

**CC&Rs (Required Civil Code Sec. 4525)**  
**Knowland Park Townhouse Condominium Association**

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Address: 10401 Shaw St Apt 402  
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## **NOTICE:**

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

RETURN TO:

FOUNDERS TITLE COMPANY  
1455 HAYS STREET  
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ATTN: WAYNE  
OK 300426 WG

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RECORDED IN OFFICIAL RECORDS  
OF ALAMEDA COUNTY, CALIF.  
AUG 11 1981  
BY H.W.F.  
RENE G. DAVIDSON, County Recorder

I N D E X  
TO  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
OF

KNOWLAND PARK TOWNHOUSE CONDOMINIUMS  
A CONDOMINIUM PROJECT

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THE UNDERSIGNED HAVE RECEIVED,  
READ & APPROVED THIS REPORT.

*Robert J. Turner 05-01-90*

3/13/81

LAW OFFICES  
MILLER, STARR  
& REGALIA  
BRIDWAY BUILDING  
SUITE 1455  
ONE WILSON PLAZA  
OAKLAND, CALIF. 94612  
TEL (415) 485-7800

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LAW OFFICES  
MILLER, STARR  
& REGALIA  
BERRYMAN BUILDING  
SUITE 1850  
ONE SAUNDERS PLACE  
OAKLAND, CALIF. 94612  
TEL. (415) 495-2800

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS

OF

KNOWLAND PARK TOWNHOUSE CONDOMINIUMS  
A CONDOMINIUM PROJECT

THIS DECLARATION is made this 10th day of August,  
1981, by KNOWLAND PARK TOWNHOUSE PROPERTIES, a limited  
partnership, hereinafter referred to as "Declarant".

R E C I T A L S:

THIS DECLARATION is made with reference to the following  
facts:

A. Declarant is the owner of all that certain real  
property located in the City of Oakland, County of Alameda, State  
of California, described as follows:

All of that certain real property as shown in that  
certain Subdivision Map entitled "Tract 4631",  
recorded in the Office of the Recorder of Alameda  
County, State of California, on the 23rd day of  
April, 1981 in Book 126 of Maps at Page  
94, (hereinafter referred to as "the Map").

B. The real property above described is a Project within  
the meaning of California Civil Code Section 1350(3) and is subject  
to the provisions of the California Condominium Act (Title VI,  
Part IV, Sections 1350-1370, inclusive). It is the desire and  
intention of the Declarant to subdivide and develop the real  
property described therein as a Condominium Project and to impose  
on said real property mutual beneficial restrictions, easements,  
assessments and liens under a general plan of improvement for the  
benefit of all of the subject Units and Common Area and the future  
Owners of said Units and Common Area.

NOW, THEREFORE, Declarant hereby declares that all of the real  
property described in the Map is held and shall be held, conveyed,  
hypothecated, encumbered, leased, rented, used, occupied and

LAW OFFICES  
MILLER, STARR  
& REGALIA  
CORPORATE BUILDING  
SUITE 1000  
ONE LAKE PLACE  
OAKLAND, CALIF. 94612  
TEL (415) 465-2000

improved, subject to the following limitations, restrictions, covenants and conditions, all of which are declared and agreed to be in furtherance of the plan for the subdivision, improvement and sale of said real property as a Condominium Project and are established and agreed upon for the purpose of enhancing and perfecting the value, desirability and attractiveness of the real property and every part thereof. All of the limitations, easements, uses, obligations, covenants, restrictions and conditions stated herein shall run with the real property, shall be binding on all parties having or acquiring any right, title or interest in the described real property or any part thereof, shall be for the benefit of each Owner of any portion of said real property or any interest therein, and shall inure to the benefit of and be binding upon each successor in interest of the Owners thereof. Each and all of the said limitations, easements, uses, obligations, covenants, conditions and restrictions shall be deemed to be, and shall be construed as, equitable servitudes, enforceable by any of the Owners of any of the individual Units against any other Owner, tenant or occupant of the property, or any portion thereof.

#### ARTICLE I

##### DEFINITIONS

Unless the context clearly indicates a different meaning therefor, the terms used herein, in the Plan and in any Deeds regarding Units in the Project shall have the meanings specified in this Article.

1.1 Articles: The term "Articles" shall mean the Articles of Incorporation of KNOWLAND PARK TOWNHOUSE CONDOMINIUM ASSOCIATION, which are or shall be filed in the Office of the Secretary of State of the State of California.

1.2 Association: The term "Association" shall mean and refer to KNOWLAND PARK TOWNHOUSE CONDOMINIUM ASSOCIATION, its successors and assigns, incorporated as a Non profit Mutual Benefit Corporation under the laws of the State of California.

1.3 Beneficiary: The term "Beneficiary" shall mean and refer to a mortgagee under a mortgage or a beneficiary under a deed of trust encumbering a Unit.

1.4 Board: The term "Board" shall mean the Board of Directors of the Association.

1.5 By-Laws: The term "By-Laws" shall mean the By-Laws of the Association which are or shall be adopted by the Board.

1.6 Carport: The term "Carport" shall mean and refer to those portions of the Common Area shown on the Plan as individually numbered parcels preceded by the letter "P". An exclusive appurtenant easement for the use and possession of a Carport shall be conveyed to each Unit Owner, which Carport shall bear the number or numbers designated in the individual grant deed conveying a Unit to a Unit Owner. The boundary lines for each Carport shall be to the approximate dimensions set forth on the Plan, to but not including the finished interior surfaces of the walls, floor and ceiling and to the airspace encompassed within said boundaries.

1.7 Common Area: The term "Common Area" refers to all of the Project described on the Plan which is not included within any Unit. Common Area shall include, but not be limited to, roofs, foundations, pipes, ducts, flues, chutes, floors, bearing walls, columns and girders to their unfinished surfaces, all regardless of location, carports, patio gardens, service and equipment areas, driveways, open spaces, planted and landscaped areas and all other improvements which may be placed upon or located in the Common Area.

LAW OFFICES  
MILLER, STARR  
& REGALLA  
PROPERTY BUILDERS  
8975 1844  
804 BAYWOOD PLACE  
DOWNSIDE, CALIF. 92012  
TEL. (619) 498-3000

1.8 Condominium: The term "Condominium" refers to the Unit together with the undivided interest in the Common Area conveyed in fee to an Owner, and all easements appurtenant thereto, all as more particularly defined in Section 783 of the Civil Code of the State of California.

1.9 Declarant: The term "Declarant" shall mean and refer to KNOWLAND PARK TOWNHOUSE PROPERTIES, a limited partnership, and all successors and assigns of Declarant, if such successors and assigns acquire more than one Unit for the purpose of resale to another.

1.10 Declaration: The term "Declaration" shall mean and refer to the within Declaration of Covenants, Conditions and Restrictions.

1.11 Director: The term "Director" shall mean and refer to a member of the Board of Directors.

1.12 Manager: The term "Manager" refers to the person or corporation appointed as such pursuant to Section 3.14 hereof.

1.13 Map: The term "Map" refers to that certain Subdivision Map entitled "Tract 4631", filed in Book 126 of Maps at Page 94, 4/23/81 County Records on Alameda, 19 81

1.14 Member: The term "Member" shall mean and refer to those Unit Owners who are members of the Association pursuant to Article III hereof.

1.15 Patio Garden: The term "Patio Garden" shall mean and refer to those portions of the Common Area separately designated on the Plan as individually numbered parcels preceded by the letters "GP". An exclusive appurtenant easement for the use and possession of each Patio Garden shall be granted to the Unit bearing the corresponding number as shown on the Plan. The boundary lines for each Patio Garden shall be to the approximate dimensions set forth on the Plan, to but not including the finished interior surfaces of

the fences surrounding the Patio Gardens and the airspace encompassed therein.

1.16 Plan: The term "Plan" refers to that certain Condominium Plan entitled "CONDOMINIUM PLAN FOR TRACT 4631,", attached hereto as Exhibit "A".

1.17 Project: The term "Project" shall mean the entire parcel of real property described on the Map which is divided or to be divided into Condominiums, including all structures thereon, as shown on the Plan.

1.18 Restricted Common Area: The term "Restricted Common Area" as used herein shall mean that portion of the Common Area, the exclusive use of which is set aside, allocated and restricted to a particular Unit or Unit Owner. Said exclusive easement shall be specifically designated in the individual Condominium Grant Deed to a Unit.

1.19 Rules: The term "Rules" shall mean the Rules adopted by the Association pursuant to Section 3.17 of this Declaration.

1.20 Unit: The term "Unit" shall mean the elements of a Condominium not owned in common with the Owners of other Condominiums in the Project. Each Unit is an individual residence which is shown, defined and delineated on the Plan as an individually numbered parcel preceded by the letter "U".

The boundaries of each Unit shall be the following: the interior unfinished surfaces (exclusive of paint, shingles, siding or other finishes) of the floors, ceilings, interior beams and columns, perimeter walls, bearing walls, doors, doorframes and trim, and the interior unfinished surfaces and/or exposed surfaces of the fireplaces, if any, of said Unit. The Unit shall include the airspace so encompassed by said boundaries, excluding all load

bearing walls and all walls containing any utility conduit to the unfinished surfaces of any such walls.

Each Unit specifically includes the oven, garbage disposal unit, dishwasher, heating conduits, range and fans, interior partitions, fireplaces and plumbing fixtures installed therein. In interpreting Deeds, Declarations and Plans, the existing physical boundaries of the Unit, or of the Unit as may be reconstructed in substantial accordance with the original plans thereof, shall be conclusively presumed to be its boundaries rather than the metes and bounds (or other description) expressed in the Deed, Plan or Declaration, regardless of settling or lateral movement of the buildings and regardless of variants between boundaries shown on the Plan or the Deed and the Declaration and those of the buildings.

1.21 Unit Owner: The term "Unit Owner" refers to the holder or holders of record fee title to a Condominium, including Declarant with respect to each Condominium owned by Declarant. Such term shall include the contract purchaser (Vendee) under an installment land contract and shall exclude those persons having an interest in a Condominium merely as security for performance of an obligation.

ARTICLE II  
THE PROPERTY

2.1 PROPERTY SUBJECT TO DECLARATION: All of the real property shown on the Map is hereby declared to be subject to this Declaration.

2.2 WAIVER OF PARTITION: There shall be no judicial partition of the Project or any part thereof, and, except as provided in the Civil Code Section 1354, each Unit Owner, and the successors of each Unit Owner, whether by deed, gift, devise or operation of law, for their own benefit, for the benefit of their respective Units and for the benefit of all other Unit Owners, specifically waive and abandon all rights, interests and causes of action for a judicial partition of the tenancy in common ownership of the Project and do further promise and covenant that no action for such judicial partition shall be instituted, prosecuted or reduced to judgment until the happening of the conditions set forth in Article IX hereof; provided, however, that if any Condominium shall be owned by two or more co-tenants as tenants in common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition as between such co-Owners of a single Condominium.

2.3 COMMON AREA OWNERSHIP: There shall be conveyed with each respective Unit a one-twenty-fifth (1/25th) undivided tenancy-in-common interest in the Common Area. The undivided interest in the Common Area established hereunder and to be conveyed with the respective Units cannot be changed, and Declarant, its successors, assigns and grantees covenant and agree that the undivided interests in the Common Area, and the fee title to the respective Units conveyed therewith, shall not be separated or separately conveyed, and each such undivided interest shall be deemed to be

LAW OFFICES  
MILLER, STARR  
& REGALIA  
COURT BUILDING  
SUITE 1000  
605 BAIRD PLACE  
OAKLAND, CALIF. 94612  
TEL. (415) 462-2000

conveyed or encumbered with its respective Unit even though the description in the instrument of conveyance or encumbrance may refer only to the fee title to the Unit. Each Unit and each Unit Owner shall share the expenses of the Common Area proportionately as more particularly set forth in Article IV below.

~~XXXX~~

2.4 RESTRICTED COMMON AREA: The ownership of the Common Area shall be subject to the exclusive easements established in Article VI for the benefit of each Unit Owner for use and possession of the Patio Garden bearing the number which corresponds to the Unit number as shown on the Plan and for the Carport set forth in the Grant Deed to said Unit. An exclusive easement for the use and possession of not less than one (1) Carport shall be conveyed to each Unit Owner, subject to the Rules regulating the use and allocation thereof as established by the Association.

LAW OFFICES  
MILLER, STARR  
& REGALIA  
BERNARD DUKELING  
SUITE 1000  
ONE RIVERO PLAZA  
OAKLAND, CALIF. 94612  
TEL. (415) 406-5909

Doc # 61-136230  
Address 1041 Starbuck  
City Date 03/12/81

## ARTICLE III

HOMEOWNERS ASSOCIATION3.1 THE ORGANIZATION:

3.1.1 The Association is a Non Profit Mutual Benefit Corporation charged with the duties and empowered with the rights set forth herein and in the Articles. Its affairs shall be governed by this Declaration, the Articles, the By-Laws and the Rules of the Association.

3.1.2 In the event that the Association as a corporate entity is dissolved, a non profit, unincorporated association shall forthwith and without further action or notice be formed to succeed to all the rights and duties of the Association hereunder. The affairs of such unincorporated association shall be governed by the laws of the State of California and, to the extent not inconsistent therewith, by this Declaration, the Articles and the By-Laws of the Association as if they were created for the purpose of governing the affairs of an unincorporated association.

