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Declaration of Covenants, Conditions and Restrictions (Restated)

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS (RESTATED)

THIS DECLARATION made on the date hereinafter set forth by PEACOCK VALLEY COMPANY, a limited partnership, hereinafter referred to as "Declarant."

W I T N E S S E T H

WHEREAS, Declarant is the owner of certain property in the City of Banning, County of Riverside, State of California, which is more particularly described as:

PEACOCK VALLEY UNIT NO. 1, Lots 1 through 187 inclusive, and Lots 189, "A", "I" and "J" of Tract 12428 as shown by Map on file in Map Book 101 Pages 96, 97, 98, 99 and 100 Records of Riverside County, California.

NOW THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each Owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to PEACOCK VALLEY HOMEOWNERS ASSOCIATION, its successors and assigns.

Section 2. "Owner" shall mean and refer to the record Owner, whether one (1) or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinabove described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association (including improvements thereto) for the protection, common use and enjoyment of the Owners.

The Common Area to be owned by the Association at the time of the conveyance of the first Lot is described as follows:

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Lots 189, "A", "I" and "J" of Tract 12428 as shown by Map on file in Map Book 101, Pages 96 to 100, Records of Riverside County, California.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 6. "Declarant" shall mean and refer to PEACOCK VALLEY COMPANY, a limited partnership, its successors and assigns, if such successors or assigns should acquire more than one (1) undeveloped Lot from the Declarant for the purpose of development.

Section 7. "First Trust Deeds" shall mean and refer to first trust deeds or mortgages encumbering any Lot(s) or the Common Area.

Section 8. "Bylaws" shall mean and refer to the Association's Bylaws.

ARTICLE II

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of ingress and egress and of enjoyment in and to the Common Area which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

(a) The right of the Association to suspend the voting rights and right to use of the Common Area by an Owner for any period during which any assessment against his Lot remains unpaid; and for a period of not to exceed thirty (30) days for any infraction of its published rules and regulations after reasonable written notice and an opportunity for a hearing before the Board of Directors of the Association.

(b) The right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3) of each class of members, agreeing to such dedication or transfer, has been recorded and paragraph (c) next-following has been fully complied with.

(c) Except for granting easements for utilities and similar purposes, the Association shall not alienate, release, transfer, hypothecate or otherwise encumber the Common Area and facilities thereon without the approval of all First Trust Deed holders encumbering the Lots.

Section 2. Delegation of Use. Any Owner may delegate, in accordance with the Bylaws, his right of enjoyment of the Common Area and facilities to

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the members of his familiy, his tenants or contract purchasers who reside on his Lot.

ARTICLE III

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every Owner of a Lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment. Transfer of a Lot will automatically transfer membership to this Association.

Section 2. The Association shall have two (2) classes of voting membership:

Class A. The Class A members shall be all Owners, with the exception of the Declarant (while Class B membership is in existence), and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant who shall be entitled to three (3) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) Two (2) years from the original date of issuance by the California Department of Real Estate of a Final Subdivision Public Report for the Properties.

Whenever there is no Class B membership, provisions of this Declaration which require action by both classes of the voting membership shall require the stated action by Class A members only.

ARTICLE IV

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties, hereby covenants, and each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement, maintenance, and protection of the Common Area.

Section 3. Annual Assessments.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the annual assessment may be increased each year not more than twenty percent (20%) above the assessment for the previous year without the vote or written assent of a majority of the voting power of the Association residing in members other than the Declarant.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an Owner, the annual assessment may be increased by more than twenty percent (20%) above the assessment for the previous year by the vote or written assent of fifty-one percent (51%) of each class of members.

(c) The Board of Directors of the Association may fix the annual assessment at an amount not in excess of the maximum.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, or other purposes provided that any such assessment shall have the vote or written assent of fifty-one percent (51%) of each class of members.

