

COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

CORONADO CAYS HOMEOWNERS ASSOCIATION

If this document contains any restriction based on age, race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, familial status, marital status, disability, veteran or military status, genetic information, national origin, source of income as defined in subdivision (p) of Section 12955, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.2 of the Government Code by submitting a “Restrictive Covenant Modification” form, together with a copy of the attached document with the unlawful provision redacted to the county recorder’s office. The “Restrictive Covenant Modification” form can be obtained from the county recorder’s office and may be available on its internet website. The form may also be available from the party that provided you with this document. Lawful restrictions under state and federal law on the age of occupants in senior housing or housing for older persons shall not be construed as restrictions based on familial status.

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:
DUNBAR & DUNBAR
Debora M. Zumwalt
101 West Broadway, Suite 400
San Diego, CA. 92101

AMENDED AND RESTATED

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

AND POWER OF ATTORNEY

WITNESSETH:

WHEREAS, Coronado Cay Company, a limited partnership, recorded a Declaration of Covenants, Conditions and Restrictions and Power of Attorney ("Original Declaration") for Coronado Cays on August 15, 1969, at File/Page No. 69-150155, and re-recorded original declaration on November 25, 1969 at File/Page No. 69-215648 in the official records of San Diego County, California;

WHEREAS, the Original Declaration has been previously amended by amendments recorded in the official records of San Diego County, California as follows:

<u>Recording Date</u>	<u>File/Page No.</u>
December 15, 1969	69-227668
February 3, 1978	78-046850
February 12, 1981	81-045289
July 15, 1982	Undetermined
January 25, 1991	1991-0035833
February 24, 1995	1995-0079916
March 27, 1996	1996-0149695

WHEREAS, Section 3 of Article X of the Original Declaration provides that after Completion(as defined in the Original Declaration), and except as provided in Section 4 of Article VI of the Original Declaration, and Section 2 of Article VIII of the Original Declaration, the provisions of the Original Declaration, other than Article X, may be amended by an instrument in writing signed and acknowledged by the president and secretary of Coronado Cays Homeowners Association (Association) certifying that such amendment has been approved by the vote or written consent of at least fifty-one percent (51%) of the record Owners (as defined in the Original Declaration)in Coronado Cays, and such an amendment shall be I effective upon its recordation in the official records of San Diego County, California;

WHEREAS, Section 4 of Article VI of the Original Declaration provides that amendments to Article VI of the Original Declaration (but not including amendments to Sections which are referred to in Article VI of the Original Declaration or which relate to Article VI of the Original Declaration) shall only be effective upon written consent of seventy-five percent(75%) of the Owners (as defined in the Original Declaration)in Coronado Cays.

WHEREAS, Section 2 of Article VIII of the Original Declaration provides that no amendment to the Original Declaration shall affect the rights of any Mortgagee (as defined in the Original Declaration) who does not join in the execution thereof, provided that prior to recordation of such amendment, his Mortgage (as defined in the Original Declaration) is recorded and written notice of its delivery and recordation, signed by the Mortgagee and Mortgagor (as defined in the Original Declaration), is given to the Association.

WHEREAS, the portions of the Amended and Restated Declaration of Covenants, Conditions and Restrictions and Power of Attorney ("Restrictions")which amend Article VI of the Original Declaration have not been approved by the vote or written consent of at least seventy-five percent (75%) of the record Owners (as defined in the Original Declaration)in Coronado Cays;

WHEREAS, all other portions of this Amended and Restated Declaration of Covenants, Conditions and Restrictions and Power of Attorney ("Restrictions") have been approved by the vote or written consent of at least fifty-one percent (51%) of the record Owners (as defined in the Original Declaration) in Coronado Cays;

WHEREAS, no Mortgagee has given to the Association written notice of delivery and recordation of a Mortgage signed by the Mortgagee and Mortgagor, however in the event a court of competent jurisdiction determines that any Mortgagee has given to the Association written notice of delivery and recordation of a Mortgage signed by the Mortgagee and Mortgagor, these Restrictions shall not be binding on the Mortgagee which has given such notice unless such Mortgagee joins in the execution of these Restrictions; and if such Mortgagee does not join in the execution of these Restrictions, then the provisions of the Original Declaration shall control with respect to such Mortgagee.

NOW, THEREFORE, the Original Declaration is hereby restated as follows:

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ARTICLE I
DEFINITIONS

Unless the context otherwise requires;

1. "Approval" of the board, the Association or the Architectural and Environmental Control Committee ("A.E.C.C.") means prior written approval given in accordance with the procedures set forth in these Restrictions.
2. "Architectural and Environmental Control Committee" or A.E.C.C. means the committee appointed pursuant to Article VII.
3. "Assessments" means both assessments for the Coronado Cays Maintenance Fund and Village Maintenance Funds, and includes regular, special, and benefitted assessments.
4. "Association" means the Coronado Cays Homeowners Association, a California nonprofit corporation.
5. "Association Properties" means all real and personal property now or hereafter owned by or leased to the Association.
6. "Benefitted Assessment" means an assessment levied to cover costs for services, or provision of facilities which benefit limited groups or subgroups of Owners within a separate village, or within the Association as a whole.
7. "Board" means the Board of Directors of the Association.
8. "Building" means any structure or other physical improvement in the common area.
9. "By-Laws" means the By-Laws of the Association.
10. "Common Area" means all of that portion of Coronado Cays shown on a recorded map as common area, together with all improvements thereto, or any other real property adjacent to Coronado Cays located so as to be within the line of sight of any Lot or Condominium Unit if the Association has any rights or obligations with respect to maintenance thereof. "common area" is an inclusive term referring to Coronado Cays common area or Village common area, as defined herein.
11. "Common Expenses" means actual and estimated expenses incurred by the Association for the general benefit of all Owners, including any reasonable reserve, as may be found necessary and appropriate by the board pursuant to these Restrictions and the By-Laws.
12. "Community-Wide Standard" means the standard of conduct, maintenance, or other activity generally prevailing throughout Coronado Cays. Such standard may be more specifically determined by the board or the A.E.C.C.

13. "Condominium Unit" means the property in any Condominium Village which is intended to be conveyed by a deed as a Unit as shown on the plan of such Condominium Village.
14. "Condominium Village" means a Village divided into Condominium Units with respect to which a plan has been recorded provided that upon revocation of any such plan, the property subject thereto shall cease to constitute a Condominium Village.
15. "Coronado Cays Common Area" means that common area or portions of common area designated by the board which benefit all or most of Coronado Cays and only incidentally benefit a particular Village.
16. "Limited Common Area" means, with respect to a Condominium Village, any portion of the common area designated as such on a plan.
17. "Lot" means any portion of Coronado Cays designated as a Lot on a subdivision map recorded in the official records of San Diego County, California.
18. "Manager" means the person, firm or corporation employed by the Association pursuant to Article III, Section 2, (c), and delegated duties, powers or functions of the Association pursuant to Article III, Section 3.
19. "Member" means any person or entity entitled to membership in the Association, i.e., the Owners of all residences, as provided in the By-Laws.
20. "Mortgage" In this document any reference to Mortgage shall always mean a Mortgage or deed of trust. "Mortgagor" includes mortgagors, trustors under deeds of trust, and Owners of residences subject to Mortgages. "Mortgagee" includes mortgagees, trustees and beneficiaries of deeds of trust, and the holders of indebtedness secured by Mortgages.
21. "Notice and Hearing" means thirty (30) days written notice to each Owner that the Owner may request an informal public hearing before the board at which all Owners shall have an opportunity to be heard in person or by counsel.
22. "Owner" means any person or persons, partnership, trust, or corporation which owns a Condominium Unit or Lot. A "record Owner" means the Owner in whom title to a Condominium Unit or Lot is vested, as shown by the official records of San Diego County, California. The board, the Association and the Owners may treat the record Owner as Owner of a Condominium Unit or Lot for all purposes. "Owner" and "Record Owner" do not include Mortgagees.

