

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. Gov. Code Sec. 12956.1(b)(1)

Any person who believes that this document contains an unlawful restrictive covenant as described above may submit to the County Recorder a completed Restrictive Covenant Modification form. A complete copy of the original document must be attached to the Restrictive Covenant Modification form, with the unlawful language redacted. After submission to the Recorder, the form and attached document will be reviewed by County Counsel, and if the attached document properly redacts an unlawful covenant, the form and attached document will be recorded. If you submit a request to record a modification document, you must provide a return address in order for the County Recorder to notify you of the action taken by the County Counsel regarding the form. Gov. Code Sec. 12956.2(a)(1), (b)(1), (c)

RECORDING REQUESTED BY:

WHEN RECORDED MAIL TO:

THIS SPACE FOR RECORDER'S USE ONLY

RESTRICTIVE COVENANT MODIFICATION

The following reference document contains a 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 Section 12955 of the Government Code, or ancestry, that violates state and federal fair housing laws and is void. Pursuant to Section 12956.2 of the Government Code, this document is being recorded solely for the purpose of redacting and eliminating that restrictive covenant as shown on page(s) ___ of the document recorded on _____(date) in book _____ and page _____ or instrument number _____ of the official records of the County of _____, State of California.

Attached hereto is a true, correct and complete copy of the document referenced above, with the unlawful restrictive covenant redacted.

This modification document shall be indexed in the same manner as the original document being modified, pursuant to subdivision (d) of Section 12956 of the Government Code.

The effective date of the terms and conditions of the modification document shall be the same as the effective date of the original document.

Signature of Submitting Party: _____ Date: _____

Print Name: _____

_____ County Counsel, or their designee, pursuant to paragraph (1) of subdivision (b) of Section 12956.2 of the Government Code, hereby states that it has determined that the original document referenced above contains an unlawful restriction and this modification may be recorded.

Or

_____ County Counsel, or their designee, pursuant to paragraph (1) of subdivision (b) of Section 12956.2 of the Government Code, finds that the original document does not contain an unlawful restriction, or the modification document contains modifications not authorized, and this modification may not be recorded.

County Counsel

By:

Date:

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Recorded at the request of
Valley Title Company
FEB 10 1970 8:01 AM
George E. Fowles, Recorder
Santa Clara County, Official Records

return to file 145780

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DECLARATION

OF

COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION, made on the date hereinafter set forth by

Valley Title Company

a corporation, hereinafter referred to as "Declarant",

W I T N E S S E T H :

WHEREAS, Declarant is the owner of certain property in the
City of San Jose, County of Santa Clara,
State of California, which is more particularly described as all
lots as shown on the subdivision map of Tract 4759, filed
in the office of the County Recorder of Santa Clara
County, California, on October 29, 19 69, in Map
Book 261, at pages 1 and 2.

NOW, THEREFORE, Declarant hereby declares that all of the
properties described above shall be held, sold, and conveyed
subject to the following easements, restrictions, covenants, and
conditions, which are for the purpose of enhancing and protecting
the value, attractiveness, and desirability of, and which shall
run with, the real property and be binding on all parties having
any right, title or interest in the described properties or any
part thereof, their heirs, successors, and assigns, and shall
inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and include any
**Covenants or Restrictions based on race, color, religion,
sex, handicap, familial status, or national origin, if any**
contained herein, are hereby omitted from this document,
unless and only to the extent that said covenant (a) is
exempt under chapter 42 section 3607 of the United States
Code or (b) relates to handicap but does not discriminate
against handicapped persons

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assigns.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 3. "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 4. "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of the Owners. The common area to be owned by the Association at the time of the conveyance of the first lot is Lot A of the tract hereinabove described.

Section 5. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the properties with the exception of the common area.

Section 6. "Declarant" shall mean and refer to Valley Title Company, its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the declarant for the purpose of development.

Section 7. "Mortgage" shall mean and include a deed of trust as well as a mortgage in the conventional sense.

Section 8. "Mortgagee" shall mean and include a beneficiary under or holder of a deed of trust as well as a mortgagee.

Section 9. "Member" shall mean and refer to every person or entity who holds membership in the Association.

ARTICLE II

ANNEXATION OF ADDITIONAL PROPERTIES

Section 1. Annexation of additional property shall require the assent of two-thirds of all the Class A members and two-thirds

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of all Class B members, if any, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The presence of members or of proxies entitled to cast sixty percent of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. In the event that two-thirds of the Class A membership or two-thirds of the Class B membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat.

