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6

**FILED**  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF ORANGE  
CENTRAL JUSTICE CENTER

JUN 10 2010

ALAN CARLSON, Clerk of the Court

*Brittney Lee*  
BY B. LEA, DEPUTY

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 FOR THE COUNTY OF ORANGE - CENTRAL JUSTICE CENTER

30-2010

11 THIRD LAGUNA HILLS MUTUAL, a)  
California non profit corporation, )  
12 Plaintiff, )

13 vs. )

14 PROFESSIONAL COMMUNITY )  
15 MANAGEMENT, INC., a California )  
Corporation, also known as PCM; MILT )  
16 JOHNS, an individual; JANET PRICE, an )  
individual; and DOES 1 to 20, inclusive, )  
17 Defendants. )

CASE NO. 00380231

Assigned to the Honorable

COMPLAINT FOR: *BIFAX*

1. BREACH OF CONTRACT
2. BREACH OF FIDUCIARY DUTY
3. INTENTIONAL CONCEALMENT
4. VIOLATION OF BUSINESS & PROFESSIONS CODE §17200
5. ELDER ABUSE
6. NEGLIGENCE

REQUEST FOR JURY TRIAL

JUDGE KIRK H. NAKAMURA

*CB*

22 COMES NOW, Plaintiff THIRD LAGUNA HILLS MUTUAL and complains and alleges:

23 GENERAL ALLEGATIONS

24 1. Plaintiff THIRD LAGUNA HILLS MUTUAL is and at all relevant times was a  
25 California non-profit corporation subject to the Davis Stirling Act, with its principal place of business  
26 in Laguna Woods, California.

27 2. Plaintiff is informed and believes and thereupon alleges that Defendant  
28 PROFESSIONAL COMMUNITY MANAGEMENT, INC., also known as PCM, is, and at all relevant

1 times was, a California corporation duly organized under the laws of the State of California, with its  
2 principal place of business in Lake Forest, County of Orange, State of California.

3 3. Plaintiff is informed and believes and thereupon alleges that Defendant MILT JOHNS  
4 is an individual whose residence is in Orange County, California.

5 4. Plaintiff is informed and believes and thereupon alleges that Defendant JANET PRICE  
6 is an individual whose residence is in Orange County, California.

7 5. Plaintiff is ignorant of the true names and capacities of the parties herein sued as DOES  
8 1 through 50 inclusive, whether individual, corporate or otherwise, and as such sues said fictitiously  
9 named defendants as DOES. Plaintiff will timely amend its Complaint to reflect the true names and  
10 capacities of said fictitiously named Defendants when such names and capacities are ascertained.

11 6. Plaintiff is further informed and believes and thereupon alleges that Defendants, and each  
12 of them, were at all times relevant herein, the agents, employees, partners, servants, representatives,  
13 successors in interest, alter egos, of each and all of the remaining Defendants and in doing the things  
14 herein alleged, were acting within the course and scope of such relationship, agency, servitude,  
15 employment, representation or affiliation. Specifically, when Plaintiff alleges that any acts were  
16 performed by an agent of PCM, it is specifically intended to include any employee, manager, officer,  
17 director, shareholder, contractor, or any person acting on behalf of, or in concert with, Defendant PCM

18 **THE FACTS**

19 7. This is a dispute between plaintiff Third Laguna Hills Mutual ("Third Mutual") one of  
20 the corporate homeowners associations at Laguna Woods Village, and the defendants, PCM, Inc. (its  
21 on-site management company) and two of PCM'S agents, Milt Johns and Janet Price.

22 8. This is a case of serious and profound fraud and abuse by defendants PCM and its agents,  
23 Milt Johns and Janet Price. For the better part of four decades, PCM has managed the four non-profit  
24 corporations which make up Laguna Woods Village. PCM has dominated each board, its constituent  
25 members and the members of each association. In particular, PCM's former general manager, Milt  
26 Johns has proven to be a bully and has successfully exercised extraordinary control over the Third  
27 Mutual Board and its residents.

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1           9.     The corporate board members are typically made up of persons who are in their 70s, 80s  
2 and 90s. Some of the board members who might serve as witnesses in this case are actively associated  
3 with the current board, but many are retired, deceased or suffer from fading memories, a fact well  
4 known to the Defendants.

5           10.    Keenly aware of the future "unavailability" of witnesses to testify against them, PCM  
6 devised a scheme in the mid 1990s whereby PCM paid itself an incentive bonus of 30% of the "hard  
7 dollar savings" which allegedly PCM achieved for each of the corporations through its own agents'  
8 "ingenuity" and "extraordinary efforts."

9           11.    However, the existence of PCM's incentive plan was not disclosed to the various  
10 corporate community associations, much less the terms of the so-called incentive plan, the criteria used  
11 by PCM to determine what "savings" measures qualified for payment under the plan, and how much  
12 PCM ultimately paid itself on an annual basis. PCM, Milt Johns and Janet Price actively concealed this  
13 information from Third Mutual.

14           12.    Recently, Third Mutual began to uncover the mere existence of the incentive plan.  
15 Indeed, during a meeting at which selected Third Mutual board members were reviewing the following  
16 year's budget and analyzing the renewal of PCM's five year agreement, they discovered for the first  
17 time that PCM had some type of undefined incentive plan. When Third Mutual pressed PCM for more  
18 details about the existence of the plan and its details, PCM stunningly refused to answer the board's  
19 questions, claiming that it was intruding upon PCM's internal affairs and, in particular, invading the  
20 confidential domain of the employer-employee relationship.

21           13.    Despite the fact that PCM was transferring money to itself from Third Mutual's account  
22 (as PCM was a signatory on Third Mutual's bank accounts and therefore a fiduciary of Third Mutual),  
23 and despite the fact that the money belonged to Third Mutual, PCM claimed that the questions about  
24 the incentive plan were of no concern to Third Mutual.

25           14.    Third Mutual repeatedly demanded disclosure from PCM and, in response, PCM  
26 repeatedly denied and rejected Third Mutual's demands.

27           15.    Still, PCM would not disclose the details of its employee incentive plan, but would only  
28 reveal that one had existed since the mid-1990s.

1           16. Finally, and only in response to a rising tide of questions and criticism, Milt Johns on  
2 behalf of PCM circulated a short memorandum together with a series of highlighted board meeting  
3 minutes. However, instead of supporting PCM's claim that it had disclosed the existence of the  
4 incentive plan, the minutes only serve to confirm that no such disclosures were ever made to Third  
5 Mutual.

6           17. The members of Third Mutual continued to press Milt Johns, Janet Price and PCM for  
7 more information about the incentive plan. To that end, members of Third Mutual's board of directors  
8 individually and in combination with each other asked for more information about the alleged incentive  
9 plan.

