

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
ESTABLISHING A PLANNED UNIT DEVELOPMENT

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DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS FOR
DEER RIDGE

THIS DECLARATION is made this 22nd day of October, 1985, by The Housing Group, a California corporation (hereinafter referred to as the "Declarant").

PREAMBLE

This declaration is made with reference to the following facts:

A. Declarant is the owner in fee simple of that certain real property situated in the City of San Ramon, Contra Costa County, California, more particularly described in Exhibits "A" and "B" hereto.

B. Declarant intends to develop the Project in phases. The first phase consists of the Lots and Common Area Parcels described in Exhibit "A" hereto. The second phase consists of the Lots and Common Area Parcels described in Exhibit "B" hereto. The second phase shall become subject to the Declaration only upon recording a Declaration of Annexation for that phase as provided in Section 2.02.

C. Declarant desires to subdivide and to develop said real property as a planned unit development to ensure the preservation of the values and the aesthetic environment for the benefit of the Owners and, to this objective, to presently impose on the real property described in Exhibit A and, after annexation, on the property described in Exhibit B, mutually beneficial restrictions, easements, assessments, liens, covenants and conditions under a general plan or scheme of improvement for the benefit of all of Deer Ridge and the Owners thereof.

D. This Declaration provides for the establishment of a mandatory homeowners association, "Deer Ridge Homeowners Association" (hereinafter referred to as the "Association") of which each purchaser of a Lot within the Project is to be a Member. It shall be the responsibility

and duty of the Association to own and maintain, as necessary, common areas devoted to open space, private storm drains and landscaped areas. In addition, the Association shall enforce this Declaration and, in particular, the design review regulations and provisions, and to levy and collect assessments on the Members to fund such duties and activities.

Declarant therefore declares that said real property described in Exhibit "A" and any property annexed to the Project shall be held, transferred, sold, conveyed, leased and occupied for a term of fifty (50) years from the date of the recording of this Declaration (after which time said Covenants, Conditions and Restrictions shall automatically be extended for successive periods of ten (10) years unless an instrument signed by the then Owners of two-thirds (2/3) of the Lots has been recorded agreeing to change or terminate this Declaration in whole or in part) subject to the following covenants, conditions and restrictions, easements, charges and liens:

ARTICLE I

DEFINITIONS

The following words when used in this Declaration (unless the context shall prohibit) shall have the following meaning (regardless of whether the initial letter of the word defined is lower case or capital):

Section 1.01. Annexation. Execution of the process by which the Lots and Common Area Parcels described in Exhibit "B" hereto shall be made subject to this Declaration and included in the Project.

Section 1.02. Articles. The Articles of Incorporation of the Deer Ridge Homeowners Association as such Articles of Incorporation may from time to time be amended.

Section 1.03. Association. Deer Ridge Homeowners Association, a California nonprofit corporation.

Section 1.04. Board. The Board of Directors of the Association.

Section 1.05. Building. A structure on the Property containing a residential unit.

Section 1.06. Bylaws. The Bylaws of the Association which are or shall be adopted by the Board and as such Bylaws may from time to time be amended.

Section 1.07. Common Area. All of the real property designated as "Common Area" on the Map, or any portion thereof, which will be conveyed in fee to the Association together with all improvements and landscaping from time to time constructed thereon and shall include, but not be limited to walkways. The uses to which the Common Area may be devoted are set forth in Section 5.02 hereof.

Section 1.08. Declarant. The Housing Group, a California corporation, and any successor or assign designated by Declarant as the Declarant for purposes hereof by a written instrument duly recorded in the Official Records of the County of Contra Costa, State of California.

Section 1.09. Director. A member of the Board.

Section 1.10. First Mortgagee. Any person or entity, including banks, savings and loan associations, insurance companies, or other financial institutions holding a recorded Mortgage which constitutes an encumbrance upon a Lot first in priority of lien over all other encumbrances upon said Lot securing payment of money other than this Declaration and liens for real estate taxes and assessments.

Section 1.11. Lien. Any lien, whether voluntary or involuntary.

Section 1.12. Lot. Any parcel of land shown on the Map on which a residential structure could legally be constructed whether or not one has been constructed, together with any and all improvements thereon.

Section 1.13. Maintenance. The exercise of reasonable care to keep landscaping and other related improvements in a state similar to their original condition, normal wear and tear excepted. Maintenance of landscaping shall further mean the exercise of regular fertilization, irrigation, and other garden management practices necessary to promote a healthy, weed-free environment for optimum plant growth.

Section 1.14. Map. That certain Subdivision Map entitled "Map of Subdivision 5902 Deer Ridge" filed in Book 290 of Maps, Page 1 in the Office of the County Recorder, County of Contra Costa, State of California.

Section 1.15. May. The word "may" as used herein is permissive.

Section 1.16. Member. Any person, firm or other entity who is an Owner and thereby a Member of the Association as hereinafter provided.

Section 1.17. Mortgage. A deed of trust, as well as a mortgage, and the terms may be used interchangeably.

Section 1.18. Mortgage Lien. The lien or charge or equivalent security interest of any Mortgage or deed of trust.

Section 1.19. Mortgagee. A beneficiary under, or a holder of, a recorded deed of trust, as well as a mortgagee, and the terms may be used interchangeably.

Section 1.20. Mortgagor. A trustor under a deed of trust, as well as a mortgagor, and the terms may be used interchangeably.

Section 1.21. Owner. Each person, firm, or other entity shown by a duly acknowledged instrument recorded in the Office of the Recorder of the County of Contra Costa to be the owner of a fee interest in a Lot. The term "Owner" shall include contract purchasers and exclude contract sellers. Declarant shall be the Owner of each Lot until such time as the Lot is transferred of record by Declarant.

Section 1.22. Private Area. Lots 1 through 125, inclusive, as shown on the Map.

Section 1.23. Project. The real property, described in Exhibit "A."

Section 1.24. Regular Assessment. An assessment levied to raise "the Estimated Cash Requirement" pursuant to Section 4.03, or an "Initial Assessment" as defined in Section 4.03, levied prior to the first annual Regular Assessment.

Section 1.25. Remedial Charge. A charge levied against the Owner or Owners of an individual Lot pursuant to Section 4.05.

Section 1.26. Residence. A residential unit located within a Building.

Section 1.27. Shall. The word "shall" as used herein is mandatory.

Section 1.28. Special Assessment. Any assessment other than a Regular Assessment or a Property Tax Assessment, levied against all of the Lots pursuant to Section 4.04.

Section 1.29. Term. Any reference to the "term" of a contract shall not include any option or automatic

renewal or extension period so long as the term of the contract may not be renewed or extended if notice is given by the Association pursuant to provisions contained within the contract.

Section 1.30. Total Voting Power. All of the votes of a class of Members which could at any given time be cast at a meeting of the Members of the Association.

ARTICLE II

DIVISION OF PROPERTY AND LAND CLASSIFICATIONS

Section 2.01. Division of Property. All of the real property described in Exhibit "A" is hereby divided into Private Area and Common Area. Declarant shall convey to the Association all Common Area no later than the time of the first conveyance by sale of a Lot.

Section 2.02. Annexation of Phase II Property. The Property described in Exhibit "B" (Phase II) may be annexed to the Project only as specified in this section:

(a) Declarant's Annexation Rights. Declarant may, but shall not be required to, annex all or any portion of the Property described in Exhibit "B" to the Project at any time without the vote or approval of any other Owners or the Association; provided, however, that the Annexation and development of property is in substantial conformance with a detailed plan of phased development submitted to and approved by the Department of Real Estate with the application for a public report for the first phase of the Project; and, provided further, that such Annexation is effected prior to the third anniversary of the issuance of the original subdivision public report for the immediately preceding phase (issued by the State of California Department of Real Estate). The plan of phased development submitted to the Department of Real Estate shall include, but not necessarily be limited to, the following:

(1) proof satisfactory to the Commissioner that the Annexation will not overburden the Common Area;

(2) proof satisfactory to the Commissioner that the Annexation will not cause a substantial increase in Assessments against existing Owners which was not disclosed in the subdivision public reports under which the existing Owners purchased their Lots;

(3) identification of the land proposed to be annexed and the total number of Lots then contemplated by Declarant for all phases of the Project; and

(4) a written commitment from Declarant to the Association that upon closing of escrow for the first sale of a Lot, Declarant shall pay to the Association appropriate amounts for reserves for replacement or deferred maintenance of the Common Areas in the annexed phase, which amounts are necessitated by or arise out of the use and occupancy of the Residences under a rental program conducted by Declarant which has been in effect for a period of one year or more as of the date on which escrow closes for the sale of the first Lot in the annexed phase.

The foregoing requirements shall be conclusively presumed to have been satisfied upon approval of the Plan by the Department of Real Estate.

(b) Annexation Pursuant to Approval. Unless the Annexation is to be made with the prior approval of a detailed plan of phased development by the Department of Real Estate as provided in the preceding paragraph, then such Annexation shall occur only upon the Declarant's seeking and obtaining approval from the Association pursuant to the vote or written consent of two-thirds (2/3) of the Total Voting Power of the Association residing in Members other than the Declarant.

(c) Annexation Procedure. The Annexation of any property by Declarant shall be effected by the fulfillment of the following procedure:

(1) Declarant shall have recorded a Declaration of Annexation describing the property to be annexed and providing for such additional covenants, conditions and restrictions on such annexed property as may be necessary to include such property in the Project and specifying that all of the covenants, conditions and restrictions of this Declaration shall apply to such annexed property in the same manner as if it were originally subject to the Declaration as part of the Project. No such amendment, addition, or deletion shall alter or change the general common plan or scheme created by this Declaration, nor affect the provisions hereof or thereof as covenants running with the land or equitable servitudes, it being the express desire and intention of Declarant to establish a cohesive plan of such covenants and servitudes to be uniformly applicable to all portions of the Project, including those portions added thereto by Annexation.

