
**AMENDED & RESTATED BYLAWS OF
CROWN HARBOR HOMEOWNERS ASSOCIATION**

TABLE OF CONTENTS

ARTICLE I: RECITALS AND DEFINITIONS	1
Section 1.1. Name of Association	1
Section 1.2. Definitions	1
(a) Association Records & Enhanced Association Records	1
(b) Mailed Ballot	1
(c) Member	1
(d) Member or Unit in Good Standing	1
(e) Owner	1
(f) Resident	1
(g) Violation	1
(h) Voting Power	1
(i) Definitions Incorporated by Reference.	1
ARTICLE II: PRINCIPAL OFFICE	1
Section 2.1. Location of Principal Office	1
ARTICLE III: POWERS & AUTHORITY OF THE ASSOCIATION	1
Section 3.1. General Association Powers	2
Section 3.2. Powers & Authority of the Association	2
(a) Duties Generally	2
(b) Powers Generally	2
(c) Specific Powers	2
(i) Association's Right of Entry	2
(ii) Association as Attorney-in-Fact	2
(c) Powers Vested in Board	2
Section 3.3. Nonliability of Officials	2
(a) Claims Regarding Breach of Duty	2
(b) Other Claims Involving Tortious Acts & Property Damage	2
(c) Indemnification	3
ARTICLE IV: MEMBERSHIP	3
Section 4.1. Members of the Association	3
(a) No Severance	3
(b) Security Interest	3
(c) Tenants	3
Section 4.2. Interests Conveyed	3
Section 4.3. Term of Membership	3
Section 4.4. Termination of Obligations	4
Section 4.5. Multiple Ownership of Units	4
(a) Designated Voting Power	4
(b) Voided Vote	4
Section 4.6. Furnishing Evidence of Membership	4
ARTICLE V: MEMBERSHIP VOTING	4
Section 5.1. Single Class of Membership	4
Section 5.2. Member Voting Rights	4
Section 5.3. Voting Eligibility	4
Section 5.4. Casting Votes	4

(a) Voting by Secret Written Ballot	4
(b) Annual Mailed Ballot	4
(c) Cumulative Voting	5
(d) Proxies	5
Section 5.5. Action by Mailed Ballot	5
(a) Time Requirements	5
(i) Distribution	5
(ii) Extension of the Balloting Period	5
(b) Content of Mailed Ballots	5
(i) Voting Options	5
(ii) Envelopes & Instructions	5
(iii) Director Elections	5
(iv) Voting Deadline	5
(v) Quorum & Approval Requirements	5
(c) Approval Requirements	5
(d) Distribution	5
(e) Prohibition of Revocation	5
(f) Conducting Informational Meetings	5
(g) Affidavit of Mailing	5
(h) Replacement Ballots	5
Section 5.6. Quorum Requirements	6
(a) Quorums Generally	6
(i) Quorum for Member Votes	6
(ii) Reduction in Quorum Percentage for Certain Votes	6
(iii) Postponed Ballot Deadline	6
(b) Voided Acts	6
Section 5.7. Majority Vote Required	6
Section 5.8. Supervision of Election Process	6
(a) Election Inspectors	6
(b) Required Usage	6
Section 5.9. Vote Results & Voting Materials	7
(a) Tabulation of Votes	7
(b) Notification of Results of Balloting Process	7
(c) Reports	7
(d) Storage & Security of Ballots	7
(i) Prior to Tabulation	7
(ii) After Tabulation	7
(e) Recounts & Challenges	7
Section 5.10. Record Dates	7
(a) Established by the Board	7
(i) Right to Receive Notice or Vote	7
(b) Failure of Board to Fix a Record Date	7
Section 5.11. Election Rules	7
ARTICLE VI: MEMBERSHIP MEETINGS	7
Section 6.1. Meeting Location	7
Section 6.2. Member Meeting	8
(a) Annual Meetings	8
(b) Special Meetings	8
(i) Persons Entitled to Call Special Meetings	8
(ii) Procedures for Member Requested Meetings	8
(c) Notice of Member Meetings	8
(i) Method	8
(ii) Timing	8
(iii) Minimum Content	8
(A) Annual Meetings	8
(B) Special Meetings	8
(iv) Affidavit of Mailing	9

Section 6.3. Adjourned Meeting	9
(a) Adjournment Generally	9
(b) Notice Requirements	9
Section 6.4. Waiver by Attendance	9
Section 6.5. Conducting Meetings	9
ARTICLE VII: BOARD OF DIRECTORS	9
Section 7.1. Powers & Duties of the Board of Directors	9
(a) Powers of the Board	9
(i) Exclusive Power	9
(ii) General Powers of the Board	9
(A) Meetings	9
(B) Appoint & Remove	9
(C) Delegate	10
(D) Contracts	10
(E) Leases	10
(F) Grant Property Rights	10
(G) Loans	10
(H) Bank Accounts	10
(I) Assessments	10
(J) Rules	10
(K) Litigation	10
(iii) No Active Business	10
(iv) Emergency Powers of the Board	10
(b) Duties of the Board	10
(i) Association Duties	10
(ii) Records	10
(iii) Finances	10
(iv) Supervise	10
(v) Assessments	11
(vi) Insurance	11
(vii) Vacancies	11
(viii) Discharge of Liens	11
(ix) Enforcement	11
(x) Operating Requirements	11
(xi) Payment of Taxes	11
(xii) Confidentiality	11
Section 7.2. Limitations on Board Powers	11
(a) Actions Requiring Member Approval	11
(i) Contracts	12
(ii) Selling Association Property	12
(iii) Pay Compensation	12
(iv) Board Vacancies	12
(v) Exclusive Easements	12
(b) Actions Requiring Member & Eligible First Mortgagee Approval	12
Section 7.3. Number of Directors	12
Section 7.4. Term of Office	12
Section 7.5. Nomination & Qualifications of Directors	12
(a) Requirements for Candidacy & Election	12
(b) Only One Non-Resident Director	13
(c) One Director per Unit	13
(d) Additional Qualifications for Candidates	13
(c) Selection of Candidates	13
(i) Write-in Candidate	13
(ii) Selection by the Board	13
(iii) Nominations on Ballot or from the Floor	13
Section 7.6. Election of Directors	13
(a) Directors Elected by Secret Written Ballot	13

(b) Election Results & Tie Votes	13
Section 7.7. Vacancies on the Board	14
(a) Vacancies Generally	14
(b) Resignation of Directors	14
(c) Removal by the Board	14
(d) Removal by the Members	14
(i) Petition	14
(ii) Time Limit for Board Response	14
(iii) No Board Notice is Given	14
(iv) Rebuttal Right	14
(v) Mailed Ballot Due Date	14
(vi) No Quorum or Majority Vote	14
(vii) Six Month Limitation	14
(viii) Temporary Chair	14
(e) Removal by Court Action	15
(f) Filling Vacancies	15
(g) Reduction in Number of Directors	15
Section 7.8. Election Disputes	15
Section 7.9. Compensation	15
ARTICLE VIII: BOARD MEETINGS	15
Section 8.1. Meeting Location	15
Section 8.2. Notice Requirements	15
(a) Directors	15
(b) Members	15
(c) Notice Contents	15
Section 8.3. Annual Meeting of Directors	16
Section 8.4. Regular Meetings	16
Section 8.5. Special Meetings of the Board	16
Section 8.6. Emergency Meetings of the Board	16
Section 8.7. Executive Sessions	16
Section 8.8. Quorum Requirements	16
Section 8.9. Action Without Meetings	16
Section 8.10. Ratification	16
Section 8.11. Member Rights	17
(a) Meetings Generally Open to Members	17
(b) Board Meeting Minutes	17
(i) Availability	17
(ii) Annual Notice	17
Section 8.12. Conducting Meetings	17
ARTICLE IX: OFFICERS	17
Section 9.1. Officers	17
Section 9.2. Selection of Officers	17
Section 9.3. Terms & Removal of Officers	17
Section 9.4. Resignation of Officers	17
Section 9.5. Vacancies	17
Section 9.6. President	17
(a) Duties	18
(b) Vice President	18
Section 9.7. Secretary	18
(a) Minutes	18
(b) Records	18
(c) Meetings & Votes	18
(d) Assistants	18
Section 9.8. Treasurer	18
(a) Accounting Records	18
(b) Audit or Review	18

(c) Deposits & Payments	18
(d) Bond or Surety	18
(e) Assistants	18
ARTICLE X: COMMITTEES	18
Section 10.1. Committees	18
Section 10.2. Meetings & Actions of Committees	19
Section 10.3. Effect of Committee Actions	19
Section 10.4. Committee Minutes & Reports	19
Section 10.5. Appointment of Design Review Committee.	19
ARTICLE XI: CONFLICTS OF INTEREST	19
Section 11.1. Conflicts of Interest	19
Section 11.2. Employees	19
Section 11.3. Enforcement	19
(a) Vote on Conflict	19
(b) Violation	20
Section 11.4. Applicability	20
ARTICLE XII: BREACH & DEFAULT	20
Section 12.1. Enforcement	20
(a) Discretion	20
(b) Disputes between Residents	20
Section 12.2. Remedy at Law Inadequate	20
Section 12.3. Nuisance	20
Section 12.4. Violation of Law	20
Section 12.5. Cumulative Remedies	20
Section 12.6. Failure is Not a Waiver	20
Section 12.7. Rights & Remedies of the Association	21
(a) Good Standing	21
(b) Schedule of Fines	21
(c) Limitations of Disciplinary Rights	21
(i) Loss of Rights & Forfeitures	21
(ii) Liens against Member's Unit	21
(d) Hearings	21
(e) Notices	21
(i) Notice Before the Hearing	21
(A) Contents	21
(B) Timing	21
(ii) Notice After the Hearing	21
(f) Rules Regarding Disciplinary Proceedings	21
Section 12.8. Court Actions & Mediation	21
(a) Dispute Resolution	22
(b) Internal Dispute Resolution	22
(c) Alternative Dispute Resolution ("ADR")	22
(i) Mediation or ADR Offer	22
(ii) Payment of ADR Costs	22
iii) Selection of Mediator	22
(iv) Timing Requirements	22
(v) ADR Privilege.	22
(d) Failure to Request Dispute Resolution	22
Section 12.9. Joint & Several Liability of Co-Owners	22
Section 12.10. Discipline of Tenants	22
(a) Owner's Responsibility	22
(b) Due Process Requirements	23
(c) Exercise of Eviction Authority	23
Section 12.11. Costs & Attorneys' Fees	23
(a) Association Enforcement Efforts	23

(b) Litigation or Arbitration	23
(c) Mediation	23
ARTICLE XIII: ASSOCIATION FINANCES & ASSOCIATION RECORDS	23
Section 13.1. Association Financial Records	23
Section 13.2. Budgets & Financial Statements	23
(a) Budget	23
(b) Year-End Audit or Review	23
(c) Annual Statement Regarding Delinquency/Foreclosure Policy	24
(d) Annual Summary of Association's Insurance Coverage	24
(e) Annual Assessment & Reserve Funding Disclosure Summary	24
(f) Annual Dispute Resolution Rights Notice	24
(g) Annual Architectural Review Process Notice	24
Section 13.3. Required Reserve Studies & Inspections	24
Section 13.4. Contracts	24
Section 13.5. Record Keeping	24
Section 13.6. Fiscal Year	24
Section 13.7. Maintenance of Assessment Funds	24
(a) Bank Accounts	24
(b) Prudent Investments	25
(c) Accurate Records & Board Control	25
(d) Commingling of Funds & Interest Allocation	25
(e) Line Item Adjustments	25
(f) Checks	25
ARTICLE XIV: INSPECTION	25
Section 14.1. Member Inspection Rights	25
(a) Association Records	25
(b) Minutes of Meetings	25
(c) Insurance Policies	26
(d) Membership List	26
(e) Audit	26
Section 14.2. Director Inspection Rights	26
Section 14.3. Inspection Rules	26
ARTICLE XV: AMENDMENTS	26
Section 15.1. Amendment of Bylaws	26
(a) Amendment by the Board	26
(b) Amendment by the Members	26
Section 15.2. Effective Date	26
ARTICLE XVI: GENERAL PROVISIONS.	26
Section 16.1. Manager	26
Section 16.2. Notice Requirements	27
Section 16.3. Construction & Definitions	27
(a) Liberal Construction	27
(b) Singular Includes Plural/Gender	27
(c) Captions	27
(d) Superseding Statutes	27
Section 16.4. Conflicts	27
Section 16.5. State Law & Severability	27
CERTIFICATE OF SECRETARY	27

**BYLAWS OF
CROWN HARBOR HOMEOWNERS ASSOCIATION**

ARTICLE I: RECITALS AND DEFINITIONS.

