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FILED

In the office of the Secretary of State
of the State of California

JAN 15 1973

EDMUND G. BROWN, Jr. Secretary of State

By *Walter Vogel*
Deputy

ARTICLES OF INCORPORATION

OF

COCO PALMS

HOMEOWNERS ASSOCIATION

ARTICLE I

The name of the corporation (hereinafter called the "Association") is COCO PALMS HOMEOWNERS ASSOCIATION. This corporation is organized pursuant to the General Nonprofit Corporation Law.

ARTICLE II

The principal office for the transaction of the business of the Association is located in Orange County, State of California.

ARTICLE III

PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific primary purposes for which it is formed are to provide for maintenance, preservation and architectural control of the condominium project including the residential units and the Common Area and recreation facilities located on that certain real property in the County of Orange, State of California, described as follows:

Registration of Records
Articles
No

Lots 1 through 78 inclusive of Tract 5365, recorded in Book 204, pages 26, 27 and 28 of Miscellaneous Maps in the office of the County Recorder of Orange County, State of California, together with the west 111.85 feet of the North 208.71 feet of the North one-half of the Southwest quarter of the Northeast quarter of Section 35, Township 3, South, Range 10 West, San Bernardino Base and Meridian, County of Orange, State of California.

And to promote the health, safety and welfare of the residents within the above-described property.

In furtherance of said purposes, this Association shall have power to:

(a) perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions, hereinafter called the "Declaration", applicable to the property and recorded or to be recorded in the Office of the County Recorder of Orange County;

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase or otherwise), own,

hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, and only with the assent (by vote or written consent) of two-thirds (2/3) of each class of members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any merger, consolidation or such annexation shall have the assent by vote of two-thirds (2/3) of each class of members or by the written consent of all of the members;

(f) have and to exercise any and all powers, rights and privileges which a corporation organized under the General Nonprofit Corporation Law of the State of California by law may now or hereafter have or exercise.

ARTICLE IV

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any condominium unit which is subject by covenants of record to assessment by the Association,

including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any condominium unit which is subject to assessment by the Association.

ARTICLE V

VOTING RIGHTS

The Association shall have two classes of voting membership:

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

Class B. The Class B member(s) shall be the Declarant (as defined in the Declaration), and shall be entitled to three (3) votes for each residential unit owned. The Class B membership shall cease and be converted to Class A membership on the happening of either 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) On February 1, 1976.

ARTICLE VI

BOARD OF DIRECTORS

The affairs of this Association shall be managed by a Board of five (5) Directors, who need not be members of the Association. The number of Directors may be changed by amendment of the By-Laws of the Association. The names and addresses of the persons who are to act in the capacity of Directors until the selection of their successors are:

<u>Name</u>	<u>Address</u>
EDWARD LEONETTI	2451 E. Orangethorpe Fullerton, CA 92631
LYLE SKILLESTAD	2451 E. Orangethorpe Fullerton, CA 92631
GEORGE LIOLIOS	2451 E. Orangethorpe Fullerton, CA 92631
ANITA SANDFORD	2451 E. Orangethorpe Fullerton, CA 92631
SANDRA ABBOTT	2451 E. Orangethorpe Fullerton, CA 92631

At the first annual meeting the members shall elect three (3) directors for a term of one year, and two (2) directors for a term of two years; and at each annual meeting thereafter the members shall elect directors for a term of two years to succeed those directors whose terms have expired.

ARTICLE VII

DISSOLUTION

Upon dissolution of the Association, the assets of the Association shall be distributed to an appropriate agency to be used for purposes similar to those for which this Association was created. In the event that such distribution is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization organized and operated for such similar purposes.

ARTICLE VIII

DURATION

The corporation shall exist perpetually.

ARTICLE IX

AMENDMENTS

Amendment of these Articles shall require the assent (by vote or written consent) of members representing sixty-six and two-thirds percent (66 2/3%) or more of the voting power.

IN WITNESS WHEREOF, for the purpose of forming this corporation, under the laws of the State of California, we, the undersigned, constituting the incorporators of this Association,

have executed these Articles of Incorporation this 3rd day of January, ~~1972~~ 1973

Edward Leonetti

Lyle Skillestad

George A. Liolios

Anita L. Sandford

Sandra L. Abbott

STATE OF CALIFORNIA)
) ss.
COUNTY OF

On January 3, 1973, ~~1972~~, before me, the undersigned, a Notary Public in and for said State, personally appeared Edward Leonetti, Lyle Skillestad, George A. Liolios, Anita L. Sandford, Sandra L. Abbott known to me to be the person(s) whose name(s) are subscribed to the within Instrument and acknowledged that they executed the same.

WITNESS my hand and official seal.

MARY J. FENSTERMACHER
NOTARY PUBLIC - CALIFORNIA
My Commission Expires Dec 26, 1976

Mary J. Fenstermacher
Notary Public in and for said
County and State
Mary J. Fenstermacher

673040

FILED
In the office of the Secretary of State
of the State of California

CERTIFICATE OF AMENDMENT TO

ARTICLES OF INCORPORATION

OF

COCO PALMS HOMEOWNERS ASSOCIATION

AUG 13 1993

March Fong Eu
MARCH FONG EU Secretary of State

Edward F. Hughes and Linda Endsley, certify that:

1. They are the duly elected and acting President and Secretary, respectively, of Coco Palms Homeowners Association, a California nonprofit mutual benefit corporation ("Corporation").

2. Article VI of the Articles of Incorporation of this Corporation is amended to read as follows:

ARTICLE VI

BOARD OF DIRECTORS

The affairs of this Association shall be managed by a Board of five (5) Directors, who must be members of the Association. The number of Directors may be changed by amendment of the Bylaws of the Association.

At each annual meeting, the members shall elect Directors for a term of two (2) years to succeed those Directors whose terms have expired.

3. The foregoing amendment of Articles of Incorporation has been duly approved by the Board of Directors.

4. The foregoing amendment of Articles of Incorporation has been duly approved by the required vote of members.

We further declare under penalty of perjury under the laws of the State of California that the matters set forth in this certificate are true and correct of our own knowledge.

Dated: 7-5-93

Edward F. Hughes
Edward F. Hughes, President

Linda Endsley
Linda Endsley, Secretary

amend.dir
8/3/93

Recorded in Official Records, County of Orange
Darlene Bloom, Interim Clerk Recorder

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Recording Requested By:
Coco Palms Homeowners Association
When Recorded Mail To:
Coco Palms Homeowners Association
c/o Gerald J. Van Gemert, A Law Corp.
19900 MacArthur Blvd., Suite 1070
Irvine, California 92612

SPACE ABOVE FOR RECORDERS USE ONLY

**REVISED AND RESTATED
DECLARATION FOR
COCO PALMS HOMEOWNERS ASSOCIATION
A CONDOMINIUM PROJECT**

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THIS REVISED AND RESTATED DECLARATION is made on October 1, 2000, by Coco Palms Homeowners Association, a Nonprofit, Mutual Benefit Corporation.

RECITALS

A. Declarant is the owner of that certain real property located in the City of Fullerton, County of Orange, State of California, and more particularly described on Exhibit "A" attached to and made a part of this Declaration. ("Property"). This is a revised and restated declaration for the property. The original declaration was recorded in the official records of the County Recorder of Orange County, California on January 16, 1973, in Book No. 10517, Page No. 169.

B. Declarant predecessor subdivided the Property into condominium estates which are now subject to the provisions of the Davis-Stirling Common Interest Development Act contained in Division II, Part 4, Title 6 of the California Civil Code, and established a plan of condominium ownership for the benefit of all the condominium estates created.

C. In furtherance of this intent, Declarant hereby declares that all of the Property is and shall continue to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the declarations, limitations, covenants, conditions, restrictions, reservations, rights, and easements set forth in this Declaration, as this Declaration may be amended from time to time, all of which are declared and agreed to be in furtherance of a plan established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Property. All provisions of this Declaration shall constitute covenants running with the land and enforceable equitable servitudes upon the Property, and shall be binding on and for the benefit of all of the Property and all parties having or acquiring any right, title, or interest in all or any part of the Property, including the heirs, executors, administrators, and assigns of these parties and all subsequent owners and lessees of all or any part of a Condominium.

ARTICLE I. DEFINITIONS

"Articles"

Section 1.01. "Articles" means the Articles of Incorporation of Coco Palms Homeowners Association and any amendments thereto that are or shall be filed in the Office of the Secretary of State of the State of California.

"Association"

Section 1.02. "Association" means Coco Palms Homeowners Association, a California nonprofit mutual benefit corporation.

"Board"

Section 1.03. "Board" means the Board of Directors of the Association.

"Bylaws"

Section 1.04. "Bylaws" means the Bylaws of the Association and amendments thereto that are or shall be adopted by the Board.

"Common Area"

Section 1.05. "Common Area" means the entire Project except all Units as defined in this Declaration or as shown on the Condominium Plan.

