

DECLARATION OF HORIZONTAL PROPERTY REGIME AND
COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

ALAMEDA PARK UNIT ONE CONDOMINIUM

STATE OF ARIZONA }
County of Maricopa } ss

I hereby certify that the within instrument was filed and recorded at request of

John G. ... not

MAY 17 1978 - 12 55

in Docket 12912

on page 1083-1110

Witness my hand and official seal the day and year aforesaid.

Tom Freestone

County Recorder
By [Signature]
Deputy Recorder

11-50

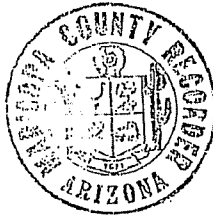


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DECLARATION OF HORIZONTAL PROPERTY REGIME
FOR ALAMEDA PARK UNIT ONE CONDOMINIUM

WHEREAS, U. S. Home Corporation, qualified to do business in the State of Arizona dba ELLIS SUGGS CONSTRUCTION CO., INC., a Delaware corporation, hereinafter referred to as "Declarant" is the owner of all that certain real property subject to this Declaration, located in the County of Maricopa, State of Arizona, more particularly described as:

Lots 211 to 244, inclusive, ALAMEDA PARK, according to Book 197 of Maps, page 15, records of Maricopa County, Arizona.

WHEREAS, Declarant will convey the said properties, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth; and

WHEREAS, Declarant hereby established by the Declaration a plan for the individual ownership of the real property estates consisting of the area or space contained in each of the units in each multifamily structure, and the co-ownership by the individual and separate owners thereof, as tenants in common and as hereafter set forth, of all of the real property which is hereinafter defined and referred as the "common areas," and for the maintenance thereof.

NOW, THEREFORE, Declarant hereby declares that all of the properties described above shall be held, sold and conveyed subject to the following covenants, conditions, charges, liens, restrictions, easements and reservations (hereinafter collectively sometimes called "restrictions"), all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property, and all of which are hereby declared to be for the benefit of all of the property described herein and the owners thereof, their heirs, successors, grantees and assigns. These restrictions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties of any part thereof, and shall inure to the benefit of each owner thereof. Said restrictions establish and impose a general plan for the improvement and development of said property described herein and the adoption and establishment of covenants, conditions, charges, liens, easements and restrictions upon said land and upon any and all units constructed or to be constructed thereon, and upon the use, occupancy and enjoyment thereof. Every conveyance of any of said units, or property or portion thereof shall be and is subject to these covenants, conditions, charges, liens, restrictions, easements and restrictions as follows:

ARTICLE I

DEFINITIONS

Section 1. "Association" shall mean and refer to ALAMEDA PARK CONDOMINIUM ASSOCIATION, its successors and assigns, an unincorporated association.

Section 2. "Properties" or "premises" shall mean and refer to that certain real property hereinbefore described.

Section 3. "Common area" and "common elements" shall be synonymous and are defined as follows:

- (a) The general common elements shall include without limitation each multifamily structure (except for the units), the earth upon which the structure is located (lots 211 to 244, inclusive and Tracts A, B, C, D and E) and the air space above the interior surface of the ceiling of the structure, all bearing walls, columns, floors, ceilings, slabs, foundations, storage spaces, patios, lobbies, reservoirs, tanks,

pumps and other central services, carports, parking spaces, lawns, pavement, trees and all other landscaping on the project on which the multifamily structures are located, pipes, ducts, chutes, conduits, wires and other installations of the multifamily structures, wherever located, except the outlets thereof when located within the units.

(b) The general common areas shall also include all areas designated as Tracts A,B,C,D and E, which includes the storage area, a recreational area with swimming pool and all other community facilities and other improvements located thereon.

Section 4. "Unit" shall be synonymous with condominium and shall mean and refer to a separately designated and legally described freehold estate consisting of the apartment units in each multifamily structure, each separately shown, numbered and designated on the Condominium Plan referred to in ARTICLE II, Section 5, hereof and shall be a separate freehold estate consisting of the space bounded by and contained within each unit from painted surface to painted surface of the perimeter walls, floors, ceilings, windows and doors of each apartment unit, each of such spaces being defined and referred to herein as a "unit." Each unit shall include both the portions of the building so described and the airspace so encompassed, but the following are not part of the unit; bearing walls, columns, floors, foundations, slabs, storage spaces, patios, reservoirs, tanks, pumps, and other central services, pipes, ducts, flues, chutes, conduits, wires and other utility installations, wherever located, except the outlets thereof when located within the unit. In interpreting deeds, declarations and plans, the existing physical boundaries of the unit or of a unit reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries rather than the metes and bounds (or other description) expressed in the deed, plan or declaration, regardless of settling or lateral movement of the building and regardless of minor variance between boundaries shown on the plan or in the deed and declaration and those of the building.

Section 5. "Member" shall mean and refer to every person or entity who holds membership in the association.

Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of equitable title (or legal title if equitable title has merged) of any unit which is part of the properties.

ARTICLE II

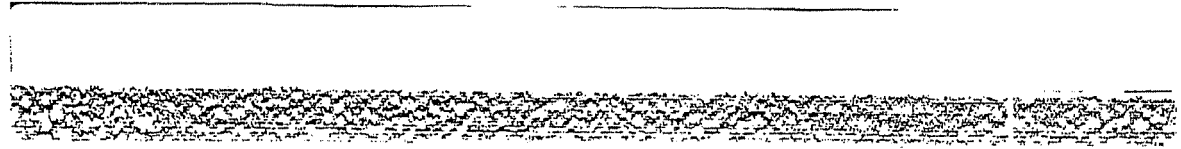
DECLARATION

Section 1. Declarant, the fee owner of the above described real property hereby makes the following declaration as to division, easements, rights, liens, charges, covenants, restrictions, limitations, conditions and uses to which the project may be subjected, hereby specifying that such declaration shall constitute covenants to run with the land and shall be binding on Declarant, its successors and assigns, and all subsequent owners of all or any part of the project, together with their grantees, successors, heirs, executors, administrators, devisees or assigns.