Section 1.1. Name of Association. The name of this Association is Crown Harbor Homeowners Association.

Section 1.2. Definitions.

(a) **Association Records & Enhanced Association Records.** The terms “**Association Records**” and “**Enhanced Association Records**” are as defined in Civil Code §1365.2. (*See also* Corporations Code §8320 and California Code of Regulations 2992.23 concerning access to “accounting books & records”.)

(b) **Mailed Ballot.** A “**Mailed Ballot**” is a written ballot that is mailed (or otherwise distributed) to every Member entitled to vote on the matter and that complies with the requirements of Section 5.5, below, Civil Code §1363.03(e) and Corporations Code §7513. For purposes of this definition, the term Mailed Ballot expressly does not include a written ballot distributed to Members at a meeting.

(c) **Member.** The definition for “**Member**” is as set forth in Section 1.26 of the Declaration.

(d) **Member or Unit in Good Standing.** “**Member/Unit in Good Standing**” means a Member (Unit) that is current in the payment of all dues, Assessments, fines, penalties and other charges imposed in accordance with the Governing Documents and who is in compliance with all of the provisions of the Governing Documents. (*See* Section 12.7(d) and (e) concerning notice & hearing requirements).

(e) **Owner.** The definition for “**Owner**” is as set forth in Section 1.28 of the Declaration.

(f) **Resident.** “**Resident**” means any Person who resides in a Unit within the Complex whether or not such Person is an Owner/Member as defined in Subsections (c) and (e), above.

(g) **Violation.** A “**Violation**” of the Governing Documents means any single act or omission occurring on a single day. If the detrimental effect of a Violation continues for additional days, discipline imposed by the Board may include one component for the Violation and, according to the Board's discretion, a per diem (*i.e.*, daily) component for so long as the detrimental effect continues. Similar Violations on different days shall justify cumulative imposition of disciplinary measures.

(h) **Voting Power.** The term “**Voting Power**” means those Members who are eligible to vote on any matter, issue, or proposal properly presented to the Members for approval as of the record date. (*See* Section 5.10, below for provisions pertaining to “record dates”).

(i) **Definitions Incorporated by Reference.** All terms used herein that are defined in the Declaration have the same meaning unless the context clearly indicates a contrary intention.

ARTICLE II: PRINCIPAL OFFICE.

Section 2.1. Location of Principal Office. The principal office of the Association are the current management company's offices or such place within the County of Alameda, State of California as the Board may designate.

ARTICLE III: POWERS & AUTHORITY OF THE ASSOCIATION.

The Association has the responsibilities and authority as set forth in this Article III and California law.

Section 3.1. General Association Powers. Subject to the provisions of the California Nonprofit Mutual Benefit Corporation Law (Corporations Code §§7110 *et seq.*), the Davis-Stirling Common Interest Development Act (Civil Code §§1350 *et seq.*) and limitations in the Governing Documents relating to such actions that require Member approval, the business and affairs of the Association shall be vested in and exercised by the Board of Directors.

Section 3.2. Powers & Authority of the Association. The Association has the responsibilities and authority as set forth in this Article III and California law.

(a) **Duties Generally.** The Association shall have the responsibility of managing and maintaining the Complex as set forth in the Governing Documents. The Association shall also discharge all duties and responsibilities imposed by the Governing Documents and applicable California law.

(b) **Powers Generally.** In the discharge of such responsibilities and duties, the Association and its Board have all of the powers of a nonprofit mutual benefit corporation subject only to the limitations in the Governing Documents or California law. (*See* Section 7.2, below). The Association shall have the power to do any and all lawful things that may be authorized, required or permitted to be done under and by virtue of the Governing Documents, and to do and perform any and all acts necessary (or proper for or incidental) to any of the Association's express powers (and/or for the peace, health, comfort, safety or general welfare of the Owners). The specific powers of the Association and the limitations thereon shall be as set forth in this Article III and Sections 7.1 and 7.2, below, pertaining to Board powers.

(c) **Specific Powers.** The specific powers of the Association and the limitations thereon are as set forth in this Article III and Sections 7.1 and 7.2, below, pertaining to Board powers.

(i) **Association's Right of Entry.** The Association has the right to enter any Unit. (*See* Section 2.6(c)(ii) of the Declaration).

(ii) **Association as Attorney-in-Fact.** The Association is appointed attorney-in-fact for the Owners. (*See* Sections 4.6 and 9.4 of the Declaration).

(c) **Powers Vested in Board.** Subject to the limitations of California law and the Governing Documents related to actions that require Member approval, the business, affairs and decision-making of the Association are solely vested in and exercised by the Board of Directors.

Section 3.3. Nonliability of Officials. To the fullest extent permitted by law, no Director, officer, committee, committee member or the Board (collectively and individually referred to as the "Released Party"), shall be liable to any Person for any damage, loss, claim, liability or prejudice suffered or claimed on account of any decision, approval, disapproval, course of action, act, inaction, omission, error, negligence, etc. made in good faith and within the Released Party's duties or authority.

(a) **Claims Regarding Breach of Duty.** No Released Party is personally liable to any Person, for any error or omission in the discharge of their duties and responsibilities or for their failure to provide any service required hereunder or under the Governing Documents, provided that such Released Party has, upon the basis of such information as may be possessed by the Released Party, acted in good faith, in a manner that the Released Party believes to be in the best interests of the Association and with such care, including reasonable inquiry, as an ordinarily prudent Person in a like position would use under similar circumstances.

Without limiting the generality of the foregoing, this standard of care and limitation of liability extends to such matters as the establishment of the Association's annual financial budget, the funding of Association reserve accounts, repair and Maintenance of Common Areas and Common Facilities and enforcement of the Governing Documents.

(b) **Other Claims Involving Tortious Acts & Property Damage.** No Person who suffers bodily injury (including, without limitation, emotional distress or wrongful death) or property damage as a result of the

tortious act or omission of a volunteer Director or officer can recover damages from any Director or officer if all of the following conditions are satisfied:

(i) The Director or officer is an Owner of no more than two (2) Units;

(ii) The act or omission was performed within the scope of the volunteer Director's or officer's Association duties;

(iii) The act or omission was performed in good faith;

(iv) The act or omission was not willful, wanton, or grossly negligent; and

(v) The Association maintained and had in effect at the time the act or omission occurred and at the time a claim was made one or more policies of insurance that include coverage for general liability of the Association and individual liability of the Directors and officers for negligent acts or omissions in their official capacities, with minimum coverage for both types of insurance equal to the amounts specified in Civil Code §1365.7(a)(4)(B) (or comparable superseding statute). Current limits are \$500,000.00.

The payment of actual expenses incurred by a Director or officer in the execution of that Person's Association duties do not impact that Person's status as a volunteer Director or officer for the purposes of this Section. However, any Director or officer who receives direct or indirect compensation from the Association or from a financial institution that acquired a Unit within the Complex as the result of a judicial or nonjudicial foreclosure proceeding is not a volunteer.

The provisions of this Subsection (b) are intended to reflect the protections accorded to volunteer Directors and officers of Community Associations under Civil Code §1365.7.

(c) **Indemnification.** The indemnification rights (including the right to advancement of expenses) of Directors, officers, employees and/or agents are governed by Corporation Code §7237 (or comparable superseding statute).

ARTICLE IV: MEMBERSHIP.

Section 4.1. Members of the Association. Every Owner of record for a Unit within the Complex is a Member of the Association. Only Owners of Record of a Unit within the Complex are Members.

(a) **No Severance.** Membership in the Association is appurtenant to, and may not be separated from, ownership of the Unit to which the membership relates. Membership in the Association cannot be transferred separate from ownership of the appurtenant Unit. Any attempt to make a prohibited transfer is void.

(b) **Security Interest.** No Person who holds an interest in a Unit merely as security for performance of an obligation is a Member until such time as that security holder comes into title to the Unit through foreclosure or deed.

(c) **Tenants.** No Person who is a Tenant, regardless of any delegated rights, is a Member, even though the Tenant (and the Tenant's Family) are subject to the provisions of the Governing Documents.

Section 4.2. Interests Conveyed. Unless otherwise expressly stated, any conveyance of a Unit by an Owner conveys the entire Unit/Condominium. Nothing contained in this Section 4.2 precludes the Owner of any Unit from creating an estate for life or an estate for years or from creating a co-tenancy or joint tenancy in the ownership of the Unit with any other Person(s).

Section 4.3. Term of Membership. Upon becoming an Owner of a Unit, each Owner automatically becomes a Member of the Association and remains a Member until such time as that Person's ownership interest ends. The Owner's membership interest appurtenant to the Unit automatically transfers to the Unit's

new Owner(s) upon recordation of a deed (or other document) evidencing the sale, conveyance or other transfer of an Owner's interest in a Unit (*i.e.*, title to the Unit).

Section 4.4. Termination of Obligations. The sale (transfer or other divestiture) of a Person's entire interest in a Unit ends that Person's obligations under the Governing Documents that arise from and after the date of that sale. The sale (transfer or other divestiture) does not, however, extinguish that selling Owner's obligations for unpaid Assessments or fees that were levied against the Unit prior to the sale (or other transfer). Any unpaid fees and Assessments incurred during the ownership period remain a personal debt of the prior Owner(s). (*See* Subsection 5.1(e) and 5.1(g)(ii) of the Declaration).

Section 4.5. Multiple Ownership of Units. Ownership of a Unit gives rise to a single membership and a single membership vote in the Association. Accordingly, if more than one (1) Person owns a Unit, all Co-Owners sharing ownership are deemed to be one (1) Member for voting purposes. All Co-Owners have equal rights (as Members) to use and enjoy the Common Area. In the event of co-ownership of any Unit, the obligations and liabilities of the Co-Owners are joint and several. (*See* Section 12.9, below).

(a) **Designated Voting Power.** Co-Owners of a Unit can notify the Association of the Owner designated to cast votes for that Unit. If no notification is received, the Association can accept the vote of any Owner of Record (or proxyholder of a Co-Owner) as the vote for that Unit. If any Owner casts a vote for any Unit with multiple Owners, it will thereafter be conclusively presumed for all purposes that such Owner was acting with the authority and consent of all Owners of that Unit.