(2) Declarant shall have recorded a deed conveying in fee to the Association all of the real property to be annexed which is designated on the Map as "Common Area."

After the required Annexation procedures are fulfilled, the annexed property shall be subject to this Declaration, all Owners shall be entitled to the use of all Common Area, subject to the provisions of this Declaration, and Owners of Lots situated on the land annexed shall thereupon be subject to this Declaration and, upon commencement of assessments, be entitled to Membership in the Association (any vote of the Members or reference to Total Voting Power shall include all Members, with no distinction being made because of the location of the Lot owned by any Member). Upon Annexation, each Owner shall have a nonexclusive easement for ingress, egress and utility purposes on, over, under, across and through all Common Area subject to this Declaration, as provided in Section 7.05 hereof.

(d) Prior to Annexation. Unless and until Annexation occurs, the Property described in Exhibit "B" shall not be subject to the provisions of this Declaration. Notwithstanding the preceding sentence and any other provisions of this Declaration, those provisions of this Declaration which expressly state that they shall apply to the Property described in Exhibit "B" prior to Annexation shall so apply.

ARTICLE III

THE ASSOCIATION

Section 3.01. Formation. The Association shall be established no later than the time of the first conveyance by sale of a Lot and shall be a nonprofit corporation organized under the General Nonprofit Corporation Law of the State of California. Upon the first conveyance by sale of a Lot to an Owner, the Association shall be charged with the duties and invested with the powers set forth in the Articles and the Bylaws and this Declaration including, without limitation thereto, administration and maintenance of the Common Area. Neither the Articles nor the Bylaws shall be amended so as to be inconsistent with this Declaration; and, in the event of any inconsistency, the provisions of this Declaration shall control.

Section 3.02. Owners of Lots Are Members. Every person who is a record Owner of a fee interest in any Lot which is subject, by covenants of record, to assessment by the Association, including contract purchasers (but not contract sellers), shall be a Member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot to which it

relates. The membership held by any Owner shall not be transferred, pledged, or alienated in any way, except upon the sale of a Lot and then only to the purchaser thereof. Any attempt to make a prohibited transfer is void and will not be reflected upon the books or records of the Association. Upon conveyance of any Lot, the Association membership shall automatically be transferred to the new Owner of such Lot and the Association shall, upon receipt of evidence of such conveyance, change its membership records accordingly.

Section 3.03. Voting and Classes of Voting Rights.

A. Class A Members. The owner of each Lot excluding the Declarant, shall be a Class A Member; provided, however, Declarant shall only be excluded from Class A Membership until the conversion of Class B Membership to Class A Membership pursuant to Paragraph C, below. If a Lot is owned by more than one person, each such person shall be a Member of the Association, but there shall be only one vote for each Lot and the joint owners thereof shall determine among themselves how such vote will be cast. If any Owner casts a vote attributable to a certain Lot it will be conclusively presumed for any and all purposes that the person casting the vote was acting with the authority and consent of all other Owners of the same Lot. If two (2) or more Owners of a Lot attempt to cast the vote attributable to that Lot in connection with any issue to be decided by the membership of the Association, all of such votes shall be void and the vote attributable to that Lot shall not be counted.

B. Class B Members. The Declarant shall, until the conversion of Class B membership to Class A membership, pursuant to Paragraph C, below, be a Class B Member.

C. Conversion. Class B membership shall be converted to Class A membership and shall forever cease to exist on the occurrence of whichever of the following is first in time:

(1) the total outstanding votes held by the Class A Members equal or exceed the total outstanding votes held by the Class B Member;

(2) upon the second anniversary of the issuance of the original issuance of the most recently issued final subdivision public report for a phase of the Project; and

(3) upon the fourth anniversary of the original issuance of the final subdivision public report for the first phase of the Project.

D. Voting with Two Classes of Membership. So long as the Association has two classes of Membership, no action by or on behalf of the Association which requires the approval of Members, whether or not the action requires the vote of the Total Voting Power of the Association residing in Members other than Declarant or otherwise excludes the votes of Declarant (except for action pursuant to Section 9.09), shall be deemed approved without the vote or written consent of the prescribed percentage of the Total Voting Power of each class of Members.

E. Voting with One Class of Membership. After conversion of the Class B Membership to Class A Membership, any matter which requires the approval of a majority of the Total Voting Power residing in Members other than the Declarant (except for action pursuant to Section 9.09) shall also require a majority of the Total Voting Power of the entire Association.

Section 3.04. General Powers, Duties and Authority of The Association. The Association shall have all of the powers set forth in the Articles, Bylaws 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 the Articles, Bylaws and this 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 or general welfare of the Owners and guests of the Owners. Except as expressly otherwise provided herein, the Association may delegate any of its power to such committees, officers or employees thereof as a majority of the Board may deem appropriate; provided, however, the Association may not delegate to officers or employees of the Association any power to levy fines, hold hearings as described in Section 9.02 or impose discipline.

Section 3.05. Powers of Board. The affairs of the Association shall be managed by the Board. The Board shall have the following powers:

(a) Exclusive Power. Except as expressly otherwise provided herein, the powers and duties of the Association which are not by the Articles, Bylaws or this Declaration reserved to Members shall be exclusively exercised and performed by the Board or such Committees or offi-

cers as the Board may establish, elect or appoint pursuant to the provisions of the Bylaws. Any power to be exercised or duty to be performed by the Association shall not be exercised or performed by any Owner individually without the written consent of the Board.

(b) General Powers of the Board. Without limiting any powers of the Board conferred elsewhere herein, or in the Articles or the Bylaws, the Board shall have the following powers:

(i) To call meetings of the Members.

(ii) To appoint and remove at pleasure all officers, agents and employees of the Association, prescribe their duties, fix their compensation (subject to the provisions of Section 3.07(c)), and require of them such security or fidelity bonds as it may deem expedient. Nothing contained in this Declaration shall be construed to prohibit the employment of any Member, Director or officer of the Association in any capacity whatsoever.

(iii) To establish, levy, assess and collect the assessments necessary to operate the Association and carry on its activities and to create such reserves for extraordinary expenditures as it may deem appropriate.

(iv) To authorize and cause the Association, subject to Section 3.07, to enter into management contracts and contracts for the day-to-day operation of the Association and the discharge of its responsibilities and obligations with respect to Common Area. No contract for professional management shall have a term of more than three (3) years and each such contract shall be subject to all the other provisions hereof and shall be terminable by either party without cause or payment of a termination fee on ninety (90) days' written notice.

(v) To adopt, amend, and repeal rules and regulations consistent with this Declaration relating to (1) the use of the Common Area including the right to restrict the use of certain land, to the Association or its officers, agents or employees; (2) the conduct of an Owner and its family, contract purchasers, tenants or lessees, and their guests, invitees or licensees, with respect to the Project and the other Owners or occupants of the Project; (3) reasonable charges for labor, services, or expenditures incurred at the request of an Owner or as a result of the actions of an Owner; and (4) the interpretation of provisions of, and terms used in, this Declaration (said interpretation shall be conclusively presumed to be correct so long as it is not inconsistent with this Declaration.)

(vi) To delegate its powers to committees, officers, or employees of the Association.

(vii) To incur debt for the purpose of maintaining and improving the Common Area, and to encumber property of the Association as security for the repayment of such debt.

(viii) To grant easements on, over, under, across, and through the Project for public utility and other purposes consistent with the provisions of this Declaration and the intended use of the Project as a Planned Unit Development.

(ix) Except as expressly otherwise provided herein, the Board shall have the exclusive right and obligation to manage and administer the Common Area and to contract for all goods, services, and insurance, payment for which is to be made from the assessments hereinafter provided.

(c) No Active Business. Nothing contained in this Declaration, however, shall be construed to give the Board authority to conduct an active business for profit on behalf of the Association, all of the Owners, or any of them, and the Board shall have no such power or authority.

Section 3.06. Duties of Board. The Board shall have the following duties:

(a) Association Duties. To cause to be properly performed all duties imposed on the Association by this Declaration.

(b) Records. To cause to be kept a complete record of all its acts and corporate affairs, and to prepare budgets and financial statements for the Association.

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

(d) Assessments. With reference to assessments of the Association:

(i) To fix, levy and collect assessments pursuant to the provisions of Article IV of this Declaration.

(ii) To approve the annual budget and fix the amount of the assessment against each Member for each assessment period at least thirty (30) days in advance of such date or period;

(iii) To prepare a roster of the Members and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Member;

(iv) To send written notice of each assessment to every Member subject thereto; and

(v) To issue or cause an appropriate officer to issue certificates as required by Section 4.07.

(e) Insurance. To contract for casualty, liability and other insurance on behalf of the Association with such coverages and in such amounts as required by this Declaration and as deemed necessary by the Board.

(f) Vacancies. To fill a vacancy or vacancies on the Board except for a vacancy created by the removal of a Board member for cause.

(g) Utilities. To acquire, provide and pay the costs of all water, electric, garbage and refuse disposal, and other necessary utility services for the Common Area.