23. "Plan" means a plan which applies to a Condominium Village which has been recorded in the official records of San Diego County, California.
24. "Planned Unit Development Village" means a Village other than a Condominium Village containing residences other than detached single-family residences.
25. "Regular Assessments" means assessments levied against Lots or Condominium Units to fund Common Expenses.
26. "Reside" means to live in a residence in Coronado Cays for thirty (30) days or more in any calendar year; "Resident" shall be interpreted accordingly.
27. "Residences" means all Lots, Units, and other improvements for human habitation within Coronado Cays, and "residence" means any one Lot, one Unit, or one other improvement for human habitation within Coronado Cays.
28. "Restrictions" means this Amended and Restated Declaration of Covenants, Conditions and Restrictions and Power of Attorney as amended from time to time.
29. "Rules" means Rules adopted by the board pursuant to Article III, Section 8.
30. "Special Assessment" means assessments levied pursuant to Article VI of Section 2.(c).
31. "Unit" means a separate interest as defined in California Civil Code Section 1351 (f), or its successor statute; that portion of any Condominium Unit which is not owned in common with other Owners, and which is designated as a Unit in a plan. The description of a Unit is as designated in Section 1351 f.(1),(2),(3),& (4) of the California Civil Code or its successor statute, provided that all doors and windows of a Unit and all fixtures and utility installations located within a Unit or within a Limited common area of which the Owner of such Unit has exclusive use, including without limitation hot water heaters, space heaters and kitchens, bathroom and lighting fixtures, shall not be a part of each Unit, provided further that soffits and furred down ceilings shall not be part of such Unit. These boundaries shall not change regardless of settling or lateral movement of the structure.
32. "Village" means each separately developed and denominated residential area comprised of one (1) or more housing types subject to these Restrictions, in which Owners may have common interests other than those common to all Owners, such as a common theme, entry feature, development name, and/or common areas and facilities which are not available for use by all Owners. For example, and by way of illustration and not limitation, each Condominium, single-family detached housing development, and custom home development may constitute a separate Village.

33. "Village Assessments" shall mean assessments levied against the Lots or Condominium Units in a particular Village or Villages to fund Village Expenses, as more particularly described in Article VI.

34. "Village Common Area" means those common areas or portions of common area designated by the board which particularly benefit a particular Village and only incidentally benefit other Villages.

35. "Village Declaration" means any Declaration of Covenants, Conditions and Restrictions recorded in the official records of San Diego County, affecting any Village.

36. "Village Expenses" means and includes the actual and estimated expenses incurred by the Association for the benefit of Owners within a particular Village or Villages, which must include reserves for capital repairs and replacements, all as may be specifically authorized from time to time by the board.

ARTICLE II
USE RESTRICTIONS

The residences and common areas shall be occupied and used only as follows:

1. **Residential Use:** Each residence shall be used as a residence, and for no other purpose except as defined in Section II of this Article. The number of residents in residences shall be no more than two (2) for each bedroom. Guests may visit, but not reside in, a residence but only in accordance with and subject to limitations set forth in the Rules.

2. **Owner's Responsibility:** Each Owner shall maintain his or her Lot and all structures, parking areas and other improvements comprising the Lot in a manner consistent with the Community-Wide Standard and all applicable covenants unless such maintenance responsibility is otherwise assumed by or assigned to the Association or a Village pursuant to any Supplemental Declaration or other Declaration of Covenants applicable to such Lot. If any Owner fails properly to perform his or her maintenance responsibilities, the Association may perform such maintenance responsibilities and assess all costs incurred by the Association against the Lot and the Owner thereof in accordance with Article VI, Section 2(c)(1) of this Declaration; provided, however, except when entry is required due to an emergency situation, the Association shall afford the Owner reasonable notice and an opportunity to cure the problem prior to entry.

3. **Use of Common Area:** Only Owners, Lessees of Owners, occupants of residences and invitees of such Owners or Lessees, may use the common area, provided that:

(a) use of the common area shall be in accordance with and subject to limitations set forth in the Rules and these Restrictions,

(b) as to Condominium Villages, use of the limited common areas shall be subject to the limitations set forth in Article V.

(c) with respect to Village Common Area, only Owners, Lessees of Owners, occupants of residences and invitees of Owners or Lessees of the Village may use the Village Common Area in each Village.

4. **Obstruction of Common Area:** There shall be no obstruction of any Common Area. Nothing shall be stored in any common area without the approval of the Association.

5. **Increase or Cancellation of Insurance; Abuse and Destruction of Common Area:** Nothing shall be constructed, installed, stored, or otherwise done or kept in any residence or in any common area which will increase the rate of insurance on any common area without the approval of the Association. No Owner shall permit anything to be constructed, installed, stored, or otherwise done or kept in his residence or in any common area which will result in the cancellation of insurance on any common area or which would be in violation of any law. There shall be no abuse or destruction of any common area.

6. Signs: The board may adopt and enforce such Rules as it deems proper for the display to the public view of signs, flags, banners or similar items on or from any residence or any common area, which Rules shall be consistent with the rights and duties established by these Restrictions.

7. Animals: Dogs, cats or other household pets may be kept in residences subject to limitations set forth in the Rules. No animals of any other kind shall be raised, bred or kept in any residence or in any common area, and no animals shall be kept, bred or maintained in any residence or in any common area for any commercial purpose.

8. Nuisance: No noxious or offensive activity shall be carried on in any residence or in any common area, nor shall anything be done therein which will constitute a nuisance to the other Owners.

9. Structural Integrity: Nothing shall be done in any residence or in, on or to any Common Area which will impair the structural integrity of any building in any common area or which would structurally change any such building except as is otherwise provided herein.

10. Structural Alteration: There shall be no structural or physical alteration, construction or removal of any landscaping or building, fence, wharf, boat slip or other structure in Coronado Cays including, without limitation, any common area without the recommendation of the A.E.C.C. and approval by the board, other than such building, fence, wharf, boat slip and structures as shall be constructed, repaired or rebuilt by the Association pursuant to Article III, Section 2. This shall include the construction of any temporary, permanent or portable structures and installations, including spas.

11. Business Use: No professional, commercial or industrial operations of any kind shall be conducted in or upon any residences or the common area except for businesses conducted by tenants under lease of portions of the common area on Grand Caribe Isle approved by the board, and except for Residents conducting business activities within a residence so long as:

(a) the existence or operation of the business activity is not apparent or detectable by sight, sound or smell from outside the residence;

- (b) the business activity conforms to all zoning requirements for Coronado Cays;
- (c) the business activity does not involve persons coming into Coronado Cays who do not reside;
- (d) the business activity is consistent with the residential character of Coronado Cays and does not constitute a nuisance, or a hazardous or offensive use, or threaten the security or safety of other Residents, as may be determined in the sole discretion of the board.

The terms "business" and "trade", as used in this Section, shall have the same meaning as in the Coronado Municipal Code. Notwithstanding the above, the leasing of a residence shall not be considered a trade or business within the meaning of this Section.

12. Antennae and Satellite Dishes: No outside radio antennae or satellite dishes shall be erected in Coronado Cays without approval from the A.E.C.C. and the board.

13. No Vehicles or Boats in Common Area: No trailers, boats nor any vehicles shall be parked or stored in any common area. No vehicle or boat shall be repaired or rebuilt in any common area.

14. Violation of Restrictions, By-Laws, or Rules: There shall be no violation of these Restrictions, the By-Laws or the Rules for the use of residences or the common area adopted by the board after notice and hearing are furnished in writing to the Owners. The board is authorized to adopt, amend and repeal Rules after notice and hearing. If any Owner or Resident of his residence violates these Restrictions, the By-Laws or the Rules, the board may impose a special assessment upon such Owner in an amount the board, in its sole discretion, deems necessary until the infraction is corrected. This special assessment may become a lien on the Lot or Condominium Unit if not paid. The board may also suspend the right of such Owner and any Resident to use the Village or Association Properties for a period not to exceed one hundred eighty (180) days for each violation and under such conditions as the board shall specify. Before invoking any special assessment or suspension, the board shall give the Owner an opportunity to be heard either in person or by counsel, in accordance with the procedures set forth in Article I, Section 21. If no such hearing is requested, the board may, without further notice, impose a special assessment as set forth in this Section. Any assessment imposed hereunder, which remains unpaid for a period of ten (10) days, shall become a lien upon the Owner's residence, if included in a notice of assessment recorded pursuant to Article VI.

