

**Enabling Declaration**  
**(Covenants, Conditions, and Restrictions — CC&R's)**  
**Cypress Point Lakes Homeowners Association**

***Notice Regarding Discriminatory Restrictions***  
***(California Government Code 12956.1)***

In accordance with California Government Code 12956.1, enacted effective January 1, 2000 by Senate Bill 1148, the Association includes with this governing document the following information:

**“If this document contains any restriction based on race, color, religion, sex, familial status, marital status, disability, national origin, or ancestry, that restriction violates state and federal fair housing laws and is void, and may be removed pursuant to Section 12956.1 of the Government Code. Lawful restrictions under state and federal laws on the age of occupant in senior housing for older person shall not be construed as restrictions based on familial status.”**



NOTICE: THE TERMS OF THIS DOCUMENT ARE LEGALLY BINDING. READ IT CAREFULLY. A REAL ESTATE BROKER IS QUALIFIED TO ADVISE ON REAL ESTATE MATTERS. IF YOU DESIRE LEGAL ADVICE, CONSULT YOUR ATTORNEY.

**ENABLING DECLARATION**

**ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP**

THIS DECLARATION, made on the date hereinafter set forth, by CYPRESS POINT INVESTMENTS, a California limited partnership, hereinafter referred to as "Declarant," is made with reference to the following facts:

A. Declarant is the owner of a certain tract of land located in the City of Mountain View, County of Santa Clara, State of California, more particularly described as Tract No. 6685, Cypress Point Lakes, Lots One and Two, a map of which was filed for record in the Office of the Recorder of Santa Clara County, California, on October 12, 1979, in Book 451 of Maps, pages 26, 27 and 28.

B. Said property includes twenty-five (25) two-story buildings containing a total of 302 residential units, together with related recreational and service facilities, and Declarant intends to establish a condominium under the provisions of the California Condominium Act, providing for separate title to each unit within said project, each unit to have an undivided interest in all of the remaining property.

C. The development shall be referred to as the "project" as defined in Section 1.26 herein.

D. Declarant intends by this document to impose upon the property mutually beneficial restrictions under a general plan of improvement for the benefit of all of the said condominiums and the owners thereof.

E. Declarant hereby establishes a plan for the individual ownership of the real property estates, consisting of the area of space contained in each unit as well as the co-ownership by the individual owners, as tenants in common and as hereafter set forth, of all the remaining portions of the project which is hereinafter defined and referred to as the "common area."

NOW, THEREFORE, Declarant hereby declares that the above-described property shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved, subject to the following declarations, limitations, covenants, conditions, restrictions and easements, all of which are for the purpose of enhancing and protecting the value and attractiveness of the property, and the project, and every part thereof, in accordance with the plan for the improvements of the property and the division thereof into condominiums. All of the limitations, covenants, conditions, restrictions and easements shall constitute covenants which shall run with the land and shall be binding upon Declarant and its successors and assigns, and all parties having or acquiring any right, title or interest in or to any part of the property or the project.

## ARTICLE I

### DEFINITIONS

1.1 "Articles" shall mean and refer to the Articles of Incorporation of the Association as amended from time to time.

1.2 "Assessment" shall mean that portion of the cost of maintaining, improving, repairing, operating and managing the property which is to be paid by each unit owner as determined by the association.

1.3 "Association" shall mean and refer to C. P. Lakes Association, Inc., a California nonprofit corporation, the members of which shall be the owners of condominiums in the project.

1.4 "Board" or "Board of Directors" shall mean and refer to the governing body of the Association.

1.5 "Bylaws" shall mean and refer to the Bylaws of the Association as amended from time to time.

1.6 "Common area" shall mean and refer to all of the property (excepting the individual units) title to which is held by all of the owners in common. The common area includes, without limitation: land; parking and driveway areas; trash enclosures; carport areas; lakes; tennis courts; volleyball and barbeque area; swimming pools; jacuzzis; recreation room; gazebo; laundry rooms; exterior stairs, decks, balconies, patios and storage areas; bearing walls, columns, girders, subfloors, unfinished floors, roofs, and foundations; waterheaters, boilers, reservoirs, tanks, pumps, motors, ducts, flues and chutes; conduits, pipes, plumbing, wires and other utility installations to the breaker panel or outlets within each unit required to provide power, light, telephone, gas, water, sewerage and drainage, interior sprinklers, sprinkler pipes, and sprinkler heads which protrude into the airspace of a condominium unit; exterior sprinklers and sprinkler pipes; and central television antennae.

1.7 "Common expenses" shall mean and include the actual and estimated expenses of operating the common area and any reasonable reserve for such purposes as found and determined by the Board and all sums designated common expenses by or pursuant to the condominium documents.

1.8 "Common interest" shall mean the proportionate undivided interest in the common area which is appurtenant to each unit as set forth in this Declaration.

1.9 "Condominium" shall mean an estate in real property as defined in California Civil Code Section 783, consisting of a fee interest in a unit and an undivided interest in a common area. The ownership of each condominium shall include ownership of a unit, ownership of an undivided interest in the common area of the project, and membership in the Association.

1.10 "Condominium building" shall mean a residential structure containing condominium units.

1.11 "Condominium documents" means and includes this Declaration as it may be amended from time to time, the exhibits, if any, attached hereto, the

Articles, the Bylaws, and the rules and regulations for the members as established from time to time.

1.12 "Condominium plan" shall mean and refer to the recorded diagrammatic floor plan of the units built or to be built on the property which identified each unit and shows its dimensions pursuant to Civil Code Section 1351 (a copy of which was recorded on the 13th day of November, 1979, Instrument No. 6560656, Official Records of Santa Clara County).

1.13 "Declaration" shall mean and refer to this enabling Declaration.

1.14 "Developer" shall mean and refer to THRUST IV, INC., a California corporation.

1.15 "First mortgage of record" shall mean any recorded mortgage or deed of trust on a condominium in the project with first priority over any and all other mortgages or deeds of trust on the condominium.

1.16 "First mortgagee" shall mean the mortgagee of a first mortgage of record.

1.17 "Map" shall mean and refer to that subdivision map (Parcel Map) entitled Tract No. 6685, Cypress Point Lakes, Lots One and Two, recorded the 12th day of October, 1979, in Book 451 of Maps at Pages 26, 27 and 28 in the official records of Santa Clara County.

1.18 "Member" shall mean and refer to a person entitled to membership in the Association as provided herein.

1.19 "Mortgage" shall include a deed of trust as well as a mortgage.

1.20 "Mortgagee" shall include a beneficiary or a holder of a deed of trust as well as a mortgagee.

1.21 "Mortgagor" shall include the trustor of a deed of trust as well as a mortgagor.

1.22 "Owner" or "owners" shall mean and refer to the record holder or holders of title, if more than one, of a condominium in the project. This shall include any person having a fee simple title to any unit, but shall exclude persons or entitles having any interest merely as security for the performance of an obligation, including contract sellers. If a unit is sold under a recorded contract of sale to a purchaser who resides in the unit, the resident purchaser, rather than the fee owner, shall be considered the "owner" as long as he resides in the unit as a contract purchaser.

1.23 "Person" shall mean a natural person, a corporation, a partnership, a trustee, or other legal entity.

1.24 "Project" shall mean and refer to the entire real property described in introductory paragraph A hereof including all structures and improvements erected or to be erected thereon.

1.25 "Property" or "properties" shall mean and include the real property described in introductory paragraph A hereof and all improvements erected thereon and all property, real, personal or mixed intended for or used in connection with the condominium.

1.26 "Restricted common area" shall mean and refer to those portions of the common area, if any, set aside for exclusive use of an owner or owners, pursuant to Section 2.2C.

1.27 "Unit" shall mean and refer to that portion of any condominium or proposed condominium which is not owned in common with other owners, and which is designated as a unit on the condominium plan. Each unit is a separate freehold estate consisting of the space described and defined in Section 2.2.A. Each unit includes the portions of the structure so described and the airspace so encompassed.

1.28 "Unit designation" shall mean the number, letter, or combination thereof or other official designation of a unit as shown on the condominium plan.

1.29 Singular and plural: The singular and plural number and masculine, feminine and neuter gender shall each include the other where the context requires.

## ARTICLE II

### DESCRIPTION OF PROJECT, DIVISION OF PROPERTY, AND CREATION OF PROPERTY RIGHTS

2.1 Description of Project: The project consists of the underlying real property, the condominium building and all other improvements located thereon. There exist twenty-five (25) two-story buildings containing a total of 302 residential units. In addition, the project has lakes, swimming pools, tennis courts, volleyball and barbeque area, laundry facilities, office and recreation room, maintenance shop, and the usual appurtenances and other facilities. Reference is made to the condominium plan for further details.

