

**BY LAWS**

**OF**

**PORTOLA SPRINGS COMMUNITY ASSOCIATION**

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**BYLAWS OF  
PORTOLA SPRINGS COMMUNITY ASSOCIATION**

**ARTICLE I**

**NAME AND LOCATION**

Section 1.     Name and Location. The name of the corporation is PORTOLA SPRINGS COMMUNITY ASSOCIATION (hereinafter referred to as the "Master Association"). The principal office of the Master Association shall be located at the Community in the City of Irvine, County of Orange, State of California.

**ARTICLE II**

**DEFINITIONS**

Section 1.     Definitions. Various capitalized words and phrases used in these Bylaws are defined in that certain "Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Portola Springs" recorded on June 26, 2006 as Instrument No. 2006 000425369 in the Official Records of Orange County, California, as the same may be restated and/or amended from time to time (hereinafter referred to as the "Master Declaration"), and unless otherwise indicated, such words and phrases shall have the same meaning herein as is ascribed to them in the Master Declaration. All of the terms and provisions of the Master Declaration are hereby incorporated herein by this reference.

**ARTICLE III**

**MEMBERSHIP AND VOTING RIGHTS**

**IN THE MASTER ASSOCIATION**

Section 1.     Membership in the Master Association. Every Owner (including Declarant and each Merchant Builder) shall be a Member of the Master Association. Each Owner's membership in the Master Association shall be appurtenant to the Lot or Condominium owned by such Member and shall not be assignable, except to the person or entity to whom the title to such Lot or Condominium has been transferred. Membership in the Master Association

shall be in addition to membership in any Sub-Association. Ownership of a Lot or Condominium shall be the sole qualification for Class A membership in the Master Association.

Section 2. Classes of Membership. The Master Association shall have three (3) classes of voting membership, as follows:

(a) Class A Members. Initially, the Class A Members shall be all Owners other than Declarant and the Merchant Builders. Upon the conversion of the Class B Membership as provided below, Declarant and each Merchant Builder shall also become a Class A Member as to those Lots and Condominiums which they own and are paying Assessments levied by the Master Association. Subject to the provisions in the Master Declaration entitled "Apartment Areas," the Class A Member(s) who own a Lot or a Condominium are allocated one (1) vote for their respective Lot or Condominium. When more than one (1) person holds an ownership interest in a Lot or Condominium, all such persons shall be Class A Members. The vote attributable to such Lot or Condominium shall be exercised as the Owners among themselves determine, but in no event shall more than one (1) Class A vote be cast with respect to any Lot or Condominium. (All references in the Master Association Documents to votes cast by a specified percentage of the Class A Members is intended and shall be interpreted to be consistent with one (1) vote per Lot or Condominium, except as provided in the Article in the Master Declaration entitled "Apartment Areas.")

(b) Class B Members. The Class B Members shall be Declarant and the Merchant Builders. Except as otherwise provided in Section 3 hereinbelow and in the Article in the Master Declaration entitled "Apartment Areas," each Class B Member shall be entitled to three (3) votes for each Lot or Condominium it owns and is paying the Assessments levied by the Master Association. The Class B membership shall cease and shall be converted to Class A membership upon the happening of any of the following events, whichever occurs earliest (hereinafter referred to as the "Class B Conversion Date"):

(1) When seventy five percent (75%) of the estimated total number of Dwellings in the overall Community (excluding Apartments) (e.g., currently estimated to be approximately Two Thousand Three Hundred Twenty-Five

[2,325] Dwellings X 75% equals approximately One Thousand Seven Hundred Forty-Three [1,743] Dwellings) have been conveyed to Class A Members;

(2) The fifth (5th) anniversary of the first Close of Escrow for the sale of a Lot or Condominium pursuant to the original issuance by the DRE of the most recently issued Final Subdivision Public Report for a Phase of the Community; or

(3) The twenty-fifth (25th) anniversary of the first Close of Escrow for the sale of a Condominium pursuant to a Final Subdivision Public Report issued by the DRE for the first Phase of the Community.

(c) Class C Member. The Class C Member shall be the Declarant, without regard to whether Declarant is the Owner of a Lot or Condominium in the Community. The Class C Membership shall not be considered part of the voting power of the Master Association, and Declarant shall not be entitled to exercise any Class C vote except for the purpose of electing those members of the Board which the Class C Member is entitled to elect hereunder. The Class C Member shall be entitled to solely elect a majority of the members of the Board until the first to occur of the following events:

(1) When seventy five percent (75%) of the estimated total number of Dwellings in the overall Community (excluding Apartments) (e.g., currently estimated to be approximately Two Thousand Three Hundred Twenty-Five [2,325] Dwellings X 75% equals approximately One Thousand Seven Hundred Forty-Three [1,743] Dwellings) have been conveyed to Class A Members;

(2) The fifth (5th) anniversary of the first Close of Escrow for the sale of a Lot or Condominium pursuant to the original issuance by the DRE of the most recently issued Final Subdivision Public Report for a Phase of the Community; or

(3) The twenty-fifth (25th) anniversary of the first Close of Escrow for the sale of a Condominium pursuant to a Final Subdivision Public Report issued by the DRE for the first Phase of the Community.

Unless a specific provision of these Bylaws or the Articles requires the approval of a greater percentage, any action taken by the Master Association which must have the

approval of either (i) the Members of the Master Association, or (ii) the “total voting power” of the Master Association, before being undertaken shall require the vote or written assent of at least a majority of the Class A Members and at least a majority of the Class B Members, so long as both the Class A and Class B memberships exist. At such time as the Class B membership ceases and converts to Class A membership as provided above, any action taken by the Master Association which must have the approval of either (i) the Members of the Master Association, or (ii) the “total voting power” of the Master Association, before being undertaken shall require the vote or written assent of at least a majority of all Class A Members and at least a majority of the Class A Members other than the Declarant and the Merchant Builders. Notwithstanding the foregoing, any action by the Master Association pursuant to the Article in the Master Declaration entitled “Enforcement of Bonded Obligations” shall only require a majority of the voting power of the Members, other than the Declarant and the Merchant Builders.