Section 5. Notice and Quorum for Any Action Authorized Under Sections 3 and 4. Any action authorized under Section 3 or Section 4 shall be taken at a meeting called for that purpose, written notice of which shall be sent to all Association members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting. A quorum for such meeting shall be fifty-one percent (51%) of each class of members.

If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (½) of the required quorum for the preceding meeting. If the proposed action is favored by a majority of the votes cast at such meeting but such vote is less than the requisite fifty-one percent (51%), members who were not present in person or by proxy may give their assent in writing, provided the same is obtained by the appropriate officers of the Association not later than thirty (30) days from the date of such meeting.

Section 6. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments. Due Dates. The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the closing of the first sale of a Lot by Declarant. The first annual assessments shall be adjusted according to the number of months remaining in the calendar year. The Association's Board of Directors shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot shall be binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum. The Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property. No Owner may waive or otherwise escape liability for the fees and assessments provided for herein by non-use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to First Deeds of Trust and to First Mortgages. The Lien of the assessments provided for herein shall be subordinate to the lien of any first deed of trust or first mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to foreclosure or deed in lieu of foreclosure shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Exempt Property. All properties dedicated to and accepted by a local public authority, and all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of California shall be exempt from the fees and assessments created herein; provided, however, no land or improvements devoted to dwelling use shall be exempt from said assessments.

Section 11. Reserve Fund. The annual budget of the Association shall include an amount sufficient to establish an adequate reserve fund for replacement of the Common Area improvements and the regular annual assessment amount shall provide therefor.

ARTICLE V

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

In the event an Owner of any Lot in the Properties commences but fails to complete construction of any such building, fence, wall or other structure in a manner satisfactory to the Board of Directors within one hundred eighty (180) days of commencement thereof, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right at its election, through its agents and employees, to enter upon said Lot and to remove any work in progress and restore the Lot and the exterior of the buildings or to complete the construction commenced by Owner. The cost of such removal and restoration or completion shall be added to and become part of the assessment to which such Lot is subject.

ARTICLE VI

MAINTENANCE BY OWNERS

In the event an Owner of any Lot in the Properties shall fail to maintain the premises and the improvements situated thereon in a manner satisfactory to the Board of Directors, the Association, after approval by two-thirds (2/3) of the Board of Directors, shall have the right through its agents and employees, to enter upon said Lot and to repair, maintain and restore the Lot and the exterior of the building and any other improvements thereon. The cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject. There shall be no entry into a dwelling unit without the express consent of the Owner or without a court order allowing such entry.

ARTICLE VII

DUTIES AND POWERS OF THE ASSOCIATION

Section 1. Powers and Duties. In addition to the duties and powers enumerated in the Articles of Incorporation and Bylaws or elsewhere provided for herein, and without limiting the generality thereof, the Association shall provide the following:

(a) Payment of taxes and assessments, if any, levied or assessed against the Common Area, or levied and assessed against any Lot if resulting in a lien against the Common Area; and any other lien or encumbrance which affects the Common Area, including but not limited to mechanic's liens. Such taxes, assessments, liens or encumbrances which shall be paid by the Board of Directors from the maintenance fund, however, shall not include any levied or assessed against or which affect merely the interest of one (1) or more (but less than all) of the Lots and not the interest of all the Owners; the Board of Directors shall levy a special assessment against any Lot for the amount of such tax, assessment, lien or encumbrance which applied specifically to such Lot to the extent the amount is separately determinable. The costs referred to herein shall be added to the assessment of an Owner subsequent hereto.

(b) Procure, maintain and periodically review for adequacy fire and hazard insurance as required for the Common Area, liability insurance insuring against any liability to the public or to the Owners, their invitees, guests and tenants incident to the ownership or use of the Common Area in an amount of not less than $300,000.00 bodily injury and property damage, naming the Association and the Owners as insureds; Workmen's Compensation Insurance as required; and faithful performance and fidelity bonds to insure against any loss from malfeasance or dishonesty of all officers or employees of the Association receiving, disbursing or having possession of Association funds. All such policies and bonds are to be reviewed at least annually by the Board of Directors and may be adjusted in its discretion.