2.2 Division of Property: The property is hereby divided into the following separate freehold estates:

A. Units: Each of the units as separately shown, numbered and designated in the condominium plan consists of the space bounded by and contained within the interior unfinished surfaces of the perimeter walls, bearing walls, floors, ceilings, windows, window frames, doors and door frames and trim, of each unit, each of such spaces being defined and referred to herein as a "unit." Each unit includes the utility installations which are located entirely within the boundaries of the unit they serve and of which the owner has exclusive use. Each unit includes both the portions of the building so described and the airspace so encompassed. The unit does not include those areas and those things which are defined as "common area" in Section 1.6. Each unit is subject to such encroachments as are contained in the building, whether the same now exist or may be later caused or created in any manner referred to in Section 10.5. In interpreting deeds and plans, the then existing physical boundaries of a unit, whether in its original state or reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the boundaries expressed in the deed or plan, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or deed, and those of the building.

B. Common Areas: The remainder of the property constitutes and shall be referred to herein as "common area" or "common areas", and includes, without limitation, all of the elements set forth in Section 1.6.

Each unit owner shall have, as appurtenant to his unit, an undivided interest in the common areas in the percentage set forth in Exhibit "A" attached hereto and incorporated by reference herein. The ownership of each condominium shall include a unit and such undivided interest in the common area. The common interest appurtenant to each unit is declared to be permanent in character and cannot be altered without the consent of all the owners affected, and the first mortgagees of such owners, as expressed in an amended declaration. Such common interest cannot be separated from the unit to which it is appurtenant. Each owner may use the common areas in accordance with the purposes for which they are intended without hindering the exercise of or encroaching upon the rights of any other owner.

C. Restricted Common Areas: The following described portions of the common area, referred to as "restricted common areas," are hereby set aside and allocated for the exclusive use of the owner of the unit to which they are attached or assigned by unit number, on the condominium plan: Carport designated "CP," followed by the number of the unit to which it is appurtenant; patio designated "PT," followed by the number of the unit to which it is appurtenant; balcony designated "B," followed by the number of the unit to which it is appurtenant.

D. No Separate Conveyance of Undivided Interests: The foregoing undivided interests are hereby established and are to be conveyed with the respective units as indicated above, cannot be changed, except as herein set forth, and Declarant, its successors, assigns and grantees covenant and agree that the undivided interests in the common areas and the fee title to the respective units conveyed therewith, shall not be separated or separately conveyed, and each such undivided interest shall be deemed to be conveyed or encumbered with its respective unit even though the description in the instrument of the conveyance or encumbrance may refer only to the fee title to the unit.

2.3 Partition Prohibited: The common areas shall remain undivided as set forth above. Except as provided by California Civil Code Section 1354, no owner shall bring any action for partition, it being agreed that this restriction is necessary in order to preserve the rights of the owners with respect to the operation and management of the project. Judicial partition by sale of a single unit owned by two or more persons and division of the sale proceeds is not prohibited hereby, but partition of title to a single unit is prohibited.

2.4 Restrictions of Transfer: In the event an owner shall wish to sell his condominium, and shall have received a bona fide offer therefore from a prospective purchaser, who as tenant or owner of a unit has been subject to discipline by the Association following notice and a hearing, the owner shall give written notice of such offer together with an executed copy of the offer to the Board of Directors. The Board, acting on behalf of all other owners, may purchase said condominium the same price and on the same terms as offered by the proposed purchaser, provided written notice of such election to purchase is given to the selling owner, and a matching down payment or deposit is provided to the selling owner during the fifteen (15) day period immediately following the delivery of the notice to the offer and a copy thereof to the Board. If the Board fails to so notify owner within

said fifteen (15) days, the owner may sell to said purchaser in accordance with said terms.

In the event any owner shall attempt to sell his condominium without offering the Board the right of first refusal herein provided for, such sale shall be null and void.

The failure or refusal of the Board to exercise the right of first refusal shall not constitute a waiver of such right to purchase the condominium when the owner receives any subsequent bona fide offer from a prospective purchaser, or receives an offer containing different terms and conditions.

The right of first refusal reserved herein shall not affect the right of any owner to subject his condominium to a deed of trust, mortgage, or other security instrument. Any first mortgagee coming into the possession of a condominium pursuant to the remedies provided in a mortgage or foreclosure or deed in lieu of foreclosure, shall be exempt from any right of first refusal.

An owner may sell or give his condominium to his spouse, his children, his parents, or his brothers and sisters, or to a trust or trusts created for the benefit of any one or more of them, without first offering to sell the condominium to the Board.

These restrictions on transfer shall terminate automatically sixty (60) years following the recording of this Declaration.

### **ARTICLE III**

#### **ASSOCIATION, ADMINISTRATION, MEMBERSHIP AND VOTING RIGHTS**

3.1 Association to Manage Common Areas: The management of the common area shall be vested in the Association. The owners of all the condominiums covenant and agree that the administration of the project shall be in accordance with the provisions of this Declaration, and the Articles and Bylaws of the Association.

3.2 Membership: An owner shall automatically, upon becoming an owner, be a member of the Association, and shall remain a member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. Membership shall be held in accordance with the Articles and Bylaws of the Association.

3.3 Transferred Membership: Membership in the Association shall not be transferred, pledged, or alienated in any way, except upon the sale or encumbrance of the condominium to which it is appurtenant, and then only to the purchaser, in the case of a sale, or mortgagee, in the case of an encumbrance of such condominium. A mortgagee does not have membership rights until he becomes an owner by foreclosure or deed in lieu thereof. Any attempt to make a prohibited transfer is void. In the event any owner should, upon sale of his condominium, fail or refuse to transfer the membership registered in his name to the purchaser of his condominium, the Association shall have the right to record the transfer upon its books and thereupon any old membership outstanding in the name of the seller shall be null and void.

3.4 Membership Voting Rights: All members shall be entitled to one (1) vote for each unit owned. When a unit is owned by more than one person, all such persons shall be members. The vote for such unit shall be exercised as the owners of the unit among themselves determine, but in no event shall more than one vote be cast with respect to any unit.

#### ARTICLE IV

##### MAINTENANCE AND ASSESSMENTS

4.1 Creation of the Lien and Personal Obligation of Assessments: The Declarant for each condominium hereby covenants, and each owner by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements. Such assessments are to be established and collected as hereinafter provided. The annual and special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a charge on the condominium and shall be a continuing lien upon the condominium against which each such assessment is made, the lien to become effective upon recordation of a notice of assessment. Each such assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the person who was the owner of such condominium at the time when the assessment fell due. No owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common areas or by the abandonment of his condominium.

4.2 Purpose of Assessments: The annual and special assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of all the residents in the entire project and for the improvement and maintenance of the common area for the common good of the project. The rental assessments levied by the Association shall be used exclusively to promote the full rental of all non-owner-occupied units and for the improvement and maintenance of such units for the common good of the project.

4.3 Maximum Annual Assessment: Until January 1 of the year immediately following the first conveyance a condominium to an owner other than Declarant, the maximum annual assessment per unit shall be as set forth in Exhibit "B."

From and after January 1 of the year immediately following the first conveyance of a condominium to an owner other than Declarant, the maximum annual assessment may be increased each year by not more than twenty percent (20%) above the maximum assessment for the previous year without the assent, by vote or written consent, of members possessing a majority of the voting power of the Association.

4.4 Fixing Annual Assessment: The Board of Directors shall fix the annual assessment at an amount not in excess of the maximum. The Board shall send written notice of the amount of the annual assessment against each unit to the owner at least sixty (60) days in advance of each annual assessment period.

The Board may not, without the assent, by vote or written consent, of members possessing a majority of the voting power of the



Association, impose a regular annual assessment which is more than twenty percent (20%) greater than the regular annual assessment for the immediately preceding fiscal year.

The Board may not, without the assent, by vote or written consent, of members possessing a majority of the voting power of the Association, impose a regular annual assessment which is more than ten percent (10%) less than the regular annual assessment for the immediately preceding fiscal year.

4.5 Reserves for Replacement: As part of the annual assessments for maintenance authorized above, the Board of Directors shall annually fix the amount to be contributed to reserve funds for the purpose of defraying, in whole or in part, the cost or estimated cost of any reconstruction, repair or replacement of improvements, including fixtures and personal property related thereto. Such determination shall be made after consideration of the need for additional funds and of the Association's capital position.

