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LAND DISPOSITION AGREEMENT

This Agreement made as of the 31st day of October, 1983, by and between the TOWN OF LEXINGTON, Massachusetts (the "Town"), a Massachusetts municipal corporation duly established according to law and having its usual place of business at the Lexington Town Office Building, Lexington, Middlesex County, Massachusetts, acting by and through its Board of Selectmen by authority of the vote adopted under Article 2 at the Special Town Meeting held on February 14, 1983, a certified copy of which is attached hereto as Exhibit A, and SYDNEY NOYES ANDERSON, INC. (the "Developer"), a Massachusetts corporation having its usual place of business at 92 Main Street, Gloucester, Massachusetts. As used in this Agreement, the term "Developer" shall include the successors and assigns of the Developer in the event of an assignment, sale or other transfer of the Property or any portion thereof approved by the Town in accordance with this Agreement.

WITNESSETH:

In consideration of the mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE I. PURCHASE AND SALE OF THE PROPERTY

1.1. Purchase and Sale: Subject to all of the terms, covenants and conditions of this Agreement, the Town agrees to sell and the Developer agrees to buy the Property hereinafter described.

1.2. Property: The "Property" refers to that certain parcel or parcels of land, together with the improvements thereon, more particularly described in Exhibit B attached hereto and shown as Lot 1 on a plan entitled "Plan of Land in Lexington, Mass. Drawn for Sidney Noyes Anderson Inc." dated August, 1983, prepared by Merrimack Engineering Services, 66 Park Street, Andover, Massachusetts 01810 (the "Plan").

1.3. Title: The Property shall be conveyed by quitclaim deed running to the Developer substantially in the form attached hereto as Exhibit C (the "Deed"), conveying good and clear record and marketable title to the Property free and clear of encumbrances except:

- (a) Provisions of existing building and zoning laws;
- (b) Taxes for the then-current year, if any, which the Developer agrees to pay;

PARTIAL RELEASE B 16190 P 1993 Mary Unit

DISCHARGE B 16345 POOL

(c) Any liens for municipal betterments assessed after the date of this Agreement;

(d) Subject to and with the benefit of easements, restrictions and other matters, if any, of record, provided that they do not materially interfere with the use of the Property as contemplated in this Agreement, and excluding any liens securing the payment of indebtedness;

(e) Subject to the terms and conditions of any special permit or permits issued to the Developer by the Board of Selectmen of the Town of Lexington (the "Special Permit").

(f) Subject to the terms, conditions, covenants and restrictions set forth or referred to in this Agreement and in the Deed.

1.4. Consideration: The consideration for the conveyance of the Property shall be paid and delivered as follows:

(a) \$5,000.00 has been paid as a deposit this day.

(b) \$233,000.00 shall be paid at the time of delivery of the Deed in cash or by certified, cashier's, treasurer's or bank check.

(c) Conveyance to the Town of a facility to be located on the Property (the "Senior Center") as further provided in Article III of this Agreement.

1.5. Additional Payments: Additional payments shall be made to the Town by the Developer in amounts equal to five percent (5%) of the total consideration for the sale or other transfer of each and every Unrestricted Unit (as defined in Article II hereof), if and only if the total consideration for the sale or transfer of such Unit exceeds the sales price at which such Unit was offered for sale prior to the 3-Month Date (hereinafter defined) in accordance with Section 2.3. Such additional payments shall be made by the Developer to the Town by cash or check in each instance within ten (10) days of the first conveyance by the Developer of title to or occupancy of any such Unrestricted Unit. The provisions of this Section 1.5 shall survive the delivery of the Deed.

1.6. Time For Conveyance: The Deed shall be delivered on or before the 1st day of February 15, 1984, at such time and place as the parties shall agree upon; provided, that if Developer shall have obtained such building permits from the Lexington Building Department as it deems necessary to commence construction of the Condominium (hereinafter defined) and the Senior Center prior to February 15, 1984, then the time for conveyance shall be the date

(not later than February 15, 1984) specified by notice to the Town from the Developer, which date shall be at least 10 days after receipt of such notice.