Section 2. If within three years after the issuance of the most recent Final Subdivision Public Report of the California Commissioner of Real Estate pertaining to the properties or to the lands to be annexed pursuant to this section the declarant should develop additional lands within the area adjacent to the properties, such additional lands may be annexed to said properties without the assent of both classes of members; provided, however, that the development of the additional lands described in this section shall be in accordance with a general plan submitted to the Federal Housing Administration and the Veterans Administration with the processing papers for the first section. Detailed plans for the development of additional lands must be submitted to the Federal Housing Administration and the Veterans Administration and the Department of Real Estate prior to such development. If the Federal Housing Administration, the Veterans Administration or the Department of Real Estate determines that such detailed plans

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are not in accordance with the general plan on file and such agency so advises the Association and the declarant, the development of the additional lands must have the assent of two-thirds of all the Class A members and two-thirds of all the Class B members, who may vote in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. At this meeting, the presence of members or of proxies entitled to cast sixty percent of all of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. In the event that two-thirds of the Class A membership or two-thirds of the Class B membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat.

ARTICLE III

PROPERTY RIGHTS

Section 1. Owners' Easements of Enjoyment. Every owner shall have a right and easement of enjoyment in and to the common area which shall be appurtenant to and shall pass with the title to every lot, subject to the following provisions:

- (a) the right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the common area;
- (b) the right of the Association to suspend the voting rights and right to use of the recreational facilities by an

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owner for any period during which any assessment against his lot remains unpaid; and for a period not to exceed 30 days for any infraction of its published rules and regulations, after notice and hearing.

(c) the right of the Association to dedicate or transfer all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by two-thirds (2/3rds) of each class of members agreeing to such dedication or transfer has been recorded.

(d) Parking Rights. The right of members to the exclusive use of not more than one (1) uncovered automobile parking space and one (1) covered automobile parking space, which shall be as near and convenient to the respective member's lot as reasonably possible, together with the right of ingress and egress in and upon said parking areas. The respective parking spaces shall be as designated in Exhibit "A" attached hereto and made a part hereof by this reference. The designations shall contain first a number which shall correspond to the specific numbered lot to which the particular parking spaces are appurtenant. The letters following such lot number shall designate the particular use thereof, i.e., "A" for covered automobile parking space, and "B" for uncovered automobile parking space.

Section 2. Delegation of Use. Any owner may delegate, in accordance with the By-Laws, his right of enjoyment to the common area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

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Section 3. Easements of Encroachment.

(a) There shall be reciprocal appurtenant easements of encroachment as between each lot and such portion or portions of the common area adjacent thereto and/or as between adjacent lots due to the unwillful placement or settling or shifting of the improvements constructed, reconstructed or altered thereon (in accordance with the terms of the restrictions) to a distance of not more than five (5) feet, as measured from any point on the common boundary between each lot and the adjacent portion of the common area or as between said adjacent lots, as the case may be, along a line perpendicular to such boundary at such point; provided, however, that in no event shall an easement for encroachment exist if such encroachment occurred due to willful conduct on the part of an owner, tenant or the Association.

(b) There shall be reciprocal appurtenant easements for the maintenance and repair of a party wall or walls.

Section 4. Master Television Antennas. To avoid the necessity of a separate television antenna for each lot, master antennas shall be located upon certain lots through the properties with connections thereto being located within or upon the roof structure of the various residences. Said antennas and connections shall be maintained in good order and repair by the Association. To the extent required to effectuate the foregoing plan, there shall be an easement in favor of each lot for the purpose of providing connection of that lot with the master antenna most convenient thereto. Each lot shall be subject to easements in favor of all the other lots providing for the passage through the roof structure of television connections from all of said lots to the master antenna most convenient thereto. Each lot shall be subject to a further easement for the placement thereon by the Association of a master antenna and appurtenances. All of

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the foregoing easements are granted and reserved subject to the condition that their use and enjoyment shall not interfere with the use, occupancy or enjoyment of all or any part of the lot servient to them or to which they are appurtenant.

Section 5. Other Easements.

(a) Easements for installation and maintenance of utilities and drainage facilities are shown on the recorded map. Within these easements, no structure, planting, or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may damage, interfere, or change the direction of flow of drainage facilities in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, or if in a common area by the Association, except for those improvements for which a public authority or utility company is responsible.

