is recorded in the Office of the Riverside County Recorder. However, any person who is an occupant of a Residence on the date on which this Declaration is recorded in the Office of the Riverside County Recorder, shall be permitted to occupy a Residence if either before or after the occupancy by such person, that Residence does not or would not comply with the single family occupancy restriction set forth in this paragraph (A).

(B) *Residential Use.* Each Residence shall be used for residential purposes only. No trade or business of any kind may be conducted in or from a Residence or any part of the Lot, including business uses secondary to a primary residential use, unless an Owner receives prior written approval of the Board of Directors. The Board shall not approve the "business" use of a residence if such use negatively affects the Common Area as determined by the Board. The terms "business" and "trade", as used in this provision, shall be construed to have their ordinary or generally accepted meanings, and shall include, without limitation, any occupation, work, or activity undertaken on an on-going basis which involves the provision of goods or services to persons other than the provider's family and for which the provider receives a fee, compensation, or other form of consideration, regardless of whether; (i) such activity is engaged in full or part-time; (ii) such activity is intended to or does generate a profit; or (iii) a license is required therefore.

(C) *Dwelling Size.* The dimensions of the structures located on each Lot within the Project shall be in accordance with the applicable city, county and/or other governmental/public agency ordinances, and shall be a detached single-family, one-story dwelling.

(D) *Building Location.* No building shall be located on any Lot nearer to the front line or nearer to the side street line than the minimum building setback lines required by the applicable public agencies, including but not limited to, the City of Palm Desert. For the purposes of this Section, eaves, steps, and open porches shall not be considered as part of a building; provided, however, that this section shall not be construed to permit any portion of a building on a Lot to encroach upon another Lot.

(E) *Lessee/Tenant Bound by Governing Documents.* Each owner shall have the right to lease his or her Lot and interest in the Common Area together, provided that such lease is in writing and provides that the tenant shall be bound by and obligated to the provisions of this Declaration, the Bylaws and the rules and regulations of the Board.

(F) *Vegetation.* The vegetation and landscaping on any Lot shall be planted or maintained by the Owner or resident in such a manner as to reduce the risk of fire, prevent or retard shifting or erosion of soils, encourage growth of indigenous ground cover and to cause the proper diversion of water into streets and natural drainage channels.

(G) *Oil and Mining Operations.* No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind, oil wells, tanks, mineral excavations, shafts, or structures designed for use in boring for oil or natural gas, shall be erected, maintained or permitted on any Lot.

## **Section 2. Subdivision of Lots and Structures.**

No Lot may be subdivided into a smaller Lot, except as is permitted by local ordinance. No Lot Owner shall erect or use any structure(s) of a temporary character, trailer, tent, shack, carport, garage, barn, or other outbuilding on any portion of the Lot at any time, either temporarily or permanently, except as approved by the Board.

## **Section 3. Pets.**

No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any part of the Properties, except that a maximum number of four (4) dogs and five (5) cats, or other maximum number as may be permitted by local ordinance, or other normal household pets, may be kept by their respective Owners, provided that they are not kept, bred, or maintained for any commercial purpose and do not endanger the health or unreasonably disturb the residents within the Properties, or create a nuisance. Pets shall be required to remain on a leash where such pet has access to property other than its Owner's Lot. No pet, regardless of size or type, shall be permitted to be kept within any portion of the Properties if it makes excessive noise or otherwise constitutes an unreasonable annoyance to other Residents. No pet enclosure shall be erected, placed, or permitted to remain on any property without prior written approval of the Board.

The keeping of pets and their ingress, egress, and travel upon the common areas shall be subject to such Rules and Regulations as may be adopted by the Board. If an Owner or occupant fails to abide by the rules and regulations and/or covenants applicable to pets, the Board may restrict or bar the pet(s) of the Owner or occupant from use or travel upon the common areas. Each Owner must immediately clean up after their pet. In addition, any pet which endangers the health of any Owner or resident of a Lot or which creates a nuisance or unreasonable disturbance, as may be determined in the sole discretion of the Board, must be permanently removed from the Properties upon seven (7) days' written notice by the Board.

**Section 4. Signs.**

Except as may be required by legal proceedings, no signs billboards, flags or advertising of any kind shall be maintained or permitted on any portion of the property without the prior written approval of the Board, except that for two "For Sale" or "For Rent" signs per Lot, not larger than 18" by 24" may be placed within the Lot, and one sign of the same dimensions may be placed on the Lot of another with that Owner's consent, subject to rules and regulations adopted by the Board. The Board, on behalf of the Association, shall have the right to erect reasonable and appropriate signs on the common areas. All signs must conform with applicable governmental ordinances. No signs shall be erected or displayed on the Common Area, except signs placed by authority of the Board.

**Section 5. Antennas/Flag Poles.**

Except with the prior written approval of the Board, no antenna, satellite dish, or other device for the transmission or reception of television signals, radio signals, or any form of electromagnetic radiation shall be erected, used, or maintained on any Lot, whether attached to a building or structure, or otherwise, The Association shall have the right to erect, construct, and maintain such devices on the Common Area. No flag pole shall be erected within the Properties without the prior written approval of the Board.

**Section 6. Vehicles and Parking.**

No trailer, motorhome, recreational vehicle, recreational camper, commercial vehicle, boat or similar equipment will be permitted to park on the public streets except for loading and unloading. No overnight parking is permitted for the above mentioned vehicles. Parking on the owners lot is permitted only if such parking does not unreasonably obstruct the view of neighboring lots, overhang any part of the sidewalk or create a traffic hazard by obstructing the view at intersections. At no time shall recreational equipment be used for temporary or permanent housing. The Board may adopt rules and regulations regarding parking of all vehicles on the properties within the Association.