10           18. On March 7, 2007, PCM finally relented and disclosed for the first time the amount of  
11 money that it purportedly "saved" Third Mutual over the preceding six years. Starting in 2000 and  
12 ending in 2006, PCM claims to have saved the various corporations at Laguna Woods Village a total  
13 of \$9,911,981. PCM then acknowledged that, of that sum, it had paid itself the sum of \$2,973,594.  
14 This discovery was shocking to Third Mutual's board of directors. Accordingly, Third Mutual's board  
15 of directors continued to demand that PCM make additional disclosures. Specifically, Third Mutual  
16 demanded to know how the sums were calculated, when the payments were made, the criteria used to  
17 determine whether or not a particular savings was eligible for the incentive program and how much  
18 money was paid to PCM on behalf of Third Mutual, and not just the other corporations.

19           19. Finally, on April 20, 2007, Janet Price informed Third Mutual board member John  
20 Paulus in writing that Third Mutual's share of the savings amounted to \$1,414,071 and that PCM paid  
21 itself \$424,233 for the period 2000 through 2006. It is this amount, at a minimum, that must be  
22 disgorged from PCM and returned to Third Mutual. But this disclosure still did not answer the  
23 remaining mystery: what were the criteria used to determine whether – in the minds of the decision  
24 makers at PCM – a savings was eligible for the incentive plan or whether it was simply part and parcel  
25 of the management company's contractual obligation to Third Mutual.

26           20. In or about June, 2007, PCM finally disclosed the "2006 Incentive Plan Results" for  
27 Third Mutual. The one-page Incentive Plan Results sheet identifies those areas where PCM believed  
28 it had used its ingenuity and extraordinary efforts to save money for Third Mutual. In 2006 alone, PCM

1 claims to have saved a total of \$397,793. According to the report, the eligible savings activities  
2 included "centralized irrigation system cost avoidances," "changes in systems and procedures resulting  
3 in labor savings in paint program, gutter cleaning and street sweeping," as well as "changes in the meter  
4 designations for laundry rooms." For these "efforts," and without informing Third Mutual, PCM  
5 secretly paid itself an extra \$119,338.

6 21. From Third Mutual's perspective, these activities were naturally part of PCM's  
7 management responsibility to supervise and manage the association in the most cost-efficient way  
8 possible. PCM, which had control over much of the finances, had a fiduciary obligation to avoid waste  
9 and to spend Third Mutual's money in a reasonable and cost effective manner. Granting to itself, in  
10 accordance with an unwritten and undisclosed incentive plan, monies over and above its fees for work  
11 which should have been embraced as part of its management responsibilities in the first place, is  
12 unconscionable.

13 22. PCM took advantage of Third Mutual's older board members by formulating an  
14 incentive plan to pay itself undisclosed sums pursuant to an undisclosed set of criteria in undisclosed  
15 amounts on an annual basis. PCM's incentive plan lived in darkness and could only survive in the  
16 darkest shadows, where no one would detect PCM's activities. By July, 2008, and within a few months  
17 of the foregoing revelations, on information and belief, no further incentive payments were made to  
18 PCM, which allegedly abandoned its so-called incentive plan altogether. When subject to scrutiny in  
19 the light of day, the incentive plan could not be defended and PCM's conduct of concealing the plan  
20 brought down any hope of working out some compromise arrangement even with those most  
21 sympathetic to PCM.

22 23. Through this lawsuit, Third Mutual seeks to recover *at least* the \$424,233 which PCM  
23 claims to have paid its employees from 2000 through 2006. PCM acknowledges that it received  
24 additional sums for the period 1996 through 2000, the amounts for which remain presently unknown.  
25 The total monetary claim, excluding interest and attorneys fees, is in excess of \$500,000.

26 24. Moreover, in an effort to reach a peaceful resolution to this dispute, PCM, Milt Johns  
27 and Janet Price executed a tolling agreement commencing on August 4, 2009. Therefore, the statute  
28 of limitations has been tolled since that time through the date of the filing of this Complaint.

1 FIRST CAUSE OF ACTION

2 BREACH OF CONTRACT

3 (Against Defendant PCM and Does 1 through 50)

4 25. Plaintiff incorporates by reference, each and every allegation set forth in paragraphs 1  
5 through 24 and realleges those paragraphs as though fully set forth herein.

6 26. Plaintiff entered into a series of written management contracts with PCM. Attached  
7 hereto as Exhibits "A" and "B" are copies of the Management Agreements in effect between 1997 and  
8 2006. Under these Agreements, Third Mutual and Defendants agreed that PCM would limit the  
9 payments to PCM and to its agents to amounts disclosed in the operating budgets and the Management  
10 Agreements. PCM did not disclose in any of these Agreements that it would pay itself or its agents any  
11 incentive payments. Notably, in the 2008 Management Agreement, PCM specifically disclosed the  
12 existence of an incentive plan, but only after PCM had just been caught making such unauthorized  
13 payments to itself. The incentive plan, identified in the 2008 Management Agreement with Third  
14 Mutual, was cancelled in or about July, 2008.

15 27. Plaintiff performed all conditions, covenants, promises and obligations required to be  
16 performed on their part in accordance with the terms and conditions of the Management Agreement  
17 except those conditions, covenants, promises and obligations which Plaintiff was prevented or excused  
18 from performing.

19 28. From approximately 1996 through 2007, Defendants continuously breached the  
20 Management Agreement by granting to itself, in accordance with an unwritten and undisclosed  
21 incentive plan, for work which should have been embraced as part of its management responsibilities.

22 29. As a legal and proximate cause of Defendant's breach of the Management Agreements,  
23 Third Mutual lost at least \$424,233 which PCM claims to have paid itself from 2000 through 2006.  
24 PCM acknowledges that it received additional sums for the period 1996 through 2000, the amounts for  
25 which remain presently unknown. Plaintiff Third Mutual is entitled to an award of prejudgment interest  
26 in all sums due and owing to Plaintiff. The total monetary claim, excluding interest and attorneys fees,  
27 is in excess of \$500,000.

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1 Defendants, while Defendants siphoned money from Plaintiff's accounts.

2 43. Until Plaintiff became aware of the incentive plan as explained in this Complaint,  
3 Plaintiff was unaware of the concealed true facts, including the existence of the incentive plan, the  
4 criteria used by Defendants to determine whether they should be paid under the incentive plan, and the  
5 amount of money Defendants paid themselves under the incentive plan.

6 44. As a legal and proximate cause of Defendants' intentional and fraudulent misconduct,  
7 Plaintiff suffered damages in excess of \$500,000.00.

8 45. In doing the things herein alleged, said Defendants PCM, Milt Johns and Janet Price  
9 acted willfully and with the intent to cause injury to Plaintiff. Defendants PCM, Milt Johns and Janet  
10 Price were therefore guilty of malice, oppression and fraud in conscious disregard of Plaintiff's rights,  
11 thereby warranting an assessment of punitive damages in an amount appropriate to punish said  
12 Defendants and deter others from engaging in similar misconduct..

13 **FOURTH CAUSE OF ACTION**

14 **VIOLATION OF BUSINESS & PROFESSIONS CODE § 17200**

15 (Against Defendants PCM, Milt Johns, Janet Price and Does 1 through 50)

16 46. Plaintiff incorporates by reference, each and every allegation set forth in paragraphs 1  
17 through 45 and realleges those paragraphs as though fully set forth herein.