"Condominium"

Section 1.06. "Condominium" means an estate in real property consisting of a fee interest in a Unit, the boundaries of which are shown and described on the Condominium Plan, a fractional undivided interest as a tenant in common in the Common Area of the Project, a Membership in the Association, and any Exclusive Use Common Area appurtenant to the Unit. The fractional undivided interest appurtenant to each Unit shall be an undivided 0.8771929 interest in the Common Area.

“Condominium Plan”

Section 1.07. “Condominium Plan” means that condominium plan and any amendments thereto.

“Declarant”

Section 1.08. “Declarant” means Covington Brothers, a California Corporation and its successors and assigns, including Association, which makes and records this Revised and Restated Declaration.

“Declaration”

Section 1.09. “Declaration” means this Declaration and any amendments thereto, including this Revised and Restated Declaration.

“Exclusive Use Common Area”

Section 1.10. “Exclusive Use Common Area” means those portions of the Common Area reserved for the exclusive use of one or more of the Owners pursuant to Section 2.04 of this Declaration.

“Governing Instruments”

Section 1.11. “Governing Instruments” means this Declaration, the Articles and Bylaws of the Association, and any Rules and Regulations of the Project.

“Manager”

Section 1.12. “Manager” means any person or entity appointed by the Board to manage the Project.

“Member”

Section 1.13. “Member” means every person or entity entitled to membership in the Association as provided in this Declaration.

“Mortgage” and “First Mortgage”

Section 1.14. “Mortgage” means a mortgage or deed of trust encumbering a Condominium or any other portion of the Project. “First Mortgage” means a mortgage that has priority over all other mortgages encumbering the same Condominium or other portions of the Project.

“Mortgagee” and Related Terms

Section 1.15. “Mortgagee” means a Person to whom a Mortgage is made and includes the beneficiary of a deed of trust and any guarantor or insurer of a mortgage. “Institutional Mortgagee” means a mortgagee that is a financial intermediary or depository, such as a bank, savings and loan, or mortgage company, that is chartered under federal or state law and that lends money on the security of real property or invests in such loans, or any insurance company or governmental agency or instrumentality, including the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Government National Mortgage Association (GNMA). “First Mortgagee” means a mortgagee that has priority over all other mortgages or holders of mortgages encumbering the same Condominium or other portions of the Project. The term “Beneficiary” shall be synonymous with the term “Mortgagee.”

“Mortgagor” and “Trustor”

Section 1.16. “Mortgagor” means a Person who mortgages his, her, or its property to another (i.e., the maker of a mortgage), and shall include the trustor of a deed of trust. The term “Trustor” shall be synonymous with the term “Mortgagor.”

“Owner”

Section 1.17. “Owner” means the record holder or holders of record fee title to a Condominium, including Declarant, and any contract sellers under recorded contracts of sale. “Owner” shall not include any persons or entities who hold an interest in a Condominium merely as security for performance of an obligation.

“Person”

Section 1.18. “Person” means a natural individual, a corporation, or any other entity with the legal right to hold title to real property.

“Plan”

Section 1.19. “Plan” means the condominium plan entitled “Condominium Plan”, filed in the records of Orange County, California, in Book 10515 of Official Records at Pages 472 through 490.

“Project”

Section 1.20. “Project” means the entire parcel of real property described on the Plan and all improvements thereon.

“Property”

Section 1.21. “Property” means the real property described in the Recitals.

“Rules and Regulations”

Section 1.22. “Rules and Regulations” means any Rules and Regulations for Coco Palms Homeowners Association regulating the use of the Common Area and adopted by the Association pursuant to Section 3.06(b) of this Declaration.

“Unit”

Section 1.23. “Unit” means that portion of a Condominium that consists of a fee interest in a Unit. “Unit” does not include the other elements of a Condominium. Each Unit shall be a separate freehold estate, as separately shown, numbered, and designated in the Condominium Plan. Each Unit consists of a living area space or spaces bounded by and contained within the interior unfinished surfaces of the perimeter walls, floors, ceilings, windows, and doors (including the wall coverings and floor coverings), as shown on the Condominium Plan.

ARTICLE II. THE PROPERTY

Project Subject to Declaration

Section 2.01. The entire Project shall be subject to this Declaration.

Common Area

Section 2.02. The following provisions govern the use and enjoyment of the Common Area:

(a) The Association shall have an easement in, to, and throughout the Common Area and its improvements to perform its duties and exercise its powers.

(b) Except as provided in this Declaration, there shall be no judicial partition of the Common Area, nor shall Declarant or any person acquiring an interest in all or any part of the Project seek any judicial partition.

(c) Subject to the provisions of this Declaration, each Owner has nonexclusive rights of ingress, egress, and support through the Common Area. These rights shall be appurtenant to and shall pass with title to every Condominium. However, these rights shall not interfere with, and shall be subordinate to, any exclusive right to use an Exclusive Use Common Area.

(d) The Members' rights of use and enjoyment of the Common Area shall be subject to the restrictions set forth in the Governing Instruments, including the following:

- (1) The right of the Association to adopt and enforce Rules and Regulations for the use of the Common Area.
- (2) The right of the Association to reasonably limit the number of guests and tenants using the Common Area.

- (3) The right of the Association to assign or otherwise control the use of any unassigned parking spaces within the Common Area.
- (4) The right of the Association to suspend the right of any Owner, and the Persons deriving rights from any Owner, to use and enjoy the Common Area for any period during which the Owner is delinquent in the payment of any assessment.
- (5) The right of the Association to cause the construction of additional improvements in the Common Area, or to cause the alteration or removal of existing improvements on the Common Area.
- (6) The right of the Association to grant, consent to, or join in the grant or conveyance of easements, licenses, or rights-of-way in, on, or over the Common Area.
- (7) The right of each Owner to the exclusive use of any Exclusive Use Common Area appurtenant to the Owner's Unit.
- (8) The rights of Declarant as described in this Declaration.
- (9) The right of the Association to reasonably restrict access to roofs, maintenance facilities or areas, landscaped areas, and similar areas of the Project.
- (10) The right of the Architectural Control Committee to approve any proposed alteration or modification to the Common Area or any Unit.

(e) The Association may grant to third parties easements in, on, and over the Common Area for the purpose of constructing, installing, or maintaining necessary utilities and services, and each Unit Owner, in accepting his or her deed to the Unit, expressly consents to these easements. However, no such easement can be granted if it would interfere with any exclusive easement, or with any Owner's use, occupancy, or enjoyment of his or her Unit or any Exclusive Use Common Area appurtenant to the Unit.

(f) An Owner who has sold his or her Condominium to a contract purchaser or who has leased or rented the Condominium shall be entitled to delegate his or her rights to use and enjoy the Common Area to any contract purchaser, tenant, or subtenant who resides in the Owner's Condominium, subject to reasonable regulation by the Board. If the Owner makes such a delegation of rights, the Owner and the Owner's family, guests, employees, and invitees shall not be entitled to use and enjoy the Common Area for so long as the delegation remains effective.

(g) Each Owner shall be liable to the Association for any damage to the Common Area or to Association-owned property, to the extent that the damage is not covered by insurance, if the damage is sustained because of the negligence, willful misconduct, or unauthorized or improper installment or maintenance of any improvement by the Owner or the Owner's family, guests, tenants, contract purchasers, or invitees. In the case of joint ownership of a Condominium, the liability of the co-owners shall be joint and several, unless the co-owners and the Association have agreed in writing to an alternative allocation of liability.

Partition

Section 2.03. There shall be no judicial partition of the Project or any part of it, nor shall Declarant or any person acquiring an interest in the Project or any part of it seek any judicial partition, except as follows:

(a) If two or more persons own any Condominium as tenants in common or as joint tenants they may maintain a partition action as to their co-tenancy.

(b) The Owner of a Condominium may maintain a partition action as to the entire Project, as if all of the Owners in the Project were tenants in common in the Project in the same proportion as their interests in the Common Area, and an appropriate court shall order partition by sale of the entire Project, upon a showing of any of the following:

- (1) The Project has been in existence for more than 50 years and is obsolete and uneconomical, and owners holding (in the aggregate) more than a 50 percent interest in the common area oppose repair or restoration of the Project.

- (2) The Project has been damaged or destroyed and the other criteria set forth in Section 8.03 of this Declaration have been satisfied.

Exclusive Use Common Areas

Section 2.04. The portions of the Common Area listed below are or shall be for the exclusive use of certain Owners of Units and shall be appurtenant to those Units. An Exclusive Use Common Area may not be transferred independently of any other interest of the Owner. Additional Exclusive Use Common Areas may be designated in the future by the Association, provided that the designation is not inconsistent with the rights of any Owner.

(a) Each Owner shall have the exclusive right to use, for parking purposes only, the garage unit that has been allocated to the Owner's Unit on Letter "C" the Condominium Plan.