If the Developer has used its best efforts to market and sell units in the Condominium, and if the number of units in the Condominium with respect to which purchase and sale agreements (in whatever form and however denominated) have been signed as of January 15, 1984 is less than thirty percent (30%) of the total number of units in the Condominium to be specified in the Special Permit (not counting the manager's unit or the Senior Center) and if the Developer so notifies the Town within five (5) business days after such date, then the Developer may (i) accept conveyance in accordance with this Agreement, (ii) request an extension of the time for conveyance specified herein by written notice to the Town, upon receipt of which the Town may, in its sole discretion, grant such an extension for any period of time, or (iii) cancel this Agreement by written notice to the Town, upon which the parties agree to execute and record an instrument terminating this Agreement, and upon recording of such instrument the deposit of \$5,000.00 paid hereunder by the Developer shall be retained by the Town and all other terms and provisions hereof shall be void without recourse to the parties hereto, and such retainage shall be the Town's sole and exclusive remedy at law and equity for such cancellation of this Agreement by the Developer.

1.7. Possession and Condition of the Property: Full possession of the Property free of all tenants and occupants is to be delivered at the time of the delivery of the deed, the Property to be then in the same condition as it now is, reasonable use and wear excepted, and in compliance with the provisions of any instrument referred to in Section 1.3 hereof except the Special Permit.

The Developer acknowledges, by execution of this Agreement, that it has inspected, examined and made a complete review of the Property, including all improvements, fixtures and fittings attached or appurtenant thereto or located thereon, and that the Developer accepts and will accept the condition of the Property "as is", free from any implied or express representations or warranties of any nature by the Town with respect to the condition of the Property.

The Developer further acknowledges that it has been informed that the Property in its current condition may not be in compliance with existing building, zoning or other laws applicable thereto or to the uses thereof contemplated in this Agreement, that the Town has made no representations or warranties with respect to such laws or violations thereof, that the Town shall not be responsible for curing violations thereof, if any, except as otherwise expressly provided herein, and that the Developer

accepts and shall purchase the Property subject to all such violations, if any, except as otherwise expressly provided herein. The Developer further acknowledges that if portions of the Property contain lead in paint, plaster or other accessible material, the Developer may be obligated in certain circumstances under Massachusetts General Laws Ch. 111, s. 197 to correct such conditions. The Developer agrees that the Town has no responsibility for correcting such lead-related condition, if it exists, and that any non-compliance of the Property with said statute or any other applicable law referred to above, shall not be deemed a breach of this Agreement.

1.8. Conditions Precedent to Conveyance: The Town shall not be obligated to make conveyance of the Property unless and until the following events have occurred:

(a) The Developer has obtained approval from the Town Manager of all plans and specifications for the Senior Center (the "Senior Center Plans"), and the Developer has furnished the Town with adequate security for the completion and conveyance to the Town thereof, all in accordance with Article III;

(b) The Developer has obtained the Special Permit and building permits from the Lexington Building Department for the construction of all improvements required hereunder in accordance with the Special Permit, including, without limitation, the Senior Center;

(c) The Developer has furnished the Town with a performance and payment surety bond, letter of credit or equivalent in form satisfactory to the Town to secure Developer's obligations with respect to completion of the landscaping and other work called for in the site plan as required by the Special Permit. The amount of such bond, letter of credit or equivalent shall not be less than \$25,000.00;

(d) The Developer has furnished the Town with evidence satisfactory to the Town of a binding commitment from a lender for financing of the construction work to be undertaken by the Developer hereunder and evidence that the Developer has obtained a payment and performance bond in an amount equal to the full construction cost and has satisfied or is capable of satisfying any other conditions contained in such commitment.

(e) The Developer has furnished the Town with three signed copies of the disclosure statement attached hereto as Exhibit D, in order to comply with Section 40J of Chapter 7 of the Massachusetts General Laws, which provides that the purchaser of real property from a municipality must sign a statement, under the penalties of perjury, disclosing the true names and addresses of all who have or will have a direct or indirect beneficial interest

in the property. Such disclosure statement will be filed with the Massachusetts Deputy Commissioner of Capital Planning and Operation.

1.9. Objections to Title: The Developer shall notify the Town on or before the date sixty (60) days from the date hereof of any objections Developer has to title to the Property. If the Developer does not so notify the Town on or before such date, Developer shall be deemed to have waived all rights to object to title, and, if the Developer does so notify the Town on or before such date, the Developer shall be deemed to have waived all objections to title other than those contained in such notice, except for matters first arising after the date of such notice, or, if no such notice has been given, any matters first arising after the date specified above for notice of objections.