Section 3. Assignment of Merchant Builder Voting Rights. Unless otherwise expressly agreed to in a writing executed by Declarant and a Merchant Builder and such writing is delivered to the Secretary of the Master Association, each Merchant Builder irrevocably assigns to Declarant all Class A and Class B voting rights to which such Builder would be entitled under the Master Declaration and these Bylaws, and all such voting rights shall be exercised solely by Declarant, as Declarant may deem appropriate in its sole and absolute discretion.

Section 4. Special Voting Rights of Class A Members to Elect Directors. So long as the Class B or Class C memberships shall remain in effect, the Class A Members shall be entitled to solely elect at least twenty percent (20%) of the members of the Board.

Section 5. Vesting of Voting Rights. The voting rights attributable to a Lot or Condominium in the Community shall not vest until the Assessments provided for in the Master Declaration have been levied by the Master Association against said Lot or Condominium.

Section 6. Adjustment of Voting Rights. The voting rights in the Master Association shall be adjusted on the first day of the month immediately following the first Close of Escrow for the sale of a Lot or Condominium in each subsequent Phase of the Community.

Section 7. Transfer. The Master Association membership held by any Owner of a Lot or Condominium shall not be transferred, pledged or alienated in any way,

except as incidental to the sale of such Lot or Condominium and the membership shall be automatically transferred upon the sale of such Lot or Condominium. In the event of such sale, the Master Association membership may only be transferred, pledged or alienated to the bona fide purchaser or purchasers of the Lot or Condominium, or to the Mortgagee (or third-party purchaser) of such Lot or Condominium upon a foreclosure sale, deed in lieu or other remedy set forth in the Mortgage. Any attempt to make a prohibited transfer is void and will not be reflected in the books and records of the Master Association.

Section 8. Proxies. Votes may be cast in person or by proxy. Proxies must be filed with the Secretary before the appointed time for each meeting. Every proxy shall be revocable and shall automatically terminate upon the earliest of the following: (a) the conveyance by the Owner of his Lot or Condominium; (b) the date of automatic termination, if any, specified in the proxy, but not to exceed three (3) years from the date of issuance of the proxy; or (c) eleven (11) months from the date of issuance of the proxy, if no automatic termination date is specified in the proxy. Any form of proxy or written ballot distributed to the membership of the Master Association shall afford an Owner the opportunity to specify a choice between approval and disapproval of each matter or group of matters to be acted upon at the meeting for which said proxy was distributed, except it shall not be mandatory that a candidate for election to the Board be named in a proxy. The proxy or written ballot shall provide that, where the Owner specifies a choice, the vote shall be cast in accordance with that choice. In addition, the proxy shall also identify the person or persons authorized to exercise the proxy and the length of time it shall be valid.

Section 9. Determination of Record Dates. If the Board does not fix a record date, the record date shall be determined in accordance with California Corporations Code Section 7611, as same may be amended, from time to time.

(a) For Notice. Except as otherwise provided in Subsection (b) below, the Board shall fix, in advance, a date as the record date for the purpose of determining the Members entitled to notice of any meeting of the Master Association at which Members are required or permitted to take action. Such record date shall not be more than ninety (90) days nor less than ten (10) days before the date of the meeting. If the Board fails to fix such record date, the record date for the purpose of determining the Members entitled to notice of any meeting of the Master Association shall be at 5:00 p.m.

on the business day preceding the day on which notice is given. A determination of Members entitled to notice of a meeting of the Master Association shall apply to any adjournment of the meeting, unless the Board fixes a new record date for the adjourned meeting.

(b) To Vote. The record date for the purpose of voting shall not be more than sixty (60) days before the date of the meeting. If the Board fails to fix a record date, Members on the day of the meeting who are otherwise eligible to vote are entitled to vote at the meeting of the Members, and in the case of an adjourned meeting, Members on the day of the adjourned meeting who are otherwise eligible to vote are entitled to vote at such adjourned meeting.

#### ARTICLE IV

##### **MEETINGS OF THE MASTER ASSOCIATION**

Section 1. Organization and Annual Meetings of the Members of the Master Association. Regular meetings of the Members of the Master Association shall be held not less frequently than once each calendar year at the time and place prescribed by these Bylaws. The first meeting of the Members of the Master Association, whether a regular or special meeting, shall be held not later than six (6) months after the first Close of Escrow for the sale of a Lot or Condominium in the Community. Thereafter, the annual meeting of the Members of the Master Association shall be held on or about the anniversary date of the first annual meeting. At such meetings there shall be elected, by secret written ballot of the Members, a Board in accordance with the provisions of the Master Declaration and these Bylaws. The Members may also transact such other business of the Master Association as may properly come before them.

Section 2. Special Meetings of the Master Association. The Secretary shall call a special meeting of the Members of the Master Association upon: (a) a vote by a majority of a quorum of the Board of Directors to call a special meeting; (b) receipt of a petition signed by Members representing at least five percent (5%) of the total voting power of the Master Association; (c) the rejection by the Board of Directors of a settlement offer as referenced in California Civil Code Section 1375; or (d) any vote by a majority of a quorum of the Board of Directors to commence an action for damages pursuant to Section 1375 of the California Civil Code.

The notice of any special meeting shall be given within five (5) days after such action by the Board or receipt of such petition and shall state the time and place of the meeting, the purpose thereof and any information required by law or by the Master Declaration. The special meeting shall normally be held not less than twenty (20) days nor more than ninety (90) days after such action by the Board or receipt of the petition. No business shall be transacted at a special meeting except as stated in the notice.