Section 2. Limitations on Board Actions. Notwithstanding, anything herein to the contrary, the Board of Directors shall not take the following actions, except with the vote or written assent of a majority of the voting power of the Association residing in members other than the Declarant.

(a) Entering into a contract with a third person wherein the third person will furnish goods or services for the Common Area or the Association for a term longer than one year with the following exceptions:

(i) A management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration.

(ii) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

(iii) Prepaid casualty and/or liability insurance policies of not to exceed three years duration provided that the policy permits for short rate cancellation by the insured.

(b) Incurring aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of 5% of the budgeted gross expenses of the Association for that fiscal year.

(c) Selling during any fiscal year property of the Association having an aggregate fair market value greater than 5% of the budgeted gross expenses of the Association for that fiscal year.

(d) Paying compensation to members of the Board of Directors or to officers of the Association for services performed in the conduct of the Association's business provided, however, that the Board of Directors may cause a member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

Section 3. Rules and Regulations. The Board of Directors shall have the right from time to time to adopt reasonable rules and regulations not inconsistent with the provisions of this Declaration of Covenants, Conditions and Restrictions, relating to the use of the Common Area by the Owners and other occupants of the Lots and their guests, and the conduct of such persons regarding the recreation facilities, parking, storage, trash and garbage disposal, laundry, pets and other activities if such conduct might adversely affect the project or its appearance or might offend, inconvenience or endanger the Owners or other occupants of any Lot or their guests. A copy of the rules and regulations shall be delivered to each Owner either personally or by mail, and a copy shall be posted in the Common Area at a place where it may be conveniently observed.

Section 4. Maintenance of Common Area. The Association, through its duly authorized agents or employees, shall cause the Common Area to be maintained and the maintenance fund to be reimbursed for the cost of repairs required because of any Owner causing damage to the Common Area. The Association shall have the responsibility to maintain Lot "A" in a safe and sanitary condition.

Without limiting the generality of the foregoing, the following shall apply and be enforceable as to the Association's duty to maintain Lot "A" of the Tract:

(a) The Association shall periodically cause said Lot "A" to be maintained for weed abatement purposes and removal of refuse and shall cause such other maintenance to be accomplished to keep same in a safe and sanitary condition.

(b) The Association shall be responsible for incidences of erosion along the easterly border of said Properties and shall cause appropriate renovations to the banks of Lot "A" when necessary.

(c) In the event that any portion of the Common Area shall not be preserved and maintained in a safe condition and in a state of good repair and aesthetically pleasing appearance, or in the event that any or all of any part of the real property taxes, irrigation taxes or other taxes or assessments imposed by any public entity, including the City of Banning, shall remain unpaid and in default more than three (3) months after the due date thereof, the City of Banning, California, may after giving notice as described below, cause (i) the necessary work of maintenance or repair to be accomplished or the unpaid tax or assessment, together with all penalties or interest thereon, to be paid, and (ii) the cost thereof to be assessed against each Owner of a Lot subject to this Declaration.

(d) The notice that is referred to above shall be in writing and mailed to all Owners whose names and addresses appear on the then current roll of Members of the Association kept by the Secretary of the Association or whose names appear as owners of record with the County Recorder's Office of the County of Riverside. The City of Banning shall also cause at least one copy of such notice to be posted in a conspicuous place within the Project and shall also cause one copy of such notice to be mailed to the Association at the Project.

(i) Said notice shall specify the action required to be done and shall state that if such work is not commenced within ten (10) days after receipt of such notice and diligently and without interruption prosecuted to completion, the City of Banning may cause such action or work to be done, in which case the cost and expense of such action or work, including incidental expenses, filing fees, title company charges, miscellaneous foreclosure charges, and reasonable attorneys' fees incurred by the City of Banning, will be added to the cost of such work.