3.2 MEMBERSHIP: Each Unit Owner, including Declarant, for so long as Declarant is an Owner, by virtue of being an Owner shall be a Member of the Association, or, in the event of its dissolution, a Member of the unincorporated association succeeding to the Association, provided that any person or entity who holds an interest in a Unit merely as security for the performance of an obligation shall not be a Member. Each Unit Owner shall be entitled to one (1) membership in the Association for each Unit owned. Association membership shall be appurtenant to and may not be separated from the ownership of any Unit. Upon termination of Unit Ownership, the membership in the Association shall also terminate. Ownership of a Unit shall be the sole qualification for membership in the Association. Except as otherwise provided herein, the rights, duties, privileges and obligations of all Members of

the Association shall be as provided in this Declaration, the By-Laws and the Rules of the Association. The membership of an Owner shall not be transferred, pledged or alienated in any way except upon transfer of title to the Owner's Unit and then only to the transferee of title to such Unit. Any attempt to make a prohibited transfer is void.

3.3 VOTING CLASSES: The Association shall have two (2) classes of voting members. All "Class A" see 3.3.2 (2)

3.3.1 Class A: Class A Members shall be all Unit Owners with the exception of Declarant. Class A Members shall have one (1) vote for each Unit. When more than one person owns a single Unit, all Owners shall be Members of the Association. However, the vote for each Unit must be cast as a Unit. Said vote shall be cast by the designated "Voting Owner" for that Unit as hereinafter provided. Fractional votes shall not be allowed and in no event shall more than one vote be cast with respect to any one Unit.

3.3.1.1 "Voting Owner": When more than one (1) person owns a single Unit, there shall be one "Voting Owner" for such Unit. The "Voting Owner" shall be designated by the record Owner or Owners of each Unit by written notice to the Board. Said designation shall be revocable at any time by actual notice to the Board given by any of the Unit Owners of record or by the death or judicially declared mental incompetence of any record Unit Owner. The power herein conferred to designate a "Voting Owner" and to revoke said designation may be exercised by the Unit Owner's conservator, by the guardian of his estate, by the parent or parents entitled to custody of an Owner in the case of the Owner being a minor, or, during the administration of his estate, by the executor or administrator of a deceased record Unit Owner where the latter's interest in said property is subject to administration in

his estate. Where no "Voting Owner" of a Unit has been designated, or where said designation has been revoked as provided, the vote for such Unit shall be exercised as the majority of co-Owners of the Unit mutually agree. No vote shall be cast for any Unit where there is no designated "Voting Owner" and the majority of co-Owners present and representing said Unit cannot agree to said vote or other action.

3.3.1.2 Contract Purchasers: A Class A Member who has sold his Unit to a contract purchaser under an agreement to purchase shall be entitled to delegate to such contract purchaser his membership rights in the Association. Such delegation shall be in writing and shall be delivered to the Board before such contract purchaser may vote. The contract seller shall remain liable for all charges and assessments, however, until fee title to the Unit sold is transferred.

3.3.2 Class B: The Class B Member shall be Declarant. The Class B Member shall be entitled to three (3) votes for each Unit owned, provided that the Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(1) When the votes outstanding in the Class A membership equal the votes outstanding in the Class B membership;

or

(2) Upon the date which is the second anniversary of the original issuance of the original Final Subdivision Public Report for the Project.

Upon the expiration of the Class B membership, with respect to each provision of this Declaration which requires the vote of both classes of Members, the same shall be read as requiring both (a) the vote of the prescribed percentage of all of

the Class A Members and (b) the vote of the prescribed percentage of the Class A Members other than Declarant.

3.4 VOTING PROCEDURES AND MEETINGS: Voting procedures and the notice, quorum requirements and location of meetings of the Association shall be as provided for in the By-Laws.

3.5 BOARD OF DIRECTORS: The Board shall undertake all duties and responsibilities of the Association and the management and conduct of the affairs thereof, except as expressly is reserved herein to a vote of the Members. The initial Board of the Association consisting of three (3) Directors shall be appointed by Declarant. Such Board shall hold office until the first regular meeting of the Members is held pursuant to the By-Laws. At said meeting a new Board of three (3) Directors shall be elected by secret written ballot to serve until the next regular annual meeting of the Association Members or until their successors are elected. The number of Directors may be changed by amendment of the By-Laws. At each subsequent annual meeting, the membership shall elect a Board of Directors. As long as there are two (2) classes of voting membership outstanding or as long as the majority of voting power of the Association otherwise resides in Declarant, special procedures shall be adopted to assure that no less than twenty percent (20%) of the Directors have been elected solely by the vote of Members other than Declarant.

3.6 NOTICE OF INCUMBENCY: The Board shall record with the County Recorder of the County in which the Project is situated a notice stating the names and addresses of the persons elected to the Board. After the recordation of the first such notice, a majority of those persons who are designated of record as being members of the most recent Board (regardless of whether or not they shall still be members) may execute, acknowledge and record an

affidavit stating the names of all of the members of the current Board. The most recently recorded of such notices shall be prima facie evidence that the persons named therein are all of the incumbent members of the Board and shall be conclusive evidence of the exercise of any authority thereby as to any bona fide purchaser or other third person who supplies labor or material to the managers, or to any other person who relies thereon in good faith.

3.7 GENERAL POWERS, DUTIES AND AUTHORITY OF THE ASSOCIATION:

The Association shall have all of the powers set forth in the Articles, By-Laws and this Declaration, together with the general power to do any and all things that a corporation organized under the laws of the State of California may lawfully do in operating for the benefit of its members, subject only to the limitations upon the exercise of such powers as are expressly set forth in said Articles, By-Laws and Declaration. The Association shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under and by virtue of this Declaration and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association or for the peace, health, comfort, safety and/or general welfare of the Owners and guests of the Owners. Except as provided for in Section 3.18, below, the Association may delegate any of its power to such committees, officers or employees thereof as a majority of the Board may deem appropriate.

Without limiting the generality of the foregoing paragraph, the Association, for the benefit of all Unit Owners, shall have the power, obligation and duty to enforce the provisions of this Declaration, and shall obtain and pay for out of the maintenance fund all of the following:

LAW OFFICES  
MILLER, STARR  
& REGALIA  
CORPORATE BUILDING  
SUITE 1000  
ONE EIGHTH PLAZA  
OAKLAND, CALIF. 94612  
TEL. (415) 501-5000

3.7.1 Water, sewage, garbage, electrical, gas, telephone and other necessary utility service for the Common Area and (to the extent not separately metered or charged) for the Units.

3.7.2 Gardening and landscaping services for the Common Area, excluding Patio Gardens.

3.7.3 Charges for maintaining, vacuuming and cleaning any portion of the Common Area.

3.7.4 A policy or policies of fire and casualty insurance, with extended coverage endorsement, for the full insurable value of the Units and Common Area, payable as provided in Article IX hereof, or such other fire and casualty insurance as the Board shall determine gives substantially equal or greater protection to the Owners and their mortgagees, as their respective interests may appear. Each policy shall provide that it shall not be cancelled without at least thirty (30) days prior written notice to the Association and to each of the Unit Owners. Each such policy may be for a period of not to exceed three (3) years provided that the policy permits short rate cancellation by the insured. The Board shall review the limits of such insurance for adequacy at least every year, and shall increase or adjust the same, if necessary, to provide such coverage and protection as is customarily carried by prudent property owners in the County in which the Project is situated. Said policy or policies shall provide for a separate loss payable endorsement in favor of the mortgagee or mortgagees of each Condominium, if any.

3.7.5 A policy or policies of comprehensive public liability insurance insuring the Association, the Declarant, the Board, the Owners and any Manager appointed as hereinafter provided against any liability to the public or to the Unit Owners incident to the ownership and/or use of the Project and to protect against any liability to the public or to any Unit Owner incident to the

use of, or resulting from any accident or intentional act occurring in or about, any Unit or the Common Area. The minimum limits of such insurance shall be determined by the Board and established to provide such coverage and protection as is customarily carried by prudent owners of similar property in the County in which the Project is situated. Each such policy may be for a period of not to exceed three (3) years provided that the policy permits short rate cancellation by the insured. The Board shall review the limits and coverage of such insurance at least every year and shall increase or adjust the same, if necessary, to provide adequate coverage and protection to the Association, Board, Manager, if any, and Unit Owners. Said policy or policies shall provide cross liability endorsement wherein the rights of named insured thereunder shall not be prejudiced as respects any action by one insured thereunder against another named insured.

3.7.6 Worker's Compensation Insurance to the extent necessary to comply with all applicable laws of the State of California or the regulations of any governmental body or authority having jurisdiction over the Project.

3.7.7 Any other types of insurance or insurance in amounts in excess of the limits provided above if the Board shall determine the same to be necessary in its sole discretion to fully protect the interest of the Unit Owners. Any insurance acquired by the Board may be taken in the name of the Association, as trustee, for the use and benefit of the Board, the Manager, if any, and all Unit Owners.

3.7.8 Legal, accounting and management services necessary or proper for the maintenance and operation of the Common Area or the enforcement of this Declaration.

3.7.9 A fidelity bond naming the Board and such other persons as the majority of Owners may designate as principals, and the Unit Owners and the Association as obligees, in an amount equal to at least one-half (1/2) the total sum collected through the maintenance fund during the preceding year.

3.7.10 All taxes and assessments, if any, levied or assessed separately against the Common Area.

3.7.11 Painting, maintenance and repair of the Common Area, including Carports and fences surrounding Patio Gardens, and including, as necessary, replacement of components thereof on a reasonable and prudent schedule of replacement.

3.7.12 Any lien or encumbrance, including taxes, levied against any Unit which may constitute a lien against the Common Area; provided, however, that the Board shall levy a special assessment against such Unit for the amount thereof. Where one or more persons are responsible for the existence of such lien, they shall be jointly and severally liable for the cost of discharging it. Any costs incurred by the Board by reason of said lien or liens shall be specifically assessed to said Owners.

3.7.13 Maintenance and repair of any Unit or Restricted Common Area to which an Owner has been granted an exclusive easement if such maintenance or repair is necessary, in the discretion of the Board, to protect the Common Area or preserve the appearance and value of the Project, and if the Owner or Owners of said Unit or easement to Restricted Common Area have failed or refuse to perform said maintenance or repair for which such Owner is responsible, within a reasonable time after written notice of the necessity therefor has been delivered and an opportunity to be heard with respect to said necessity has been given by the Board to said Unit Owner. The Board shall levy a reimbursement assessment against the Unit owned by said Owner for the cost of said mainte-

nance or repair.

3.7.14 Any other goods, materials, supplies, labor, services, painting, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Board is authorized to secure to pay for pursuant to the terms of this Declaration, or which is reasonably necessary, in the discretion of the Board, for the convenient operation of the Common Area.

3.7.15 All costs of enforcing the provisions of this Declaration, including attorneys' fees and court costs, provided that all costs incurred in the enforcement of the provisions of this Declaration against any Unit Owner shall be assessed specially against the Unit of such Unit Owner.

3.8 CAPITAL IMPROVEMENTS: The Association may purchase or construct capital improvements in the Common Area and assess the Owners for the costs thereof as a Special Assessment pursuant to Section 4.3 hereof; provided, however, that no such capital improvements shall be constructed without obtaining any and all approvals of governmental agencies as may be required by law.

No property owned by the Association having a fair market value in excess of five percent (5%) of the budgeted gross income of the Association shall be sold without the prior affirmative vote or written consent of a majority of each class of Members.

3.9 POWER OF ATTORNEY: Whenever partition may be had pursuant to Civil Code Section 1354 or this Declaration, each Unit Owner, his successors and assigns, does hereby grant to the Association an irrevocable Power of Attorney to sell the entire Project covered hereby for the benefit of all of the Unit Owners thereof, said power of sale to be exercised pursuant to Civil Code Section 1355(b)(9).

LAW OFFICES  
MILLER, STARR  
& REGALIA  
SOUTHWEST BUILDING  
SUITE 1000  
242 KAMBER PLAZA  
OAKLAND, CALIF. 94612  
TEL. (415) 865-2000

3.10 MAINTENANCE OF COMMON AREA: The Association shall have full power and authority to act for and on behalf of all of the Unit Owners to keep and maintain the Common Area (including Restricted Common Area to the extent provided in Sections 3.7.11 and 3.7.13, above) in good condition and repair; shall provide for lighting, landscaping, gardening and janitorial services as needed, and shall cause any and all other acts to be done which may be necessary to assure the maintenance of the Common Area in first class condition and repair, including painting of the exterior of the building, painting, maintenance and repair of the interior and exterior surfaces of Carports and fences surrounding Patio Gardens and such other portions of the Common Area as the Board, in its discretion, determines to be necessary. The cleaning, repair and upkeep of Patio Gardens (excluding fences) shall be the responsibility of the Unit Owner who is granted an exclusive easement for the use thereof. Any costs incurred by the Association in the course of maintaining Restricted Common Areas, pursuant to Section 3.7.13, above, shall be charged as a reimbursement assessment, pursuant to Section 4.4 hereof, against the Unit Owner to whom the exclusive easement has been granted. No contract executed by the Board for materials or services for the Common Area shall exceed one (1) year in duration unless the prior approval of a majority of each class of Members has been first obtained by the Board.

3.11 AUTHORITY FOR ENTRY FOR MAINTENANCE OR CONSTRUCTION:

The Association, or its agents, may enter any Unit, and any portion of the Common Area to which a Unit Owner has been granted an exclusive easement or license, whenever such entry is necessary in connection with the performance of any maintenance or construction for which the Board is responsible. Such entry shall be made with as little inconvenience to a Unit Owner as practicable, and only upon reasonable advance written notice of at least twenty-four (24)

LAW OFFICES  
MILLER, STARR  
& REGALIA  
FOODCOT BUILDING  
SUITE 1000  
ONE EMERALD PLAZA  
DANFORD, CALIF. 94518  
TEL. (415) 408-3800

hours, except in emergency situations.