(b) Each Owner shall have the exclusive right to use, for any reasonable purpose, any patio area that is designated as the patio area for his or her Unit on Letter "B" to the Condominium Plan. The Owner shall be responsible for keeping that area in good condition and repair; provided, however, that the Association shall be responsible for maintaining any fence surrounding the area and shall add any costs of that maintenance to the Owner's regular monthly assessment. If an owner installs any gate, the owner must maintain it.

(c) All of the following fixtures and items designed to serve a single Unit, but located outside the boundaries of the Unit, are Exclusive Use Common Areas allocated exclusively to that separate interest: shutters, awnings, window boxes, doorsteps, stoops, porches, balconies, patios, exterior doors, door frames, and hardware incident thereto, screens, and windows. These items are to be maintained in good condition and repair by the Owner. However, the Owner shall not be responsible for periodic structural repairs, including resurfacing, sealing, caulking, replacement, or painting of the Exclusive Use Common Area unless the repairs are necessitated by the willful or negligent acts of the Owner or the Owner's family or guests.

(d) All internal and external telephone wiring designed to serve a single Unit, but located outside the boundaries of the Unit, are Exclusive Use Common Areas allocated exclusively to that Unit. The Owner of the Unit shall be entitled to reasonable access to the Common Area for the purpose of maintaining this wiring, subject to the consent of the Association and to any other conditions reasonably imposed by the Association. The Association's consent shall not be unreasonably withheld.

Maintenance by Owners

Section 2.05. Each Owner shall maintain the Owner's Unit, including the equipment and fixtures in the Unit and the interior surfaces of the walls, ceilings, floors, and doors, in a clean, sanitary, and attractive condition. This maintenance shall be at the Owner's expense. However, the Owner shall not take any actions that would impair or otherwise alter the structural integrity or mechanical systems or lessen the support of the Unit or any other portion of the Project, without the prior written approval of the Architectural Control Committee, as provided in Article VI of this Declaration. Owner shall be responsible for maintaining any Exclusive Use Common Area garage doors appurtenant to the Owner's Lot.

Presumption Regarding Boundaries of Units

Section 2.06. In interpreting deeds, declarations, and plans, the existing physical boundaries of a Unit, including any Unit reconstructed in substantial accordance with the Condominium Plan and the original construction plans for the Project, shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed, Condominium Plan, or Declaration. This presumption applies regardless of settling or lateral movement of the building and regardless of minor variances between boundaries, as shown on the Condominium Plan or described in the deed and Declaration, and the boundaries of the building as constructed or reconstructed.

Prohibition Against Severance of Elements

Section 2.07. Any conveyance, judicial sale, or other voluntary or involuntary transfer of a Unit shall include the undivided interest in the Common Area and any Exclusive Use Common Areas appurtenant to

the Unit. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the Owner's entire estate shall also include the Owner's Membership interest in the Association, as provided in Section 3.02 of this Declaration. Any transfer that attempts to sever those component interests shall be void.

ARTICLE III. OWNERS' ASSOCIATION

Organization of the Association

Section 3.01. The Association is incorporated under the name of Coco Palms Homeowners Association, as a nonprofit corporation organized under the California Nonprofit Mutual Benefit Corporation Law. The Association is charged with the duties and invested with the powers prescribed by law and set forth in this Declaration, the Articles of Incorporation, and the Bylaws.

Membership

Section 3.02. Every Owner, upon becoming an Owner, shall automatically become a Member of the Association. Ownership of a Unit is the sole qualification for membership. Each Member shall have the rights, duties, privileges, and obligations set forth in the Governing Instruments. Membership shall automatically cease when the Owner no longer holds an ownership interest in a Condominium. All memberships shall be appurtenant to the Condominium conveyed, and cannot be transferred, assigned, conveyed, hypothecated, pledged, or alienated except as part of a transfer of the Owner's entire ownership interest, and then only to the transferee. Any transfer of the Owner's title to his or her Condominium shall automatically transfer the appurtenant membership to the transferee.

Classes of Membership

Section 3.03. The Association has one class of voting membership.

Voting Rights

Section 3.04. All voting rights of the Owners shall be subject to the following restrictions, limitations, and requirements:

(a) Except as provided in this Article, on each matter submitted to a vote of the Owners, each Owner shall be entitled to cast one vote for each Condominium owned.

(b) Fractional votes shall not be allowed. When there is more than one record Owner of a condominium ("co-owners"), all of the co-owners shall be Members, but only one of them shall be entitled to cast the single vote attributable to the Condominium. Co-owners should designate in writing one of their number to vote. If no such designation is made or if it is revoked, the co-owners shall decide among themselves, by majority vote, how that Condominium's vote is to be cast. Unless the Board receives a written objection in advance from a co-owner, it shall be conclusively presumed that the voting co-owner is acting with the consent of his or her co-owners. No vote shall be cast for the Condominium on a particular matter if a majority of the co-owners present in person or by proxy cannot agree on a vote.

(c) Except as provided in Section 3.06(c) of this Declaration, governing the enforcement of certain bonded obligations, and Section 3.05 of the Bylaws, governing the removal of directors, any provision of this Declaration, the Articles, or the Bylaws that requires the approval of a specified percentage of the voting power of the Association (rather than simply requiring the vote or written consent of a majority of a quorum) shall require the approval of the specified percentage of the voting power of the membership.

(d) The Board shall fix, in advance, a record date or dates for the purpose of determining the Owners entitled to notice of, and to vote at, any meeting of Owners. The record date for notice of a meeting shall not be more than 90 or less than 10 days before the date of the meeting. The record date for voting shall not be more than 60 days before the date of the meeting or before the date on which the first written ballot is mailed or solicited. The Board may also fix, in advance, a record date for the purpose of determining the Owners entitled to exercise any rights in connection with any other action. Any such date shall not be more than 60 days prior to the action.

(e) Every Owner entitled to vote at any election of the Directors may cumulate the Owner's votes and give one candidate a number of votes equal to the number of Directors to be elected multiplied by the number of votes to which the Owner is entitled, or distribute the Owner's votes on the same principle among

as many candidates as the Owner thinks fit. No Owner shall be entitled to cumulate votes for a candidate or candidates unless the candidate's name or candidates' names have been placed in nomination prior to voting and a Owner has given notice at the meeting prior to the voting of the Owner's intention to cumulate votes. If any one Owner has given such notice, all Owners may cumulate their votes for candidates in nomination.

Membership Meetings

Section 3.05. Article II of the Bylaws governing meetings of the Members is hereby incorporated by reference.

General Powers and Authority

Section 3.06. The Association shall have all the powers of a nonprofit mutual benefit corporation organized under the California Nonprofit Mutual Benefit Corporation Law, subject to any limitations set forth in this Declaration or in the Articles and Bylaws of the Association. It may perform all acts that may be necessary for or incidental to the performance of the obligations and duties imposed upon it by this Declaration or the other Governing Instruments. Its powers shall include, but are not limited to, the following:

(a) The Association shall have the power to establish, fix, levy, collect, and enforce the payment of assessments against the Owners in accordance with the procedures set out in Article IV of this Declaration.

(b) The Association shall have the power to adopt reasonable Rules and Regulations governing the use of the Common Area and its facilities, and of any other Association property. These Rules and Regulations may include, but are not limited to: reasonable restrictions on use by the Owners and their families, guests, employees, tenants, and invitees; rules of conduct; and the setting of reasonable fees for the use of recreational facilities. A copy of the current Rules and Regulations, if any, shall be given to each Owner and shall be posted at conspicuous places in the Common Area. If any provision of the Rules and Regulations conflicts with any provision of this Declaration, the Articles, or the Bylaws, the Declaration, Articles, or Bylaws shall control to the extent of the inconsistency.

(c) The Association shall have the right to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest and without joining with it the Owners, in matters pertaining to the following:

- (1) Enforcement of this Declaration, the Articles, Bylaws, and Rules and Regulations.
- (2) Damage to the Common Area.
- (3) Damage to the Units that the Association is obligated to maintain or repair.
- (4) Damage to the Units that arises out of, or is integrally related to, damage to the Common Area or Units that the Association is obligated to maintain or repair.

The Association may enforce payment of assessments in accordance with the provisions of Article IV of this Declaration.

(d) In addition to the general power of enforcement described above, the Association may discipline its Owners for violation of any of the provisions of the Governing Instruments or Rules and Regulations by suspending the violator's voting rights and privileges for use of the Common Area, or by imposing monetary penalties, subject to the following limitations:

- (1) The accused Owner shall be given notice and an opportunity to be heard with respect to the alleged violation in accordance with the provisions of Corporations Code Section 7341 and Civil Code Section 1363.05.
- (2) Any suspension of an Owner's association privileges shall not exceed sixty (60) days for each violation.
- (3) If the Association imposes a monetary penalty, the Board shall distribute to each Owner, by personal delivery or first-class mail, a schedule of the monetary penalties that may be assessed for those violations.