(e) Following the completion of such work or payment of such sums by the City of Banning, the City shall determine the total cost of such work or payment, including incidental costs, filing fees, title company charges, foreclosure costs and reasonable attorney's fees fixed by the City of Banning (which amount of reasonable attorney's fees fixed by the City of Banning shall be binding upon Declarant and its successors in interest) and shall deliver to the Association a written statement setting forth such costs and the total thereof. Within fifteen (15) days following receipt by the Board of such written statement, the Board shall levy a Special Assessment for the purpose of payment of such costs.

(i) In the event the Association shall fail to levy such special assessment in the aforementioned period of time, the City of Banning may cause such Special Assessment to be levied under the terms of this Declaration and thereafter take such action as is permitted under this Declaration to compel payment, establish a lien on each such lot and prosecute foreclosure thereof for failure to pay such Special Assessment. Any Special Assessment levied hereunder shall be considered to be an assessment levied pursuant to Article IV. In the event the Association shall levy such Special Assessment, but thereafter fail to remit to the City of Banning the funds necessary to satisfy such costs within thirty (30) days following the Association's levy, the City of Banning may cause a lien to be created against each such lot and thereafter prosecute foreclosure of such lien to satisfy such Special Assessment. It is intended that the City of Banning shall be deemed an interest holder under this Declaration and thereby act as the Association or any Owner with respect to establishing a Special Assessment, any lien attendant thereto, and pursuing the remedies permitted in connection therewith. The costs incurred by the City of Banning in exercising any of its rights under this Article may be added to the cost of the work described below above, and then charged to each Owner of a Lot proportionately.

(f) No amendment, modification or revocation of this Declaration or any part hereof affecting the Common Area may be had without the express written consent of the City of Banning, which consent must be recorded in the Official records of Riverside County, California.

Section 5. Maintenance and Repair of Landscaping of Parkway Areas. The PEACOCK VALLEY HOMEOWNERS ASSOCIATION shall acquire and or pay for out of the Assessments herein provided for all maintenance and repair of the landscaping of the parkway areas which have been dedicated to the City of Banning and are located adjacent to the Properties along Wilson Avenue and Apex Avenue in the City of Banning. The PEACOCK VALLEY HOMEOWNERS ASSOCIATION shall provide all materials, supplies, labor and services necessary for the maintenance and repair of said landscaping.

Section 6. Books and Records. The Board of Directors shall keep and maintain complete and accurate books of account relative to its operation of the project in the manner described in the Bylaws.

ARTICLE VIII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the properties between the two garages and/or living units and placed on the dividing line between the Lots shall constitute a party wall, and to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Alterations. Nothing shall be altered or constructed on or removed from the party wall, except upon the written consent of both unit owners.

Section 3. Entry for Repairs. The adjoining owner of a Unit upon reasonable notice may enter the opposite adjoining unit when necessary in connection with any maintenance or construction connected with the party wall. Such entry shall be made with little inconvenience to the adjoining owner as practicable, and any damage caused thereby shall be repaired by the entering adjoining owner at his expense.

Section 4. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared, by the Owners who make use of the wall in proportion to such use.

Section 5. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under the rule of law regarding liability for negligent or willful acts or omissions.

Section 6. Weatherproofing. Notwithstanding any other provision of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such element.

Section 7. Right to Contribution Runs with Land. The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 8. Arbitration. In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator, and such arbitrators shall choose one additional arbitrator, and the decision shall be by a majority of all the arbitrators.

ARTICLE IX

LEASES

Any Owner may lease his Lot; however, any lease of a Lot shall be in writing and provide that the tenant shall take his leasehold subject in all respects to the provisions of this Declaration and the Association's Articles of Incorporation and Bylaws. Any such lease shall further provide that the failure of the tenant to comply with such documents shall constitute a default under his lease.