**Section 7. Carport/Garages.**

Carports/garages shall be maintained in a neat, clean, safe and attractive manner, as determined by the Board. No garage doors shall be permitted to remain open, except for a temporary purpose. For purposes of this section, "temporary purpose" shall be defined as permitting reasonable work to be performed in the carport during normal daytime/evening hours. Carports/garages shall be used only for the purpose of parking automobiles or storing an Owner's personal property. The Board shall have the power to make reasonable rules regarding the use of and storage in carports/garages.

**Section 8. Impairment of Another Lot and Easements.**

An owner or occupant shall not perform nor commence any work or do any act which will adversely affect another Lot, or its Owner or occupant(s).

**Section 9. Rubbish, Trash, and Weeds.**

All rubbish, trash and weeds shall be regularly removed from the Lots, and shall not be allowed to accumulate outside of any Residence and/or upon any Lot or maintained so as to create an unsanitary, unsightly, offensive condition detrimental to any other Lot or its occupants. All trash, garbage and rubbish shall be kept in sanitary containers. Sanitary containers shall be stored in areas as determined by the Board, and shall be placed on the curb for removal and moved from the curb after pick-up during the hours prescribed by the Board.

**Section 10. Nuisance.**

No noxious, illegal, or materially offensive activities shall be carried out or conducted within any Lot or the Common Area or in any part of the development, nor shall anything be done within the Development which shall unreasonably interfere with any other resident's right to quiet enjoyment. No Owner or occupant of a Residence may use or allow the use of the Residence or any portion of their Lot in any way or for any purpose which may endanger the health or unreasonably annoy or disturb other Owners or occupants of the Lots; or in such a way as to constitute, in the sole opinion of the Board, a nuisance. Nothing herein, however, shall be construed to affect the rights of an aggrieved owner to proceed individually for relief from interference with his or her property or personal rights.

Except as otherwise provided herein, nothing shall be altered or constructed in or removed from the Common Area except upon the written consent of the Board or an architectural committee appointed by the Board.

**Section 11. Unsightly or Unkept Conditions.**

The pursuit of hobbies or other activities, including without limitations, the assembly and/or disassembly of motor vehicles and other mechanical devices, which might tend to cause disorderly, unsightly, unkept or unsightly conditions, shall not be pursued or undertaken on any part of a Lot, or within any part of the Development property.

**Section 12. Dangerous Use of Separate Interest.**

No Lot or Improvement situated thereon shall be occupied or used for any purpose or in any manner which shall cause such improvement to be uninsurable against loss by fire or the perils of the extended coverage endorsement to the California Standard Fire Policy form, or cause any such policy or policies representing such insurance to be canceled or suspended, or the company issuing the same to refuse renewal thereof.

**Section 13. Responsibility for Damage to the Common Area.**

Each Owner shall be legally liable to the Association for all damage to the Common Area caused by such Owner, his or her licensee(s), tenants, and/or any occupant of such Owner's Lot, including but not limited to the recreational and club facilities and landscaping thereon. In the event, after written request by the Board, the Owner fails to pay the Association for the damage caused by the Owner, his or her Licensee(s) or any occupant of such Owner's Separate Interest as such liability may be determined under California law, the Board, by majority vote, may specially assess the Owner in the same manner and with the same remedies as previously described in these Governing Documents.

**Section 14. Trees, Hedges and Fences.**

All trees, hedges, shrubs, flowers or grass growing on a Lot shall be maintained and cultivated so that insects, pests and/or diseases shall not be a menace to other vegetation or surrounding properties, and shall be maintained in a neat and attractive manner. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways shall be permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 215 feet from the intersection of the street lines, or in the case of a rounded property corner from the intersection of any lot within 10 feet from the intersection of a street property line with the edge of the driveway or alley pavement. No trees shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at a sufficient height to prevent obstruction of such sight lines. No fence, wall, hedge or shrub which makes travel upon the streets, roads and sidewalks within the Properties unreasonably unsafe, as determined by the Board, shall be permitted.

**Section 15. Use Of Common Area.**

Except as otherwise provided herein, the Common Area shall be improved and used only for the following purposes:

- (A) Recreational use by the Owners and occupants of Residences in the Development and their guests, subject to rules established by the board;

(B) parking of automotive passenger vehicles in areas provided therefor as may be designated and approved by the Board, upon such terms and conditions as may from time to time be determined by the Board;

(C) no part of the Common Area shall be obstructed so as to interfere with the use for the purposes hereinabove permitted, nor shall any part of the Common Area be used for storage purposes (except as incidental to one of such permitted uses or for storage of maintenance equipment used exclusively to maintain the Common Area).

(D) no Owner shall make any alteration or improvement to the Common Area, or remove any plants, structure, furnishings or other object therefrom, except with the prior written consent of the Board. Each Owner shall be liable to the Association for all damage to the Common Area or to any improvements thereon or thereto. Including, but not limited to, buildings, recreational and club facilities and landscaping, caused by such Owner or any guest or occupant of such Owner's Residence.

**Section 16. Window Covers.**

Curtains, drapes, shutters or blinds may be installed as window covers. No window shall be covered with aluminum foil or similar material. The Board shall have the power to make reasonable rules regarding window coverings which are visible from the exterior of the Residence.

**Section 17. Compliance with Governing Documents.**

Each owner and his or her lessee, licensees, residents, occupants or guests of a Residence shall comply with the provisions of this Declaration, the Bylaws, and the Rules and Regulations of the Association, which may be amended from time to time. Failure to comply with any such provisions, decisions, or resolutions, shall be grounds for an action to recover sums due, for damages, or for injunctive relief, or for any other remedy permitted by law or permitted by the terms of this Declaration.

**Section 18. No Exterior Clotheslines.**

No exterior clotheslines shall be erected or maintained and there shall be no outside drying or laundering of clothes in a manner which is visible from any neighboring Lot or the Golf Course.