Section 2. Declarant, in order to establish a plan of condominium ownership for the project in accordance with the Horizontal Property Regime Statutes of Arizona, Sec. 33-551 through 33-561, Arizona Revised Statutes, declares, covenants and agrees that is hereby divides the project into the following separate freehold estates:

- (a) Unit as defined in ARTICLE I, Section 4, hereinabove.
- (b) General common elements as defined in ARTICLE I, SECTION 3, hereinabove.

Section 3. Each unit together with the respective undivided interest in the common areas specified and established in ARTICLE II, Section 5, 6 and 7, hereof, together with the right to use exclusively a heating and cooling facility space and other spaces as set forth in ARTICLE II, Section 4, hereof, is defined and hereinafter referred to as a "Condominium," and the ownership of each condominium shall include a unit, an undivided interest in the general common areas, and the right to such exclusive areas of the "restricted common areas" defined in ARTICLE II, Section 4, hereof.



Section 4. Portions of the general common areas, consisting of storage spaces, patios, parking spaces are hereby set aside and allocated for the restricted use of the respective units as shown on the Condominium Plan referred to in ARTICLE II, Section 9, hereof, and such areas are hereby reserved as "restricted common areas," and such restricted common areas shall be easements appurtenant to the respective units for the exclusive uses and purposes as are set forth on said Condominium Plan. In addition, each condominium shall include the right of exclusive use of so much of the common area above the unit as may be necessary or desirable to contain and operate effectively a heating and cooling system for such unit, such areas shall also be considered "restricted common areas." Such restricted areas shall be for the exclusive benefit of the owners of each respective unit as shown on the recorded plat.

Section 5. The 136 individual units hereby established and which shall be individually conveyed (together with their respective undivided fractional interests in the general common areas, are described as follows:

Units 101 to 104, inclusive; lots 211 to 244, inclusive; ALAMEDA PARK UNIT ONE CONDOMINIUM

Section 6. The undivided interest in the general common areas hereby established and which shall be conveyed with each respective unit shall be as set forth in Exhibit B attached hereto and made a part thereof.

Section 7. The above undivided interest established and to be conveyed with the units cannot be changed except as provided in ARTICLE XVI, Section 8, herein, and Declarant, its successors and assigns, and grantees, covenant and agree that undivided interests in the common areas and the fee titles 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 conveyance or encumbrance may refer only to the fee title to the unit.

Section 8. The proportionate shares of the separate owners of the respective condominium in the profits and common expenses in the common areas, shall be the same as their respective interests in the common areas as shown in ARTICLE II, Section 6.

Section 9. Incorporated herein by this reference thereto is that certain Condominium Plan referred to as ALAMEDA PARK UNIT ONE CONDOMINIUM, consisting of two sheets, as per map recorded in Book 199 of Maps, Page 40, records of Maricopa County, Arizona.

ARTICLE III

MEMBERSHIP

Section 1. Membership in the Association, except for membership of the Declarant and the first Board of Directors, shall be limited to owners of units constructed or planned to be constructed on the property described above. An owner of a unit shall automatically, upon becoming the owner of a unit, be a member of the Association, and shall remain a member of the Association until such time as his ownership ceases for any reason, at which time his membership in said Association shall automatically cease. Ownership of a unit shall be the sole qualification and criteria for membership.

Section 2. A membership in the Association shall not be transferred, pledged or alienated in any way, except upon the sale of such unit and then only to such purchaser, or by intestate succession, testamentary disposition, foreclosure of mortgage of record or other legal process. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association. In the event the owner of any unit should fail or refuse to transfer the membership registered in his name to the purchaser of such unit, the Association shall have the right to record the transfer upon the books of the Association and issue a new membership for the purchaser and thereupon the old membership outstanding in the name of the seller shall be null and void as though the same had been surrendered.

Section 3. The owner of each unit shall be entitled to one membership in the Association, and there shall be no more than one membership for each unit, which membership shall be subject to all of the provisions of the Association's Bylaws, attached hereto and made a part hereof as Exhibit "A", Management Agreement, and these Restrictions, as now in effect or fully adopted and amended.

ARTICLE IV

VOTING RIGHTS

Section 1. The Association shall have two classes of voting membership:

Class A. Class A members shall be all those Owners as defined in ARTICLE III. A Class A member shall be entitled to one vote for each unit owned by said member, as provided above.

Class B. The Class B member shall be the Declarant. The Class B member shall be entitled to seven (7) votes for each unit in which it holds the interest required for membership by ARTICLE III, provided that the Class A membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in Class B membership, or

(b) Three years from the date of this Declaration.

Section 2. In the event any unit owner shall be in arrears in the payment of any amounts due under any of the provisions of this Declaration for a period of fifteen (15) days, or shall be in default in the performance of any of the terms of this Declaration for a period of fifteen (15) days, said unit owner's right to vote as a member of the ALAMEDA PARK CONDOMINIUM ASSOCIATION shall be suspended and all defaults remedied.

ARTICLE V

PROPERTY RIGHTS

Section 1. Member's Easements of Enjoyment. Every member shall have a right and easement of enjoyment in and to the common elements, and such easement shall be appurtenant to and shall pass with the title to each and every unit. It is expressly acknowledged and agreed by all parties concerned that this ARTICLE is for the mutual benefit of all owners of the ALAMEDA PARK CONDOMINIUM ASSOCIATION, and is necessary for the protection of said owners. It is understood and agreed that the rights of use and enjoyment of the common elements may be exercised by any person legally in possession of a unit in a manner not in violation of the provisions hereof, but nothing herein shall be deemed to alter or amend the definition of "owner" under ARTICLE I, Section 6, hereof, or to affect the provisions of ARTICLE III hereof with respect to membership or to affect the provisions of ARTICLE IV hereof with respect to voting rights. Such rights and easements of enjoyment shall be subject to reasonable rules and regulations as from time to time are promulgated by the Board of Directors, and which may include, but shall not be limited to:

(a) The right of the Association to limit the number of guests of members;

(b) The right of the Association to charge reasonable admission and other fees for the use of any recreational facility situated upon the common areas;

(c) The right of the Association to borrow money (but only after 136 units have been constructed upon the premises and sold by the major builder).