(b) **Voided Vote.** If two (2) or more Co-Owners of a Unit attempt to vote the membership attributable to that Lot in an inconsistent fashion, the election inspector(s) (or Secretary) may refuse to count any vote for that Unit.

Section 4.6. Furnishing Evidence of Membership. A Person is entitled to exercise the rights of a Member once the Association has received evidence of Ownership in the form of a copy of a recorded grant deed (certified by the Office of the Recorder for Alameda County) or a currently effective policy of title insurance. Exercise of Member rights are subject to the record date provisions in Section 5.10, below.

ARTICLE V: MEMBERSHIP VOTING.

Section 5.1. Single Class of Membership. The Association has one (1) class of voting membership.

Section 5.2. Member Voting Rights. On each matter submitted to a Member vote, each Member is entitled to cast one (1) vote for each Unit owned by such Member (subject to limitations found in Section 4.5, above, and Section 5.3, below). In addition, the Association must: (a) ensure equal access to the Association's newsletter or other public forums; (b) ensure access to meeting space at no cost; (c) specify Director qualifications; (d) specify voting procedures and qualifications; and (e) qualifications for election inspectors.

Section 5.3. Voting Eligibility. Only Members in Good Standing can vote on any issue or matter presented to the Members for approval. A Member who owns more than one (1) Unit is ineligible to vote for all Units if that Member is not In Good Standing with respect to any Unit.

Section 5.4. Casting Votes.

(a) **Voting by Secret Written Ballot.** All Member votes will be conducted by Mailed Ballot. (*See* Civil Code §1363.03; see also Section 5.5 for Mailed Ballot process).

(b) **Annual Mailed Ballot.** The annual Mailed Ballot (with or without a Member meeting) should be held during March unless other considerations warrant that the Board change when the annual Mailed Ballot is held. (*See also* Section 6.2 regarding Member meetings).

(c) **Cumulative Voting.** No cumulative voting.

(d) **Proxies.** Use of proxies is not allowed.

Section 5.5. Action by Mailed Ballot. All Member votes will be by Mailed Ballot. (See Section 5.10 concerning “record dates”).

(a) **Time Requirements.**

(i) **Distribution.** The Board shall distribute the Mailed Ballot to every Member entitled to vote on the matter at least thirty (30) days prior to the final date the Mailed Ballots are to be received to be counted.

(ii) **Extension of the Balloting Period.** The time fixed for the return of Mailed Ballots may be extended if the Board notifies the Members.

(b) **Content of Mailed Ballots.**

(i) **Voting Options.** Any Mailed Ballot must set forth the proposed action and provide an opportunity for the voting Member to specify approval or disapproval of the proposed action.

(ii) **Envelopes & Instructions.** For votes on : (A) election or recall of Directors; (B) approval of a Special Assessment or Regular Assessment increase; (C) Governing Document amendment; or (D) grants of exclusive use of the Common Area, the Association must comply with the envelope and voting instruction requirements of Civil Code §13663.03.

(iii) **Director Elections.** For election of Directors, the ballot must set forth the names of all candidates whose names have been placed in nomination at the time the ballot is issued. The ballot form should also provide a space where the Member can designate a vote for another (*i.e.*, write-in) candidate.

(iv) **Voting Deadline.** All Mailed Ballots must state the time by which the ballot must be received in order to be counted (*i.e.*, deadline). (See Subsection (a), above).

(v) **Quorum & Approval Requirements.** All Mailed Ballots must set forth: (A) the number of responses needed to meet the quorum requirement for valid action; and (B) the percentage of “yes” votes needed for approval, if any.

(c) **Approval Requirements.** Member approval by Mailed Ballot shall be valid only if: (i) the quorum requirement is met as specified in Section 5.6, below; and (ii) the ‘yes’ votes satisfy the passage requirement, if any. (*e.g.*, Section 15.1, below, Article VIII of the Articles and Sections 13.3 and 15.1 of the Declaration).

If the time for returning Mailed Ballots is extended in accordance with Subsection (c)(ii), above, the reduced quorum percentage (if applicable) in Section 5.6(a)(ii) applies.

(d) **Distribution.** Mailed Ballots must be mailed (first class) or otherwise distributed to Members in compliance with Civil Code §1363.03(e) and Corporations Code §§20 and 7513.

(e) **Prohibition of Revocation.** Once cast (*i.e.*, received by the Association), a Mailed Ballot may not be revoked.

(f) **Conducting Informational Meetings.** The Association may hold informational (or other) Member meetings in conjunction with the use of a vote by Mailed Ballot.

(g) **Affidavit of Mailing.** An affidavit of the mailing/delivery may be executed by the management company representative. If an affidavit is executed, the affidavit should be filed and maintained in the Association Records. An affidavit constitutes prima facie evidence that the mailing was made.

(h) **Replacement Ballots.** The election inspector may provide a requesting Member with a duplicate or replacement Mailed Ballot if the election inspector verifies that: (i) the Member who requested the

duplicate is eligible to vote; and **(ii)** the Association has not already received a Ballot back from that Member/Unit. In addition, the Member will need to sign a statement under penalty of perjury that the Member's original Mailed Ballot was lost, destroyed or stolen.

The election inspector shall list the number of replacement Mailed Ballots provided to Members and the name(s) of the Member(s) who received those replacement Mailed Ballots.

Section 5.6. Quorum Requirements.

(a) Quorums Generally. The following quorum requirements must be satisfied in order to take valid action by Mailed Ballot. (*See* Section 5.5, above, concerning Mailed Ballots):

(i) Quorum for Member Votes. The quorum requirement for any Mailed Ballot, the quorum requirement for valid action on the proposal is the percentage specified in Civil Code §1366 (or comparable superseding statute). That quorum percentage is currently defined as more than fifty percent (50%) of all Members. (*See* Section 5.1(m) of the Declaration for votes on Assessments).

(ii) Reduction in Quorum Percentage for Certain Votes. At the continued poll closure date (for votes on matter(s) other than Assessments or the removal of Director(s)), the quorum percentage shall be reduced to twenty-five percent (25%) of the Members eligible to vote. Even if the poll closure is continued, the quorum requirement remains unchanged for votes on Assessments and removal of Director(s). (*See* Subsection (iii), below, concerning adjournment and Subsection 1.2(d) & (h) and Section 5.3, above, concerning voting eligibility).

(iii) Postponed Ballot Deadline. If insufficient Mailed Ballots are received by the Association to satisfy either the quorum or the minimum Member approval requirement, the Board can postpone the opening and tabulation of the votes and extend the deadline for the balloting period. Notice of the continuation of the deadline must be provided to the Members.

(b) Voided Acts. Any act of the Members (by Mailed Ballot pursuant to Section 5.5, above, or otherwise) is void and has no effect if the requisite quorum requirement is not met.

Section 5.7. Majority Vote Required. If Mailed Ballots are received from a quorum of eligible Members, the affirmative vote of the majority of the Members who: **(a)** are entitled to vote; and **(b)** who voted) is the act of the Members. Unless, however, the vote of a greater number of Members is required by California law or the Governing Documents. (*See* Section 5.6, above, concerning quorum requirements; *see e.g.*, Section 15.1, below, Article VIII of the Articles and Sections 13.3 and 15.1 of the Declaration for heightened Member approval requirements).

Section 5.8. Supervision of Election Process. In order to insure Members' right to privacy and to aid in the voting process, the Board may utilize the services of one (1) (or three (3)) neutral Person(s) of good repute who may be retained to: **(a)** receive and tabulate all ballots; and **(b)** supervise the voting process. The Person(s) retained to perform those services have the full powers of an inspector of elections pursuant to Civil Code §1363.03 and Corporations Code §7614 (or comparable superseding statutes).

(a) Election Inspectors. Members (who are not candidates, Directors or relatives of any candidate or Director) may act as election inspectors. Independent third parties, including CPAs, county poll workers and notaries public, can also act as election inspectors. The Association's attorney and other paid vendors are prohibited from serving as election inspectors. The Association can, however, hire and pay Person(s) to act as election inspectors as long as those Person(s) provide no other services to the Association or are otherwise compensated by the Association.

(b) Required Usage. Election inspectors must be used for all Mailed Ballot votes.

Section 5.9. Vote Results & Voting Materials.

(a) **Tabulation of Votes.** The ballots must be counted by the election inspector in public at a properly noticed meeting. Candidates (or other Members) may witness the counting of the Mailed Ballots.

(b) **Notification of Results of Balloting Process.** The results of balloting must be promptly reported to the Board at the meeting and recorded in the minutes of the next Board meeting. Within fifteen (15) days of the end of any balloting period, the Board must mail notification of the vote results to the Members. The mailing can be accomplished in the Association's newsletter. If the number of ballots cast with respect to any matter is insufficient to satisfy the minimum quorum requirements for valid action, the Board will notify the Members that the quorum was not met.

(c) **Reports.** The election inspector shall prepare and sign an election inspector report and provide the same to the Association for its records.

(d) Storage & Security of Ballots.

(i) **Prior to Tabulation.** Until the time of tabulation, the election inspector(s) must maintain possession (or designate the location of) the uncounted ballots in their sealed envelopes. When Mailed Ballots are used, no Person may open the sealed envelopes (or otherwise view the ballots) prior to the public tabulation.

(ii) **After Tabulation.** For the first nine (9) months after the tabulation, the election inspector must store in a secure place the Mailed Ballots and envelopes. After nine (9) months, the election inspector shall turn the stored election materials over to the Association.

(e) **Recounts & Challenges.** Any request for a recount and/or challenge of any Member vote shall first be given to the election inspector. The election inspector shall make the ballots available for inspection and review by a Member (or the Member's authorized representative) if a recount or other challenge to the election process has been made. In order to trigger the Member's right to review and inspect the ballots, the Member must make his (or her) request in writing. Upon receipt of a challenge or complaint, the Election Inspector must review the matter and provide a written response to the complaining Member(s) within fifteen (15) days of the receipt of the written complaint/request.

Section 5.10. Record Dates. The record dates established pursuant to this Section 5.10 shall be as of the close of business for the following dates:

(a) **Established by the Board.** For the purpose of determining which Members are entitled to: (1) receive Mailed Ballots; (2) notice of any meeting; (3) vote; or (4) exercise any rights in respect to any other lawful action, the Board should fix, in advance, a "record date."

(i) **Right to Receive Notice or Vote.** Only Members of record as of the "record date" are entitled to: (A) notice; and/or (B) vote. (*See* Sections 1.2(d) and 5.3, above, concerning voting eligibility).

(ii) **Maximum Date.** The "record date" can be no more than sixty (60) days before the Mailed Ballot due date.

(b) **Failure of Board to Fix a Record Date.** If for any reason, the Board fails to establish a "record date", the "record date" shall be the sixtieth (60th) day before the voting date and/or the ballot closing date.

Section 5.11. Election Rules. Pursuant to Civil Code §1363.03, the Association has adopted election rules.

ARTICLE VI: MEMBERSHIP MEETINGS.

Section 6.1. Meeting Location. Meetings of the Members shall be held within the Complex (or as close thereto as practicable).

Section 6.2. Member Meetings.