**Section 19. Machinery and Equipment.**

No machinery or equipment of any kind shall be placed, operated or maintained upon or adjacent to any Lot, except such machinery or equipment as is usual or customary in connection with the use, maintenance or repair of the Lot and the structures located thereon.



**Section 20. Diseases and Pests.**

No Owner shall permit any thing or condition to exist within his or her Lot or on the Common Area which shall induce, breed, or harbor infectious plant diseases, rodents or noxious insects.

**Section 21. Children.**

Each Owner and resident shall be accountable to the remaining Owners and residents, their families, visitors, guests and invitees, for the conduct and behavior of his or her children, and any children temporarily residing in or visiting the Owner or resident, and for any property damage caused by such children.

**Section 22. Daycare.**

No Lot or Residence located thereon shall be used for the purpose of providing daycare services, unless the Owner of such Lot submits the following documentation to the Board prior to the commencement of such services:

(A) Proof of liability insurance, bond, or an appropriate affidavit in lieu of such insurance, in the amounts set forth in California Health and Safety Code Section 1597.531(a).

(B) Proof that the Association has been named as an additional insured party on the liability insurance policy or bond, in accordance with the provisions of California Health and Safety Code Section 1597.531(b).

(C) Proof of license/permit as required by California Health and Safety Code Section 1597.54

Revocation, suspension, cancellation, or the failure to renew any of the above referenced insurance, licenses or permits shall be deemed a violation of this Section. The Board shall have the right to adopt reasonable rules and regulations regarding the daycare provider's submittance of proof of the documents enumerated in Sections (A) through (C) above on a periodic basis, and the use of the Common Area and Common Facilities located thereon by the clients of the daycare provider.

**Section 23. Drainage.**

Nothing shall be done within any Lot or within the Common Area which interferes with the natural drainage of water over his or her Lot from adjoining or other Lots. If changes to the natural flow of water drainage over a Lot are necessary, the Owner of such Lot shall make adequate provisions for proper drainage. For the purposes of this Section, "natural drainage" is defined as the drainage which would naturally occur at the time the overall grading plan of the Properties, including the finish grading of each Lot, was completed by the Declarant.

**Section 24. View Rights/Fences On Golf Course Lots.**

No Owner shall construct a fence, wall or other structure which materially obstructs the view of neighboring properties or the Common Area without the prior written consent of the Board, as set forth in Article VII below. Fences constructed on Lots which are located adjacent to the Golf Course shall be no more than six feet in height, and shall be constructed of open wrought iron. A concrete block wall to maximum height of two (2) feet may be constructed, and the wrought iron fence placed on top so that the total fence does not exceed six (6) feet. Said wrought iron and block fences shall be constructed along the property common to the golf course property and along the side property lines to the point of intersection of the side property line with the rear line of the house structure produced to the side property lines.

**Section 25. Easements.**

Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded map of Tract 2283 and Tract 2137 and over the rear five (5) feet of each Lot.

**ARTICLE VII  
ARCHITECTURAL CONTROL**

**Section 1. Architectural Committee**

The Board may appoint an Architectural Committee (the "Committee") which consists of at least two (2) members, none of whom shall be required to meet any particular qualifications, except that members appointed to the Committee by the Board shall be from the membership of the Association, and a Board member shall chair the Committee. The Board may act as the Committee.

**Section 2. Duties of the Committee**

It shall be the duty of the Committee to consider and act upon any and all proposals or plans submitted to it pursuant to the terms hereof, to insure that any improvements or alterations to the Properties conform to plans approved by the Committee, to adopt Architectural Rules, and to perform other duties imposed upon it by this Declaration.

**Section 3. Architectural Committee Approval of Improvements.**

(A) Notwithstanding anything contained in this Declaration expressly or implied to the contrary, no building, fence, wall or other structure or improvement shall be constructed or maintained upon the Development, nor shall any exterior addition, change or alteration be made in, on or to the Development, or any part thereof, including patio covers, until the plans and specifications showing the nature, shape, dimensions, materials, location and dimensions of the same to the property line shall have been submitted to and approved in writing as to the harmony of design and location in relation to surrounding improvements and topography by

the Committee. The Committee shall recommend to the Board whether or not the prevention or removal of any unauthorized and unapproved constructions of Improvements should be undertaken. The Board, on behalf of the Association, may then exercise all available legal and equitable remedies to prevent or remove any unauthorized and unapproved construction of improvements on the Development property or any portion thereof.

(B) The Committee shall approve or disapprove plans submitted to it within fifteen (15) days. In the event the Committee fails to approve the submitted plans within fifteen (15) days, the applicant may send written notice, via certified mail, to the Committee advising the Committee that the plans will be deemed approved if not disapproved fifteen (15) days from the receipt of said certified letter.

(C) Once a work of improvement has been duly approved by the Architectural Committee, no material modifications shall be made in the approved plans and specifications thereof and no subsequent alteration, relocation, addition or modification shall be made to the work of improvement, as approved, without a separate submittal to, and review and approval by, the Committee. If the proposed modification will have, or is likely to have a material affect on other aspects or components of the work, the Architectural Committee, in its discretion, may order the Owner, his or her contractors and agents to cease working not only on the modified component of the Improvement, but also on any other affected component.

#### **Section 4. Meetings**

The Committee shall meet from time to time as necessary to perform its duties hereunder. The vote or written consent of a majority of the Committee Members, at a meeting or otherwise, shall constitute the act of the Committee unless the unanimous decision of the Committee is required by any other provision of this Declaration. The Committee shall keep and maintain a written record of all actions taken by it at such meetings or otherwise. Members of the Committee shall not receive any compensation for services rendered.