(h) Discharge of Liens. To pay any amount necessary to bond or discharge any claim which may be or become a lien or encumbrance levied against the Project as a whole or any part thereof which constitutes a lien against the Common Area, rather than merely against the interest therein of particular Owners; provided, however, that where one or more Owners are responsible for the existence of such lien, they shall jointly and severally be liable for the cost of discharging it, and any costs incurred by the Association by reason of said lien or liens shall be charged against each such Owner and its Lot as provided in Section 4.06. No decision resulting in such liability or charge shall be reached before providing the Owner or Owners with notice and hearing satisfying the requirements of Section 9.02 of this Declaration.

(i) Enforcement. To commence and maintain, in the name of the Association and on its behalf, or in the name and on behalf of any Owner who consents thereto, actions for damages arising from, or to restrain and enjoin, or to take any reasonable action necessary to prevent, any actual or threatened violation of the provisions of this Declaration, the Articles, the Bylaws, the rules and regulations of the Association, the orders and awards of arbitration, or resolutions of the Board, or to enforce, by mandatory injunction or otherwise, the provisions of the foregoing. In addition, the Board may suspend the voting

rights of an Owner or suspend the privileges of an Owner or its family, tenants, or lessees, or their guests, invitees, or licensees to use the Common Area, or assess monetary penalties against any Owner or other person entitled to exercise such privileges for any violations of the provisions of the foregoing; provided that the accused Owner or other person is given fair notice and the opportunity to be heard (in satisfaction of the minimum requirements of Section 9.02 of this Declaration) with respect to the alleged violation before a decision to impose discipline is made. The Board may delegate some or all of its enforcement rights to a Disciplinary Committee.

Notwithstanding anything to the contrary herein contained, neither the Board nor the Association shall have the power to cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of its Lot and Residence, including access thereto over and across the Common Area, except when such loss or forfeiture is the result of a judgment of a court or a decision arising out of arbitration or on account of a foreclosure (judicial 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 all costs of collection, court costs and reasonable attorneys' fees.

(j) Operating Requirements. To obtain any other material, supplies, property, labor, services, maintenance, repairs, insurance, taxes, or assessments which the Association is required to secure or pay by law, local requirement, or pursuant to the terms of this Declaration, or as is necessary for the operation of the Common Area, or for the enforcement of this Declaration; provided, however, that if any such materials, labor, services, maintenance, repairs, insurance, taxes, or assessments are provided for particular Lots, the costs thereof shall, as is reasonable, be assessed to such Lots and the Owners thereof as provided in Section 6.02 or as provided in the Bylaws.

(k) Notice to City of San Ramon. To inform the Planning Department of the City of San Ramon, from time to time, of the current name, address and telephone number of the Association's Official Representative.

Section 3.07. Limitations on Powers of The Association. Neither the Board nor the Association shall have the power to take, and both are hereby expressly prohibited from taking, any of the following actions without the vote or written assent of a majority of the voting power of the Association residing in Members other than the Declarant:

(a) Entering into a contract with a third person to furnish goods or services for the Common Area or the Association for a term longer than one (1) year with the following exceptions:

(i) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission (and contracts with East Bay Municipal Utility District, Dublin Sanitary District, and Pacific Gas and Electric Company; provided, however, that the term of the contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

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

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

(c) Paying compensation to Directors or officers of the Association for services performed, except that the Board may authorize reimbursement to a Director or officer for expenses incurred in carrying on the business of the Association.

Section 3.08. Insurance and Bonds. The Association shall obtain those policies of insurance and bonds required, and may obtain those policies of insurance and bonds permitted to be obtained by the Association. The Association shall review and re-evaluate all policies and bonds obtained by the Association at least annually.

(a) Liability Insurance. The Association shall obtain a policy of comprehensive general liability insurance covering all of the Common Area and all land, improvements or spaces owned, leased or used by the Association whether or not they are leased to or used by a third party. Such coverage shall be in amounts generally required by private institutional mortgage investors for projects similar in construction, location and use, but not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) for personal injury and bodily injury, including deaths of persons, arising out of a single occurrence, and at least FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) for property damage arising out of a single occurrence. Coverage shall include, but not by way of limitation, liability for property damage and bodily injury, including deaths arising from the opera-

tion, maintenance or use of the Common Area or from liability arising out of litigation related to employment contracts of the Association.

(b) Reimbursement of Declarant. The premiums for any of the insurance policies required or permitted to be obtained hereunder, if paid by Declarant, shall be prorated between Declarant and the Association on the basis of a 360-day year as of the date on which interim Regular Assessments commence pursuant to Section 4.03, and the Association shall reimburse Declarant for that portion of the premium applicable to the period from and after said date. Nothing contained in this section, however, shall relieve Declarant from its obligation to pay the pro rata share of insurance premiums attributable to each Lot owned by Declarant until such time as the Lot is transferred of record by Declarant.

(c) Workers' Compensation. The Association shall obtain such workers' compensation insurance as it shall deem desirable and to the extent required under any applicable law.

(d) Bonds. The Association shall obtain blanket fidelity bonds for all officers, directors, trustees and employees of the Association and for all other persons handling or responsible for funds of or administered by the Association. If the Association has delegated some or all of the responsibility for the handling of funds to a management agent, a bond shall be obtained for its officers, employees and agents handling or responsible for funds of, or administered on behalf of, the Association. The amount of coverage shall be based upon the best business judgment of the Board, but shall not be less than the lesser of: (1) the estimated maximum amount of funds, including reserve funds in the custody of the Association, or the management agent, at any given time during the term of the bond; and (2) an amount equal to the sum of three months assessments on all Lots plus reserve funds. The bonds shall name the Association as an obligee and shall contain a waiver by the issuers of all defenses based upon the exclusion of persons serving without compensation from the definition of "employees" or similar terms or expressions. The bonds shall also provide that they may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least 10 day's notice to the Association, and any Insurance Trustee.

(f) Board Member's and Officer's Liability. The Association may obtain, at the discretion of the Board, a policy or policies of insurance covering the Association and the Directors and officers of the Association, indivi-

dually or collectively, against claims arising out of or based upon negligent acts, errors, omissions, or alleged breaches of duty of any Director or any officer, while acting in its capacity as such, upon terms and in an amount to be determined by the Board.

(g) Adjustment of Losses. Each Owner appoints the Board as its attorney-in-fact to negotiate and agree on the value and extent of any loss under a policy of insurance carried by the Association pursuant to any of the provisions of this Section. The Board shall have full right and authority to compromise any claim, or to enforce any claim by legal action or otherwise, or to release and discharge any insurer, by and on behalf of the Owners, and each of them.

ARTICLE IV

ASSESSMENTS

Section 4.01. Creation of the Lien and Personal Obligation of Assessments. The Declarant for each Lot owned by it and described in the Declaration and each Owner of any Lot (by acceptance of a deed or other conveyance therefor, whether or not it shall be so expressed in any such deed or other conveyance) including any purchaser at a judicial sale (or a nonjudicial sale conducted in the manner provided by law for the foreclosure of a mortgage with a power of sale), shall thereafter be deemed to covenant and agree to pay to the Association all regular assessments or charges, and all special assessments for capital improvements or major repairs, or other purposes as herein provided, as such assessments are, from time to time, fixed, established and collected as hereinafter provided. No Owner may waive or otherwise escape liability for any assessment provided for herein by nonuse of the Common Area or by abandonment.

Section 4.02. Purpose of Assessments. All assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents of the Planned Unit Development and in particular for the maintenance, operation and improvement of the Common Area, and any real property in which the Association holds an interest. The Association is hereby authorized to establish a reserve account to fund anticipated capital expenditures.

Section 4.03. Regular Assessments.

(a) Determination of Assessment. Pursuant to Section 1730 of the Civil Code and as set forth in the Bylaws, the Board shall prepare and distribute to the

Members a pro forma operating statement (hereinafter called "the Budget") for such fiscal year. The Budget shall consist of an estimate of (i) the operating and maintenance expenses (including the costs of all insurance and fidelity bond premiums and including reasonable reserves for contingencies, maintenance, repairs, and replacements) to be paid by the Association in the performance of its duties during such fiscal year; (ii) the income (other than from assessments as hereinafter provided), if any, expected to be earned by the Association during such fiscal year; and (iii) the surplus, if any, available to the Association during such fiscal year from the prior year's fund. The amount by which the estimated expenses exceed the sum of expected income plus available surplus shall constitute the "Estimated Cash Requirement" of the Association for such fiscal year, which amount shall be assessed equally to the Lots, including those owned by Declarant. Failure to provide a copy of the Budget shall not affect the validity of assessments based thereon so long as an Owner receives reasonable notice before commencement of any action or proceedings to enforce collection thereof.

(b) Commencement and Payment of Assessments.

The first Regular Assessment shall be due and payable on the first day of the Association fiscal year which is subsequent to the first day of the first full month immediately following the time of the first conveyance by sale of a Lot, and subsequent Regular Assessments shall be due on the first day of each Association fiscal year thereafter; provided, however, so long as each Owner is not in default, it may pay the Regular Assessment for a fiscal year in two (2) equal semi-annual installments, one such installment due on the first day of the first month of the fiscal year and one due on the first day of the seventh month thereof or in such other reasonable manner as the Board may designate. Until the first Regular Assessment is due, interim Regular Assessments, based upon the budget (the built-out budget shall be used if Annexation has occurred) submitted by Declarant to, and approved by, the Department of Real Estate of the State of California shall be assessed equally to the Lots, including those owned by Declarant. Interim Regular Assessments shall be due and payable on the first (1st) day of the first full month immediately following the time of the first conveyance by sale of a Lot and subsequent interim Regular Assessments shall be due semi-annually as provided herein.