(a) Annual Meetings. The Association will hold a regular meeting of the Members every year. (*See* Section 5.4(b), above, for timing requirements). The date, time and location of the meeting shall be established by the Board and set forth in the notice of meeting sent to the Members.

(b) Special Meetings. Any vote of the Members, however must be by Mailed Ballot.

(i) Persons Entitled to Call Special Meetings. The Board president (or a majority of the quorum of the Board or five percent (5%) or more of the Members) may call a special meeting of the Members to consider any lawful business of the Association (or to ask for a vote by Mailed Ballot).

(ii) Procedures for Member Requested Meetings. In order to call a special meeting by five percent (5%) or more of the Members, a written request that specifying the general nature of the business proposed to be discussed at the special meeting must be delivered to the Association. The written request must:

(A) Bear the signatures of all requesting Members; and

(B) Have a signed, written certification by the Member(s) circulating the request attesting to the validity of the signatures.

(1) In order to count as a valid signatory, a Member signing the request must be eligible to vote. (*See* Subsection 1.2(d) and Section 5.3, above, concerning voting eligibility).

(2) The Board must give the Members notice, in accordance with Section 6.3(c), of the special Member meeting (and the date, time and purpose for such meeting). The meeting date shall be at least thirty-five (35) days and no more than ninety (90) days after the requested is received by the Board.

(3) If notice of the meeting is not given to the Members within twenty (20) days after the Association's receipt of the request, the Members requesting the meeting may give the notice. The right of the requesting Members to notice and call a meeting on their own initiative shall not arise until after the twenty (20) day period has elapsed.

(4) Nothing contained in this Subsection (b) shall be construed as limiting, fixing, or affecting the time when a Member meeting may be held where the meeting is called by the Board or its President.

(c) Notice of Member Meetings.

(i) Method. Notice of any Member meeting shall be given first-class mail postage prepaid (personally or electronically) addressed to each Member at that Member's address. (*See* Section 14.1(a) of the Declaration; Civil Code §1350.7; and Corporations Code §§20 and 7510. *See also* Section 14.3 concerning delivery.) A copy of the notice shall also be posted at a prominent place in the Common Area.

(ii) Timing. Notice shall be given not less than ten (10) nor more than ninety (90) days before the meeting date.

(iii) Minimum Content. The notice must specify the place, date, and time of the meeting.

(A) Annual Meetings. Any matter may be presented at an annual meeting as long as a quorum (in excess of thirty-three percent (33%)) has been established.

(B) Special Meetings. For special meetings, the notice shall state the general nature of all business to be discussed and contain a statement that "no other business may be transacted at the special meeting."

(iv) **Affidavit of Mailing.** An affidavit of the mailing/delivery may be executed by a management company representative. If an affidavit is executed, the affidavit should be filed and maintained in the Association Records. An affidavit constitutes prima facie evidence that notice was given.

Section 6.3. Adjourned Meeting.

(a) **Adjournment Generally.** Any Member meeting may be adjourned to another place and/or time (but not for more than thirty (30) days) by the vote of the majority of Members present at the meeting.

(b) **Notice Requirements.** When a Member meeting is adjourned to another time or place, notice need not be given for the new meeting if the time and place thereof are announced at the meeting at which the adjournment is taken.

Section 6.4. Waiver by Attendance. Attendance at a meeting by a Member is a waiver of any objections that the Member may have with respect to notice of that meeting, except when the Member attends the meeting for the sole purpose of objecting at the beginning of the meeting to the transaction of any business because of the inadequacy or illegality of the notice.

Attendance at a meeting is not a waiver of any right to object to the consideration of matters not included in the notice of the meeting that are required to be set forth in the notice pursuant to Section 6.2(c), if that objection is expressly made at the meeting. Attendance at a meeting is also not a waiver of any right to object to that meeting for reasons other than improper notice.

Section 6.5. Conducting Meetings. All Member meetings must be conducted in accordance with a recognized system of parliamentary procedure or other parliamentary procedures as the Association may choose to adopt.

If the Association has not adopted parliamentary procedures and a dispute arises that cannot be resolved by reference to these Bylaws or applicable law, the matter shall be resolved by reference to Robert's Rules of Order.

ARTICLE VII: BOARD OF DIRECTORS.

Section 7.1. Powers & Duties of the Board of Directors.

(a) **Powers of the Board.** The Board has all of the powers and duties in the Governing Documents:

(i) **Exclusive Power.** The powers and duties of the Association that the Governing Documents do not expressly reserve to the Members (or do not expressly require approval by the Members) shall be exclusively exercised and performed by the Board (or such committees or officers as the Board may establish, elect or appoint). Any power to be exercised (or duty to be performed) by the Association cannot be exercised or performed by an Owner without the written consent of the Board.

(ii) **General Powers of the Board.** Without limiting any powers of the Board conferred elsewhere in the Governing Documents, the Board shall have the following powers to:

(A) **Meetings.** Call meetings.

(B) **Appoint & Remove.** Appoint and remove, at the Board's pleasure, all officers, committees, committee members, agents and employees of the Association. The Board's powers include the ability to fix the compensation, if any, and require security or fidelity bonds of any Person appointed by the Board. Except for Sections 7.2(a)(iii) and 7.9, below, concerning compensation, nothing contained in the Governing Documents prohibits the employment by the Association of any Member in any capacity.

(C) Delegate. Delegate power(s). Subject to the limitations expressed in Sections 9.1 and 16.1, below, the Board may delegate the management or the activities of the Association to any Person(s), including management. Notwithstanding any delegation, the acts and powers of the Association are under the ultimate direction of the Board.

(D) Contracts. Enter into contracts, including management contracts and contracts for goods, services and insurance, for the operation of the Association. (See Sections 7.2(a) and 16.1, below, for limitations pertaining to employment of a manager and time limits on contracts).

(E) Leases. Enter into leases, licenses or other agreements pertaining to use, administration, management or Maintenance of the Common Area. (See Section 7.2(a)(v), below, concerning Member approval for grants of exclusive use to an Owner).

(F) Grant Property Rights. Grant easements on, over, under, across, and through the Complex for public utility and other purposes consistent with the provisions of the Declaration and the intended use of the Complex as a Condominium Complex. (See Section 7.2(a)(v), below, for Member approval requirements on easements granted to Owners).

(G) Loans. Incur debt for the purpose of maintaining and improving any portion of the Complex that the Association is required to maintain, and to encumber the Common Area and/or Member Assessments as security for the repayment of such debt.

(H) Bank Accounts. Open bank accounts on behalf of the Association and designate the signatories to such bank accounts.

(I) Assessments. Establish, fix, levy, assess and collect Assessments against the Owners of Units and to enforce payment of such Assessments in accordance with Article V of the Declaration.

(J) Rules. Adopt, amend, and repeal Association Rules, including election rules, consistent with the Association's Governing Documents and Civil Code §1357.100 (or comparable superseding statute).

(K) Litigation. Bring and defend actions on behalf of the Association (or any consenting Member(s)) to protect the interests of the Association and/or its Members and to assess the Members for the cost of such litigation. (See Section 2.5(b) and 4.5 of the Declaration and Article XII, below, concerning enforcement and Member discipline. See also Section 12.1(a), below, concerning Board discretion).

(iii) No Active Business. The Board is prohibited from operating a business for profit. This Subsection (iii), however, does not prohibit the Association and/or its Board from acquiring, owning, leasing and/or sell any Unit within the Complex.

(iv) Emergency Powers of the Board. If the Crown Harbor Complex (or any part) suffers damage or harm as a result of a natural disaster (e.g., earthquake, fire storm/'wild fire', tornado) or man-made (e.g., acts of terrorism or war), the Board can take any action it deems necessary or prudent to preserve the Complex and/or the lives/safety of the Residents during the time of the disaster and the immediate aftermath.

(b) Duties of the Board. The Board shall:

(i) Association Duties. Cause all duties imposed by Governing Documents or California law to be properly performed.

(ii) Records. Cause a complete record of all its acts and corporate affairs to be kept.

(iii) Finances. Prepare budgets and financial statements.

(iv) Supervise. Supervise all officers, agents and employees of the Association and see that their duties are properly performed.

(v) Assessments. With reference to Assessments of the Association:

(A) Fix, levy and collect Assessments pursuant to the provisions of Article V of the Declaration and California law.

(B) Approve an annual budget and fix the amount of the Assessment against each Member for each Assessment period in compliance with the provisions of Civil Code §§1365, *et seq.*, (or comparable superseding statutes);

(C) Prepare a roster of the Members and the Assessments applicable thereto (or an accounts receivable journal);

(D) Send written notice of each Assessment to every Member subject thereto; and

(E) Issue certificates, if any are required or necessary.

(vi) Insurance. Contract for casualty, liability and other insurance, sureties and/or bonds (including indemnity bonds) on behalf of the Association with such coverages and in such amounts as required by Article IX of the Declaration and as deemed necessary by the Board. The Board should review the levels and types of insurance coverage on a yearly basis.

(vii) Vacancies. Fill a vacancy or vacancies on the Board except for a vacancy created by the removal of a Director by a Member recall. (*See* Section 7.7(f), below).

(viii) Discharge of Liens. Pay any amount necessary to Bond or discharge any claim that may be or becomes a Lien or encumbrance levied against the entire Complex (or the Common Area). If one (1) or more Owners are responsible for the existence of the Lien, the responsible Owner(s) are jointly and severally be liable for: **(A)** the cost of discharging it, and **(B)** any costs incurred by the Association as provided in Section 5.4 of the Declaration.

(ix) Enforcement. Commence and maintain, in the name of the Association (or any Member(s) who consents thereto), lawsuits and/or Member discipline. (*See* Sections 2.5(b) and 4.5 of the Declaration and Article XII, below, concerning enforcement and Member discipline. *See also* Section 12.1(a), below, concerning Board discretion).

(x) Operating Requirements. Obtain any other material, supplies, furniture, property, labor, services, Maintenance, repairs, construction, reconstruction, structural alterations, insurance, *etc.* as necessary for the operation of the Complex, or for the enforcement of the Governing Documents. (*See* Section 5.4 of the Declaration granting the Association the right to recover costs from the Unit(s) or Owner(s) responsible for the Association incurring those costs).

(xi) Payment of Taxes. Pay all real and personal property taxes and assessments that the Association is required to pay under the Governing Documents or law, unless separately assessed to the Owners.

(xii) Confidentiality. Have a continuing obligation and duty to keep confidential any information made available to the Director(s) (and/or officer(s)) obtained: **(A)** during an Executive session; **(B)** from the Association's legal counsel and/or as part of strategy/planning for any lawsuit and/or dispute involving the Association (or the Board) as a party; **(C)** during negotiations with one (1) or more Member(s); and/or **(D)** as a result of that Director's (or officer's) position with the Association when the information is personal about a Member, including but not limited to that Member's social security number.

Section 7.2. Limitations on Board Powers.

(a) Actions Requiring Member Approval. The Board is expressly prohibited from taking any of the following actions without the vote or written assent of a majority of the Voting Power of the Members:

(i) Contracts. Entering into a contract with a third Person to furnish goods or services for the Complex or the Association for a term longer than one (1) year with the following exceptions:

(A) A management contract as long as the contract contains provisions that: **(1)** allow the Association to terminate management's services upon a notice period that does not exceed thirty (30) days without cause or payment of a termination fee; and **(2)** the term does not exceed three (3) years. (*See* Section 16.1, below, concerning employment of a manager).