Section 2. Delegation of use. Any member may delegate, in accordance with the Bylaws, his right of enjoyment to the common areas and facilities to the members

of his family, his tenants, or contract purchasers who reside on the property.

ARTICLE VI

COVENANT FOR MAINTENANCE ASSESSMENTS

Section 1. Maintenance. It is anticipated that residential dwelling units will be constructed on various lots within the project's property and that the ownership of individual units shall be evidenced by a deed to a unit together with the undivided fractional interest in the general common elements. Maintenance, upkeep and repairs of individual patios shall be the sole responsibility of the individual owners thereof and not in any manner the responsibility of the Board of Directors. Any cooperative action necessary or appropriate to the proper maintenance and upkeep of the common elements and all exteriors and roofs of the units, including but not limited to, recreation and parking areas and walks, may be taken by the Board of Directors or by its duly delegated representative, as it may deem to be in the best interest of all parties in carrying out the purposes of this Declaration. The powers, rights and duties of the Association and the Board of Directors shall be as contained in this Declaration, and as may be adopted in its Bylaws not inconsistent herewith.

Section 2. The Association, or its duly delegated representative, shall maintain and otherwise manage all property, including, but not limited to the landscaping, and parking areas located upon the above described properties. The Board of Directors shall use a reasonably high standard of care in providing for the repair, management and maintenance of said property, so that said project will reflect a high pride of ownership. All interior maintenance and interior repair of the individual units shall be the sole obligation and expense of the individual unit owners.

Section 3. Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each unit owned within the properties, hereby covenants, and each owner of any unit by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay the Association; (1) annual assessments or charges, and (2) special assessments for capital improvements, such assessments to be fixed, established and collected from time to time as hereinafter provided. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs and reasonable attorneys' fees shall also be the personal obligation of the person who was the owner of such property at the time when the assessment fell due, but such personal obligation and liability of the "owner" shall not be deemed to limit or discharge the charge on the land and continuing lien upon the property against which such assessment is made, provided, however, that in no case shall the declarant pay or be liable for said assessments until such time as 95% of all units in ALAMEDA PARK UNIT ONE CONDOMINIUM are sold and conveyed.

Section 4. Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the properties and in particular for the improvement and maintenance of the properties, services and facilities devoted to this purpose and related to the use and enjoyment of the common area, and of the units situated upon the properties.

Section 5. Establishment, Basis and Maximum of Assessments. Declarant and the owner of each such unit, for themselves, their heirs, successors and assigns, further covenant that each such unit shall be subject to an assessment in an amount to be determined by the Association, in the following manner:

- (a) Such unit's prorata share of the actual cost to the Association of all taxes, repair, construction, replacement and maintenance of the general common elements, and other facilities and activities including, but not limited to, mowing grass, caring for the grounds, sprinkler system, and other charges required by this Declaration of Covenants, Conditions and Restrictions;

(b) Such unit's prorata share of the actual cost to the Association of such recreational facilities as may from time to time be provided by the Association;

(c) Such condominium unit's prorata share of such sum as the Board of Directors of the Association shall determine to be fair and prudent for the establishment and maintenance of a reserve for repair, maintenance, taxes and other charges as specified herein, including fire and other charges as specified herein, including fire and other hazard insurance premiums as hereinafter provided, and a liability insurance policy in the face amount of not less than \$500,000.00, which policy, in addition to public liability shall cover repair and construction work to all of the assets and property to be maintained by the Association. The disposition of liability insurance proceeds shall be made upon majority vote of the Board of Directors but in all events shall be used to and for the purpose of the Association.

(d) Such unit's prorata share of such additional sum as the Board of Directors of the Association shall determine to be necessary to meet the primary purposes of the Association.

(e) Each unit's prorata share shall be 1/136 of the total amount determined under subparagraphs (a), (b), (c), and (d) above. In the event the actual number of constructed is not 136, the denominator in the fraction "1/136" shall, wherever it appears in this Declaration, be changed to reflect the correct number of units.

Section 6. The amount to be prorated among the members of the Association pursuant to the subparagraphs (a), (b), (c), (d) and (e) above, shall be established annually by the Board of Directors. Said amount shall be established after the Board of Directors has met with the management corporation, as hereinafter provided, and has examined the annual report to be prepared by said management corporation, and the annual audit prepared by a certified public accountant.

Section 7. An annual report shall be prepared by the management corporation or by such other party as the Board of Directors shall order. The exact date for the annual report shall be determined by the Board of Directors. The Board of Directors shall meet with the management corporation or other party preparing said report within forty (40) days following the preparation of same to discuss and set the rate for the current year.

Section 8. At the time of the first conveyance of each unit and from time to time thereafter, the Board of Directors or the designated representative shall notify the owner or owners of each unit as to the amount of the estimated annual assessment and shall each month collect for each unit one-twelfth (1/12) of said unit's proportional share of said annual assessment.

Section 9. Until the end of the first fiscal year immediately following the conveyance of the first unit to an owner, the maximum annual assessment shall be \$384.00 per unit. From and after the end of said first fiscal year, the maximum monthly assessment may be increased by an amount up to 10% per annum, effective the first day following the end of each fiscal year by a majority vote of the duly elected Directors of the Association so acting at any regular or special meeting of the Directors. Any greater annual increase in the maximum assessment shall require a majority vote of the members as set forth in Section 10 following.