#### **Section 5. Architectural Rules**

The Board may, from time to time, and in its sole and absolute discretion, adopt, amend and repeal, by unanimous vote or written consent, rules and regulations, to be known as "Architectural Rules." The Architectural Rules shall interpret and implement this Declaration by setting forth the standards and procedures for Committee review and the guidelines for design and placement of improvements and/or alterations.

**Section 6. Variances.**

The Architectural Committee shall be entitled to allow reasonable variances with respect to this Article VII or any restrictions specified in Article VII in order to overcome practical difficulties, and avoid unnecessary hardships, as determined by the Architectural Committee, provided that the variance does not constitute a material deviation from the overall plan and scheme of development within the Properties, and will not result in a material detriment, or create an unreasonable nuisance, with respect to any other Lot, Common Area, or Owner within the Properties.

**Section 7. Waiver**

The approval by the Committee of any plans, drawings, or specifications for any work done or proposed, or for any other matter requiring the approval of the Committee shall not be deemed to constitute a waiver of any right to withhold or give its approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

**Section 8. Liability**

Neither the Committee nor any member thereof shall be liable to the Association, any Owner, or to any other party, for any damage, loss or prejudice suffered or claimed on account of (a) the approval or disapproval of any plans, drawings, or specifications, or (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications; provided that with respect to the liability of a member, such member has acted in good faith on the basis of actual knowledge possessed by him or her.

**Section 9. Appeal**

In the event plans and specifications submitted to the Architectural Committee are disapproved, then the Owner may appeal in writing to the Board. The written request must be received by the Board not more than thirty (30) days following the final decision of the Architectural Committee. Within forty-five (45) days following receipt of the request for appeal, the Board shall render its written decision. Failure of the Board to render a decision within the forty-five (45) day period shall be deemed a decision in favor of the applicant.

**Section 10. Approval of Applicable Public/Governmental Agencies**

The issuance of a permit, or approval by applicable public/governmental agencies of the proposed structure, improvement or alteration shall be independent of, and shall not be construed as, approval of the Architectural Committee of such structure, improvement or alteration.

**ARTICLE VIII  
RENTAL/LEASING OF LOTS**

**Section 1. Definition**

Rental or lease, for purposes of this Declaration, shall mean the regular, exclusive occupancy of a Residence by any person or persons other than the Owner, for which the Owner receives any consideration or benefit, including, but not limited to, a fee, service, gratuity, or emolument.

**Section 2. Rental/Lease Provision**

All leases/rental agreements within the Properties shall be in writing and shall be governed by the following provisions:

(A) *Notice.* At least seven (7) days prior to renting/leasing a Lot, the Owner of the Lot shall provide the Board with the name, address and phone number of the proposed lessee/tenant, and such other information as the Board may reasonably require.

(B) *Liability for Assessments and Compliance With Declaration, Bylaws, and Rules and Regulations.* Any lease/rental agreements shall contain the following language, and if such language is not expressly contained therein, then such language is deemed to be and shall be incorporated into a lease/rental agreement by existence of this covenant. Any tenant, by occupancy in a Residence, agrees to the applicability of this covenant and incorporation of the following language and terms into the lease/rental agreement:

1. *General.* Lots may be rented/leased only in their entirety; no fraction of portion may be rented. The Owner shall distribute copies of the Declaration, Bylaws, and the Rules and Regulations to the tenant/lessee at the Owner's expense.

2. *Liability for Assessments.* No Lot shall be leased until the Owner or that Lot has paid all fines, fees, special and regular assessments to the Association in full. If such payments have not been made, the Board may request in writing that the tenant/lessee pay to the Association all unpaid regular and special assessments, but not to exceed the rental payments unpaid at the time of the Association's request. All such payments thus made shall reduce the tenant's obligation to Lessor by like amount. Payment of assessments shall be deemed necessary for maintenance of the habitability of the Residence.

3. *Compliance with Declaration, Bylaws and Rules and Regulations.* Each Tenant/lessee, guests of such tenant/lessee, and occupants shall abide by and comply with all provisions of the Declaration, Bylaws, and Rules

and Regulations adopted pursuant thereto, as they may be amended from time to time, and the violation of same shall constitute a default under such lease/rental agreement. If a tenant/lessee, occupant or guest violates the Declaration, Bylaws, or a Rule or Regulation for which a fine is imposed, such fine shall be the joint responsibility of the Owner and tenant. Unpaid fines constitute a Special Individual/Reimbursement Assessment as defined in Article V, Section 5.

4. *Use of Common Elements.* The Owner transfers and assigns to the tenant/lessee, for the term of the lease/rental agreement, any and all rights and privileges that the Owner has to use the common elements, including, but not limited to, the use of any and all recreational facilities and other amenities.

(C) *Existing Leases.* Leases/rental agreements existing on the effective date of this Declaration shall be permitted to continue in accordance with the terms of the Declaration as it existed prior to the effective date of this Amended and Restated Declaration. However, any assignment, extension, renewal, or modification of any lease/rental agreement, including, but not limited to, changes in the terms or duration of occupancy, shall be considered a termination of the old lease and commencement of a new lease which must comply with this Article VIII.

## ARTICLE IX PROHIBITION OF TIMESHARES

**Section 1. Timeshare Prohibition.** Timeshare projects, timeshare estates, timeshare programs and timeshare uses as defined pursuant to Section 11003.5 of the California Business and Professions Code are prohibited, and Timeshares and Timeshare Programs as defined in this section are prohibited.

(A) For the purpose of this section, the term "Timeshare Program" shall include and not be limited to any arrangement, plan, scheme, or similar device, whether by membership, agreement, tenancy in common, sale, lease, deed, rental agreement, license, right-to-use agreement, or by any other means, whereby a Timeshare Interval is created and whereby the use, occupancy or possession of an Accommodation, Lot, Improvement, single-family dwelling, within such use,

occupancy or possession circulates among purchasers of the Timeshare Interval according to a fixed or floating time schedule on a periodic basis occurring annually over any period of time in excess one (1) year in duration.