Section 3. Notice of Meetings. Written notice of each annual meeting and of each special meeting of the Members of the Master Association shall be given by, or at the direction of, the Secretary of the Master Association by mailing a copy of such notice by first-class mail, postage prepaid, and/or by any other means approved by the Board which is reasonably calculated to give notice of such meeting (e.g., transmission by facsimile or e-mail). Except in emergency situations, not less than thirty (30) days nor more than ninety (90) days notice of any meeting shall be given. The notice shall specify the day, hour and place where the meeting is to be held and those matters which the Board, at the time of the notice, intends to present for action by the Members, if any, but except as otherwise provided by law, any proper matter may be presented at the meeting for action. The notice shall be sent to: (1) all Members of the Master Association, and (2) each Eligible Mortgage Holder. A reasonable time limit for Members to speak shall be established by the Board. The notice of any meeting at which Directors are to be elected shall include the names of all nominees. Notice given in the manner provided in this Section, shall be considered served forty-eight (48) hours after the notice was deposited in a regular depository of the United States mail or was electronically transmitted. In all cases, notice shall also be posted in a conspicuous place in the Community, and the notice shall be deemed served upon any Member by posting if no address for such Member has been furnished to the Secretary.

Section 4. Special Notice Requirements. Approval by the Members of any of the following proposals, other than by unanimous approval of those Members entitled to vote, shall not be valid unless the general nature of the proposal was stated in the notice:

- (a) removing a Director without cause;
- (b) holding a special meeting to fill one or more vacancies on the Board;
- (c) amending the Articles;

(d) approving a contract or transaction between the Master Association and any entity in which a Director has a material financial interest;

(e) electing to wind up and dissolve the Master Association; or

(f) approving a plan of distribution of assets, other than money, not in accordance with the liquidation rights of any class of Members (applicable only if the Master Association is in the process of winding up and there is more than one class of membership outstanding at the time).

Section 5. Quorum. Except as otherwise provided in these Bylaws or the Master Declaration, the presence in person, by proxy or by written ballot of Members representing at least twenty five percent (25%) of the total voting power of the Master Association shall constitute a quorum for the transaction of business. The Members present at a duly called meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than a quorum. In the initial absence of a quorum, the Members present may adjourn the meeting to another time not less than five (5) days nor more than thirty (30) days from the date of the original meeting. If the time and place of the adjourned meeting are announced prior to the adjournment of the original meeting, no notice of the adjourned meeting is required, provided that if a new date is fixed for the adjourned meeting after the adjournment of the original meeting, notice of the date, time and place of the adjourned meeting shall be given in the manner prescribed in Section 3 hereinabove. Any business that might have been transacted at the original meeting may be transacted at the adjourned meeting other than to re-adjourn the meeting to another time. If a meeting is adjourned because a quorum is not present, the quorum requirement at the adjourned meeting shall be the presence in person, by proxy or by written ballot of Members representing at least fifteen percent (15%) of the total voting power of the Master Association. Notwithstanding the presence of a quorum, if the percentage of Members actually present in person, by proxy or by written ballot at a regular meeting is less than one-third (1/3) of the total voting power of the Master Association, the only matters that may be voted upon at such regular meeting are matters notice of the general nature of which was given as provided in Section 3 above.

Section 6. Action Without a Meeting and by Written Ballot. Except for any election required by applicable California law to be conducted by secret written ballot and the secret ballots counted and tabulated by an Inspector(s) of Elections, and except for an election or

other authorization to commence an action for damages which is subject to California Civil Code Section 1375 which must be taken at a properly called special meeting of the Members, any other action that may be taken at a meeting of the Members of the Master Association may be taken by written ballot of the Members without a meeting of the Members if the following requirements of this Section are satisfied:

(a) The Secretary of the Master Association distributes a written ballot to each Member entitled to vote on the matter. The ballot shall be given personally, or by first-class, registered, or certified mail addressed to the Member at the address appearing on the books of the Master Association or given by the Member to the Master Association for the purpose of notice. The ballot shall provide a reasonable time within which to be returned.

(b) Each ballot shall set forth: (1) each proposed action, (2) an opportunity to specify approval or disapproval of each proposed action, (3) a reasonable time within which to return the ballot to the Master Association pursuant to Section 7513 of the California Corporations Code, as same may be amended from time to time, in order to be counted, (4) the number of responses needed to meet the quorum requirement, and (5) the percentage of approvals necessary to approve each proposed action. Ballots shall be solicited in a manner consistent with the requirements of Section 7511 and 7514 of the California Corporations Code, as same may be amended from time to time. The solicitation must specify the time by which the ballot must be received in order to be counted.

(c) The proposed action shall be approved by written ballot if (1) within the time period specified, the number of votes cast by ballot equals or exceeds the quorum required to be present at a meeting authorizing the action, and (2) the number of approvals equals or exceeds the number of votes that would be required for approval at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(d) A written ballot may not be revoked.

(e) All written ballots shall be filed with the Secretary of the Master Association and maintained in the corporate records.

Section 7. Order of Business. Unless otherwise indicated by an agenda, the order of business at meetings of the Master Association shall be as follows: (1) roll call of the Members; (2) determination of the voting power represented at the meeting; (3) verification of a quorum; (4) proof of notice of meeting; (5) reading of the minutes of the preceding meeting; (4) reports of officers; (6) reports of committees; (7) appointment of the Inspector(s) of Elections, if necessary; (8) election of Directors (at annual meetings or special meetings held for such purposes); (9) unfinished business; and (10) new business.

Section 8. Place of Meetings. Meetings of the Master Association shall be held within the Community or such other suitable meeting place within the City as close thereto as practicable and convenient for the Members, as may be designated by the Board of Directors from time to time. All meetings of the Master Association shall be conducted in accordance with a recognized system of parliamentary procedure (e.g. Roberts Rules of Order) or such other parliamentary procedures as the Board may adopt.