(b) No dwelling unit and/or other structure of any kind shall be built, erected or maintained upon any such easement, reservation, or right of way, and said easements, reservations and rights of way shall, at all times be open and accessible to public and quasi-public utility corporations, and other persons erecting, constructing or servicing such utilities and quasi-utilities, and to declarant, its successors or assigns, all of whom shall have the right to ingress and egress thereto and therefrom, and the right and privilege of doing whatever may be necessary in, under and upon said locations for the carrying out of any of the purposes for which said easements, reservations, and rights of way are hereby reserved, and may hereafter be reserved.

Section 5. No Partition. There shall be no judicial partition of the common area, nor shall grantor or any person acquiring any

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interest in the properties or any part thereof seek any judicial partition thereof; provided, however, that if any lot 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-tenants.

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ARTICLE IV

MEMBERSHIP AND VOTING RIGHTS

Section 1. Every owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to any and may not be separated from ownership of any lot.

Section 2. The Association shall have two classes of voting membership as follows:

Class A. Class A members shall be all owners with the exception of the declarant and shall be entitled to one vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

Class B. The Class B member(s) shall be the declarant and shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

- (a) when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership; or
- (b) three years after the date of issuance of the most recent Final Subdivision Public Report by the Real Estate Commissioner of the State of California pertaining to the real property first described in this Declaration of Covenants, Conditions and Restrictions; or
- (c) six years from the date of the sale of the first lot by declarant.

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ARTICLE V

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Creation of the Lien and Personal Obligation of Assessments. The declarant, for each lot owned within the properties, hereby covenants, and each owner of any lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs, and reasonable attorney's fees, shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors in title unless expressly assumed by them.

Section 2. Purpose of Annual Assessments. The annual assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the properties and for the improvement and maintenance of the common area, and of the homes situated upon the properties. Said annual assessments shall include and the association shall acquire and pay for out of the funds derived from said annual assessments the following:

- (a) Water, sewer, garbage, electrical, lighting, telephone and gas and other necessary utility service for the common area.

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(b) Maintenance and repair of storm drains, sanitary sewers and private driveways lying within the common area.

(c) Water service and maintenance and repair of television antenna systems for all the homes situated upon the properties.

(d) Fire insurance covering the full insurable replacement value of the common area with a minimum of extended coverage.

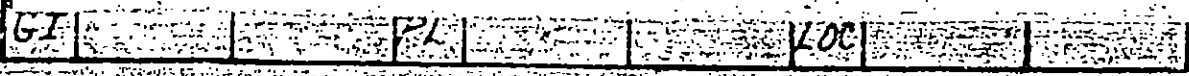
(e) Liability insurance insuring the Association against any liability to the public or to any owner, their invitees or tenants incident to their occupation and/or use of the common area and the lots in a combined personal injury and property damage coverage of liability not less than \$1,000,000.00 for each occurrence (such limits and coverage to be reviewed at least annually by the Association and increased in its discretion).

(f) Workmen's Compensation Insurance to the extent necessary to comply with any applicable laws, and any other insurance deemed necessary by the Board of Directors of the Association.

(g) Standard fidelity bond covering all members of the Board of Directors of the Association and all other employees of the Association in the minimum sum of \$ 10,000.00 or in such greater amounts as the Board of Directors may determine from time to time.

(h) Painting, maintenance, repair, replacement and all landscaping of the common area, and such furnishings and equipment for the common area, as the Association

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shall determine are necessary and proper, including but without limiting the generality of the foregoing, all equipment, furnishings, and personnel for the recreational areas necessary or proper for the use thereof, and the facilities thereon by the owners for recreational purposes and the Association shall have the exclusive right and duty to acquire the same.

(i) Painting, maintenance, and nonstructural repair of the exterior surfaces of the residences, as the Association shall deem necessary and proper, including but without limitation, replacement of trim, caulking and other repairs of the roof covers, and other miscellaneous repairs, not of a structural nature. Such exterior maintenance shall not include glass surfaces.

(j) Landscape planting (including irrigation) and maintenance service for the common areas; provided, however, that all landscaping inside patio or yard areas of any lot shall be provided and maintained by the owner thereof.

(k) Removal and replacement of any part of a patio or fence that extends into the common area under authority of an easement when access to a utility line underneath such patio or fence is requested by any utility company.