ARTICLE X

ENCROACHMENT - COMMON AREA

In the event any structure built by Declarant upon any Lot encroaches upon another Lot or the Common Area as the result of such construction or reconstruction, repair, shifting, settlement or movement of any portion of the Properties, an easement is hereby granted allowing such encroachment to continue and an easement is hereby granted allowing maintenance of the same so long as the encroachment exists. However, there shall be no encroachment into the ditch area of Lot "A" as defined by the top of the bank line on the final map of said Properties with fences, patios or patio slabs, structures, earth fill or corraling of animals.

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ARTICLE XI

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this Declaration shall run with and bind the land for a term of twenty (20) years from the date the Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years. Any amendment to this Declaration affecting Lot "A" or the maintenance and repair of the landscaping of the parkway areas along Wilson Avenue and Apex Avenue, or dissolution of the Association, or termination of this Declaration will require the prior approval of the City of Banning.

Section 4. Annexation. Additional residential property and Common Area may be annexed to the Properties with the consent of two-thirds (2/3) of Class A members.

Section 5. Rights of Lenders. The holders of all first mortgages and the beneficiaries of all First Trust Deeds encumbering a Lot may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Common Area or any part thereof, and may pay overdue premiums on hazard insurance policies or secure new hazard insurance coverage on the lapse of a policy for the Common Area or any part thereof, and upon such payment, the Association shall make immediate reimbursement thereof to the lenders making such payments.

Section 6. Destruction of Common Area. In the event any portion of the Common Area is damaged by fire or other casualty, the Board of Directors shall take such steps as are proper to make the necessary repairs and reconstruction of the damage. In the event there is a mortgage or deed of trust upon the Common Area affected, then any insurance proceeds shall be paid to the holder of any mortgage or trust deed, in trust, for the purpose of making payment upon the cost of repairs and reconstruction; but if there be no holder of such mortgage or deed of trust, then the insurance proceeds shall be paid to an insurance trustee, for the purpose of making payment upon the cost of repairs and reconstruction, which insurance trustee shall be a bank or trust company located in the County of Riverside, California, selected by the Board of Directors. Any insurance proceeds in excess of the amount required to pay such costs shall be disbursed to the Board of Directors and placed in the maintenance fund for the benefit of the Owners. . In the event the insurance proceeds are insufficient to pay all the costs of the repairs and reconstruction, the Association shall proceed under the special assessment provisions of Article IV, Section 4, to acquire funds in the amount of deficiency.

ARTICLE XII

USE RESTRICTIONS

Section 1. Use of Lot. Each Lot shall be used and occupied only in accordance with the following:

(a) Each Lot shall be used as a single family residence and for no other purpose, except that a sales office, sales display area and/or construction office may be maintained on any of the Lots owned by Declarant, and any of the Lots owned by Declarant may be used for a display model until sales of all of the homes in the project have been consummated; provided, however, such use by Declarant shall not unreasonably interfere with the reasonable rights of Owners.

* ~~(b) No person under the age of 18 may reside (which for purposes herein is defined to mean any occupancy which exceeds forty (40) days out of any sixty (60) day period) in a unit. If persons related by blood or marriage reside in a unit, at least one must have attained age 45. If persons unrelated by blood or marriage reside in a unit, each must have attained age 45. The number of residents in a unit shall be no more than three (3). Guests may visit, but not reside in a unit. A visit shall be considered a period of up to 60 days per year. The occupancy restrictions set forth above are founded upon the Declarant's desire to promote and continue the homogeneity and adult-oriented atmosphere within the Project, and upon the realization that the Project, as originally constructed, was not designed to accomodate families with children. Specifically, there are no playgrounds, tot lots or other recreational facilities within the Project. Owners understand and agree that said occupancy restriction is made for the mutual benefit of all Owners in the Project and is not based upon nor shall it be invoked in order to discriminate against any person on the basis of race, color, creed, national origin or sex. Owners further understand and agree that Declarant cannot and does not represent or warrant that said occupancy restriction is enforceable at law, and that Declarant shall not be liable for any damages resulting from a judicial determination that said occupancy restriction is unenforceable.~~

(c) Garages may be used only for the parking of vehicles, storage and related purposes.