Section 9. Minutes, Presumption of Notice. Minutes or a similar record of the proceedings of meetings of the Master Association, when signed by the President or Secretary, shall be presumed truthfully to evidence the matters set forth therein. A recitation in the minutes of any such meeting that notice of the meeting was properly given shall be prima facie evidence that such notice was given..

Section 10. Mortgagee and Declarant Representation. Eligible Mortgage Holders shall have the right to attend all meetings of the Master Association through a representative who has been designated in a writing delivered to the Board prior to such meeting. Additionally, Declarant shall have the right to attend all meetings of the Master Association through a representative who has been designated in a writing delivered to the Board prior to such meeting for so long as Declarant or a Merchant Builder owns any portion of the Community or the Annexable Property and continuing until the tenth (10th) anniversary of the Close of Escrow for the sale of the last Lot or Condominium in the Community pursuant to a transaction requiring the issuance of a Final Subdivision Public Report by the DRE.

## ARTICLE V

### **BOARD OF DIRECTORS:**

#### **NOMINATION, ELECTION, TERM OF OFFICE**

Section 1. Number and Qualifications of Directors. The affairs of the Master Association shall be managed by a Board consisting of either three (3) Directors or five (5) Directors. Except for the first Directors appointed by the Declarant, the Board shall consist only of Members who are in good standing with the Master Association, or an agent of Declarant or a Merchant Builder so long as Declarant is entitled to annex any portion of the Annexable Property into the Community. The Board shall initially consist of three (3) Directors who shall be appointed by the Declarant as soon as practicable after the incorporation of the Master Association, and shall hold office until Directors are elected by the Members at the first annual meeting of the Master Association as specified in these By-Laws.

Section 2. Qualifications for Candidates and Conduct of Directors Serving in Office.

(a) Qualifications for Candidates.

(1) Incumbent Candidates Seeking Re-election to the Board. To be qualified as a candidate for re-election to the Board, an incumbent candidate must satisfy all of the following requirements:

(i) Attended at least six (6) of the regular Board meetings, and at least half of any special Board meetings, during the preceding twelve (12) calendar months, and did not miss more than two (2) consecutive regular or two (2) consecutive special Board meetings;

(ii) Complied with every duly adopted action of the Board;

(iii) Complied with the terms and provisions of the Master Association Documents during the preceding term of office, or if, after Notice and Hearing, was found to be in violation of any of the terms and provisions of the Master Association Documents, commenced correcting such violation within five (5) days of the ruling and diligently pursued the correction of such violation to completion; and

(iv) Is current in the payment of all Assessments levied by the Master Association as of the date of the election, and was not in arrears in the payment of any Assessments levied by the Master Association for more than three (3) consecutive months during the preceding term of office.

(2) New Candidates Seeking Election to the Board. To be qualified as a candidate for election to the Board, a new candidate must satisfy all of the following requirements:

(i) Complied with the terms and provisions of the Master Association Documents for at least one hundred eighty (180) days immediately preceding the election, or if, after Notice and Hearing, was found to be in violation of any of the terms and provisions of the Master Association Documents, commenced correcting such violation within five (5) days of the ruling and diligently pursued the correction of such violation to completion; and

(ii) Is current in the payment of all Assessments levied by the Master Association as of the date of the election, and was not in arrears in the payment of any Assessments levied by the Master Association for more than three (3) consecutive months during the twelve (12) calendar months preceding the election.

(b) Conduct of Directors Serving in Office. Directors must satisfy the following requirements while they serve in office and the failure to satisfy any of these requirements shall be grounds for removal as provided in Section 8 below:

(1) Has not missed three (3) consecutive regular meetings of the Board or three (3) consecutive special meetings of the Board;

(2) Has attended at least seventy-five percent (75%) of all of the meetings of the Board held each year and has attend the entire meeting each time;

(3) Exhibits respect, professionalism and courteous behavior to all Owners, other Board members, committee members, vendors, the property manager and its staff, and to all other persons associated with or retained by the Master Association;

(4) Complies with the standards of conduct applicable to a director of a non-profit mutual benefit corporation under California law, and without limiting the foregoing, refuses any gain of any kind (including, without limitation, any money, services, products, gifts and gratuities of significant value) as determined by a majority vote of all other Directors who satisfy the requirements of this sub-section, which gain is offered in connection with such Director's service on the Board of Directors of the Master Association. A Director must disclose any offer of gain at an open meeting of the Board. Reimbursement of expenses associated with services to the Master Association do not constitute prohibited gain within the meaning of this subsection; and

(5) Except for Directors elected to the Board by the Declarant pursuant to its Class C membership rights, must be an Owner in "good standing" with the Master Association. (For purposes of these Bylaws, an Owner shall be deemed to be in good standing if such Owner (i) has not been in arrears in the payment of any Assessments levied by the Master Association for more than three (3) consecutive months during the preceding twelve (12) calendar months; and (ii) after Notice and Hearing, did not continue to be in willful violation of any of the terms or provisions of the Master Association Documents.)

Section 3. Nomination. Subject to the Declarant's Class C Membership rights, the nomination for election to the Board shall be made by a Nominating Committee. The Nominating Committee shall consist of a Chairman, who shall be an officer of the Master Association, and two (2) Members. The Nominating Committee shall be appointed by the Board prior to each annual meeting of the Master Association to serve from the close of such annual meeting until the close of the next annual meeting, and such appointment shall be announced at each meeting. The Nominating Committee shall make as many nominations for election to the Board as it shall in its discretion determine, but no fewer than the number of vacancies that are to be filled. Nominations may be made from among Members and may also be made from among non-Members for so long as Declarant is entitled to annex any portion of the Annexable Property into the Community. Thereafter, nominations shall only be made from among Members. Pursuant to Section 7521 of the California Corporations Code, as same may be amended from time to time, any Member who submits to the Nominating Committee prior to the close of

nominations a petition signed by two percent (2%) of the voting power of the Class A Members shall be deemed nominated. Notwithstanding the foregoing, when a Lot or Condominium is owned by more than one person, although all such persons are Owners and Members of the Master Association, in no event may more than one (1) Owner of the same Lot or Condominium serve as a Director or officer at the same time as any other Owner of such Lot or Condominium.