(B) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission (and contracts with utility districts, sanitary services providers, energy providers, telephone service providers and/or cable or satellite dish or comparable service provider); provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

(C) Prepaid casualty and/or liability insurance policies not to exceed three (3) years duration provided that the policy permits for short-rate cancellation by the insured.

(D) A contract to borrow money for the purpose of improving, restoring or maintaining those portions of the Complex the Association maintains and/or the interests of the Owners and/or that benefit of the Association.

(E) Agreements for sale or lease of burglar alarm and fire alarm equipment, installation and services not to exceed five (5) years' duration.

For purposes of this Subsection (a)(i), the meaning of "term" does not include any option period(s), renewal period(s) and/or extension(s) of time to the contract term so long as the contract contains provisions allowing the Association to non-renew and/or cancel the contract upon the expiration of that term.

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

(iii) Pay Compensation. Paying compensation to Directors or officers for services performed.

(iv) Board Vacancies. Filling a vacancy on the Board caused by the removal of a Director by the Members.

(v) Exclusive Easements. Granting an exclusive easement to any General Common Area to a Member as long as Civil Code §1363.07 (or comparable superseding statute) is valid law.

(b) Actions Requiring Member & Eligible First Mortgagee Approval. The Association is expressly prohibited from taking certain actions without the approval of the Association's Members and Eligible First Mortgagees. (*See* Section 13.3 of the Declaration for provisions requiring Mortgage Approval).

Section 7.3. Number of Directors. The Board of Directors shall consist of five (5) Persons.

Section 7.4. Term of Office. The Directors of this Association shall serve one (1) year terms. All Director positions are up for election every year. Each Director, including a Person selected to fill a vacancy or elected at a special meeting of Members, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

Section 7.5. Nomination & Qualifications of Directors.

(a) Requirements for Candidacy & Election. To be eligible for nomination and to be elected to the Board, a candidate must be certified by the Secretary as to the following: **(i)** The candidate is an Owner; **(ii)** The candidate is a Member in Good Standing both at the time the candidate's name is placed in nomination

and as of the election date; and **(iii)** the candidate is qualified (*See* Section 1.2(d), above, defining Member in Good Standing; and Subsections (b) through (d), below, setting forth additional qualifications).

(b) Only One Non-Resident Director. No more than one (1) non-Resident Owner is allowed to serve on the Board at any time. (*See* Subsection 1.2(f), above, defining Resident).

(c) One Director per Unit. No more than (1) Owner per Unit shall serve on the Board of Directors at a time. In the event that two (2) or more Owners of the same Unit run for and receive sufficient votes to be elected to the Board of Directors for the same term, only the Owner with the most votes will serve on the Board. All other Owners of the same Unit who ran for a Board position will be ineligible to serve on the Board for that term of office

(d) Additional Qualifications for Candidates. The Board has the power and authority to remove a Person from the list of eligible candidates if the Person:

(i) has been declared of unsound mind by a final order of court;

(ii) has been convicted of a felony;

(iii) has been found by a final order or judgment of any court to have breached any duty under Corporations Code §§7233-7236 (relating to the standards of conduct of Directors);

(iv) has not maintained the Person's "Member/Unit in Good Standing" status for a period of ninety (90) consecutive days or longer. (*See* Sections 1.2(d) and 4.3, above);

(v) fails to attend three (3) consecutive duly noticed and regular meetings of the Board;

(vi) repeatedly fails or refuses to vote (and/or abstain from voting) on matters before the Board;

(vii) has engaged in physical violence, acts of intimidation and/or made threats: **(A)** during a meeting or other Association function; **(B)** while acting in an official capacity as a Director; or **(C)** to another Member or Resident.

(viii) has been found by the Board to have violated Article XI's conflict of interest provisions; and/or

(ix) has a pending lawsuit against the Association and/or its Board of Directors.

(c) Selection of Candidates. A Person can become a candidate for a Director election in any of the following ways:

(i) Write-in Candidate. A Member may write in a candidate on that Member's Mailed Ballot.

(ii) Selection by the Board. The Board (or a nominating committee, if appointed) should select at least one (1) qualified candidate for each Director position with a term that is due to expire (or is vacant).

(iii) Nominations on Ballot or from the Floor. If a Member meeting is held before the close of the balloting period, any Member present at a Member meeting may place additional candidate names into nomination.

The eligible candidates known at the time of mailing must be listed on the Mailed Ballot. (*See* Section 5.5(a)(iii)).

Section 7.6. Election of Directors.

(a) Directors Elected by Secret Written Ballot. The election (or recall) of Directors shall be conducted by secret, written Mailed Ballot. (*See* Section 5.5, above for the Mailed Ballot procedure).

(b) Election Results & Tie Votes. The candidate(s) receiving the highest number of votes, up to the

number of Directors to be elected, are elected as Directors and will take office immediately following the election. In the event there is a tie vote between those candidates who receive the lowest number of votes necessary to qualify for a Director position, the tie shall be broken by lot (*e.g.*, the candidates drawing straws).

Section 7.7. Vacancies on the Board.

(a) Vacancies Generally. A vacancy on the Board is deemed to exist on the occurrence of any of the following: **(i)** the death, resignation, or removal of a Director (under Subsections (b) through (d), below); **(ii)** an increase of the authorized number of Directors; or **(iii)** the failure of the Members to elect a Director during any Director election

(b) Resignation of Directors. Any Director may resign, and such resignation shall be effective on giving written notice to the Board, unless the Board and the resigning Director agree to a different date.

(c) Removal by the Board. The Board has the power and discretionary authority to remove a Director and declare his or her office vacant for any of the reasons set forth in Section 7.5, above.

(d) Removal by the Members. A Director can be removed from office prior to expiration of that Director's term by a Member vote. (*See* Section 5.6 for quorum requirements and Section 5.5 for Mailed Ballot process). The process for removal of a Director by the Member vote process is as follows:

(i) Petition. A written petition in compliance with Section 6.2(b), above, must be presented in person (or by certified mail) to the Board.

(ii) Time Limit for Board Response. Within twenty (20) days after receipt of a valid recall petition, the Board must mail copies of: **(A)** a notice of a special Member meeting; and **(B)** a Mailed Ballot to all Members. The special Member meeting must be held not less than thirty-five (35) nor more than ninety (90) days after the date the petition is received by the Board. The deadline for the close of the recall vote must be after the close of the open forum portion of the special Member meeting. (*See* Sections 5.5 and 6.3(c), above, for the Mailed Ballot process and the notice of meeting requirements).

(iii) No Board Notice is Given. If, after receiving a valid petition, the Board fails to provide notice within the twenty (20) day period as required by Subsection (ii), above, the Member(s) that sponsored the petition may: **(A)** mail the necessary notice and Mailed Ballot materials to all Members; and **(B)** hold a special Member meeting and a recall vote by Mailed Ballot.

(iv) Rebuttal Right. Any Director who is facing a recall vote has an absolute right to address the Members (at the special Member meeting and/or in writing) concerning the recall.

(v) Mailed Ballot Due Date. The deadline for the close of the recall vote must be after the close of the open forum portion of the special Member meeting.

(vi) No Quorum or Majority Vote. If Section 5.7(a)(i)'s quorum requirement is not met or insufficient Members vote for the recall, then the recall vote is defeated and all Directors keep their position on the Board. (*See* Member vote requirements in Section 5.7, above).

(vii) Six Month Limitation. If the recall vote fails, the Members' right to another recall vote against the same Director(s) does not arise until after six (6) months has elapsed from the date of the last recall vote. The timing provisions of this Subsection (vii) are intended to preserve Association assets.

(viii) Temporary Chair. If the Members successfully recall all Directors, the following Persons (in order) shall serve as the interim chairperson of the meeting until the Members elect a new Board and the Board has selected a new meeting chair: **(A)** the Association's attorney of record; **(B)** the Association's manager; and **(C)** one of the Members that sponsored the recall petition.

(e) Removal by Court Action. In response to a suit filed by any two (2) Directors (or at least fifteen (15) Members in Good Standing), the Superior Court of Alameda County may remove any Director determined to be guilty of fraudulent or dishonest acts or gross abuse of authority or discretion with reference to the Association. (See Sections 1.2(d) and 4.3 for voting eligibility).

The Association shall be made a party to any lawsuit filed pursuant to this Subsection (e).

(f) Filling Vacancies. If a vacancy on the Board of Directors is created by a Member vote pursuant to Subsection (d), above, the vacancy can only be filled by a vote of the Members. If more than one (1) Director vacancy is being filled, the Director positions will be filled so that the Person(s) with the most votes are elected to the Director position(s) with the longest remaining term of office.

All other vacancies on the Board can be filled by a majority vote of the remaining Directors (whether or not a quorum of Directors is present). If the Board fails to fill any vacancy, the vacancy may be filled by a Member vote.

(g) Reduction in Number of Directors. No amendment to the Bylaws that reduces the authorized number of Directors shall have the effect of removing any Director before that Director's term of office expires.

Section 7.8. Election Disputes. Should any dispute arise as to whether one (1) or more Director(s) were validly removed, elected and/or appointed, that dispute shall be decided by the election inspector(s) for that election.

Section 7.9. Compensation. Directors, officers, and/or Owners who are committee members are prohibited from receiving compensation for their services. Those Persons may be reimbursed for such actual expenses as the Board determines are just and reasonable. Expenses for which reimbursement is sought shall be supported by a proper receipt or invoice.

ARTICLE VIII: BOARD MEETINGS.

Section 8.1. Meeting Location. Regular and special meetings of the Board may be held within the Complex or as close thereto as practicable. In the absence of such designation, regular meetings shall be held within the Complex.

Section 8.2. Notice Requirements. Notice of the time and place of all regular or special meetings of the Board shall be given to:

(a) Directors. Each Director at least four (4) days prior to the meeting by one of the following methods: **(i)** by personal delivery of written notice; **(ii)** by first-class mail, postage prepaid; **(iii)** by telephone communication (either directly to the Director or to a Person at the Director's home or office); **(iv)** e-mail transmission; **(v)** facsimile transmission; and/or **(vi)** other electronic medium/method. All notices shall be given or sent to the Director's address or telephone number as shown in the Association Records or as otherwise designated by that Director.

(b) Members. All Members by posting the notice of the regular or special meeting in a prominent place or places within the Common Area at least four (4) days prior to the meeting. Notice of the meeting may also be published in the Association's newsletter and/or mailing to all Members. No Member notice is required for: **(i)** executive session only meetings; or **(ii)** emergency meetings.

(c) Notice Contents. The Board meeting notices must state the time, place and purpose of the meeting and include the agenda for that meeting.

Section 8.3. Annual Meeting of Directors. Immediately following each annual Member meeting (or annual Mailed Ballot), the Board shall hold a meeting for the purposes of organization, selection of officers, and the transaction of other necessary business. Notice of this meeting is not required.

Section 8.4. Regular Meetings. Other regular meetings may be held at such time as fixed by the Board. Ordinarily, regular meetings shall be conducted at least once every three (3) months.

Section 8.5. Special Meetings of the Board. Special meetings may be called for any purpose at any time by the President (or by any two (2) Directors).

Section 8.6. Emergency Meetings of the Board. The Board may hold emergency Board meetings if there are circumstances that: (a) could not have been reasonably foreseen and (b) require immediate attention and possible action by the Board. Given the necessity of emergency Board meetings and the impracticability of providing notice, emergency Board meetings can be held without complying with the notice requirements set forth in Section 8.2, above.