18 47. Starting in or about 1996, Defendants have committed and continue to engage in acts  
19 of fraudulent, unlawful and unfair competition in violation of California Business and Professions Code  
20 §17200, by engaging in the following practices, among others:

21 A. Defendants have led Plaintiff to believe that they were managing Plaintiff's  
22 financial affairs in Plaintiff's best interest when, in fact, Defendants were misappropriating funds to  
23 themselves through a fraudulently concealed incentive program.

24 B. Defendants conspired to exploit Plaintiff through the aforementioned incentive  
25 program.

26 48. The acts and practices set forth above and those acts and practices described in more  
27 detail throughout this Complaint, violate Business and Professions Code §17200 in the following  
28 respects, among others:



1 53. Defendants, and each of them, have taken, misappropriated, obtained and retained  
2 Plaintiff's money for a wrongful use and with the intent to defraud in violation of *California Welfare*  
3 *& Institutions Code* § 15610.30(a).

4 54. The residents of Third Mutual, who were over the age of 65 at the time of the  
5 misconduct, were the ultimate victims of Defendants' malfeasance. Third Mutual is an interested  
6 person and by this action protects the victims of Defendants' abuse.

7 55. Defendants PCM, Milt Johns and Janet Price knew or should have known that their  
8 conduct would be or was likely to be harmful to the protected population of Third Mutual.

9 56. Defendants' financial abuse and misconduct was a substantial factor in causing Plaintiff  
10 to suffer damages in excess of \$500,000.00.

11 57. In doing the things herein alleged, Defendants acted willfully and with the intent to cause  
12 injury to Plaintiff. Defendants are therefore guilty of malice, oppression and fraud in conscious  
13 disregard of Plaintiff's rights, thereby warranting an assessment of punitive damages in an amount  
14 appropriate to punish Defendants and deter others from engaging in similar misconduct. PCM, Milt  
15 Johns and Janet Price's extraordinary and willful failure to provide information to Third Mutual in the  
16 face of a rising tide of pressure to disclose the incentive plan and its terms is the kind of information  
17 on which punitive damages are awarded.

18 **SIXTH CAUSE OF ACTION**

19 **NEGLIGENCE**

20 (Against Defendants PCM, Milt Johns, Janet Price and Does 1 through 50)

21 58. Plaintiff incorporates by reference, each and every allegation set forth in paragraphs 1  
22 through 57 and realleges those paragraphs as though fully set forth herein.

23 59. Defendants owed a duty to Plaintiff to exercise reasonable care in the management of  
24 Plaintiff's financial affairs.

25 60. Defendants breached their duty of care owed to Plaintiff by implementing an incentive  
26 program that was detrimental to Plaintiff's financial well-being. Defendants breached their duty by  
27 negligently transferring funds from Third Mutual to PCM and its agents for the payment of bonuses  
28 under an undisclosed incentive plan. Moreover, PCM was negligent in failing to supervise the persons

1 responsible for creating and implementing the incentive plan.

2 61. Defendants' negligence was a substantial factor in causing Plaintiff damages in excess  
3 of \$500,000.00.

4 WHEREFORE, Cross-Complainants prays judgment as follows:

5 On the First, Second, Third, Fourth, Fifth, and Sixth Causes of Action:

6 1. For damages in the sum of \$500,000.00

7 2. For prejudgment interest.

8 On the First and Fifth Cause of Action:

9 1. For an award of attorneys fees.

10 On the Second, Third and Fifth Causes of Action:

11 1. For exemplary damages.

12 On the Fourth Cause of Action:

13 1. For restitution in the sum of at least \$500,000.00.

14 2. For temporary, preliminary and permanent injunction prohibiting Defendants from  
15 misappropriating Plaintiff's funds.

16 On all Causes of Action:

17 1. For costs of suit herein incurred; and,

18 2. For such other and further relief as the court may deem proper.

19 Dated: June 10, 2010

COHON & POLLAK, LLP

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BY: 

JEFFREY M. COHON  
Attorneys for Plaintiff  
THIRD LAGUNA HILLS MUTUAL

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REQUEST FOR JURY TRIAL

Plaintiff THIRD MUTUAL hereby requests a jury trial on all issues triable by a jury.

Dated: June 10, 2010

COHON & POLLAK, LLP

BY:   
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JEFFREY M. COHON  
Attorneys for Plaintiff  
THIRD LAGUNA HILLS MUTUAL

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# EXHIBIT A

## MANAGEMENT AGREEMENT

### Parties

The parties to this Agreement are: THIRD LAGUNA HILLS MUTUAL, a California nonprofit mutual benefit corporation (hereinafter referred to as "Third"), and PROFESSIONAL COMMUNITY MANAGEMENT, Inc., a California corporation, (hereinafter referred to as "Agent").

### Recitals

A. This Agreement relates to a cooperative and condominium housing community known as Leisure World Laguna Hills (hereinafter referred to as "Leisure World") located in the County of Orange, California.

B. Third is the management body of certain condominium housing projects consisting of 6,102 condominiums and located in Leisure World (the "Property").

C. Third desires to contract with Agent for all services necessary in connection with the management, operation and maintenance on the Property for which it is responsible, as provided below, and agent agrees to provide such services,

D. As used in this Agreement:

(a) The term "monthly assessments" shall mean those monthly amounts which members are bound to pay to Third pursuant to the terms of the Declaration of Covenants, Conditions and Restrictions applicable to Third.

(b) The term "gross collections" shall mean all amounts actually collected by Agent, either as carrying charges or otherwise.

### Terms

In consideration of the terms, conditions, and covenants hereinafter set forth, the parties hereto mutually agree as follows:

ARTICLE 1. (a) Third hereby appoints Agent and Agent hereby accepts appointment on the terms and conditions hereinafter provided, as the exclusive manager and operator of the real Property of the Mutual located in the County of Orange, State of California, consisting of 6,102 condominiums. Third is one of several housing projects which comprise Leisure World.

(b) Agent, notwithstanding the authority given to Agent in this Agreement, shall confer fully and freely with Third in the performance of its duties as set forth herein. Agent shall encourage wherever possible the principles of cooperative effort among the members of Third consistent with such policy guidance as may be given by Third's board of Directors, and shall attend membership and directors' meetings of Third at any time or times requested by Third.

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(c) In order to facilitate efficient operation, Third shall inform Agent with regard to standards to be kept and furnish Agent a set of community rules and, to the extent available, a complete set of the plans and specifications of Third. With the aid of such documents and inspections by competent personnel, Agent shall inform itself with respect to the layout, construction, location, character, plan and operation of the lighting, heating, plumbing, and ventilation systems, elevators and other equipment in the project for which Third is responsible.

**ARTICLE 2.** (a) Agent shall employ in its own name and at its own expense: a General Manager whose appointment shall be subject to prior written approval by Third, who shall maintain his office at Leisure World, devote full time exclusively to performance of services hereunder and under management agreements executed by other corporations which now or hereafter own or manage real property in Leisure World, and not be a member of Third nor occupy a dwelling unit in Leisure World.