4.6 Special Assessments for Capital Improvements or Extraordinary Expenses: The Association may levy, in any fiscal year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction repair or replacement of a capital improvement upon the common area, including fixtures and personal property related thereto, or for extraordinary expenses incurred by the Association, provided that the Board may not, without the assent by vote or written consent, of members possessing a majority of the voting power of the Association, levy special assessments to defray the cost or any action or undertaking on behalf of the Association which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

4.7 Separate Trust Accounts: Amounts received by the Association as annual and special assessments from the owners shall be held in trust accounts as follows: (1) Capital Expansion Trust Account, for capital expansion funds; (2) Reserve Trust Account, for replacement reserves; (3) Repair and Maintenance Trust Account, for current expenses. Capital expansion trust funds shall be used solely for capital improvements on the common property within the project. Repair and Maintenance Trust funds shall be used solely for repair and maintenance within the project. Reserve Trust funds shall be used solely for reconstruction, repair or replacement of improvements, including fixtures and personal property. Separate records shall be maintained for all funds deposited to the trust accounts.

4.8 Division of Assessments: Annual and special assessments, unless assessed for disciplinary reasons, shall be charged to and divided among the owners according to the respective share of each as set forth in Exhibit "B."

4.9 Date of Commencement of Assessments: The annual and rental assessments provided for herein shall commence as to all units covered by this Declaration on the first day of the month following the conveyance of the first condominium to an owner other than Declarant. Voting rights attributable to any unit shall not vest until an assessment has been levied by the Association against said unit. The first assessment shall be adjusted according to the number of months remaining in the calendar year.

4.10 Due Dates: The Board of Directors shall fix the due dates for payment of assessments and shall be empowered to permit either lump sum or

monthly payments. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments on a specified unit have been paid. Such a certificate shall be conclusive evidence of such payment.

4.11 Effect of Nonpayment of Assessments: Any assessment not paid in full within fifteen (15) days after the due date shall bear interest at the rate of ten percent (10%) per annum from the due date until paid. Additionally, if any assessment is not paid in full within fifteen (15) days after the due date, the owner of the condominium failing to make timely payment shall be assessed reasonable fees to cover collection costs in an amount established from time to time by the Board of Directors, which fees shall be a charge on the condominium.

4.12 Transfer of Condominium by Sale or Foreclosure: Sale or transfer of any condominium shall not affect the assessment lien. However, the sale or transfer of any condominium pursuant to the foreclosure of a first mortgage of record shall extinguish the lien of such assessments as to payments which became due prior to such sale or transfer. Any excess proceeds from the sale or transfer of a condominium pursuant to the foreclosure of a first mortgage of record shall be applied first to pay any assessments which became due prior to such sale or transfer. No sale or transfer shall relieve such condominium from liability for any assessments thereafter becoming due or from the lien thereof.

Where a first mortgagee or other purchaser of a condominium obtains title to the same as a result of foreclosure of a first mortgage of record, such acquirer of title, his successor and assigns, shall not be liable for the share of the common expenses or assessments by the Association chargeable to such condominium which became due prior to the acquisition of title to such condominium by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the condominiums including such acquirer, his successors or assigns.

In a voluntary conveyance of a condominium the grantee and the grantor shall be jointly and severally liable to the Association for all unpaid assessments against the condominium for the grantor's share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. However, any such grantee shall be entitled to a statement from the Association, setting forth the amount of the unpaid assessments against the grantor due the Association, and such grantee shall not be liable for, nor shall the condominium conveyed be subject to a lien for, any unpaid assessments made by the Association against the grantor in excess of the amount set forth in the statement, except any such assessment becoming due after the date of any such statement.

4.13 Priorities; Enforcement; Remedies: When a notice of assessment has been recorded, such assessment shall constitute a lien on each respective condominium prior and superior to all other liens except (1) all taxes, bonds, assessments and other levies which, by law, would be superior thereto, and (2) the lien or charge of any first mortgage of record made in good faith and for value.

Such lien, when delinquent, may be enforced by sale by the Association, its attorney or other person authorized to make the sale, after failure of the owner to pay such assessment in accordance with its terms,

such sale to be conducted in accordance with the provisions of Sections 2924-2924h of the California Civil Code, applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any other manner permitted by law.

The Association, acting on behalf of the owners, shall have the power to bid for the condominium at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. During the period a unit is owned by the Association, following foreclosure: (1) No right to vote shall be exercised on behalf of the unit; (2) No assessment shall be assessed or levied on the unit; and (3) Each other unit shall be charged, in addition to its usual assessment, its proportionate share of the assessment that would have been charged to such unit had it not been acquired by the Association as a result of foreclosure. Suit to recover a money judgment for unpaid common expenses, rent and attorneys' fees shall be maintainable without foreclosing or waiving the lien securing the same.

The Board may temporarily suspend the voting rights and right to use recreational facilities of a member, or impose other appropriate discipline, if the member is in default in payment of any assessment, after notice and hearing.

4.14 Unallocated Taxes: In the event that any taxes are assessed against the common area, or the personal property of the Association, rather than against the units, said taxes shall be included in the assessments made under the provisions of Section 4.1 and, if necessary, a special assessment may be levied against the units in an amount equal to said taxes, to be paid thirty (30) days prior to the due date of each tax installment.

4.15 Exemption From Assessments: All property dedicated to, and accepted by, a local public authority or public agency, and all property owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of California, shall be exempt from the assessments created herein. However, no land or improvements devoted to dwelling use shall be exempt from said assessments.

## ARTICLE V

### DUTIES AND POWERS OF THE ASSOCIATION

5.1 Duties: In addition to the duties enumerated in its Bylaws, or elsewhere provided for in the Declaration, and without limiting the generality thereof, the Association shall perform the following duties:

A. Maintenance: The Association shall maintain, repair, replace, restore, operate and manage all of the common area and all facilities, improvements, furnishings, equipment and landscaping thereon, and all property that may be acquired by the Association. Maintenance shall include (without limitation): Staining, painting, maintaining, repairing and replacing all common areas, exterior glass surfaces, landscaping (except for private patio areas which are to be maintained by owners as per Section 11.6), balconies, parking areas, laundry facilities, recreational facilities, and on-site fire protection facilities. The responsibility of the Association for maintenance and repair shall not extend to repairs or

replacements arising out of or caused by the willful or negligent act or neglect of an owner, or his guests, the cost of which is not covered by insurance. The repair or replacement of a condominium exterior resulting from such excluded items shall be the responsibility of each owner; provided, however, that if an owner shall fail to make the repairs or replacements which are the responsibility of such owner, as provided above, then, upon a vote of a majority of the Board of Directors, and after not less than (30) days notice to the owner and a public hearing, the Association shall have the right (but not the obligation) to enter the condominium and make such repairs or replacements, and the cost thereof shall be added to the assessments chargeable to such condominium and shall be payable to the Association by the owner of such condominium.

B. Insurance: The Association shall maintain such policy or policies of insurance as are required by Section 10.9 of this Declaration.

C. Discharge of Liens: The Association shall discharge by payment, if necessary, any lien against the common area, and assess the cost thereof to the member or members responsible for the existence of said lien.

D. Assessments: The Association shall fix, levy, collect and enforce assessments as set forth in Article IV hereof.

E. Payment of Expenses: The Association shall pay all expenses and obligations incurred by the Association in the conduct of its business including, without limitation, all licenses, taxes or governmental charges levied or imposed against the property of the Association.

F. Enforcement: The Association shall enforce this Declaration.

5.2 Powers: In addition to the powers enumerated in the Articles and Bylaws, or elsewhere provided for herein, and without limiting the generality thereof, the Association shall have the following powers:

A. Utility Service: The Association shall have the authority to obtain, for the benefit of all of the condominiums, all water, gas and refuse collection, and in addition for the benefit of the common areas and facilities, all electric service and janitorial or window cleaning service.

B. Easements: The Association shall have authority to grant easements where necessary for utilities and sewer facilities over the common area to serve the common and open space areas and the condominium units.

C. Manager: The Association shall have the authority to employ a manager or other persons and to contract with independent contractors or managing agents to perform all or any part of the duties and responsibilities of the Association, provided that any contract with a firm or person appointed as a manager or managing agent shall not exceed a one (1) year term, shall provide for the right of the Association to terminate the same at the first annual meeting of the members of the Association, and to terminate the same for cause on thirty (30) days' written notice, or without cause or payment of a termination fee on ninety (90) days' written notice.

D. Adoption of Rules: The Association may adopt reasonable rules not inconsistent with this Declaration relating to the use of the common area and all facilities thereon, and the conduct of owners and their tenants and guest with response to the property and other owners.

E. Access: For the purposes of performing the maintenance authorized herein or for any other purpose reasonably related to the performance by the Association or the Board of Directors of their respective responsibilities, the Association's agents or employees shall have the right, after reasonable notice (not less than 24 hours except in emergencies) to the owner thereof, to enter any unit or to enter any portion of the common area at reasonable hours.