If prompt or immediate action of the Board is necessary and there is insufficient time to comply with the notice requirements set forth in Section 8.2, above, reasonable efforts must be made to contact all Directors regarding the proposed action in advance thereof, rather than relying on notification after the fact.

Section 8.7. Executive Sessions. The Board shall be entitled to call an executive session meeting and/or to adjourn into an executive session at any time to discuss: (a) litigation in which the Association is or may become a party; (b) matters relating to the formation of contracts with third parties; (c) Member discipline; (d) personnel matters; or (e) payment of delinquent Assessments by a requesting Member. Prior to adjournment to executive session, a general statement of the nature of any and all business to be considered in executive session shall be given to any Member present at the general Board meeting.

If a Member who may be subject to a fine, penalty and/or other form of discipline requests, the Board shall meet in executive session to discuss the imposition of the fine, penalty and/or other form of discipline. The Member who is the subject of the disciplinary proceeding shall be entitled to attend the executive session.

Pursuant to Civil Code §1363.05(f), if the Board is only meeting in executive session, the Board can waive the requirements to provide notice to the Members. The minutes for the adjourned Board meeting (or the next noticed Board meeting) shall note (in general language) the matter(s) discussed in the executive session.

Section 8.8. Quorum Requirements. Three (3) Directors shall constitute a quorum for the transaction of business for any and all purposes. Every act and decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is established is the act of the Board.

Once a quorum of Directors is established,, the Board can continue to conduct business even if one (1) or more Directors leave the meeting, as long as a majority of the remaining Directors at that meeting approve any decision or acts at that meeting.

Section 8.9. Action Without Meetings. Any action required or permitted to be taken by the Board may be taken without a meeting, if all of the Directors consent in writing to the action to be taken. If the Board resolves by unanimous written consent to take action, the written consent must be filed and maintained in the Association Records with minutes of Board meetings.

Section 8.10. Ratification. The Board has the power to ratify decisions during a properly noticed Board meeting, if those decisions were not made in compliance with Sections 8.2 through 8.8, above.

All waivers, consents, and approvals must be filed in the Association Records. The requirement of notice of a meeting shall also be deemed to have been waived by any Director who attends the meeting without protesting the lack of proper notice either before or at the inception of the meeting.

Section 8.11. Member Rights.

(a) Meetings Generally Open to Members. With the exception of executive sessions, any Member may attend and speak at any Board and/or Member meeting. The Board shall establish a written policy for the Member open forum period that sets forth: **(i)** when during a meeting Members may speak; **(ii)** reasonable time limits for each speaker; and **(iii)** the total time allotted for Members to speak. Unless a majority of the Directors expressly votes to allow further non-Director participation, the participation of non-Director Members is limited to speaking at the Member open forum period.

(b) Board Meeting Minutes. Minutes shall be kept for all Board meetings. Taking into consideration the need to maintain confidentiality of matters discussed in executive sessions, any matter discussed in an executive session shall only be generally noted in the Board meeting minutes.

(i) Availability. The minutes (or draft minutes that are marked to indicate draft status, or a summary of the minutes) of any meeting of the Board, other than minutes of an executive session, shall be available to the Members within thirty (30) days following the meeting. Upon a Member's request (and payment of the Association's costs of copying and distribution), copies of the minutes (or draft minutes or summary minutes) shall be provided to the requesting Member.

(ii) Annual Notice. Members shall be notified in writing annually of the Members' right to have copies of the minutes of any meeting, including how and where those minutes may be obtained.

Section 8.12. Conducting Meetings. All Board meetings must be conducted in accordance with a recognized system of parliamentary procedure or other parliamentary procedures as the Association may choose to adopt.

If the Association has not adopted parliamentary procedures and a dispute arises that cannot be resolved by reference to these Bylaws or applicable law, the matter shall be resolved by reference to Robert's Rules of Order.

ARTICLE IX: OFFICERS.

Section 9.1. Officers. The officers of the Association shall be a President, a Vice President, a Secretary and a Treasurer (and any other officers as the Board may appoint). One (1) Person may hold two (2) or more offices, except that the President and the Secretary can hold only one (1) office each. Non-Director officer positions may be held by non-Owners.

Section 9.2. Selection of Officers. Officers of the Association shall be selected by the Board at the first meeting of the Board following each annual Member meeting (or annual Mailed Ballot). New officer positions may be created and filled at any Board meeting.

Section 9.3. Terms & Removal of Officers. Generally, officers hold office for a period of one (1) year (or until the officer resigns or is removed by the Board). Any officer may be removed by the Board without cause. In the Board's discretion, any removal may be immediate. If the officer is also a Director, the Person remains a Director unless removed pursuant to Section 7.7, above.

Section 9.4. Resignation of Officers. Any officer may resign in writing to the Board (or any Director). The resignation is effective upon receipt. No acceptance by the Board is needed.

Section 9.5. Vacancies. The Board may fill any officer vacancy.

Section 9.6. President. The President shall be a Director. The President is the chief executive officer of the Association. Subject to the control of the Board, the President shall have general supervision, direction and control of the affairs and officers of the Association.

(a) **Duties.** The President shall: (a) chair all Board and Member meetings; (b) set or change the order of the agenda items at meetings; (c) have the general power and duties set forth in these Bylaws and/or usually vested in the office of President of a corporation; and (d) see that the orders and resolutions of the Board are carried out.

(b) **Vice President.** In the absence (or disability) of the President, the Vice President shall perform all the duties of the President.

Section 9.7. Secretary.

(a) **Minutes.** The Secretary shall keep (or cause to be kept) in the Association Records minutes for all meetings of the Board, the Members and any committee. The minutes for each meeting shall state the time and place of the meeting, the notice, if any, given, the names of those present at a Board or committee meeting, the number of Members present at a Member meetings, and any decisions or actions.

(b) **Records.** The Secretary shall keep (or cause to be kept) all appropriate Association Records, including current Member list, together with the Members' addresses as last submitted to the Association by each Member.

(c) **Meetings & Votes.** The Secretary shall give (or cause to be given) notice of all Member and Board meetings as required by these Bylaws and California law. The Secretary shall record (or cause to be recorded) the results of all votes in the Association Records.

(d) **Assistants.** Assistant Secretaries, if any, shall perform all the duties of the Secretary in the absence of the Secretary.

Section 9.8. Treasurer. The Treasurer is the Association's chief financial officer.

(a) **Accounting Records.** The Treasurer shall keep and maintain (or cause to be kept and maintained) adequate and correct accounts for the Complex and business transactions of the Association, including accounts of the Association's assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings, and other matters customarily included in financial statements.

(b) **Audit or Review.** Pursuant to Section 13.2(b), the Treasurer shall also cause an annual audit (or review) of the Association's financial records to be made by a certified public accountant at the completion of each fiscal year in which the Association's gross income exceeds seventy-five thousand dollars (\$75,000.00).

(c) **Deposits & Payments.** The Treasurer shall receive and deposit (or cause to be received and deposited) all monies and other valuables in the name and to the credit of the Association in the financial institutions (banks) selected by the Board.

The Treasurer shall disburse the funds as directed by the Board. A resolution of the Board is not necessary for any disbursements made in the ordinary course of business and within the limits of the budget. If possible, the Treasurer should be a signatory on all checks, notes and/or other instruments of the Association. (See Section 13.7(f), below.)

(d) **Bond or Surety.** If required by the Board, the Treasurer shall give the Association a bond in the amount and with the surety or sureties specified by the Board for faithful performance of the duties.

(e) **Assistants.** Assistant Treasurers, if any, shall perform all the duties of the Treasurer in the absence of the Treasurer.

ARTICLE X: COMMITTEES.

Section 10.1. Committees. The Association may appoint committees. Such committees shall have the

duties and functions as established by the Board. Each committee shall consist of a chairman and as many members as the Board deems necessary and may, at the Board's discretion, be required to include one (1) or more Directors.

Any committee serves at the pleasure of the Board. Each committee shall have the authority, if any, granted by the Board.

Section 10.2. Meetings & Actions of Committees. The meetings and actions of all committees shall be governed by, held and taken in accordance with the provisions of this Article X. The time for committee meetings may be set by the Board or the committee chair. Notice of committee meetings must be given to all committee members.

The Board may adopt Association Rules consistent with the Governing Documents for the governance of any committee. The authority of each committee shall be on those matters that the Board has already adopted approved guidelines and policies for the actions of that committee.

Section 10.3. Effect of Committee Actions. The actions of any committee shall be considered advisory to the Board. The decisions of the committee are subject to appeal by the effected applicant or member. When an appeal occurs those decisions shall be on the agenda of the next Board meeting. In its discretion, the Board may act to affirm, rescind, or modify any and all committee actions.

Section 10.4. Committee Minutes & Reports. Minutes must be prepared for all committee meetings. Where possible, the minutes from the prior committee meeting should be approved at the next committee meeting. Copies of all approved committee meeting minutes shall be placed in the Association Records and must be permanently available for review upon any Member request. If the committee has any decision-making authority, the approved minutes for all meetings shall be available within five (5) calendar days after approval by that committee.

Section 10.5. Appointment of Design Review Committee. If created by the Board, the Design Review Committee members must be Association Members. If no Design Review Committee is appointed, the Board shall exercise the functions of the committee.

Once board has appointed, the Design Review Committee shall submit a copy of each of its findings and determinations to the Board. Within thirty (30) days after submission of the committee's findings, the Board may review (and affirm or alter) any decision of the committee.

ARTICLE XI: CONFLICTS OF INTEREST.

Section 11.1. Conflicts of Interest. No Association official (including Directors, officers, committee members and/or manager) shall make, participate in making, or in any way attempt to use his or her official position to influence an Association decision in which that official knows, or has reason to know, that the official has a direct or indirect financial interest which is distinguishable from the financial interest of the Members of the Association generally.

Section 11.2. Employees. The provisions of Section 11.1, above, shall not apply to an employee of the Association when he or she is negotiating that employee's compensation or the terms of employment.

Section 11.3. Enforcement.

(a) Vote on Conflict. The Board shall determine (by a majority vote on the basis of all facts available) whether a conflict of interest exists with respect to an Association decision. If the Board determines that a conflict exists, the Board may refer the matter to a special committee of the Board, of which the Association official is not a committee member.

(b) Violation. If a Director is found by the Board to have violated this Article XI by making, participating in or attempting to use his or her position to influence an Association decision, the Board may remove the official (or if the official is the manager, invoke the Association's right to terminate the management contract).

Section 11.4. Applicability. The provisions of this Article XI do not apply to contracts formed before the date these Bylaws were approved by the Members.

ARTICLE XII: BREACH & DEFAULT.

Section 12.1. Enforcement. The Association has the right to impose Member discipline or commence litigation to enforce the Governing Documents or rights and responsibilities under law. (*See* Section 4.5 of the Declaration and Section 7.1(b)(ix), above, concerning enforcement). The Board may delegate some or all of its enforcement rights to a Disciplinary Committee.

(a) Discretion. The Board has discretion to decide whether or not it is in the Association's best interest to pursue any enforcement effort. When making the decision, the Board make take into consideration the potential benefits to the Association (and/or its Members) resulting from an enforcement effort as compared with the anticipated financial or other costs. Where the Board, in its discretion, determines that it is not in the Association's best interest to undertake an enforcement action, the Board shall notify, in writing, any Member(s) requesting that the Association take enforcement action of the Board's decision.