(b) Agent and those of its employees, including the General Manager, who handle or are responsible for handling Third's money or other personal property shall furnish a fidelity bond, at the expense of Third, in an amount and written by a company acceptable to Third.

**ARTICLE 3.** Under the personal and direct supervision of a General Manager, Agent shall render services and perform duties as follows:

(a) On the basis of an annual operating budget and plan of operation as hereinafter described, Agent shall hire or retain in its own name (except as Third and Agent otherwise may agree in writing from time to time) all employees and independent contractors necessary to render services and perform duties as set forth below. Salaries of said employees payable by Agent, and salary related expenses incurred by Agent in connection with employment of said employees, may be paid directly by Agent out of the bank accounts of Third as provided in (k) below. Nothing contained in this Agreement shall create any employer-employee relationship between Third and any employee of Agent. In addition to salary related expenses noted above and any other indemnification provisions herein, Third agrees to indemnify Agent for all costs and obligations Agent incurs on behalf of Agent's employees at the Property, including but not limited to, such benefits as health/life insurance, contributions to 401(k) and other retirement plans, benefits negotiated under collective bargaining agreements, pension plans, workers compensation insurance, etc.

(b) Cause Agent and all persons or firms hired or retained under this Article 3 who handle money or other personal property of Third to furnish a fidelity bond for the benefit of Third as provided in Article 2 above.

(c) Coordinate the plans of members for moving their personal effects into the Project or out of it with a view towards scheduling those movements so that there shall be a minimum of inconvenience to other members.

(d) Maintain a current list of members of Third and make such record changes as are appropriate in connection with all transfers of resident memberships. In cases where condominiums are being sold by a member and not by Third, Agent shall not be required to assist such member in connection with the sale unless Agent and said resident member separately so contract. Agent shall process rentals and leases of any part of the property so

as to assure that all requirements of Third are met and complied with, and Agent shall arrange for execution of any permits or leases as may be required to conduct business by Third.

(e) Maintain cordial and businesslike relations with the members of Third whose requests and complaints with regard to services provided by Agent hereunder shall be courteously received, recorded and acted upon in a timely manner and the member and Third notified as appropriate. Requests involving any material change in the nature and extent of services shall, after thorough investigation, be reported to Third with appropriate recommendations.

(f) Request and collect, (including the institution of such legal action as necessary with prior consent of Third), receive and receipt for any and all money which at any time may be or become due to Third. As a standard practice, Agent shall furnish Third with an itemized list of all delinquent accounts, together with information as to efforts to collect same, concurrently with monthly financial statements.

(g) Cause the Property to be maintained in a condition satisfactory to Third consistent with the provisions of the then current operating budget and operating plan contained therein as approved by Third. For any one item of repair or replacement, the expense incurred shall not exceed the sum of \$7,500, unless provision has been made for same in the then current budget, or unless specifically consented to by Third; however, emergency repairs, involving manifest danger to life or Property, or immediately necessary for the preservation and safety of the Property, or for the safety of the members, or required to avoid the suspension of any necessary services to Third, may be made irrespective of the cost limitation imposed by this paragraph. Notwithstanding the foregoing authority, if at all possible, Agent shall confer immediately with Third regarding every such expenditure and in any event file with Third a report regarding same. Unless included in the then current budget, Agent shall not incur liabilities (direct or contingent) which at any time shall exceed the aggregate of \$15,000, or which shall mature more than one year from the creation thereof, without first obtaining the consent of Third. Repair and replacement does not include additions to the physical property.

(h) Take such action as may be necessary to comply promptly with any and all orders or requirements affecting the Property issued or imposed by any federal, state, county, or municipal authority or other regulatory body having jurisdiction thereover, subject to the same limitation contained in Paragraph (g) of this Article in connection with repairs and replacements. Agent shall promptly notify Third in writing of all such orders and notices of requirements not later than the next Board meeting of Third from the time of their receipt. Agent, however, shall not take any action under this Paragraph so long as Third is contesting, or has affirmed its intention to contest any such order or requirement, except at the direction of Third.

(i) When the current operating plans or capital budget have been approved by Third, make contracts, place orders for and purchase water, electricity, gas, fuel, telephone, cable, and communications systems, and vermin extermination services, equipment, tools, appliances, materials and supplies and such other goods and services as may be necessary to operate, maintain and improve the Property properly and to provide all services appurtenant thereto. Agent also shall conduct negotiations on behalf of Third for acquisition or disposition of real property and make contracts for improvements of real property now or hereafter owned by Third, as required by Third. All property, real or personal, purchased at the expense of

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Third shall be the property of Third. All such contracts, orders and purchases shall be subject to the limitations set forth in Paragraph (g) of this Article. In exercising the authority set forth in this Paragraph (i), Agent shall secure for and credit to Third any discounts, commissions, or rebates obtainable. Any interest of Agent or of any of its officers, directors or employees in any contract, order or purchase proposed to be made on behalf of Third shall be disclosed to Third prior to obligating Third therefor.

(j) Obtain and keep in force all forms of insurance, as recommended by an established insurance broker and/or insurance analyst, required to protect Third adequately, including but not limited to worker's compensation insurance, insurance against liability arising out of death, personal injury, property damage, acts and omissions of officers and directors, operation of motor vehicles, boiler insurance, fire insurance with extended coverage, insurance against loss arising out of burglary and theft, and such other insurance as may be authorized by Third. All insurance obtained for the benefit of Third shall be placed with such companies, in such amounts, and with such beneficial interests appearing therein as shall be acceptable to Third. Agent shall investigate promptly and make full written reports to Third as to all accidents or claims for damage relating to the ownership, operation and maintenance of the Property, including any damage or destruction to the Property, and the estimated cost of repair, provided that no report shall be made if the estimated cost of repair is less than \$10,000, and shall cooperate and make any and all reports required by any insurance company in connection therewith.

(k) From the moneys collected and deposited in the separate bank accounts as provided in Article 5, cause to be disbursed regularly and punctually all sums due and payable by Third, including costs and expenses authorized to be incurred by Agent under the terms of this Agreement, amounts payable by Agent for salaries of Agent's employees and salary related expenses incurred by Agent in connection with employment of its employees pursuant to Paragraph (a) above, and Agent's fees. After such disbursement, any balance remaining in such accounts may be disbursed, transferred or invested from time to time in accordance with the operating budget or otherwise as directed by Third in writing.

(l) Prepare for execution and filing of all forms, reports, and returns required by law in connection with unemployment insurance, worker's compensation insurance, disability benefits, social security taxes and any other taxes now or hereafter in effect, and also comply with any requirements relating to the employment of personnel, all with respect to personnel of Agent employed pursuant to Paragraph (a) above.