Section 10. Special Assessments. In addition to any other assessments authorized by this Declaration, the Association's Board of Directors shall have the right and power to provide for the construction of additional recreational and other common facilities, or the alteration, demolition or removal of existing recreational and other common facilities, from time to time, as in their discretion appears to be in the best interests of the Association and the project. Any such alterations,

demolition, removal, construction, improvements or additions, increasing the owners annual assessment over the then maximum limitation, shall be authorized by an affirmative vote of three-fourths (3/4) of the Board of Directors at a duly called meeting at which a quorum is present, and ratified and approved by the affirmative vote of sixty-six percent (66%) of the members present at a duly called meeting at which a quorum is present.

Section 11. For purposes of these Sections, the presence at a duly called meeting of members or of proxies entitled to cast thirty percent (30%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called by sending written notice to all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting, setting forth the purpose of the meeting, and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 12. Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all units as to the assessments for the general common elements. All of these assessments may be collected on a monthly basis.

Section 13. Effect of Nonpayment of Assessments and Remedies of the Association. Each unit owner, for himself, his heirs, successors, grantees and assigns, covenants that with respect to charges so determined during the period that he is an owner, he will remit these charges directly to the management corporation, or to such other party or parties as directed by the Association's Board of Directors.

(a) Any assessments which are not paid when due shall be delinquent. Each unit owner further agrees that these charges, if not paid within twenty (20) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum and shall become a lien upon said owner's unit and shall continue to be such lien until fully paid. This lien shall be subordinate to the lien of any first mortgage.

(b) Each such owner expressly vests in the ALAMEDA PARK CONDOMINIUM ASSOCIATION, or its agents, the right and power to bring all actions against such owner personally for the collection of such charges as a debt and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in a like manner as a mortgage of real property, and such owner hereby expressly grants to the Association a power of sale in connection with said lien. The lien provided for in this Section shall be in favor of the Association and shall be for the benefit of all other unit owners. The Association, acting on behalf of the unit owners, shall have the power to bid in an interest foreclosed at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. In the event any person, corporation or association authorized to enforce the provisions of this Declaration employs an attorney or attorneys to enforce said lien or the collection of any amounts due pursuant to this Declaration, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, the owner, owners and parties against whom the action is brought shall pay all attorneys' fees and cost thereby incurred by said enforcing party in the event said enforcing party prevails in any such action.

Section 14. No owner of a unit may exempt himself from liability for his contribution toward the common expenses by waiver of the use or enjoyment of any of the common elements or by the abandonment of his unit.

ARTICLE VII

PARTY WALLS

Section 1. The rights and duties of the owners of units within this project with respect to party walls and/or walls erected between adjoining units shall be governed by the following:

(a) Each wall, including patio walls, which is constructed as a part of the original construction of the multifamily structure, any part of which is a bearing wall between separate units, shall constitute a party wall. With respect to any such wall, each of the adjoining owners shall assume the burdens and be entitled to the benefits of these restrictive covenants, and, to the extent not inconsistent herewith, the general rules of law regarding party walls shall be applied thereto.

(b) In the event any such party wall is damaged or destroyed through the act of one adjoining owner, or any of his guests, tenants, licensees, agents or members of his family (whether or not such act is negligent or otherwise culpable) so as to deprive the other adjoining owner of the full use and enjoyment of such, the owner shall forthwith proceed to rebuild and repair the same to as good condition as formerly without cost to the adjoining owner.

(c) In the event any such party wall is damaged or destroyed by some cause other than the act of one of the adjoining owners, his agents, tenants, licensees, guests or family (including ordinary wear and tear and deterioration from lapse of time), then in such event, the Association shall bear the responsibility to rebuild or repair the same to as good condition as formerly.

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

(e) The right of any owner to contribution from any other owner under this ARTICLE shall be appurtenant to the land and shall pass to such owner's successors in title.

(f) In the event of a dispute between owners with respect to the repair or rebuilding of a party wall 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 under such rules as may from time to time be adopted by the Association. If no such rules have been adopted, then the matter shall be submitted to three arbitrators, one chosen by each of the owners and the third by the two so chosen, or if the two arbitrators cannot agree as to the selection of the third arbitrator within five (5) days, then by any Judge of the Superior Court of Maricopa County, Arizona. A determination of the matter signed by any two of the three arbitrators shall be binding upon the owners, who shall share the cost of arbitration equally. In the event one party fails to choose an arbitrator within ten (10) days after receipt of a request in writing for arbitration from the other party, then said other party shall have the right and power to choose both arbitrators.

ARTICLE VIII

ARCHITECTURAL CONTROL

Section 1. No improvement, whether a building, fence, wall or other structure shall be commenced, erected or maintained on any unit until the plans and specifications for the same showing all construction details, including the nature, shape, height,

materials, floor plans, location and approximate cost thereof shall have been submitted to and approved in writing by ALAMEDA PARK CONDOMINIUM ASSOCIATION, its successors or assigns. Said association shall have the right to deny approval of any plans or specifications which are not, in its opinion, suitable or desirable for aesthetic or any other reason, and shall have the right to take into consideration the harmony and conformity of the building with the surrounding buildings and the suitability of the same with surrounding area and the effect of such structure or building as seen from adjacent or neighboring properties. All subsequent replacement, alteration, repainting or improvements of any building, fence, wall or other structure, also shall be subject to the prior approval of ALAMEDA PARK CONDOMINIUM ASSOCIATION, its successors or assigns. In the event ALAMEDA PARK CONDOMINIUM ASSOCIATION, its successors or assigns, fails to approve or disapprove such plans and specifications within thirty (30) days after submission thereof, approval will not be required and this ARTICLE will be deemed to have been fully complied with; provided, however, that in no event shall any unit owner have the right to make changes or additions to his or her residence which would exceed in any amount the original square footage of the said residence.