15. Attorneys' Fees: In the event of an action instituted to enforce any of the provisions contained in these Restrictions, the By-Laws or the Rules, the party prevailing in such action shall be entitled to recover from the other party thereto as part of the judgment, reasonable attorneys' fees and costs of such suit. California Civil Code 1354 or its successor statute applies. In the event the Association is a prevailing party in such action, the amount of such attorneys' fees and costs of such suit shall be a special assessment with respect to the Lot(s) or Condominium Units involved in the action.

16. Alternative Dispute Resolution: As a first step, prior to commencement of suit by any Owner against the Association, or by the Association against any Owner, or between Owners, for any controversy or claim arising out of or relating to these Restrictions, the By-Laws or the Rules and the interpretation or violation of the terms thereof, resolution of the action shall be first attempted via Alternative Dispute Resolution (ADR). The procedures set forth in California Civil Code Section 1354 as amended by AB55 (January 1, 1994) or its successor statute shall be followed. If ADR fails, a suit may follow.

17. Occupants Bound: All provisions of the Restrictions, the By-Laws, and of any Rules promulgated pursuant thereto which govern the conduct of Owners and which provide for sanctions against Owners shall also apply to all occupants, guests and invitees of any Lot or Condominium Unit. Every Owner shall cause all occupants of his or her Lot or Condominium Unit to comply with the Restrictions, By-Laws, and any Rules adopted pursuant to the common area caused by such occupants, notwithstanding the fact that such occupants of a Lot or Condominium Unit are fully liable and may be sanctioned for any violation of the Restrictions, By-Laws, and any Rules adopted pursuant thereto.

18. Drainage: There shall be no interference with the established drainage pattern over any Lot or Condominium Unit or common area unless adequate provision is made for proper drainage and is recommended by the A.E.C.C. and approved by the board. For the purposes hereof, "established" drainage is defined as the drainage which occurred at the time of the overall grading of Coronado Cays, including the landscaping of each Lot, Condominium Unit, or common area in Coronado Cays.

19. Free Access: Each Owner of a Lot will permit free access by Owners of adjacent or adjoining Lots to slopes or drainage ways located on his Lot which affect said adjacent or adjoining Lots, when such access is essential for the maintenance or permanent stabilization on said slopes, or maintenance of the drainage facilities for the protection and use of property other than the Lot on which the slope or drainage way is located.

20. Watercraft: The maximum length and width of watercraft permitted to be moored in Association controlled wharfage areas shall be determined by the board in its sole discretion. For all other wharfage areas, encroachment limits shall be as detailed in the City of Coronado Special Use Permit for Coronado Cays. All vessels shall be in operable condition at all times except for minor repairs being done from time to time. Significant hull rot, fuel leakage into the waterway, accumulation of fuel in the bilges or elsewhere outside of the fuel tank, dumping of the bilges directly into the waterway, failure of the engines and/or generators to function, torn and/or

shredded sails, broken stays and/or shrouds are among those items of neglect and disrepair which constitute cause by the board to demand removal or repair of the offending vessel within seven (7) days of notification to the Owner of the vessel to repair such vessel or remove such vessel from the Coronado Cays wharfage areas. To enforce the provision of this Section, the board may pursue all legal and equitable remedies, including but not limited to a lawsuit for a mandatory injunction, preliminary injunction, temporary restraining order, and the like, including the Association's reasonable legal fees and costs.

21. Bulkheads: No activity shall be undertaken by any person on any portion of Coronado Cays which will interfere with or otherwise damage any surface or subsurface structures relating to, connected with or installed for purposes of construction or maintenance of bulkheads facing Association common area or Condominium Villages.

22. Timesharing Prohibited: No Lot or Condominium Unit shall be made subject to any type of timesharing, fraction-sharing or similar program whereby the right to exclusive use of the Lot or Condominium Unit rotates among members of the program on a fixed or floating time schedule over a period of years.

23. Individual Insurance: By virtue of taking title to a Lot or Condominium Unit subject to the terms of this Declaration, each Owner covenants and agrees with all other Owners and with the Association that each Owner shall carry blanket all-risk casualty insurance on the Condominium Unit(s) or Lot(s) and structures constructed thereon meeting the same requirements as set forth in Article III.2.(b) for insurance on the common area, unless either the Village in which the Lot or Condominium Unit is located or the Association carries such insurance (which they are not obligated to do hereunder). Each Owner further covenants and agrees that in the event of a partial loss or damage resulting in less than total destruction of structures comprising his Lot, the Owner shall proceed promptly to repair or to reconstruct the damaged structure in a manner consistent with the original construction or such other plans and specifications as are approved in accordance with Article VII of this Declaration. The Owner shall pay any costs of repair or reconstruction which are not covered by insurance proceeds. In the event that the structure is totally destroyed, the Owner may decide not to rebuild or to reconstruct, in which case the Owner shall clear the Lot of all debris and return it to substantially the natural state in which it existed prior to the beginning of construction and thereafter the Owner shall continue to maintain the Lot in a neat and attractive condition.

24. Owner Liable for Damage: Each Owner shall be liable to the Association for any damage to the common area or to the Association Properties which may be sustained by reason of the negligence or willful misconduct of said Owner or of said Owner's tenants, family, relatives, guests or invitees, both minor and adult. In the case of joint ownership of a Lot or Condominium Unit, the liability of such Owners shall be joint and several. The amount of such damage shall be an assessment against the Lot or Condominium Unit and may be recovered as provided herein for the collection of other assessments.

ARTICLE III
MANAGEMENT

1. **Association as Managing Body:** The Association is hereby designated as the managing body of each Village.

2. **Duties of the Board:** The board, for the benefit of the Residents and the Owners in Coronado Cays, shall acquire title to or lease the Coronado Cays Common Area and the Village common area, and may pay for out of the maintenance funds hereinafter provided for, herein, the following:

(a) **Utilities:** Lease or rental of water, sewer, garbage, rubbish, electrical, telephone, and gas and other necessary utility services for the Common Areas (if not separately metered or charged), for the residences' common radio and television antennae (if installed), and maintenance and gardening service for the common area.

(b) **Insurance**

(1) **Blanket All-Risk (Common Areas):** The board, or its duly authorized agent, shall have the authority to, and shall obtain, blanket all-risk casualty insurance, if reasonably available, for all insurable improvements on the Common Areas. If blanket all-risk coverage is not reasonably available, then at a minimum an insurance policy providing fire and extended coverage shall be obtained. The face amount of such insurance shall be an agreed amount sufficient to cover the full replacement cost of any repair or reconstruction in the event of damage or destruction from any insured hazard.

(2) **Blanket All-Risk (Village Requested):** In addition to casualty insurance on the Common Areas, the Association may, upon request of a Village, obtain and continue in effect adequate blanket all-risk casualty insurance, if reasonably available, on properties with-in the Village. If all-risk insurance is not reasonably available, then fire and extended coverage may be substituted. Such coverages may be in such form as the board deems appropriate and the face amount of the policy shall be sufficient to cover the full replacement cost or an agreed amount of all structures to be insured. The costs thereof shall be charged to the Owners of Lots or Condominium Units within the benefitted Village as a benefitted assessment as defined in Article I, Section 3.

Insurance obtained on the properties within any Village, whether obtained by such Village or the Association, shall at a minimum comply with the provisions of this Section applicable to policy provisions, loss adjustment, and all other subjects to which this Section applies with regard to insurance on the Common Areas. All such policies shall provide for a certificate of insurance to be furnished to each member insured and to the Association.