(m) Maintain a comprehensive system of office records, books and accounts in a manner satisfactory to Third which shall be subject to examination at all reasonable hours by persons authorized by Third. As a standard practice, Agent shall submit to Third, not later than the twentieth day following the end of the accounting period, a balance sheet, operating statement, a monthly comparison of amounts of income and expenses to amounts of same projected in the budgets and such other information as may be requested by Third from time to time. Annual financial settlements shall be prepared by Agent and shall be examined and reported upon by a firm of certified public accountants approved by Third. Agent shall cause an annual financial report to be prepared and certified by a certified public accountant approved by Third, based upon examination of the books of account and records of Third, which report shall be submitted to Third together with such other reports and supplementary information as may be required by Third.

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11/21/96

(n) At least two and one-half months before the beginning of each fiscal year of Third, submit an operating budget setting forth an itemized statement of the anticipated receipts (including a schedule of monthly charges to be collected from members) and disbursements for said fiscal year and taking into account the condition of Third. Each budget, containing a plan of operation and justifying the estimates made in every important particular, shall be approved by Third. Unless approved by Third, the plan of operation as submitted by Agent shall not include any material change in the type or extent of services to be rendered. Following such approval, copies of the instrument of approval shall be furnished to Third. The operating budget shall serve as a supporting document for the schedule of monthly charges to be collected from Thirds for the applicable fiscal year, shall constitute a major control under which Agent shall operate, and there shall be no substantial variance therefrom, except such as may be consented to by Third. By this it is meant that no expenses may be incurred or commitments made by Agent in connection with the maintenance and operation of Third in excess of the amounts allocated to the various classifications of expense in the approved operation budget without the prior consent of Third, except that, if necessary because of an emergency or lack of sufficient time to obtain such prior consent, an overrun may be experienced, provided it is brought promptly to the attention of Third in writing. Notwithstanding any other provision of this paragraph, the budget insofar as it relates to facilities and services to be provided by Golden Rain Foundation of Laguna Hills shall be determined solely by, Golden Rain Foundation of Laguna Hills in accordance with that certain Trust Agreement entered into between Third and Golden Rain Foundation of Laguna Hills.

(o) At all times during the term of this Agreement, operate and maintain Third and provide the services appurtenant thereto according to the highest standards achievable consistent with the overall plan of Third.

(p) Secure full compliance with such rules and regulations as may be promulgated by Third from time to time with respect to the use of Third and the common area and the services provided in connection therewith and, to this end, see that all members and other affected persons are informed with respect thereto.

(q) Except as otherwise directed by Third, invest moneys of Third in securities which are a direct obligation of or are guaranteed by the United States of America.

(r) Carry out and perform all of the obligations as are reasonable, necessary and proper in the discharge of Agent's duties under this agreement.

**ARTICLE 4.** (a) The overhead expenses of Agent shall be paid by Agent without right of reimbursement. Said expenses shall include:

(i) Salary and salary related expenses of the General Manager.

(ii) Salaries, salary related expenses, office expenses and other expenses of officers and employees of Agent who are not employed exclusively in work at Leisure World.

(b) Everything done by Agent under the provisions of Article 3 shall be done at the expense of Third.

*Handwritten signatures and initials:*  
ABZ  
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P  
11/25/96

(c) Agent shall not be required to make any advance to or for the account of Third or to pay any sum, except out of moneys held or provided pursuant to this Agreement, nor shall Agent be obliged to incur any liability or obligation under this Agreement without assurance that the necessary moneys for the discharge thereof will be provided.

**ARTICLE 5.** Agent shall establish and maintain bank accounts for deposit of moneys of Third in a bank or banks whose deposits are insured by the Federal Deposit Insurance Corporation. All bank accounts shall be held by Agent as agent of Third and in a manner and form to indicate the custodial nature of said accounts satisfactory to Third. Moneys of Third shall not be commingled with moneys of Agent. Moneys of Third may be commingled with moneys of United Laguna Hills Mutual, Golden Rain Foundation of Laguna Hills, and Laguna Hills Mutual No. Fifty. Agent shall draw on said accounts for any payments required to be made by Agent to discharge any liabilities or obligations incurred pursuant to this Agreement, and for the payment of Agent's fees, all of which payments shall be subject to the limitations of this Agreement.

**ARTICLE 6.** (a) Agent shall be paid, as its sole compensation for all services performed hereunder, a fee payable in advance on the first day of each month in an amount, exclusive of all surcharges, determined on the basis of the total number of dwelling units in Third under management by Agent as of the last day of the preceding month as follows:

(b) Said fee shall consist of a monthly charge in the amount of \$0.953 per dwelling unit.

(c) Said fee shall be adjusted annually for each succeeding year beyond 1997 by the same percentage as the All Urban Consumer Price Index (CPI) of the United States Bureau of Labor Statistics for the Los Angeles-Long Beach-Anaheim Metropolitan Area. Such annual re-computation shall be based on the July to June CPI increase or decrease, but not to exceed eight percent (8%). Should the variation in the CPI exceed eight percent (8%), the fee set herein shall be reopened automatically and subject to re-negotiation, and in this event the fee shall be increased no less than eight percent (8%). Such fee adjustments shall be budgeted and become effective as of January 1 of the succeeding year.

**ARTICLE 7.** (a) The minimum term of this Agreement shall commence on January 1, 1997 and remain in effect until December 31, 1997, unless sooner terminated pursuant to paragraph (b) or (c) of this Article. That minimum term shall be automatically renewed upon the same terms and subject to the same conditions for additional and successive one-year terms unless either party elects not to renew by delivering written notice of such election to the other party at least ninety (90) days prior to the expiration of the then-current term. Notwithstanding this minimum term and minimum termination notice period, the parties agree that in the interest of efficient community management and the complexity of transition to any other managing agent they generally expect: (1) that the term of this agreement will last until December 31, 2001 and (2) that either party will provide to the other at least one hundred eighty (180) days notice before the effective date of any notice of termination of this agreement."

(b) Any party not in default under this Agreement may elect to terminate this Agreement, without cause, upon not less than ninety (90) days prior written notice to the other party with a copy of such notice to each of the consenting parties. Such termination shall become effective as of 11:59 p.m. on the date specified in the written notice or, if no such date is specified, on the last day of the month in which the expiration of the ninety (90) days occurs.



(c) Upon the occurrence of any of the following events, either party may elect to terminate this Agreement, upon written notice to the other party, effective as of the date on which such election is made.

(i) Either Third or Agent admits its inability to pay its debts as they mature, or makes an assignment for the benefit of its creditors, or applies for or consents to the appointment of any receiver, trustee or similar officer for itself or for all or a substantial part of its property.

(ii) Either Third or Agent files a petition in bankruptcy or for an arrangement or for reorganization pursuant to the Federal Bankruptcy Act or any similar law, federal or state, or the adjudication of Third or Agent as a bankrupt or insolvent by a decree of a court of competent jurisdiction.

(iii) The creditors of Third or Agent file a petition in bankruptcy against Third or Agent or for the reorganization of Third or Agent pursuant to the Federal Bankruptcy Act or any similar law and the same is not discharged within sixty (60) days after the date of filing.