(B) For the purpose of this section, the term "Timeshare Use" means any contractual right of exclusive occupancy, whether fixed for a specific time period or not, which does not fall within the definition of a "Timeshare Estate," including, without limitation, a vacation license, prepaid hotel reservations, club membership, limited partnership, trust agreement, or vacation bond.

**Section 2. Multiple Ownership Restrictions.** Ownership of a Lot as tenants in common, joint tenants or any other form of multiple ownership by more than four (4) persons or entities is not permitted without prior written approval of the Board. Four persons shall include four individual persons, two couples, one couple and two individual persons, or any other combination which totals four persons.

## **ARTICLE X MAINTENANCE RESPONSIBILITIES**

### **Section 1. Common Area and Recreational Area.**

The Association shall be solely responsible for all maintenance, repair, upkeep and replacement of the Common Area, including the Recreation Area, club facilities and landscape located thereon. No person other than the Association or its duly authorized agents shall construct, refinish, alter or maintain any Improvement upon, or shall create any excavation or fill or change the natural or existing drainage of any portion of the Common Area. In addition, no person shall remove any tree, shrub or other vegetation form, or plant any tree, shrub, or other vegetation upon the Common Area or the Recreational Facilities or Club Facilities without prior written approval of the Association.

### **Section 2. Owner Maintenance Responsibilities.**

Each Owner shall be responsible for the maintenance, replacement and repair of his or her Lot and all improvements, buildings and structures thereon, including the Residence, landscaping, any fence, wall deck, patios, and drains located on his or her Lot. Each Owner shall maintain the exterior of his or her residence and landscaping located thereon in a neat, clean and attractive condition, as determined by the Board. The cost of repair, maintenance and replacement of walls, fences or other structures which are placed on the boundary line between tow lots shall be borne equally by the Owners of each Lot.

**Section 3. Failure of Owner to Carry Out Maintenance Responsibilities.**

In the event that the Owner of a Lot fails to perform his or her maintenance responsibilities, the Board shall have the right but not the obligation, through itself or its agents, to enter onto the Lot in accordance with Article IV, Section 3, and 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 Special Individual/Reimbursement Assessment against such Owner in the amount equal to all direct and indirect costs and expenses incurred by the Board in its performance of such maintenance and/or repairs. Any claim against the Board shall not constitute a defense or offset in any action of the Board for nonpayment of any amounts which may have been assessed hereunder.

**Section 4. Liability for Damage**

Owners shall be responsible to the Association for repairs necessitated by the act(s) and/or negligence of the Owners, his/her licensees, residents, tenants, occupants or guests. The Owner shall be liable for any damage to the Common Area or additional maintenance costs incurred due to the act or negligence of the Owner.

At the discretion of the Board, damages incurred under this section may be levied as a Special Individual/Reimbursement Assessment against the Owner's Separate Interest.

**Section 5. Cooperative Maintenance Obligation.**

To the extent necessary or desirable to accomplish the Association's maintenance obligations hereunder, individual Owners shall cooperate with the Association and its agents and maintenance personnel in the execution of its work.

**ARTICLE XI  
AMENDMENTS**

**Section 1. General**

This Declaration may be amended at any time and from time to time by the vote or written consent of a majority of the total voting power of the Association. Any amendments shall be effective upon the recording thereof with the Office of the County Recorder of Riverside County, California.

**Section 2. Reliance On Amendments**

Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.



## ARTICLE XII INSURANCE

### Section 1. Types of Insurance Coverage.

(A) *Fire and Casualty Insurance.* The Association shall obtain and continue in effect a policy of fire and casualty insurance naming as parties insured the Association and any Mortgagee of the Common Area, and containing the standard extended coverage and replacement cost endorsements and such other or special endorsements as will afford protection and insure, for the full insurable, current replacement cost (Excluding foundations and excavation, but without deduction for depreciation) as determined annually by the insurance carrier, all Common Facilities and the personal property of the Association for or against the following:

1. Loss or damage by fire or other risks covered by the standard coverage endorsement;
2. Loss or damage from theft, vandalism or malicious mischief; and
3. Such other risks, perils or coverage as the Board of Directors may determine.

Such policy or the endorsement made a part thereof shall, to the extent available, provide that the insurer issuing the policy agrees to abide by the decision of the Association made in accordance with the provisions of Article XIV of this Declaration as to whether or not to repair, reconstruct or restore all or any damaged or destroyed portion of the Common Facilities.

(B) *General Liability For Full Extended Coverage.* The Association shall obtain and continue in effect general liability insurance against any liability for personal injury and/or property damage occurring in the Common Area, including but not limited to, vandalism and malicious mischief. The limits of such insurance shall not be less than \$1,000,000.00 for death or injury to any one person and \$2,000,000.00 for death or injury to more than one person in any one occurrence, and \$100,000.00 for property damage in any one occurrence, or any amount greater as determined by the Board from time to time.

(C) *Fidelity Bond.* If any first mortgagee shall so request, or should the Board determine appropriate, a fidelity bond covering officers and employees, and employees of any manager or managing agent naming the Association as obligee and written in an amount not less than 100% of each year's estimated annual operating expenses and reserves and shall contain an endorsement of any person who may serve without compensation. The Board shall purchase and maintain such insurance on personal property owned by the Association and any other insurance, including officers and directors liability insurance, that it deems necessary or desirable.

(D) *Workers' Compensation.* If necessary, the Board shall obtain and continue in effect workers compensation coverage in and for amounts satisfactory to the Board, but without prejudice to the right of the Owner of a Lot to obtain individual insurance.