(3) Public Liability: The board shall also obtain a public liability policy covering the Common Areas, insuring the Association and its members for all damage or injury caused by the negligence of the Association, any of its members or agents or any other person who has a right to occupy a Lot or Condominium Unit. The public liability policy shall have at least a One Million Dollars (\$1,000,000) single person limit as respects bodily injury and property damage, a Three Million Dollar (\$3,000,000) limit per occurrence, if reasonably available, and a Five Hundred Thousand Dollar (\$500,000) minimum property damage limit if reasonably available and deemed necessary by the board in its sole discretion. These minimums shall be increased if State of California requirements are increased at a future date.

(4) Premium Payment: Premiums for all insurance on the Common Areas shall be Common Expenses of the Association and shall be included in the regular assessment, as defined in Article I, Section 25 and as more particularly described in Article VI; provided, in the sole discretion of the board, premiums for insurance on Village common areas may be included in the Village assessment of the Village(s) benefited thereby unless the board reasonably determines that other treatment of the premium is more appropriate.

(5) Deductibles: The policies may contain a reasonable deductible, and in the case of casualty insurance, the amount thereof shall not be subtracted from the face amount of the policy in determining whether the insurance at least equals the full replacement cost. The deductible shall be paid by the party who would be liable for the loss or repair in the absence of insurance and in the event of multiple parties shall be allocated in relation to the amount each party's loss bears to the total.

(6) Association as Trustee: All insurance coverage obtained by the board shall be written in the name of the Association as trustee for the respective benefited parties, as further identified in Subsection 7.b. below.

(7) Miscellaneous Provisions: Insurance shall be governed by the provisions hereinafter set forth:

- a. Company Ratings: All policies shall be written with a company authorized to do business in California which holds a Best's rating of A or better and is assigned a financial size category of XI or larger as established by A.M. Best Company, Inc., if reasonably available, or if not available, the most nearly equivalent rating which is available.
- b. Beneficiaries: All policies on the Common Areas shall be for the benefit of the Association and its members; all policies secured at the request of a Village shall be for the benefit of the Village, if any, the Owners of Lots or Condominium Units within the Village, and their Mortgagees, as their interests may appear.
- c. Authority to Adjust Losses: Exclusive authority to adjust losses under policies obtained by the Association on the Association Properties shall be vested in the board; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any, related thereto.
- d. Conflicting Coverages: In no event shall the insurance coverage obtained and maintained by the board hereunder be brought into contribution with insurance purchased by individual Owners, occupants, or their Mortgagees.
- e. Inflation Guard: All casualty insurance policies shall have an inflation guard endorsement, if reasonably available, and an agreed amount endorsement with an annual review by one or more qualified persons.
- (8) Waivers and Conditions: The board shall be required to use reasonable efforts to secure insurance policies that will provide the following:
- a. Waiver as to Claims: A waiver of subrogation by the insurer as to any claims against the board, its manager, the Owners and their respective tenants, servants, agents, and guests;
- b. Waiver to Repair: A waiver by the insurer of its rights to repair and reconstruct, instead of paying cash;
- c. Cancellation by Homeowners: A statement that no policy may be cancelled, invalidated, suspended, or subject to non-renewal on account of any one or more individual Owners;
- d. Cancellation on Account of Conduct: A statement that no policy may be cancelled, invalidated, suspended, or subject to non-renewal on

account of the conduct of any director, officer, or employee of the Association or its duly authorized manager without prior demand in writing delivered to the Association to cure the defect and the allowance of a reasonable time thereafter within which the defect may be cured by the Association, its manager, any Owner, or Mortgagee;

e. Other Insurance: A statement that "other insurance" clause in any policy excludes individual Owners' policies from consideration;

f. Notice of Changes: A statement that the Association will be given at least thirty (30) days prior written notice of any cancellation, substantial modification, or non-renewal.

(9) Worker's Compensation: In addition to the other insurance required by this Section, the board shall obtain, as a Common Expense, worker's compensation insurance.

(10) Directors, Officers and Employees, and Flood Coverage: If and to the extent required by law; Directors' and officers' liability coverage, if reasonably available; a fidelity bond or bonds on directors, officers, employees, and other persons handling or responsible for the Association's funds, if reasonably available; and flood insurance, if required. The amount of fidelity coverage shall be the maximum amount reasonably available. Bonds shall contain a waiver of all defenses based upon the exclusion of persons serving without compensation and shall require at least thirty (30) days prior written notice to the Association of any cancellation, substantial modification, or non-renewal.

(c) Manager: The services of a person or firm to manage the Common Areas (the "manager") to the extent deemed advisable by the board, as well as such other personnel as the board shall determine shall be necessary or proper for the operation of the common areas, whether such personnel are employed directly by the Association or are furnished by the manager. The board, or a committee designated by the board, shall review the responsibilities and performance of the manager no less than once each year.

(d) Legal and Accounting Services: Legal and accounting services necessary or proper in the operation of the common areas or enforcement of these Restrictions.

- (e) Repair and Maintenance of Common Areas: Painting, maintenance and repair of the Common Areas (but not including the doors, windows, carpets, fixtures, interior surfaces of the residences, or appliances or other items of property located within the interior surfaces of the residences or constituting a part of the residences, which the Owner of each residence shall paint, maintain and repair), painting of exteriors of residences in Condominium Villages and planned development villages, and such furnishings, equipment and planting for the Common Areas as the board shall determine are necessary and proper. The Association shall have the exclusive right and duty to acquire the same for the common areas.
- (f) Other Necessary Expenditures: Any other property, services, taxes or assessments which the Association or the board is required to secure to pay for pursuant to the terms of these Restrictions or the By-Laws, or which in its opinion shall be necessary or proper for the operation of the common areas; provided, however, that if the board determines that any such property, services, taxes, or assessments are provided or paid for a single residence, the cost thereof shall be a benefited assessment against such Lot or Condominium Unit; provided, further, that nothing herein shall permit the Association to assess the Owners for any new improvements or additions to the Common Areas except pursuant to Section 6 of this Article.
- (g) Discharge of Encumbrance: Any amount necessary to discharge any lien or encumbrance levied against any Village or any part thereof which may, in the opinion of the board, constitute a lien against any part of such Villages rather than merely against the interest therein of particular Owners. Where one or more Owners are responsible for the existence of such liens, they shall be jointly and severally liable for the cost of discharging it.
- (h) Slope Easements, Roadway Rights-of-Way, Parkways, and Highway Median Strips: Maintenance of slope easements, railway rights -of-way, parkways and highway median strips to the extent deemed advisable by the board, including slope easements not a part of the Common Area and front yard area within a Condominium Unit if contiguous to the common area, as well as those portions of Condominium Units or Lots not within exterior fenced boundaries.
- (i) Repair and Maintenance of Improvements: Repair and Maintenance of the following:

(1) Bulkheads, Pilings, and Slips: All bulkheads, pilings, slips and all other improvements relating to waterfronts, beaches, docks, channels and waterways not maintained by governmental entities, or otherwise not assigned to a specific Lot Owner, whether or not a portion of the common area, to the extent deemed advisable by the board; and

(2) Other Portions: Any other portion of the Common Area, roadways, railway rights-of-way, entry details, guardhouse, or any other portion of Coronado Cays not maintained by governmental entities.

3. Delegation of Duties: The Association and board may delegate any of its duties, powers or functions to any person, corporation or firm to act as manager, provided that any such delegation shall be revocable upon notice by it. Neither the Association nor the members of the board shall be liable for any omission or improper exercise by the manager of any such duty, power or function as delegated. In the absence of any other appointment, the President of the Association shall act as manager.

4. Annual Independent Audit: The board shall provide for an annual independent audit of the accounts of the manager and Association and for deliver of a copy of such audit to each Owner within thirty (30) days after completion thereof. Any Owner may at any time and at his own expense cause an audit or inspection to be made of the books and records of the manager or Association by a Certified Public Accountant, provided that such audit or inspection is made during normal working hours and without unnecessary interference with the operations of the manager or Association.