(d) Upon any termination under this Article, Third and Agent shall account to each other with respect to all matters outstanding as of the date of termination, and an audit of the books of account and records of Third shall be conducted, at the expense of Third, by a certified public accountant who shall furnish a financial report to Third and such other reports and supplementary information as may be required by Third. On the effective date of any termination hereunder, or sooner if Third so directs, Agent shall deliver to Third all property (including, without limitation, automobiles and office furnishings and equipment and all property acquired as listed in Article 3(i)), books and records in Agent's possession or under its control relating to the management and operation of the property.

ARTICLE 8. (a) This Agreement shall inure to the benefit of and constitute a binding obligation upon the contracting parties, their respective successors and assigns, provided that Agent shall not assign this Agreement, or any interest therein, without prior written approval of Third.

(b) This Agreement shall constitute the entire Agreement between the contracting parties, and no variance or modification thereof shall be valid and enforceable, except by supplemental agreement in writing, executed and approved into the same manner as the Agreement.

(c) Third hereby agrees to defend, indemnify and hold harmless Agent and its employees, agents, officers and directors against any and all claims, suits, damages including attorneys' fees arising out of the performance of this Agreement ~~or with~~ respect to Agent's management of property for those acts performed within the scope of its authority. This indemnification shall survive expiration or termination of this Agreement. Agent shall not be liable for any errors of judgment or for any mistake of fact or law, or for anything which it may do or refrain from doing hereunder. Third shall not be liable to Agent for reimbursement for actions involving willful misconduct or gross negligence.

(d) Should legal action or arbitration be necessary to enforce or interpret any of the provisions of this Agreement, the prevailing party in such action or arbitration shall be entitled to all costs and reasonable attorneys' fees incurred therein.

(e) For the convenience of the parties, this Agreement has been executed in several counterparts, which are in all respects similar and each of which shall be deemed to be complete in itself so that any one may be introduced in evidence or used for any other purpose without the production of the other counterparts.

(f) Neither party shall be liable for any breach of this Agreement caused by fire, flood, war, riot, strike or other events or acts beyond the control of the party or parties affected thereby. Third and Agent agree to adopt and enforce reasonable rules to prevent members and Directors of Third from interfering with work of Agent. Third agrees to provide policy direction only to Agent.

(g) If any part, clause or phrase hereof is ruled invalid or unenforceable by any court having competent jurisdiction hereover, then the balance of this Agreement shall remain in full force and effect in all its remaining provisions without being impaired or invalidated in any way. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Dated: 27 SEP 1996

THIRD LAGUNA HILLS MUTUAL

By Robert B. King  
President

PROFESSIONAL COMMUNITY MANAGEMENT, INC.

By [Signature]  
President

Approved as to Form:

[Signature]  
Corporate Counsel

ATTEST

[Signature]  
Corporate Secretary

# EXHIBIT B

## MANAGEMENT AGREEMENT

### Parties

The parties to this Agreement are: THIRD LAGUNA HILLS MUTUAL, a California nonprofit mutual benefit corporation (hereinafter referred to as "Third"), and PROFESSIONAL COMMUNITY MANAGEMENT, Inc., a California corporation, (hereinafter referred to as "Agent").

### Recitals

A. This Agreement relates to a cooperative and condominium housing community known as Leisure World Laguna Woods (hereinafter referred to as "Leisure World") located in the County of Orange, California.

B. Third is the management body of certain condominium housing projects consisting of 6,102 condominiums and located in Leisure World (the "Property").

C. Third desires to contract with Agent for all services necessary in connection with the management, operation and maintenance on the Property for which it is responsible, as provided below, and agent agrees to provide such services.

D. As used in this Agreement:

(a) The term "monthly assessments" shall mean those monthly amounts which members are bound to pay to Third pursuant to the terms of the Declaration of Covenants, Conditions and Restrictions applicable to Third.

(b) The term "gross collections" shall mean all amounts actually collected by Agent, either as carrying charges or otherwise.

### Terms

In consideration of the terms, conditions, and covenants hereinafter set forth, the parties hereto mutually agree as follows:

**ARTICLE 1.** (a) Third hereby appoints Agent and Agent hereby accepts appointment on the terms and conditions hereinafter provided, as the exclusive manager and operator of the real Property of the Mutual located in the County of Orange, State of California, consisting of 6,102 condominiums. Third is one of several housing projects which comprise Leisure World.

(b) Agent, notwithstanding the authority given to Agent in this Agreement, shall confer fully and freely with Third in the performance of its duties as set forth herein. Agent shall encourage wherever possible the principles of cooperative effort among the members of Third consistent with such policy guidance as may be given by Third's board of Directors, and shall attend membership and directors' meetings of Third at any time or times requested by Third.

(c) In order to facilitate efficient operation, Third has fully informed Agent with regard to standards to be kept and furnish Agent a set of community rules and, to the extent

available, a complete set of the plans and specifications of Third. With the aid of such documents and inspections by competent personnel, Agent shall inform itself with respect to the layout, construction, location, character, plan and operation of the lighting, heating, plumbing, and ventilation systems, elevators and other equipment in the project for which Third is responsible.

**ARTICLE 2.** (a) Agent shall employ in its own name and at its own expense: a General Manager whose appointment shall be subject to prior written approval by Third, who shall maintain an office at Leisure World, devote full time exclusively to performance of services hereunder and under management agreements executed by other corporations which now or hereafter own or manage real property in Leisure World, and not be a member of Third nor occupy a dwelling unit in Leisure World.

(b) Agent and those of its employees, including the General Manager, who handle or are responsible for handling Third's money or other personal property shall furnish a fidelity bond, at the expense of Third, in an amount and written by a company acceptable to Third.

**ARTICLE 3.** Under the personal and direct supervision of a General Manager, Agent shall render services and perform duties as follows:

(a) On the basis of an annual operating budget and plan of operation as hereinafter described, Agent shall hire or retain in its own name (except as Third and Agent otherwise may agree in writing from time to time) all employees and independent contractors necessary to render services and perform duties as set forth below. Salaries of said employees payable by Agent, and salary related expenses incurred by Agent in connection with employment of said employees, may be paid directly by Agent out of the bank accounts of Third as provided in (k) below. Nothing contained in this Agreement shall create any employer-employee relationship between Third and any employee of Agent. In addition to salary related expenses noted above and any other indemnification provisions herein, Third agrees to indemnify Agent for all costs and obligations Agent incurs on behalf of Agent's employees at the Property, including but not limited to, such benefits as health/life insurance, contributions to 401(k) and other retirement plans, benefits negotiated under collective bargaining agreements, pension plans, workers compensation insurance, etc.

(b) Cause Agent and all persons or firms hired or retained under this Article 3 who handle money or other personal property of Third to furnish a fidelity bond for the benefit of Third as provided in Article 2 above.

(c) Coordinate the plans of members for moving their personal effects into the Project or out of it with a view towards scheduling those movements so that there shall be a minimum of inconvenience to other members.

(e) Maintain cordial and businesslike relations with the members of Third whose requests and complaints with regard to services provided by Agent hereunder shall be courteously received, recorded and acted upon in a timely manner and the member and Third notified as appropriate. Requests involving any material change in the nature and extent of services shall, after thorough investigation, be reported to Third with appropriate recommendations.