(c) Increase in Assessments. Notwithstanding any provision to the contrary herein, the Board may not without the vote or written consent of a majority of the voting power of the Association held by Members other than Declarant impose an annual Regular Assessment which exceeds

the Regular Assessment for the preceding fiscal year by more than twenty percent (20%) of such preceding Regular Assessment.

(d) Annexation. If Annexation occurs after the first Regular Assessment is due and payable, then the following procedure shall be used to determine and allocate the Regular Assessments due during the fiscal year in which Annexation occurs:

(i) The Regular Assessment due and payable by Owners of Lots for the fiscal year shall be a fraction of the assessment determined in subsection (a), above. The numerator of said fraction shall be twelve (12), less the number of whole months remaining in the fiscal year, and the denominator of said fraction shall be twelve (12). The entire Regular Assessment shall be due, notwithstanding the first sentence of subsection (b), no later than the first day of the month following Annexation. If Owners have paid more than the Regular Assessment due, such excess shall be credited against their obligations under clause (ii).

(ii) On the first day of the first full month immediately following the date on which the Declaration of Annexation is recorded, Interim Regular Assessments (which shall be in addition to the Regular Assessment described in (i), above) based upon a budget submitted by Declarant to, and approved by, the Department of Real Estate of the State of California shall be assessed equally to each Lot, including those owned by Declarant. It is the intent hereby that during the fiscal year in which the Annexation occurs, the entire Interim Assessment for such fiscal year shall be paid in full, less any credit to which the Owner is entitled under clause (i), on the first day of the first full month following Annexation.

(iii) Notwithstanding anything to the contrary contained in clauses (i) and (ii) above, if Annexation of a phase of this Project occurs prior to the first sale of a Lot thereon, then assessments with respect thereto shall not commence until the first day of the month following the month in which the first Lot is sold, unless Declarant elects to begin paying assessments before such sale occurs.

(iv) In no circumstances shall the Regular Assessment assessed against a Lot be reduced by operation of this subsection if

(A) The Association has commenced a suit (as described in Section 4.06(a)) or recorded a claim

of lien (as described in Section 4.06(b)) for failure of the Owner of such Lot to pay its Regular Assessment, and

(B) The Owner has not, within ten (10) days after recordation of the Declaration of Annexation, cured the default.

Section 4.04. Special Assessments. If the Board determines that the Estimated Cash Requirement is, or will become, inadequate for any reason (including, but not limited to, unanticipated delinquencies or costs of construction), the Board may, at any time, levy a Special Assessment, which shall be assessed to the Lots (including those owned by Declarant) in the same proportions as a Regular Assessment, to make up such inadequacy. In any fiscal year the Board may not, without the vote or written consent of a majority of the voting power of the Association held by Members other than Declarant, levy Special Assessments to defray the costs of any action or undertaking on behalf of the Association which in the aggregate (i) exceeds five percent (5%) of the budgeted gross expenses (per clause (i) of paragraph 4.03(a)) for the then current fiscal year; or (ii) causes the sum of the Regular Assessment and the Special Assessment(s) to exceed the Regular Assessment for the preceding fiscal year by more than twenty percent (20%) of such preceding Regular Assessment. The Board may, in its discretion, pro rate the amount of any permitted Special Assessment over the remaining months of the fiscal year or levy the assessment immediately against the Lots. Unless the time for payment is extended by the Board, a permitted Special Assessment shall be due ten (10) days after the Board gives the Owners written notice thereof.

Section 4.05. Remedial Charges. The Board may, after notice and hearing in accordance with the provisions of Section 7341 of the Corporations Code of the State of California, levy a Remedial Charge against any Owner. Such Remedial Charges shall be due and payable to the Association when levied. A Remedial Charge may be levied as provided in this Declaration or in the Bylaws. The limitations imposed by Sections 4.03 and 4.04 do not apply to Remedial Charges.

Section 4.06. Default in Payment of Assessments. Each assessment (including Special Assessments) permitted or required hereunder shall be a separate, distinct and personal debt and obligation of the Owner against whose Lot the same is assessed. Any grantee (including contract purchasers) of a Lot who acquires its interests by a voluntary conveyance shall be jointly and severally liable with the grantor of the Lot for all unpaid assessments levied against the Lot prior to the conveyance. The grantee's

liability shall not prejudice the grantee's right to recover from the grantor any amounts paid by the grantee for which the grantor and the grantee are jointly and severally liable. All assessments shall be payable in the amount specified by the assessment and no offsets against such amount shall be permitted for any reason, including, without limitation, a claim that the Association is not properly exercising its duties and powers as provided in this Declaration. The amount of any assessment levied against a Lot (plus, in the event of default in the payment thereof, interest at the maximum legal contract rate, costs and reasonable attorneys' fees) shall constitute a lien upon such Lot (fines, penalties and Remedial Charges imposed to bring an Owner into compliance with this Declaration or the Bylaws shall not, except when the result of a judgment or order of a court, constitute a lien). Each of the Owners does, by mere acceptance of a deed to a Lot, grant and appoint the Association as trustee and as attorney-in-fact by special power of attorney to enforce and to foreclose such lien by private power of sale as provided in Division Third, Part 4, Title 14, Chapter 1, Article 1, Sections 2920 et seq. of the Civil Code of the State of California and further grants to the Association the authority and power to sell the Lot of such defaulting Owner, or any part thereof to satisfy said lien, for lawful money of the United States to the highest bidder. The Association may commence any procedure for collection upon its own decision, and it must so proceed upon the written request therefor signed by any five (5) Owners. In the event of default 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) Suit. By suit at law against the defaulting Owner. The judgment rendered in any such action shall include, where permissible, awards for interest from the date of default and for costs (including costs incurred in the collection of delinquent assessments) and reasonable attorneys' fees.

(b) Lien. Thirty (30) days after the occurrence of any such default, the Association may give a notice to the defaulting Owner or Owners demanding payment and stating the date of the delinquency, the amount of the delinquency, and the amount of interest thereon from the date of delinquency. If the amount of the delinquency plus interest is not paid within ten (10) days after delivery of the notice, the Association may record a claim of lien against the Lot of the delinquent Owner or Owners which shall state (i) the name or names of the delinquent Owner or Owners; (ii) a legal description of the Lot against which claim of lien is made; (iii) the amount claimed to be due

and owing; (iv) that the claim of lien is made by the Association pursuant to the terms of this Declaration (giving the date of execution and the date, book, and page references of the recording thereof in the Office of the Recorder of the County of Contra Costa); and (v) that a lien is claimed against the Lot in an amount equal to the amount of the stated delinquency plus interest thereon from the date of delinquency, costs and reasonable attorneys' fees. The lien shall attach immediately upon recordation of the claim subject only to the limitations hereinafter set forth. The lien shall not be affected by any sale or transfer of the Lot. Each default shall constitute a separate basis for 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 with a power of sale. In the event foreclosure is by action in court, reasonable attorneys' fees shall be allowed. In the event foreclosure is under power of sale, the Board, or any person designated by it in writing, shall be deemed to be acting as the agent of the Association for conduct of the sale and shall be entitled to expenses and such fees as may be allowed by law or as may be prevailing at the time the sale is conducted. The Association, acting on behalf of the Owners, shall have the right to bid on the Lot of the delinquent Owner or Owners at the foreclosure sale and to acquire, hold, lease, mortgage, and convey for valuable consideration the Lot. In the event a default for which a claim of lien is recorded as hereinabove provided is timely cured, the Association shall record a release of the claim of lien.

(c) The Association shall be entitled to levy late payment charges for the delinquent payment of Regular and Special Assessments or Remedial Charges in an amount equal to the maximum permitted under Section 1725 of the Civil Code (or any successor statute thereto) as of the date on which the delinquency occurs.

Section 4.07. Estoppel Certificate. A certificate executed by any two (2) members of the Board setting forth the amount of any due and unpaid assessments with respect to a Lot (or the fact that all assessments due are paid, if such is the case) shall be conclusive upon the Board, the Association, and the Owners in favor of any and all persons who rely thereon in good faith, and any Owner shall be entitled to such a certificate within ten (10) days after demand therefor and upon payment of a reasonable fee not to exceed the greatest amount charged for a loan statement of condition by a major bank with headquarters in San Francisco, California.

Section 4.08. Failure to Fix Regular Assessments. The failure of the Board to fix Regular Assessments

hereunder before the expiration of any year, 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 the Owner from the obligation to pay the assessments, or any installment thereof for that or any subsequent year, but the assessment fixed for the preceding year shall continue until the new assessment is fixed.

Section 4.09. Exempt Property. The following property shall be exempt from all assessments, charges and liens created herein:

- (a) all property dedicated to and accepted by a public authority;
- (b) all Common Area; and
- (c) any Lot owned by the Association (so long as owned by the Association).

ARTICLE V

USE RESTRICTIONS

Section 5.01. Residential Use. Each Lot shall be used exclusively for single family detached residential purposes except as provided in Section 5.03 and herein.

Section 5.02. Restrictions on Use of Common Area. Pursuant to the conditions of approval for the Project, as established by the City of San Ramon, the Common Area shall not be developed or improved, except for landscaping, by the Declarant and shall be deeded to the Association as open space. In connection therewith, the following restrictions shall govern the use and enjoyment of the Common Area:

(a) Entry thereon shall be only during daylight hours commencing at 8:00 o'clock A.M. and ending at one hour after sunset and use shall be limited to pedestrians. No vehicles of any kind shall be permitted thereon except emergency and maintenance vehicles may enter said area at any time for emergency and maintenance purposes.