F. Assessments, Liens and Fines: The Association shall have the power to levy and collect assessments in accordance with the provisions of Article IV hereof. The Association may impose fines or take disciplinary action against any owner for failure to pay assessments or for violation of any provision of the condominium documents. Penalties may include but are not limited to: fines, suspension of voting rights, suspension of rights to the use of recreational facilities or other appropriate discipline, provided that the accused member is given notice and the opportunity to be heard with respect to the alleged violations before a decision to impose discipline is made.

G. Enforcement: The Association shall have the authority to enforce this Declaration.

H. Acquisition of Property: The Association shall have the power to acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association.

I. Loans: The Association shall have the power to borrow money, and only with the assent, by vote or written consent, of three-fourths (3/4) of the voting power of the Association, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred.

J. Dedication: The Association shall have the power to dedicate, sell or transfer all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by members possessing three-fourths (3/4) of the voting power of the Association, agreeing to such dedication, sale or transfer.

K. Contracts: The Association shall have the power to contract for goods and/or services for the common area(s), facilities and interests or for the Association, subject to limitations elsewhere set forth in the condominium documents.

L. Delegation: The Association shall have the power to delegate its authority and powers to committees, officers or employees of the Association.

M. Use of Recreational Facilities: The Association shall have the power to limit the number of guests an owner may permit to use the recreational facilities.

N. Custodian Unit: The Association shall have the power and authority, upon the assent, by vote or written consent, of members possessing a majority of the voting power of the Association, to purchase a condominium (the "custodian unit") to be occupied by a custodian for the project. In such case, during the period the custodian unit is owned by the Association:

(1) No right to vote shall be exercised on behalf of the custodian unit;

(2) No assessment shall be assessed or levied on the custodian unit; and

(3) Each other unit shall be charged, in addition to its usual assessment, its share of the assessment that would have been charged to the custodian unit, but the for provisions of this section.

O. Employment of Rental Agent: The Association shall have authority to employ a rental agent who shall be responsible for leasing non-owner-occupied units. Any contract with a firm or person appointed as rental agent shall not exceed a one (1) year term, shall provide for the right of the Association to terminate the same at the first annual meeting of the members of the Association, and to terminate the same for cause on thirty (30) days' written notice, or without cause or payment of a termination fee on ninety (90) days' written notice.

## ARTICLE VI

### UTILITIES

6.1 Owners' Rights and Duties: The rights and duties of the owners with respect to sanitary sewer, water, electricity, gas, television receiving, telephone lines and facilities, and heating facilities shall be as follows:

A. Whenever sanitary sewer, water, electricity, gas television receiving, telephone lines or connections, heating conduits, ducts, or flues are installed within the property, which connections or any portion thereof lie in or upon condominiums owner by other than the owner of a condominium served by said connections, the owners of any condominium served by said connections shall have the right, and are hereby granted an easement to the full extent necessary therefore, to enter upon the condominiums or to have the utility companies enter upon the condominiums in or upon which said connections, or any portion thereof, lie, to repair, replace and generally maintain said connections as and when necessary.

B. Whenever sanitary sewer, water, electricity, gas, television receiving or telephone lines or connections, heating conduits, ducts, or flues are installed within the property which connections serve more than one condominium, the owner of each condominium served by said connection shall be entitled to the full use and enjoyment of such portions of said connections as service his condominium.

C. In the event of a dispute between owners with respect to the repair or rebuilding of said connections, or with respect to the sharing of the cost thereof, then, upon written request of one of such owners addressed to the Association, the matter shall be submitted to arbitration pursuant to the rules of the American Arbitration Association, and the decision of the arbitrator(s) shall be final and conclusive on the parties.

6.2 Easements for Utilities and Maintenance: Easements over and under the property for the installation, repair, and maintenance of electric, telephone, water, gas, and sanitary sewer lines and facilities, heating and air-conditioning facilities, master television antenna lines, drainage facilities, walkways, and landscaping as shown on the Map and as may be hereafter required or needed to service the property, are hereby reserved by Declarant and its successors and assigns, including the Association, together with the right to grant and transfer the same.

6.3 Association's Duties: The Association shall maintain all utility installations located in the common area except for those installations maintained by utility companies, public, private, or municipal. The Association shall pay all charges for utilities supplied to the project except those metered or charged separately to the units.

## ARTICLE VII

### USE RESTRICTIONS

In addition to all of the covenants contained herein, the use of the property and each condominium therein is subject to the following:

<sup>1</sup> 7.1 Condominium Use: No condominium shall be occupied and used except for residential purposes by the owners, tenants, and social guests, and no trade or business shall be conducted therein, except that Declarant, its successors or assigns, may use any unit or units in the project owned by Declarant for a model home site or sites and display and sales office until the last unit is sold by Declarant. No tent, shack, trailer, basement, garage, outbuilding or structure of a temporary character shall be used at any time as a residence, either temporarily or permanently.

7.2 Nuisances: No noxious, illegal, or offensive activities shall be carried on in any condominium, or upon any part of the property, nor shall anything be done thereon which may be or may become an annoyance or a

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<sup>1</sup> Amended December, 1987, to allow certain completely unobtrusive home businesses conforming to Mountain View City Code section 36.39.3 or its successors regulating residential businesses. See amendments section on page 35 of this document.

nuisance to or which may in any way interfere with the quiet enjoyment of each of the owners of his respective unit, or which shall in any way increase the rate of insurance for the project, or cause any insurance policy to be cancelled or to cause a refusal to renew the same, or which will impair the structural integrity of any building.

7.3 Vehicle Restrictions: No trailer, camper, mobile home, commercial vehicle, truck (other than standard size pickup truck), inoperable automobile, boat or similar equipment shall be permitted to remain upon any area within the property. Commercial vehicles shall not include sedans or standard size pickup trucks which are used both for business and personal use, provided that any signs or markings of a commercial nature on such vehicles shall be unobtrusive and inoffensive as determined by the Board. No noisy or smoky vehicles shall be operated on the property. No off-road unlicensed motor vehicles shall be operated upon the property.

7.4 Signs: No sign shall be displayed to the public view on any unit or on any portion of the property except such signs as are approved by the Board. "For Sale" or "For Rent" signs shall be allowed provided they do not exceed three (3) square feet in size.

<sup>2</sup> 7.5 Animals: No animals, or birds of any kind shall be raised, bred, kept or allowed to visit in any condominium, or on any portion of the property. Declarant or any owner may cause any animal found within the common area to be removed by Declarant (or any owner) to a pound or animal shelter under the jurisdiction of the City of Mountain View, or the County of Santa Clara, by calling the appropriate authorities.

7.6 Garbage and Refuse Disposal: All rubbish, trash and garbage shall be regularly removed from the property, and shall not be allowed to accumulate thereon. Trash, garbage and other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of such materials shall be kept in a clean and sanitary condition. All equipment, garbage bins and cans, woodpiles, or storage piles shall be kept screened and concealed from view of other units, streets and common areas.

7.7 Radio and Television Antennas: No alteration to or modification of the central television antenna system cable television system, whichever is applicable, as developed by Declarant and as maintained by the Association shall be permitted, and no owner may be permitted to construct and/or use and operate his own external radio antenna, television antenna, or any other type of antenna without the consent of the Board.

7.8 Clothes Lines: There shall be no outside laundering or drying of clothes, except inside fenced patios and then only if the clothes cannot be seen from the street, common area, or other units.

7.9 Power Equipment and Car Maintenance: No power equipment, hobby shops, or car maintenance (other than emergency work) shall be permitted on the property except with prior written approval of the Board. Approval shall not be unreasonably withheld and in deciding whether to grant approval the

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<sup>2</sup> Amended December, 1987 to allow certain small animals that conform to established rules. Dogs remain prohibited. See Amendments section on page 35 of this document and Pets Rules, within the Residents' Handbook.



Board shall consider the effects of noise, air pollution, dirt or grease, fire hazard, interference with radio or television reception, and similar objections.

7.10 Parking Spaces: In addition to the carports assigned to units on the condominium plan (restricted common areas) the project includes uncovered parking spaces, each designated with the letters "UP" and a number on the condominium plan, all of which are unassigned. These may be used by all owners, their tenants and guests. The Board may from time to time assign the exclusive right to use said spaces to particular units and charge fees therefore; however, fifteen percent (15%) of the total parking spaces in the project must remain available on a first-come, first-serve basis for owners, guests or tenants and not be assigned to individual units.