(l) Any other materials, supplies, furniture, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Association is required to secure or pay for pursuant to the terms of these restrictions or by law or which in the opinion of the Association's Board of Directors shall be necessary or proper for the operation of the

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common area, or for the benefit of the lot owners, or for the enforcement of these restrictions.

Section 3. Maximum Annual Assessment. Until January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment shall be One Hundred and Forty-Four Dollars (\$144.00) per lot.

(a) From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment may be increased effective January 1 of each year without the vote of the membership by an amount over said sum above which shall bear the same proportion of said sum as the then "United States Department of Labor Bureau of Labor Statistics Consumer Price Index--All Items--San Francisco-Oakland Metropolitan Area" shall have increased above such index for the preceding month of July. It is the intention that the maximum annual assessment may be increased each year if the cost of living shall increase. In the event that the basis of expression of such index shall be changed by the United States government, appropriate mathematical conversion shall be made to effect the intent of this paragraph.

(b) From and after January 1 of the year immediately following the conveyance of the first lot to an owner, the maximum annual assessment may be increased above that established by the above Consumer Price Index formula by a vote of the members for the next succeeding two years and at the end of such period of two years for each succeeding period of

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years, provided that any such change shall have the affirmative vote of a majority of all the Class A members and majority of all the Class B members, if any. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its articles of incorporation.

(c) After a consideration of current maintenance costs and future needs of the Association, the Board of Directors may fix the annual assessment at an amount not in excess of the maximum period.

Section 4. Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the common area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds of all the Class A members and two-thirds of all the Class B members, if any.

Section 5. Notice and Quorum for any Action Authorized under Sections 3 and 4. Written notice of any meeting called for the purpose of taking any action by the members authorized under Sections 3 and 4 shall be sent to all members not less than 30 days, nor more than 60 days in advance of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirements, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such

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subsequent meeting shall be held more than 60 days following the preceding meeting. In the event the required majority or two-thirds of each class of membership is not present in person or by proxy, members not present may give their written assent to the action taken thereat.

Section 6. Uniform Rate of Assessment. Except as provided in Article VIII, Section 2 hereof, both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

Section 7. Date of Commencement of Annual Assessments: Due Dates. The annual assessments provided for herein shall commence as to all lots on the first day of the month following the conveyance of the common area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors shall fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every owner subject thereto. The due dates shall be established by the Board of Directors. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified lot have been paid.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum. In the event of a default or defaults in payment of any assessment and in addition to any other remedies herein or by law provided, the Association may enforce each such obligation as follows:

- (a) By suit or suits at law to enforce each such assessment obligation. Any judgment rendered in any such action shall include where permissible under any

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law, a sum for reasonable attorney fees in such amount that the court may adjudge against such defaulting owner. Upon full satisfaction of any such judgment, it shall be the duty of the Association by any authorized officer thereof to execute and deliver to the judgment debtor an appropriate satisfaction thereof.

(b) At any time within ninety (90) days after the delinquency of any assessment, the Association may give a notice to the defaulting owner, which said notice shall state the date of the delinquency, the amount of the delinquency, and the interest charge for such delinquency, and make a demand for payment thereof. If such delinquency and interest is not paid within ten (10) days after delivery of such notice, the Association may elect to file a claim of lien against the lot of such delinquent owner. Such claim of lien shall state (1) the name of the delinquent owner or reputed owner, (2) a description of the lot against which claim of lien is made, (3) the amount claimed to be due and owing (with any proper offset allowed), (4) that the claim of lien is made by the Association pursuant to the terms of these restrictions (giving the date of execution and the date, book and page reference of the recording hereof in the Office of the Recorder of the County of Santa Clara), and (5) that a lien is claimed against said described lot in an amount equal to the amount of the stated delinquency plus interest. Any such claim of lien shall be signed and acknowledged by an authorized officer of the Association. Upon recordation of a duly executed original or copy of such claim of lien by the Recorder of the County of Santa Clara, the lien claimed therein shall

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immediately attach and become effective subject only to limitations hereinafter set forth. Each delinquency shall constitute a separate basis for a claim of lien or a lien. Any such lien may be foreclosed by appropriate action in court or in the manner provided by law for the foreclosure of a mortgage under power of sale. In the event such foreclosure is by action in court, reasonable attorney's fees shall be allowed to the extent permitted by law. In the event the foreclosure is as in the case of a mortgage under power of sale, any authorized officer of the Association conducting said sale shall be entitled to actual expenses and such fees as may be allowed by law or as may be prevailing at the time the sale is conducted. A certificate of sale shall be executed and acknowledged by any authorized officer of the Association or by the person conducting the sale. A deed upon foreclosure shall be executed in like manner.

