

## PALA RANCHO CABANA CLUB BY-LAWS

### ARTICLE I

#### PRINCIPAL OFFICE.

The principal office of the corporation shall be at such a place in the County of Santa Clara, State of California, as the Board of Directors may, from time to time, establish. All meetings of the members and the Board of Directors shall be held either at the principal office of the corporation or at such other place as the Board of Directors, from time to time, may determine upon.

### ARTICLE II

#### CORPORATE SEAL

The corporate seal shall consist of two concentric circles with the name "Pala Rancho Cabana Club", and the word "California" between them and the words "Incorporated May 12, 1965, California" and "a nonprofit corporation" within the smaller circle.

### ARTICLE III

#### MEMBERSHIP.

SECTION 1. There shall be one class of members: proprietary members.

SECTION 2. Members shall be the owners of a lot or house (subject to the provisions of Section 2 of Article V hereof) and may be natural persons, firms or corporations. A member who is a natural person, shall be eighteen (18) years old or older.

SECTION 3. Except as herein in these By-Laws otherwise expressly provided, in all matters which shall come before the members of the corporation, and in all corporate matters, the voting powers of the members shall be equal, each member having one vote for each lot or home owned by such member.

SECTION 4. Members shall, in all respects, conform and abide by the By-Laws of the corporation, and all amendments and changes thereto, and any and all rules and regulations now or hereafter adopted by the Board of Directors.

SECTION 5. The Board of Directors shall make such rules and regulations as it may deem proper respecting the use of the facilities of the corporation by guests of members, and the fees to be charged therefor.

SECTION 6. The collection of any indebtedness of any member of the corporation for dues, assessments or other charges, shall be enforceable by the corporation at law, and the resignation, expulsion, suspension or cancellation of membership of any member shall not relieve such member of the liability and obligation to pay the same.

SECTION 7. The corporation shall have no liability or responsibility, and no member or guest of a member, or any other person, shall have any claim against the corporation, for any personal injury to, or death of any member or guest, or for loss or damage to the property of any member or guest.

SECTION 8. Any loss or damage resulting to any of the properties of the corporation from the acts or conduct of any member, or the guest of a member, and any indebtedness of the corporation incurred by a guest of a member, shall be assessed to such member and shall be paid as in the case of other assessments.

SECTION 9. Notice of any kind required to be given to any member shall be conclusively deemed to have been given when the same has been deposited in the United States mail, in a sealed envelope, postage pre-paid, addressed to the member at the address shown on the books of the corporation. If the address of any member is not shown on the books of the corporation, any notice so mailed to his last address known to the secretary, or to the address of the corporation shall be deemed properly given and made.

### ARTICLE IV

#### PROPRIETARY MEMBERS.

SECTION 1. The number of proprietary members shall not at any time exceed 250.

SECTION 2. Within the limits and provisions of Sections 1 and 3 of this Article, proprietary membership shall be limited to the owners of lots or homes in the subdivisions making up the Pala Rancho development in San Jose, Santa Clara County, California.

SECTION 3 Each person owning or acquiring a lot or a home in Pala Rancho shall automatically become a member of the corporation, provided that only one membership shall attach to each individual lot or home. A person owning or acquiring more than one lot shall be deemed to have a membership and vote for each lot. If there should be more than one person owning a lot or home, the joint owners shall determine which owner shall be a member. If they fail to so determine, the following shall apply:  
(a) In the case of joint ownership by individuals who are not husband and wife, the individual owner whose last name commences with the earliest alphabetical letter shall be a member.

SECTION 4. Proprietary members in good standing, afterwards referred to as "members" herein, are all members as identified in Articles III and IV and not otherwise delinquent or suspended as prescribed in Article VI, Section 5.

SECTION 5. The proprietary members in good standing shall be entitled to use all of the facilities and properties of the corporation subject to such rules and regulations as the Board of Directors may from time to time prescribe.

SECTION 6. Persons residing with a proprietary member as a member of his household, shall have and enjoy the full privileges of the corporation to the same extent as such proprietary members, subject to such rules, regulations, restrictions and limitations as the Board of Directors may, from time to time, prescribe.

#### ARTICLE V.

#### CERTIFICATES OF MEMBERSHIP.

SECTION 1. Each proprietary member shall be the owner and holder of a certificate of membership, duly registered in his or her name upon the books of the corporation.

SECTION 2. The certificate of membership herein referred to shall be issued over the signature of the President and Secretary with the official seal of the corporation affixed, and shall be in substantially the following form:

Certificate of Membership  
Pala Rancho Cabana Club

A nonprofit Corporation of the State of California

This certifies that \_\_\_\_\_ is a proprietary member of Pala Rancho Cabana Club, a corporation organized pursuant to the General Nonprofit Corporation Law of the State of California, and entitled to all rights and privileges as conferred by, and subject to the By-Laws of the said corporation. By acceptance of this certificate, the holder hereof irrevocably assents to and agrees to be bound by said By-Laws, as the same may be modified or amended from time to time. This certificate confers not right, title or interest in or to any of the property or assets of said corporation except as expressly set forth in the By-Laws of said corporation.