7.11 Landscaping: All landscaping of every kind and character in restricted common area patios or balconies, including shrubs, trees, grass and other plantings shall be neatly trimmed, properly cultivated and maintained continuously by the owner thereof in a neat and orderly condition and in a manner to enhance its appearance.

7.12 Oil Drilling: No oil drilling, oil development operations, oil refining, quarrying, or mining operations of any kind shall be permitted on or in the project, and no oil wells, tanks, tunnels or mineral excavations or shafts shall be permitted on the surface of the project or within five hundred (500) feet below the surface of the project. No derrick or other structure designed for use in boring for water, oil or natural gas shall be erected, maintained or permitted on the project.

7.13 Transient Occupancy: No condominium shall be rented for transient or hotel purposes, which shall be defined as (a) rental for any period less than thirty (30) days, or (b) any rental if the occupants of the unit are provided customary hotel service such as room service for food and beverage, maid service furnishing laundry and linen, and bellboy service.

7.14 Liability of Owners for Damage to Common Area: An owner shall be liable to the Association for all damages to the common area or improvements thereon caused by such owner or his guest or any occupant of his unit, except for that portion of said damage, if any, fully covered by insurance. Liability of an owner shall be established only after notice to the owner and hearing before the Board.

## **ARTICLE VIII**

### **ARCHITECTURAL CONTROL**

8.1 Architectural Control Committee: An architectural control committee shall be established consisting of not less than three (3) nor more than (5) members. Declarant shall appoint all of the original members of the committee and all replacements until the first anniversary of the issuance of a public report for the project. The Declarant reserves to itself the power to appoint a majority of the members to the committee until ninety percent (90%) of all the units in the project have been sold or until the fifth anniversary of the issuance of the final public report for the project,

whichever occurs first. After one (1) year from the date of issuance of a public report for the project, the Board shall have the power to appoint one (1) member to the architectural control committee until ninety percent (90%) of all the units in the project have been sold or until the fifth anniversary date of the issuance of the final public report for the project, whichever first occurs. Thereafter, the Board shall have the power to appoint all of the members of the architectural control committee. Members appointed to the architectural control committee by the Board shall be from the membership of the Association. Members appointed to the architectural control committee by the Declarant need not be members of the Association. A majority of the architectural control committee may designate a representative to act for it. In the event of death or resignation of any member of the committee, the successor shall be appointed by the person, entity or group which appointed such member until Declarant no longer has the right to appoint any members to the committee, and thereafter the Board shall have full authority to designate such a successor. Neither the members of the committee nor its designated representatives shall be entitled to any compensation for services performed pursuant hereto. At any time after the Declarant's right to appoint a majority of the members of the committee is terminated, the then record owners of a majority of the units shall have the power, through a duly recorded written instrument, to change the membership of the committee or to change any of its powers and duties.

8.2 Architectural Approval: No building, fence, wall, obstruction, balcony, screen, patio, patio cover, tent, awning, carport, carport cover, improvement or structure of any kind shall be commenced, erected, painted or maintained upon the property, nor shall any alteration or improvement of any kind be made thereto until the same has been approved in writing by the architectural control committee. In addition, no exterior additions, alterations or other improvements which alter building appearance such as gazebos, fences, trellises, patio covers, sunscreens or other possible future improvements thereto, shall be made until the same has been approved in writing by the City of Mountain View in accordance with a definitive master plan on file with the City which has been approved by the Zoning Administrator of City.

No landscaping of patios or balconies visible from other units, streets or unrestricted common area which involves the use of synthetic materials, the use of concrete, rock, or similar materials, or the use of trees, shrubs or plants which at maturity would exceed three (3) feet in height, shall be undertaken by any owner until the same has been approved in writing by the architectural control committee.

Plans and specifications showing the nature, kind, shape, color, size, materials and location of such improvements, alterations, etc., shall be submitted to the architectural control committee in writing over the signature of the owner of the property or its authorized agent. Approval shall be based, among other things, on adequacy of site dimensions; adequacy of structural design and materials; conformity and harmony of external design with neighboring structures; effect of location and use of improvements on neighboring property, improvements, operations and uses; relation of topography, grade and finished ground elevation of the property being improved to that of neighboring property; proper facing of main elevations with respect to nearby streets; preservation of natural view and esthetic

beauty; and conformity of the plans and specifications to the purpose and general plan and intent of this Declaration.

No permission or approval shall be required to repaint in accordance with Declarant's original color scheme, or to rebuild in accordance with Declarant's original plans and specifications. No permission or approval shall be required to repaint in accordance with a color scheme previously approved by the architectural control committee, or to rebuild in accordance with plans and specifications previously approved by the architectural control committee.

All improvement work approved by the architectural control committee shall be diligently completed.

8.3 Failure to Approve or Disapprove Plans and Specifications: In the event the architectural control committee, or its designated representative, fails to either approve or disapprove plans and specifications within ninety (90) days after the same have been submitted to it, it shall be conclusively presumed that the architectural control committee has disapproved such plans and specifications.

8.4 Rules and Regulations: The architectural control committee may from time to time, in its sole discretion, adopt, amend and repeal rules and regulations interpreting and implementing the provisions hereof.

8.5 No Liability: Neither Declarant, the Association nor the architectural control committee, nor the members thereof, shall be liable in damages to anyone submitting plans or specifications to them for approval, or to any owner of property affected by these restrictions by reason of mistake in judgment, negligence or nonfeasance arising out of or in connection with the approval or disapproval or failure to approve or disapprove any such plans or specifications. Every person who submits plans or specifications to the architectural control committee for approval agrees, by submission of such plans and specifications, and every owner agrees that he will not bring any action or suit against Declarant, the Association, the architectural control committee, or any of the members thereof to recover any such damages.

## **ARTICLE IX**

### **PROTECTION OF MORTGAGEES**

9.1 Mortgage Permitted: Any owner may encumber his condominium with a mortgage.

9.2 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 of record 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 first mortgage of record unless the first mortgagee expressly subordinates his interest, in writing, to such lien.

9.3 Effect of Breach: No breach of any of the covenants, conditions and restrictions herein contained, nor the enforcement of any lien

provisions herein, shall render invalid the lien of any first mortgage of record made in good faith and for value, but all of said covenants, conditions and restrictions shall be binding upon and effective against any owner whose title is derived through foreclosure of trustee's sale, or otherwise.

9.4 Amendment: No amendment to this Declaration, the Articles or the Bylaws shall adversely affect the rights of any mortgagee under any mortgage made in good faith and for value and recorded before the recordation of any such amendment unless the mortgagee either joins in the execution of the amendment or approves it in writing as a part of such amendment.

9.5 Restrictions on Changes: Unless at least seventy-five percent (75%) of the first mortgagees (based upon one vote for each first mortgage of record owned), have given their prior written approval, the Association shall not be entitled to:

(1) by act or omission, seek to abandon or terminate the project;

(2) change the pro rata interest or obligations of any individual unit for the purpose of: (i) levying assessments or charges or allocating distributions of hazard insurance proceeds or condemnation awards, or (ii) determining the share of ownership of each unit in the common area;

(3) partition or subdivide any condominium;

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

(5) use hazard insurance proceeds for losses to any condominium (whether to a unit or to common area) for other than the repair, replacement or reconstruction of such condominium, except as provided by statute in case of substantial loss to the units and/or common area of the project.

9.6 Notice of Default: Any first mortgagee which has filed with the Association a request for notice of default, shall be entitled to receive written notice from the Association of any default by the owner of any condominium a security interest in which is held by said first mortgagee in the performance of such owner's obligations under the condominium documents, which is not cured within thirty (30) days. The Association shall discharge its obligation to notify by sending written notices required herein to the first mortgagee requesting notice, at the address given on the current request for notice.

9.7 Right to Examine Books and Records: First mortgagees shall have the right to examine the books and records of the Association.

9.8 Maintenance Reserve Fund: Condominium dues or charges shall include an adequate reserve fund for maintenance, repairs and replacement of

those common area improvements that must be replaced on a periodic basis, and shall be payable in regular installments rather than by special assessments.

9.9 Insurance and Condemnation Proceeds: No provision of the condominium documents gives an owner, or any other party, priority over any rights of first mortgagees pursuant to their mortgages in the case of a distribution to owners of insurance proceeds or condemnation awards for losses to or taking of units and/or common areas.

9.10 Accrued Unpaid Assessments: Any first mortgagee which obtains title to a condominium pursuant to a foreclosure of a first mortgage of record will not be liable for unpaid dues and assessments against the condominium which accrued prior to acquisition of the condominium by the first mortgagee.