(b) Any domestic animal entering said area shall be under the immediate control of the Owner.

(c) Any planting in the area shall be authorized only by the Design Review Committee pursuant to a plan approved by a State of California licensed landscape

architect using plant materials that are deemed within the profession not to be highly flammable.

(d) Any improvements to the Common Area shall be undertaken only with the consent of the Membership, and then only as approved by the Director of Planning of the San Ramon City Planning Department.

Section 5.03. Sales Models. Notwithstanding any provision to the contrary herein, for a period of five (5) years from the date of original issuance of the final subdivision public report, Declarant and its successors or assigns shall be allowed to use certain Residences as sales models, conducting therein, through agents or employees, sales activities usually associated with model homes until all of the Lots have been sold by Declarant.

Section 5.04. Signs. No sign, advertisement, poster, bill, or notice of any kind (including, without limitation, political and commercial signs) shall be displayed to the public view on or from any Lot or the Common Area without the prior consent of the Board, subject to the following exceptions:

(a) Project identification signs maintained by Declarant;

(b) A single sign, indicating the number of the Residence and the name of the Owner, which has been approved as to design, size, and location by the Board;

(c) A single sign of customary and reasonable dimensions advertising any Lot for sale, lease, or rent and placed on the Lot; and

(d) Signs maintained by Declarant in connection with its sales activities.

Section 5.05. Design Review Committee.

A. Members. The Design Review Committee shall consist of a chairman and two (2) additional members and shall include a member of the Board. The members shall be elected and serve as provided in this Declaration.

1. The Declarant may appoint all of the original members of the Committee and all replacements until the first anniversary of the issuance of the original final subdivision public report for the Project. The Declarant may appoint a majority of the members of the Committee until ninety percent (90%) of all Lots have been sold or until the fifth (5th) anniversary of the issuance of the original final subdivision public report, whichever first occurs.

2. After one (1) year from the date of issuance of the original final subdivision public report, the Board shall have the power to appoint one (1) member to the committee. The Board shall have the power to appoint all the members of the Committee upon conveyance of ninety percent (90%) of all Lots or the fifth (5th) anniversary date of the issuance of the original final subdivision public report, whichever first occurs.

3. Persons appointed to the Committee by the Board shall be members of the Association. Persons appointed to the Committee by the Declarant need not be Members of the Association (the Declarant shall provide the Board with the names of all persons appointed by Declarant). Persons appointed to the Committee shall serve until their successor is named.

B. Duties and Functions. The Design Review Committee shall adopt rules and regulations, consistent with the Bylaws and this Declaration, for the review and approval or disapproval of all alterations or construction with respect to the Project (other than such acts by Declarant described by the provisions of Section 7.04(a)). Nothing shall be altered, changed, constructed or planted in or removed from the Common Area including, without limitation thereto, Common Area landscaping, if any; no building, home, fence, wall, mailbox, screen enclosure or other improvement shall be altered, changed, constructed, landscaped or placed in, on, or to the Project and no act shall be performed which would impair the structural integrity of any Building or other Improvement, or which would structurally change any Building or other improvement, or which would change the grade, height, or location of any improvement (except by Declarant as described by the provisions of Section 7.04(a)) without the approval of the Design Review Committee (as described and in accordance with procedures established in the Bylaws). In granting approval for any construction, the Design Review Committee shall adhere to such criteria as may be established from time to time by the City of San Ramon pursuant to Section 5.15.

Section 5.06. Sanitary Facilities. No toilet shall be installed or maintained on any Lot unless located within a building (or garage) or in a suitable structure to be used in conjunction with a swimming pool, dressing room or the like. Sewage disposal system must be installed in compliance with the specifications as determined by the City of San Ramon.

Section 5.07. Trailers, Trucks, Campers and Boats. Except as provided by rules and regulations of the Association and permitted by local ordinance, no mobile

home, trailer of any kind, truck (except three-quarter ton or smaller pick-up trucks without campers), unmounted camper, boat or similar recreational vehicle shall be stored, parked, kept, maintained, placed, constructed, removed, reconstructed, or repaired (herein collectively referred to as "park" or "parking"), any driveway or interior street, nor shall any maintenance or repair of any motor vehicle be performed except within or behind a structure where totally isolated from public view.

Section 5.08. Laundry. No clothes, sheets, blankets or other articles shall be hung out to air or dry on any part of a Lot, except in a yard enclosed by a lattice, fence, wall, or other enclosure approved by the Design Review Committee. Such enclosure shall be located so as not to be between the front or side of any house, or a projection of the line thereof, and the adjacent street. In the event of failure of the Owners after notice and hearing as provided in Sections 4.05 and 6.02 hereof to so construct a screening fence, the Board may erect the same and recover the cost thereof from the Owner as a Remedial Charge.

Section 5.09. Pets and Animals. Except for ordinary house pets, no animals, livestock, reptiles, rodents, birds, or poultry of any kind shall be raised, bred, or kept in any Private Area or in the Common Area. Under no circumstances may an animal be kept, bred, or maintained for any commercial purpose. Should any animal belonging to an occupant or Owner be found in the Common Area without a leash held by a person capable of controlling the animal, the animal may be removed by the Association, or a person designated by it to do so, to an animal control shelter under the jurisdiction of the County of Contra Costa, subject to the laws and rules governing said shelter.

Section 5.10. Vegetation and Pests. Neither an Owner, nor its family, lessees, tenants, or contract purchasers, shall permit any thing or condition which would induce, breed, or harbor infectious plant diseases or noxious insects or vermin. No manure, composting materials and decaying vegetation matter in such large quantities as to constitute an injury to the person or property of any resident of the Project shall be stored or permitted to be stored on any Lot or the Common Area.

Section 5.11. No Nuisance. No obnoxious, offensive or illegal activity shall be carried on in any Private Area or in the Common Area, nor shall anything be constructed, planted, maintained or done therein which may be or become an annoyance or nuisance to the other residents of the Project including, by way of example and without limitation thereto, maintenance of bright or flashing lights

visible or noise audible outside the Owner's Lot, or accumulation of rubbish or debris of any kind on any Lot or the Common Area so as to permit odors to arise therefrom or so as to render any Lot or the Common Area unsightly, unsanitary, offensive, or detrimental to any other Lot or the Common Area. All garbage, rubbish, and debris shall be deposited immediately in the proper receptacles for that purpose.

Section 5.12. Fences; Walls and Plants. No fence, hedge or planted border which exceeds 5' in height shall be erected or maintained or permitted on any portion of any Lot which is in front of the dwelling erected thereon or a side yard adjacent to a street. No fences erected on any other portion of the Lot shall exceed 6' in height and any corner lot shall be subject to the limitations of Section 5.17. The design and location of all fences shall be approved by the Design Review Committee.

Section 5.13. Living Area. No structure of a temporary character, trailer, tent, shack, garage, barn or other outbuildings shall be used on any Lot at any time as a residence, either temporarily or permanently.

Section 5.14. Structures. No structure shall be placed on any Lot without the written approval of the Design Review Committee.

Section 5.15. Set Back. All structures shall be placed on each Lot in compliance with the requirements of the City of San Ramon zoning ordinance, and Subdivision Map conditions.

Section 5.16. Size. The ground floor area of any Residence shall be not less than 1500 square feet, exclusive of porches and garages in the case of a one-story dwelling; or in the event of a two-story dwelling, have a combined total area, exclusive of open porches and attached garages, of less than 2300 square feet unless any deviations hereto shall be approved by the Design Review Committee.

Section 5.17. Corner Lots. For the safety of those persons utilizing the public streets within the Project, and to eliminate blind corners, no planting, fence or other structure shall be permitted or maintained on corner Lots which exceeds a height of three (3) feet above the adjacent ground area, within the area of a triangle or triangular like figure which shall be determined as follows:

(a) Extend in a straight line those two (2) property lines which would, if extended, intersect to form a corner co-incident with the street corner and take such point of intersection as the point of beginning.

(b) Extend from the point of beginning back thirty-five (35) feet along each line to a point on each line which two points shall then be joined by a third line running straight between said last mentioned two points. The triangular area so formed is that in which planting or construction might inhibit the unrestricted view of vehicular traffic.

Section 5.18. Resubdivision. No Lot shall be resubdivided into smaller lots, parcels or building sites than as set forth in the Map.

Section 5.19. Rubbish. No device or area devoted or used for the burning of trash, rubbish, papers, etc., or storage of firewood or garbage containers, shall be located between the front or the side of any house or a projection of the line thereof, and the adjacent street. Further, such area or device shall be screened by means of an adequate fence, approved by the Design Review Committee, so that it may not be seen from the street and shall be operated by the Owner or occupant in such a manner that the operation is not noxious to the neighbors. In the event of failure of Owner to construct a screening fence, the Board may, after notice and hearing pursuant to Sections 4.05 and 6.02 hereof, erect the same and the cost thereof shall be recoverable from Owner by Remedial Charge.

Section 5.20. Weeds. Grass on each Lot shall be kept mowed at regular intervals so as to maintain the same in a neat and attractive manner. Trees, shrubs, vines and plants which die shall be promptly removed and no weeds, underbrush or other unsightly growths shall be permitted to grow or accumulate. If the Owner fails to comply with the foregoing, then after Residences are built on any of said Lots, the Board, after notice and hearing as provided in Sections 4.05 and 6.02 hereof, may have the grass, weeds and vegetation cut when, and as often as, the same is necessary in its reasonable judgment, and have dead trees, shrubs and plants removed from any Lot, and the Owner of such Lot shall be obligated to reimburse the Association for the cost of such work through a Remedial Charge.