This certificate can be transferred only in the manner prescribed by said By-Laws, and only after endorsement on the back hereof of the signature of the persons to whom this certificate is issued, or by his duly appointed attorney-in-fact of such person, or by his duly appointed and qualified personal representative, and any transfer shall not be final until shown on the books of said corporation, and attested by the signature of the Secretary of said corporation affixed, and the transferee accepts the transfer hereof subject to the above conditions.

Dated: \_\_\_\_\_ 19\_\_

(Seal)

Pala Ranch Cabana Club  
By \_\_\_\_\_

President

By \_\_\_\_\_

Secretary

SECTION 3. A transfer of membership shall automatically occur if a lot or home owned by a member is sold. If a home is leased or rented, the owner's membership shall be transferred to the leasee or tenant for such and only for such time, as he is a leasee or tenant, and at the expiration of such time, the membership shall again belong to the home owner. If a home owner holding a membership dies, then

membership or memberships held by such deceased member shall be transferred to the head of his surviving family, if the surviving family occupies or continues to occupy the home. If the surviving family does not occupy or continue to occupy any house owned by the decedent, membership shall be transferred to the personal representative of the decedent's estate or such person as may be nominated for such membership by such personal representative. No other transfer of membership shall occur by operation of law or otherwise.

SECTION 4. If a certificate of membership has been lost, destroyed, or wrongfully withheld, the Board of Directors, by resolution, may cancel such certificate, and a new or duplicate certificate may be issued in the same manner as new or duplicate certificates of shares of capital stock of corporations may be issued, to replace certificates of stock lost, destroyed or wrongfully withheld, pursuant to the laws of the State of California.

#### ARTICLE VI

##### FEES, DUES AND ASSESSMENTS.

SECTION 1. All fees, dues, assessments, and other charges referred to herein are exclusive of governmental taxes.

SECTION 2. No special assessment shall be made or levied on the general membership without the approval of a majority of the total membership.

SECTION 3. The Board of Directors will ensure that an annual budget is prepared each year and is submitted to the general membership at the annual meeting or special meeting called for that purpose. The annual budget will include, at a minimum, a planned allotment of funds to each of the major expense categories of the corporation, and an identification of the total and individual dues required to meet the budget. The amount of such dues shall be sufficient to pay all of the operating expenses of the corporation and to sustain an appropriate level of capital improvements. The budget will require approval by an affirmative vote of a majority of the members present, present either in person or present by absentee ballot, at a duly called meeting at which a quorum is present. If the new budget fails to be approved for any reason, then the current budget will be extended and will be in force until such time as a new budget is approved. If the new budget requires any increase in the annual dues payable by each proprietary member, then such increase in dues shall, at the annual meeting or special meeting called for that purpose, require approval by an affirmative vote of a majority of the total membership. If an increase in the annual dues is not approved by the membership, or if no increase is sought, then the current annual dues shall remain in effect.

SECTION 4. The Board of Directors at any meeting may impose a fine or penalty against any member or any person enjoying the privileges of the corporation, for any infraction or violation of these By-Laws or the rules and regulations of the corporation, and the amount of such fine shall be payable in the same manner and at the same time as dues, assessments and other charges are payable.

SECTION 5. If a member fails to pay any dues, fines, assessments, or other indebtedness within fifteen (15) days after the same becomes due, the office of the Treasurer shall insure that such member is notified of his delinquency. At this time a 10% penalty shall be assessed against the unpaid balance. If such indebtedness shall not be paid within fifteen (15) days after such notice, such delinquent member shall be suspended by the Board of Directors. The Secretary shall thereupon notify such member of his suspension, and if such indebtedness shall not be paid within thirty (30) days after such notice, the corporation, on the resolution of the Board of Directors, shall commence an action to collect such unpaid sum. Such action may be an action at law to collect such unpaid sum, or an action to enforce the lien granted in any Declaration of Restrictions respecting the property to which the membership relates. On good cause shown, and on payment in full of all delinquent indebtedness, the Board of Directors shall have the power to restore to membership any such member.

SECTION 6. The name of any suspended member, and the amount owing by him, shall be posted in a conspicuous place on the property of the corporation.

## ARTICLE VII.

### MEMBERSHIP MEETINGS.

- SECTION 1. A regular annual meeting shall be held during March of each year, on a day to be fixed by the Board of Directors at least 15 days prior to such meeting.
- SECTION 2. Special meeting of the members for any purpose may be called at any time by the President, the Board of Directors, or upon the written request of twenty (20) proprietary members.
- SECTION 3. Notice of the regular annual meeting and of each special meeting of the members shall be given by the Secretary to each member of the corporation at least ten (10) days prior to such meeting, and such notice shall specify the date, time, and place of such meeting, the general nature of the business to be transacted thereat, and shall include a description of all non-procedural motions to be voted upon by the members at the meeting.
- SECTION 4. A quorum for the transaction of business at any meeting shall consist of a minimum of 25% of the members, present either in person or present by filing absentee ballots. The members at the duly called or held meeting at which a quorum is present may continue to do business until adjournment even if enough members withdraw to leave less than a quorum.
- SECTION 5. Members may vote at any meeting, either in person or by absentee ballot filed in accordance with the voting procedures approved by the Board of Directors, upon any motion, subject to the notice requirement of Section 3 of this Article. Cumulative voting shall not be permitted.
- SECTION 6. In advance of any meeting of the members, the Board of Directors may appoint an election official or election officials to conduct and oversee the voting by the members. In the event that such appointment is not made, or if the official(s) fail to act, the Secretary shall serve as the election official. Duties of the election official include: prescribing the voting procedures, with the approval of the Board of Directors, verifying the existence of a quorum, verifying the authenticity and validity of each vote cast, and declaring the results of each vote. The election official will conduct the vote so as to insure fairness to each member, and will hear and determine all challenges and questions in any way arising in connection with the way to vote, the right to vote, and in the tabulation of the votes.
- SECTION 7. Except as otherwise expressly provided in these By-Laws, or by law, the vote of a majority of the members at any duly and regularly called meeting at which a quorum is present, shall be and constitute the act of the members.
- SECTION 8. Any meeting held to conduct the business of the corporation shall follow the provisions of these By-Laws. In the absence of express provision in these By-Laws, Roberts Rules of Order shall be the final guide as to correct procedure.