(4) Except as provided in Article IV of this Declaration, relating to foreclosure for failure to pay assessments, or as a result of the judgment of a court or a decision arising out of arbitration, the Association shall in no way abridge the right of any Owner to the full use and enjoyment of his or her Unit.

(e) The Association, acting through the Board, shall have the power to delegate its authority, duties, and responsibilities to its officers, employees, committees, or agents, including a professional management agent. The term of any agreement with a manager or the Declarant for the furnishing of maintenance, repair, and related services shall not exceed one year, renewable by agreement of the parties for successive one-year periods. Such an agreement shall be terminable by either party (1) for cause on 30 days' written notice, and (2) without cause or the payment of a termination fee on 90 days' written notice.

(f) The Association's agents or employees shall have the right to enter any Unit when necessary in connection with any maintenance, landscaping, or construction work for which the Association is responsible. This entry shall be made only upon notice to the Owner (except in the case of an emergency) and with as little inconvenience to the Owner as is practicable, and the Association shall repair any resulting damage at its own expense.

Duties of the Association

Section 3.07. In addition to the duties delegated to the Association or its agents and employees elsewhere in the Governing Instruments, the Association shall be responsible for the following:

(a) The Association, acting through the Board, shall operate, maintain, repair, and replace the Common Area and its improvements, all landscaping, and the exterior surfaces of all structures and Units in the Project, or contract for the performance of that work, subject to the provisions of Article VIII of this Declaration relating to destruction of improvements, Article IX of this Declaration pertaining to eminent domain, and Section 2.02(g) of this Declaration relating to damage caused by Owners. The foregoing areas and improvements shall be kept in a clean, sanitary, and attractive condition. Further, the Association shall keep the Common Areas free of infestation by wood-destroying pests or organisms. If infestation is present, the Association shall have the right to cause the temporary, summary removal of any occupant of the Project while the Association has the infestation treated. The temporary relocation must be preceded by notice provided by the Association pursuant to Civil Code Section 1364. The Association shall also be responsible for maintaining Exclusive Use Common Areas. The Association shall also have the exclusive right and duty to acquire and maintain any furnishings and equipment for the Common Area that it determines are necessary and proper. As a general rule, maintenance costs shall be included in the regular assessments. However, if additional work is required for a particular Unit, the expenses of that additional work shall be charged solely to the Owner of the Unit. Further, the Owner of a Unit shall pay the costs of any temporary relocation of any occupant of the Unit occasioned by the presence of wood-destroying pests or organisms. If the Owner does not pay for the additional work within thirty (30) calendar days after receiving the bill, the Association shall institute appropriate collection actions and shall recover the reasonable costs of collection, including attorneys' fees and interest from the due date until paid at the rate of twelve percent per annum.

(b) The Association shall use the maintenance fund described in Section 4.03 of this Declaration to, among other things, acquire and pay for the following:

- (1) Water, sewer, garbage, electrical, telephone, gas, elevator, and other necessary utility service for the Common Area and, to the extent not separately metered and charged, for the Units;
- (2) The insurance policies described in Article VII of this Declaration;
- (3) The services of any personnel that the Board determines are necessary or proper for the operation of the Common Area; and
- (4) Legal and accounting services necessary or proper in the operation of the Common Area or the enforcement of this Declaration.

(c) The Association shall prepare a pro forma operating budget for each fiscal year, and shall distribute a copy of the budget to each Owner not less than 45 and not more than 60 days before the beginning of the fiscal year. As an alternative to the foregoing distribution of the budget, the Association may

elect to do all of the following in the manner required by statute: distribute a summary of the budget to each Owner, make the budget available for inspection at a designated location, and provide copies of the budget to Owners on request and at the expense of the Association. The budget shall contain at least the following:

- (1) The estimated revenue and expenses on an accrual basis;
- (2) A summary (printed in bold type) of the Association's reserves that is based on the most recent review or study conducted pursuant to Civil Code Section 1365.5. This summary shall include the following: (i) the current estimated replacement cost, estimated remaining life, and estimated useful life of each major component that the Association is obligated to maintain (hereafter referred to as the "major components"); (ii) the current estimate, as of the end of the fiscal year for which the study is prepared, of the amount of cash reserves necessary to repair, replace, restore, or maintain the major components; (iii) the current amount, as of the end of the fiscal year for which the study is prepared, of accumulated cash reserves actually set aside to repair, replace, restore, or maintain the major components; and (iv) the percentage that the amount described in (iii), above, is of the amount determined for purposes of (ii), above (that is, the percentage obtained by dividing the amount described in (iii), above, by the amount described in (ii), above).
- (3) A statement as to whether the Board has determined or anticipates that the levy of one or more special assessments will be required to repair, replace, or restore any major component or to provide adequate reserves for such work.
- (4) A general statement addressing the procedures used for the calculation and establishment of reserves to defray the future repair, replacement, or additions to the major components.

(d) Within 120 days after the close of each fiscal year, the Association shall prepare and distribute to the Owners an annual report consisting of the following:

- (1) A balance sheet as of the end of the fiscal year;
- (2) An operating (income) statement for the fiscal year;
- (3) A statement of changes in financial position for the fiscal year; and,
- (4) For any fiscal year in which the gross income to the Association exceeds \$75,000, a copy of the review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy. If this report is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statement was prepared without independent audit or review from the books and records of the Association.

(e) Within 60 days before the beginning of each fiscal year, the Association shall prepare and distribute to the Owners a statement describing the Association's policies and practices in enforcing lien rights or other legal remedies for default in payment of assessments against Owners.

(f) The Association shall prepare a balance sheet, as of an accounting date that is the last day of the month closest in time to six months from the date of closing of the first sale of a Unit in the Project, and an operating statement for the period from the date of the first closing to the foregoing accounting date. The Association shall distribute this statement to the Owners within 60 days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the number of the Unit and the name of the Owner assessed.

(g) Each year, the Association must provide the Owners with a summary of the provisions of Civil Code Section 1354. Section 1354 requires that alternative dispute resolution be pursued before a civil action may be filed in connection with certain disputes relating to the enforcement of the Governing Instruments. The summary must include the following: a specific reference to Section 1354; and the statutory language set forth in Subsection (i) of Section 1354. This summary must be provided either (1) at the time the pro forma operating budget described in Section 3.07(d) of this Declaration is distributed, or (2) in the manner specified in Corporations Code Section 5016.

(h) The Association shall provide any Owner with the following documents within 10 days of the mailing or delivery of a written request therefor:

- (1) A copy of the Governing Instruments.
- (2) A copy of the most recent financial statement distributed pursuant to Section 3.07(d) of this Declaration.
- (3) A written statement from an authorized representative of the Association specifying (i) the amount of any assessments levied on the Owner's Unit that are unpaid on the date of the statement; and (ii) the amount of late charges, interest, and costs of collection that, as of the date of the statement, are or may be made a lien on the Owner's Unit pursuant to Section 4.08 of this Declaration. The Association may charge the Owner a reasonable fee to cover its cost to prepare and reproduce those requested items.

(i) The Association shall pay all real and personal property taxes and assessments levied against it, its personal property, the Common Area, and Exclusive Use Common Areas.

Board of Directors

Section 3.08. The affairs of the Association shall be managed and its duties and obligations performed by an elected Board of Directors, as provided in Article III of the Bylaws, which is hereby incorporated by reference.

Inspection of Books and Records

Section 3.09. Article XI of the Bylaws, governing the duty of the Association to maintain certain books and records and the rights of Owners and Directors to obtain and inspect those books and records, is hereby incorporated by reference.

ARTICLE IV. ASSESSMENTS AND COLLECTION PROCEDURES

Covenant to Pay

Section 4.01. The Declarant covenants and agrees, for each Unit owned by it in the Project, and each Owner by acceptance of the deed to the Owner's Unit is deemed to covenant and agree to pay to the Association the regular and special assessments levied pursuant to the provisions of this Declaration. A regular or special assessment and any late charges, reasonable costs of collection, and interest, as assessed in accordance with the provisions of this Article, shall be a debt of the Owner of the Unit at the time the assessment or other sums are levied. The Owner may not waive or otherwise escape liability for these assessments by nonuse of the Common Area or abandonment of the Owner's Unit.

Purpose of Assessments

Section 4.02. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Owners, for the operation, replacement, improvement, and maintenance of the Property, and to discharge any other obligations of the Association under this Declaration. All assessment payments shall be put into a maintenance fund to be used for the foregoing purposes.

Assessment Period

Section 4.03. The fiscal year for the Association shall be a **September 1 to August 31**, , unless the Board decides otherwise. The regular assessment period shall commence on **September 1** and terminate on **August 31** of each year.