ARTICLE IX

EXTERIOR MAINTENANCE

Section 1. The Association or its duly delegated representatives, may maintain and otherwise manage all property up to and including the exterior building and patio walls, including, but not limited to, the landscaping, parking areas, and recreational facilities, roofs, common elements and exteriors of the buildings and the exterior of the doors located upon the above described properties (except windows of the units, window fixtures, patio doors, refrigeration, and individual patio areas) and such additional maintenance of the buildings as the Board of Directors may from time to time determine to be in the best interest of the Association and the co-owners. The Board of Directors shall use a reasonable high standard of care in providing for the repair, management and maintenance of said property, so that said project will reflect a high pride of ownership. All maintenance and repair of the individual units shall be the sole obligation and expense of the individual unit owners except to the extent the exterior maintenance and repair is provided by the Association.

Section 2. In the event that the need for maintenance or repair is caused through the willful or negligent act of the owner, his family, guests or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such unit is subject.

ARTICLE X

INTERIOR AND OTHER MAINTENANCE

Section 1. Each owner shall be responsible for the upkeep and maintenance of the interior of his unit and for the upkeep and maintenance of all other areas, features or parts of his unit and property not otherwise maintained by the Association, including maintenance of the refrigeration unit and individual patio area. All fixtures and equipment installed wires, conduits or systems enter the interior walls of a unit, shall be maintained and kept in repair by the owner thereof. Termite control shall be the responsibility of the owner. An owner shall do no act nor any work that will impair the structural soundness or integrity of the multi-family building or impair any easement or hereditament, nor do any act nor allow any condition to exist which will adversely affect the other units or their owners.

ARTICLE XI

DAMAGE OR DESTRUCTION OF PROPERTY

Section 1. In the event any general common element, including, but not limited to, carports or storage facilities are damaged or destroyed by an owner or any of his guests, tenants, licensees, agents or members of his family, such owner does hereby irrevocably authorize the Association to repair said damaged element, carport or storage facility, and the Association shall repair said damaged element,

carport or storage facility in a good workmanlike manner in conformance with the original plans and specifications of the unit. The owner shall then repay the Association in the amount actually expended for such repairs and any costs and expenses incurred in connection therewith.

Section 2. In the event any building enclosing a unit is damaged or destroyed by an owner or any of his guests, tenants, licensees, agents or members of his family, such owner shall, within thirty (30) days from the date of the occurrence of the damage or destruction, repair and rebuild the exterior of said building and any damage to adjacent buildings or property in a good workmanlike manner in conformance with the original plans and specifications used in the construction of said building. In the event such owner refuses or fails to repair and rebuild any and all such damage to the exterior of the building and adjacent property within said thirty-day period, the Association, by and through its Board of Directors, is hereby irrevocably authorized by such owner to repair and rebuild any such building and/or adjacent property in a good workmanlike manner in conformance with the original plans and specifications of the buildings. The owner shall then repay the Association in the amount actually expended for such repairs.

Section 3. Each unit owner further agrees that these charges for repairs, if not paid within ten (10) days after completion of the work, shall be delinquent and shall become a lien upon said owner's unit and shall continue to be such lien until fully paid. Said charges shall bear interest from the date of delinquency at the rate of eight percent (8%) per annum. The amount of principal and interest owed by said owner to the Association shall be a debt, and shall be collectable by any lawful procedure allowed by the laws of the State of Arizona.

Section 4. Each such owner, by his acceptance of a deed to a unit, hereby expressly vests in the Association or its agents the right and power to bring all actions against such owner for the collection of such charges and to enforce the aforesaid lien by all methods available for the enforcement of such liens, including those specified in ARTICLE VI, Section 5, paragraphs (a), (b), (c), (d) and (e), above, and such owner hereby expressly grants to the Association a power of sale in connection with said lien.

Section 5. Nothing contained in this ARTICLE XI shall be construed in any way so as to relieve any insurance company from the payment of any and all amounts which would be payable under any policy or policies had not this ARTICLE been inserted.

Section 6. In the event of a dispute between an owner and the Board of Directors with respect to the cause of damage or the extent of repairs necessitated or with respect to the cost thereof, then upon written request of the owner addressed to the Association, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Association or its Board of Directors. If no such rules have been adopted, then the matter shall be submitted to three arbitrators, one chosen by the Board of Directors, one chosen by the owner, and these two arbitrators shall then choose a third arbitrator. If the two arbitrators cannot agree as to the selection of the third arbitrator, then by any Judge of the Superior Court of Maricopa County, Arizona. A determination by any two of the three arbitrators shall be binding upon the owner and the Association, who shall share the cost of arbitration equally. In the event one party fails to choose an arbitrator within ten (10) days after receipt of a request in writing for arbitration from the other party, then said other party shall have the right and power to choose both arbitrators.

ARTICLE XII

INSURANCE

Section 1. The Board of Directors, or its duly authorized agent shall have the authority to and shall obtain insurance for all the common areas and buildings including such original fixtures within the units as the builder may attach to the interior, including but not limited to built-in ranges, and similar appliances and interior walls and ceilings, against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage or destruction from any hazard, and shall also obtain a broad form public liability policy covering all common elements, and all damage or injury caused by the negligence of the Association or any of its agents. Said