## ARTICLE VIII.

### DIRECTORS

- SECTION 1. All of the powers of the corporation shall be vested in and shall be exercised by, and the properties of the corporation controlled by, and the affairs of the corporation conducted by a board to be known as the Board of Directors. The Board of Directors shall constitute the governing body of the corporation and shall be empowered to do any and all things necessary or proper to carry out the objectives and purposes of the corporation consistent with the law, the Articles of Incorporation and these By-Laws. The Board of Directors shall consist of seven (7) members, elected as hereinafter provided.
- SECTION 2. The Directors shall be elected at the regular annual meeting of the members and shall hold office for a period of two (2) years or until their successors have been elected and are ready to enter upon the duties of the office.
- SECTION 3. In the event of a vacancy being created on the Board of Directors for any reason, the vacancy shall be filled by the appointment of a new Director by a majority of the remaining directors. The person appointed to fill such vacancy shall hold office until the next annual meeting, at which time a director shall be elected by the members to fill the remaining term of each directorship to which an interim appointment was made. In any election in which there are both full terms of office and short terms of office (short terms as created by vacated directorships)

to be filled, elected directors getting the fewer number of votes will receive the shorter terms. Tie votes will be decided by lot.

SECTION 4 A quorum of the Board of Directors shall be at least five (5) members thereof. Any action of the Board of Directors shall require a majority vote of the members present. The size of the required quorum shall be reduced by one for each vacancy on the Board of Directors that exists at the time any meeting is called.

SECTION 5. Any member of the Board of Directors who shall be absent from its meeting for a period of ninety (90) days, without a leave voted by the Board of Directors, shall be considered as having resigned and the vacancy thus created shall be filled as hereinabove provided. The period of ninety days shall be counted from the last meeting of the Board of Directors attended by the absentee director.

SECTION 6 The members of the Board of Directors shall receive no compensation for acting as Directors.

SECTION 7 The annual meeting of the Board of Directors shall be held within five (5) days following the annual meeting of the members. All vacating members of the board shall meet with the new Board and will advise the incoming Board members during the initial activities of the new Board, to insure continuity in the Club's management and functioning. Each new Board will review the existing policies and procedures of the corporation, and will ratify or modify these policies and procedures.

SECTION 8. Regular meetings of the Board of Directors shall be held at such time and on such day and at such place as the Board, by resolution, may from time to time determine. Special meetings of the Board of Directors may be called by the President or by any two (2) members of the Board of Directors, and shall be held at the principal office of the corporation or at such other place as the Board may select. Notices of all meetings of the Board of Directors shall be given by the Secretary of the corporation to each member of the Board at least forty-eight (48) hours prior to the time of such meeting. Such notice shall be either verbal, by telephone, or in writing.

SECTION 9 The Board of Directors shall have the power and shall:

- (a) Make and prescribe rules and regulations for the conduct of the members and the use of the properties and facilities of the corporation.
- (b) Make and prescribe rules and regulations necessary or convenient for carrying into effect the requirements of the By-Laws, and such other rules and regulations as in the judgment of the Directors, may be proper.
- (c) Keep an up to date manual containing all rules, regulations, policies, and procedures for conducting the affairs of the corporation, and for the use of the club's facilities.
- (d) Conduct, manage and control the affairs and business of the corporation.
- (e) Appoint and remove at pleasure all agents and employees of the corporation, prescribe their duties, fix their compensation, and if deemed necessary, require from them security for the faithful performance of their duties.
- (f) Authorize all necessary expenditures and incur indebtedness from time to time and secure payment thereof by pledge, hypothecation, mortgage, indenture, deed of trust or other forms of security, except when such indebtedness shall require the placement of real property of the corporation as security, an affirmative vote of 2/3 of the membership is required. Such a proposition is to be balloted on at a meeting with appropriate notice as provided in Article VII, Section 3.
- (g) Except as otherwise herein provided, deal conclusively with all matters relating to the discipline of members, and as it may deem proper, suspend or fine a member for infraction of the rules, regulations or By-Laws, provided that if such suspension is based on an infraction other than nonpayment of dues, such suspension shall be imposed only after not less than five (5) days prior notice of the infraction is given the member and the member, if he so requests, is granted a hearing before the Board of Directors. The maximum suspension which may be imposed on a member for any one infraction other than nonpayment of dues shall be thirty (30) days and the maximum fine which may be imposed for any one infraction shall be Fifty Dollars (\$50.00). The limitations herein set forth shall apply to Section 5 of Article VI of

these By-Laws. Nothing herein contained shall be construed to limit the right of any person, including this corporation, to pursue all appropriate civil actions for judicial relief as may be alleged to exist. Further, nothing herein contained shall be construed to limit liability or responsibility for criminal actions.