Regular Assessments

Section 4.04. Within 60 days prior to the beginning of each fiscal year of the Association, the Board shall estimate the net charges to be paid during that year, including a reasonable provision for contingencies and replacements, with adjustments made for any expected income and surplus from the prior year's fund.

The estimated cash requirement shall be assessed to each Owner according to the ratio of the number of Units owned by that owner to the total number of Units in the Project subject to assessment. Regular assessments for fractions of any month shall be prorated. Each Owner is obligated to pay assessments to the Board in equal monthly installments on or before the first day of each month unless the Board adopts an alternative method for payment. Declarant shall pay its full-prorated share of the regular assessments on any unsold Condominiums subject to regular assessments.

Special Assessments

Section 4.05. If the Board determines that the amount to be collected from regular assessments will be inadequate to defray the common expenses for the year due to the cost of any construction, unexpected repairs or replacements of capital improvements upon the Common Area, or any other reason, it shall make a special assessment for the additional amount needed. Special assessments shall be levied and collected in the same manner as regular assessments.

Limitations on Assessments

Section 4.06. The Board shall comply with the following requirements governing the imposition and amounts of assessments:

(a) For any fiscal year, the Board may impose a regular assessment per Unit that is as much as 20 percent greater than the regular assessment for the preceding fiscal year, provided (1) the Board has distributed the pro forma operating budget described in Section 3.07(d) for the current fiscal year or (2) the increase is approved by Owners constituting a majority of the votes at a meeting or in an election of the Association conducted in accordance with Corporations Code Sections 7510-7527 and 7613.

(b) The Board may impose, for any fiscal year, a regular assessment per Unit that is more than 20 percent greater than the regular assessment for the preceding fiscal year, or may levy special assessments that in the aggregate exceed 5 percent of the budgeted gross expenses of the Association for that fiscal year, provided the increase or levy is approved by Owners constituting a majority of the Owners of the Association and casting a majority of the votes at a meeting or election of the Association conducted in accordance with Corporations Code Sections 7510-7527 and 7613.

(c) The Board may, without complying with the foregoing requirements, make an assessment increase that is necessary for an emergency situation. An emergency situation is an extraordinary expense that is:

- (1) Required by a court order.
- (2) Necessary to repair or maintain the Project or any part of it for which the Association is responsible when a threat to personal safety in the Project is discovered.
- (3) Necessary to repair or maintain the Project or any part of it for which the Association is responsible that could not have been reasonably foreseen by the Board in preparing and distributing the pro forma operating budget pursuant to Section 3.07(d).

Before the Board may impose or collect an assessment in the type of emergency situation described in (3), above, it shall pass a resolution containing written findings as to the necessity of the extraordinary expense and why the expense was not or could not have been reasonably foreseen in the budgeting process, and shall distribute the resolution to the Owners with the notice of assessment.

(d) The Board shall notify the Owners in writing of any increase in the amount of a regular or special assessment. The Board shall provide this notice by first-class mail not less than 30 or more than 60 days prior to the due date of the increased assessment.

Late Charges

Section 4.07. Late charges may be levied by the Association against an Owner for the delinquent payment of regular and special assessments. An assessment is delinquent 15 days after its due date. If an assessment is delinquent the Association may recover all of the following from the Owner:

(a) Reasonable costs incurred in collecting the delinquent assessment, including reasonable attorneys' fees.

(b) A late charge not exceeding 10 percent of the delinquent assessment or \$10, whichever is greater.

(c) Interest on the foregoing sums, at an annual percentage rate of 12 percent commencing 30 days after the assessment becomes due.

No late charge may be imposed more than once for the delinquency of the same payment. However, the imposition of a late charge on any delinquent payment shall not eliminate or supersede charges imposed on prior delinquent payments.

Enforcement of Assessments and Late Charges

Section 4.08. Before the Association can place a lien on a Unit for a past due debt for a regular or special assessment, the Association must notify the Owner by certified mail of the Association's fee and penalty procedures, and provide the Owner with an itemized statement of the charges owed. The statement must include:

(a) The principal amount owed.

(b) The amount of any late charges and the method used to calculate those charges.

(c) The amount of any attorney's fees incurred by the Association in attempting to collect the debt.

(d) The Association's collection practices, including the Association's right to the reasonable costs of collection.

Any partial payments made toward the debt will first be applied to the principal owed, and only after the principal owed is paid in full will such payments be applied to interest or collection expenses.

A delinquent regular or special assessment and any related late charges, reasonable costs of collection, and interest assessed in accordance with Section 4.07 of this Declaration, shall become a lien on the Unit when a notice of delinquent assessment is duly recorded and mailed as provided in Section 1367 of the California Civil Code.

Any such lien may be enforced in any manner permitted by law, including judicial foreclosure or non-judicial foreclosure. Any non-judicial foreclosure shall be conducted by the trustee named in the notice of delinquent assessment or by a trustee substituted pursuant to Section 2934a of the California Civil Code, in accordance with the provisions of Sections 2924, 2924b, and 2924c of the California Civil Code.

If the sums specified in the notice of delinquent assessment are paid before the completion of any judicial or non-judicial foreclosure, the Association shall record a notice of satisfaction and release of the lien. Upon receipt of a written request by the Owner, the Association shall also record a notice of rescission of any declaration of default and demand for sale.

Statement Regarding Assessments

Section 4.09. The Association shall provide any Owner, on written request, with a statement specifying (1) the amounts of the Association's current regular and special assessments and fees, and (2) the amounts of any delinquent assessments and related late charges, interest, and costs levied against the Owner's Unit, as provided in Section 4.07 of this Declaration.

ARTICLE V. USE RESTRICTIONS AND COVENANTS

General Restrictions on Use

Section 5.01. In exercising the right to occupy or use a Unit or the Common Area and its improvements, the Owner and the Owner's family, guests, employees, tenants, and invitees shall not do any of the following:

(a) Attempt to further subdivide a Unit without obtaining the prior approval of the Association.

(b) Occupy or use a Unit, or permit all or any part of a Unit to be occupied or used, for any purpose other than as a private residence. Nothing in this Declaration shall prevent an Owner from leasing or renting out his or her Unit, provided that it is not for transient or hotel purposes, for a period of at least 60 days, and is subject to the Governing Instruments.

(c) Permit anything to obstruct the Common Area or store anything in the Common Area without the prior consent of the Board, except as otherwise provided in the Governing Instruments.

(d) Perform any act or keep anything on or in any Unit or Exclusive Use Common Area or in the Common Area that will increase the rate of insurance on the Common Area without the Board's prior written consent. Further, no Owner shall permit anything to be done or kept in his or her Unit, in any Exclusive Use Common Area appurtenant to the Unit, or in the Common Area that would result in the cancellation of insurance on any Unit or Exclusive Use Common Area or on any part of the Common Area or that would violate any law.

(e) Store gasoline, kerosene, cleaning solvents, or other flammable liquids in the Common Area or in any Unit; provided, however, that reasonable amounts of these liquids may be placed in metal containers and stored in the storage spaces.

(f) Display any sign to the public view on or from any Unit or the Common Area without the prior written consent of the Board, except a sign of reasonable dimensions as determined by the Board advertising the property for sale, lease, or exchange, or advertising directions to the property, as provided in Section 712 of the California Civil Code.

(g) Raise, breed, or keep animals, livestock, or poultry of any kind in a Unit or in the Common Area, except dogs, cats, or other household pets, which may be kept in Units, subject to the Rules and Regulations.

(h) Engage in any noxious or offensive activity in any part of the Project.

(i) Alter or modify the exterior of any improvements located in a Unit without first obtaining the written consent of the Architectural Control Committee.

(j) Install a solar energy system in a Unit owned by another without first obtaining the written consent of the Architectural Control Committee.

(k) Alter, construct, or remove anything on or from the Common Area, except upon the written consent of the Board.

(l) Park any automobile or other motor vehicle in the Common Area or in any Exclusive Use Common Area except in a space designated for the Owner by the Board or the Governing Instruments.

(m) Install any video or television antenna, including a satellite dish, with a diameter or diagonal measurement greater than one meter (approximately 39 inches). Association reserves the right to impose reasonable restrictions on the installation of any video or television antenna, including a satellite dish with a diameter or diagonal measurement of one meter (approximately 39 inches) or less, or to adopt a policy with regard to the same in conformity with the regulations promulgated under the Telecommunications Act of 1996.

Damage Liability

Section 5.02. Each Owner shall be liable to the Association for all damage to the Common Area or other Association property that is sustained by reason of the negligence or willful misconduct of that Owner or his or her family, guests, employees, tenants, and invitees, to the extent that the damage is not covered by the casualty insurance obtained and maintained by the Association pursuant to Section 7.01 of this Declaration.

Equitable Servitudes

Section 5.03. The covenants and restrictions set forth in this Declaration shall be enforceable equitable servitudes and shall inure to the benefit of and bind all Owners. These servitudes may be enforced by any Owner or by the Association or by both.