5. Licenses, Easements and Rights-of-Way: The board is authorized to grant such licenses, easements and rights-of-way over the common area on behalf of and in the names of the Owners thereof as may be necessary and appropriate for the orderly maintenance, preservation and enjoyment of the Common Areas or for the preservation of the health, safety, convenience and welfare of the Owners. Such licenses, easements and rights-of-way may be granted at any time prior to twenty-one (21) years after the death of the individuals who have signed these Restrictions and their issue who are in being as of the date hereof.

6. New Improvements: The Association may construct new improvements or additions to any common area, or demolish existing improvements provided that, in the case of any improvement, addition or demolition involving a total expenditure in excess of Fifteen Thousand Dollars (\$15,000), the vote of two-thirds (2/3) of the Owners in such Village approving plans and a maximum total cost therefrom shall first be obtained, and provided that no residence shall be altered or damaged by any such demolition or construction without the consent of the Owner thereof, or if to the Coronado Cays common area with the vote of two-thirds (2/3) of all the Owners. The above-noted dollar threshold applies to initial costs to be expended within a single fiscal year. The judgment of the board shall determine the advisability of the action considering projected follow-on costs and benefits. The Association shall levy a benefited assessment on all Owners in such Village for the cost of such work, or if to the Coronado Cays common area, a special assessment upon all Owners.

7. Real Estate Tax Assessment: Each Owner shall be obligated to pay the taxes and assessments assessed by the County Assessor against his own Lot or Condominium Unit and personal property.

8. Rules: The board may adopt and enforce such reasonable Rules as it deems proper for the use and occupancy of the Coronado Cays Common Area and Village Common Areas, which Rules shall be consistent with rights and duties established by these Restrictions.

9. Orientation: The board shall provide a minimum of six (6) hours of orientation for all newly elected members of the board. These sessions should be held within sixty (60) days after the annual meeting. The orientation should include, but shall not be limited to, the following:

- (a) Review of all insurance provided for protection of all board members;
- (b) Review of all laws that provide protection for board members;
- (c) Review of Articles of Incorporation;
- (d) Review of Restrictions, By-Laws and Rules;
- (e) Review of Officer and board member duties and responsibilities;
- (f) Review of accounting, financial statements and all other office procedures;
- (g) Review of checks and balances provided to protect board members and Association assets;
- (h) Review of all leases, insurance policies and other contracts currently in force;
- (i) Review of Association investment policies;
- (j) Review of Policy Manual;

The board may utilize staff and outside experts to assist in their orientation. The board shall compile a loose leaf manual covering the subjects in this paragraph and other subjects as appropriate for each new board member.

10. Committees: In addition to the A.E.C.C. described in Article VII, the board may appoint standing committees to provide specialized support. Examples are:

- (a) Executive Advisory Committee;
- (b) Financial Committee;
- (c) Personnel Committee;
- (d) Insurance Committee;
- (e) Legal Committee;

- (f) Strategic Planning Committee;
- (g) Landscaping Committee;
- (h) Navigational Aids Committee;
- (i) Security Committee;
- (j) Employee Benefits Committee;

The President shall appoint one board member to serve on each standing committee. Each committee shall consist of not less than three (3), nor more than nine (9) members, excluding the director member. Committees are advisory only, and final authority remains in the board. Each committee shall meet at least quarterly, and more often if the committee deems necessary. Each committee shall report to the board at the next board meeting after the committee meets. A record of committee proceedings shall be maintained either as separate committee minutes or included as part of the board minutes when reported. The board may appoint any other committees it deems necessary. Executive committees with authority to act for the board are to be appointed and controlled in accordance with California Corporation Code 7212 or its successor statute.

11. Security: The Association may, but shall not be obligated to, maintain or support certain activities within Coronado Cays designed to improve Coronado Cays security. The Association shall not in any way be considered an insurer or guarantor of security within Coronado Cays. The Association shall not be held liable for any loss or damage by reason or failure to provide adequate security or by the ineffectiveness of security measures undertaken. All Owners and occupants of any residence, tenants, guests and invitees of any Owner, as applicable, acknowledge that the Association and its board do not represent or warrant that any fire protection system, burglar alarm system or other security system designated by or installed according to guidelines established by the Association or the A.E.C.C. may not be compromised or circumvented, that any fire protection or burglar alarm systems or other security systems will prevent loss by fire, smoke, burglary, theft, robbery, or otherwise; nor that systems will in all cases provide the detection or protection for which the system is designed or intended.

12. Assumption of Risk: Each Owner and occupant of any Lot or Condominium Unit, and each tenant, guest or invitee of an Owner or occupant, as applicable, acknowledges and understands that the Association, its board and committees are not insurers; and that each Owner or occupant of any Lot or Condominium Unit, and each tenant, guest or invitee of any Owner or occupant assumes all risks for loss or damage to persons, to Lots or Condominium Units, and to the contents of Lots or Condominium Units, and further acknowledges that the Association, its board and committees have made no representation or warranties nor has any Owner, occupants, tenant, guest or invitee relied upon any warranty of merchantability or fitness for any particular purpose, relative to any fire and/or burglar alarm systems or other security systems recommended or installed or any security measures undertaken within the properties.

ARTICLE IV
ASSOCIATION PROPERTIES

Each Owner, by purchase of a residence, automatically becomes a member of the Association, which membership entitles each Owner to use the Association Properties, subject to the provisions of these Restrictions, the By-Laws and the Rules. Each Owner agrees that in using Association Properties, he or she will comply with the provisions of such Restrictions, By-Laws and Rules.

ARTICLE V
LIMITED COMMON AREA

With respect to each Condominium Village, the areas designated in the plan for any Condominium Village as a balcony, patio, garage and wharf or boat area are limited common areas reserved for the exclusive use of the Condominium Unit to which they are adjacent and shall be treated as a part of such Condominium Unit for purposes of the provisions in these Restrictions relating to use, maintenance, repair, alteration, construction or reconstruction of Condominium Units.

ARTICLE VI
MAINTENANCE FUND, ASSESSMENTS, LIENS

1. Funds: There shall be two (2) maintenance funds, as follows:

(a) Coronado Cays Maintenance Fund: To maintain the Coronado Cays Common Area and such other maintenance as the board deems advisable to benefit Coronado Cays as a whole as compared to the particular benefit of a Village. The fund shall consist of an unrestricted part for support of continuous operations and a restricted part for the accumulation of reserves, with disbursements as necessary.

(b) Village Maintenance Funds: To maintain the Village Common Areas and such other maintenance as the board deems advisable to benefit the Village as a whole. The fund shall consist of an unrestricted part for support of continuous operations and a restricted part for the accumulation of reserves, with disbursements as necessary.

2. Assessments: The board shall have the power specifically to assess pursuant to this Section as it shall deem appropriate. Failure of the board to exercise its authority under this Section shall not be grounds for any action against the Association or the board and shall not constitute a waiver of the board's right to exercise that authority in the future with respect to any expenses, including an expense for which the board has not previously exercised its authority under this Section.

(a) Regular Assessments:

(1) Estimate of Charges (Cays Maint. Fund): At least thirty (30) days prior to the beginning of each fiscal year, the board shall estimate the net charges to be paid during the forthcoming year with respect to the Coronado Cays Maintenance Fund (including a reasonable provision for contingencies and appropriate replacement and other reserves less any expected income and any surplus from the prior year fund). A sum sufficient to pay such estimated net charges shall be assessed against each Lot or Condominium Unit in Coronado Cays in an equal amount as a regular assessment. If said sum estimated proves inadequate for any reason, including nonpayment of any Owner's assessment, the Association may, at any time, levy a special assessment, which shall be assessed to each Owner equally. Such funds shall be expended by the board for the purposes designated in these Restrictions. Each Owner shall be obligated to pay regular assessments made pursuant to this paragraph to the Association in equal monthly installments the first (1st) day of each month during such year or in such other manner as the board may designate.