3.12 BUDGET AND ANNUAL REPORT: Regardless of the number of Members or the amount of assets of the Association, the Board shall prepare:

3.12.1 A pro forma operating statement (budget), a copy of which shall be distributed to Unit Owners at least sixty (60) days prior to the beginning of each fiscal year.

3.12.2 An annual report to be distributed within one hundred twenty (120) days after the close of the fiscal year consisting of the following: (i) a balance sheet as of the end of the fiscal year; (ii) an operating (income) statement for the fiscal year; (iii) a statement of changes in financial position for the fiscal year; and (iv) any information required to be reported under Section 8322 of the Corporations Code. The annual report shall be prepared by an independent accountant for any fiscal year in which the gross income to the Association exceeds \$75,000. If the report is not prepared by an independent accountant, it shall be accompanied by the certificate of an authorized officer of the Association that the statements were prepared without audit from the books and records of the Association.

3.12.3 A balance sheet of an accounting date which is the last day of the month closest in time to six (6) months from the date of closing of the first sale of a Unit in the Project and an operating statement for the period from the date of the first closing to the said accounting date and shall distribute same within sixty (60) days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the number of the Unit and the name of the entity assessed.

*Semi-annual accounting to owners*

LAW OFFICES  
MILLER, STARR  
& REGALLA  
800017 101/1010  
SUITE 1100  
ONE LAUREL PLACE  
DANFORD, CALIF. 94611  
TEL. (415) 255-2000

3.13 ADDITIONAL INSURANCE BY UNIT OWNER: No provision contained herein shall be construed to prevent any Unit Owner from obtaining such additional insurance coverage as such Owner may consider necessary or desirable to protect himself or his Unit.

3.14 MANAGER: The Board may employ a manager and delegate the daily management duties to said Manager who shall be subject to the direction and control of the Board. The Board may hire a professional manager or management company, provided that any contract with such professional manager or management company shall not be for a term in excess of one (1) year, renewable by agreement of the parties for successive one (1) year periods, and shall provide for termination without cause by either party upon thirty (30) days written notice. The compensation to be paid to such manager or management company must be approved by a majority of each class of the Members of the Association.

3.15 CONSOLIDATIONS AND MERGERS: To the extent permitted by law, the Association may participate in mergers and consolidations with other non-profit corporations organized for the same purposes of this Association, provided that any such merger or consolidation shall have the assent of two-thirds (2/3) of the voting power of each class of Members voting in person or by proxy at a meeting duly called for this purpose. Written notice of said meeting (which notice shall set forth the purpose of the meeting) shall be given to all Members at least thirty (30) days in advance of the meeting.

3.16 DEDICATION: The Association, as the agent of all Owners, shall have the power to dedicate any of the Common Area to an appropriate public authority for public use, provided that any such dedication shall have the assent of seventy-five percent (75%) of the voting power of each class of Members.

3.17 PROJECT RULES:

3.17.1 The Board<sup>9</sup> may, from time to time, and subject to the provisions of this Declaration, propose such Rules as the Board may deem necessary for the management of the Project. Said Rules shall become effective and binding on all Unit Owners after adoption by fifty-one percent (51%) of the voting power of each class of Members at a meeting duly called for that purpose, or by the written consent of the above number of Unit Owners appended to a copy of the proposed Rules. Such Rules may concern, but need not be limited to, the following subjects:

- (1) Use of the Common Area, including any Restricted Common Area;
  - (2) Signs;
  - (3) Collection and disposal of refuse;
  - (4) Minimum standards of maintenance of the property;
  - (5) Use of any facilities or equipment located in the Common Area;
  - (6) Use of Carports located in the Common Area;
- and
- (7) Any other subject or matter within the jurisdiction of the Association as provided in this Declaration.

3.17.2 With respect to Subsection 3.17.1 above, the Rules may, without limitation and to the extent deemed necessary by the Association in order to preserve the benefits of the Project for all Owners and their families, invitees, licensees, guests and tenants, restrict or govern the use of the Common Area by any guest, owner or family of such Owner; provided, however, that with respect to use of the Common Area, the Rules may not discriminate between Owners and the families and lessees of Owners.

LAW OFFICES  
MILLER, STARR  
& REGALIA  
SECOND FLOOR  
SUITE 1000  
925 SANDER PLACE  
CARLISLE, CALIF. 94015  
TEL. (415) 448-2000

3.17.3 With respect to Subsection 3.17.1 above, the Rules may include with respect to the Common Area, but not any public streets adjacent thereto:

- (1) Parking restrictions and limitations on the Common Area;
- (2) Limitations upon vehicular travel; and
- (3) The types of vehicles which may be permitted to use the Common Area.

3.17.4 A copy of the Rules so adopted shall be furnished to each Unit Owner, and each Unit Owner, his family, guests, employees; invitees, licensees and tenants shall comply with such Rules.

3.18 ENFORCEMENT OF RULES AND RESTRICTIONS: The Board shall have the power, obligation and duty to enforce the provisions of this Declaration, the By-Laws and the Rules. In the event of a breach of any of the restrictions contained in this Declaration or of any Rules by a Unit Owner, his family, guests, employees, invitees, licensees or tenants, the Board, for and on behalf of all other Unit Owners, may enforce the obligations of each Owner to obey such Rules or restrictions in any manner provided by law or in equity, including but not limited to appropriate legal action, suspension of the Owner's right to use the Common facilities of the project or suspension of the Owner's voting rights; provided, however, such suspension may not be for a period in excess of thirty (30) days, after notice and hearing as herein provided, for an infraction of such Rules. In addition to the other remedies herein set forth, the Board, by majority vote, may levy a fine against such Owner, after appropriate notice and hearing as herein provided, in an amount not to exceed Fifty Dollars (\$50.00) for each such violation. The payment of such fine may be enforced in the same manner as set forth in Article IV hereof. The right to

LAW OFFICES  
MILLER, STARR  
& REGALIA  
CORPORATE BUILDING  
SUITE 1800  
ONE BAYVIEW PLAZA  
OAKLAND, CALIF. 94612  
TEL. 510/874-6500

levy fines, hold disciplinary hearings or otherwise impose discipline on Members under this section is vested solely in the Board and may not be delegated to any Director, officer, or manager or other employees of the Board or Declarant.

Prior to making any decision to impose any penalty provided herein, other than suspension of voting rights, for breach of any Rules enacted hereunder or restrictions contained in this Declaration, the Board shall send written notice to the Unit Owner specifying the nature of the infraction and provide an opportunity to the Unit Owner to a hearing before the Board regarding such infraction and the penalty to be imposed. The Board may vote to suspend an Owner's voting rights prior to providing notice of and an opportunity to the Owner to a hearing before the Board, but such suspension shall not become effective until fifteen (15) days after the Owner receives notice of such decision to suspend voting rights and unless the Owner is provided notice of and an opportunity to a hearing before the Board at least five (5) days before the effective date of such suspension. In the event that the Board determines that said infraction has occurred and that a penalty shall be imposed, after a reasonable opportunity for a hearing has been provided, the determination of the Board shall be final.

Notwithstanding anything to the contrary herein contained, neither the Board nor the Association of Members shall have the power to cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of his individually owned Unit, including access thereto over and across the Common Area, on account of such Owner's failure to comply with the provisions of this Declaration or of the By-Laws or any Rules adopted by the Association relating to the operation of the Common Area or Common Area facilities except when such loss or forfeiture is the result of a judgment of a court or a decision arising out of arbitration

LAW OFFICES  
MILLER, STARR  
& REGALIA  
CONDOMINIUMS  
SUITE 1000  
ONE SAUNDER PLACE  
DALLAS, CALIF. 94012  
TEL. (415) 405-3000

or on account of a foreclosure or under the power of sale herein granted for failure of the Owner to pay the assessments levied pursuant to the provisions hereof. In the event legal action is instituted by the Board pursuant to this section, any judgment rendered in any such action shall include costs of collection, court costs and reasonable attorneys' fees.

3.19 ENFORCEMENT OF BONDED OBLIGATIONS: When Common Area improvements have not been completed prior to the issuance of the first final public report for the Project and the Association is obliged under a bond or other arrangement (hereinafter "Bond") to secure performance of the commitment of Declarant to complete the improvements, the following provisions relative to the initiation of action to enforce the obligations of Declarant and the surety under the Bond shall pertain:

3.19.1 The Board shall consider and vote on the question of action by the Association to enforce the obligations under the Bond with respect to any improvements for which a Notice of Completion has not been filed within sixty (60) days after the completion date specified for that improvement in the Planned Construction Statement appended to the Bond. If the Association has given an extension in writing for the completion of any Common Area improvements, the Board shall be directed to consider and vote on the aforesaid questions if a Notice of Completion has not been filed within thirty (30) days after the expiration of any such extension.

3.19.2 If the Board decides not to or fails to initiate enforcement action, notice shall be given to all Members of the Association of such decision and, upon receipt of the petition referred to below, there shall be a special meeting of the Members for the purpose of either voting to override a decision by the Board not to initiate action to enforce the obligations under the

LAW OFFICES  
MILLER, STARR  
& FEGALIA  
CORNER DELINCO  
SUITE 1000  
ONE BAKER PLACE  
DOWLING, CALIF. 90212  
TEL. (415) 499-2000

Bond or to vote whether to do so upon the failure of the Board to consider and vote on the question. The meeting shall be required to be held not less than thirty-five (35) nor more than forty-five (45) days after receipt by the Board of a petition for such a meeting signed by Members representing not less than five percent (5%) of the total voting power of the Association.

3.19.3 There shall be a vote by Members of the Association other than Declarant at the special meeting called for the purpose set forth in Subsection 3.19.2 above.

3.19.4 A vote of a majority of the voting power of the Association residing in Members other than Declarant to take action to enforce the obligations under the Bond shall be deemed to be the decision of the Association and the Board shall thereafter implement this decision by initiating and pursuing appropriate action in the name of the Association.

LAW OFFICES  
MILLER, STARR  
& PERGALIA  
CORPORATE BUILDING  
SUITE 1000  
806 LAKE PLAZA  
OAKLAND, CALIF. 94612  
TEL. (415) 460-5000

ARTICLE IV

MAINTENANCE ASSESSMENTS AND ASSOCIATION FUNDS

4.1 COVENANTS FOR MAINTENANCE ASSESSMENTS: Declarant hereby covenants and agrees for each Condominium owned by it within the Project, and each Owner of any Condominium, by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association the assessments levied pursuant to this Article. Declarant and each Owner thereby vest in the Association the right, power and authority to bring all actions for the collection of such charges and for the enforcement of the lien created hereby. Such right and power shall continue in the Association, and such obligations shall run with the land so that each successive Owner or Owners of record of a Condominium in the Project shall in turn become liable to pay all such assessments which shall become a lien thereon during the time they are the record Owner of any Condominium in the Project.

*[Handwritten initials]*

Each assessment levied by the Association under this Article shall constitute a separate assessment. Each assessment, together with interest thereon, costs of collection and reasonable attorneys' fees, shall be a charge on the Condominium and shall be a continuing lien upon the Condominium against which each such assessment is made. The Association, as the agent of all Unit Owners, shall have a separate lien, and a separate lien with power of sale is hereby created, upon each Condominium against which an assessment is made to secure the payment of any assessments under this Article. Each such lien for any particular month's charge shall likewise secure interest thereon, if the same is not paid when due, and costs of suit and reasonable attorneys' fees to be fixed by the court if action or suit is brought to collect such

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LAW OFFICES  
 MILLER, STARR  
 & REGALLA  
 8000000 OLYMPIA  
 SUITE 1000  
 ONE RAISED PLAZA  
 DALLAS, CALIF. 92012  
 TEL 5210 000-0000

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charge. The priority of all such liens shall be in inverse order so that, upon the foreclosure of the lien for a particular month's charge, any foreclosure sale pursuant thereto will be made subject to all liens securing the respective monthly charges on such Condominium for succeeding months.

Each such assessment, together with such interest, attorneys' fees and costs of collection, shall also be a separate, distinct and personal obligation of the Owner of the Condominium at the time when the assessment fell due and shall bind his heirs, devisees, personal representatives and assigns. The personal obligation for delinquent assessments shall not pass to a Unit Owner's successor in title unless expressly assumed by such successor, but the lien for such delinquent assessment shall remain and, if unpaid by such successive Unit Owner, may be foreclosed as herein provided. No such assumption of personal liability by a successor Unit Owner shall relieve any Unit Owner personally obligated hereby for a delinquent assessment for such Owner's personal liability therefor. After a record Unit Owner shall transfer record title to his Condominium, he shall not be liable for any charge thereafter assessed against such Condominium. A contract seller of any Condominium shall continue to be liable for all such charges until a conveyance by him of the Condominium subject to the assessment is recorded in the Office of the County Recorder of the County in which the Project is situated.

4.2 MONTHLY ASSESSMENTS:

4.2.1 Regular Assessments: The Board shall establish regular monthly assessments for operation and maintenance of the Project by the procedures established in this Section. The Assessments shall be due and payable in monthly installments on the first day of each month during the continuance of this Declaration

LAW OFFICES  
MILLER, STARR  
& REGALIA  
DUNNING BUILDING  
SUITE 1000  
500 RAINDER PLAZA  
OAKLAND, CALIF. 94612  
TEL. 415/435-8900

commencing on the first day of the first month following close of escrow of the sale of the first Condominium.