ARTICLE VI. ARCHITECTURAL AND DESIGN CONTROL

Architectural and Design Approval

Section 6.01. No building, addition, wall, fence, or alteration shall be commenced, constructed, maintained, or permitted to remain on any lot or Unit, or on the Common Area, until complete plans and specifications of the proposed work have been submitted to and approved by the Architectural Control Committee. The Committee shall review the plans and specifications to determine whether they are compatible with the standards of design, construction, and quality of the Project and, if they are not, shall require that changes be made before approval.

Architectural Control Committee

Section 6.02. The Architectural Control Committee shall consist of five (5) members appointed by the Board. The Board may also serve as the Architectural Committee. The Architectural Committee shall continue to serve at the pleasure of the Board.

The Board of Directors

Section 6.03. All decisions of the Architectural Control Committee are subject to review by the Board of Directors and may be appealed to the Board. The Committee shall notify the Board of all violations of this Article and of any noncompliance with its rulings or with the plans and specifications submitted to and approved by it. Thereafter, the Board shall take any actions it deems necessary, in accordance with the provisions of this Declaration.

ARTICLE VII. INSURANCE

Fire and Casualty Insurance

Section 7.01. The Association shall obtain and maintain a policy or policies of fire and casualty insurance with an extended coverage endorsement for the full insurable replacement value of the improvements in the Project. The amount of coverage shall be determined by the Board. This insurance shall be maintained for the benefit of the Association, the Owners, and their Mortgagees, as their interests may appear as named insured, subject, however, to any loss payment requirements set forth in this Declaration.

General Liability and Individual Liability Insurance

Section 7.02. The Association shall obtain and maintain one or more policies of insurance that must include coverage for (1) general liability of the Association, and (2) individual liability of Officers and Directors of the Association for negligent acts or omissions in that capacity. Both of the foregoing types of coverage shall not be less than \$3,000,000 covering all claims for death, personal injury, and property damage arising out of a single occurrence.

The limits and coverage shall be reviewed at least annually by the Board and increased in its discretion.

Other Association Insurance

Section 7.03. The Association shall purchase and maintain workers' compensation insurance to the extent necessary to comply with any applicable laws. The Association also shall purchase and maintain fidelity bond coverage which names the Association as an obligee, for any person or entity handling funds of the Association, whether or not such persons or entities are compensated for their services. This coverage shall be in an amount that is at least equal to the estimated maximum of funds, including reserve funds, in the custody of the Association or the Manager at any given time during the term of each bond. However, the aggregate amount of these bonds must not be less than 150 percent of each year's estimated

annual operating expenses and reserves. The Association also may purchase and maintain a blanket policy of flood insurance, and demolition insurance in an amount that is sufficient to cover any demolition that occurs following the total or partial destruction of the Project and a decision not to rebuild.

Trustee for Policies

Section 7.04. The Association, acting through its Board, is hereby appointed and shall be deemed trustee of the interests of all named insured under all insurance policies purchased and maintained by the Association. All insurance proceeds under any of those policies shall be paid to the Board as trustee. The Board shall use the proceeds for the repair or replacement of the property for which the insurance was carried or for the purposes described in Article VIII of this Declaration. The Board also is authorized to negotiate loss settlements with the appropriate insurance carriers, to compromise and settle any claim or enforce any claim by any lawful action, and to execute loss claim forms and release forms in connection with such settlements.

Individual Insurance

Section 7.05. No Owner shall obtain or maintain fire and casualty insurance for the improvements in the Owner's Unit. If any Owner does so, he or she shall be liable to the Association for any resulting reduction in the insurance proceeds payable under the policy or policies of fire and casualty insurance maintained by the Association pursuant to Section 7.01. Notwithstanding the above, an Owner may separately insure his or her personal property, and may obtain and maintain personal liability and property damage liability insurance for his or her Unit, provided that the insurance contains a waiver of subrogation rights by the carrier as to the other Owners, the Association, Declarant, and the institutional First Mortgagee of the Owner's Unit.

Insurance Premiums

Section 7.06. Insurance premiums for any insurance coverage obtained by the Association shall be included in the regular assessments. That portion of the regular assessments necessary for the required insurance premiums shall be used solely for the payment of the premiums when due.

ARTICLE VIII. DAMAGE OR DESTRUCTION

Duty to Restore and Replace

Section 8.01. If any of the improvements in the Project are destroyed or damaged, the Association shall restore and replace the improvements, using the proceeds of insurance maintained pursuant to Article VII of this Declaration, subject to the provisions of this Article.

Proceeds Justifying Automatic Restoration and Repair

Section 8.02. If the proceeds of any insurance maintained pursuant to Article VII of this Declaration for reconstruction or repair of the Property are equal to at least 85 percent of the estimated cost of restoration and repair, the Board shall use the insurance proceeds for that purpose, shall levy a special assessment to provide the necessary additional funds, and shall have the improvements promptly rebuilt, unless the Owners by the vote or written consent of not less than 75 percent of the total voting power of Owners object to the restoration or repair work within 60 days of the damage or destruction.

Approval by Owners of Special Assessment for Certain Restorations and Repairs

Section 8.03. If the proceeds of any insurance maintained pursuant to Article VII of this Declaration for reconstruction or repair of the Property are less than 85 percent of the estimated cost of restoration and repair, any restoration and repair work must be authorized by the vote or written consent of Owners representing at least 75 percent of the total voting power of Owners and beneficiaries of at least 75 percent of the First Mortgages on Units in the Project. This authorization must be given within 60 days of the damage or destruction, and must authorize the Board to levy a special assessment to provide the necessary funds over and above the amount of any insurance proceeds available for the work.

Ordering Reconstruction or Repair

Section 8.04. If reconstruction or repair work is to take place pursuant to this Article, the Board shall take the following steps:

(a) Prepare the necessary documents, including an executed and acknowledged certificate stating that damage has occurred, describing it, identifying the improvement suffering the damage, the name of any insurer against whom claim is made, and the name of any insurance trustee, that the consent described in Section 8.03 has been obtained, and reciting that the certificate is recorded pursuant to this paragraph. That declaration shall be recorded with the Recorder of Orange County within 90 days from the date of the damage or destruction.

(b) Obtain firm bids (including the obligation to obtain a performance bond) from two or more responsible contractors to rebuild the Project in accordance with its original plans and specifications and, as soon as possible thereafter, call a special meeting of the voting Owners to consider the bids. If the Board fails to do so within 60 days after the casualty occurs, any Owner may obtain the bids and call and conduct the special meeting in the manner required by this paragraph. At the meeting, Owners representing at least 67 percent of the total voting power may elect to reject all of the bids and thus not to rebuild, or Owners representing at least 51 percent of the total voting power may elect to reject all bids requiring amounts exceeding the available insurance proceeds by more than \$500. Failure to reject all bids shall authorize the Board to accept the unrejected bid it considers most favorable. Failure to call the special meeting or to repair the casualty damage within 12 months from the date the damage occurred shall be deemed for all purposes to be a decision not to rebuild.

(c) If a bid is accepted, the Board shall let the contract to the successful bidder and distribute the insurance proceeds to the contractor as required by the contract.

(d) Levy a special assessment to make up any deficiency between the total insurance proceeds and the contract price for the repair or rebuilding, with the assessment and all insurance proceeds, whether or not subject to liens of mortgagees, to be used solely for the rebuilding. This assessment shall be apportioned equally to each Unit for any damage or destruction to the Common Area. For any damage or destruction to improvements on one or more Units, every Owner shall pay a proportionate share based on the relative square footage of the living area. If any Owner fails to pay the special assessment within 15 days after it is levied, the Board shall enforce the assessment in the manner described in Section 4.08 of this Declaration.

Election Not to Rebuild

Section 8.05. Upon an election not to rebuild, the Board, as soon as reasonably possible and as agent for the Owners, shall execute and record a certificate stating that the Association shall not rebuild. The Board shall also sell the entire Project on terms acceptable to the Board and free from the effect of this Declaration, which shall terminate upon the sale. The net proceeds shall then be distributed to the Owners and their respective Mortgagees proportionately according to the respective fair market values of the Units at the time of the destruction as determined by an independent appraisal. That appraisal shall be performed by an independent appraiser who shall be selected by the Association and who shall be a member of, and apply the standards of, a nationally recognized appraiser organization.

All insurance proceeds available for restoration or repair shall be distributed to the Owners proceeds for damage or destruction to Units shall be distributed to the Owners of the damaged Units according to the relative fair market value of the Units. This value shall be as of the date immediately preceding the damage or destruction, and shall be determined by an appraisal by an independent appraiser who shall be selected in the manner described above. Any proceeds from damage or destruction to the Common Area shall be distributed to the Owners equally.