- (h) The specification of particular powers or duties herein shall not be construed to in any manner or to any extent limit or restrict the powers and duties of the Board of Directors, and the Board of Directors shall do all things necessary and proper for the control, management and operation of the corporation, its properties and affairs.

SECTION 10. The Board of Directors may create such committees as in its judgement may be necessary for properly conducting the affairs of the corporation. The members of such committees shall be members of the corporation. The Board of Directors may delegate to the President the authority to appoint the members of such committees. If a member of the household of any Director serves on any committee of the corporation or club, such Board member will not be the only representative of the Board at the meeting or activities of such committee, and will not vote on any motions affecting such committee. In any event, no member of the household of any Director will serve as Chairperson of any on-going committee, and no Director shall be a regular member of an on-going committee.

SECTION 11. The presiding officer of a meeting may appoint a parliamentarian to serve as interpreter on procedures for the corporation using the guide described in Article VII, Section 8.

SECTION 12. Any Director may be removed from office, either with or without cause, by a majority of the members present, present either in person or present by absentee ballot, at the annual meeting or special meeting duly called for such purpose at which there is a quorum. Any Director may resign at any time by giving written or verbal notice to the corporation and any such resignation shall take effect on the date of receipt of such notice or at any time specified therein and, unless otherwise specified, the acceptance shall not be necessary to make it effective.

## ARTICLE IX. OFFICERS.

SECTION 1. The officers of the corporation shall be a President, a Vice-President, a Secretary, a Treasurer, and such other officers, as the Board of Directors may from time to time determine upon. The offices of Secretary and Treasurer may be held by the same person.

SECTION 2. The officers of the corporation shall be appointed annually by the Board of Directors at the regular meeting of the Directors. The President and Vice-President shall be members of the Board of Directors. Other officers need not be Directors.

SECTION 3. Any officer may be removed from office, either with or without cause by the vote of a majority of the Board of Directors present at any regular or special meeting at which a quorum is present. Any officer may resign at any time by giving written or verbal notice to the corporation and any such resignation shall take effect on the date of receipt of such notice, or at any later time specified therein, and unless otherwise specified, the acceptance of such resignation shall not be necessary to make it effective.

SECTION 4. The President, subject to the direction and control of the Board of Directors, shall be the principal executive officer of the corporation, and shall in general supervise and control all of the business and affairs of the corporation. He shall preside at all meetings of the Board of Directors. He shall be an ex-officio member of all committees. He shall execute as President all deeds, contracts and other instruments in writing which have been first approved by the Board of Directors, provided that the Board of Directors may delegate authority to execute any such document or instrument in writing to any other officer of the corporation or to a member of the Board of Directors. He shall render a report annually to the members, and shall perform such other duties and have such other powers as shall from time to time be assigned to him by the Board of Directors.

SECTION 5. In the absence of the President, or in the event of his inability or refusal to act, the Vice-President shall perform the duties of the President, and when so acting, shall have all of the powers of, and be subject to all of the restrictions upon the President. The Vice-President shall perform such other duties and have such other powers as shall be, from time to time, assigned to him by the Board of Directors.

SECTION 6. In the absence of the President and the Vice-President or in the event of their inability or refusal to act, the Board of Directors shall appoint an Acting President, in whom shall be vested for the time being all of the duties, functions, and powers of the President.

SECTION 7. The Secretary shall keep a record of the proceedings of all meetings of the members and of the Board of Directors, give all notices required by law or these By-Laws, have custody and keep a permanent record of the corporate books, records, and documents and the corporate seal, keep and maintain a register of the office of Secretary, and such other duties as from time to time may be assigned by the Board of Directors.

SECTION 8. The office of Treasurer shall consist of a Treasurer and Assistant Treasurer, both appointed by the Board of Directors. The Treasurer shall supervise the accounting books of the corporation, and shall have charge and custody of, and be responsible for all funds and securities of the corporation, and in general perform all of the duties incident to the office of Treasurer, and such other duties as from time to time may be assigned by the Board of Directors. The Assistant Treasurer shall receive and give receipts for all monies paid to the corporation from any source and shall deposit such monies in the Bank or other depositories as shall be designated by the Board of Directors, which funds shall be withdrawn only as prescribed by the Board of Directors, which funds shall be withdrawn only as prescribed in Article XI of these By-Laws. The Treasurer shall prepare an annual financial report which will be delivered to all members.

#### ARTICLE X. AMENDMENTS.

SECTION 1. The Articles of Incorporation or By-Laws may be altered, amended or repealed only by the members either by the written assent of a majority of the proprietary members; or a vote of a majority of members present, present either in person or present by absentee ballot, at any annual meeting or at a special meeting duly called for such purpose at which there is a quorum.