The Board shall implement and enforce the fair election procedures set forth in the article entitled "The Master Association" set forth in the Master Declaration.

Section 4. Declarant's Class C Membership Rights. As more particularly set forth in the Master Declaration, Declarant is the Class C Member of the Master Association. The Class C membership is not considered part of the voting power of the Master Association and Declarant is not entitled to exercise any Class C vote except for the purpose of electing a majority of the Board of Directors of the Master Association until the election of the Board at the annual meeting of the Members immediately following the termination of the Class C Membership as provided above.

Section 5. Class A Members' Special Voting Rights. So long as the Class B or Class C memberships shall remain in effect, the Class A Members (other than Declarant and the Merchant Builders) shall be entitled to solely elect at least twenty percent (20%) of the members of the Board.

Section 6. Election of Directors and Terms of Office. The terms of office of the Directors shall be staggered: two (2) of the Directors terms shall expire at an annual meeting of the Members and the other Director's term shall expire at the following meeting. (If the Board elects to increase the number of Directors from three (3) to five (5) as provided in this Article, three (3) of the Directors' terms shall expire at an annual meeting of the Members, and the remaining two (2) Directors' terms shall expire at the following annual meeting of the Members). In accordance with the staggered terms of office, the Board which consists of three (3) Directors shall be elected as follows:

(a) Until the first annual meeting of Members, all of the Directors shall be appointed by Declarant and continue to serve pursuant to Declarant's appointments. Any Director so appointed by Declarant may be removed and replaced by Declarant until the first annual meeting of the Members.

(b) At the first annual meeting of the Members of the Master Association, the Class C Member shall elect two (2) Directors (“Class C Directors”) for a term of two (2) years, and the Class A Members shall elect one (1) Director (“Class A Director”) for a term of one (1) year. Any person serving as the Class A Director may be re-elected, and there shall be no limitation on the number of terms such Director may serve.

(c) At the second, fourth and every even numbered annual meeting of the Members of the Master Association thereafter, the Class A Members shall elect the Class A Director. The Class A Director so elected shall serve for a term of two (2) years.

(d) At the third, fifth and every odd numbered annual meeting of the Members of the Master Association thereafter until the Declarant’s Class C Membership has terminated as provided above, the Class C Member shall elect the two (2) Class C Directors. The Class C Directors so elected shall serve for a term of two (2) years.

(e) At the first odd numbered annual meeting of the Members of the Master Association which occurs after the Declarant’s Class C Membership has terminated (e.g., the ninth annual meeting of the Members), the Class A Members (including Declarant and the Merchant Builders) shall elect two (2) Directors to replace the Class C Directors. Each Director so elected shall serve for a term of two (2) years. From and after such annual meeting of the Members, all references herein to Directors and/or Class A Directors shall be synonymous.

(f) At the first even numbered annual meeting of the Members of the Master Association which occurs after the Declarant’s Class C Membership has terminated (e.g., the tenth annual meeting of the Members), all Class A Members (including Declarant and any Merchant Builders) shall elect one (1) Director to replace the Director whose term has expired. Each Director so elected shall serve for a term of two (2) years.

Section 7. Increasing the Number of Directors. The Board may at any time vote to increase the number of Directors from three (3) to five (5). At such time as the Board shall vote to increase the number of Directors to five (5), the Board shall appoint the two (2) Directors to fill the two (2) vacancies until the next annual meeting, subject to the Declarant’s

Class C Membership rights if such Class C Membership has not terminated. At such next annual meeting, if Class C Membership has not terminated, Declarant, as the Class C Member, shall elect one (1) Director for a term lasting the same duration as the other Class C Directors, and the Class A Members shall elect the other Director for a term lasting the same duration as the other Class A Director. If, at the time of such annual meeting, the Class C Membership has terminated, then all Class A Members (including Declarant and the Merchant Builders) shall elect both Directors. The Director who received the highest number of votes shall serve for a term of two (2) years and the Director who received the second highest number of votes shall serve for a term of one (1) year. Thereafter, the terms of office for the Directors shall be staggered as provided in this Article.

Section 8.     Removal. Subject to the provisions of Sections 4 and 5 above, at any duly noticed regular or special meeting, one (1) or more of the Directors may be removed, with or without cause, by a vote of Members, and a successor may then and there be elected to fill the vacancy so created, or may be elected at a duly noticed special meeting called for such purpose. Unless the entire Board is removed from office by the vote of the Members, an individual Director shall not be removed prior to the expiration of his term of office if the number of votes cast against his removal would be sufficient to elect the Director if voted cumulatively at an election at which the same total number of votes were cast and the entire number of Directors authorized at the time of the most recent election of the Director were then being elected. A Director who has been elected to office solely by the votes of Members other than Declarant and the Merchant Builders, may be removed from office prior to the expiration of his term of office only by the vote of Members representing at least a simple majority of the voting power residing in Members, other than the Declarant and the Merchant Builders; and in the event of such removal the Director's successor shall be elected in accordance with the provisions of these Bylaws and shall serve the balance of the unserved term of his predecessor. All Directors elected by the Declarant pursuant to the Declarant's Class C Membership rights may only be removed by the Declarant.