(E) *Other Insurance.* The Board shall have the right to obtain other insurance of type and in the amount deemed reasonable by the Board, including, but not limited to Directors' and officers' insurance.

Insurance premiums for the above-described insurance policies shall be a common expense to be included in the annual assessments levied by the Association. All insurance policies shall require the insurer(s) to provide at least ten (10) days written notice prior to any cancellation or increase in premiums, and shall contain a waiver of subrogation by the insurer(s) against the Association, Board and Owners.

**Section 2. Owner's Liability Insurance.**

It is strongly recommended that each Owner maintain whatever personal liability and property damages liability insurance that he or she desires with respect to his or her Lot, and the improvements located thereon.

**ARTICLE XIII  
DESTRUCTION OF IMPROVEMENTS**

**Section 1. Insurance Proceeds Sufficient.**

In the event of damage to or the partial destruction of the Common Area and improvements located thereon, and if the available proceeds of the insurance are sufficient to cover not less than eighty-five percent (85%) of the cost of repair or reconstruction thereof, the damaged or destroyed improvements shall be promptly repaired and rebuilt unless, within ninety (90) days from the date of such damage or destruction, at a duly constituted meeting of the Association, Owners representing seventy-five percent (75%) of the total voting power of the Association determine that such repair and reconstruction shall not take place.

**Section 2. Insurance Proceeds Insufficient.**

If the available proceeds of such insurance are less than eighty-five percent (85%) of the cost of repair or reconstruction, such repair or reconstruction may nevertheless take place if, within ninety (90) days from the date of such damage or destruction, Owners representing a majority of the total voting power of the Association so elect at a duly constituted meeting of the Association. If the Board is unable to obtain sufficient participation at such meeting, the Board shall have the right to petition the Superior Court of Riverside County to allow it to rebuild without a majority approval of the Membership.

**Section 3. Assessment.**

If the Owners determine to rebuild, each Owner shall be obligated to contribute such funds as may be necessary to pay his or her proportionate share of the cost of construction, over and above the insurance proceeds, and the proportionate share of each Owner shall be the same as his or her proportionate share of regular and Special Assessments. In the event of the failure or refusal of any Owner to make his or her proportionate contribution, the Board may levy a special assessment against such Owner, and enforce such assessment as provided in Article V.

**Section 4. Failure to Rebuild.**

If a majority of the Owners do not agree to the repair or rebuilding of the Common Area, then each Owner (and his or her Mortgagee(s) as their respective interests shall then appear) shall be entitled to receive that portion of insurance proceeds equal to the proportion of the decrease in fair market value of his or her Lot as compared to the aggregate decrease in fair market values of all the Lots caused by such damage or destruction. For purposes hereof, fair market value shall be determined by a qualified real estate appraiser selected by the Board and hired by and at the expense of the Association. Should a dispute arise as to the distribution of insurance proceeds, the dispute shall be decided by arbitration by the American Arbitration Association pursuant to its Commercial Rules of Arbitrations.

**Section 5. Repairs of Common Area.**

Any reconstruction undertaken pursuant to the foregoing provisions shall cover only the exterior and structural components of the damaged or destroyed common area, and such other damage to the common area as may be covered by insurance maintained by the Association.

**Section 6. Arbitration.**

In the event of a dispute among the Owners with respect to the provisions of this Article, any Owner may cause such dispute to be referred to arbitration in accordance with the then prevailing rules of the American Arbitration Association. In the event of arbitration, written notice thereof shall be given to the Board and all other Owners within ten (10) days after reference to arbitration, and all Owners shall have an opportunity to appear in such arbitration proceedings. The decision of such arbitrator shall be final and conclusive upon all Owners. The arbitrator may include in his or her decision an award for costs and/or attorneys' fees against any one or more parties to the arbitration.

## **ARTICLE XIV CONDEMNATION**

If any portion of the Common Area is taken by condemnation, eminent domain or any proceeding in lieu thereof, the award or consideration for such taking or transfer shall be paid to the Association, and Mortgagees, if any, of the Common Area, in proportion to the interest of each in the Common Area. Such sums received shall not be disbursed to individual Lot Owners (or Mortgagees of each Lot, if applicable), except equally among each Owner (or his or her respective Mortgagee). In the event of damage or destruction to the Common Area, a decision to repair or rebuild the Common Area shall be made in the same manner and subject to the same conditions and limitations as provided above in Article XIII for determining whether to rebuild or repair following damage or destruction.

## **ARTICLE XV RIGHTS OF LENDERS**

### **Section 1. Written Notification to First Lenders.**

The holder of a first Mortgage ("First Lender") encumbering a Separate Interest shall be entitled, upon request made to the Board, to written notification from the Board of any default by the Owner in the performance of such Owner's obligations under the Association's Governing documents which are not cured within sixty (60) days after such obligation becomes due.

### **Section 2. Liability for Unpaid Assessments.**

Any First Lender (First Trust Deed Holder) who obtains title to a Lot pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage shall not be liable for unpaid assessments or charges against the Lot which accrue prior to the acquisition of title to said lot by the First Lender.

### **Section 3. Miscellaneous Provisions for Protection of Mortgagees.**

(A) First Lenders shall have the right to examine the books and records of the Association upon prior written notification to the Board.

(B) First Lenders may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any portion of the Common Area and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, with respect to the Common Area and First Lenders making such payment shall be owed immediate reimbursement therefore from the Association.

(C) No provision herein or in any of the governing documents shall give an Owner or any other party, priority over any rights of First Lenders pursuant to their Mortgage in the case of distribution to Owners of insurance proceeds or condemnation awards for losses to or a taking of Common Area.