Section 5.21. Reception Devices. So long as there is commercial cable television available to the Lot, there shall be no individual television or radio aerial or antenna (including a shortwave antenna) or satellite reception dishes on the exterior of any Building or any portion of a Lot or the Common Area.

Section 5.22. Solar Shade Control. Declarant may, in connection with construction of Residences, install solar collectors on some or all of the structures to provide

energy for water heating. Notwithstanding anything to the contrary herein contained, no plant, tree, shrub or other improvement (other than the initial dwelling unit and appurtenant structures erected or to be erected by the Declarant or its successor) shall be planted, installed, made or maintained in a manner prohibited by the California Solar Shade Control Act (Public Resources Code, Division 15, Chapter 12). The prohibition of this Section 5.22 shall not restrict the Declarant in its planned development and construction of single family structures and appurtenances thereto on the Property.

Section 5.23. Hydrocarbon and Mineral Exploration and Extraction. No oil drilling, development, or refining, and no quarrying or mining operations of any kind shall be permitted on the Project, nor shall oil wells, tanks, tunnels, or mineral excavations be permitted upon the surface, or within five hundred (500) feet of the surface, of the Project, nor shall derricks or other structures designed for use in drilling for water, oil, natural gas, steam, or other hydrocarbons or minerals be erected, maintained, or operated upon any portion of the Project.

Section 5.24. Commercial Activity. Except as permitted in Section 5.03, no commercial enterprise, trade, or activity shall be conducted in or upon the Project, either directly or indirectly.

Section 5.25. Drainage. Neither an Owner, nor its family, lessees, tenants, or contract purchasers, nor their guests, invitees, or licensees, shall impede, alter, or otherwise interfere with the drainage patterns or facilities in, over, under, across, and through the Common Area, without the prior written consent of the Board, and any other public authorities having jurisdiction or in, over, across, under and through a Lot without the consent of the Design Review Committee and any public authority having jurisdiction thereof. No Owner shall erect, construct, maintain, permit or allow any fence or other improvement or other obstruction within any area designated on the Map as "Private Storm Drain Easement," "Drainage Easement," or "Storm Drainage Easement" except that non-permanent structures, including fences, may be erected in those areas which contain only underground closed conduit storm drainage facilities.

Section 5.26. Rules and Regulations of the Association. The Board may promulgate rules and regulations concerning the use of the Common Area by Owners and their guests which shall supplement the provisions of Section 5.02 hereof. Neither an Owner, nor its family, contract purchasers, lessees, or tenants, nor their guests, invitees, or

licensees, shall violate any provision of this Declaration, the Bylaws, or the rules and regulations of the Association (or the resolutions of the Board) as the same may be amended from time to time.

Section 5.27. Indemnification. Each Owner shall be liable to the remaining Owners and the Association for any damage to the Common Area that may be sustained by reason of the negligence of the Owner, members of its family, its contract purchasers, lessees, or tenants, and their guests, invitees, or licensees, to the extent any such damage is not covered by insurance. Each Owner, and its family, contract purchasers, lessees, and tenants, and their guests, invitees, and licensees, shall indemnify each and every other Owner against, and hold it harmless from, and defend it against, any claim of any person for personal injury or property damage occurring on the Lot of such Owner (unless the injury or damage incurred by reason of the negligence of any other Owner or person temporarily visiting said Lot is fully covered by insurance). No decision resulting in the liability of an Owner pursuant to this section shall be reached before providing such Owner with notice and hearing satisfying the minimum requirements of section 7341 of the Corporations Code of California.

ARTICLE VI

MAINTENANCE AND IMPROVEMENTS

Section 6.01. Maintenance By Association.

(a) The Association shall maintain the Common Area and, if necessary, repair, replace and reconstruct any Common Area. The Association shall hire necessary personnel and services and do, or cause to be done, such other things as are necessary to provide for the administration of the Common Area for the benefit of all the Owners and as are consistent with its powers.

(b) To the extent Common Area is not kept in its natural state, the Association shall keep any fences, shrubs, trees, grass and plantings of every kind within the Common Area in good repair, neatly trimmed, properly cultivated and free of trash, weeds and other unsightly material. The duties of the Association in connection with the Common Area shall specifically include maintenance of all drainage and erosion control structures and a weed abatement program so as to reduce fire hazards to the Project.

(c) The Association shall maintain all Private Storm Drain Easements as designated on the Map, whether located on a Lot or in the Common Area.

The Association shall maintain all fences and landscaping which occupies a boundary between any Lot and the Common Area except landscaping on the side of a fence facing a Building.

If any landscaping done in connection with a public right-of-way to be offered for dedication on the Map is not accepted for maintenance by the City of San Ramon or other governmental entities, then the maintenance thereof shall be by the Association.

Notwithstanding the preceding, the obligation of the Association shall not:

(a) extend to repairs or replacements required or caused by the willful or negligent act of an Owner, or its family, contract purchasers, lessees, or tenants, or their licensees, guests, or invitees, unless such repairs and replacements are covered by insurance carried by the Association, and then only to the extent of such insurance coverage; or

(b) include the duty to repair, replace, or restore public or quasi-public utility installations which are owned or operated by East Bay Municipal Utility District, Dublin Sanitary District, Pacific Gas and Electric Company and Pacific Bell Company, their successors and assigns, or any other public or quasi-public utility or similar entity which customarily repairs, replaces, or restores such installations.

The maintenance, repair, and replacement described in (a) above shall be the responsibility of the Owner of the affected Lot or the Owner to whom the willful or negligent act is attributed, as the case may be.

Section 6.02. Maintenance by Owner.

(a) Mandatory Maintenance. Each Owner shall maintain its residence and Lot in good condition and repair and so that the same does not deteriorate so as to be dangerous, or to present a hazard or nuisance to, or to diminish the value and attractiveness of, any other Lot or the Project. With respect to a Residence, said obligation shall include, without limitation thereto, the duty to periodically paint or otherwise maintain the exterior of all structures on a Lot, promptly repair and replace all broken glass, including windows, maintain in good, attractive, safe, and sanitary condition, the roof, all floors, walls, window frames, door frames and doors. With respect to other portions of the Lot, said obligation shall include, without limitation thereto, the duty to promptly repair and replace all damaged Improvements, to maintain all Improvements in

good, attractive, safe, and sanitary condition, and to maintain and cultivate all landscaping, installed or placed thereon or therein by the Owner or occupant of such Lot and to keep such area free from rubbish, litter, and weeds.

(b) All structures shall be connected to underground drainage pipes to convey roof drainage away from the structure and adjacent properties into the public storm drain system.

(c) Association May Perform. After giving notice and hearing as herein specified, and if an Owner fails to perform necessary maintenance and repairs, for which it is obligated pursuant to subsection (a), the Association may provide to any Lot requiring same, when necessary in the opinion of the Board to preserve the beauty, quality and value of the neighborhood, such repair and maintenance as is necessary (herein referred to as "optional maintenance").

(d) Notice. When, in the opinion of the Board, certain optional maintenance needs to be provided to a Lot, the Board shall notify the Owner by certified mail specifying in said notice exactly what should be repaired, fixed, etc. The Owner shall then have thirty (30) days from receipt of such notice to perform the optional maintenance or to make written demand for a hearing before the Board.

(e) Hearing. If a hearing is demanded, the Board shall set a date therefor and give the Owner at least fifteen (15) days' notice thereof. The Board shall in all respects comply with the provisions of California Corporations Code section 7341. The hearing shall be informal and rules of evidence shall not apply. The Board shall render its decision in writing. The Owner may, within twenty (20) days of service on it of such decision, submit the matter to arbitration pursuant to the Bylaws or, if at the time of such submission there are no effective and enforceable provisions in the Bylaws governing such arbitration, then pursuant to Title 9 of the Code of Civil Procedure of the State of California, sections 1280 et seq. as amended from time to time, or pursuant to such successor statutes as are adopted by the Legislature of the State of California.

(f) Assessment of Costs. The cost of such optional maintenance shall be assessed as a Remedial Charge against the Owner of said Lot upon which such optional maintenance is performed and such shall be the personal obligation of the Owner, and shall become due and payable in all respects, together with interest and fees for the cost of collection. The Board may also deliver to the Disciplinary Committee, if any, a written complaint against such Owner.

(g) Access at Reasonable Hours. For the purpose of performing the maintenance authorized by the Declaration, the Association, through its duly authorized agents or employees, shall have the right to enter upon any Lot at reasonable hours with twenty-four (24) hours' notice on any day except Saturday or Sunday and such entry shall not be deemed a trespass.

ARTICLE VII

EASEMENTS AND RESERVATIONS

Section 7.01. Encroachments. If, as a result of construction, reconstruction, repair, shifting, settlement, or movement, any portion of a Building containing the Residence of one Owner encroaches on any Lot of another Owner, there shall be valid easements for the maintenance of such encroachments so long as they shall exist. None of the rights and obligations of the Owners created herein shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist; but in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the willful conduct of said Owner or Owners.

Section 7.02. Association Right of Entry and Enforcement. The Association (the Board or its duly authorized representatives) shall have and enjoy a right of entry upon any Lot or within any Residence or other improvement thereon, as necessary in connection with construction, maintenance, operation, or emergency repair for the benefit of the Common Area or the Owners in common. Entry pursuant to this right shall be restricted to reasonable times and must be preceded by notice of at least twenty-four (24) hours to the occupant unless entry is required by an emergency.