(2) Estimate of Charges (Village Maint. Funds): At least thirty (30) days prior to the beginning of each fiscal year the board shall estimate the net charges to be paid during the forthcoming year in each Village with respect to each Village Maintenance Fund (including a reasonable provision for contingencies and appropriate replacement and other reserves less any expected income and any surplus from the prior year's fund). A sum sufficient to pay such estimated net charges shall be assessed against each Lot or Condominium Unit in the Village as a regular assessment in the proportion which the adjusted floor area in his residence bears to the total adjusted floor area in all residences in his Village (except for special assessments against a Lot or Condominium Unit provided for in these Restrictions); provided, however, that as to Condominium Villages, the assessment should be adjusted to exclude such estimated net charges as are attributable to water, sewer, garbage, electrical, telephone, gas and other utility service. With respect to Condominium Units adjusted floor areas shall be deemed to be those shown in the plans, and with respect to Lots, adjusted floor area shall be deemed to be the floor area within the residence, excluding garages and patios. If said sum estimated proves inadequate for any reason, including nonpayment of any Owner's assessment, the Association may at any time levy a further assessment, which shall be assessed against Lots or Condominium Units in that Village in like proportions. The amount shall be designated by the board after notice and hearing. Each Owner shall be obligated to pay assessments made pursuant to this Section to the Association in equal monthly installments on or before the first (1st) day of each month during such year, or in such other manner as the board shall designate. Such funds shall be expended by the board for the purposes designated in these Restrictions.

(b) Benefited Assessments:

An identifiable group of Owners with a similar interest may request that the Association provide a higher level of service or a special service for the benefit of the identified group upon the affirmative vote, written consent, or combination thereof, of a 2/3rds majority of the Owners concerned. The additional service will be supported by a benefited assessment. Members of the identified group may be contained within a single Village, may be distributed throughout several Villages, or distributed throughout the entire Cays.

(1) Equal Benefits: Expense which benefits all Lots or Condominium Units within a group equally may be assessed equally among all of the Lots or Condominium Units within the group.

(2) Unequal Benefits: Expense which benefits Lots or Condominium Units within a group unequally, may be assessed equitably among all Lots or Condominium Units within a group according to the benefit received.

(3) Board Action: The board will determine if provision of the requested benefit is in the best interests of the Association considering the feasibility of the higher level of service and/or the availability of assets for a requested special service. If the board accepts the identified group's request, the additional assessment necessary to support the special benefit will be determined. This amount shall be added to the amounts estimated in Section 2. (a) above.

(c) Special Assessments:

(1) All Owners: The Association may levy special assessments against all Lots and Condominium Units in the Cays from time to time subject to the limitations set forth in this Article. Special assessments pursuant to this Subsection shall be payable in such manner and at such times as determined by the board, and may be payable in installments extending beyond the fiscal year in which the special assessment is approved, if the board so determines. Including the extent to which the special assessment is to reimburse the Association for the cost of collecting assessments, a special assessment levied pursuant to this paragraph may constitute a lien on the Owner's Lot or Condominium Unit.

(2) Villages: The Association may also levy a special assessment against the Lots or Condominium Units in any Village to reimburse the Association for costs incurred in bringing the Village into compliance with the provisions of these Restrictions, any amendments thereto, the By-Laws and the Rules, which special assessment may be levied upon the vote of the board. Including the extent to which the special assessment is to reimburse the Association for the cost of collecting assessments, a special assessment levied pursuant to this paragraph may constitute a lien on the Owner's Lot or Condominium Unit.

(3) Individual Owners: The Association may levy a special assessment against any member individually and against such member's Lot or Condominium Unit to reimburse the Association for costs incurred in bringing a member and his Lot or Unit into compliance with the provisions of these Restrictions, any amendments thereto, the By-Laws or the Rules, which special assessment may be levied upon the vote of the board after notice to the member and an opportunity for a hearing as set forth in Article I, Section 21. Including the extent to which the special assessment is to reimburse the Association for the cost of collecting assessments, a special assessment levied pursuant to this subsection may constitute a lien on the Owner's Lot or Condominium Unit.

- (d) Limitation of Increases of Assessments: Except for assessment increases necessary for emergency situations, or to reimburse the Association pursuant to Section 2.(c)(2) and 2.(c)(3) above, the board may not impose a regular assessment, village assessment or benefited assessment that is more than twenty percent (20%) greater than each of those assessments for the immediately preceding fiscal year nor impose a special assessment which in the aggregate exceeds five percent (5%) of the budgeted Common Expenses of the Association for the current fiscal year, without a majority vote of the members of the Association, which are subject to the applicable assessment (constituting a quorum), at a meeting of the Association. For purposes of this Section, "quorum" means more than fifty percent (50%) of the members of the Association who are subject to the applicable assessment. For purposes of this Section, the term "assessment" shall be deemed to include the amount assessed against each Lot or Condominium Unit plus a pro rata allocation of any amounts the Association received through any subsidy or expended via a maintenance agreement, if any, in effect for the year immediately preceding the year for which the assessment is to be increased.

An emergency situation is any one of the following:

- (1) Court Order: An extraordinary expense required by an order of a court;
- (2) Threat to Safety: An extraordinary expense necessary to repair or maintain the Association Properties or any part of them for which the Association is responsible where a threat to personal safety on the Association Properties is discovered;
- (3) Unforeseen Expenses: An extraordinary expense necessary to repair or maintain the Association Properties or any part of them for which the Association is responsible which could not have been reasonably foreseen by the board in preparing and distributing the pro forma common expense budget pursuant to California Civil Code Section 1365, or its successor statute. However, prior to the imposition or collection of such an assessment, the board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. Such resolution shall be distributed to the members with the notice of such assessment.

- (e) Amendment to this Article: Amendments to this Article (but not including amendments to Articles/Sections which are referred to in this Article/Section or which relate to this Article/Section) shall only be effective upon written consent of seventy-five percent (75%) of the Owners in Coronado Cays.
- (f) Late Charges: If any assessment, whether regular, benefited or special, assessed to the Owner of any residence is not paid within fifteen (15) days after it is due, the Owner may be required by the board to pay a late payment charge of ten percent (10%) of the amount of the assessment or ten dollars (\$10.00), whichever is greater.

3. Lien for Assessments: The amount of any regular, benefited or special assessment, due and payable to the Association and any late charges, plus interest on this assessment at twelve percent (12%) per annum, shall become a lien upon the property on which the assessment is imposed. All reasonable attorney's fees and recordation costs necessary to collect assessments shall also become a lien upon such property. A notice signed by an officer of the Association or designated agent shall be recorded in accordance with Section 1367 of the California Civil Code or its successor statute. This notice is to include the amount of the claim or delinquency, all interests and other costs which may have accrued thereon, a description of the Lot or Condominium Unit against which the assessment was due and the name of the record Owner and shall create a lien upon the Lot or Condominium Unit described in the amount set forth. In no event shall a Declaration of Homestead be prior to such a lien, even though the lien is recorded after the Declaration of Homestead. The lien shall continue until fully paid or otherwise satisfied. When the lien has been fully paid or satisfied, a further notice releasing the lien must be recorded. Such lien may be foreclosed in the same manner as is provided by the laws of the State of California for the foreclosure of a mortgage on real property for the foreclosure of this type of lien or, with respect to a lien against a Condominium Unit, as provided by Section 1367 of the California Civil Code, or its successor statute and as otherwise provided by law. A certificate executed and acknowledged by the Association stating the indebtedness secured by the lien upon any Lot or Condominium Unit created hereunder shall be conclusive upon the Association and the Owners as to the amount of such indebtedness as of the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any Owner upon request at a reasonable fee, not to exceed Ten Dollars (\$10.00).

ARTICLE VII
ARCHITECTURAL AND ENVIRONMENTAL CONTROL COMMITTEE

1. Membership: The Architectural and Environmental Control Committee (also called the "A.E.C.C.") shall consist of five (5) members. The Village representation and qualifications shall be determined by the board; however, the members of the A.E.C.C. shall represent each type of ownership at Coronado Cays as long as a qualified member from each ownership category is available.