4.2.2 Budgeting: On or before the first business day of the first month following close of escrow of the sale of the first Condominium in the Project, the Board shall prepare and distribute to each Member a pro forma operating statement (budget), based upon the budget accepted by the State of California Department of Real Estate, estimating the total expenditures to be paid out of the maintenance fund and including a reasonable reserve for contingencies and replacement for the remainder of the fiscal year. The Board shall assess the total of said charges equally to all Unit Owners, including Declarant.

Not less than sixty (60) days prior to the beginning of each subsequent fiscal year, the Board shall estimate the total charges to be paid out of the maintenance fund during such year (including a reasonable reserve for contingencies and less any expected surplus from the prior year) and distribute a copy of a pro forma operating statement (budget) to each member; provided, however, that the Board may not, without the prior vote or written consent of a majority of each class of Members of the Association, impose a regular annual assessment per Condominium which is more than twenty percent (20%) greater than the regular assessment per Condominium for the immediately preceding fiscal year. All funds budgeted, allocated, assessed and collected for contingencies, deferred maintenance and replacement of capital improvements shall be designated for those specific purposes. Said funds shall then be used solely for the specific purpose for which said funds have been designated.

Within one hundred twenty (120) days after the end of each fiscal year, the Unit Owners shall receive an accounting of assessment receipts and disbursements for that fiscal year. If such accounting shows that a surplus of cash results, the Unit Owners shall vote as to whether to refund all or part of such surplus or as to whether such surplus shall be carried over to future assessment periods and applied to reduce future assessments. This total budget surplus shall be traced back to the specific budget items which created the surplus and the Association shall distribute or allocate such surplus equally to each Unit Owner.

4.3 SPECIAL ASSESSMENTS: In addition to the regular assessments authorized by Section 4.2 hereof, the Board may levy, in any fiscal year, a Special Assessment applicable to that year for capital improvements, correction of inadequacy of the maintenance fund, defraying, in whole or in part, the cost of any construction, reconstruction, unexpected repair or replacement of improvements in the Common Area and such other matters as the Board may deem appropriate; provided, however, that within any fiscal year the aggregate of such special assessments shall not exceed five percent (5%) of the budgeted gross expenses for said fiscal year without the assent of a majority of the voting power of each class of Members, voting in person or by proxy, at a meeting duly called for that purpose. Any such Special Assessment shall be levied equally among all Units except a Special Assessment for major repair or reconstruction which shall be based upon the ratio of the square footage of the floor area of the Unit to be assessed to the total square footage of the floor area of all Units to be assessed. Written notice of such meeting shall be given to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting. No such special assessment shall be levied prior

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to the commencement of the monthly assessments as provided herein. The provisions of this section shall not apply in case of the Board levying an assessment against an Owner under Section 4.4 for costs incurred in bringing the Owner and his Unit into compliance with provisions of this Declaration, the By-Laws or the Rules.

4.4 REIMBURSEMENT ASSESSMENTS: The Board shall levy a reimbursement assessment against any Unit Owner and the Condominium owned by such Owner whose failure to comply with this Declaration, the By-Laws or the Rules has necessitated an expenditure of monies by the Association from the maintenance fund to bring such Owner and Condominium into compliance with said instruments or in otherwise performing its functions under this Declaration. Such assessment shall be for the purpose of reimbursing the Association, shall be limited to the amount so expended and shall be due and payable to the Association when levied.

4.5 NON-WAIVER OF ASSESSMENTS: The omission by the Board, before the expiration of any year, to fix the assessments hereunder for that or the next year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration or a release of any Unit Owner from the obligations to pay the assessments, or any installment thereof, for that or any subsequent year. In the instance of such omission, the assessment fixed for the preceding year shall continue until a new assessment is fixed. No Unit Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area, abandonment of the Condominium or any attempt to renounce rights in the Common Area.

4.6 ENFORCEMENT: Each Unit Owner of a Condominium, upon becoming such Owner, is and shall be deemed to covenant and agree to pay to the Association each and every of the assessments provided for in this Declaration and shall be deemed to covenant and agree to the enforcement of all such assessments in the manner herein specified. In the event an attorney or attorneys are employed for collection of any assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Unit Owner agrees to pay reasonable attorneys' fees and costs thereby incurred, in addition to any other amounts due or any other relief or remedy obtained against said Unit Owner, and the same shall be included in any judgment in any suit or action brought to enforce collection of delinquent assessments. Any assessment not paid when due shall be deemed to be delinquent. Any assessment not paid within thirty (30) days after the date on which it becomes due shall thereafter earn interest from the date of delinquency at the rate of ten percent (10%) per annum. In addition to any other remedies herein or by law provided, the Association, or its authorized representative, may enforce the obligations of the Owners to pay the assessments provided for in this Declaration, and each of them, in any manner provided by law or in equity, and without any limitation of the foregoing, by either or both of the following procedures.

4.6.1 Enforcement by Suit: The Association may commence and maintain a suit at law against any Unit Owner or Owners personally obligated to pay assessments for such delinquent assessments as to which they are personally obligated, such suit to be maintained in the name of the Association. Any judgment rendered in any such action shall include the amount of the

delinquency, together with interest thereon, costs of collection, court costs and reasonable attorneys' fees in such amount as the court may adjudge against the delinquent Unit Owner. Suit to recover judgment for unpaid assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided for.

4.6.2 Enforcement by Lien: There is a present lien, with power of sale, on each Condominium to secure payment to the Association of any and all assessments levied against such Condominium pursuant to this Declaration, together with interest thereon, as herein provided, and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorneys' fees. No action shall be brought to foreclose the lien securing an unpaid assessment until Notice of Assessment Due signed by the Board (or by any Unit Owner if the Board fails or refuses to act) has been delivered to the Unit Owner of the Condominium subject to such assessment, and a copy of such notice recorded in the Office of the Recorder of the County in which the Project is situated. Said notice shall state the amount of the assessment together with the interest, costs and reasonable attorneys' fees, a description of the Condominium against which the same has been assessed and the name or names of the record Unit Owner or Owners thereof. After the expiration of thirty (30) days from the date such Notice of Assessment Due has been recorded, an action may be commenced in the name of the Association to foreclose the lien, or such action may be commenced by any Unit Owner if the Association fails to act. Upon the declaration of an assessment and the recording of notice thereof, the Association may, at its option, declare the entire balance of all sums then due or to become due from the Unit Owner due and payable, which total sum may then be included in any suit, action or proceeding brought to

LAW OFFICES  
MILLER, STARR  
& REGALIA  
9000AY BULLHEAD  
SUITE 1000  
2501 RAYBURN PLACE  
OAKLAND, CALIF. 94612  
TEL. (415) 462-2800

collect said sum, including all costs, charges and attorneys' fees. Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose the lien created hereunder, whether judicially, by power of sale or otherwise, until the expiration of ten (10) days after a copy of said Notice of Assessment Due, showing the date of recordation thereof, has been mailed to the Unit Owner of the Condominium which is described in such Notice.

Each Unit Owner does hereby waive, to the extent of any liens created pursuant to the Declaration, whether such liens are now in existence or are created at any time in the future, the benefit of any homestead or exemption laws of the State of California now in effect, or in effect from time to time hereinafter.

**4.7 POWER OF FORECLOSURE AND SALE:** Each of the Unit Owners does hereby appoint the Association, as trustee, to enforce any lien created pursuant to this Declaration and to foreclose such lien by private power of sale as provided in Division III, Part 4, Title XIV, Chapter 2, Article I of the Civil Code of the State of California and Civil Code Section 1356, as such statutes may be revised, amended or altered from time to time, or by judicial foreclosure, and does further grant the Association, as such trustee, the power and authority to sell the Condominium of any such defaulting Unit Owner, or any part thereof, for lawful money of the United States, to the highest bidder to satisfy such lien.

The lien provided for herein shall be in favor of the Association, shall be for the benefit of all Unit Owners and shall secure payment of all sums set forth in the Notice of Assessment together with all sums becoming due and payable in accordance with this Declaration after the date of recordation of said Notice of

LAW OFFICES  
MILLER, STARR  
& REGALIA  
ATTORNEYS AT LAW  
SUITE 1600  
ONE RAIPOD PLAZA  
DANFORD, CALIF. 94618  
TEL. (415) 604-2800

Assessment. The Association shall have the power to bid in at any foreclosure sale and to purchase, acquire, hold, lease, mortgage and convey any Condominium. In the event such foreclosure is by action in court, reasonable attorneys' fees, court costs, title search fees, interest and all other costs and expenses shall be allowed to the extent permitted by law.

4.8 STATUS OF ASSESSMENT LIEN: Upon request by any Unit Owner, the Association will furnish, for the benefit of any prospective purchaser or present or prospective encumbrancer of such Condominium, a statement showing all amounts then due which are secured by such lien. A reasonable fee, not to exceed Fifteen Dollars (\$15.00), may be charged for the preparation of such statement.

4.9 CERTIFICATE OF DISCHARGE OF LIEN: Upon payment of the delinquent assessment or the satisfaction thereof, the Association shall cause to be recorded, in the same manner as the Notice of Assessment, a further certificate stating the satisfaction and release of the lien thereof. A failure to record said certificate of discharge without good cause within thirty (30) days after written demand by the Unit Owner of the affected Condominium shall entitle him to recover a penalty of Three Hundred Dollars (\$300.00) from the Board plus his actual damages.

4.10 SUBORDINATION OF LIEN TO ENCUMBRANCE: Notwithstanding any provision to the contrary herein contained:

4.10.1 The lien for assessments created by this Declaration shall be subject and subordinate to and shall not affect the rights of the holder of any recorded first mortgage or first deed of trust upon such Condominium made in good faith and for value. In the event any lien imposed under the provisions hereof is destroyed by reason of the foreclosure of any mortgage or

deed of trust on the Condominium subject to such lien, there shall be a lien on the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, charged to such Condominium after the date of such foreclosure sale, which lien shall have the same effect and be enforced in the same manner as provided herein.

For purposes of this Subsection, a mortgage or deed of trust may be given in good faith or for value even though the mortgagee or the beneficiary of such mortgage or deed of trust has constructive or actual knowledge of the assessment lien provisions of this Declaration.

4.10.2 No amendment of this Subsection shall affect the rights of the holder of any such mortgage or deed of trust recorded prior to recordation of such amendment unless the mortgagee or beneficiary thereof joins in the execution of such amendment.

4.11 ASSOCIATION FUNDS: The assessments collected by the Association shall be properly deposited into two separate accounts in a bank or other savings institution selected by the Board, which accounts shall be clearly designated as the KNOWLAND PARK TOWNHOUSE CONDOMINIUMS CURRENT MAINTENANCE AND OPERATION ACCOUNT and the KNOWLAND PARK TOWNHOUSE CONDOMINIUMS DEFERRED CAPITAL MAINTENANCE AND REPLACEMENT ACCOUNT. The assessments collected by the Association shall be held in trust by the Association for and on behalf of each Unit Owner and shall be used solely for the operation, care and maintenance of the Project as provided in this Declaration. The Board shall allocate a portion of said funds as collected for the annual maintenance and operation of the Project as specified in the annual budget and the Board shall allocate a portion of said funds as collected as reserves for contingencies, replacement and deferred maintenance of the capital improvements of

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SUITE 1000  
205 EMBLE PLACE  
DUBLINO, CALIF. 94568  
TEL. (415) 441-9000

the Project as specified in the annual budget. Said funds shall be deposited, as allocated, into the appropriate bank accounts and said accounts shall be separately maintained by the Association. Upon sale or transfer of any Unit by any Owner, the Owner's interest in the trust funds shall be deemed automatically transferred to the successor or transferee of such Owner.

In the event that the Board retains a professional management service, the Board may delegate the authority to deposit or withdraw funds to responsible representatives of the professional management agent so retained. Said professional management agent may additionally be authorized to establish a common trustee account for deposit of assessments as collected. Any funds deposited in such a common trustee account shall be allocated as previously specified herein.

4.12 BOOKS OF ACCOUNT: The Board shall maintain full, complete and correct books of account of the operation of the Project and vouchers supporting expenditure and the same shall be open during all reasonable hours for inspection by any Unit Owner. Any Unit Owner, or the duly authorized representative thereof, may at any time and at his own expense cause an audit or inspection to be made of the books and records of the Association. Said books and records shall accurately detail in chronological order the receipts and expenditures affecting the Common Area, specifying and itemizing the maintenance and repair expenses of the Common Area and any other expenses incurred.

ARTICLE VUSES, RESTRICTIONS AND COVENANTS5.1 PROPER USE OF PREMISES:

5.1.1 Residential: Each Unit shall be used for residential purposes and no other uses shall be allowed.

5.1.2 Permanent Residents: The number of permanent residents in any Unit shall be limited to two (2) per bedroom. Owners may have a reasonable number of additional persons as guests as long as the period such guests occupy the Unit does not exceed ninety (90) consecutive days in duration nor more than one hundred twenty (120) days in any calendar year.

5.1.3 Use of Parking Areas: There shall be no use or occupancy of a Carport except by the Owner of the Unit to which such Carport has been conveyed or by the tenants or guests of such Owner. Carports shall be used only for the parking of passenger motor vehicles. No Unit Owner shall obstruct, block or interfere with the access of any other Unit Owner to his Carport. There shall be no parking on the private streets or driveways of the Project by Unit Owners, their guests or tenants except in spaces particularly designated for such parking, if any, and only in compliance with the Rules.