No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the common area or abandonment of his lot.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any first mortgage. A sale or transfer of any lot shall not affect the assessment lien. However, the sale or transfer of any lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such lot from liability for any assessments thereafter becoming due or from the lien thereof.

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ARTICLE VI

ARCHITECTURAL CONTROL

No building, fence, wall or other structure shall be commenced, erected or maintained upon the properties, nor shall any exterior addition to or change or alteration therein, including replanting, be made until the plans and specifications showing the nature, kind, shape, height, materials, colors, and locations of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with.

ARTICLE VII

PARTY WALLS

Section 1. General Rules of Law to Apply. Each wall which is built as a part of the original construction of the homes upon the properties and placed on the dividing line between the lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance. The cost of reasonable repair and maintenance of a party wall shall be shared by the owners who make use of the wall in proportion to such use.

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Section 3. Destruction by Fire or Other Casualty. If a party wall is destroyed or damaged by fire or other casualty, any owner who has used the wall may restore it, and if the other owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omission.

Section 4. Weatherproofing. Notwithstanding any other provision of this Article, an owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

Section 5. Right to Contribution Runs With Land. The right of any owner to contribution from any other owner under this Article shall be appurtenant to the land and shall pass to such owner's successors in title.

ARTICLE VIII

OBLIGATION TO REBUILD

Section 1. Residence Insurance. In the event that an owner shall fail to provide proof of adequate fire insurance with extended coverage endorsement covering the improvements to his lot to the Association's Board of Directors satisfaction, the Association shall have the duty to purchase, carry and at all times to maintain in force such insurance covering the improvements to said lot. All such insurance, whether purchased by the owner or the Association, shall:

(a) be in an amount which shall be equal to the maximum insurable replacement value, excluding foundation and excavation costs, as determined annually by the insuring carrier,

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(b) contain such endorsements and coverage as shall be considered good sound insurance coverage for properties similar in construction, location, and use, and

(c) shall be written in the name of the Association as trustee for the benefit of the owner of the damaged residence and the mortgagee, as their interest shall appear, in order that the proceeds of the insurance may be applied to the cost of repairing or rebuilding the damaged residence as herein provided.

Section 2. Cost of Insurance. The Board of Directors shall levy a special assessment against the particular lot or lots upon which the above fire insurance with extended coverage purchased by the Association applies for purpose of defraying in whole said insurance premium. The assessment may be collected on a monthly basis. The common dues may not be used to pay the cost of insurance on any individual lot.

Section 3. Damage and Destruction Affecting Residences - Insurance Proceeds. If all or any portion of any residence is damaged or destroyed by fire or other casualty included in the extended coverage then the following rules shall be applicable:

(1) All insurance proceeds shall be paid to the Association for the payment of the cost of repairing or rebuilding as herein provided, as trustee for the benefit of the owners of the damaged residence or residences and the mortgagees, as their interest shall appear.

(2) The Board of Directors of the Association shall levy a special assessment against the owners

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of the lots upon which the casualty has occurred equal to the difference between the cost of repairing or rebuilding and the amount of available insurance proceeds which said sum shall be secured by the lien provided for herein and shall be payable into the fund held by the insurance trustee. The Board of Directors may advance the amount of the special assessment to the insurance trustee from association general funds or reserves if the Board of Directors determines that the residence, as so rebuilt and reconstructed, will furnish adequate security for the repayment of said advances by operation of the assessment lien.

(3) When the amount held by the insurance trustee is sufficient to pay the costs of repair and reconstruction, the Board of Directors, as agent for the owners, shall thereupon contract for the repair or reconstruction of the residences

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paying the cost of such work from the amount held by the insurance trustee, said repair or reconstruction to be for the purpose of returning the residences substantially to their appearance and condition immediately prior to the casualty.