Minor Restoration and Repair Work

Section 8.06. The Association shall order restoration or repair work without complying with the other provisions of this Article whenever the estimated cost of the work does not exceed \$15,000 for the Common Area and \$3,000 for one or more Units. If insurance proceeds are unavailable or insufficient, the Association shall levy a special assessment for the cost of the work. The Assessment shall be levied in the manner described in Section 4.05 of this Declaration.

ARTICLE IX. EMINENT DOMAIN

Definition of Taking

Section 9.01. As used in this Article, "taking" means condemnation by any governmental agency having the power of eminent domain or by sale under threat of the exercise of that power.

Sale to Condemning Authority

Section 9.02. If a governmental agency proposes to condemn all or a portion of the Project, the Association may sell all or any portion of the Project to the condemning authority if all Owners and institutional Mortgagees consent in writing to the sale. Any such sale shall be made by the Association in the capacity of attorney-in-fact for the Owners, acting under an irrevocable power of attorney which each Owner grants to the Association by accepting a Condominium. The sales price shall be any amount deemed reasonable by the Board.

Total Sale or Taking

Section 9.03. A total sale or taking occurs when (1) there is a permanent taking or a sale to a condemning authority by the Association pursuant to Section 9.02 of an interest in all or part of the Common Area or of all or part of one or more Units, which substantially and adversely affects the ownership, operation, and use of the Project in accordance with the provisions of this Declaration; and (2) 120 days have passed since the effective date of the taking and the Owners whose Units remain habitable after the taking ("Remaining Units") have not by affirmative vote of a majority of their entire voting interest approved the continuation of the Project and the repair, restoration, and replacement to the extent feasible of the Common Area and the Remaining Units. Within 60 days after the effective date of any sale or taking which in the opinion of the Board would constitute a total sale or taking, the Board shall call a special meeting to determine whether or not the Owners of the remaining units will continue the Project as provided in this Section. If there is a total sale or taking, the Board shall distribute the proceeds of the total sale or taking and the proceeds of any sale pursuant to a partition action, after deducting all incidental fees and expenses related to the taking or partition, to all Owners and their Mortgagees in accordance with the court judgment or the agreement between the condemning authority and the Association, if any such judgment or agreement exists. In all other cases, the proceeds shall be distributed among the Owners and their respective Mortgagees according to the relative values of the Condominiums affected by the condemnation as determined by independent appraisal. That appraisal shall be performed by an independent appraiser who shall be selected by the Association and who shall be a member of, and apply the standards of, a nationally recognized appraiser organization.

Partial Sale or Taking

Section 9.04. A partial sale or taking occurs if there is a sale or taking that is not a total sale or taking as defined in Section 9.03. The proceeds from any sale or taking shall be disbursed in the following order of priority, which shall be incorporated into any court judgment of condemnation or agreement between a condemning authority and the Association:

- (a) To the payment of related fees and expenses.
- (b) To Owners of Condominiums that have been sold or taken and their respective Mortgagees, as their interests may appear, in an amount up to the fair market value of the Condominium as that value is determined by the court in the condemnation proceeding or, in the absence of such a determination, by an appraiser selected in the manner described in Section 9.03. Such a payment shall immediately terminate the recipient's status as an Owner, and the Board, acting as the attorney-in-fact of the remaining Owners, shall amend this Declaration and any other documents, as appropriate, to delete the sold or taken Condominiums from the Project and to allocate the former Owner's undivided interest in the Common Area to the remaining Owners, on the basis of their relative ownership of the Common Area. Each Owner whose interest is terminated pursuant to this Section shall, at the request of the Board and expense of the Association, execute and acknowledge any deed or other instrument that the Board deems necessary to evidence the termination.

(c) To the payment of severance damages to First Mortgagees of record of remaining units affected by the partial sale or taking, to the extent that the Mortgagees can prove that their security has been impaired by the taking.

(d) To the repair, restoration, and replacement of the Common Area and any portions of the Remaining Units that the Owners are not obligated to restore, to the extent feasible.

ARTICLE X. RIGHTS OF MORTGAGEES

Warranty

Section 10.01. Declarant hereby warrants that Mortgagees of Units in the Project shall be entitled to the rights and guaranties set forth in this Article. No amendment of this Article shall affect the rights of the holder of any First mortgage recorded prior to the recordation of the amendment who does not join in the execution of the amendment.

Subordination

Section 10.02. Notwithstanding any other provision of this Declaration, liens created under Section 4.08 of this Declaration upon any Unit shall be subject and subordinate to, and shall not affect the rights of the holder of, the indebtedness secured by any recorded First Mortgage upon such an interest made in good faith and for value, provided that any transfer of a Unit as the result of a foreclosure or exercise of a power of sale shall not relieve the new Owner from liability for any assessments that become due after the transfer. Such a transfer shall extinguish the lien of assessments that were due and payable prior to the transfer of the Unit.

Inapplicability of Right of First Refusal

Section 10.03. Should any of the Association's Governing Instruments provide for a "right of first refusal," this right shall not impair the rights of a First Mortgagee to:

- (a) Foreclose or take title to a Unit pursuant to the remedies provided in the Mortgage;
- (b) Accept a deed (or assignment) in lieu of foreclosure in the event of default by a Mortgagor; or
- (c) Interfere with a subsequent sale or lease of a Unit so acquired by the Mortgagee.

Notice of Default

Section 10.04. A First Mortgagee, upon request, will be entitled to written notification from the Association of any default in the performance by the Mortgagor of any obligation under the Association's Governing Instruments that is not cured within 60 days.

Unpaid Assessments

Section 10.05. Any First Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage shall not be liable for the Unit's unpaid assessments that accrue prior to the acquisition of title to the Unit by the Mortgagee.

Mortgagee Approval of Material Amendments

Section 10.06. Notwithstanding Article XI of this Declaration, any amendments governing any of the following shall require the prior written approval of at least 51 percent of the First Mortgagees and at least 67 percent of the total voting power of the Owners:

- (a) Voting;
- (b) Rights to use the Common Area;
- (c) Reserves and responsibility for maintenance, repair, and replacement of the Common Area;
- (d) Boundaries of any Unit;

- (e) Owners' interests in the Common Area;
- (f) Conversion of Units into Common Area or Common Area into Units;
- (g) Leasing of Units;
- (h) Establishment of self-management by the Association, when professional management has been previously required by any First Mortgagee or any insurer or governmental guarantor of a First Mortgage;
- (i) Annexation, addition, or withdrawal of real property to or from the Project;
- (j) Assessments, assessment liens, or the subordination of these liens;
- (k) Casualty and liability insurance or fidelity bonds; or
- (l) Any provisions expressly benefiting First Mortgagees or insurers or governmental guarantors of first mortgages.

Notwithstanding the foregoing, any first Mortgagee who receives a written request from the Board to approve a proposed amendment or amendments requiring consent under this Section who does not deliver a negative response to the Board within 30 days of the receipt of the request shall be deemed to have approved the proposed amendment or amendments.

Mortgagee Approval of Other Actions

Section 10.07. Unless at least 67 percent of the First Mortgagees (based upon one vote for each First Mortgage owned), or 67 percent of the Owners other than Declarant, have given their prior written approval, the Association shall not be entitled to:

- (a) By act or omission, seek to abandon or terminate the Project;
- (b) Change the pro rata interest or obligations of any individual Unit for either of the following purposes:
 - (1) Levying assessments or charges, or allocating distributions of hazard insurance proceeds or condemnation awards, or
 - (2) Determining the pro rata share of ownership of each Unit in the Common Area and the improvements thereon;
- (c) Partition or subdivide any Unit;
- (d) By act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer the Common Area (the granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area shall not be deemed a transfer within the meaning of this clause); or
- (e) Use hazard insurance proceeds for losses to any Project property (whether to Units or to the Common Area) for other than the repair, replacement, or reconstruction of that property, except as provided by statute in case of substantial loss to the Units and/or Common Area of the Project.

Liens

Section 10.08. All taxes, assessments, and charges that may become liens prior to the First Mortgage under local law, shall relate only to the individual Units and not to the Project as a whole.

Priority

Section 10.09. No provision of the Governing Instruments of the Association gives any Owner, or any other party, priority over any rights of the First Mortgagee of the Unit pursuant to its Mortgage in the case of a distribution to the Owner of insurance proceeds or condemnation awards for losses to, or a taking of, all or a portion of a Unit or Units and/or the Common Area.

Reserve Fund

Section 10.10. Association assessments shall be large enough to provide for an adequate reserve fund for maintenance, repairs, and replacement of those common elements that must be replaced on a periodic basis. The reserve fund shall be funded by the regular assessments rather than by special assessments.

Right to Inspect Books and Records

Section 10.11. Institutional First Mortgagees, upon written request, shall have the right to (1) examine the books and records of the Association during normal business hours and (2) require the submission of any financial data furnished to the Owners by the Association.

ARTICLE XI. AMENDMENTS

Amendments by Owners After Close of First Sale

Section 11.01. This Declaration may be amended by the vote or written consent of Owners representing not less than fifty-one (51) percent of the voting power of Owners of the Association.