5.1.4 Rental of Residential Units: A Unit Owner shall be entitled to rent his Unit, provided that:

- (i) Not less than the entire Unit is rented or leased;
- (ii) The number of tenants or lessees in any particular Unit is limited to no more than two (2) per bedroom;
- (iii) Such rental or lease is for a period of not less than sixty (60) days; and

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SUITE 1004  
ONE SAUNDERS PLACE  
OAKLAND, CALIF. 94612  
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(iv) The Unit Owner has given notice of the proposed tenancy to the Board and has otherwise complied with the terms of this Declaration.

Any rental or lease of a Unit shall be subject to this Declaration and the Rules and regulations established by the Association pursuant to Section 3.17 of this Declaration. Each rental or lease shall be by written agreement specifying that the tenant shall be subject to all provisions of the Declaration and the By-Laws and that a failure to comply therewith shall be a default under such lease or agreement. Each tenant or lessee shall be provided with a copy of the Rules and of this Declaration by the Unit Owner so renting or leasing. The Unit Owner shall be responsible for tenant's or lessee's compliance with all provisions of this Declaration and the Rules pertinent to the occupancy and use of the Unit and the use of the Common Area.

5.1.5 Use of Common Area: There shall be no use of the Common Area except by the Owners thereof, their invitees, guests or tenants. There shall be no obstruction of any part of the Common Area. Nothing shall be stored, kept or parked in the Common Area without the prior consent of the Association. Except for Storage Spaces provided by Declarant which are located within the Carports, no storage closet, locker or facility of any kind shall be built, placed or kept in any part of the Common Area without the prior approval of the Association. Nothing shall be done or kept in the Common Area which will increase the rate of insurance on any of the community facilities without the prior written consent of the Board. No Unit Owner shall permit anything to be done or kept in the Common Area which will result in the cancellation of insurance on any Unit or any part of the Common Area, which would interfere with rights of other Unit Owners, which would be noxious, harmful

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SUITE 1030  
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or unreasonably offensive to other Unit Owners or which would be in violation of any governmental statute, ordinance, rule or regulation. No waste shall be committed in the Common Area.

5.1.6 Use of Units: No Unit Owner may permit or cause anything to be done or kept upon, in or about his Unit which will obstruct or interfere with the rights of other Unit Owners, annoy other Unit Owners by unreasonable noise, smell or otherwise or be noxious, harmful or unreasonably offensive to other Unit Owners. Each Unit Owner shall comply with all of the requirements of all governmental authorities, federal, state and local, and all laws, ordinances, rules and regulations applicable to his Unit.

5.1.7 Care of Unit and Appurtenances: Each Unit Owner shall keep the interior of the individual residence, and all fixtures, appliances and appurtenances therein or thereto, in good condition and repair.

5.1.8 Common Area Improvements: Except as may be authorized by the Architectural Committee pursuant to Section 5.4 below, and, if required, approved by the appropriate agency of the City in which the Project is located, no person other than the Board and its duly authorized agent shall construct, reconstruct, refinish or alter any improvement situated upon the Common Area.

5.1.9 Unauthorized Vehicles: No boat, mobile home, recreational vehicle, motor home, trailer of any kind, truck camper other than a bed-mounted camper mounted on a one-half (1/2) or three-quarter (3/4) ton pickup truck, truck larger than a three-quarter (3/4) ton pickup truck, commercial vehicle of any kind or dilapidated vehicle shall be parked or left in any part of the Project. There shall be no repair or reconstruction of automobiles within the Project except for emergency vehicle repairs. The Association may remove or cause to be removed any unauthorized

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MILLER, STARR  
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ONE RAIER PLAZA  
OAKLAND, CALIF. 94612  
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vehicle at the expense of the Owner thereof in any manner not inconsistent with the law.

5.1.10 Signs. No sign of any kind shall be displayed to the public view on or from any Unit or the Common Areas; provided, however, that: (a) one sign of reasonable dimensions may be placed at a central location within the Common Area previously designated by the Association, or upon the Unit itself if the Association has not designated such a central location, advertising a Condominium for sale or rent; (b) during the period in which the Declarant is the Owner of two or more Condominiums, Declarant may maintain and display in the Project such signs as it may deem appropriate advertising said Condominiums for sale; and (c) the Association may maintain and display such signs as the Board may deem appropriate identifying the Project. Any such signs shall be attractive and compatible with the design of the Project and shall comply with any applicable City ordinances. Notwithstanding the foregoing, any Unit Owner, the Association, or Declarant may maintain any sign required by legal proceedings.

5.1.11 Structural Integrity: Nothing shall be done in any Unit or in, on or to the Common Area which will impair the structural integrity of the Project or which would structurally alter the Project except as is otherwise provided herein. No development shall be made of the airspace or crawlspace above any Unit or the Common Area without the approval of the Association. Radio or television aerials may not be erected by the Owner or Owners of any Unit without the prior written consent of the Association.

5.1.12 Restriction on Businesses: No business of any kind whatsoever shall be established, maintained, operated, permitted or conducted on the Project, or any portion thereof.

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SUITE 1850  
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excepting the business of Declarant in completing the development and sale of the Condominiums in the Project and such professional and administrative professions as may be permitted by city ordinance, provided there is no external evidence thereof.

5.1.13 Animals: No animals of any kind shall be maintained, bred or kept in any Unit or in the Common Area except that dogs, cats or other customary household pets in reasonable number and size may be kept; provided, however, that they are not kept, bred or maintained for any commercial purposes, and provided further, that the Project Rules may limit or restrict the keeping of any such pets. For purposes of this paragraph, a reasonable number of pets and reasonable size shall be determined by the Board. The Board shall specifically have the right to prohibit the maintenance of any pet which, in the opinion of the Board, after notice and hearing, constitutes a nuisance to the Owner or Owners.

5.1.14 Storage of Waste Materials: All garbage, trash and accumulated waste plant material shall be placed and kept in covered containers maintained in an enclosure. In no event shall such containers be maintained so as to be visible from neighboring property, nor within view from any street or other area used by the public or in common with other Unit Owners. No portion of any Unit shall be used for the storage of building materials or other materials other than in connection with approved construction.

5.2 MAINTENANCE BY UNIT OWNER: The Association shall have the exclusive right to contract for all goods and services, payment for which is to be made from the maintenance fund. Each Unit Owner shall have the exclusive right, at his sole cost and expense, to maintain, repair, paint, paper, panel, plaster, tile and finish the interior surfaces of the ceilings, floors and the perimeter walls of his Unit, the surfaces of the bearing walls located within the

said Unit and the surfaces of any other finishes owned by the Unit Owner as herein defined. Said Owner shall have the exclusive right to substitute new finished surfaces for the finished surfaces then existing on said ceilings, floors and walls, including, without limiting the generality of the foregoing, the following: substitution of paint for paper or paper for paint, substitution of any type of paneling for plaster or plaster for paneling, substitution of tile for paneling or paneling for tile or substitution of wood for linoleum or tile or of linoleum or tile for wood. Said Owners and their agents shall have the exclusive right to maintain, repair, paint, finish, alter, substitute, add or remove any fixtures attached to said ceilings, floors or walls. The Unit Owner shall be responsible and liable for the maintenance and replacement of the finishes of the interior walls, floors and ceilings. The maintenance and repair of internal installations to the Unit, such as toilets, showers, bathtubs, sinks, kitchen appliances, telephone facilities, the connections thereto, doors, windows and all other accessories within the boundaries of the Unit shall be the responsibility and liability of the Unit Owner. Each Unit Owner shall clean and maintain the Patio Garden adjacent to his Unit; provided, however, that all painting of the interior and exterior surfaces of fences surrounding such Patio Gardens shall be the responsibility of the Association. This paragraph shall not be construed to permit any interference with or damage to the structural integrity of the building.

5.3 MAINTENANCE AND CARE OF PATIO GARDENS: Each Owner granted an exclusive easement for a Patio Garden may landscape said Patio Garden in conformity to a plan approved by the Architectural Committee and shall maintain and otherwise care for all landscaping and other improvements located within such Patio Garden at said

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SUITE 3000  
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Owner's sole expense. No Owner shall build, place or cause to be built or placed within his Patio Garden any structure without the prior written consent of the Architectural Committee and, where applicable, the City in which the Project is located.

5.4 ALTERATIONS OR ADDITIONS:

5.4.1 Alterations to Common Area Other Than Restricted Common Area: A proposal for any structural alteration or addition to the community facilities or the Common Area, other than Restricted Common Area, may be made at any regular or special meeting of the Board. Such proposal may be adopted by a majority vote of the Board; provided, however, that if the aggregate expenditure for capital improvements to the Common Area exceeds five percent (5%) of the budgeted gross expenses of the Association for that fiscal year, such proposal shall be accepted only upon the affirmative vote of a majority of the voting power of each class of Members at a regular or special meeting. Unless otherwise agreed at the meeting of such Members, the cost of the alteration or addition so approved shall be paid from the maintenance fund, and the Association shall levy a special assessment to cover said cost, which shall be shared among the Unit Owners in proportion to their respective interest in the Common Area.

5.4.2 Alterations to Restricted Common Area: Any proposals for alterations, additions or other improvements of Restricted Common Area shall be submitted to the Architectural Committee in writing by the Owner proposing such alterations, additions or improvements. The Committee shall review such proposals to determine whether such proposals would be compatible with the design, construction and standards of quality of the Project, that such proposed improvements would not interfere with or disturb any other Owners use or enjoyment of his Unit and that such proposed

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 OGDEN BUILDING  
 SUITE 1800  
 ONE EIGHT PLAZA  
 OAKLAND, CALIF. 94612  
 TEL. (415) 885-7000

improvements would be acceptable to the City in which the Project is located. The cost of any application to the City or any other costs incurred shall be borne solely by the Unit Owner making such proposal.

5.5 USE OF COMMON FACILITIES: The Unit Owners and their invitees, tenants and guests may enjoy in common with all other Unit Owners in the Project use of all facilities in the Common Area so long as they abide by the terms of this Declaration of Covenants, Conditions, and Restrictions and any Rules and regulations which may be adopted by the Association, subject however, to any grant of the exclusive easements and/or licenses to particular Unit Owners of Patio Gardens and Carports contained within the Common Area.

LAW OFFICES  
MILLER STARR  
& REGALIA  
SHERMAN BUILDING  
SUITE 1000  
ONE RANGER PLAZA  
OAKLAND, CALIF. 94612  
TEL (415) 421-3900

ARTICLE VIEASEMENTS

6.1 GENERALLY: There are hereby specifically reserved for the benefit of the Units and Unit Owners, in common and for each Unit and Unit Owner severally, and for the Association, as their respective interests shall obtain, the easements, reciprocal negative easements, secondary easements and rights of way as particularly identified in this Article.

6.2 UTILITIES: There is reserved for the benefit of each Unit, as dominant tenement, an easement for utility services over, under and through the Project, including the Common Area and each other Unit, jointly, as the servient tenement.

6.3 ENCROACHMENT: There is reserved for the benefit of each Unit, as dominant tenement, over, under and across each other Unit and the Common Area, as servient tenement, and for the Common Area, as dominant tenement, over, under and across each Unit, as servient tenement, easements for encroachment, support, occupancy and use of such portions of the Project as shall be encroached upon, used and occupied by the dominant tenement as a result of any accretion, erosion, addition, deterioration, decay, construction errors, movement or subsidence of any residence building or structure or any portion thereof, or any other cause. Such easement shall exist for so long as the encroachment exists. The easement of encroachment may be cured by repair and restoration of the structure.

6.4 MAINTENANCE AND REPAIR: There is hereby reserved to the Association an easement appurtenant to the Common Area and all other Units, as dominant tenements, through each Unit, as servient tenement, for the maintenance and repair of the Common Area.

LAW OFFICES  
MILLER, STARR  
& REGALLA  
CORPORATE BUILDING  
SUITE 1000  
601 BRIDGE PLAZA  
OAKLAND, CALIF. 94612  
TEL. (415) 400-3600

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6.5 INGRESS AND EGRESS: There is hereby reserved to each Unit, as dominant tenement, a non-exclusive easement appurtenant to each Unit over and across the Common Area, as servient tenement, for ingress, egress, use and enjoyment of said Common Area subject to the limitations provided in this Declaration.

6.6 PATIO GARDENS: Each Unit and Unit Owner shall have an exclusive easement, and such exclusive easement is hereby granted, for the use, possession and enjoyment of any Patio Garden bearing the same number as the Unit, as designated and delineated on the Plan. Said exclusive easement shall be subject, however, to the right of the Association to enter in and upon said Patio Garden for the purposes of maintaining and repairing the same, pursuant to this Declaration, and enforcing the terms hereof. The grant of any such Patio Garden easement shall include such area beneath the surface of the earth as is reasonable and necessary for the cultivation, landscaping and drainage of the subject Patio Garden.

6.7 CARPORTS: Each Unit and Unit Owner shall have an exclusive easement, and such exclusive easement is hereby granted, for the use, possession and enjoyment of any Carport bearing the number or numbers to be designated on the individual Grant Deed conveying a Unit to said Unit Owners. Said exclusive easement shall be subject, however, to the right of the Association to enter in and upon said Carports for the purposes of maintaining and repairing the same, or any other portion of the Common Areas pursuant to this Declaration, and enforcing the terms hereof.