Section 9.     Vacancies. Subject to the provisions of Sections 4 and 5 above, vacancies on the Board caused by any reason, other than the removal of a Director by a vote of the Members of the Master Association, shall be filled by vote of the majority of the remaining Directors even though they may constitute less than a quorum. Each person so elected shall be a

Director and shall serve for the remainder of the term of the Director he replaces, or until a successor is elected at a duly noticed special meeting of the Master Association called for that purpose. In the event that a majority of the remaining Directors are unable to agree upon a successor within fifteen (15) days following the occurrence of a vacancy, subject to the provisions of Sections 4 and 5 above, a special election to fill the vacancy shall then be held in accordance with these Bylaws and the Master Declaration within not less than fifteen (15) days nor more than forty-five (45) days following the expiration of said fifteen (15) day period. Notice of a special meeting and election shall be given in accordance with the provisions of these Bylaws. Vacancies shall be deemed to exist in case of death, resignation, the Close of Escrow for the sale of the Director's Lot or Condominium in the Community or a judicial determination of mental incompetency.

Section 10. Compensation of Directors. No Director shall receive compensation for any services performed for the Master Association; provided, however, a Director may be reimbursed for his actual expenses incurred in the performance of his duties.

## **ARTICLE VI**

### **MEETINGS OF THE BOARD OF DIRECTORS**

Section 1. Regular and Special Meetings. Regular meetings of the Board shall be held monthly or as otherwise determined by the Board, but not less frequently than twice a year, and on such day and at such hour as may be fixed, from time to time, by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday. Notice of the time and place of a regular meeting shall be posted at a prominent place or places within the Master Association Property, shall be given by mail to any Owner had requested notification of board meetings by mail, at the address requested by such Owner, and shall be communicated to the Directors not less than four (4) days prior to the meeting, unless the time and place of the meeting is fixed by the Directors. Notice to the Directors may be given personally, by first class mail, by telephone, facsimile or other electronic transmission approved by the Board. Notwithstanding the foregoing, notice of a regular meeting need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting, or who attends the meeting without protest. Special meetings of the Board shall be held when called by the President of the Master Association or by two (2)

Directors, other than the President. Notice of the special meeting shall be posted in a permanent place or places in the Master Association Property and shall be communicated to the Directors in the same manner as provided for herein for regular meetings. Such notice shall be sent not less than seventy-two (72) hours prior to the scheduled time for the special meeting. Notwithstanding the foregoing, notice of the special meeting need not be given to any Director who has signed a waiver of notice or a written consent to holding of the meeting, or who attends the meeting without protest. The notice shall specify the time and place of the meeting and the nature of any special business to be transacted. Such notice, whether delivered personally to the Directors or sent by letter (postage prepaid), facsimile or other electronic transmission shall be to the address reflected in the records of the Master Association. Regular and special meetings of the Board shall be open to all Members of the Master Association. The Board shall permit any Member to speak at any meeting of the Master Association or the Board, except for meetings of the Board held in executive session. A reasonable time limit for Members to speak shall be established by the Board. The Board may, with the approval of a majority of the Directors present at a meeting in which a quorum for the transaction of business has been established, adjourn a meeting and reconvene in executive session to consider litigation in which the Master Association is or may become involved, matters relating to the formation of contracts with the parties, discipline of any Member, or personnel matters. The nature of any and all business to be considered in executive session shall first be announced in open session, and generally noted in the minutes of the Board meeting.

Section 2. Meetings of Directors. The meetings of the Directors shall be held at the Community or as close thereto as possible as may be designated by the Board. Directors may participate in a meeting by means of a conference telephone conversation so long as all Directors participating in such meeting can hear one another. Such participation shall be deemed to constitute the presence in person at such meeting.

Section 3. Rights of Members to Request Meeting in Executive Session. Any Member of the Master Association may attend meetings of the Board except when the Board adjourns to executive session as provided above. In any matter relating to the discipline of a Member, the Board shall meet in executive session, if requested by the affected Member, and the Member shall be entitled to attend the executive session.

Section 4. Minutes of Board Meetings. The minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes, of any meeting of the Board, other than an executive session, shall be available to Members within thirty (30) days of the meeting. The minutes, proposed minutes, or summary minutes shall be distributed to any Member of the Master Association upon request and upon reimbursement of the Master Association's costs in making that distribution.

Members of the Master Association shall be notified in writing at the time that the pro forma budget required by California Civil Code Section 1365 is distributed or at the time of any general mailing to the entire membership of the Master Association of their right to have copies of the minutes of meetings of the Board. The minutes may be obtained in accordance with the provisions of the Article herein entitled "Inspection of Books and Records."

Section 5. Action Without Meeting. The Board may take any action without a meeting if all members of the Board unanimously consent in writing to the action to be taken. If the Board resolves by unanimous written consent to take any such action, an explanation of the action taken shall be posted at a prominent place or places within the Master Association Property within three (3) days after the written consent of all Directors has been obtained.

Section 6. Conduct of Meetings. The President of the Master Association shall preside over all meetings of the Board held during the Board's term of office. In the event the President shall be absent from any meeting, said meeting shall be presided over by the Vice President, and if the Vice President shall be absent, by such other Director as may be elected by a majority of a quorum of the Directors. The Secretary of the Master Association shall act as Secretary of the Board, but in the event the Secretary shall be absent, the President or presiding Director may appoint any person to act as Secretary for the meeting.

Section 7. Quorum. A majority of the total number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum has been established shall be regarded as the act of the Board.

## ARTICLE VII

### **POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

Section 1. Powers and Duties. The Board, for and on behalf of the Master Association, shall have the right and power to do all things necessary to conduct, manage and control the affairs and business of the Master Association as more particularly described in the Articles of Incorporation and in the Master Declaration.