(4) Notwithstanding the foregoing, any owner which has suffered damage may apply to the Board of Directors for reconstruction, rebuilding or repair of his residence in a manner which will provide for an exterior appearance and design different than that which existed prior to the date of the casualty. Application for such approval shall be made in writing together with full and complete plans, specifications, working drawings and elevations showing the proposed reconstruction and the end result thereof. The Board of Directors shall grant such approval only if the design proposed by the owner would result in a finished residence in harmony of exterior design with other residences on the properties, and the owner shall have deposited with the insurance trustee any additional moneys required to complete reconstruction in such changed manner. Failure of the Board of Directors to act within sixty (60) days after receipt of such a request in writing coupled with drawings and plot plans showing the full and complete nature of the proposed change shall constitute approval thereof.

(5) In any event, the owner or owners of any damaged residence and the Board of Directors shall be obligated to proceed with all due diligence hereunder and commence reconstruction within three (3) months

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after the damage occurs and complete reconstruction within six (6) months after the damage occurs, unless prevented by causes beyond their reasonable control.

ARTICLE IX
RIGHT OF ENTRY

For the purpose of performing the exterior maintenance authorized by Article V, and the repair and restoration authorized by Article VIII the Association through its duly authorized agents or employees shall have the right after reasonable notice to the owner to enter upon any lot at reasonable hours on any day.

ARTICLE X
OWNERS' OBLIGATION TO REPAIR

Section 1. Except for those portions which the Association is required to maintain and repair hereunder (if any) each owner shall, at his sole cost and expense, maintain and repair his residence, keeping the same in good condition and making all structural repairs as they may be required. Upon compliance with the conditions set forth in Article V hereof and with the prior written consent of the Association by an authorized officer thereof, any owner may perform for his residence at his sole cost such services as might otherwise be provided by the Association hereunder.

ARTICLE XI
ALTERATIONS, ADDITIONS AND IMPROVEMENTS OF RESIDENCES

Section 1. No owner shall make structural alterations, exterior repainting, repairs of or additions to his residence which said alterations, repairs or additions would substantially alter the exterior appearance thereof without the prior written

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approval of the plans and specifications therefor by the Association. The Association shall grant its approval only in the event that the proposed work will benefit and enhance the entire properties in a manner generally consistent with the plan of development thereof. The Association's approval or disapproval shall be in writing. In the event that the Association fails to approve or disapprove within thirty (30) days after the appropriate plans and specifications have been submitted to it, or in any event, if no suit to enjoin such work has been commenced within thirty (30) days after completion thereof, approval will be deemed given and compliance with the terms of this paragraph conclusively presumed.

ARTICLE XII

USE RESTRICTIONS

The property shall be occupied and used as follows:

Section 1. Each lot shall be used as a residence for a single family and for no other purpose.

Section 2. No business of any kind shall be conducted on any residence lot with the exception of the business of declarant's transferees in developing all of the lots as provided in Section 13 hereof.

Section 3. No noxious or offensive activity shall be carried on, in or upon any lot or the common area nor shall anything be done therein which may be or become an annoyance or nuisance to other owners.

Section 4. No sign of any kind shall be displayed to the public view on any lot or the common area without the prior written consent of the Association, except customary name and address signs and lawn sign of not more than five square feet in size advertising the property for sale or rent.

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Section 5. No owner of a lot shall park, store or keep any vehicle except wholly within the parking space designated therefor and no owner shall park, store or keep any truck, camper, boat, trailer or aircraft or any vehicle other than a private passenger vehicle upon the designated uncovered parking space. In no event shall any truck larger than a 1/2-ton pickup be parked, stored or kept in a parking space. No owner of a lot shall repair or restore any motor vehicle, boat, trailer, aircraft or other vehicle upon any portion of any lot or upon the common area except for emergency repairs thereto and then only to the extent necessary to enable movement thereof to a proper repair facility.

Section 6. Nothing shall be done or kept on the lot or common area which will increase the rate of insurance relating thereto without the prior written consent of the Association and no owner shall permit anything to be done or kept on his lot or the common area which would result in the cancellation of insurance on any residence or any part of the common area or which would be in violation of any law.

Section 7. No animals, live stock or poultry of any kind shall be raised, bred or kept on any lot or the common area, except that dogs, cats and other household pets may be kept on lots subject to rules and regulations adopted by the Association, provided that they are not kept, bred or maintained for any commercial purpose.

Section 8. No rubbish, trash, garbage or other waste material shall be kept or permitted upon any lot or common area except in sanitary containers located in appropriate area screened and concealed from view.