(f) Request and collect, (including the institution of such legal action as necessary with prior consent of Third), receive and receipt for any and all money which at any time may be or become due to Third. As a standard practice, Agent shall furnish Third with an itemized list of all delinquent accounts, together with information as to efforts to collect same, concurrently with monthly financial statements.

(g) Cause the Property to be maintained in a condition satisfactory to Third consistent with the provisions of the then current operating budget and operating plan contained therein as approved by Third. For any one item of repair or replacement, the expense incurred shall not exceed the sum of \$7,500, unless provision has been made for same in the then current budget, or unless specifically consented to by Third; however, emergency repairs, involving manifest danger to life or Property, or immediately necessary for the preservation and safety of the Property, or for the safety of the members, or required to avoid the suspension of any necessary services to Third, may be made irrespective of the cost limitation imposed by this paragraph. Notwithstanding the foregoing authority, if at all possible, Agent, immediately upon learning of the need for any emergency repairs, shall confer with Third regarding every such expenditure and in any event file with Third a report regarding same at the earliest moment. Unless included in the then current budget, Agent shall not incur liabilities (direct or contingent) which at any time shall exceed the aggregate of \$15,000, or which shall mature more than one year from the creation thereof, without first obtaining the consent of Third. Repair and replacement does not include additions to the physical property.

(h) Take such action as may be necessary to comply promptly with any and all orders or requirements affecting the Property issued or imposed by any federal, state, county, or municipal authority or other regulatory body having jurisdiction thereover, subject to the same limitation contained in Paragraph (g) of this Article in connection with repairs and replacements. Agent shall promptly notify Third in writing of all such orders and notices of requirements not later than the next Board meeting of Third from the time of their receipt. Agent, however, shall not take any action under this Paragraph so long as Third is contesting, or has affirmed its intention to contest any such order or requirement, except at the direction of Third.

(i) When the current operating plans or capital budget have been approved by Third, and in furtherance of and accordance with said plans and budget make contracts, place orders for and purchase water, electricity, gas, fuel, telephone, cable, and communications systems, and vermin extermination services, equipment, tools, appliances, materials and supplies and such other goods and services as may be necessary to operate, maintain and improve the Property properly and to provide all services appurtenant thereto. When and as directed by Third, Agent shall conduct negotiations on behalf of Third for acquisition or disposition of real property and make contracts for improvements of real property now or hereafter owned by Third. All property, real or personal, purchased at the expense of Third shall be the property of Third. All such contracts, orders and purchases shall be subject to the limitations set forth in Paragraph (g) of this Article. In exercising the authority set forth in this Paragraph (i), Agent shall secure for and credit to Third any discounts, commissions, or rebates obtainable. Any interest of Agent or of any of its officers, directors or employees in any contract, order or purchase proposed to be made on behalf of Third shall be disclosed to Third prior to obligating Third therefor. When and as directed by Third, Agent shall provide construction management or supervision on behalf of Third.

(j) Obtain and keep in force all forms of insurance, as recommended by an established insurance broker and/or insurance analyst, required to protect Third adequately, including but not limited to worker's compensation insurance, insurance against liability arising out of death, personal injury, property damage, acts and omissions of officers and directors, operation of motor vehicles, boiler insurance, fire insurance with extended coverage, insurance against loss arising out of burglary and theft, and such other insurance as may be authorized by Third. All insurance obtained for the benefit of Third shall be placed with such companies, in such amounts, and with such beneficial interests appearing therein as shall be acceptable to Third. Agent shall investigate promptly and make full written reports to Third as to all accidents or claims for damage relating to the ownership, operation and maintenance of the Property, including any damage or destruction to the Property, and the estimated cost of repair, provided that no report shall be made if the estimated cost of repair is less than \$10,000, and shall cooperate and make any and all written reports required by any insurance company in connection therewith.

(k) From the moneys collected and deposited in the separate bank accounts as provided in Article 5, cause to be disbursed regularly and punctually all sums due and payable by Third, including costs and expenses authorized to be incurred by Agent under the terms of this Agreement, amounts payable by Agent for salaries of Agent's employees and salary related expenses incurred by Agent in connection with employment of its employees pursuant to Paragraph (a) above, and Agent's fees. After such disbursement, any balance remaining in such accounts may be disbursed, transferred or invested from time to time in accordance with the operating budget or otherwise as directed by Third in writing.

(l) Prepare for execution and filing of all forms, reports, and returns required by law in connection with unemployment insurance, worker's compensation insurance, disability benefits, social security taxes and any other taxes now or hereafter in effect, and also comply with any requirements relating to the employment of personnel, all with respect to personnel of Agent employed pursuant to Paragraph (a) above.

(m) Maintain a comprehensive system of office records, books and accounts in a manner satisfactory to Third which shall be subject to examination at all reasonable hours by persons authorized by Third. As a standard practice, Agent shall submit to Third, not later than the twentieth day following the end of the accounting period, a balance sheet, operating statement, a monthly comparison of amounts of income and expenses to amounts of same projected in the budgets and such other information as may be requested by Third from time to time. Annual financial statements shall be prepared by Agent and shall be examined and reported upon by a firm of certified public accountants approved by Third. Agent shall cause an annual financial report to be prepared and certified by a certified public accountant approved by Third, based upon examination of the books of account and records of Third, which report shall be submitted to Third together with such other reports and supplementary information as may be required by Third.

(n) At least two and one-half months before the beginning of each fiscal year of Third, submit an operating budget setting forth an itemized statement of the anticipated receipts (including a schedule of monthly charges to be collected from members) and disbursements for said fiscal year and taking into account the condition of Third. Each budget, containing a plan of operation and justifying the estimates made in every important particular, shall be approved by Third. Unless approved by Third, the plan of operation as submitted by Agent shall not include any material change in the type or extent of services to be rendered. Following such

approval, copies of the instrument of approval shall be furnished to Third. The operating budget shall serve as a supporting document for the schedule of monthly charges to be collected from Third's Members for the applicable fiscal year, shall constitute a major control under which Agent shall operate, and there shall be no substantial variance therefrom, except such as may be consented to by Third. By this it is meant that no expenses may be incurred or commitments made by Agent in connection with the maintenance and operation of Third in excess of the amounts allocated to the various classifications of expense in the approved operation budget without the prior consent of Third, except that, if necessary because of an emergency or lack of sufficient time to obtain such prior consent, an overrun may be experienced, provided it is brought promptly to the attention of Third in writing.

(o) At all times during the term of this Agreement, operate and maintain Third and provide the services appurtenant thereto according to the highest standards achievable consistent with the overall plan of Third.

(p) Secure full compliance with such rules and regulations as may be promulgated by Third from time to time with respect to the use of Third and the common area and the services provided in connection therewith and, to this end, see that all members and other affected persons are informed with respect thereto.

(q) Except as otherwise directed by Third, invest moneys of Third in securities which are a direct obligation of or are guaranteed by the United States of America.

(r) Carry out and perform all of the obligations as are reasonable, necessary and proper in the discharge of Agent's duties under this agreement.