insurance may include coverage against vandalism. Premiums for all such insurance shall be common expenses. All such insurance coverage obtained by the Board of Directors shall be written in the name of the Board of Directors as trustee for each of the unit owners. It shall be the individual responsibility of each owner at his own expense to provide, as he sees fit, fire, liability insurance, theft and any other insurance covering any additional interior fixtures he might install and personal property. In the event of damage or destruction by fire or other peril to any property covered by the insurance written in the name of the Board of Directors, the Board of Directors shall, upon receipt of the insurance proceeds, contract to rebuild or repair such damaged or destroyed portions of the property to as good condition as formerly. All such insurance proceeds shall be deposited in a bank or other financial institution, the accounts of which bank or institution are insured by a federal governmental agency, with the proviso agreed to be said bank or institution that such funds may be withdrawn only by signature of at least one-third (1/3) of the members of the Board of Directors, or by an agent duly authorized by the Board of Directors. The Board of Directors shall contract with any licensed contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction or rebuilding of such destroyed building or buildings. In the event the insurance proceeds are insufficient to pay all the costs of repairing and/or rebuilding to the same condition as formerly, the Board of Directors shall levy a special assessment against all unit owners of the damaged building to make up any deficiency, except that the special assessment shall be levied against all unit owners, as established by Article VI, Section 5, Paragraph (d) above, to make up any deficiency for repair or rebuilding of the Common elements not a physical part of a unit. In the event such insurance proceeds exceed the cost of repair and reconstruction such excess shall be paid over to the respective mortgagees and owners as their interests may then appear. Such payments shall be made to all such owners and their mortgagees in proportion to their percentage interests.

Section 2. At the outset of the delivery of the buildings, including the units, the builder, or his duly authorized agent, shall have the authority to and shall obtain insurance for all the buildings including the units, against loss or damage by fire or other hazards in an amount sufficient to cover the full replacement cost of any repair or reconstruction work in the event of damage by fire or other hazards, and shall include the broad form of public liability policy covering all public elements. This policy shall be turned over to the Board of Directors of the property owners association as soon as they are organized and ready to assume responsibility.

ARTICLE XIII

USE RESTRICTIONS

Section 1. Each unit in the premises shall be known as, and limited in use to a single family condominium unit, and construction thereon shall be limited to a building no more than one story in height. All buildings or structures erected upon said premises shall be of new construction and no buildings or structures shall be moved from other locations onto said premises. No structure of a temporary character, trailer, basement, tent, shack, garage, barn or other outbuilding shall be used or any portion of the premises at any time as a residence either temporarily or permanently.

Section 2. Notwithstanding any provisions herein contained to the contrary, it shall be expressly permissible for the builder of a major portion of said project to maintain during the period of construction and sale of said project, upon such portion of the premises as ELLIS SUGGS CONSTRUCTION COMPANY may authorize, a temporary office convenient or incidental to the construction and sale of said project.

Section 3. No noxious or offensive activity may be carried on or permitted on any unit, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood; nor shall any part of the premises be used for business, professional, commercial, religious or institutional purposes. Provided, however, the foregoing restrictions shall not apply to the business activities or the construction and maintenance of buildings to the builder, its agents and assigns during the construction and sale period, and/or the Association in furtherance of its powers and purposes as herein set forth.

Section 4. No animals, fish or birds of any kind shall be raised, bred or kept on the premises; except that commonly accepted household pets may be kept, provided that such pets are not kept, bred or maintained for any commercial purposes.

Section 5. All clothesline equipment, service yards, woodpiles or storage piles shall be kept screened by adequate planting or fencing so as to conceal them from view or neighboring units and streets. An electric garbage disposal unit shall be installed in each unit. No rubbish, trash or garbage shall be burned on the premises. Incinerators of every kind shall be prohibited.

Section 6. Gas, electric, power, telephone, water, sewer, cable television and other utility or service lines (used for the general benefit of the unit owners) and other utility or service lines of every kind or character (whether now or hereafter invented or used) shall be placed and kept underground up to the walls of the buildings on the premises (except to the extent, if any, such underground placement may be prohibited by law or, by the nature of the service to be rendered, such underground placement prevents the lines from being functional.) This restriction shall apply to the service and utility lines for each and every unit and the common areas, as well as to the distribution lines located in the streets or elsewhere in the subdivision. However, the foregoing shall not prohibit service pedestals and above ground switch cabinets and transformers.

Section 7. Except in the individual patio areas and common areas, no planting or gardening shall be done, and no fences, hedges or walls shall be erected or maintained upon said premises except such as installed in accordance with the initial construction of the building located thereon or as approved by the Association.

Section 8. All radio, television and other antennas of every kind or nature shall be placed and maintained upon the premises (or the improvements located thereon) so that no portion thereof shall be visible from the outside of any unit or common area or other neighboring property or the streets. No basketball backstops or similar athletic equipment shall be mounted, placed or located in or on any lot or improvement thereon.

Section 9. No sign (other than one sign, not to exceed 18" by 24' in size, for purposes of advertising a unit for sale or rent which may be displayed from the interior of a unit window only) of any nature whatsoever shall be permitted on the premises; provided however, that during the construction and sale of buildings, the builder may erect such signs as it deems appropriate; and provided further, that this restriction shall not apply to the activities of the Association in furtherance of its powers and purposes as herein set forth.

Section 10. The respective units shall not be rented by the owners thereof for transient or hotel purposes, which shall be defined as (a) rental for any period less than thirty days, or (b) any rental if the occupants of the unit are provided customary hotel services, such as room service for food and beverage, maid service, furnishing linen and line, and bellboy service. Other than the foregoing limitations, the owners of the respective units shall have the absolute right to lease the same, provided that the lease is made subject to the covenants, conditions, restrictions, limitations and uses contained in this Declaration and further subject to the Bylaws attached hereto.

Section 11.

(a) The Declarant hereby acknowledges that the tracts or parcels hereinabove and hereinafter described are being planned for the exclusive use and benefit of the individual residential unit owners in the ALAMEDA PARK CONDOMINIUM, which is a total residential project (hereinafter sometimes referred to as the "Project"), in accordance with the Horizontal Property Regime Statutes of Arizona Section 33-551 through 33-561 as amended A.R.S., and does hereby declare, covenant and agree that the said subject parcels are subject to the provisions contained hereinafter as follows:

(1) Tract A is hereby described as a recreational tract. This tract may be installed with swimming pool, bath houses, Lanai, and any other similar developments commonly associated with recreational areas in such condominium housing projects. The use of this tract shall at all times be exclusively for said recreational purposes.