(d) No Owner shall store or construct anything on or obstruct the Common Area except with the prior written consent of the Board of Directors.

* See Second Amendment

(e) No Owner shall permit any part of the project to be used for commercial or related purposes except as provided in Subsection (a) of Section 1, Article XII.

(f) No Owner shall commit any waste in the Common Area, nor do anything in, or about, or in connection with the project which would be in violation of any statute, law, ordinance or governmental rule or regulation.

(g) No Owner shall do anything in the Properties which would obstruct or interfere with the rights of, or annoy or be offensive to, other Owners including but not limited to the storage or parking of automobiles, campers, trailers, mobile homes, boats or other vehicles in private streets or other areas except for garages, provided that automobile temporary parking only shall be permitted for reasonable periods of time by Owners and their guests in designated parking spaces. All recreational vehicles must be parked in that portion of the Common Area designated for recreational vehicle parking more particularly described as Lot 189.

(h) No motorcycle, motor bike, skimobile, golf cart or other similar equipment powered by an internal combustion engine may be operated within the Properties except as authorized by the Association.

(i) All equipment, tools, trash and/or garbage containers, wood and/or storage piles shall be kept concealed from view of the other Lots, the Common Area and the adjacent streets. No exterior clothes lines or individual outdoor television or radio antennae shall be erected or maintained on the Properties other than any required for cable TV service to any Lot. No automobile overhaul or maintenance work, in the absence of an emergency, shall be performed in the Properties where it can be viewed or on adjacent streets. The interior of the garages shall be kept clean, and garage doors shall be kept closed when not in use.

(j) No signs, except a sign advertising a dwelling for sale or rent within the project, shall be permitted. A permitted sign shall be of customary style and reasonable dimension. However, Declarant may place reasonable signs upon the project in connection with the sale, transfer or rental of the Lots owned by it as long as such signs do not unreasonably interfere with the Owners or with the use by Owners of the Common Area and its facilities.

(k) No animals, livestock, poultry of any kind, shall be raised, bred or kept in any dwelling unit, or in any common areas, except that dogs, cats or other household pets may be kept in units subject to the approval of the Association, provided that no animals shall be kept, bred or maintained for any commercial purpose, nor shall any store, office or other place of business of any kind or character whatsoever, be conducted in or upon or from any residence.

(l) No Owner shall install or maintain any water softener which discharges effluent brines.

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(m) No Owner shall alter, construct, or remove any portion of the Common Area or affix or attach anything thereto without the prior written consent of the Board of Directors or Architectural Committee.

(n) Each Owner shall keep clean and in good condition and repair the windows of the structure on his Lot, and shall not permit laundry or other unsightly items to extend from or hang over the windows or balcony, if any, of the same. All draped windows shall have, facing the exterior, either draperies, drapery linings or casements of a neutral color approved by the Board of Directors.

(o) All front yards and side yards visible from streets shall be satisfactorily landscaped within 90 days from the close of escrow. All rear yard areas will be landscaped within 180 days from the close of escrow. All front yard areas shall be developed and maintained with a minimum of 50% of the front yard area with live, natural landscaping, and the remaining 50% of the front yard area be permitted utilization of unnatural landscape materials such as bark or rock.

(p) No Owner shall install an air conditioning unit without the prior written approval of the Architectural Control Committee, which shall have the right to approve or disapprove the size, shape, noise level and proposed location of such air conditioning unit. No roof-mounted air conditioning equipment in view of the street shall be allowed and all mechanical equipment shall be screened from public view by means of building walls, etc.