#### ARTICLE XI. CHECKS, DRAFTS, OTHER DOCUMENTS.

SECTION 1. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness, issued in the name of the corporation, shall require the endorsement of two of the three following officers of the corporation: the President, the Vice-President, or the Treasurer.

#### ARTICLE XII. INSPECTION OF BOOKS AND RECORDS.

SECTION 1. The policies and procedures manuals, the books of account, and the minutes of the proceedings of the membership and the Board of Directors, shall be open to inspection upon the written request of any member at any reasonable time, for a purpose reasonably related to his interests as a member of the corporation or of the club.

SECTION 2. The Board of Directors shall at least sixty (60) days prior to the regular annual membership meeting, appoint a member or a committee of members, to review the books of account of the corporation. This review will be conducted to verify the exactness and correctness of the books of account, and a report of this committee will be filed with the Secretary for inclusion in the minutes of the proceedings of the regular annual meeting of the members.

#### ARTICLE XIII.

##### PROPERTY RIGHTS OF MEMBERS.

SECTION 1. The proprietary members shall, during the existence in good standing of their membership, be the beneficial owners of all of the properties and assets of the corporation, each in an undivided share. Such beneficial interests of the proprietary members cannot be alienated, transferred, assigned, bequeathed, devised or passed on by the law of inheritance or interstate succession or any judicial proceedings or by the operation of any law or in any other manner. In the event of the dissolution of this corporation, in accordance with applicable proceedings as provided by law, all property cash and assets of this corporation shall be distributed and paid over to any successor organization which may assume the operation of the facilities of this corporation. If no successor organization assumes the operation of the facilities of the corporation, then all expenses paid or incurred to liquidate the affairs of this corporation shall be paid over in equal shares to the Young Men's Christian Association and the Young Women's Christian Association, provided that if such organizations or either of them are not then exempt from Federal and State income tax, the funds which would otherwise be paid to the non-exempt organization shall be paid to a substantially similar organization which is exempt from Federal and State income tax, the selection to be made by a majority vote of the Board of Directors of this corporation.

#### ARTICLE XIV.

##### INTERPRETATION OF BY-LAWS.

SECTION 1. These By-Laws shall be interpreted by the plain meaning of the words herein. If such interpretation is deemed uncertain or ambiguous by the Board of Directors, then the Board of Directors shall interpret these By-Laws in a manner most effective for the running of the corporation and the club, not inconsistent with the plain meaning of the words. If the Board of Directors cannot agree upon an interpretation, then the Board shall appoint a committee to interpret the By-Laws. Such committee shall interpret the By-Laws in a manner most effective for the running of the corporation and the club, not inconsistent with the plain meaning of the words, shall advise the Board, and such interpretation shall be binding on the corporation and club until such time as the By-Laws are amended.

Revised 12/72

Amended 2/9/81

The above revisions and amendments are incorporated in the above text of the Pala Rancho Cabana Club By-Laws.



### DECLARATION OF RESTRICTIONS

THIS DECLARATION made and dated this 26th day of October, 1965, by TRANSAMERICA TITLE INSURANCE COMPANY, a corporation,

WHEREAS, said party is the owner of a certain tract of land and record of survey situate in the City of San Jose, County of Santa Clara, State of California, described as follows;

That certain Tract entitled "TRACT NO. 4078", which Map was filed for record in the office of the Recorder of the county of Santa Clara, State of California, on October 25, 1965, in Book 201 of Maps, at page 28, and that certain Record of Survey entitled, "A Portion of Lot 104, Tract No. 3840", which Record of Survey was filed for record in the office of the Recorder of the County of Santa Clara, State of California, on April 13, 1965, in Book 193 of Maps, at Page 45, to which said Map and Record of Survey and the said record thereof, reference is hereby made, and

WHEREAS, said party is about to sell property shown on said Map and Record of Survey, which it desires to subject to certain restrictions, conditions, covenants and agreements between itself and the purchasers of said property, as hereinafter set forth.

NOW THEREFORE, said party declares that the property shown on the Map of "Tract No. 4078" and the Record of Survey of "A Portion of Lot 104, Tract 3840" is held and shall be conveyed subject to restrictions, conditions, covenants, charges and agreements set forth in the Declaration, to-wit"

#### PART A. RESIDENTIAL AREA COVENANTS

A-1. Land Use and Building Type. No lot shall be used except for residential purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than one detached single-family dwelling not to exceed two and one-half stories in height and a private garage for not more than two cars.

A-2. Architectural Control. No building shall be erected, placed, or altered on any lot until the construction plans and specifications and a plan showing the location of the structure have been approved by the architectural control committee as to quality of workmanship and materials, harmony of external design with existing structures, and as to location with respect to topography and finish grade elevation. No fence or wall shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line unless similarly approved. Approval shall be as provided in Part B.

A-3. Dwelling Cost, Quality and Size. No dwelling shall be permitted on any lot at a cost of less than \$10,000.00 based upon cost levels prevailing on the date these covenants are recorded, it being the intention and purpose of the covenant to assure that all dwellings shall be of a quality of workmanship and materials substantially the same or better than that which can be produced on the date these covenants are recorded at the minimum cost stated herein for the minimum permitted dwelling size. The ground floor area of the main structure, exclusive of one-story porches and garages, shall not be less than 900 square feet for a one-story dwelling. A

dwelling of more than one story shall have a total of not less than 1,500 square feet.