(2) Tract B is hereby described as a storage area for campers, boats, trailers, pickup trucks, and similar vehicles owned by residents in ALAMEDA PARK UNIT ONE CONDOMINIUM. This area shall be developed and maintained in an attractive manner to accomplish the desired objective. The management of this storage area may include reasonable rental charges for the use of these storage facilities to be charged to the individual users.

(3) Tracts C,D and E are hereby described as green belt or bicycle pathway areas and are to be maintained as open areas. No further improvements other than those constructed by the major builder may be placed thereon.

(4) Each and every owner shall be assigned two specific auto spaces in the carport area designated for this individual owner's building area as identified on the recorded plat. Those areas shall be developed, used and maintained exclusively for such carport purposes. Storage areas for each respective unit are likewise identified on said recorded plat.

(b) The management, administration, supervision and control of the said tracts shall be with the Board of Directors of said ALAMEDA PARK CONDOMINIUM ASSOCIATION and in accordance with its Bylaws attached hereto and rules and regulations. Appropriate and reasonable assessments may be made against the individual residential unit owners for the purpose of adequate care, maintenance, repairs and development of these tracts and their designated purposes.

(c) In the event any portion of the common area encroaches upon any of the individual residential living units in the project, an easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. There is hereby dedicated and declared a permanent easement across, over and under any or all of the said tracts at such locations and in such width as may be necessary or incidental to the installation and maintenance of any utility facility, including water, gas, electric, telephone, sewage, television and any other similar utility purposes serving the said project.

ARTICLE XIV

EASEMENTS

Section 1. There is hereby created a blanket easement upon, across, over and under the above described premises, excepting the units, for ingress, egress, installation, replacing, repairing and maintaining all utility and service lines and systems, including, but not limited to, water, sewers, gas, telephone, electricity, television cable or communication lines and systems, etc. By virtue of this easement, it shall be expressly permissible for the providing utility or service company to install and maintain facilities and equipment on said property and (subject to the requirements of ARTICLE XIII, Section 6) to affix and maintain wires, circuits and conduits on, in and under the roofs and exterior walls of said buildings. Notwithstanding anything to the contrary contained in this paragraph, no sewers, electrical lines, water lines, or other utilities or service lines may be installed or relocated on said premises or thereafter approved by the said builder or the Association's Board of Directors. This easement shall in no way affect any other recorded easements on said premises.

Section 2. Each unit and the common elements shall be subject to an easement for encroachments created by construction, settling and overhangs, as designed or constructed by the original builder. A valid easement for said encroachments and for the maintenance of same, so long as it stands, shall and does exist. In the event the multi-family structure is partially or totally destroyed, and then rebuilt, the owners of the buildings agree that minor encroachments of parts of the adjacent units or common elements due to construction shall be permitted and that a valid easement for said encroachment and the maintenance thereof shall exist. Should the original developer construct any unit with less than the total maximum cubic footage, the unit, as constructed shall become as built, rather than as shown on the attached exhibits.

ARTICLE XV

RIGHTS AND DUTIES OF
FIRST MORTGAGEE

Section 1. Notwithstanding and prevailing over any other provisions of this Declaration, of the Association's Bylaws, or any rules, regulations of management agreements, the following provisions shall apply to and benefit each holder of a first mortgage upon a unit (called the first mortgagee);

(a) The first mortgagee shall not in any case or manner be personally liable for the payment of any assessment or charge, nor for the observance or performance of any covenants, restriction, regulation, rule, Association Bylaws, or Management Agreements, except for those matters which are enforceable by injunctive or other equitable actions, nor requiring the payment of money, except as hereinafter provided.

(b) During the pendency of any proceeding to foreclose the first mortgagee, including any period of redemption, the first mortgagee (or any receiver appointed in such action) may but need not, exercise any or all of the rights and privileges of the owner of the mortgaged unit, including, but not limited to the right to vote as a member of the Association to the exclusion of the owner's exercise of such rights and privileges.

(c) At such time as the first mortgagee shall become record owner of a unit, said first mortgagee shall be subject to all of the terms and conditions of these covenants, Conditions and Restrictions, including but not limited to, the obligation to pay for all assessments and charges accruing thereafter, in the same manner as any owner.

(d) The first mortgagee, or any other party acquiring title to a mortgaged unit through foreclosure suit or through any equivalent proceedings such as, but not limited to, the taking of a deed in lieu of foreclosure, shall acquire title to the mortgaged unit free and clear of any lien authorized by or arising out of any of the provisions of this Declaration which secures the payment of any assessment for charges accrued prior to the final conclusion of any such foreclosure suit or equivalent proceeding, including the expiration date of any period of redemption, except as follows: Any such unpaid assessment against the unit foreclosed against may be treated as an expense common to all of the units, which expense may be collected by pro rata assessments against the remaining unencumbered units, and which pro rata assessment may be enforced as a lien against each unit in the manner provided for other assessments authorized in this Declaration. Any such unpaid assessment shall nevertheless continue to exist as the personal obligation of the defaulting owner of the respective unit to the Association, and the Board of Directors shall use reasonable efforts to collect the same from the owner even after he is no longer a member of the Association. There shall be a lien upon the interests of the first mortgagee or other party which acquires title to a mortgaged unit by foreclosure suit or by equivalent procedures for all assessments authorized by this Declaration which accrue and are assessed after the date the acquirer has acquired title to the unit free and clear of any right of redemption.