(q) Each Owner shall obtain and maintain upon the boundary of his Lot (behind the curb and parkway area) a mailbox which is: (i) no more than seven (7) inches wide, nine (9) inches high and nineteen (19) inches long; (ii) painted or otherwise finished in a black color; (iii) attached to a pole which is painted or otherwise finished in a black color and which does not exceed (with the mailbox affixed to it) forty-two (42) inches in height and which is no more than one and one-half inches in diameter; and (iv) has painted upon or otherwise affixed to it lettering which delineates the name of the occupant of the Lot upon which it is located and the common street address of such Lot.

Nothing contained in this Article shall be deemed or construed to apply in any way to the activities of Declarant in the development or construction of improvements.

ARTICLE XIII

AMENDMENT

Prior to the close of escrow, on the sale of the first Lot, Declarant may amend this Declaration. After sale of the first lot, this Declaration may be amended only by the affirmative vote (in person or by proxy) or written consent of Owners representing a majority of the total voting power of the Association which shall induce a majority of the votes of other than the Declarant or where the two (2) class voting structure is still in effect, a majority of each such class. However, the percentage of voting power necessary to amend a specific clause shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause. Any amendment must be recorded and shall become effective upon being recorded in the Recorders Office of Riverside County, California.

ARTICLE XIV

RESTATEMENT

This Declaration of Covenants, Conditions and Restrictions (Restated) supersedes, terminates, cancels, rescinds and replaces in its entirety that certain Declaration of Covenants, Conditions and Restrictions, made on February 2, 1979, and recorded in the Office of the Riverside County, California, Recorder, on February 9, 1979.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal this 10th day of September, 1979.

PEACOCK VALLEY COMPANY,
a limited partnership,
By: The Ramos/Jensen Company,
a California corporation, General Partner,

By: ______________________
Ronald J. Ramos, President

By: ______________________
Arnold H. Jensen, Secretary

STATE OF CALIFORNIA)
) ss.
COUNTY OF SAN DIEGO)

On September 10, 1979, before me, ~~the~~ undersigned, ~~a~~ Notary Public in and for said State, personally appeared Ronald J. Ramos known to me to be the President, and Ronald H. Jensen, known to me to be the Secretary of The Ramos/Jensen Company, the corporation that executed the within instrument and known to me to be the persons who executed the within instrument on behalf of said corporation, said corporation being known to me to be the general partner of PEACOCK VALLEY COMPANY, a limited partnership, the limited partnership that executed the within instrument, and acknowledged to me that such partner and that such partnership executed the same.

WITNESS my hand and official seal.

Signature: Joyce N. Welker

OFFICIAL SEAL
JOYCE N. WELKER
NOTARY PUBLIC CALIFORNIA
PRINCIPAL OFFICE IN
SAN DIEGO COUNTY
My Commission Expires Sept. 15, 1981

Recording requested by and
when recorded mail to
Peacock Valley Homeowners Association.
P. O. Box 992
Banning, Ca. 92220

SECOND AMENDMENT TO DECLARATION OF COVENANTS, CONDITIONS

AND RESTRICTIONS FOR PEACOCK VALLEY

This amendment to the Declaration of Restrictions for Peacock Valley is made this November 14, 1998 by the Peacock Valley Homeowners Association, a California non-profit mutual benefit Corporation (hereinafter referred to as the "Association").

Whereas: A Declaration of Restrictions for Peacock Valley was previously recorded on September 12, 1979 as Instrument No. 192347, and September 15, 1992 as Instrument No. 344483, Official Records of Riverside County, California, describing and encumbering certain real property and;

Whereas: The membership of the Association has duly voted to amend said Declaration of Covenants, Conditions and Restrictions for Peacock Valley.