ARTICLE 4. (a) The overhead expenses of Agent shall be paid by Agent without right of reimbursement. Said expenses shall include:

(i) Salary and salary related expenses of the General Manager.

(ii) Salaries, salary related expenses, office expenses and other expenses of officers and employees of Agent who are not employed exclusively in work for Leisure World.

(b) Everything done by Agent under the provisions of Article 3 shall be done at the expense of Third.

(c) Agent shall not be required to make any advance to or for the account of Third or to pay any sum, except out of moneys held or provided pursuant to this Agreement, nor shall Agent be obliged to incur any liability or obligation under this Agreement without assurance that the necessary moneys for the discharge thereof will be provided.

ARTICLE 5. Agent shall establish and maintain bank accounts for deposit of moneys of Third for deposit of moneys of Third in a bank or banks whose deposits are insured by the Federal Deposit Insurance Corporation. All bank accounts shall be held by Agent as agent of Third and in a manner and form to indicate the custodial nature of said accounts satisfactory to Third. Moneys of Third shall not be commingled with moneys of Agent. Moneys of Third may be commingled with moneys of United Laguna Hills Mutual, Golden Rain Foundation of Laguna Woods, and Laguna Hills Mutual No. Fifty. Agent shall draw on said accounts for any payments required to be made by Agent to discharge any liabilities or obligations incurred pursuant to this

Agreement, and for the payment of Agent's fees, all of which payments shall be subject to the limitations of this Agreement.

**ARTICLE 6.** (a) Agent shall be paid, as its sole compensation for all services performed hereunder, a fee payable in advance on the first day of each month in an amount, exclusive of all surcharges, determined on the basis of the total number of dwelling units in Third under management by Agent as of the last day of the preceding month as follows:

(b) Said fee shall consist of a monthly charge in the amount of \$1.06 per dwelling unit.

(c) Said fee shall be adjusted annually for each succeeding year beyond 2002 by the same percentage as the All Urban Consumer Price Index (CPI) of the United States Bureau of Labor Statistics for the Los Angeles-Long Beach-Anaheim Metropolitan Area. Such annual re-computation shall be based on the July to June CPI increase or decrease, but not to exceed eight percent (8%). Should the variation in the CPI exceed eight percent (8%), the fee set herein shall be reopened automatically and subject to re-negotiation, and in this event the fee shall be increased no less than eight percent (8%). Such fee adjustments shall be budgeted and become effective as of January 1 of the succeeding year.

**ARTICLE 7.** (a) The minimum term of this Agreement shall commence on January 1, 2002 and remain in effect until December 31, 2006, unless sooner terminated pursuant to paragraph (b) or (c) of this Article. That minimum term shall be automatically renewed upon the same terms and subject to the same conditions for additional and successive one-year terms unless either party elects not to renew by delivering written notice of such election to the other party at least ninety (90) days prior to the expiration of the then-current term. Notwithstanding this minimum term and minimum termination notice period, the parties agree that in the interest of efficient community management and the complexity of transition to any other managing agent they generally expect: (1) that the term of this agreement will last until December 31, 2006 and (2) that either party will provide to the other at least one hundred eighty (180) days notice before the effective date of any notice of termination of this agreement."

(b) Any party not in default under this Agreement may elect to terminate this Agreement, without cause, upon not less than ninety (90) days prior written notice to the other party with a copy of such notice to each of the consenting parties. Such termination shall become effective as of 11:59 p.m. on the date specified in the written notice or, if no such date is specified, on the last day of the month in which the expiration of the ninety (90) days occurs.

(c) Upon the occurrence of any of the following events, either party may elect to terminate this Agreement, upon written notice to the other party, effective as of the date on which such election is made.

(i) Either Third or Agent admits its inability to pay its debts as they mature, or makes an assignment for the benefit of its creditors, or applies for or consents to the appointment of any receiver, trustee or similar officer for itself or for all or a substantial part of its property.

(ii) Either Third or Agent files a petition in bankruptcy or for an arrangement or for reorganization pursuant to the Federal Bankruptcy Act or any similar law,

federal or state, or the adjudication of Third or Agent as a bankrupt or insolvent by a decree of a court of competent jurisdiction.

(iii) The creditors of Third or Agent file a petition in bankruptcy against Third or Agent or for the reorganization of Third or Agent pursuant to the Federal Bankruptcy Act or any similar law and the same is not discharged within sixty (60) days after the date of filing.

(d) Upon any termination under this Article, Third and Agent shall account to each other with respect to all matters outstanding as of the date of termination, and an audit of the books of account and records of Third shall be conducted, at the expense of Third, by a certified public accountant who shall furnish a financial report to Third and such other reports and supplementary information as may be required by Third. On the effective date of any termination hereunder, or sooner if Third so directs, Agent shall deliver to Third all property (including, without limitation, automobiles and office furnishings and equipment and all property acquired as listed in Article 3(i)), books and records in Agent's possession or under its control relating to the management and operation of the property.

ARTICLE 8. (a) This Agreement shall inure to the benefit of and constitute a binding obligation upon the contracting parties, their respective successors and assigns, provided that Agent shall not assign this Agreement, or any interest therein, without prior written approval of Third.

(b) This Agreement shall constitute the entire Agreement between the contracting parties, and no variance or modification thereof shall be valid and enforceable, except by supplemental agreement in writing, executed and approved into the same manner as the Agreement.

(c) Third hereby agrees to defend, indemnify and hold harmless Agent and its employees, agents, officers and directors against any and all claims, suits, damages including attorneys' fees arising out of the performance of this Agreement with respect to Agent's management of property for those acts performed within the scope of its authority. This indemnification shall survive expiration or termination of this Agreement. Third shall not be liable to Agent for reimbursement for actions involving willful misconduct or gross negligence.

(d) Should legal action or arbitration be necessary to enforce or interpret any of the provisions of this Agreement, the prevailing party in such action or arbitration shall be entitled to all costs and reasonable attorneys' fees incurred therein.

(e) For the convenience of the parties, this Agreement has been executed in several counterparts, which are in all respects similar and each of which shall be deemed to be complete in itself so that any one may be introduced in evidence or used for any other purpose without the production of the other counterparts.

(f) Neither party shall be liable for any breach of this Agreement caused by fire flood, war, riot, strike or other events or acts beyond the control of the party or parties affected thereby. Third and Agent agree to adopt and enforce reasonable rules to prevent members and Directors of Third from interfering with work of Agent. Third agrees to provide policy direction through Agent's General Manager and Senior Management as assigned by the General Manager.

(g) If any part, clause or phrase hereof is ruled invalid or unenforceable by any court having competent jurisdiction hereover, then the balance of this Agreement shall remain in full force and effect in all its remaining provisions without being impaired or invalidated in any way. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

Dated: 9/26/01

THIRD LAGUNA HILLS MUTUAL

By Raymond J. Wilkinson  
President

PROFESSIONAL COMMUNITY MANAGEMENT, INC.

By [Signature]  
President

ATTEST

[Signature]  
Corporate Secretary