6.8 EMERGENCY EXITS: There is reserved for the benefit of each Unit, as dominant tenement, an easement for ingress and egress from and to the fire escapes and other emergency exits over, across and through the other Units and the Common Area.

LAW OFFICES  
MILLER STARR  
& REGALIA  
CORPORATE COUNSEL  
SUITE 1500  
ONE SATELLITE PLAZA  
OAKLAND, CALIF. 94612  
TEL (415) 433-3600

jointly, as the servient tenement, to be used only on an emergency basis.

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MILLER, STARR  
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SUITE 1000  
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ARTICLE VIIARCHITECTURAL COMMITTEE

7.1 ORGANIZATION: There shall be an Architectural Committee consisting of three (3) persons. There shall also be one alternate member who may be designated by the Committee to act as substitute on the Committee in the event of absence or disability of any member.

7.2 DESIGNATION OF MEMBERS AND TERMS OF OFFICE:

7.2.1 Initial Members: The initial members of the Architectural Committee shall be appointed by Declarant prior to the close of the sale of the first Unit. Such designation shall be reflected in the Minutes of the Association. Declarant shall designate one member to serve a term of one (1) year; one member to serve a term of (2) years and one member to serve a term of three (3) years from the date of appointment. The alternate member shall serve a term of three (3) years. Each member shall serve the terms specified unless he earlier resigns or is removed from office. Thereafter, the terms of all Architectural Committee members appointed shall be three (3) years. Any new member appointed to replace a member who has resigned or been removed shall serve such member's unexpired term. Members who have resigned, been removed or whose terms have expired may be reappointed; provided, however, that no person shall serve as a member of the Architectural Committee, either regular or alternate, for a period in excess of six (6) years in any ten (10) year period.

7.2.2 Appointment and Removal: Declarant shall appoint all replacements to the Architectural Committee until the first anniversary of the issuance of the original Final Subdivision Public Report for the Project. Declarant shall have

the right to appoint and remove a majority of the members and alternate members of the Architectural Committee until such time as the Unit Owners other than Declarant own ninety percent (90%) or more of the Units within the Project or five (5) years after the issuance of the original Final Subdivision Public Report of the Department of Real Estate for the Project, whichever occurs first. After one year from the date of issuance of the original Final Public Report for the Project, the Board shall have the right to appoint one member to the Committee. When Declarant waives or no longer has the right to appoint and remove the members of the Committee, said right shall be vested solely in the Board. All members appointed by the Board shall be Unit Owners. Exercise of the right of appointment and removal, as set forth herein, shall be evidenced by the specification in the Minutes of the Association of each new Committee member or alternate member appointed and each member or alternate replaced or removed from the Architectural Committee.

7.2.3 Resignations: Any member or alternate member of the Architectural Committee may at any time resign from the Committee upon written notice delivered to Declarant or to the Board, whichever then has the right to appoint members.

7.2.4 Vacancies: Vacancies on the Architectural Committee, however caused, shall be filled by the Declarant or the Board, whichever then has the power to appoint members.

7.3 DUTIES: It shall be the duty of the Architectural Committee to consider and act upon such proposals or plans submitted to it pursuant to the terms of Section 5.4 hereof, to adopt Architectural Committee Rules, to perform other duties delegated to it by the Association and to carry out all other duties imposed upon it by this Declaration.

7.4 MEETINGS: The Architectural Committee shall meet from time to time as necessary to properly perform its duties hereunder. The vote or written consent of any two (2) members shall constitute an act by the Committee unless the unanimous decision of its members is otherwise required by this Declaration. The Committee shall keep and maintain a record of all actions taken by it at such meeting or otherwise. The Architectural Committee and its members shall be entitled to reimbursement for reasonable out-of-pocket expenses incurred in the performance of any Architectural Committee function.

7.5 ARCHITECTURAL COMMITTEE RULES: The Architectural Committee may, from time to time and in its sole discretion, adopt, amend and repeal, by unanimous vote, rules and regulations to be known as "Architectural Committee Rules." Said Rules shall interpret and implement the provisions hereof by setting forth the standards and procedures for Architectural Committee review and guidelines for architectural design, placement of buildings, landscaping, color schemes, exterior finishes and materials and similar features which are recommended for use in the Project; provided, however, that said Rules shall not be in derogation of the minimum standards required by this Declaration.

7.6 APPLICATION FOR APPROVAL OF IMPROVEMENTS: Any Unit Owner, except Declarant and its designated agents, proposing to perform any work of any kind whatever which requires the prior approval of the Architectural Committee pursuant to Section 5.4, or any other section of this Declaration, shall apply to such Committee for approval by notifying the Architectural Committee of the nature of the proposed work in writing and furnishing such information as the Committee may require.

7.7 BASIS FOR APPROVAL OF IMPROVEMENTS: The Architectural Committee shall grant the requested approval only if:

7.7.1 The Unit Owner shall have complied with the provisions of Section 7.6 above;

7.7.2 The Architectural Committee shall find that the plans and specifications conform to this Declaration, the Architectural Committee Rules and the regulations of the City in which the Project is located in effect at the time such plans were submitted to such Committee; and

7.7.3 The members of the Architectural Control Committee, in their sole discretion, shall determine that the proposed improvements would be compatible with the standards of the Project and the purposes of this Declaration as to quality of workmanship and materials, as to harmony of external design with the existing structures and as to location with respect to topography and finished grade elevations.

7.8 FORM OF APPROVAL: All approvals given under Section 7.7 shall be in writing; provided, however, that any request for approval which has not been rejected within thirty (30) days from the date of submission thereof to the Architectural Committee shall be deemed approved.

7.9 PROCEEDING WITH WORK: Upon receipt of approval from the Architectural Committee pursuant to Section 7.8 above, the Unit Owner shall, as soon as practicable, satisfy all conditions hereof and diligently proceed with the commencement and completion of all construction, reconstruction, refinishing, alterations and excavations pursuant to said approval, said commencement to be, in all cases, within one year from the date of such approval. If the Unit Owner shall fail to comply with this section, any approval given pursuant to Section 7.8 above

shall be deemed revoked unless the Architectural Committee, upon written request of the Unit Owner made prior to the expiration of said one-year period, extends the time for such commencement. No such extension shall be granted except upon a finding by the Architectural Committee that there has been no change in the circumstances upon which the original approval was granted.

7.10 FAILURE TO COMPLETE WORK: The Unit Owner shall in any event complete the construction, reconstruction, refinishing or alteration of any such improvement within one (1) year after commencing construction thereof, except and for so long as such completion is rendered impossible or would result in great hardship to the Unit Owner due to strikes, fires, national emergencies, natural calamities or other supervening forces beyond the control of the Unit Owner or his agents. If the Unit Owner fails to comply with this section, the Architectural Committee shall notify the Board of such failure, and the Board shall proceed in accordance with the provisions of Section 7.11 below as though the failure to complete the improvement were a non-compliance with approved plans.

7.11 INSPECTION OF WORK: Inspection of work and correction of defects therein shall proceed as follows:

7.11.1 Upon the completion of any construction, reconstruction, alteration or refinishing of the exterior of any improvements, or upon the completion of any other work for which approved plans are required under this Article, the Unit Owner shall give written notice thereof to the Architectural Committee.

7.11.2 Within sixty (60) days thereafter, the Architectural Committee, or its duly authorized representative, may inspect such improvement to determine whether it was constructed, reconstructed, altered or refinished to substantial compliance

with the approved plans. If the Architectural Committee finds that such construction, reconstruction, alteration or refinishing was not done in substantial compliance with the approved plans, it shall notify the Unit Owner in writing of such non-compliance within such sixty (60) days period, specifying particulars of non-compliance, and shall require the Unit Owner to remedy such non-compliance.

7.11.3 If the Unit Owner shall have failed to remedy such non-compliance upon the expiration of thirty (30) days from the date of such notification, the Architectural Committee shall notify the Board in writing of such failure. The Board shall then set a date on which a hearing before the Board shall be held regarding the alleged non-compliance. The hearing date shall be not more than thirty (30) days nor less than fifteen (15) days after notice of the non-compliance is given to the Board by the Architectural Committee. Notice of the hearing date shall be given at least ten (10) days in advance thereof by the Board to the Unit Owner, to the Architectural Committee and, in the discretion of the Board, to any other interested party.

7.11.4 At the hearing, the Unit Owner, the Architectural Committee and, in the Board's discretion, any other interested person may present information relevant to the question of the alleged non-compliance. After considering all such information, the Board shall determine whether there is a non-compliance and, if so, the nature thereof and the estimated cost of correcting or removing the same. If a non-compliance exists, the Board shall require the Unit Owner to remedy or remove the same within a period of not more than forty-five (45) days from the date of the Board ruling. If the Unit Owner does not comply with the Board ruling within such period or within any

extension of such period as the Board, in its discretion, may grant, the Board, at its option, may either remove the non-complying improvement or remedy the non-compliance and the Unit Owner shall reimburse the Association for all expenses incurred in connection therewith upon demand. If such expenses are not promptly repaid by the Unit Owner to the Association, the Board shall levy a reimbursement assessment against such Owner pursuant to Section 4.4 hereof.

7.11.5 If for any reason the Architectural Committee fails to notify the Unit Owner of any non-compliance within sixty (60) days after receipt of said notice of completion from the Unit Owner, the Improvement shall be deemed to be in accordance with said approved plans.

7.12 APPLICATION FOR PRELIMINARY APPROVAL: Any Unit Owner proposing to construct improvements requiring the prior approval of the Architectural Committee may apply to the Committee for preliminary approval by submission of preliminary drawings of the proposed improvements in accordance with the Architectural Committee Rules. The purpose of the preliminary approval procedure is to allow a Unit Owner proposing to make substantial improvements an opportunity to obtain guidance concerning design considerations before expending substantial sums for plans and other exhibits required to apply for final approval. Applications for preliminary approval shall be considered and disposed of as follows:

7.12.1 Within thirty (30) days after proper application for preliminary approval, the Architectural Committee shall consider and act upon such request. The Architectural Committee shall grant the approval only if the proposed improvement, to the extent its nature and characteristics are shown by the

application, would be entitled to a final approval on the basis of a full and complete application. Failure of the Architectural Committee to act within said thirty (30) day period shall constitute an approval. In granting or denying approval, the Architectural Committee may give the applicant such directions concerning the form and substance of the final application for approval as it may deem proper or desirable for the guidance of the applicant.

7.12.2 Any preliminary approval granted by the Architectural Committee shall be effective for a period of ninety (90) days from the date of the issuance thereof. During said period, any application for final approval which consists of proposed improvements in accordance with the provisions of the preliminary approval, and in otherwise acceptable under the terms of this Declaration, shall be approved by the Architectural Committee.

7.12.3 In no event shall any preliminary approval be deemed to be an approval authorizing construction of the subject improvements.

7.13 WAIVER: The approval by the Architectural Committee of any plans, drawings or specifications for any work done or proposed, or for any other matter requiring the approval of the Architectural Committee under this Declaration, shall not be deemed to constitute a waiver of any right to withhold approval of any similar plan, drawing, specification or matter subsequently submitted for approval.

7.14 ESTOPPEL CERTIFICATE: Within thirty (30) days after written demand is delivered to the Architectural Committee by any Unit Owner, and upon payment to the Association of a reasonable fee (as fixed from time to time by the Association), the Architectural Committee shall record an estoppel certificate, executed

by any two (2) of its members, certifying (with respect to any Unit of said Owner) that, as of the date thereof, either: (a) all improvements made and other work done upon or within said Unit comply with these Restrictions, or (b) such improvements or work do not so comply, in which event the certificate shall also identify the non-complying improvements or work and set forth with particularity the basis of such non-compliance. Any purchaser from the Unit Owner, or from anyone deriving any interest in said Unit through the Unit Owner, shall be entitled to rely on said certificate with respect to the matters therein set forth, such matters being conclusive as between the Association, Declarant, all Unit Owners and such persons deriving any interest through them.

7.15 LIABILITY: Neither the Architectural Committee nor any member thereof shall be liable to the Association or to any Unit Owner for any damage, loss or prejudice suffered or claimed on account of: (a) the approval or disapproval of any plans, drawings and specifications, whether or not defective, (b) the construction or performance of any work, whether or not pursuant to approved plans, drawings and specifications, (c) the development of any property within the Project, or (d) the execution and filing of an estoppel certificate pursuant to Section 7.14, whether or not the facts therein are correct; provided, however, that such member has acted in good faith on the basis of such information as may be possessed by him. Without in any way limiting the generality of the foregoing, the Architectural Committee, or any member thereof, may, but is not required to, consult with or hear the views of the Association or any Owner with respect to any plans, drawings, specifications or any other proposal submitted to the Architectural Committee.

ARTICLE VIIIDEVELOPMENT RIGHTS

8.1 LIMITATIONS OF RESTRICTIONS: Declarant is undertaking the work of developing for sale residential Units and incidental Improvements within the Project. The completion of that work and the sale, rental and other disposal of said residential Units is essential to the establishment and welfare of said property as a residential community. In order that said work may be completed and said property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

8.1.1 Prevent Declarant, its contractors or subcontractors from obtaining reasonable access over and across the Common Area of the Project or from doing within any Unit owned by it or in any portion of the Project whatever is reasonably necessary or advisable in connection with the completion of said work;

8.1.2 Prevent Declarant or its representatives from erecting, constructing and maintaining on any part or parts of the Project such structures as may be reasonably necessary for the conduct of its business of completing said work, establishing said property as a residential community and disposing of the same in parcels by sale, lease, or otherwise;

8.1.3 Prevent Declarant from conducting on any part of the Project its business of completing said work, of establishing said property as a residential community and of disposing of said property in parcels or units by sale, lease or otherwise;

8.1.4 Prevent Declarant from maintaining such signs within the Project as may be necessary for the sale, lease or disposition of the Units therein; or

8.1.5 Prevent Declarant from maintaining model homes, sales offices, storage facilities or related such facilities in any unsold Units within the Project necessary or reasonable, in the opinion of Declarant, for sale or disposition of the Units. Declarant shall be entitled to reasonable use of the Common Areas and Common Area facilities for undertaking its sale of the Units.