Article XII, Section 1 (b) of that certain Declaration of Restrictions for Peacock Valley, recorded September 12, 1979 as Instrument No. 192347 and Amended and Recorded September 15, 1992 as Instrument No. 344483, Official Records of Riverside County, California, is hereby amended to read as follows:

(b) Peacock Valley is hereby designated as a Senior Citizen Housing Development, and the occupancy, residency, or use of any Lot is hereby limited in the manner set forth below:

1. "Senior Citizen" shall mean and refer to those persons fifty-five (55) years of age or older, pursuant to the Federal Fair Housing Amendment Act of 1988 (42 U. S. C. 3601 et. seq., hereinafter "the Act") and California Civil Code Section 51.10 et. seq., (hereinafter "the Unruh Act") as now or hereafter amended by the Act, and any amendments or successor statutes to either.

2. "Qualified Permanent Resident" shall mean and refer to persons who satisfy all of the following requirements: (i) resided with the Senior Citizen prior to the death, hospitalization, or other prolonged absence of, or the dissolution of marriage with, the Senior Citizen, and (ii) are forty-five (45) years of age or older, or are a spouse, cohabitant, or person providing primary physical or economic support to the Senior Citizen and (iii) have an ownership interest in, or expectation of ownership interest in, the dwelling; (iv) such other persons as are identified as Qualified Permanent Residents pursuant to the Unruh Act. The foregoing notwithstanding, the definition of a Qualified Permanent Resident shall not be in contravention of the Act as now or hereafter amended by the Act, and any amendments or successor statutes.

3. "Permitted Health Care Resident" shall mean and refer to a person hired to provide live-in, long-term, or terminal health care to a qualifying resident.

4. General Powers and Authority. The Association shall have the power and authority to assure compliance with the residency restrictions contained in this paragraph, including the power to impose penalties for violations thereof.

5. "Housing for Older Persons". The project shall be and is a housing community

intended and operated for occupancy by older persons. It is intended by this provision the Project qualify for the "Housing for Older Persons" exemption, as that term is defined from time to time under federal law pursuant the Act and Unruh Act, and any amendments or successor statutes.

6. All dwellings that are newly occupied after September 13, 1988 shall be occupied by at least one person who is a Senior Citizen and other persons who are Qualified Permanent Residents or Permitted Health Care Residents, provided however that in no case shall fewer than 80% of the occupied units be occupied by at least one person 55 or older. Temporary residency by a person of less than fifty-five (55) years of age as a guest of a Senior Citizen or Qualified Permanent Resident, shall be allowed for periods of time not to exceed sixty (60) days in any year. The term "occupied" includes any and all leasing of a dwelling within the Project.

7. This restriction shall not be construed to exclude Owners or tenants if such owners or tenants do not reside with a Senior Citizen and occupy a dwelling within the Project, so long as such owners or tenants occupied their dwellings on or before September 12, 1988 or who were lawfully in residence on September 15, 1992.

8. Notwithstanding any other provisions herein, in the event of a conflict between this section or any other provision in this Restated Declaration and the provisions of the Act and the Unruh Act, and any amendments or successor statutes, the provisions of the prevailing statute shall control.

9. In order to avoid further amendments to the declaration which may be necessitated by subsequent legislative or administrative enactment's pertaining to age restrictions, the Board of Directors shall have the power and authority to promulgate

rules and regulations which implement the terms of any such laws and/or administrative regulations and to amend the same as required from time to time to bring the regulations into compliance with said authority; further, the Board shall have the authority to create and record an amendment to this Declaration, and record the same, without a vote of the membership, provided such changes are required in order to bring the community into compliance with applicable laws relating to senior housing.

IN WITNESS WHEREOF, the undersigned , PEACOCK VALLEY HOMEOWNERS ASSOCIATION, a California non-profit mutual benefit Corporation, has hereunto set its hand and seal this 14th day of November 1998.

PEACOCK VALLEY HOMEOWNERS ASSOCIATION,
a California Non-profit Mutual Benefit Corporation

By Thomas L. Hargreaves
Thomas L. Hargreaves
President