An amendment becomes effective after (1) the approval of the required percentage of Owners has been given, (2) that fact has been certified in a writing executed and acknowledged by an officer designated by the Association for that purpose or, if no such designation is made, by the President of the Association, and (3) that writing has been recorded in Orange County.

Prior Approval of Commissioner

Section 11.02. When required under Business and Professions Code Section 11018.7, the prior written consent of the Real Estate Commissioner shall be obtained prior to submitting a proposed amendment to this Declaration to the vote of the Owners.

ARTICLE XII. GENERAL PROVISIONS

Term

Section 12.01. The provisions of this Declaration shall continue in effect for a term of forty (40) years from January 3, 1973. Thereafter, it shall be automatically extended for successive periods of ten (10) years, until the membership of the Association decides to terminate it.

Non-waiver of Remedies

Section 12.02. Each remedy provided for in this Declaration is separate, distinct, and nonexclusive. Failure to exercise a particular remedy shall not be construed as a waiver of the remedy.

Attorneys' Fees

Section 12.03. In any action to enforce this Declaration, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

Severability

Section 12.04. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision shall not affect the validity or enforceability of any other provision.

Binding

Section 12.05. This Declaration, any amendment to it, and any valid action or directive made pursuant to the Declaration, shall be binding on the Declarant and the Owners and their heirs, grantees, tenants, successors, and assigns.

Interpretation

Section 12.06. The provisions of this Declaration shall be liberally construed and interpreted to effectuate its purpose of creating a uniform plan for the development and operation of a condominium

project. Failure to enforce any provision of this Declaration shall not constitute a waiver of the right to enforce that provision or any other provision of this Declaration.

Limitation of Liability

Section 12.07. The liability of any Owner for performance of any of the provisions of this Declaration shall terminate upon sale, transfer, assignment, or other divestment of the Owner's entire interest in his or her Unit with respect to obligations arising from and after the date of the divestment.

Fair Housing

Section 12.08. Neither Declarant nor any Owner shall, either directly or indirectly, forbid the conveyance, encumbrance, renting, leasing, or occupancy of the Owner's Unit to any person on the basis of race, color, sex, religion, ancestry, or national origin.

Number and Headings

Section 12.09. As used in this Declaration, the singular shall include the plural, unless the context requires the contrary. The headings are not a part of this Declaration, and shall not affect the interpretation of any provision.

Executed on _____ [date], at _____ [city], _____
[county], California.

Coco Palms Homeowners Association
A California Corporation

By _____
President

REVISED AND RESTATED DECLARATION

for

COCO PALMS HOMEOWNERS ASSOCIATION A CONDOMINIUM PROJECT

Associations

If this document contains any restrictions based on race color religion, sex, familial status, marital status, disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void. Any person holding an interest in this property may request that the county recorder remove the restrictive covenants language pursuant to subdivision (c) of Section 12956.1 of the Government Code.

**REVISED AND RESTATED
BYLAWS OF
COCO PALMS HOMEOWNERS ASSOCIATION
A CONDOMINIUM PROJECT**

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ARTICLE I. PLAN OF CONDOMINIUM OWNERSHIP

Name

Section 1.01. The name of the corporation is COCO PALMS HOMEOWNERS' ASSOCIATION ("Association").

Principal Office

Section 1.02. The principal office of the Association is located at Diversified Management 180 E. Main Street, Suite 220, Tustin, California. The Board of Directors is hereby granted full power and authority to change the principal office of the Association from one location to another in the County of Orange, California. Any such change shall be noted by the Secretary in these Bylaws, but shall not be considered an amendment of these Bylaws.

Application

Section 1.03. These Bylaws are applicable to the residential condominium project known as Coco Palms ("Project"), located at Fullerton in Orange County, California. These Bylaws are also applicable to all Members of the Association and all tenants, employees, and other persons who use the facilities of the Project in any manner.

Definitions

Section 1.04. Unless otherwise specified in these Bylaws, the definitions set forth in Article 1 of the Declaration for Coco Palms Homeowners Association ("Declaration") recorded or to be recorded in the Office of the Recorder of Orange County, California, apply to these Bylaws.

Membership Rights

Section 1.05. The qualification for membership provisions of Section 3.02 of the Declaration are hereby incorporated by reference.

ARTICLE II. MEETINGS OF MEMBERS

Place of Meetings

Section 2.01. All meetings of the Members shall be held at a place designated by the Board. This meeting place shall be within the Project or as close to it as possible. If no meeting place is designated, the meetings shall be held at the principal office of the Association. No meeting of the Members shall, unless unusual conditions exist, be held outside of Orange County, California.

Annual Meetings

Section 2.02. The annual meeting of the Members shall be held on a Saturday in September as determined by the Board. If the day for the annual meeting of the Members is a legal holiday, the meeting shall be held at the same hour on the next day that is not a Saturday, Sunday, or legal holiday.

Special Meetings

Section 2.03. Special meetings of the Members may be called for any lawful purpose by a majority of a quorum of the Board, the President of the Association, or by a written request signed by Members representing at least 5 percent of the total voting power of the Association. The special meeting shall be held not less than 35 or more than 90 days after adoption of the resolution or receipt of the request. Only that business stated in the notice of meeting given pursuant to Section 2.04 of these Bylaws shall be transacted at the special meeting.

Notice of Meetings

Section 2.04. The Secretary of the Association shall give written notice of any Members' meeting to each Member of record. Except as provided below, the notice shall be given at least 10 but not more than 90 days before the meeting, by first class [or registered or certified] mail or by personal delivery. If a special meeting is called by Members pursuant to Section 2.03 of these Bylaws, the notice shall be given within 20 days after receipt of the request for the meeting. If that 20-day requirement is not satisfied, the Members

who called the meeting may give the notice. Any notice of meeting shall be addressed to the Member at the address appearing on the books of the Association, or the address supplied by the Member to the Association for this purpose. If there is no such address, notice shall be given at the principal office of the Association or by publication at least once in a newspaper of general circulation in the county in which the principal office is located. The notice shall state the place, date, and time of the meeting. The notice shall also specify those matters the Board intends to present for action by the Members. In the case of a special meeting, the only matters that may be voted on are those matters that were mentioned in the notice of meeting. In the case of an annual meeting, any proper matter may be presented at the meeting for action. If Directors are to be elected at the meeting, the notice shall include the names of all those who are nominees at the time the notice is given.

Waiver of Notice or Consent of Absentees

Section 2.05. The transactions of any meeting of Members, however called and noticed, shall be as valid as though taken at a duly called, noticed, and held meeting, if: (1) a quorum is present either in person or by proxy; and (2) either before or after the meeting, each of the Members not present in person or by proxy signs a written waiver of notice, or a consent to the holding of the meeting, or an approval of the Minutes of the meeting. Any such waiver, consent, or approval shall be filed with the corporate records or made a part of the Minutes of the Meeting.

Voting Rights

Section 2.06. The voting of membership provision set forth in Section 3.04 of the Declaration is hereby incorporated by reference.

Record Date of Membership

Section 2.07. The Board shall fix, in advance, a record date or dates for the purpose of determining the Members entitled to notice of and to vote at any meeting of Members. The record date for notice of a meeting shall not be more than 90 nor less than 10 days before the date of the meeting. The record date for voting shall not be more than 60 days before the date of the meeting or before the date on which the first written ballot is mailed or solicited. The Board may also fix, in advance, a record date for the purpose of determining the Members entitled to exercise any rights in connection with any other action. Any such date shall not be more than 60 days prior to the action.

Quorum

Section 2.08. At any meeting, the presence either in person or by proxy of Members entitled to cast at least 33.3 percent of the total voting power of the association shall constitute a quorum for any action except as otherwise provided in the Articles, Bylaws, or the Declaration. The Members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough Members to leave less than a quorum, if the action taken, other than adjournment, is approved by at least a majority of members required to constitute a quorum. Notwithstanding the foregoing, whenever the quorum present at an annual meeting of Members consists of less than one third of the voting power of the Association (present in person or by proxy), then the only matters that may be voted on are those matters that were mentioned in the notice of meeting given pursuant to Section 2.04 of these Bylaws. If a quorum is not present at any time at a duly called meeting, a majority of those Members present in person or by proxy may adjourn the meeting to a time not less than five days nor more than 30 days from the meeting date, but no other business may be transacted. An adjourned meeting may be held without written notice, provided that notice is given by announcement at the original meeting. If no such announcement is made, or if the selected date is changed after adjournment, notice of the time and place shall be given to Members in the manner provided in Section 2.04 of these Bylaws. The quorum for the adjourned meeting shall be twenty-five (25) percent.

Parliamentary Procedure

Section 2.09. All meetings of the Members shall be conducted in accordance with (1) a recognized system of parliamentary procedure, or (2) any parliamentary procedures adopted by the Association.