Section 7.03. Common Area Rights-of-Way. Subject to the provisions of this Declaration, the rules and regulations of the Association, and the resolutions of the Board, Declarant, the Association, the Owners, their families, tenants, or lessees, and their respective guests, invitees, and licensees, shall each have a nonexclusive easement on, over, under, across, and through the rights-of-way now or hereafter located upon the Common Area for ingress, egress and utility purposes.

Section 7.04. Easements Reserved by Declarant.

(a) Original Subdivision and Development Work. Declarant, or its designated successors, their contractors, subcontractors, agents, employees, materialmen, or assigns, shall have and enjoy easements on, over, under, across, and through the Project including, without limitation thereto, the individual Lots for the subdivision, construction, improvement, and development of the Project including, without limitation thereto, the installation and maintenance of electric, telephone, cable television, water, gas, sewer, drainage, and security systems, equipment, and facilities now or hereafter necessary or appropriate to service the Project, and the right to enter upon all or any portion of the Project including, without limitation thereto, the individual Lots for the purposes of conducting therein and thereon such work of subdivision, improvement, construction, and development as Declarant may deem necessary or desirable to complete the division of the Planned Unit Development, together with the right to grant and transfer Lots. Upon such completion, or within five (5) years from the date of original issuance of the final subdivision public report, whichever is earlier, said easements and rights shall automatically terminate.

(b) Sales Program. For a period of five (5) years from the date of original issuance of the final subdivision public report, or until such time as Declarant no longer owns a Lot in the Project, whichever is shorter, Declarant, or its designated successors, their agents, employees, or assigns, shall have a nonexclusive easement and right to maintain in or upon the Common Area such signs and sales displays as may be required in connection with Declarant's sales program. Further, during the aforesaid period, Declarant shall have an easement ingress to a depth of three (3) feet over that portion of any Lot fronting on a public street to erect, place and maintain sales and directional signs. During such period, Declarant, or its designated successors, their agents, employees, or assigns, and prospective purchasers coming to view sales models, shall also have a nonexclusive easement to use the Common Area for any purpose permitted an Owner under this Declaration.

Section 7.05. Common Area. Subject to the other provisions of this Declaration, each Owner, the members of its family, its contract purchasers, lessees, or tenants, and their guests, invitees, and licensees, shall have a nonexclusive easement for use, ingress, egress, and utility purposes on, over, under, across, and through the Common Area subject to this Declaration. The Association for the benefit of all Owners may promulgate rules and regulations

limiting the rights of Owners to use portions of the Common Area.

ARTICLE VIII

CONDEMNATION

Section 8.01. Sale By Unanimous Consent or Taking.
The Association or a trustee appointed to act on behalf of the Owners shall represent the Owners in any condemnation proceeding, negotiations, settlements, or agreements affecting any portion of the Common Area. If an action for condemnation of all or a portion of the Common Area is proposed or threatened by any governmental agency having the right of eminent domain, then, on the unanimous written consent of all of the Owners and all institutional Mortgagees, the Project, or a portion of it, may be sold and conveyed to the condemning authority by the Board for a price deemed fair and equitable by the Board. If the requisite number of Owners or institutional Mortgagees do not consent to a sale of all or a portion of the Common Area and the condemning authority institutes condemnation proceedings, the Court shall fix and determine the condemnation award.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Amendment.

(a) Amendment Before Close of First Sale.
Before the close of the first sale of a Lot to a purchaser other than Declarant, this Declaration and any amendments to it may be amended in any respect or revoked by the execution by Declarant and any Mortgagee of record of an instrument amending or revoking this Declaration. The amending or revoking instrument shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the Office of the Contra Costa County Recorder. No amendment may be made pursuant to this subsection which would materially change the rights of an Owner, either directly or as a Member of the Association, without the prior written consent of the Real Estate Commissioner.

(b) Amendment After the Close of First Sale.
After the close of the first sale of a Lot to a purchaser other than Declarant, the provisions of this Declaration may be amended by an instrument in writing signed and acknowledged by the majority of the members of the Board certifying that the amendment set forth therein was duly adopted with the vote or written consent of Members entitled

to exercise sixty-six and two-thirds percent (66-2/3%) of the voting power of each class of voting membership of the Association (except that where a greater percentage or different vote is required with respect to any provision hereunder, amendment of any provision shall require the vote or written consent of at least the prescribed percentage of affirmative votes of each class required for action to be taken under that section), which amendment shall be effective upon recordation of the aforementioned instrument in the Office of the Contra Costa County Recorder. Upon the conversion of Declarant's Class B voting rights to Class A voting rights as provided in Section 3.03 C., amendment of the provisions of this Declaration shall also require the vote or written consent of Members entitled to exercise fifty-one percent (51%) of the voting power of the Association held by Members other than Declarant.

Section 9.02. Notice and Hearing. Any requirements elsewhere in this Declaration which require notice and hearing shall meet the minimum requirements of Section 7341 of the Corporations Code of the State of California and provide the party who is entitled to the hearing with at least fifteen (15) days' notice of the hearing. Said notice shall set forth the reasons for imposing any proposed liability, assessment, penalty or other remedy, and shall be delivered to such person in person or by first class or registered mail. All hearings shall be informal and rules of evidence shall not apply. All decisions shall be rendered in writing. No action shall be taken on any decision until at least five (5) days after the date of the hearing.

Section 9.03. Enforcement. The provisions of this Declaration, the Bylaws, the rules and regulations of the Association, or the resolutions of the Board, as the same may be adopted or amended from time to time, shall constitute enforceable equitable servitudes which shall inure to and bind each Owner, its family, lessees, tenants, or contract purchasers, and their guests, invitees, or licensees, and which may be enforced by Declarant, the Association, or an Owner, by any proceeding at law or in equity. Every act or omission whereby any provision of this Declaration, the Bylaws, the rules and regulations of the Association, or the resolutions of the Board is violated, whether in whole or in part, is hereby declared to be a nuisance, and may be abated or enjoined through an action maintained by Declarant, the Association, or an Owner, whether the relief requested is for negative or affirmative action. The failure of an Owner, its family, lessees, tenants, or contract purchasers, and their guests, invitees, or licensees, to comply strictly with the provisions of any of the foregoing instruments, as the same may be in force and effect from time to time, shall be grounds for an action

to recover sums due for damages maintainable by Declarant, the Association, or an aggrieved Owner. The failure by Declarant, the Association, or an Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter. Each remedy set forth in this Declaration shall be in addition to all other remedies, whether available at law or in equity, and all such remedies, whether or not set forth in this Declaration, shall be cumulative and not exclusive. Excepting those powers provided by Section 4.05, the Association shall have no power to forfeit or abridge an Owner's rights to the full use and enjoyment of its Lot and Residence except where the forfeiture or abridgement is the result of the judgment of a court or a decision arising out of arbitration.

Section 9.04. Joint and Several Liability. If a Lot is owned jointly by two (2) or more persons, the liability of each Owner thereof in connection with the obligations of Owners imposed by this Declaration shall be joint and several.

Section 9.05. Attorneys' Fees. In any action brought by Declarant, the Association, or an Owner, to enforce the provisions hereof, whether legal or equitable, the prevailing party shall be entitled to such reasonable attorneys' fees as may be fixed by the court. Should the Association prevail in any legal proceeding instituted by or on behalf of an Owner, the Association shall be reimbursed by such Owner for its legal expenses including, without limitation thereto, attorneys' fees, court costs, and experts' fees, incurred in connection therewith.

Section 9.06. Severability. The provisions of this Declaration shall be independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision shall not affect the validity or enforceability of any other provisions which shall remain in full force and effect.

Section 9.07. Interpretation. The provisions of this Declaration shall be liberally construed to effectuate their purpose of creating a uniform plan for development and operation of the Project. Failure to enforce any provision hereof shall not constitute a waiver of the right thereafter to enforce said provision or any other provision hereof.

Section 9.08. Limitation of Liability. The liability of any Owner for performance of any one or more of the provisions of this Declaration with respect to any Lot shall terminate upon the sale, transfer, or other divestiture of such Owner's entire interest in that Lot with

respect to obligations arising hereunder from and after the date of such divestiture.

Section 9.09. Special Provisions Relating to Enforcement of Grantor's Obligations to Complete Common Area Improvements. If any Common Area Improvements are to be completed by Declarant and have not been completed prior to the issuance of the final subdivision public report for the Planned Unit Development by the Department of Real Estate of the State of California, and if the Association is obligee under a bond or other arrangement (hereinafter called either alternatively or collectively "bond") to secure performance of the commitment of Declarant to complete said Improvements, the Board shall consider and vote on action by the Association to enforce obligations under the bond with respect to any Improvement 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 Improvement, the Board shall consider and vote on the aforesaid question if a notice of completion has not been filed within thirty (30) days after the expiration of the extension. A special meeting of Members for the purpose of voting to override a decision by the Board not to initiate action to enforce the obligations under the bond or on the failure of the Board to consider and vote on the question shall be held not fewer than thirty-five (35) days nor more than forty-five (45) days after receipt by the Board of a petition for such a meeting signed by Members representing five percent (5%) or more of the total voting power of the Association. At such special meeting a vote of a majority of the voting power of the Association residing in Members other than Declarant to enforce Declarant's obligations under the bond shall be deemed to be the decision of the Association, and the Board shall thereafter implement that decision by initiating and pursuing appropriate action in the name of the Association.

Section 9.10. Obligation of Owners; Avoidance; Termination.