2. Appointment and Terms of Members: The board shall have the right to appoint and remove, at any time without cause, all members of the A.E.C.C. Appointments will normally be for two years and usually will be made within a reasonable time after the annual meeting. Three members of the A.E.C.C. shall be appointed in odd-numbered years and two members of the A.E.C.C. shall be appointed in even- numbered years.

3. Duties:

(a) Structural: The A.E.C.C. shall consider and act upon any and all proposals or plans and specifications submitted for its approval and perform such other duties as from time to time shall be assigned to it by the board. The A.E.C.C. shall recommend for approval by the board proposals or plans and construction, alterations or additions contemplated thereby in the location indicated will not be detrimental to the appearance of the Village involved or Coronado Cays as a whole and that the appearance of any structure affected thereby will be in harmony with the surrounding structures. The A.E.C.C. may condition its recommendation of proposals or plans and specifications on such changes therein as it deems appropriate, and may require submission of additional plans and specifications or other information prior to recommending approval or disapproval of material submitted. The A.E.C.C. may also issue rules or guidelines setting forth additional factors that it will take into consideration in reviewing submissions.

(b) Landscaping: The A.E.C.C. shall consider and act upon any and all proposals for landscaping changes, including improvements. The A.E.C.C. shall recommend for approval by the board those plans and specifications only if the landscaping will not be detrimental to the appearance of the Village or Coronado Cays as a whole and does not alter the existing drainage patterns, and the locations and height are appropriate. All conditions and authority of the A.E.C.C. shall be the same as that which apply to structural improvements.

(c) Docks and Water Related Structures: The A.E.C.C. shall consider and act upon all proposals, plans, or specifications for docks and water related structures as submitted and perform other duties as may be assigned from time to time by the board. The A.E.C.C. shall recommend for approval by the board changes to docks and water related structures only if it deems that these improvements will not be detrimental to the appearance of the Village or Coronado Cays as a whole and that the appearance of any water related structure affected thereby will be in harmony

with the surrounding structures. The A.E.C.C. conditions and authority shall be the same as that which applies to all other structural improvements. Details regarding this duty are provided in the Coronado Cays Wharfage CC&R's.

4. Meetings: The A.E.C.C. shall meet from time to time as necessary to perform its duties hereunder. The vote or written consent of any three (3) members shall constitute an act by the A.E.C.C.

5. No Waiver of Right to Withhold Approvals: Recommendations by the A.E.C.C. regarding any proposals or plans and specifications or drawings for any work done or proposed or in connection with any other matter requiring the approval or consent of the board, and/or City of Coronado, shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications, drawings, or matter whatever subsequently or additionally submitted for approval or consent. Recommendations by the A.E.C.C. must be approved by the board, and/or if necessary, by the City of Coronado.

6. Limitation of Liability: Neither the A.E.C.C. nor any member thereof shall be liable to the Association, or to any Owner or record Owner for any loss, damage, or injury arising out of or in any way connected with the performance of the A.E.C.C.'s duties hereunder unless due to the willful misconduct or bad faith of the A.E.C.C. Review and approval of an application pursuant to this Article is made on the basis of aesthetic considerations only and the A.E.C.C. shall not bear any responsibility for ensuring the structural integrity or soundness of approved construction or modifications, nor for ensuring compliance with building codes and other governmental requirements.

7. Responsibility for Maintenance of Improvements: Any land-scaping, construction, alterations or additions recommended for approval by the A.E.C.C. and approved by the Board of Directors shall be the maintenance responsibility of the Owner who obtains such approval.

ARTICLE VIII
MORTGAGE PROTECTION

Notwithstanding all other provisions hereof;

1. **No Priority**: The liens created under Article VI, Section 3 upon any Lot or Condominium Unit shall be subject and subordinate to, and shall not affect the rights of, the Mortgagee under any recorded first Mortgage upon such Lot or Condominium Unit made in good faith and for value, provided that after the foreclosure of any such Mortgage the amount of all regular assessments, benefited assessments, and special assessments to the extent they relate to expenses incurred subsequent to such foreclosure, assessed hereunder to the purchaser at such foreclosure sale, as an Owner after the date of such foreclosure sale, shall become a lien upon such Lot or Condominium Unit upon recordation of a notice as provided in Article VI, Section 3.
2. **Amendment**: No amendment to these Restrictions shall affect the rights of a Mortgagee who does not join in the execution thereof, provided that prior to recordation of such amendment, his Mortgage is recorded and written notice of its delivery and recordation, signed by the Mortgagee and Mortgagor, is given to the Association.
3. **Subordination Agreement**: By subordination agreement executed by the Association, the benefits of Sections 1 and 2 above may be extended to Mortgages not otherwise entitled thereto.

ARTICLE IX
DAMAGE AND DESTRUCTION

In the case of damage by fire or other casualty to the common area:

1. **Damage or Destruction Less Than \$30,000** If insurance proceeds do not exceed the sum of Thirty Thousand Dollars (\$30,000), and the cost of repairing and rebuilding does not exceed the amount of available insurance proceeds by more than Five Thousand Dollars (\$5,000), such insurance proceeds shall be paid to the Association which thereupon shall contract to repair or rebuild all Common Areas so damaged. If the insurance proceeds are insufficient to pay all of the costs of repairing or rebuilding the damage in any Village, the Association shall levy a special assessment on all Owners in such Village to make up any deficiency, if to Village Common Area. If such damage is to other than a Village Common Area, such special assessment shall be levied against all Owners in Coronado Cays.

2. **Damage or Destruction of More Than \$30,000**: If paragraph 1 above is inapplicable, then:

(a) **Disposition of Proceeds**: The insurance proceeds arising out of damages in each Village affected shall be paid to such bank or trust company as may be designated by the board, to be held in separate trusts for the benefit of the Owners in each such Village and their Mortgagees, as their respective interests shall appear. The Association is authorized to enter on behalf of the Owners in each such Village into such agreement, consistent herewith, with such insurance trustee relating to its powers, duties and compensation, as the board may approve.

(b) **Bids**: The Association shall obtain firm bids for each Village involved from two (2) or more responsible contractors to rebuild any portions of the Village Common Areas and, with respect to a Condominium Village, any Unit so damaged in each Village in accordance with the original plans and specifications with respect thereto and shall, as soon as possible thereafter, call a special meeting of the Owners in the Village or Villages affected to consider such bids. At such special meeting, the Owners may by three-fourths (3/4) vote elect to reject such bids and thus not to rebuild. Failure to thus reject such bids shall be deemed an acceptance of that bid deemed by the Association to be most favorable.

(c) **Special Assessment**: If a bid is accepted, the Association shall levy a special assessment on Owners in each Village affected in which insurance proceeds are inadequate to make up the deficiency between the total insurance proceeds with respect to each such Village and the contract price for repair or rebuilding the damaged portions of such Village, and such assessment or assessments and all insurance proceeds, whether or not subject to liens of Mortgagees, shall be paid to said insurance trustee to be used for rebuilding. If two (2) or more assessments are levied, such assessments may be made due on such dates as the Association may designate over a period not to exceed twenty (20) years, and the Association may borrow money to pay the aforesaid deficiency, and may secure such borrowing by an assignment of its right to collect such assessments, or by a pledge of any personal property held by it in trust for the Owners of such Village, or by both.

(d) Condominium Village: With respect to a Condominium Village, if all bids are rejected by three-fourths (3/4) of the Owners in any Village, the conditions for partition shall be deemed to have been met as to that Condominium Village, and the Association, as soon as reasonably possible, and as agent for all Owners pursuant to Section 1359 of the California Civil Code, or its successor statute, and after recording the certificate required thereby, shall sell the entire real property in such Condominium Village, in its then condition, free from the effects of these Restrictions, which shall terminate upon such sale, together with the insurance proceeds, thereupon shall be distributed to the Owners in proportions to their undivided interests in the common area in such Condominium Village, and to the Mortgagees of the Condominium Units of such Owners, as their interests may appear.