9.11 Notice to FHLMC: The Association shall give Federal Home Loan Mortgage Corporation (FHLMC) notice (c/o Servicer at Servicer's address) in writing of any loss to, or taking of any portion of the common area if such loss or taking exceeds \$10,000.00 or damage to a condominium covered by a mortgage purchased in whole or in part by FHLMC which exceeds \$1,000.00.

9.12 No Right of First Refusal: Any first mortgagee coming into the possession of a condominium pursuant to the remedies provided in a deed of trust, or foreclosure or deed in lieu of foreclosure, shall be exempt from the right of first refusal set forth in Section 2.4 and/or any similar right created in the future.

## ARTICLE X

### GENERAL PROVISIONS

10.1 Enforcement: The Association, or any owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration, and in such action shall be entitled to recover reasonable attorneys' fees as are ordered by Court. Failure by the Association or by any owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

10.2 Invalidity of Any Provision: Should any provision or portion hereof be declared invalid or in conflict with any law of the jurisdiction where this project is situated, the validity of all other provisions and portions hereof shall remain unaffected and in full force and effect.

10.3 Term: The covenants and restrictions of this Declaration shall run with and bind the property, and shall inure to the benefit of and shall be enforceable by the Association or the owner of any property subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of fifty (50) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years, unless an instrument in writing, signed by a majority of the then owners of the condominiums, has been recorded

within the year preceding the beginning of each successive period of ten (10) years, agreeing to change said covenants and restrictions in whole or in part, or to terminate the same.

10.4 Amendments:

A. Amendment Before Close of First Sale: Before the close of the first sale in the project to a purchaser other than Declarant, this Declaration and any amendments to it may be amended, with the written consent of the Commissioner of the Department of Real Estate of the State of California, in any respect or revoked by the execution by Declarant and any mortgagee of record of an instrument amending or revoking the 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 Recorder for Santa Clara County, California.

B. Amendment After Close of First Sale: After the close of the first sale in the project to a purchaser other than Declarant, this Declaration, and any amendments to it, may be amended, with the written consent of the Commissioner of the Department of Real Estate of the State of California, if otherwise required by law, only by the affirmative vote or written consent of not less than seventy-five percent (75%) of the total voting power of the Association and not less than fifty percent (50%) of the voting power of the Association residing in members other than Declarant. Provided, however, the percentage of the voting power of the Association or of any class of members necessary to amend a specific provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that provision. Any such amendment must be recorded and shall become effective upon being recorded in the Office of the Recorder for Santa Clara County, California. Notwithstanding anything to the contrary contained herein, this Declaration shall not be amended without the consent of the City of Mountain View if such amendment would:

(1) Alter the obligation of the Association to continue to maintain the Common Areas and to pay taxes upon the Common Areas, or delete the right of the Association to levy assessments upon the Owners.

(2) Amend the provisions of Article XI relating to discrimination against families with children.

(3) Amend those portions of Article IX which pertain to the power of the City in regard to approving or disapproving external modifications to buildings.

(4) Amend the provisions with respect to fire protection set forth in Article V.

(5) Assign parking spaces to individual units so that less than fifteen percent (15%) of the total parking spaces are available on a first-come, first-served basis for owners, guests or tenants.

10.5 Encroachment Easements: Each condominium within the property is hereby declared to have an easement over all adjoining condominiums and the common area for the purpose of accommodating any encroachment due to

minor engineering errors, minor errors in original construction, settlement of shifting of the building, or any other cause. There shall be valid easements for the maintenance of said encroachments as long as they shall exist, and the rights and obligations of owners shall not be altered in any way by said encroachment, settlement or shifting; provided, however, that in no event shall a valid easement shifting; provided, however, that 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 misconduct of said owner or owners. In the event a structure is partially or totally destroyed, and then repaired or rebuilt, the owners of each condominium agree that minor encroachments over adjoining condominiums or common area shall be permitted and that there shall be valid easements for the maintenance of said encroachments so long as they shall exist.

10.6 Owner's Right and Obligation to Maintain and Repair: Except for those portions of the project which the Association is required to maintain and repair, each owner shall, at his sole cost and expense, maintain and repair his unit, and shall maintain the landscaping within the private patio area appurtenant thereto which is part of the restricted common area, keeping the same in good condition. Each unit owner shall keep those portions of the restricted common area to which he has exclusive easement rights clean and neat. Each owner shall have the exclusive right to paint, plaster, panel, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his unit. In the event an owner fails to maintain the interior of his unit or the landscaping within his private patio area in a manner which the Board deems necessary to preserve the appearance and value of the property, the Board may notify owner of the work required and request it be done within sixty (60) days from the giving of such notice. In the event owner fails to carry out such maintenance within said period, the Board may cause such work to be done and may, following notice and hearing, specially assess the cost thereof to such owner, and, if necessary lien his unit for the amount thereof.

10.7 Entry for Repairs: The Board or its agents may enter any unit when necessary in connection with any maintenance, landscaping or construction for which the Association is responsible. Such entry shall be made with as little inconvenience to the owner as practicable and any damage caused thereby shall be repaired by the Board at the expense of the Association. Except in case of emergency, twenty-four (24) hour advance notice shall be given to the owner or occupant.

10.8 Major Modifications: The project having been approved by the City of Mountain View by the granting of a special development permit, Declarant agrees that any major or substantial change, modification, restoration, or reconstruction different from original construction shall require advance approval of City.

10.9 Insurance; Damage or Destruction: In the event of damage to or destruction of any unit, the owner shall reconstruct the same as soon as reasonably practicable, and substantially in accord with the original plans and specifications therefore.

The Association shall obtain and continue in effect, a master policy of insurance covering real property and improvements, and personal

property owned by the Association, including fire, extended coverage, vandalism and malicious mischief, and public liability insurance, and, if necessary workmen's compensation coverage in form and amounts satisfactory to the Board, and to first mortgagees, but without prejudice to the right of the owner of a condominium to obtain individual condominium insurance.

Insurance premiums for the master policy shall be a common expense to be included in the monthly assessments levied by the Association, and the portion of such payments necessary for the insurance premiums shall be held in a separate account of the Association and shall be used solely for the payment of the master insurance policy premiums as such premiums become due.

If any of the project improvements are damaged by fire or other casualty, insurance proceeds payable to the Association shall be used to rebuild or repair such damage substantially in accordance with the original plans and specifications therefore. Custom-built items added by owners to their units shall be rebuilt or replaced at the expense of owners or their insurers. Any excess insurance proceeds shall be deposited to the general funds of the Association. In the event the proceeds of the Association's insurance policy are insufficient to rebuild or repair the common area, then the Association may use funds from its account or if necessary from levying a special assessment on all owners to restore or rebuild said common area.

In the event the property subject to this Declaration is totally or substantially damaged or destroyed, first mortgagees shall receive timely notice thereof. The repair, reconstruction or disposition of the property and insurance proceeds shall be as provided by an agreement approved by owners representing at least seventy-five percent (75%) of the voting power of each class of membership of the Association as such voting interests are established in this Declaration (subject to the rights of first mortgagees, provided that the project shall be rebuilt unless at least seventy-five percent (75%) of the members of each class vote not to rebuild.

In addition to the master liability policy which the Association shall carry, each owner may carry personal liability insurance covering damage to property or injury to person of others within the project resulting from negligence of the owner or his agents.

All property and liability insurance carried by the Association or the owners shall contain a cross liability endorsement and waiver of subrogation as to the Association, officers and directors, and any members, their guests, agents and employees.

10.10 Condemnation: In the event of an award for the taking of any unit in the project by eminent domain, the owner of such unit shall be entitled to receive the award for such taking and after acceptance thereof he and his mortgagee(s) shall be divested of all interest in the project if such owner shall vacate his unit as a result of such taking. The remaining portion of the project shall be resurveyed, if necessary, and the Declaration shall be amended to reflect such taking and to readjust proportionally the percentages of undivided interest of the remaining owners in the project. In the event of a taking by eminent domain of any part of the common area, the Association shall participate in the negotiations, and shall propose the



method of division of the proceeds of condemnation, where units are not valued separately by the condemning authority or by the court. In the event of inverse condemnation, any award received shall be allocated fairly and proportionately among the owners of units involved. The Association should give careful consideration to the allocation of percentage interests in the common area in determining how to divide proceeds of condemnation. In the event any owner disagrees with the proposed allocation, he may have the matter submitted to arbitration under the rules of the American Arbitration Association. In the event of eminent domain proceedings against the project or any portion thereof, first mortgagees shall be given timely written notice thereof.