(b) Disputes between Residents. All complaints to the Association must be documented. While the Association does not condone conduct by one (1) Resident that results in excessive noise and/or odors impacting the Resident(s) of another Unit or other conduct targeted at annoying or harassing another Resident (but that do not impact the Complex as a whole), the Association is not the police or the government with unlimited authority. If the notice and hearing process is not sufficient to resolve the problem(s), those Residents need to involve proper governmental authorities, including the police and the courts. Association enforcement powers are not designed nor intended for resolving this type of problem.

Section 12.2. Remedy at Law Inadequate. The provisions of the Governing Documents are enforceable servitudes that inure to and bind the Association and each Owner (on behalf of the Owner and Owner's Pets or Associated Persons as defined in Section 1.28 of the Declaration).. Any Owner and/or the Association may enforce (in law or by equity) any provision of the Governing Documents against any Owner and/or Owner's Pets or Associated Persons. The failure of any Person to strictly comply with any provision of the Governing Documents shall be grounds for: **(a)** an action to recover sums due for damages; and/or **(b)** an action for injunction or specific performance.

It is expressly declared and agreed that money damages alone are insufficient for any breach, default or Violation of the Governing Documents.

Section 12.3. Nuisance. Every act or omission whereby any provision of the Governing Documents is violated is a nuisance. (*See* Section 4.5(b) of the Declaration concerning nuisances).

Section 12.4. Violation of Law. Any violation of any law, ordinance or regulation pertaining to the ownership, occupation or use of any property within the Complex is hereby declared to be a Violation of the Governing Documents and subject to enforcement procedures.

Section 12.5. Cumulative Remedies. More than one (1) remedy (and/or enforcement effort) can be available. The rights and remedies set forth in the Governing Documents (or law) are cumulative, and not exclusive.

Section 12.6. Failure is Not a Waiver. The failure to enforce any provision of the Governing Documents is not a waiver of the right to enforce that provision thereafter; nor does such failure result in (or impose) any liability upon the Association.

Section 12.7. Rights & Remedies of the Association. In the event of a breach or Violation of the Governing Documents by an Owner (and/or Owner's Pets or Associated Persons), the Board may enforce in any legal manner deemed appropriate by the Board (including, but not limited to, **(1)** the hiring legal counsel, **(2)** imposing fines, monetary penalties or other Member discipline, **(3)** filing legal action, **(4)** suspending an Owner's (and/or Owner's Pets or Associated Persons') right to use recreational Common Facilities or **(5)** suspending an Owner's voting rights as a Member. The Association's right to undertake disciplinary action against a Member is subject to this Section 12.7. Legal actions are subject to Section 12.8, below.

(a) Good Standing. Once the Association has: **(i)** provided notice; **(ii)** held a hearing; and **(iii)** found that an Owner is not "in Good Standing", that Owner remains not "in Good Standing" until such time as the Board determines in writing that the Violation has been corrected (or on some other basis that is just and proper that the Owner is "in Good Standing" again.

(b) Schedule of Fines. The Board may implement a schedule of reasonable fines and penalties for Violations or offenses. Once imposed, a fine or penalty may be collected and enforced as a Special Individual Assessment pursuant to Section 5.4 of the Declaration.

(c) Limitations of Disciplinary Rights.

(i) Loss of Rights & Forfeitures. An Owner's right to full use and enjoyment of the Owner's Unit, including ingress and egress, cannot be removed by the Association. Unless, however, the loss or forfeiture is the result of: **(A)** a court judgment or order; **(B)** an arbitration decision; or **(C)** a foreclosure.

(ii) Liens against Member's Unit. Charges to reimburse the Association for costs incurred by the Association may become a Lien against an Owner's Unit that can be non-judicially foreclosed.

(d) Hearings. Before imposing any penalty or temporary suspension of rights against an Owner, the Association must hold a noticed hearing and give that Owner an opportunity to be heard. This hearing requirement does not prevent the Association from undertaking corrective action before holding a noticed hearing where the Violation constitutes: **(i)** an immediate and unreasonable infringement of, or threat to, the safety or quiet enjoyment of neighboring Owners; **(ii)** a traffic or fire hazard; and/or **(iii)** a threat of material damage to (or destruction of) any part of the Complex.

(e) Notices.

(i) Notice Before the Hearing. Before any hearing is held (and any discipline imposed), the Association must send that Owner (or Owners) a written notice. The notice must be mailed (first class) or personally delivered to that Owner.

(A) Contents. The Association's notice of hearing shall include: **(1)** the date, time and location of the hearing; **(2)** a brief description of the action or inaction constituting the alleged Violation of the Governing Documents; **(3)** reference to the specific Governing Document provision alleged to have been violated ; and **(4)** any other requirements of Civil Code §1363 and/or the Association Rules.

(B) Timing. Pursuant to Civil Code §1363, the Association's notice of Violation/hearing must be delivered to the Member at least ten (10) days prior to the hearing.

(ii) Notice After the Hearing. Any decision imposing a fine or other discipline on an Owner shall be in writing and mailed (first class) to that Owner (or personally delivered) no more than fifteen (15) days after the hearing.

(f) Rules Regarding Disciplinary Proceedings. The Board may adopt Association Rules that set forth additional procedures for disciplinary proceedings and/or hearings.

Section 12.8. Court Actions & Mediation. Before any lawsuit is filed, the Board must approve the filing of any lawsuit on behalf of the Association.

(a) Dispute Resolution. Before filing a lawsuit in Superior Court to enforce Governing Documents (or California law applying to Associations), including collection of delinquent Assessments, the parties must make a good faith attempt to resolve the dispute by dispute resolution. (*See* Civil Code §1369.520. *See also* Civil Code §§1363.810-1363.850 concerning internal dispute resolution and Civil Code §§1369.510-1369.590 concerning Alternative Dispute Resolution/ADR (or comparable superseding statutes).

The mediation procedures described in Subsection (c), below, are intended to satisfy the dispute resolution requirements of Civil Code §§1363.810-1363.850 and §§1369.510-1369.590. All notices issued and procedures followed in the Association's mediation process is intended to comply with Civil Code §§1363.810-1363.850 and §§1369.510-1369.590.

(b) Internal Dispute Resolution. The Association may initiate (or, after receipt of an Owner's request, must participate in) Internal Dispute Resolution (also known as "Meet & Confer") pursuant to Civil Code §§1363.810, *et. seq.*

(c) Alternative Dispute Resolution ("ADR").

(i) Mediation or ADR Offer. The Association (or Owner) who desires to file an enforcement lawsuit (hereafter "Complaining Party") shall send the other party (hereinafter the "Responding Party") written notice of the nature of the dispute, the facts giving rise to its claim and its desire to mediate (the "Mediation Notice"). The Mediation Notice should name a mediator.

(ii) Payment of ADR Costs. Both the Complaining Party and the Responding Party are each obligated to pay one-half of the costs of mediation. Each party is to pay its own attorneys' fees, if any, arising out of the ADR process.

(iii) Selection of Mediator. Use of no cost or low cost mediation services are preferred. If the Responding Party does not agree with the Complaining Party's choice of a mediator, the parties shall ask that JAMS/Endispute (or the American Arbitration Association or other private mediation service/mediator) to select a mediator from its panel.

(iv) Timing Requirements. Within thirty (30) days after the mediator is selected, the parties shall schedule and attend a mediation. At the mediation, the parties must attempt, in good faith, to resolve the dispute. If the mediation does not resolve the dispute (or if the Responding Party refuses to attend), the Complaining Party shall be free to commence litigation.

(v) ADR Privilege. Unless mutually agreed to in writing by all parties to the dispute, evidence of anything said (or of any admissions made in the course of the ADR process) shall not be admissible into evidence in any legal proceeding. Testimony referring to such statement or admission shall not be admissible. Nor shall disclosure of any such statement or admission be compelled in any civil action. Documents prepared for the purpose of, in the course of or pursuant to the ADR procedure shall not be admissible into evidence and disclosure of such documents may not be compelled.

(d) Failure to Request Dispute Resolution. Should any Person commence a judicial action, without compliance with Subsection (c), above, the other party to the lawsuit can file a demurrer or motion to strike the complaint.

Section 12.9. Joint & Several Liability of Co-Owners. If a Unit is owned jointly by two (2) or more Persons, the liability of each Co-Owner is joint and several.

Section 12.10. Discipline of Tenants.

(a) Owner's Responsibility. An Owner who leases his/her Unit to a Tenant shall be responsible for assuring compliance by that Tenant (and any other occupants of the Unit) with the provisions of the Governing Documents. (*See* Section 3.2(c) of the Declaration concerning Owner responsibilities).

(b) Due Process Requirements. Discipline actions based upon a Tenant's conduct must comply with the notice and hearing requirements of Section 12.7, above. If a hearing has been noticed for a Violation based upon a Tenant's conduct, the Owner has the right to bring the Tenant to the hearing to offer testimony or other relevant evidence concerning the alleged Violation.

(c) Exercise of Eviction Authority. Subject to Subsection (b), above, in the event that any Tenant violates the Governing Document, the Association shall be entitled to take such corrective action as it deems necessary or appropriate under the circumstances. Where a Tenant has engaged in a pattern (*i.e.*, repeated Violations), the Association may: **(i)** demand the Owner commence eviction; **(ii)** commence an eviction action; **(iii)** suspend the Tenant's privileges to use any Common Facilities; or **(iv)** impose fines (and/or other penalties) against that Owner.

Whether or not such right is stated in any rental agreement, every Owner who rents his or her Unit automatically grants to the Association the right to determine a Tenant has breached the lease by any Violation of the Governing Documents. Upon such a determination, the Association can require the Owner to terminate the lease and evict the problem Tenant(s). If the Owner fails to evict the Tenant(s), the Association may commence an eviction action, either in its own name or in the Owner's name.

The Owner is responsible for all eviction related costs, including reasonable attorneys' fees, and must reimburse the Association for the entire amount of such costs. If the Owner refuses to make such reimbursement, the sums shall constitute a Special Individual Assessment. (*See* Section 5.4 of the Declaration). The Association's right to maintain an eviction action hereunder is derived from Civil Code §1368.3 and Code of Civil Procedure §1165.

Section 12.11. Costs & Attorneys' Fees.

(a) Association Enforcement Efforts. The Association is entitled to recover costs, including attorneys' fees, that the Association incurred for enforcement under this Article XII. (*See* Section 4.5(c) of the Declaration concerning costs and attorneys' fees and 5.4 of the Declaration concerning Special Individual Assessments).

(b) Litigation or Arbitration. A court (or arbitrator) may award attorneys' fees and costs to a prevailing party. (*See* Section 4.5(c) of the Declaration concerning costs and attorneys' fees).

(c) Mediation. The parties to any mediation shall each bear their own attorneys' fees and costs.

ARTICLE XIII: ASSOCIATION FINANCES & ASSOCIATION RECORDS.

Section 13.1. Association Financial Records. All Association books of account shall be maintained in accordance with accrual and modified accrual accounting principals, Civil Code §1365.2 and Corporations Code §§8, 195 and 8320.