## ARTICLE VIII

### **OFFICERS AND THEIR DUTIES**

Section 1. Enumeration and Qualifications of Officers. The officers of this Master Association shall be a President, Vice President, Secretary and a Treasurer. Said officers shall consist only of Members in good standing of the Master Association, or an authorized agent of Declarant (or of a Merchant Builder) so long as Declarant is entitled to annex any of the Annexable Property into the Community. Any Member serving as a Director of the Master Association may simultaneously serve as an officer thereof.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board following each annual meeting of the Master Association.

Section 3. Term. The officers of the Master Association shall be elected annually by the Board and each shall hold office for one (1) year, unless such officer shall sooner resign or shall be removed or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Master Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office at any time, with or without cause, by a majority of the Board. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at such later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices, except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. Duties of the officers are as follows:

(a) President: The President shall preside at all meetings of the Master Association and Board; shall see that orders and resolutions of the Board are carried out; shall co-sign all leases, mortgages, deeds and other written instruments, and shall co-sign all checks and promissory notes; provided, however, that the authority to co-sign all checks is assignable to a manager for the Community.

(b) Vice President: The Vice President shall act in the place and stead of the President in the event of the President's absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

(c) Secretary: The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Master Association; shall co-sign all contracts, leases or other instruments executed in the name of or on behalf of the Master Association; serve notice of meetings of the Board and of the Master Association; keep appropriate current records showing the Members of the Master Association, together with their addresses, and shall perform such other duties as required by the Board.

(d) Treasurer: The Treasurer shall receive and deposit in appropriate bank accounts all moneys of the Master Association and shall disburse such funds as directed by resolution of the Board; shall co-sign all checks and promissory notes of the Master Association; provided, however, that the authority to co-sign all checks is assignable to a manager for the Community; keep proper books of account; cause an annual audit of the Master Association books to be made by a certified public accountant at the completion of each fiscal year as provided for in the Master Declaration, and shall prepare an annual budget and a statement of income and

expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

Section 9. Compensation of Officers. No officer shall receive any compensation for services performed for the Master Association; provided, however, that an officer may be reimbursed for his actual expenses incurred in the performance of his duties.

## **ARTICLE IX**

### **COMMITTEES**

Section 1. Appointment of Committees. The Board shall appoint the members of the Nominating Committee as provided in these Bylaws and the Architectural Control Committee as provided in the Master Declaration. In addition, the Board may appoint such other committees as deemed appropriate in carrying out its purposes.

## **ARTICLE X**

### **INSPECTION OF BOOKS AND RECORDS**

Section 1. Availability of Books and Records. Members of the Master Association, each Eligible Mortgage Holder and Declarant for so long as Declarant or a Merchant Builder owns any portion of the Community or the Annexable Property and continuing until the tenth (10th) anniversary of the Close of Escrow for the sale of the last Lot or Condominium in the Community pursuant to a transaction requiring the issuance of a Final Subdivision Public Report by the DRE shall have access to the Master Association's Documents and to all of the Master Association's records in accordance with Section 1365.2 of the California Civil Code, as same may be amended from time to time.

Section 2. Rules Concerning Inspection. The Board shall establish reasonable rules with respect to:

- (a) Notice to be given to the custodian of records by the Member, by Declarant and by each Eligible Mortgage Holder desiring to make the inspection;
- (b) Hours and days of the week when such an inspection may be made; and

(c) Payment of the cost of copying, mailing, and, if necessary, redacting the Master Association's records requested by a Member, Eligible Mortgage Holder or Declarant.

Section 3. Inspection by Directors. Every Director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Master Association, and the physical properties owned or controlled by the Master Association. The right of inspection by a Director includes the right to make extracts and copies of documents.

## ARTICLE XI

### NOTICE AND HEARING

Section 1. Suspension of Privileges. In the event of an alleged violation of the Master Association Documents, after Notice and Hearing as provided below, the Board shall have the right to discipline any Member by taking any one (1) or more of the following actions: (a) levying a Compliance Assessment as provided in the Master Declaration; (b) suspending or conditioning the right of said Member to use any Master Association Property recreational amenities; or (c) suspending the voting rights attributable to such Member's Lot or Condominium. Except as otherwise provided in the Master Declaration, any such suspension shall be for a period of time not exceeding thirty (30) days for any noncontinuing violation, but in the case of a continuing violation, including, without limitation, the nonpayment of Assessments which have become delinquent, such suspension may be imposed so long as the violation continues.

Section 2. Notice to Member. Written notice of the alleged violation shall be delivered personally or mailed to the Member by first class or registered mail, return receipt requested, at least fifteen (15) days before the proposed hearing on said alleged violation. Said notice shall contain: (a) an explanation in clear and concise terms of the nature of the alleged violation; (b) a reference to the provision(s) of the Master Association Documents which said Member is alleged to have violated; (c) the date, time and place for the hearing; and (d) the Member's right to attend the hearing and to address the Board.

Section 3. Hearing. The hearing shall be conducted by the Board, and shall be conducted in executive session, if requested by the Member, who shall be entitled to hear the charges and evaluate the evidence concerning the alleged violation. At the hearing, the Member

shall have the right to present oral or written evidence concerning the alleged violation. The Board shall render its decision concerning the alleged violation to said Member not less than five (5) days after the hearing, and within fifteen (15) days after the hearing, the Board shall provide by either personal delivery or first-class mail a written explanation of the suspension, fine or conditions, if any, imposed by the Board.

Section 4. Monetary Penalties. If the Board adopts a policy regarding the imposition of any monetary penalty (including a Compliance Assessment) on any Member due to a violation of the Master Association Documents, (including any monetary penalty relating to the activities of a guest or invitee of a Member), the Board shall adopt and distribute to each Member, by personal delivery or first-class mail, a schedule of the monetary penalties that may be assessed for those violations. The Board shall not be required to distribute any additional schedules of monetary penalties unless there are changes from the schedule previously adopted and distributed to the Members.