(D) An adequate reserve fund for maintenance, repairs and replacement of those elements of the Common Area that must be replaced on a periodic basis shall be established by the Association, and shall be funded by annual Regular Assessments rather than by Special Assessments.

**Section 4. Violation of Covenants.**

No breach of the Covenants, Conditions or Restrictions herein contained, nor the enforcement of any lien provisions herein, shall defeat or render invalid the lien of any Mortgage made in good faith and for value, but all of such Covenants, Conditions and Restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure at a trustee's sale.

**Section 5. Conflicts.**

If there is any conflict between any provision of this Article and any other provision in this Declaration, the Bylaws, or the Association's Rules and Regulations, the provisions of this Article shall control. No amendment to this Article shall affect the rights of a Mortgagee whose Mortgage was recorded prior to the recording of the amendment, unless the Mortgagee shall join in the execution of or consent in writing to the amendment.

**ARTICLE XVI  
ANNEXATION**

**Section 1. Annexation of Additional Property**

Additional real property may be annexed to the Properties and may become subject to the Governing Documents, as set forth in Section 1 herein, upon the approval by vote or written consent of the Owners of at least a majority of the voting power of the Association.

**Section 2. Declaration of Annexation.**

The additions authorized under Section 1 shall be made by recording a Declaration of Annexation, or other similar instrument, of the added territory. The Declaration of Annexation shall be executed by the President of the Association, or other officer as the Board may designate, who shall certify that the percentage of approval required in Section 1 herein was obtained. Upon the recording of the Declaration of Annexation, the newly annexed territory shall become subject to the general plan and scheme of covenants, conditions and restrictions as set forth in the Governing Documents, and shall

Become subject to the jurisdiction of the Association. The Owners of property within the annexed territory shall automatically become Members of the Association. The rights and obligations of the parties set forth in the Governing Documents with respect to the annexed territory shall be the same as with respect to the Properties originally subject to these Governing Documents.

**Section 3. Supplemental Declaration.**

A Declaration of Annexation as described in Section 2 herein may contain a Supplemental Declaration with such additions or modifications of the covenants, conditions and restrictions contained in this First Restated Declaration as may be required to reflect the distinct character of the annexed territory. Such supplemental covenants, conditions and restrictions shall not be inconsistent with the general plan and scheme of this First Restated Declaration, and shall not revoke, add to or modify the provisions contained in this First Restated Declaration.

**ARTICLE XVII  
GENERAL PROVISIONS**

**Section 1. General Duties and Powers.**

The Association shall have all those duties and powers set forth in this Declaration, the Articles and Bylaws of the Association or permitted pursuant to the provisions of the California *Corporations Code* for nonprofit mutual benefit corporations. All such duties and powers shall be subject to any specific limitations set forth in this Declaration, the Articles or Bylaws of the Association. All such duties and powers shall be exercised by the Board unless specifically reserved to the Members.

**Section 2. Association Rules.**

Pursuant to the authority of the Board described above, the Board shall have the Power to adopt or repeal such Rules and Regulations as it deems reasonable. These Rules and Regulations may include the establishment of a system of fines and penalties enforceable by Special Assessment. A copy of such Rules and Regulations shall be distributed to the Members in the same manner established in the Bylaws for notice to Members of annual or special meetings. Upon completion of the above notice requirement the Rules and Regulations shall have the same force and effect as if they were set out in this Declaration.

**Section 3. Enforcement.**

The Association and any Owner shall have the right to enforce, by any proceeding at law or in equity, the provisions of this Declaration. Failure by the Association or any Owner to enforce any provision of this Declaration shall not be deemed a waiver of the right to do so thereafter.

**Section 4. Litigation.**

In the event the Association, or any Owner, shall commence litigation to enforce any of the covenants, conditions or restrictions herein contained, the prevailing party in said action shall be entitled to actual attorney's fees and costs reasonably incurred.

**Section 5. Owners'/Lessee's Compliance.**

Each Owner, lessee, licensee, guest, resident and occupant of a Lot shall comply with the Provisions of this Declaration, the Bylaws, the Rules and Regulations and decisions and resolutions of the Association or its duly authorized representative. Failure to comply with any such provisions, decisions or resolutions shall be grounds for an action to recover sums due for damages and/or for injunctive relief.

**Section 6. Notices.**

Any notice to be given an Owner or Mortgagee under the provisions of this Declaration shall be in writing and may be delivered personally or by first class mail, postage prepaid to the latest recorded address in the business records of the Association.

**Section 7. Extension of Declaration.**

Each and all these Covenants, Conditions and Restrictions shall terminate on December 31, 2043, after which date they shall automatically be extended for successive periods of the (10) years unless the Owners have executed and recorded at any time within six (6) months prior to December 31, 2043; or within six (6) months prior to the end of any such ten (10) year period, in the manner required for a conveyance of real property, a writing in which it is agreed that said restrictions shall terminate on December 31, 2043, or at the end of such ten (10) year period.

**Section 8. Limitation of Liability.**

In discharging its duties and responsibilities, the Board acts on behalf of and as representative of the Association which acts on behalf of and as representative of the Owners of Lots. No member of the Board shall be individually or personally liable or obligated for performance or failure of performance of such duties or responsibilities unless he or she fails to act in good faith.

**Section 9. Liberal Interpretation of Declaration.**

The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the operation of the Development for the mutual benefit of all Owners.

**Section 10. Cumulative Remedies.**

Each and all legal or equitable remedies provided for herein shall be deemed to be cumulative.