A-4. Building Location. No building shall be located on any lot nearer to the front line or nearer to the side street line than the minimum building setback lines shown on the recorded plats. In any event no building shall be located on any lot nearer than 20 feet to the front lot line, or nearer than 12-1/2 feet to any side street line. No building shall be located nearer than 5 feet to an interior lot line, except that no side yard shall be required for a garage or other permitted accessory building located 40 feet or more from the minimum building setback line. No dwelling shall be located on any interior lot nearer than 20 feet to the rear lot line. For the purposes of this covenant, eaves, steps, and open porches shall not be considered as part of a building, provided, however, that this shall not be construed to permit any portion of a building, on a lot to encroach upon another lot.

A-5. Lot Area and Width. No dwelling shall be erected or placed on any lot having a width of less than 60 feet at the minimum building setback line nor shall any dwelling be erected or placed on any lot having an area of less than 6000 square feet, except that a dwelling may be erected or placed on any lot as shown on the recorded Map and Record of Survey.

A-6. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded Map and Record of Survey and over the rear five feet of each lot.

A-7. Nuisances. No noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may or may become an annoyance or nuisance to the neighborhood.

A-8. Temporary Structures. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used on any lot at any time as a residence either temporarily or permanently.

A-9. Signs. No sign of any kind shall be displayed to the public view on any lot except one professional sign of not more than one square foot, one sign of not more than five square feet advertising the property for sale or rent, or signs used by a builder to advertise the property during the construction and sales period.

A-10. Livestock and Poultry. No animals, livestock, or poultry of any kind shall be raised, bred, or kept on any lot, except that dogs, cats or other household pets may be kept provided that they are not kept, bred, or maintained for any commercial purpose.

A-11. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish. Garbage, trash or other waste shall not be kept except in sanitary containers. All incinerators or other equipment for the storage or disposal of such material shall be kept in a clean and sanitary condition.

A-12. Oil and Mining Operations. No oil drilling, oil development operations, oil refining or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations

or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

A-13. Sight Distance at Intersections. No fence, wall, hedge or shrub planting which obstructs sight lines at elevations between 2 and 6 feet above the roadways, shall be permitted to remain on any corner lot within the triangular area formed by the street property lines and a line connecting them at points 25 feet from the intersection of the street lines, or in the cases of a rounded property corner from the intersection of the street property lines extended. The same sightline limitations shall apply on any lot within 10 feet from the intersection of a street property line with the edge of a driveway or alley pavement. No tree shall be permitted to remain within such distances of such intersections unless the foliage line is maintained at sufficient height to prevent obstruction of such sight lines.

## PART B. ARCHITECTURAL CONTROL COMMITTEE

B-1. Memberships. The architectural control committee is composed of W. W. Dean, Bernie Snoddy and V. D. Hoyt, 2575 Flores Street, San Mateo, California. A majority of the committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the remaining members shall have the full authority to designate a successor. Neither the members of the committee, nor its designated representatives shall be entitled to any compensation for services performed pursuant to this covenant. At any time, the then record owners of a majority of the lots shall have the power through a duly recorded written instrument to change the membership of the committee or to withdraw from the committee or restore to it any of its powers and duties.

B-2. Procedure. The committee's approval or disapproval as required in these covenants shall be in writing. In the event the committee, or its designated representative, fails to approve or disapprove within 30 days after plans and specifications have been submitted to it, or in any event, if no suit to enjoin the construction has been commenced prior to the completion hereof, approval will not be required and the related covenants shall be deemed to have been fully complied with.

B-3. Enforcement by Residence Owners. Enforcement of each covenant A-1 through A-13, inclusive, set forth in these restrictions shall be the right of each property owner in the area covered by said restrictions, either by suit or action in law or equity. In addition such enforcement shall be a right of the architectural control committee until such time as it relinquishes its powers to the non-profit association as provided hereinafter, at which time, the non-profit association shall succeed to all the rights of the architectural committee.

## PART C. PALA RANCHO CABANA CLUB

C-1. A non-profit corporation, named PALA RANCHO CABANA CLUB, has been formed under the general non-profit corporation laws of the State of California for the purpose of owning, operating and maintaining the community facilities to be made available to the owner of said real property and certain other real property hereinafter provided. The owners of said real property are members of said corporation.

C-2. Said corporation, acting through its Board of Directors, shall have the powers to:

(a) Assess owners of benefitted real property for maintenance and operation ( including but in no way limited to taxes, insurance, utilities, repairs, legal expenses and other expenses for corporate purposes pertaining to the community facilities ) in a sum not to exceed ~~one hundred dollars (\$100.00)~~ one hundred fifty dollars (\$150.00) per year per lot or its equivalent, except that said limit may be raised; upon an affirmative vote of not less than fifty-one percent (51%) of the voting power of the members.

(b) Use and expend the assessments collected to maintain, care for, improve, expand and preserve the facilities, grounds and improvements.