10.11 Limitation of Restrictions on Developer: Developer is undertaking the work of converting an existing apartment complex into residential condominium dwellings and making incidental improvements upon the subject property. The completion of that work and the sale, rental, and other disposal of said condominium units is essential to the establishment and welfare of said property as a residential community. In order that said work may be completed and said property be established as a fully occupied residential community as rapidly as possible, nothing in this Declaration shall be understood or construed to:

A. Prevent Developer, its contractors, or subcontractors from doing on the property or any unit, whatever is reasonably necessary or advisable in connection with the completion of said work; or

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

C. Prevent Developer from conducting on any part of the property its business of completing said work and of establishing a plan of condominium ownership and of disposing of said property in condominium units by sale, lease or otherwise; or

D. Prevent Developer from maintaining such sign or signs on any of the property as may be necessary for the sale, lease or disposition thereof.

Developer shall make every effort to avoid disturbing the use and enjoyment of units (and the common area) by their owners, while completing any work necessary to said units or common area.

The foregoing limitations of the application of the restrictions to Developer shall terminate upon sale of Declarant's entire interest in the project.

So long as Declarant, its successors and assigns, owns one or more of the condominiums established and described herein, Declarant, its successors and assigns, shall be subject to the provisions of this Declaration.

10.12 Owners' Compliance: Each owner, tenant or occupant of a condominium shall comply with the provisions of this Declaration, and to the extent they are not in conflict with the Declaration, the Articles and Bylaws, decisions and resolutions of the Association or its duly authorized representative, as lawfully amended from time to time, and failure to comply with any such provisions, decisions, or resolutions, shall be grounds for an action to recover sums due, for damages, or for injunctive relief.

All agreements and determinations lawfully made by the Association in accordance with the voting percentages established in this Declaration or in the Articles or the Bylaws, shall be deemed to be binding on all owners of condominiums, their successors and assigns.

10.13 Notices: Any notice permitted or required by the Declaration, Articles or Bylaws may be delivered either personally or by mail. If delivery is by mail, it shall be deemed to have been delivered seventy-two (72) hours after a copy of the same has been deposited in the United States mail, postage prepaid, addressed to each person at the current address given by such person to the Secretary of the Board or addressed to the unit of such person if no address has been given to the Secretary.

10.14 Special Provisions Relating to Enforcement of Developer's or Declarant's Obligation to Complete Common Area Improvements: Where the project includes common area improvements which have not been completed prior to the close of escrow on the first sale of a condominium, and where the Association is obligee under a bond or other arrangement to secure performance of the commitment of Developer or Declarant to complete said improvements, the Board shall consider and vote on the question of action by the Association to enforce the obligations under the bond with respect to any 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 of the Association 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 less than fifteen (15) days nor more than thirty (30) days after receipt by the Board of a petition for such a meeting signed by members representing ten percent (10%) of the total voting power of the Association. At such special meeting a vote of a majority of members of the Association other than the Declarant shall be required to take action to enforce the obligations under the bond and a vote of a majority of the voting power of the Association, excluding Declarant, shall be deemed to be the decision of the Association, and the Board shall thereafter implement this decision by initiating and pursuing appropriate action in the name of the Association.

10.15 Discrimination Against Families with Children Prohibited: There shall be no discrimination against any person or persons having children in the sale, lease or rental of any condominium unit, or shall any person of any age be discriminated against in the use and availability of common facilities, services or other privileges associated with his or her

occupancy of a condominium unit. The City of Mountain View shall be entitled to enforce this section in any manner provided by law.

10.16 Tenant's Rights: A tenant lawfully in possession of a unit shall have the same right to use the common area as an owner in possession of the unit would have. No owner shall, either directly or indirectly, forbid or restrict such use of the common area by such a tenant.

10.17 Fair Housing: No owner shall, either directly or indirectly, forbid or restrict the conveyance, encumbrance, leasing, or mortgaging, or occupancy of his unit to any person of a specified race, color, religion, ancestry, national origin, or sex.

3

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has executed this Declaration this 13th day of November, 1979.

CYPRESS POINT INVESTMENTS,  
A California Limited Partnership  
By THRUST IV, a partnership

By: Hugh P. Bikle  
Managing General Partner

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<sup>3</sup> Amended December, 1987 to add paragraph 10.18 requiring any owner who rents their unit to provide their tenant(s) with a copy of the Residents' Handbook by the first day of occupancy. See Amendments section on page 35 of this document.

# Amendments to the Enabling Declaration

## Amendment passed in 1979

### AMENDMENT TO ENABLING DECLARATION

#### ESTABLISHING A PLAN FOR CONDOMINIUM OWNERSHIP

THIS DECLARATION, made on the date hereinafter set forth, by CYPRESS POINT INVESTMENTS, a California limited partnership and THRUST IV, a partnership, amends that certain Enabling Declaration Establishing a Plan for Condominium Ownership of that certain real property located in the City of Mountain View, County of Santa Clara, State of California, more particularly described as Tract No. 6685, Cypress Point Lakes, Lots One and Two, a map of which was filed for record in the Office of the Recorder of Santa Clara County, California, on October 12, 1979, in Book 451 of Maps, pages 26, 27 and 28, which Enabling Declaration was filed for record in the Office of the Recorder of Santa Clara County, California, on November 13, 1979, on Book F940, pages 471 through 504, in the following respects:

1. Introductory paragraph C, found on page 1 of the Enabling Declaration, is amended to read as follows:

"C. The development shall be referred to as the 'project' as defined in Section 1.24 herein."

2. Section 4.2 of the Enabling Declaration is amended to read as follows:

"4.2 Purpose of Assessments: The annual and special assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of all the residents in the entire project and for the improvement and maintenance of the common area for the common good of the project."

3. Section 4.9 of the Enabling Declaration is amended to read as follows:

"4.9 Date of Commencement of Assessments: The annual assessments provided for herein shall commence as to all units covered by this Declaration on the first day of the month following the conveyance of the first condominium to an owner other than Declarant. Voting rights attributable to any unit shall not vest until an assessment has been levied by the Association against said unit. The first assessment shall be adjusted according to the number of months remaining in the calendar year."

4. The reference made to "Section 11.6" in Section 5.1 A. of the Enabling Declaration is amended to read "Section 10.6".

5. Section 5.2 O of the Enabling Declaration is amended to read as follows:

"O. Employment of Rental Agent: The Association shall have authority to employ a rental agent who shall be responsible for leasing units. Any contract with a firm or person appointed as rental agent shall

not exceed a one (1) year term, shall provide for the right of the Association to terminate the same at the first annual meeting of the members of the Association, and to terminate the same for cause on thirty (30) days' written notice, or without cause or payment of a termination fee on ninety (90) days' written notice."

6. Exhibits "A" and "B" referred to in the Enabling Declaration are attached hereto as Exhibits A and B, respectively, and by this reference incorporated herein.

IN WITNESS WHEREOF, the undersigned, being all the owners of the real property subject to the Enabling Declaration have executed this Amendment this 11th day of November, 1979.

CYPRESS POINT INVESTMENTS, A  
California Limited Partnership  
By THRUST IV, a partnership

By: Hugh P. Bikle  
Managing General Partner

THRUST IV, A Partnership

By: Hugh P. Bikle  
Managing General Partner

C. P. LAKES

Undivided Interest in Common Areas

Unit Numbers for the

1 Bedroom - 1 Bath - 688 sq. ft. - 138 Units

Per Unit

0.2775156%  
1, 2, 3, 4, 6, 8, 9, 10, 11, 12, 13, 14, 15,  
16, 17, 19, 22, 24, 25, 26, 27, 28, 29, 30,  
31, 32, 33, 34, 35, 36, 38, 40, 41, 43, 45,  
46, 47, 48, 50, 52, 53, 55, 57, 58, 59, 60,  
61, 62, 63, 64, 66, 68, 69, 71, 73, 74, 75,  
76, 78, 80, 81, 83, 85, 86, 87, 88, 89, 90,  
91, 92, 94, 96, 98, 100, 101, 103, 105, 106,  
107, 108, 110, 112, 113, 114, 115, 116, 117,  
118, 119, 120, 121, 122, 123, 124, 125, 126,  
127, 128, 129, 131, 134, 136, 137, 139, 141,  
142, 143, 144, 146, 148, 149, 151, 153, 154,  
155, 156, 157, 158, 159, 160, 161, 162, 163,  
164, 166, 168, 169, 171, 173, 175, 292, 294,  
295, 297, 299, 300, 301 and 302.

Unit Numbers for the

2 Bedroom - 1 Bath - 857 sq. ft. - 50 Units

Per Unit

0.3456844%  
5, 7, 18, 20, 21, 23, 37, 39, 42, 44, 49, 51,  
54, 56, 65, 67, 70, 72, 77, 79, 82, 84, 93,  
95, 97, 99, 102, 104, 109, 111, 130, 132, 133,  
135, 138, 140, 145, 147, 150, 152, 165, 167,  
170, 172, 174, 176, 291, 293, 296 and 298.