ARTICLE XVI

GENERAL PROVISIONS

Section 1. Binding Effect and Enforcement. The covenants, conditions, charges, liens, reservations, easements and restrictions contained herein shall

run with the land and shall be binding upon all persons purchasing, owning, leasing, subleasing or occupying or otherwise having any interest in any unit on said property, their heirs, executors, administrators, successors, grantees and assigns. After the date on which this instrument has been recorded, these restrictions may be enforced by any one or more of the following: (A) the Association or its Board of Directors, which shall have the right and duty to enforce the same and expend Association moneys in pursuance thereof; (B) the major builder (as long as it has an interest in any part of the premises); (C) the owner of any unit. Any person who acquires title to a unit, except through delivery of a sheriff's deed as a result of a foreclosure, shall take title to such unit subject to any recorded lien hereof for all charges pursuant to ARTICLES VI and XI that have accrued prior to such acquisition of title, and subject to the lien hereof for all said charges that shall accrue subsequent to the date said person takes title; and provided also, that the breach of any of said restrictions may be enjoined, abated or reviewed by appropriate proceedings, notwithstanding the lien or existence of any such mortgage. The personal obligation to pay the annual and special assessments as provided in ARTICLE VI, Section 3 of this instrument shall not pass to a successor in title unless the obligation is expressly assumed by the successor in title or unless, prior to such transfer of title as evidenced by the records of the County Recorder or other appropriate governmental agency, a lien for such assessments shall have been filed in writing with the County Recorder or other appropriate governmental agency. All instruments of conveyance of any interest of all or any part of said units may contain the restrictions herein by reference to this instrument. However, the terms and conditions of this instrument shall be binding upon all persons affected by its terms, regardless of whether any reference is made to this instrument in the deed or other instrument of conveyance. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenants either to restrain violation or to recover damages. Provided, however, that a violation of these Restrictions, or one or more of them, shall not affect the lien of any mortgage now of record or which may hereafter be placed of record upon said unit, or any part thereof. In the event the major builder, ELLIS SUGGS CONSTRUCTION COMPANY, or the Association, employs an attorney or attorneys to enforce said lien or the collection of any amounts due pursuant to this Declaration, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, the owner, owners and parties against whom the action is brought shall pay all attorneys' fees and costs thereby incurred by any such enforcing party prevailing in any such action. Nothing herein shall be deemed to indicate that damages at law constitute an adequate remedy for violation of a restriction herein.

Section 2. Waiver or Abandonment. The waiver of, or failure to enforce, any breach or violation of any restriction herein contained shall not be deemed to be a waiver or abandonment of such restrictions, or a waiver of the right to enforce any subsequent breach or violation of such restrictions. The foregoing shall apply regardless of whether any person affected hereby (or having the right to enforce these restrictions) had knowledge of the breach or violation. No restriction contained herein shall be deemed to have been waived or abandoned unless this Declaration is amended to delete such restrictions pursuant to ARTICLE XVI, Section 8 herein.

Section 3. Equal Treatment of Owners. These restrictions shall be applied to all owners without discrimination.

Section 4. Severability. The invalidity of any one or more phrases, sentences, clauses, paragraphs or sections hereof shall not affect the remaining portions of the instrument or any part thereof, all of which are inserted conditionally on their being held valid in law and in the event that one or more of the phrases, sentences, clauses, paragraphs or sections contained therein should be invalid or should operate to render this agreement invalid, this agreement shall be construed as if such invalid phrase or phrases, sentence or sentences, clause or clauses, paragraph or paragraphs, or section or sections had not been inserted.

Section 5. Gender. The singular, wherever used herein shall be construed to mean the plural when applicable, and the necessary grammatical changes required to make the provisions hereof apply either to corporations or individuals, men or women, shall in all cases be assumed as though in each case fully expressed.

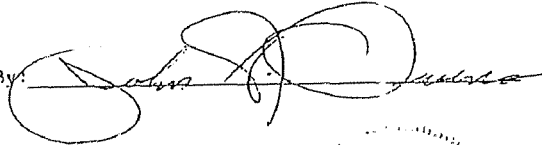
Section 6. Topical Headings. The marginal or topical headings of the paragraphs contained in this Declaration are for convenience only and do not define, limit or construe the contents of the paragraphs or of this Declaration.

Section 7. Management Company. The performance of the various duties and obligations of the Association may be performed in whole or partly by a management company selected by the Association in accordance with the Bylaws of the said Association. Any such management contract in effect on the date of the earlier of the two dates referred to in ARTICLE IV, Section 1 of the original DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS shall remain in force for a minimum period of one (1) year thereafter, with the same said management continuing to perform such management functions for such one year period.

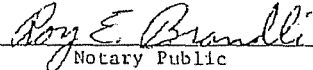
Section 8. Amendment. These restrictions shall remain in full force and effect for a period of thirty (30) years from the date hereof. Thereafter they shall be deemed to have been renewed for successive terms of ten (10) years, unless revoked or amended by an amendment in writing, executed and acknowledged by the then owners of not less than two-thirds (2/3) of the units in the premises which said instrument shall be recorded in the office of the Recorder for the County of Maricopa, State of Arizona, within ninety (90) days prior to the expiration of the initial effective period hereof or any ten (10) year extension. Following the expiration of the period of twenty (20) years from the date hereof, these restrictions may be amended at any time by an instrument signed by the then owners of not less than three-fourths (3/4) of the units on said property. These restrictions may be amended during the first twenty (20) years period by an instrument signed by the then owners of not less than ninety (90%) percent of the units in the premises.

IN WITNESS WHEREOF, ELLIS SUGGS CONSTRUCTION COMPANY, INC., a Delaware corporation, has caused its name to be signed this 8 day of May, 1978.

STATE OF ARIZONA)
) ss:
 County of Maricopa)

By: 

This instrument was acknowledged before me this 8 day of May, 1978, by John T. Owens, Division President, U. S. Home Corporation, a Delaware Corporation


 Notary Public

My Commission expires: Oct 30, 1981