**Section 11. Indemnification.**

Every director and every officer past or present of the Association shall be indemnified by the Association against expenses and liabilities, including reasonable attorney's fees and costs incurred or imposed upon him or her in connection with any proceeding in which such director or officer may be a party, or in which such officer or director may become involved, by reason of his or her being or having been, a director or an officer of the Association, or any settlement thereof, except in such cases wherein the director or officer is adjudged guilty of gross negligence or malfeasance in the performance of his or her duties. Indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

**Section 12. Violation of Law.**

Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of the Development or any part thereof is hereby declared to be a violation of this Declaration and subject to any or all of the enforcement procedures set forth herein.

**Section 13. Owner Assessment Payments.**

Unless otherwise directed in writing by the Owners, assessment payments shall be applied as follows: Fines, Attorney's Fees, Late charges, Interest, Special Individual/Reimbursement Assessments, Special Assessments, Regular Assessments.

**Section 14. Partial Invalidity.**

The invalidity or partial invalidity of any provision of this Declaration shall not affect the validity or enforceability of any other provision.

**Section 15. Number; Gender.**

The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine or neuter, as the context requires.

**Section 16. Severability.**

Invalidation or reformation of any one of these covenants or restrictions by judgment or court order or otherwise shall in no way affect the application of such provisions to other circumstances(s) which shall remain in full force and effect.



**Section 17. Successors and Assigns.**

This Declaration shall be binding upon and shall endure to the benefit of all heirs, personal representatives, successors, assigns, personal representatives, grantees, lessees, licensees and renters of Owners.

**Section 18. Waiver or Breach of Declaration.**

No waiver or any breach of any covenants or conditions of this Declaration shall constitute a waiver or any succeeding or preceding breach of the same, or any other covenant or condition herein contained.

**Section 19. Joint and Several Liability.**

In the case of Joint Ownership of a Lot, the liability of each Owner and the Owners thereof in connection with the liabilities and obligations of the Owners, set forth in or imposed by this Declaration shall be joint and several.

**Section 20. Encroachment Easements.**

The Owner of each Lot is hereby granted an easement over all adjoining Lots for the purpose of accommodating any minor encroachments due to engineering errors, errors in original construction, settlement or shifting of any building, or any other cause. There shall be easements for the maintenance of said encroachments as 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, provided, however, that in no event shall an easement for encroachment be created in favor of any Owner if said encroachment occurred due to the willful misconduct of an Owner. In the event of any portion of a structure on the property is partially or totally destroyed and then repaired or rebuilt, each Owner agrees that minor encroachments over adjoining Lots shall be easements for the maintenance of said encroachments so long as they shall exist.

**Section 21. Conflicts.**

If there are conflicts or inconsistencies between the provisions of California law, this declaration, the Articles of Incorporation, the Bylaws and the Rules and Regulations, the provisions of California laws, the Declaration, the Articles of Incorporation, the Bylaws and the Rules and Regulations (in that order) shall prevail.


**CERTIFICATE OF AMENDMENT**

I am the President/Secretary of PALM DESERT COUNTRY CLUB ASSOCIATION ("Corporation"), a California nonprofit mutual benefit corporation. The foregoing First Restated Declaration of Covenants, Conditions & Restrictions ("Declaration") for the Corporation was approved by the members of the Corporation in accordance with Article D, Section D-1 of the Declaration of Restrictions for Tracts 2283 and 2137.

**PALM DESERT COUNTRY CLUB  
ASSOCIATION**

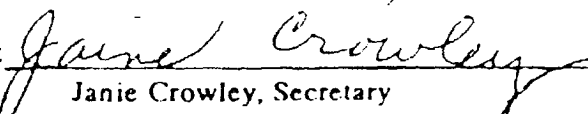
Dated: November 30, 1994

By:

  
Gerald Oldenburg, President

Dated: November 30, 1994

By:

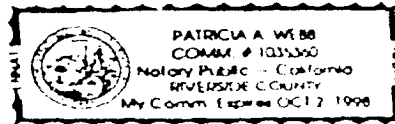
  
Janie Crowley, Secretary

STATE OF CALIFORNIA }  
COUNTY OF RIVERSIDE } ss

On November 30, 1994, before me, a Notary Public of the State of California, personally appeared, Gerald Oldenburg, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me to be the person who executed the within document in his/her capacity as President of the Corporation, and that by his/her signature on the instrument on behalf of the Corporation executed the instrument.

WITNESS my hand and official seal.

Signature Patricia A. Webb (Seal)

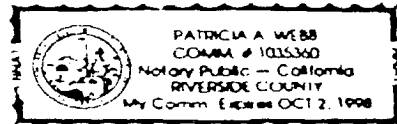


STATE OF CALIFORNIA }  
COUNTY OF RIVERSIDE } ss

On November 30, 1994, before me, a Notary Public of the State of California, personally appeared, Jaine Crowley, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me to be the person who executed the within document in his/her capacity as Secretary of the Corporation, and that by his/her signature on the instrument on behalf of the Corporation executed the instrument.

WITNESS my hand and official seal.

Signature Patricia A. Webb (Seal)



**EXHIBIT "A"**

Lots 8 to 122, inclusive, Lots 131 to 189, inclusive, Lots 200 to 295, inclusive, Lots 302 to 449, inclusive, Lots 453 to 465, inclusive, Lots 467 to 500, inclusive, all in Tract 2283, as per map recorded in Book 42, Pages 82 to 89, inclusive, Official Records of County of Riverside, State of California.

Lots 18 to 26, inclusive, Lots 28 to 70, inclusive, Lots 74 to 198, inclusive, Lots 200 to 260, inclusive, Lots 262 to 404, inclusive, Lots 407 and 452, inclusive, and Lots 454 to 470, inclusive, all in Tract 2137, as per map recorded in Book 41, Page 29 to 36, inclusive, Official Records of County of Riverside, State of California.

Lot 3 and Lots 12 to 17, inclusive, all in Tract 2137, as per map recorded in Book 41, Pages 29 to 36, inclusive, Official Records of Riverside, State of California.