Section 9. No fence, hedge, wall or other dividing instrumentality over six feet in height measured from the ground on which it stands shall be constructed or maintained on any lot except as declarant may vary or exceed said height or location of any fence in accordance with its architectural plans.

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Section 10. No masts, tower or pole or outside television antenna, aerial or radio pole shall be erected, constructed or maintained on any lot located in such a manner as to be visible from the outside of such lot except as provided in Section 4, Article III of this declaration.

Section 11. No outbuilding, basement, tent, shack, garage, trailer or shed or temporary building of any kind shall be used as a residence either temporarily or permanently.

Section 12. Nothing shall be altered or constructed in or removed from the common area except upon the written consent of the Association.

Section 13. Declarant's transferees will undertake the work of developing all of the lots included within said property. The completion of that work and sale, rental and other disposal of 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:

(a) Prevent declarant, its transferees, or its or their contractors, or subcontractors, from doing on said property or any part thereof whatever they determine to be reasonably necessary or advisable in connection with the completion of said work; or

(b) Prevent declarant, its transferees, or its or their representatives from erecting, constructing and maintaining on any part or parts of said property owned or controlled by declarant, or its transferees, or its or their contractors or subcontractors, such structures as may be reasonably necessary for the

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conduct of its business of completing said work and establishing said property as a residential community and disposing of the same in parcels by sale, lease, or otherwise; or

(c) Prevent declarant, or its transferees, or its or their contractors or subcontractors, from conducting on any part or parts of said property owned or controlled by declarant, or its transferees, its or their business of completing said work and of establishing said property as a residential community and of disposing of said property in parcels by sale, lease or otherwise; or

(d) Prevent declarant, or its transferees, or its or their contractors or subcontractors, from maintaining such sign or signs on any of said lots owned or controlled by any of them as may be necessary in connection with the sale, lease, or otherwise of the properties.

As used in this section and its subparagraphs, the words "its transferees" specifically do not include purchasers of lots improved with completed residences.

ARTICLE XIII

GENERAL PROVISIONS

Section 1. Enforcement. The Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this declaration. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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Section 2. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no wise affect any other provisions which shall remain in full force and effect.

Section 3. Amendment. The covenants and restrictions of this declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the owner of any lot subject to this declaration, their respective legal representatives, heirs, successors, and assigns, for a term of thirty-five years from the date of this declaration is recorded, after which time said covenants shall be automatically extended for successive periods of ten years. The covenants and restrictions of this declaration may be amended during the first thirty-five year period by an instrument signed by not less than ninety percent of the lot owners, and thereafter by an instrument signed by not less than seventy-five percent of the lot owners. Any amendment must be properly recorded.

Section 4. FHA/VA Approval. As long as there is a Class B membership, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration:

- Annexation of additional properties, dedication of common area, and the amendment of this Declaration of Covenants, Conditions, and Restrictions.

IN WITNESS WHEREOF, the undersigned, being the declarant herein, has hereunto set its hand and seal this 9th day of February, 1970.

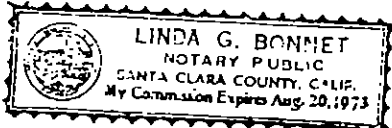
Valley Title Company
a corporation.
By [Signature]
Its Assistant Vice President

By _____
Its _____

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STATE OF CALIFORNIA



County of Santa Clara

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On February 9, 1973 before me a Notary Public in and for said County and State personally appeared Pete Borello

known to me to be the Assistant Vice-President and Secretary of the corporation that executed the within and foregoing instrument, and also known to me to be the persons who executed the instrument on behalf of the corporation named and acknowledged to me that such corporation executed the same.

Linda G. Bonnet
Notary Public

ACKNOWLEDGMENT—CORPORATION
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hereinabove referred to shall remain in full force and effect.

IN WITNESS WHEREOF, the undersigned have hereunto affixed their hands and seals this 30th day of April, 1970.

MICHAELVAL CORPORATION,
a corporation

BY: *[Signature]*

WAYNEVAL CORPORATION,
a corporation

BY: *[Signature]*

SONYA CORPORATION,
a corporation

BY: *[Signature]*

TAMARA CORPORATION,
a corporation

BY: *[Signature]*

GLADLEIGH HOMES, INC., a
corporation

BY: *[Signature]*

G A V, INC., a corporation

BY: *[Signature]*

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