Section 13.2. Budgets & Financial Statements. The following financial statements and related information for the Association shall be regularly prepared and copies distributed to each Member pursuant to the provisions of Civil Code §1365 (or comparable superseding statute):

(a) Budget. A pro forma operating budget for each fiscal year (or a summary of the pro forma operating budget with a written notice of the location where the full pro forma operating budget is available for Member review) pursuant to Civil Code §1365(c) (or comparable superseding statute);

(b) Year-End Audit or Review. A year-end audit (or financial review) of the Association's finances. The audit (or financial review) shall be performed by a licensee of the California State Board of Accountancy (CPA) for any year in which an audit or review is required by Civil Code §1365(b) (or comparable superseding statute). The year-end audit (or financial review) shall consist of at least the following items:

(i) a balance sheet as of the end of the fiscal year; (ii) an operating (income) statement for the just ended fiscal year; (iii) a statement of cash flows for the just ended fiscal year; (iv) a statement advising Members of the place where the names and addresses of the current Members are located; and (v) any information required to be reported under Corporations Code §8322 requiring the disclosure of certain transactions in excess of \$50,000 per year between the Association and any Director or officer (and/or indemnifications and advances to an officer or Director in excess of \$10,000 per year);

(c) **Annual Statement Regarding Delinquency/Foreclosure Policy.** A statement setting forth the Association's policies and practices in enforcing its remedies against Members for defaults in the payment of Assessments and/or Violations of Governing Documents and providing the statutory language set forth in Civil Code §1365.1;

(d) **Annual Summary of Association's Insurance Coverage.** A summary of the Association's insurance policies, if any. The Association's disclosure obligations may be satisfied by distributing a copy of the policy declaration page to the Members, if that page presents the information specified above;

(e) **Annual Assessment & Reserve Funding Disclosure Summary.** A summary of the Association's Assessments and reserves that complies with Civil Code §1365.2.5;

(f) **Annual Dispute Resolution Rights Notice.** A summary of the Association's Internal Dispute Resolution Process and Alternative Dispute Resolution "ADR" Policy and Practices in compliance with Civil Code §§1363.850 & 1369.590; and

(g) **Annual Architectural Review Process Notice.** A summary of the Association's Architectural Review Procedures and Practices in compliance with Civil Code §1378.

Section 13.3. Required Reserve Studies & Inspections. The Board shall also comply with the reserve study and inspection requirements specified in Civil Code §1365.5 (or comparable superseding statute) as long as that statute remains in force.

Section 13.4. Contracts. The Board may authorize any officer(s) or Director(s) to enter into any contract in the name of, or on behalf of, the Association (pursuant to the Board's authority to enter into contracts as set forth Section 7.2, above). Unless expressly authorized by the Board, no officer shall have any power or authority to bind the Association to any contract or agreement, or to pledge the credit of the Association, or to render the Association liable for any purpose and/or on any account.

Section 13.5. Record Keeping. The Board shall keep (or cause to be kept) all Association Records, including all Governing Documents. (*See* Civil Code §1365.2 and Corporations Code §8320).

Section 13.6. Fiscal Year. The Association's fiscal year shall be as determined by resolution of the Board. If the Board has not made a resolution, the fiscal year will be the calendar year.

Section 13.7. Maintenance of Assessment Funds.

(a) **Bank Accounts.** Sums received or collected by the Association from Assessments, together with any interest or other funds, shall be promptly deposited in two (2) or more checking, savings or money market accounts in a financial institution (*e.g.*, bank or S&L) selected by the Board. The financial institution must be federally insured and have physical offices located within the United States of America. Each account shall be clearly designated as either an "operating" or "reserve" account.

The Association shall maintain at least one (1) account into which shall be deposited the operating portion of its budget. Disbursements from such account shall be for the general operation of the Association including, but not limited to, wages, repairs, betterments, Maintenance, and other operating expenses of the Complex. The Association shall also maintain at least one (1) account into which shall be deposited reserve funds.

(b) Prudent Investments. The Board has the ability to make prudent investment of reserve funds in insured certificates of deposit, money market funds or similar investments consistent with the investment standards normally observed by trustees or other fiduciaries.

(c) Accurate Records & Board Control. The Board (and such officers or agents of the Association as the Board may designate) shall have exclusive control of the Association's accounts and investments. At all times, the Board is responsible to the Owners for the maintenance of accurate records for these funds.

Unless the Association is exempt from federal or state taxes, all sums allocated to capital replacement funds (*i.e.*, reserves) will be accounted for as contributions to the capital of the Association and trust funds segregated from the regular income of the Association (or in any other manner authorized by law or regulations of the Internal Revenue Service and the California Franchise Tax Board that will prevent such funds from being taxed as income of the Association).

(d) Commingling of Funds & Interest Allocation. To preclude a multiplicity of bank accounts, the proceeds of all Assessments and other Association funds may be commingled in two (2) or more accounts (at least one (1) operating account and at least one (1) reserve account) and need not be deposited in separate accounts so long as Association Records described herein are maintained.

Any interest received on such deposits shall be credited proportionately to the balances of the various Assessment fund accounts maintained in the Association Records.

(e) Line Item Adjustments. The Board, in its discretion, may make appropriate adjustments among the various line items in the budget if the Board determines that it is prudent and in the best interest of the Association and its Owners to make such adjustments.

(f) Checks. All checks (or other payment demands) should be signed by the Treasurer, if possible, and the President (or the Association's manager or other Director or officer). Any withdrawal of funds from reserve accounts requires at least two (2) signatures in compliance with Civil Code §1365.5 (*i.e.*, two (2) Directors or a non-Director officer and a Director).

ARTICLE XIV: INSPECTION.

Section 14.1. Member Inspection Rights.

(a) Association Records. Association Records and Enhanced Association Records subject to Member inspection under Civil Code §1365.2 and Corporations Code §§8310, *et seq.*, must be made available for inspection by any Member (or the Member's duly appointed representative) pursuant to the timing requirements set forth in Civil Code §1365.2. A Member's rights of inspection shall be exercisable upon written demand served upon the Association. All Member demands must state the purpose for the Member's inspection request.

A Member's inspection rights arise, if and only if, the Member's purpose is reasonably related to their interests as a Member of the Association. Where the Association reasonably believes that the information will be used for a purpose not reasonably related to the Member's interests, the Association may, within ten (10) days of receipt of the Member's written demand, offer a reasonable alternative to inspection.

The Governing Documents must also be available for inspection by any Member. Copies of any of the Governing Documents will be available for purchase from the Association at the Member's cost.

(b) Minutes of Meetings. As more particularly set forth in Section 8.11(b), above, Members have a right, upon request and payment of copying and distribution costs, to copies of minutes (or draft minutes or minute summaries) for Member, Board and/or committee meetings.

(c) **Insurance Policies.** Copies of all insurance policies (or certificates of insurance) shall be retained by the Association and shall be available for inspection by Members at any reasonable time.

(d) **Membership List.** In order to protect privileged information pertaining to Members and the Members' privacy interests, the Association will mail or otherwise distribute any Association related communication to its Members in lieu of providing a copy of its Member list as a reasonable alternative method pursuant to Corporations Code §8330(c) and Civil Code §1365.2. The distributing Member pays for the postage and other costs, if any, incurred by the Association for that Member's distribution/ mailing.

(e) **Audit.** Any Owner, at the expense of that Owner, may request an independent audit or the Association's finances.

Section 14.2. Director Inspection Rights. Every Director shall have the right to, at any reasonable time, inspect the Association Records, Enhanced Association Records and/or the Association's physical property in compliance with current California law. The right of inspection by a Director includes the right to make extracts and copies of documents.

Section 14.3. Inspection Rules. The Board may establish reasonable Association Rules with respect to: (a) inspection requests; and (b) the production and review of Association Records and Enhanced Association Records.

ARTICLE XV: AMENDMENTS.

Section 15.1. Amendment of Bylaws.

(a) **Amendment by the Board.** By a vote of a majority of the Directors, the Board may adopt an amendment to these Bylaws when an amendment is needed to conform a portion of the Bylaws to changes in applicable California law and the changes in the applicable California law are mandatory and nondiscretionary in nature.

Before entertaining a motion to approve any amendment under this Subsection (a), the Board must obtain a written opinion from the Association's legal counsel confirming that: (i) the change in California law necessitates the amendment; and (ii) the Association is bound by law to observe the change in law.

(b) **Amendment by the Members.** Except as provided in Subsection (a), above, these Bylaws may only be amended or repealed by the affirmative vote (by Mailed Ballot pursuant to Section 5.5, above) of Members representing over fifty percent (50%) of all eligible Members (*i.e.*, Members in Good Standing).

If any provision of these Bylaws requires the vote of a larger percentage (or all) of the Members, that provisions may not be altered, amended, or repealed except by the approval of the necessary number of Members.

Section 15.2. Effective Date. Any amendment to these Bylaws become effective immediately upon approval by the Members.

ARTICLE XVI: GENERAL PROVISIONS.

Section 16.1. Manager. The Board may employ the services of a Manager (or management company). Upon such conditions as are otherwise deemed advisable by the Board, the Board may delegate to the Manager any of the Board's duties and powers, provided that the Manager shall at all times remain subject to the general control of the Board. The Board shall at all times use professional management. (*See* Sections 7.1(a)(ii)(D) and 7.2(a)(ii)(A), above).

Section 16.2. Notice Requirements. Any notice or other document permitted or required to be delivered may be delivered pursuant to the terms and provisions of Article XIV of the Declaration, Civil Code §1350.7 and Corporations Code §§8, 20, 21 and 195.

Section 16.3. Construction & Definitions. Unless the context requires otherwise or a term is specifically defined in the Governing Documents, the general provisions, rules of construction, and definitions in the California Nonprofit Mutual Benefit Corporation Law (Corporations Code §§7110 *et seq.*) and the Davis-Stirling Act (Civil Code §§1350 *et seq.*) shall govern the construction of these Bylaws.

(a) **Liberal Construction.** All provisions of these Bylaws shall be liberally construed together to promote and effectuate the fundamental concepts of this Association.

(b) **Singular Includes Plural/Gender.** The masculine gender includes the feminine and neuter, and singular number includes the plural and the plural number includes the singular.

(c) **Captions.** All captions and titles used in these Bylaws are intended solely for the reader's convenience of reference and do not affect the interpretation or application of any of the terms or provisions contained herein.

(d) **Superseding Statutes.** Any and all references to specific statutes in the Governing Documents expressly incorporate by this reference the mandatory provisions of any comparable superseding statute that replaces the statutory reference(s) in these Governing Documents.

Section 16.4. Conflicts. See Section 16.3(e) of the Declaration concerning conflicts.

Section 16.5. State Law & Severability. Notwithstanding the provisions of Section 16.3, above, these Bylaws shall be deemed independent and severable. The invalidity or partial invalidity of any provision of these Bylaws shall not impact the validity or enforceability of any other provision of these Bylaws which shall remain in full force and effect.

In case any of the Bylaws conflicts with any provisions of the laws of the State of California, such conflicting Bylaws shall be null and void upon a court determination to such effect. All other Bylaws shall remain in full force and effect.

CERTIFICATE OF SECRETARY

The undersigned duly elected and acting Secretary of the mutual benefit nonprofit corporation, known as Crown Harbor Homeowners Association, does hereby certify that the above and foregoing Bylaws consisting of 27 pages, were duly adopted by vote of at least fifty-one percent of a quorum of the Members of the Association on the ___ day of _____, 2009, and that the same does now constitute the Bylaws of Crown Harbor Homeowners Association.

(Signature of the Secretary)