Unit Numbers for the

1 Bedroom - 1 Bath - 800 sq. ft. - 56 Units

Per Unit

0.3226925%  
177, 179, 181, 183, 185, 187, 189, 191, 193,  
195, 197, 199, 202, 204, 205, 207, 210, 212,  
213, 215, 218, 220, 221, 223, 226, 228, 229,  
231, 234, 236, 237, 239, 241, 243, 245, 247,  
249, 251, 253, 255, 258, 260, 261, 263, 266,  
268, 272, 274, 275, 277, 280, 282, 283, 285,  
288 and 290.

Unit Numbers for the

2 Bedroom - 2 Bath - 1,120 sq. ft. - 56 Units

Per Unit

0.4517696%  
178, 180, 182, 184, 186, 188, 190, 192, 194,  
196, 198, 200, 201, 203, 206, 208, 209, 211,  
214, 216, 217, 219, 222, 224, 225, 227, 230,  
232, 233, 235, 238, 240, 242, 244, 246, 248,  
250, 252, 254, 256, 257, 259, 262, 264, 265,  
267, 271, 273, 276, 278, 279, 281, 284, 286,  
287 and 289.

Unit Numbers for the

2 Bedroom - 2 Bath - 1,300 sq. ft. - 2 Units

Per Unit

0.5243754%  
269 and 270

Totals:

138 units @ 0.2775156%	=	38.29715%
50 units @ 0.3456844%	=	17.28422%
56 units @ 0.3226925%	=	18.07078%
56 units @ 0.4517696%	=	25.29910%
2 units @ 0.5243757%	=	<u>1.04875%</u>
		100.00000%

C. P. LAKES

Maximum Annual Assessments

Unit Numbers for the	Per Unit
<u>1 Bedroom - 1 Bath - 688 sq. ft. - 138 Units</u>	
1, 2, 3, 4, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 19, 22, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 38, 40, 41, 43, 45, 46, 47, 48, 50, 52, 53, 55, 57, 58, 59, 60, 61, 62, 63, 64, 66, 68, 69, 71, 73, 74, 75, 76, 78, 80, 81, 83, 85, 86, 87, 88, 89, 90, 91, 92, 94, 96, 98, 100, 101, 103, 105, 106, 107, 108, 110, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 131, 134, 136, 137, 139, 141, 142, 143, 144, 146, 148, 149, 151, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 166, 168, 169, 171, 173, 175, 292, 294, 295, 297, 299, 300, 301 and 302.	\$765.00

Unit Numbers for the	Per Unit
<u>2 Bedroom - 1 Bath - 857 sq. ft. - 50 Units</u>	
5, 7, 18, 20, 21, 23, 37, 39, 42, 44, 49, 51, 54, 56, 65, 67, 70, 72, 77, 79, 82, 84, 93, 95, 97, 99, 102, 104, 109, 111, 130, 132, 133, 135, 138, 140, 145, 147, 150, 152, 165, 167, 170, 172, 174, 176, 291, 293, 296 and 298.	\$791.00

Unit Numbers for the	Per Unit
<u>1 Bedroom - 1 Bath - 800 sq. ft. - 56 Units</u>	
177, 179, 181, 183, 185, 187, 189, 191, 193, 195, 197, 199, 202, 204, 205, 207, 210, 212, 213, 215, 218, 220, 221, 223, 226, 228, 229, 231, 234, 236, 237, 239, 241, 243, 245, 247, 249, 251, 253, 255, 258, 260, 261, 263, 266, 268, 272, 274, 275, 277, 280, 282, 283, 285, 288 and 290.	\$900.00*

Unit Numbers for the	Per Unit
<u>2 Bedroom - 2 Bath - 1,120 sq. ft. - 56 Units</u>	
178, 180, 182, 184, 186, 188, 190, 192, 194, 196, 198, 200, 201, 203, 206, 208, 209, 211, 214, 216, 217, 219, 222, 224, 225, 227, 230, 232, 233, 235, 238, 240, 242, 244, 246, 248, 250, 252, 254, 256, 257, 259, 262, 264, 265, 267, 271, 273, 276, 278, 279, 281, 284, 286, 287 and 289.	\$950.00*



Unit Numbers for the	
<u>2 Bedroom - 2 Bath - 1,300 sq. ft. - 2 Units</u>	<u>Per Unit</u>
269 and 270	\$977.00*

\*Units have "gas log" fireplaces on common gas meters. If fireplaces are removed from common meters deduct \$117.60.

Division of Assessments

Items comprising the annual or special assessments, unless assessed for disciplinary reasons, shall be divided among the units on a per unit or on a square footage basis in conformance with the following schedule. Any item not included in the schedule shall be allocated by the Board in conformance with the California Department of Real Estate guidelines, or as the Board may deem reasonable.

<u>Cost Category</u>	<u>Basis for Allocation</u>
General and administration	Per unit
Management salaries	
Management services and consultants	
Accounting (audit)	
Legal	
Telephone	
Office	
Operating (less laundry income)	Per unit
Electricity	
Gas	
Water	
Sewer	
Rubbish	
Exterminator	
Exterior maintenance	Per unit
Grounds payroll	
Maintenance payroll	
Grounds supplies	
Repairs and maintenance supplies	
Cleaning	
Abnormal repairs and maintenance	
Painting payroll	
Painting supplies	
Alarm system maintenance	
Protection service	
Gas, oil and grease	

<u>Cost Category</u>	<u>Basis for Allocation</u>
Insurance reserves (less interest earned)	Square footage
Replacement reserves (less interest earned)	Square footage
Stage I cedar shake	
Stage II cedar shake	
Stage I flat roof	
Stage II flat roof	
Stage I staining and painting	
Stage II staining and painting	
Replacement reserves (less interest earned)	Per unit
Boiler for heating water, liner only	
Resurfacing pavement	
Resurfacing tennis court	
Pool furniture	
Pool equipment	
Spa equipment	
Office and rec furnishings, furniture and fixtures	
Maintenance equipment	
Lake pumps	
Fire alarm system	
Playground equipment repairs, etc.	
Fences, gates, etc.	
Federal Income and California Income Tax on interest at 46% and 9% or 50.86% effective rate after deducting California Income Tax	Allocated on same basis as income (interest laundry income)
Gas for fireplaces (Stage I only)	Per unit

## ***Amendments passed in 1987***

By affirmative vote of more than 75% of membership, in December of 1987 the Cypress Point Lakes Enabling Declaration (CC&R's) was amended as follows:

### **Notification of Rules to Tenants**

Article X includes new paragraph 10.18 to read as follows:

“10.18        Notification To Tenants of Rules: An owner who rents or leases a unit to a tenant or allows another to reside in the unit must, no later than the date of commencement of said occupancy, provide the tenant or occupant with either a summary of rules made available by the Association for such purpose, or a copy of the Enabling Declaration which contains Association rules”.

*[Note: The Cypress Point Lakes Residents' Handbook, which includes a summary of rules, is available through Community Management Services, (408)292-9606]*

### **Residential Businesses**

Article VII, paragraph 7.1 is amended to read as follows:

“7.1        Condominium Use: No common area, restricted or otherwise, may be used by a resident for purposes of business which is not sanctioned by the Board of Directors or provided for elsewhere in this Declaration. No condominium shall be occupied and used except for residential purposes by the owners, tenants, and social guests, and no trade or business shall be conducted therein which does not conform to the restrictions for residential business imposed by the City of Mountain View, City Code section 36.39.3 or its successors or other restrictions which the Board of Directors shall deem necessary to impose except that Declarant, its successors or assigns, may use any unit or units in the project owned by Declarant for a model home site or sites and display and sales office until the last unit is sold by Declarant. No tent, shack, trailer, basement, garage, outbuilding or structure of a temporary character shall be used at any time as a residence, either temporarily or permanently.”

### **Animals**

Article VII, paragraph 7.5 is amended to read as follows:

7.5        Animals: No dogs, nor any other animals whose presence is not in conformance with the laws of the city, county, or state, shall be raised, bred, kept or allowed to visit in any condominium, or on any portion of the property. Any owner may cause any such animal found within the common area to be removed to a pound or animal shelter under the jurisdiction of the City of Mountain View, or the County of Santa Clara, by calling the appropriate authorities. The Board of Directors may, from time to time, adopt rules regulating the presence of other animals. Any animal, including those allowed by any rule, may be ordered removed by the Board if, as determined by the Board, the animal represents a nuisance of noise, hygiene, or any other nuisance, including those described in 7.2, above.

- End -