ARTICLE IXDAMAGE OR DESTRUCTION OF BUILDING; CONDEMNATION

9.1 DAMAGE TO SINGLE UNIT: If the Project is damaged by fire or other casualty which it is insured against, and said damage is limited to a single Unit, the insurance proceeds shall be paid to the Owner or Owners of such Unit, or the mortgagees thereof as their respective interests appear, and such Owner or mortgagees shall use the same to rebuild or repair such Unit. In the event the insurance proceeds are insufficient to complete such work, the Unit Owner shall pay and advance such additional sums as may be necessary to complete such rebuilding and repair.

9.2 DAMAGE TO TWO OR MORE UNITS OR COMMON AREA: If such damage extends to two (2) or more Units or extends to any part of the Common Area, then and in that event:

9.2.1 If the amount of available insurance proceeds is at least eighty-five percent (85%) of the cost of repairing or rebuilding the damaged property to its original design and specifications, the insurance proceeds shall be paid to the Association, and the Board shall thereupon contract to repair or rebuild the damaged portions of the Project, including all Units, and the Common Area so damaged. In the event the insurance proceeds are insufficient to pay all of the costs of repairing and/or rebuilding, then, subject to Section 4.3 hereof, the Board shall levy a special assessment against all Unit Owners pursuant to Section 4.3 to make up any deficiency.

9.2.2 In the event that the amount available from such insurance proceeds is less than eighty-five (85%) percent of the cost of repairing or rebuilding, then such insurance proceeds shall be paid to a bank, savings and loan association or trust company designated by the Board. Said funds shall be held for

the benefit of all Unit Owners and their mortgagees, as their respective interests shall appear, pursuant to an insurance trust agreement consistent with the provision of this Declaration, approved and executed by the Board. The Board shall obtain bids from responsible contractors to restore the Project, including all damaged Units and all damaged Common Area, to its condition immediately prior to such damage or destruction and shall, as soon as possible, call a special meeting of the Association Members and all first mortgagees of record to consider such bids. At such special meeting, the Members shall accept or reject such bids by a vote of not less than sixty percent (60%) of each class of Members and seventy-five percent (75%) of the first mortgagees attending such meeting.

In the event a bid is accepted, the Board shall levy a special assessment against all Unit Owners pursuant to Section 4.3 to make up the deficiency, if any, between the total insurance proceeds and the contract price for such repair or rebuilding. All insurance proceeds, including any subject to liens of mortgagees or beneficiaries of deeds of trust, shall be used for such rebuilding or repair. If any bid shall be accepted to repair or rebuild, the contractor shall provide a completion bond naming the Association and each Unit Owner as Beneficiaries.

In the event all bids are rejected, the Board shall recommend such alternative reconstruction of the damaged or destroyed improvements at a lesser cost as it deems reasonable or adequate, which alternatives shall be placed to bid and voted upon as previously provided. In the event that no such alternatives are accepted by the Unit Owners and first mortgagees, the Board is hereby empowered, as the agent for all Unit Owners, to sell the entire Project, including all Units and

the Common Area in its then present condition, on terms satisfactory to the Board. In the event of the sale of all Units and the Common Area, proceeds from such sale and insurance proceeds received by the Association on account of the destruction of the Common Area shall be distributed by the Association among Unit Owners and their respective mortgagees according to the respective fair market values of the Units at the time of the destruction as determined by an independent appraisal.

9.3 CONDEMNATION OF COMMON AREA: If at any time all or any portion of any Common Area, or any interest therein, shall be taken for any public or quasi-public use, under any statute, by right of eminent domain or by private purchase in lieu of eminent domain, the entire award in condemnation, to the extent such award is not apportioned among the Owners by court judgment or by agreement between the condemning authority and each of the affected Owners in the Project, shall be paid to the holder or holders of the fee title to such area as their interests may appear according to the respective fair market values of the Units at the time of the destruction, as determined by independent appraisal. Any such award to the Association shall be deposited into the operating fund of the Association. The Association shall represent the interests of all Unit Owners in any proceedings relating to such condemnation to the extent such Unit Owners have any interest in the Common Area.

9.4 APPRAISALS: Where the provisions of this Article require an independent appraisal of property, said appraisal shall be made by a qualified real estate appraiser with an M.A.I. certificate or the equivalent, which appraiser shall be selected by the Board.

ARTICLE XRIGHTS OF INSTITUTIONAL BENEFICIARIES

10.1 INSTITUTIONAL BENEFICIARIES: Institutional mortgagees of first mortgages and institutional beneficiaries of first deeds of trust on Condominiums in the Project ("Institutional Beneficiaries") shall be entitled to the rights and privileges set forth in this Article.

10.2 LIMITATIONS: Unless the prior written approval of seventy-five percent (75%) of the Institutional Beneficiaries (based on one (1) vote for each first mortgage or first deed of trust owned) and seventy-five percent (75%) of the Unit Owners other than Declarant is first obtained, the Association shall not be entitled to:

seventy-five percent (75%) of the the Unit Owners other than Declarant is first obtained, the Association shall not be entitled to:

10.2.1 Abandon or terminate the project, except for abandonment or termination as provided by statute in the case of substantial destruction by fire or other casualty or in the case of taking by condemnation or "eminent domain";

10.2.2 Amend any provision of this Declaration or the By-Laws of the Association governing the following subjects:

(i) Percentage interest of the Unit Owners in the Common Areas of the Project or the relative interest or obligations of the Unit Owners for the purpose of levying assessments or charges.

(ii) The fundamental purpose for which the Project was created.

(iii) Voting procedures or rights.

(iv) Assessments, assessment liens or subordination thereof.

(v) Reserves for repair and replacement of the Common Area.

- (vi) Property maintenance obligations.
- (vii) Casualty and liability insurance.
- (viii) Reconstruction in the event of damage or destruction.
- (ix) Rights to use the Common Area.
- (x) Annexation,
- (xi) The provisions of this Article X and Section 4.10 hereof.

10.2.3 Effectuate a decision to terminate professional management and assume self-management of the Project;

10.2.4 Change the pro rata interest or obligations of any individual Condominium for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards; or (ii) determining the pro rata share of ownership of each Unit in the Common Area;

10.2.5 Partition or subdivide any Condominium;

10.2.6 By act or omission seek to abandon, partition, subdivide, encumber, sell or transfer the Common Area. (The granting of easements for public utilities or for other public purposes consistent with the intended use of the Common Area by the Condominium Project shall not be deemed a transfer within the meaning of this clause);

10.2.7 Use hazard insurance proceeds for losses to any Project property (whether to Units or to the Common Area) for other than the repair, replacement or reconstruction of such Project property.

10.3 PARTITION OF UNIT: No Unit shall be partitioned or subdivided without the prior written approval of the Institutional Beneficiary on said Unit.

10.4 BOOKS: Any Institutional Beneficiary will, upon request, be entitled to:

(a) Inspect the books and records of the Project during normal business hours;

(b) Receive an annual audited financial statement of the Project within ninety (90) days following the end of any fiscal year of the Project; and

(c) Receive written notice of all meetings of the Association and be permitted to designate a representative to attend all such meetings.

10.5 DAMAGE OR DESTRUCTION: In the event of substantial damage to or destruction of any Unit or any part of the Common Area, the Institutional Beneficiary on a Unit will be entitled to timely written notice of any such damage or destruction and no provision of any document establishing the Project will entitle the Owner of a Unit or any other party to priority over such Institutional Beneficiary with respect to the distribution to such Unit of any insurance proceeds.

10.6 CONDEMNATION: If any Unit or portion thereof or the Common Area or any portion thereof is made the subject matter of any condemnation or eminent domain proceeding or is otherwise sought to be acquired by a condemning authority, then the Institutional Beneficiary on a Unit will be entitled to timely written notice of any such proceeding or proposed acquisition, and no provision of any document establishing the Project will entitle the Owner of a Unit or any other party to priority over such Institutional Beneficiary with respect to the distribution to such Unit of the proceeds of any award or settlement.

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10.7 RIGHT OF FIRST REFUSAL: The right of an Owner to sell, transfer or otherwise convey the Owner's Unit will not be subject to any "right of first refusal" or any similar restriction in favor of the Association, now or hereafter contained in this Declaration, the Articles, the By-laws or the Association Rules. In the event that a right of first refusal or any similar restriction is created in favor of any other person or entity, such restriction shall not impair the rights of an Institutional Beneficiary to foreclose or take title to a Condominium pursuant to the remedies provided in the mortgage or deed of trust, accept an assignment or deed in lieu of foreclosure in the event of a default by a mortgagor or trustor or to sell or lease a Condominium acquired by the Institutional Beneficiary.

10.8 LEASES: With the exception of a lender in possession of a Condominium following a default in a first mortgage or first deed of trust, a foreclosure proceeding or any deed or other arrangement in lieu of foreclosure, no Owner shall be permitted to lease his Unit for transient or hotel purposes. No Owner may lease less than the entire Unit. All leases must be in writing and be expressly subject to this Declaration and to the By-laws. The breach of any provision hereof or of the By-laws shall be a default under the lease.

10.9 FORECLOSURE: Any Institutional Beneficiary who comes into possession of the Unit by virtue of a foreclosure of the mortgage or deed of trust or any purchaser at a foreclosure sale will take the Unit free of any claims for unpaid Assessments and charges against the Unit which accrue prior to the time such Institutional Beneficiary comes into possession of the Unit, except for claims for a pro rata share of such Assessments or charges resulting from a pro rata reallocation of such Assessments or

81-135230

charges to all Units including the mortgaged Unit.

10.10 RESERVE FUND: Condominium dues or charges (Regular Assessments) shall be established by the Association and shall include an adequate reserve fund for repairs, replacement and maintenance of those portions of the Common Area that must be replaced on a periodic basis. Such charges shall be funded by regular monthly assessments of Unit Owners rather than by Special Assessments, provided, however, this provision shall not in any way limit the Board's power to impose Special Assessments or any other Assessment as provided in this Declaration.

10.11 NOTICE OF DEFAULT: Institutional Beneficiaries and/or their successors and assigns, upon written request for such notification, shall be entitled to written notification from the Association of any default by the mortgagor or trustor of any Unit in the performance of such mortgagor's or trustor's obligations under the Declaration, the Articles or By-Laws which is not cured within thirty (30) days.

10.12 MANAGEMENT: Any agreement for professional management of the Project or any contract providing for services of the Declarant shall provide that the contract may be terminated without cause and without payment of a termination fee by either party on thirty (30) days written notice. The term of any such contract shall not exceed one (1) year, renewable by agreement of the parties for successive one-year periods.

ARTICLE XI

MISCELLANEOUS PROVISIONS

11.1. MECHANIC'S LIENS: In case there shall be filed a Notice of Mechanic's Lien against the Project for, or purporting to be for, labor or material alleged to have been furnished or delivered for any Unit Owner at the Project or at his Unit, the Unit Owner shall forthwith cause such lien to be discharged by payment, bond or otherwise. If the Unit Owner shall fail to cause such lien to be discharged by payment, bond or otherwise, the Board may send written notice to said Unit Owner specifying that unless said Unit Owner discharges said lien within five (5) days from the date of said notice, the Board may cause said lien to be discharged by payment, bond or otherwise. Within said five-day period, the Unit Owner shall be permitted to address a hearing of the Board regarding the validity of such lien or any offsets or defenses thereto. The Board shall determine whether such lien adversely and improperly affects and encumbers the ownership interest of other Unit Owners. Should the Board determine that said lien adversely and improperly affects and encumbers the ownership interest of other Unit Owners and that no adequate protection of said interests has been provided, the Board may cause said lien to be discharged by payment, bond or otherwise. The Board shall have the right to collect from the Unit Owner responsible for said lien all amounts so paid together with interest thereon at the legal rate and all costs and expenses paid or incurred in connection therewith, including reasonable attorneys' fees.

11.2 TERM OF DECLARATION: The provisions of this Declaration of Covenants, Conditions and Restrictions shall continue and be effective for a term of fifty (50) years from the date of this Declaration, after which time this Declaration shall be automa-

LAW OFFICES  
 MILLER, STARR  
 & REGALIA  
 10000 DOWLING  
 DRIVE 1500  
 ONE SANDS PLACE  
 OAKLAND, CALIF. 94612  
 TEL. (415) 433-3000

tically extended for successive periods of ten (10) years until a vote of the record Owners of Units constituting more than fifty percent (50%) of the Unit shall determine that this Declaration shall terminate.

11.3 AMENDMENTS: After the conveyance of the first Unit, the provisions hereof may be amended by a vote or written consent of the record Unit Owners constituting not less than seventy-five percent (75%) of both classes of Members of the Association. In the event only one class of Members exists at the time of the proposed amendment, said amendment shall require the vote or written consent of the Members constituting the record Owners of seventy-five percent (75%) of the total voting power of the Association and seventy-five percent (75%) of the Units other than Declarant. Said Amendment shall be effective upon the recordation in the Office of the Recorder of the County in which the Project is situated of an instrument setting forth the terms thereof, duly certified and executed by the President and Secretary of the Association. Notwithstanding anything to the contrary herein contained, no such Amendment shall affect the rights of the holder of any deed of trust or mortgage recorded prior to the recordation of such Amendment.