(c) Pay taxes and assessments levied and assessed against the real property owned by the corporation and such equipment and tools, supplies and other personal property as are owned by the corporation for the common benefit of all owners of the benefitted property.

(d) Pay for water, insurance, sewerage, and other utilities and expenses as shall be used by the corporation.

(e) Repair and replace facilities, machinery, and equipment as is necessary and convenient, in the discretion of the board of directors and set up a reserve for depreciation, if deemed necessary.

(f) Insure, and keep insured, all buildings and improvements owned or leased, against loss from fire or other casualty, and to purchase such other insurance as the board of directors may deem advisable. Such insurance may, at the discretion of the board of directors, be taken in the name of the non-profit corporation for the benefit of all owners, or in such other manner as the board of directors may deem advisable. In the event any of such insurance proceeds are insufficient to repair or replace loss or damage, to levy any additional assessments in proportionate amounts to cover such deficiency.

(g) Collect delinquent assessments by suit or otherwise.

(h) Protect and defend the property of the corporation from loss and damage by suit or otherwise.

(i) Employ personnel and purchase supplies and equipment, to enter into contracts and generally to have all powers of management in connection with the matters hereinbefore set forth.

(j) Make reasonable rules and amend the same from time to time, and such rules and amendments shall be binding upon the owners of the benefitted real property.

(k) Create an assessment fund into which all sums collected by assessments or otherwise shall be placed, the assessment fund to be used and expended for the purpose herein set forth.

(l) Appoint officers or agents to carry out the business of the non-profit corporation

C-3. Power of Enforcement. That for the purpose of enforcing these presents, the non-profit corporation and its successors are hereby granted a lien against the interest of any grantee, his heirs, executors, administrators or assigns, to secure the faithful performance of each and every term and condition set forth herein, and in the event of non-performance or default by any such grantee, the interest of such grantee may be foreclosed by the non-profit corporation in the same manner as a realty mortgage, and that any redemption thereafter shall, nevertheless, be subject to the lien herein created as to other or future events of non-performance or default, and lien herein create shall likewise apply to the grantee of any Sheriff's, Commissioner's or Trustee's deed after foreclosure as to other or future events of non-performance or default; provided, however, it is specifically understood and agreed that the lien herein created shall at all time be subordinate and inferior to the lien of any deed of trust or mortgage in favor of any bonafide lending institution which now exists, or is hereafter recorded against the said properties, or any of them.

C-4. Assessments. All assessments shall be prorated equally among each of the lots benefitted from time to time.

C-5. Benefitted Property. The property herein included and to be benefitted and to have the use of the facilities of the non-profit corporation shall be the real property included in Tract No. 4078 as hereinabove described and Tract No 3840 which Map was filed for record in the office of the Recorder of the County of Santa Clara, State of California, on November 4, 1964 in Book 187 of Maps, at page 31; and Parcels A and B as shown upon that certain Record of Survey entitled, "A Portion of Lot 104, Tract No. 3840", which Record of Survey was filed for record in the office of the Recorder of the County of Santa Clara, State of California, on April 23, 1965 in Book 193 of Maps, at page 45, and so much of the parcel of property adjoining said tract (which adjoining parcel contains 9.161 acres more or less and is specifically described in Exhibit A attached hereto and incorporated as a part hereof) as may be from time to time subsequently subdivided into lots for use as single family residential lots. Said adjoining real property is not subject to this Declaration of Restrictions and reference is made herein to said adjoining real property solely to establish that the owners of lots therein shall be members of the non-profit corporation and shall benefit from the community facilities and be subject to the rules, regulations and assessments of the non-profit corporation.

C-6. Membership. The owners of each of the lots in Tract No 4078 shall be entitled to one membership in the non-profit corporation. Each member shall be entitled to one vote for each such lot owned on all matters requiring the vote or consent of the members. To the extent that the Exhibit A real property is subdivided into lots for use as single family residential lots, the owners of each of the lots created by such subdivision shall likewise be entitled to one membership in the non-profit corporation. Each member shall be entitled to one vote for each such lot owned on all matters requiring the vote or consent of the members.

#### PART D. GENERAL PROVISIONS

D-1. Terms. All of the Restrictions, Conditions, Covenants and Agreements shall affect all of the lots in Tract 4078 as hereinabove set forth and are made for the direct and reciprocal benefit thereof, and in furtherance of a general plan for the improvement of said Tract, and the

covenants shall attach to and run with the land. Said restrictions, conditions and covenants shall be binding on all parties and all persons claiming under then until October 26, 2001, at which time they shall be automatically extended for successive periods of five years, provided, however, that such restrictions, conditions, covenants and agreements, or any of them, may be supplemented, changed, amended or recinded in any or all particulars at any time after the above expiration date by the owners of 51% of the properties comprising the area incorporated in this declaration, exclusive of streets, evidenced by an instrument in writing executed by said owners in the manner provided by law for the conveyance of real property, and duly recorded in the office of the Recorder aforesaid, and upon such recordation shall be valid and binding upon the Sellers and Owners of the said properties, and upon all other persons.