(a) No Owner may avoid the obligations of membership in the Association or any other obligations imposed on it by this Declaration by virtue of its being an Owner or Association Member through nonuse of any Common Area, by renunciation or abandonment of its Lot or by any other act of renunciation or abandonment, nor may it divest itself of any such burden or obligation by attempting to assign responsibility therefor to a tenant, manager or any third person.

(b) An Owner who leases its Residence to any person or entity shall be responsible for assuring compliance by his lessee with this Declaration, including all easements, reservations, assessments, liens and charges created in accordance with this Declaration, all as amended and supplemented from time to time.

(c) Upon the conveyance, sale, assignment or other transfer of a Lot to a new Owner, the transferring Owner shall not be liable for any assessments levied with respect to such Lot after the date of such transfer, and no person, after the termination of its status as an Owner and prior to its again becoming an Owner, shall incur any of the obligations or enjoy any of the benefits of an Owner under this Declaration. The voluntary conveyance of a Lot to a new Owner, however, will not extinguish any obligations for unpaid assessments against said Lot being conveyed.

(d) No Owner, or other person, may by conveyance, transfer or any other action, including an action at law for partition, sever any Lot or Lots from the Common Area or from the Association and all rights to do so are expressly waived.

Section 9.11. Nonliability of Officials. To the fullest extent permitted by law, neither a Director, officer or Committee of the Association or member of a Committee of the Association, nor Declarant or the Board, shall be liable to any Member, Owner, the Association or any other party for any damage, loss, claim, liability or prejudice suffered or claimed on account of any decision, approval, disapproval, course of action, act, inaction, omission, error, negligence or the like made in good faith and within which such person or entity reasonably believed to be the scope of its duties.

Section 9.12. Limitation of Restrictions on Declarant. Declarant is undertaking the work of constructing improvements upon the Project. The completion of that work and the sale and other disposal of said improvements 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 successors, assigns, contractors, and subcontractors, from doing on the Project whatever is reasonably necessary or advisable in connection with the completion of said work; or

(b) Prevent Declarant, its successors, assigns, contractors and subcontractors from erecting,

constructing and maintaining on any part or parts of the Project, such structures as may be reasonably necessary for the conduct of the business of completing said work and establishing the Project as a residential community and disposing of the same as individual Lots by sale, lease, or otherwise; or

(c) Prevent Declarant, its successors, assigns, contractors and subcontractors from conducting on any part of the Project the business of completing said work and of establishing the Project as a residential community and of disposing of said property as individual Lots by sale, lease or otherwise; or

(d) Prevent Declarant from maintaining such sign or signs anywhere on the Project as may be necessary for the sale, lease, or disposition thereof; or

(e) Prevent Declarant from maintaining models, sales offices, storage facilities or related such facilities in any unsold Residences, as may be necessary or reasonable, in the opinion of Declarant, for the sale or disposition of the Lots. Declarant shall be entitled to reasonable use of the Common Area and Common Area for undertaking its sale of the Lots.

Section 9.13. Scope. Each owner, by mere acceptance of a deed to a Lot, shall be deemed to have agreed, for any and all purposes, for itself, and the members of its family, its contract purchasers, tenants or lessees and their guests, invitees or licensees, to abide by, and to be bound by, each and every provision of this Declaration which subjects such Owner or other person to a contractual, fiduciary, or other duty, obligation, or agreement for the benefit of Declarant, the other Owners or occupants of the Planned Unit Development, either individually or as a class, the Association, the Property, or any part thereof, including the individual Lots, or the public generally, regardless of whether the deed refers specifically to this Declaration or to any such duty, obligation, or agreement.

Section 9.14. Effective Date. This Declaration shall become effective upon its recordation in the Official Records of Contra Costa County, California.

Section 9.15. Notices. Any notice required or permitted to be given hereunder shall be either personally delivered or mailed, by registered or certified mail, return receipt requested, and addressed as follows:

THE ASSOCIATION: Deer Ridge Homeowners Association
1399 Ygnacio Valley Road, Suite 11
Walnut Creek, CA 94598

DECLARANT: Mr. J.A. Chapman
The Housing Group
1399 Ygnacio Valley Road, Suite 11
Walnut Creek, CA 94598

AN OWNER: At the address of the Residence
of such Owner

A MORTGAGEE: At the address supplied by the
Mortgagee or its Mortgagor to the
Association

Notice shall be deemed to have been received upon personal delivery or seventy-two (72) hours after deposit in the United States mail as aforesaid. The foregoing addresses may be changed by written notice given as herein provided. Unless so changed, the last address provided for each party, whether herein or pursuant to notice hereunder, shall be deemed to be the address of such party for any and all purposes.

Section 9.16. Gender/Singular and Plural.
Whenever used, the singular shall include the plural and the use of any gender shall include all genders.

Section 9.17. Inflation Adjustment. Those dollar amounts referred to in Section 3.08(a) shall be adjusted on a date five (5) years from the date of execution of this Declaration (and every five (5) years thereafter) by a fraction of the amounts actually stated in those sections; the numerator of said fraction shall be the U. S. Bureau of Labor Statistics, Consumer Price Index: San Francisco/Oakland, California, Table for all Urban Consumers, all items 1977=100 (or any similar index substituted therefor), herein referred to as "CPI," on a date one-hundred twenty (120) days prior to the date that said adjustment is required to be made, and the denominator of said fraction shall be the CPI on a date one-hundred twenty (120) days prior to the date of execution of this Declaration.

Section 9.18. Duty of Declarant to Provide Plans.
At the time at which Declarant deeds the Common Area to the Association, it shall supply to the Association a complete set of "as-built" plans for the Common Area showing the location of all subdivision improvements then completed, the location of all utilities and the grading profiles and contours. Thereafter, Declarant shall provide the Association

with supplemental plans if and as further development proceeds or if modifications are made to the plans as originally presented to the Association.

ARTICLE X

MORTGAGE PROTECTION

Section 10.01. Subordination. Any lien created or claimed under the provisions of this Declaration is expressly made subject and subordinate to the rights of any First Mortgage that encumbers all or a portion of the Project, or any Lot, made in good faith and for value, and no such lien shall in any way defeat, invalidate, or impair the obligation or priority of such Mortgage unless the Mortgagee expressly subordinates its interest, in writing, to such lien. All taxes, assessments and charges which may become liens prior to the First Mortgage under local law shall relate only to the individual Lots and not to the Project as a whole.

Section 10.02. Foreclosure. If any Lot subject to a monetary lien created by any provision hereof shall be subject to a Mortgage Lien (i) the foreclosure of any lien created by anything set forth in this Declaration shall not operate to affect or impair such Mortgage Lien; and (ii) the foreclosure of said Mortgage Lien, the acceptance of a deed in lieu of foreclosure of the Mortgage, or sale under a power of sale included in such Mortgage (such events being hereinafter referred to as "events of foreclosure"), shall not operate to affect or impair the lien hereof, except that any persons who obtain an interest through any of the events of foreclosure shall take title free of the lien hereof for all such charges as shall have accrued up to the time of any of the events of foreclosure, but subject to the lien hereof for all of said charges that shall accrue subsequent to the events of foreclosure.

Nothing in this section shall be construed to release any Owner from its obligation to pay for any assesment levied pursuant to this Declaration.

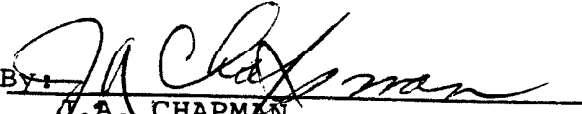
Section 10.03. Non-Curable Breach. Any Mortgagee who acquires title to a Lot by foreclosure or by deed in lieu of foreclosure or assignment in lieu of foreclosure shall not be obligated to cure any breach of this Declaration that is non-curable or of a type that is not practical or feasible to cure.

Section 10.04. Loan to Facilitate. Any First Mortgage given to secure a loan to facilitate the resale of

a Lot after acquisition by foreclosure or by a deed in lieu of foreclosure or by an assignment in lieu of foreclosure shall be deemed to be a loan made in good faith and for value and entitled to all of the rights and protections of this Article X.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed as required by law on this 22nd day of Oct., 1985.

THE HOUSING GROUP,
a California Corporation

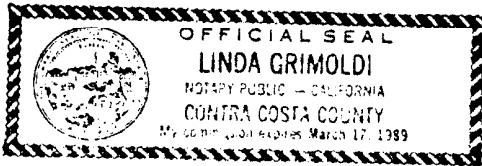
By: 
J.A. CHAPMAN
Vice President

BSS:lj-559:4
DEER1/32

STATE OF CALIFORNIA)
) SS.
COUNTY OF CONTRA COSTA)

On October 22, 1985, before me, the undersigned, a Notary Public in and for said County and State, personally appeared J. A. Chapman known to me (or proved to me on the basis of satisfactory evidence) to be the person who executed the within instrument, and acknowledged to me that he executed the same.

WITNESS my hand and official seal.



Linda Grimoldi
NOTARY PUBLIC

SH:rd-559/3
DEER1/31

EXHIBIT "A"

All that certain real property situated in the State of California, County of Contra Costa, described as follows:

Lots 1 through 20, 71 through 89, 101 through 125 inclusive and Parcel A, as shown on the Map of Subdivision 5902, filed June 5, 1985, in Book 290 of Maps, Page 1, Contra Costa County Records.

EXHIBIT "B"

All that certain real property situated in the State of California, County of Contra Costa, described as follows:

Lots 21 through 70, 90 through 100 inclusive as shown on the Map of Subdivision 5902, filed June 5, 1985, in Book 290 of Maps, Page 1, Contra Costa County Records.