11.4 CONSTRUCTION OF PROVISIONS: The provisions of this Declaration shall be liberally construed to effect its purposes of creating a uniform plan for the development and operation of a Condominium Project pursuant to the provisions of Section 1350 et seq. of the Civil Code of the State of California. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision or any other provision hereof.

11.5 BINDING: This Declaration shall be for the benefit of and be binding upon all Unit Owners, their respective heirs, legatees, devisees, executors, administrators, guardians, conservators, successors, purchasers, lessees, encumbrancers, donees, grantees, mortgagees, lienors and assigns.

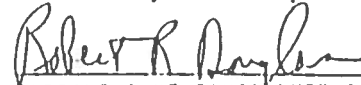
11.6 SEVERABILITY OF PROVISIONS: The provisions hereof shall be deemed independent and severable, and the invalidity or unenforceability of any one provision shall not affect the validity or enforceability of any other provision hereof.

11.7 GENDER, NUMBER AND CAPTIONS: As used herein, the singular shall include the plural and the masculine shall include the feminine. The titles and captions of each paragraph hereof are not a part hereof and shall not affect the construction or interpretation of any part hereof.

IN WITNESS WHEREOF, the undersigned Declarant has executed the within Declaration the day and year first above written.

DECLARANT:

KNOWLAND PARK TOWNHOUSE PROPERTIES,  
a limited partnership



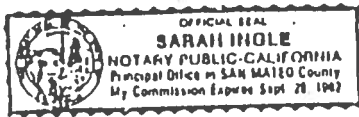
PRESIDENT OF CANTILLER INTERNATIONAL  
CORPORATION, GENERAL PARTNER OF KNOWLAND  
PARK TOWNHOUSE PROPERTIES.

81-136230

State of California  
County of Alameda

On August 10, 1981 personally appeared Robert R. Douglas, known to me to be the President of CANTILEVER INTERNATIONAL CORPORATION, a California Corporation, said Corporation known to me to be one of the partners of Knowland Park Townhouse Properties, a Limited Partnership, the Corporation that executed the within instrument and acknowledged to me that they executed the same as President of the Corporation first above named, that said Corporation executed the same as a partner of Knowland Park Townhouse Properties, a Limited Partnership, and that said last named partnership executed the same.

Witness my hand and official seal



*Sarah Inole*  
Notary Public in and for  
said County and State

# CONDOMINIUM PLAN for

## TRACT 4631

TRACT 4631 CITY OF OAKLAND, COUNTY OF  
ALAMEDA, CALIFORNIA, RECORDED IN THE  
OFFICE OF THE RECORDER OF ALAMEDA COUNTY,  
STATE OF CALIFORNIA, ON THIS 23rd  
DAY OF April, 1981, IN BOOK 126  
OF MAPS, AT PAGE 94.

CITY OF OAKLAND  
ALAMEDA COUNTY — CALIFORNIA

IVAN VEGVARY & ASSOC.  
No. 8 WILDWOOD AVENUE

CIVIL ENGINEERS  
OAKLAND, CALIF. 94610

### LEGEND

TRACT BOUNDARY 

PROPERTY CORNER 

UNIT BOUNDARY 

UNIT NUMBER (TYP.) U 12

CARPORTS (TYP.) P 10

(TO BE ASSIGNED)

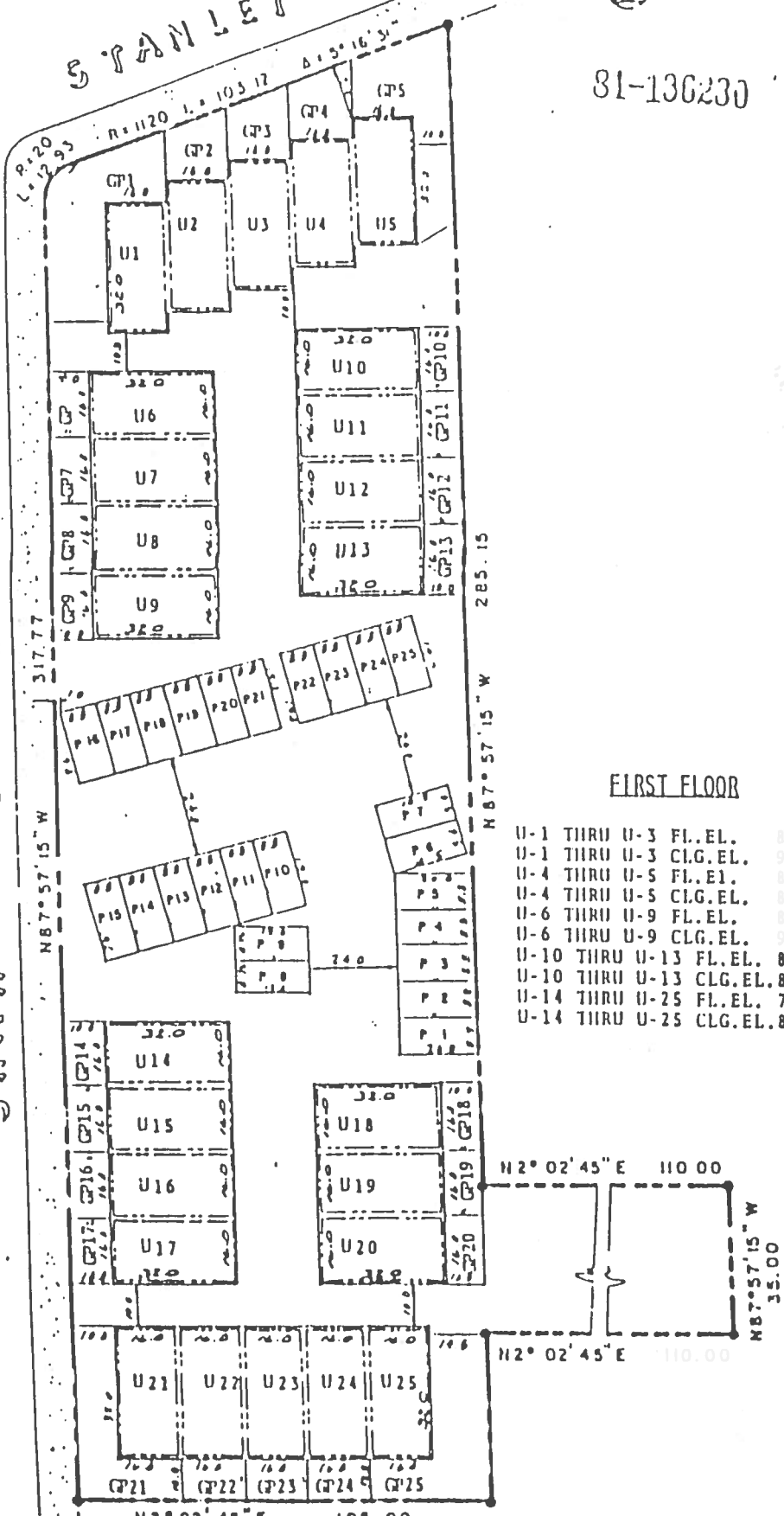
PATIO GARDEN (TYP.) GP 12

STANLEY RD.

SCALE: 1" = 30'

81-136230

STANLEY RD.

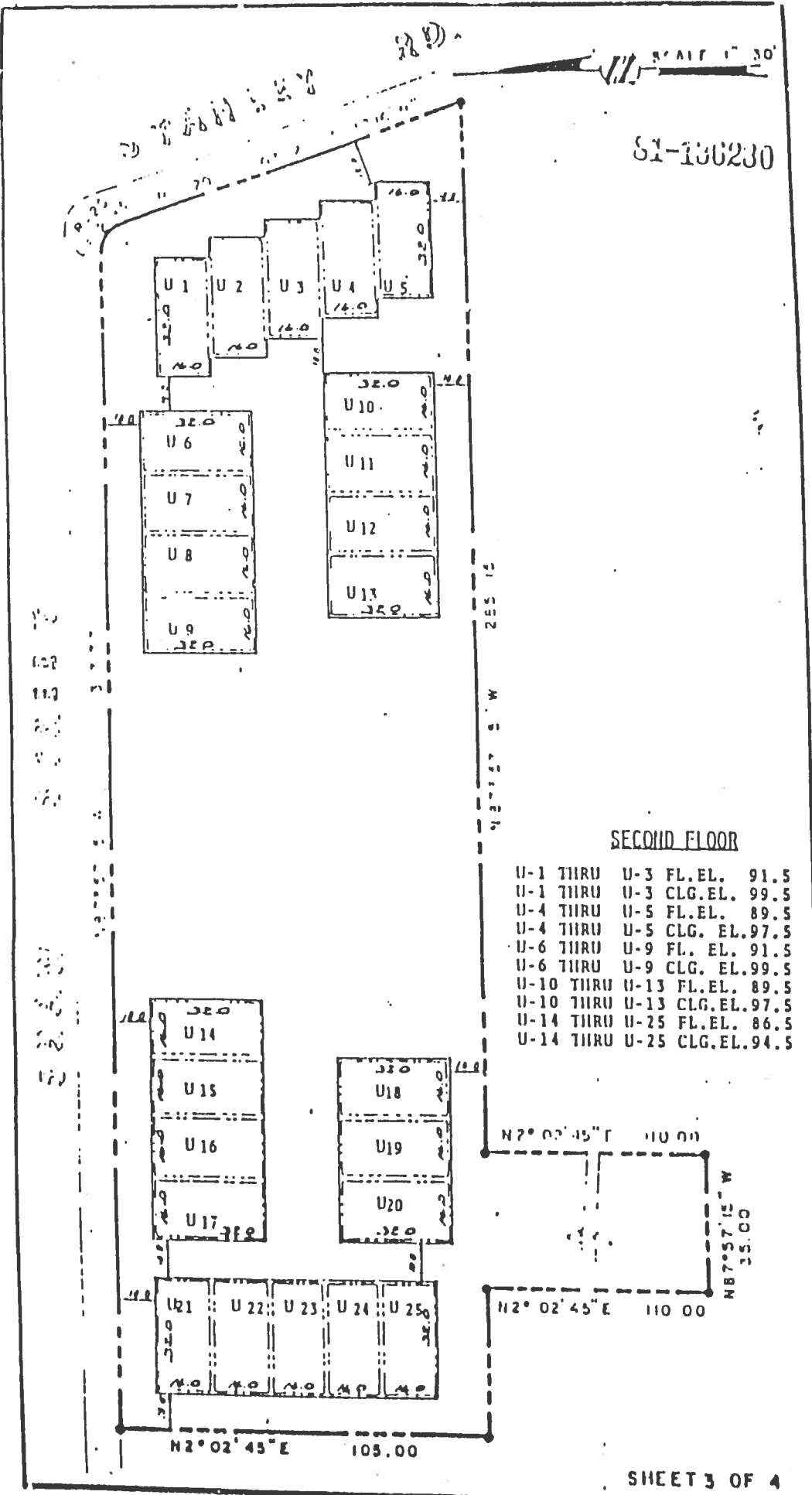


FIRST FLOOR

- U-1 THRU U-3 FL. EL. 82.5
- U-1 THRU U-3 CLG. EL. 90.5
- U-4 THRU U-5 FL. EL. 80.5
- U-4 THRU U-5 CLG. EL. 88.5
- U-6 THRU U-9 FL. EL. 82.5
- U-6 THRU U-9 CLG. EL. 90.5
- U-10 THRU U-13 FL. EL. 80.5
- U-10 THRU U-13 CLG. EL. 88.5
- U-14 THRU U-25 FL. EL. 77.5
- U-14 THRU U-25 CLG. EL. 85.5

SI-130230

SCALE 1" = 30'



SECOND FLOOR

- U-1 THRU U-3 FL. EL. 91.5
- U-1 THRU U-3 CLG. EL. 99.5
- U-4 THRU U-5 FL. EL. 89.5
- U-4 THRU U-5 CLG. EL. 97.5
- U-6 THRU U-9 FL. EL. 91.5
- U-6 THRU U-9 CLG. EL. 99.5
- U-10 THRU U-13 FL. EL. 89.5
- U-10 THRU U-13 CLG. EL. 97.5
- U-14 THRU U-25 FL. EL. 86.5
- U-14 THRU U-25 CLG. EL. 94.5

61-1362J0

<u>UNIT NUMBER</u>	<u>SQUARE FOOTAGE LIVING AREA</u>	<u>PERCENTAGE OF INTEREST</u>
1	1024.00	4.0000
2	1024.00	4.0000
3	1024.00	4.0000
4	1024.00	4.0000
5	1024.00	4.0000
6	1024.00	4.0000
7	1024.00	4.0000
8	1024.00	4.0000
9	1024.00	4.0000
10	1024.00	4.0000
11	1024.00	4.0000
12	1024.00	4.0000
13	1024.00	4.0000
14	1024.00	4.0000
15	1024.00	4.0000
16	1024.00	4.0000
17	1024.00	4.0000
18	1024.00	4.0000
19	1024.00	4.0000
20	1024.00	4.0000
21	1024.00	4.0000
22	1024.00	4.0000
23	1024.00	4.0000
24	1024.00	4.0000
25	1024.00	4.0000
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25	25600.00	100.0000