D-2. Enforcement. If the parties hereto, or their successors shall violate or attempt to violate any of the covenants herein before October 26, 2001, or during any of the extended periods for which they are in force, it shall be lawful for any person owning any real property subject thereto, to prosecute any proceedings at law or in equity against the person or persons violating or attempting to violate any such covenants, or either to prevent him or them from so doing or to recover damages or other dues for such violation.

D-3. Subordination. It is further provided that a breach of any of the conditions contained herein or of any re-entry by reason of such breach, shall not defeat or render invalid the lien of any Mortgage or Deed of Trust made in good faith and for value as to said premises or any part thereof; but said conditions shall be binding upon and effective against any owner of said premises whose title thereto is acquired by foreclosure, Trustee's sale or otherwise.

D-4. Severability. Invalidation of any one or more of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned hereunto set its hand and seal the day and year hereinabove written.

TRANSAMERICA TITLE INSURANCE COMPANY

a corporation

by Earl R. Phillips, Assistant

Secretary  
Orlean Carlin  
Notary Public  
Santa Clara County, Calif.  
October 27, 1965  
whose commission expires 1-11-69

The undersigned, as Trustee, hereby consents to the foregoing Declaration of Restrictions.

THE ANGLO SAFE DEPOSIT COMPANY

a California corporation

By: Frank A. Casarella, Vice President

By: Charles D. Monroe, Secretary

Orlean Carlin

Notary Public  
Santa Clara County, Calif.  
October 27, 1965  
whose commission expires 1-11-69

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Modification of CC&R  
29 March, 1989

At a Special Meeting of the Cabana Club membership held at the clubhouse at 2239 Vista Verde Drive, San Jose, CA. on March 29, 1989, the limit on dues was raised from the original \$100.00 level to \$150.00. All 248 homeowners were sent notices of the meeting and absentee ballots.

The vote count was 134 for and 38 against the change in dues limit. An affirmative vote of 127 homeowners is required for passage. Therefore the new dues limit is one hundred fifty dollars (\$150.00) per house/lot per year.

Modification of CC&R  
17 March, 1998

At the Annual Meeting of the Cabana Club membership held at the clubhouse at 2239 Vista Verde Drive, San Jose, CA on March 17, 1998, the dues limit was raised from the modified \$150.00 to \$175.00. All 248 homeowners were sent notices of the meeting and absentee/proxy ballots.

The vote count was 142 for and 41 against the change in dues limit. An affirmative vote of 127 homeowners is required for passage. Therefore, the new dues limit is one hundred seventy five dollars (\$175.00) per house/lot per year.

Modification of CC&R  
29 March, 2006

At the Annual Meeting of the Cabana Club membership held at the clubhouse at 2239 Vista Verde Drive, San Jose, CA on March 22, 2006 (suspended) and resumed on March 29, 2006, the dues limit was raised from the modified \$175.00 to \$225.00. All 248 homeowners were sent notices of the meeting and absentee/proxy ballots.

The vote count was 129 yes on \$225., 41 yes on \$175. and 5 votes not valid. An affirmative vote of 127 homeowners is required for passage. Therefore, the new dues limit is two hundred twenty five dollars (\$225.00) per house/lot per year.

Exhibit A

That certain real property situate in the City of San Jose, County of Santa Clara, State of California, described as follows:

Commencing at the most Southerly corner of Tract No. 4078 (Book 201 of Maps, page 28 of Santa Clara County Records) which point is also at the Southerly terminus of Vista Verde Drive as shown on said map, then leaving said point and continuing along the Southerly boundary of said tract the following courses and distances; North 54° 06' 10" East, 50.00 feet; North 55° 13' 10" East, 126.61 feet; North 60° 09' 55" East, 113.73 feet; thense North 65° 36' 20" East 238.90 feet; North 71° 23' 25" East, 57.30 feet; North 75° 21' 00" East, 378.83 feet to the Westerly line of Flint Road (40 feet wide); thense along said Westerly line South 14° 39' 00" East, 483.42 feet; thense leaving said Westerly line South 76° 18' 10" West, 816.96 feet to a point lying on the Southwesterly prolongation of aforementioned Vista Verde Drive; thense from said point North 35° 53' 50" West, 358.31 feet to the point of beginning

Containing 9.1603 acres, more or less.

Portion of lands of Forrest Homes adjacent to Tract No. 4078.



#### Addendum to the by-laws

At the annual meeting of the Cabana Club membership held at the clubhouse at 2239 Vista Verde Drive, San Jose, CA on March 16, 2016, the dues limit was raised from the modified \$225.00 to \$300.00. In addition, to keep up with inflation, beginning in fiscal year 2020 dues will be annually assessed and adjusted based upon U.S. Government's Cost of Living Standard. All 248 homeowners were sent notices of the meeting and absentee/proxy ballots.

The vote count was 140 yes on the \$300.00 increase and the annual assessment based upon the U.S. Government's Cost of Living Standard beginning in 2020. There were 7 votes against the increase and annual assessment. There were 22 votes to maintain the current dues of \$225.00 but allow for the annual assessment. An affirmative vote of 127 homeowners is required for passage. Therefore, the new dues limit is three hundred dollars (\$300.00) per house/lot per year and beginning in fiscal year 2020 dues will be annually assessed and adjusted based upon U.S. Government's Cost of Living Standard.