## **ARTICLE XII**

### **AMENDMENTS**

Section 1. Amendments to Bylaws. These Bylaws may be amended only by the vote by secret ballot as provided in the Master Declaration of at least fifty-one percent (51%) of the Members of the Master Association. Notwithstanding the foregoing, the percentage of the voting power of the Members necessary to amend a specific provision of these Bylaws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under said provision.

## **ARTICLE XIII**

### **CORPORATE SEAL**

Section 1. Seal. The Master Association shall have a seal in circular form having within its circumference the words:

PORTOLA SPRINGS COMMUNITY ASSOCIATION

**ARTICLE XIV**  
**MISCELLANEOUS**

Section 1. Director and Officer Liability. In accordance with the provisions of Section 1365.7 of the California Civil Code, as amended from time to time, a volunteer officer or volunteer Director shall not be personally liable in excess of the insurance coverage specified in the Master Declaration to any person who suffers injury, including, but not limited to, bodily injury, emotional distress, wrongful death, or property damage or loss as a result of the tortious act or omission of a volunteer officer or volunteer Director of the Master Association if all of the following criteria are met:

(a) The act or omission was performed within the scope of the officer's or Director's Master Association duties (including, but not limited to, decisions whether to conduct an investigation of the Community for latent deficiencies prior to the expiration of the applicable statute of limitations, and/or whether to commence a civil action against the builder for defects in design or construction);

(b) The act or omission was performed in good faith.

(c) The act or omission was not willful, wanton or grossly negligent.

(d) The Master Association maintained and had in effect at the time the act or omission occurred and at the time claim is made one or more policies of insurance which include coverage for general liability insurance and for individual liability of officers and directors of the Master Association for negligent acts or omissions in that capacity; provided that both types of coverage are in the following minimum amounts:

(1) At least five hundred thousand dollars (\$500,000) if the Community consists of 100 or fewer Lots and/or Condominiums;

(2) At least one million dollars (\$1,000,000) if the Community consists of more than 100 Lots and/or Condominiums.

The payment of actual expenses incurred by a Director or officer in the execution of the duties of that position does not affect the Director's or officer's status as a volunteer within the meaning of this Section. An officer or Director who at the time of the act or omission received either direct or indirect compensation as an employee from Declarant, or from a financial institution that

purchased a Lot or Condominium at a judicial or nonjudicial foreclosure of a Mortgage is not a volunteer for the purposes of this Section.

Nothing in this Section shall be construed to limit the liability of the Master Association for its negligent acts or omissions or for any negligent act or omission of any officer or Director of the Master Association.

This Section shall only apply to a volunteer officer or Director who resides in the Community either as a tenant or as an Owner of no more than two Lots and/or Condominiums in the Community.

Section 2. Indemnification of Directors and Officers. To the maximum extent permitted by law, the Master Association shall defend, indemnify and hold harmless all Directors, officers, employees and "agents" (as defined in Section 7237 of the California Corporations Code) of the Master Association (collectively the "Master Association Representatives"), from and against all claims, costs, expenses and other liability which may be imposed upon or reasonably incurred by a Master Association Representative (including reasonable settlement payment), in connection with any claim, action, suit or proceeding, or threat thereof, made or instituted, in which such Master Association Representative may be involved or be made a party by reason of being or having been a Master Association Representative or by any action alleged to have been taken or omitted by such Master Association Representative whether or not the claim asserted is based on matters which arose in whole or in part prior to the adoption of this Section. In the event of the death of the Master Association Representative, the defense and indemnification provided by the Master Association shall extend to the legal representatives of such person. The right of indemnification provided in this Section shall not be exclusive of any other rights to which any person may be entitled as a matter of law, under any agreement or otherwise.

Section 3. Fiscal Year. The fiscal year of the Master Association shall be determined by the Board, and having been so determined, is subject to change, from time to time, as the Board shall determine.

Section 4. Checks and Drafts. Except as provided herein or in the Article in the Master Declaration entitled "Powers and Duties of the Master Association," all checks, drafts or other order for payments of money, notes or other evidences of indebtedness issued in the

name of or payable to the Master Association shall be signed or endorsed by the President and Treasurer.

Section 5. Execution of Documents. The Board may authorize any officer(s), agent(s), or employee(s) to enter into any contract or execute any instrument in the name and on behalf of the Master Association, and such authority may be general or confined to specific instances. Unless so authorized by the Board, no officer, agent or employee shall have any power or authority to bind the Master Association by any contract or engagement, to pledge its credit, or to render it liable for any purpose or in any amount.

Section 6. Dissolution. Any dissolution of the Master Association shall require the approval of the Board and the affirmative vote or written consent of at least sixty-seven percent (67%) the Members of the Master Association. Upon the winding-up and dissolution of the Master Association, after paying or adequately providing for the debts and obligations of the Master Association, the remaining assets shall be distributed to an appropriate public agency or any nonprofit corporation, association or trust, to be used for purposes similar to those for which the Master Association was created.

Section 7. Conflict. In the case of any conflict between the Articles and these Bylaws, the Articles shall control, and in the case of any conflict between the Master Declaration and these Bylaws, the Master Declaration shall control.

\* \* \*

CERTIFICATE OF SECRETARY

I, the undersigned, do hereby certify:

1. That I am the duly elected and acting Secretary of PORTOLA SPRINGS COMMUNITY ASSOCIATION, a California nonprofit, mutual benefit corporation; and

2. That the foregoing Bylaws, comprising of 27 pages, constitute the original Bylaws of said corporation, as duly adopted at the first meeting of the Board of Directors thereof duly held on July 6, 2006.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said corporation this 6<sup>th</sup> day of July, 2006.

Wendy Silvers  
SECRETARY