(e) Other Villages: With respect to all Villages other than Condominium Villages, if bids are rejected by three-fourths (3/4) of the Owners in any Village and if three (3) years after such damage or destruction of such Common Area, the Owners have not accepted a bid for repair or rebuilding or if such common area has not been repaired or rebuilt, the prohibition on partition set forth in Article XV hereof shall terminate.

ARTICLE X
TERM AND AMENDMENT

1. Term: With respect to all Villages (except Condominium Villages), these Restrictions shall run until the year 2020, unless amended as herein provided. After 2020, these Restrictions shall be automatically extended for successive periods of ten (10) years each unless amended or extinguished by a written instrument by at least 75% of the record Owners in Coronado Cays, and such written instrument is recorded in the official records of San Diego County, California. There shall be no expiration date of these Restrictions with respect to Condominium Villages, except upon partition thereof.

2. Amendment: Except as provided in Section 2.(e) of Article VI, and Section 2 of Article VIII, which require seventy-five percent (75%) of record Owners, the provision of these Restrictions may be amended by an instrument in writing signed and acknowledged by the president and secretary of the Association, certifying that such amendment has been approved by the vote or written consent of at least fifty-one percent (51%) of the record Owners in Coronado Cays, and such an amendment shall be effective upon its recordation with the San Diego County Recorder.

ARTICLE XI
VOTING

1. Voting Owner: There shall be one (1) "Voting Owner" of each Lot or Condominium Unit and such Voting Owner shall be entitled to one vote for each Lot or Condominium Unit as to which he is the Voting Owner. The Voting Owner shall be designated by the record Owner of each Lot or Condominium Unit by notice to the Association, and need not be an Owner. Said designation shall be revocable at any time by notice to the Association by the record Owner. Such powers of designation and revocation may be exercised by the guardian of a record Owner's estate or by his conservator, or in the case of a minor having no guardian, by the parent entitled to his custody, or during the administration of a record Owner's estate, by his executor or administrator where the latter's interest in said property is subject to administration in his estate. Where no designation is made or where a designation has been made but is revoked and no new designation has been made, the Voting Owner of each Lot or Condominium Unit shall be the group composed of all of its record Owners; any or all of such Owners may be present at any meeting of the Voting Owners or act as Voting Owner in person or by proxy. If those present or acting act unanimously, they may vote or take any other action as a Voting Owner. There shall be one (1) vote for each Condominium Unit and each Lot, which vote shall inure only as each Condominium Unit or Lot is subject to assessment as set forth in these Restrictions.

2. Annual Meeting: There shall be an annual meeting of the Voting Owners as set forth in Article III of the By-Laws.

ARTICLE XII
RESALES OF LOTS AND CONDOMINIUM UNITS

Upon the sale and transfer of title to any Lot or Condominium Unit, the record Owner thereof shall pay a special assessment to the Association to cover the expenses of transfer in an amount to be determined by the board. Such assessment is paid through escrow and if not paid within ten (10) days after the transfer of title to a Lot or Condominium Unit, the amount thereof shall become a lien upon such Lot or Condominium Unit as provided in Article VI hereof.

ARTICLE XIII
DIVISION AND CONSOLIDATION OF CONDOMINIUM UNITS

Condominium Units may be combined into one residence provided that both units are owned by the same entity and the Owner(s) agree in writing to return the units to their original condition when one or both are sold. The Owner(s) of any combined units will pay the required assessments as though both units were separate. Prior to any Condominium Units being combined, applications must be processed through the Architectural and Environmental Control Committee (A.E.C.C.) and final approval must be made by the board. Building permits and any other necessary documents required by the City of Coronado must be on file with the Association.

ARTICLE XIV
NOTICES

Any notice permitted or required to be delivered as provided herein shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of same has been deposited in the United States mail, postage prepaid, in the City of Coronado, addressed to any person at the address given by such person to the Association for the purpose of service of such notice, or to the residence of such person if no address has been given to the Association. Such address may be changed from time to time by notice in writing to the Association.

ARTICLE XV
PARTITION

There shall be no judicial or other partition of the common area nor shall any person acquiring any interest in the common area or any part thereof seek any judicial or other partition, provided that, if any Lot or Condominium Unit shall be owned by two (2) or more co-tenants as tenants in common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition as between such co-tenants. The provisions of this Article shall become void and of no further effect twenty-one (21) years after the death of the survivors of the individuals who have signed those Restrictions and their issue who are in being as of the date hereof.

Anything in these Restrictions to the contrary notwithstanding, in the event that a Village Common Area (except as to a Condominium Village) has been in existence in excess of fifty (50) years, that it is obsolete and uneconomical, and more than fifty per cent (50%) of the Owners in such Village are opposed to repair or restoration of the Common Areas, then this covenant against partition of the common area shall terminate as to such Village common area and shall be of no further force and effect with respect to such Village common area.

ARTICLE XVI
INTERPRETATION

The provisions of these Restrictions shall be liberally construed to effectuate their purpose of creating a uniform plan for the operation of Coronado Cays. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof. In case any one of the provisions contained in these Restrictions shall for any reason be held to be invalid, illegal or unenforceable in any respect, such validity, illegality or un-enforceability shall not affect any of the remaining provisions hereof, but these Restrictions shall be construed as if such invalid, illegal or unenforceable provisions had never been included. Whenever the context so requires, the singular number includes the plural, and the converse; and the masculine gender includes the female and/or neuter.

ARTICLE XVII
SEVERABILITY

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or un-enforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof.

ARTICLE XVIII
RESTORATION AND USE OF COMMON STRUCTURAL PARTS

With respect only to detached single-family residences in the event any such detached single-family residence is damaged or destroyed, the Owner of such residence shall, within one hundred eighty (180) days from the date of such damage or destruction, cause such residence to be promptly repaired or rebuilt with the approval of the A.E.C.C. as set forth herein, or, at the election of the Owner of the residence, all debris shall be promptly removed, all excavations shall be filled and the ground shall be restored to its natural condition and shall be properly maintained free of weeds. With respect to all residences having common (party) walls, Owners of residences having such common walls shall have equal right to use of such party wall, except that each shall have the exclusive right to the use of the interior surface of the wall on his side. Neither Owner shall use any portion of the party wall so as to interfere with the use and enjoyment of the other Owner. In the event that any portion of a party wall, except the interior surface of one side or in a Condominium Unit, is damaged or injured from any cause, other than the act of negligence of either party, it shall be rebuilt or repaired at their joint expense. If there be any other parts of a residence which are so constructed that they are shared in common by adjoining Owners, they shall be used in common by each in such a manner so as not to interfere with their use by the others. Any damage or injury to these common parts, other than in a Condominium Unit, other than that caused by the act or negligence of one of the Owners, shall be repaired at the joint expense of the Owners. The Owners of the party walls and common structural parts shall maintain them in good order and repair at all times. In the event of damage to a party wall or common structural part through the act or negligence of one of the Owners, such Owner shall be fully responsible alone for the expense of repair of such party wall or joint structural part.

With respect to structures, other than Condominium Units, having a common wall or common structural part, in the event of damage or destruction thereto, such damage or destruction shall be repaired and such structure shall be rebuilt according to A.E.C.C. approved plans and specifications within one hundred eighty (180) days from the date of such damage or destruction, except that with respect to any common wall or common structural part so damaged or destroyed, the provisions set forth hereinabove shall apply with respect to the cost of restoration thereof. However, if such damage exceeds fifty per cent (50%) in value, or in the event of total destruction, if such damage or destruction shall occur more than thirty (30) years after construction and if all Owners affected by such damage or destruction shall agree, the residence may, except with respect to Condominium Units, not be rebuilt but instead all debris shall be promptly removed, all excavations shall be filled and the ground shall be restored to its normal condition and shall be properly maintained free of weeds.