1.10. Extension to Perfect Title or Deliver Possession: If the Town shall be unable to give title or to make conveyance, or to deliver possession of the Property, all as herein provided, or if at the time of the delivery of the Deed the Property does not conform with the provisions of this Article I, then the Town shall use reasonable efforts to remove any defects in title, or to deliver possession as provided herein, or make the Property conform to the provisions of this Article, as the case may be, but the Town shall not be obligated to expend any funds in connection with such efforts, and thereupon the time for conveyance shall be extended for a period up to thirty (30) days, or such further time as the parties may agree upon.

If at the expiration of such extended time the Town shall have failed so to remove any defects in title or deliver possession, or make the Property conform, as the case may be, all as herein agreed, then, at Developer's election (i) any payments made under this Agreement shall be forthwith refunded and all other obligations of the parties hereto shall cease and this Agreement shall be void without recourse to the parties hereto, or (ii) Developer shall accept such title as the Town can deliver to the Property in its then condition and pay therefor the purchase price and other consideration without deduction.

The acceptance of a deed by the Developer shall be deemed to be a full performance and discharge of every agreement and obligation contained in this Article I with respect to the Property, except such as are, by the terms hereof, to be performed after or survive the delivery of the deed.

1.11. Real Estate Taxes: The Town represents and warrants that the Property is exempt from local real estate taxes as of the date of this Agreement. The parties agree that the Developer shall pay, in addition to the purchase price and other consideration provided herein, a sum equal to such portion of a pro

forma tax computed as hereinafter provided as would be allocable to the number of days ensuing in the then-current fiscal year after the date of conveyance hereunder if such pro forma tax were apportioned pro rata according to the number of days in such fiscal year. Such pro forma tax shall be paid in such proportions and on such dates as real estate taxes in the Town of Lexington are due and payable, and shall be computed by applying the tax rate for the Town of Lexington for such fiscal year (or, if such rate is not known, the tax rate for the Town of Lexington for the next preceeding fiscal year) to the sum of \$238,000; provided, that if conveyance hereunder shall occur after January 1, 1984, the Developer shall also pay to the Town such amounts as would be payable by the Developer if the Property had been assessed on January 1, 1984 at a value of \$238,000.00, such amounts to be paid in such proportions and on such dates as real estate taxes in the Town of Lexington are due and payable, until the Completion of Construction. The Deed to be delivered to the Developer shall contain the following provision:

"In connection with the conveyance hereby made, there has been full compliance with the provisions of Section 63A of Chapter 44 of the Massachusetts General Laws."

1.12. No Dedication of the Property to a Public Park: The Deed to be delivered to the Developer shall contain the following provision:

"The Town of Lexington warrants and represents that it has not dedicated the conveyed premises to use as a public park in such manner as to require a special act of the General Court pursuant to Article 97 of the Amendments to the Massachusetts Constitution."

If any title examination made by the Developer shall reveal evidence that the Town has at any time prior to the date hereof dedicated the Property or any portion thereof to use as a public park so as to require a special act of the General Court to convey the Property, then the Developer shall promptly give notice thereof to the Town, including such evidence, and, upon the giving of such notice, or upon discovery by the Town of other evidence that the Town has so dedicated the Property at any time, the Town's obligation to convey and the Developer's obligation to purchase the Property in accordance with this Agreement shall cease, and all deposits paid hereunder shall be refunded and all other obligations of either party hereunder shall be terminated, and this Agreement shall be null and void without recourse to the parties, unless the parties agree upon amendments to this Agreement as necessary to permit the parties to obtain a special act of the General Court as necessary to convey the Property in accordance with this Agreement.

1.13. Necessary Approvals: The Developer's obligation to purchase the Property under Article I of this Agreement shall be subject to the obtaining by the Developer of the Special Permit, building permits, approval of the Lexington Historic District Commission, if necessary, and all other local governmental approvals, if any, necessary in connection with the acquisition of the Property by the Developer and the renovation and conversion of the Property in accordance with this Agreement. If, on or before the date five days prior to the date set herein for conveyance of the Property, the Developer has not obtained all such approvals, then the Developer may cancel this Agreement by written notice to the Town given at least five days prior to the date set herein for conveyance, upon which all deposits paid hereunder shall be returned and all other obligations of the parties hereto shall cease, or the Developer may waive its right so to cancel this Agreement and proceed to close the conveyance of the Property in accordance with the terms and provisions hereof; provided, however, that the Developer's right hereunder so to cancel this Agreement shall apply only if the Developer shall use its best efforts to obtain all such approvals prior to the date set herein for conveyance of the Property.

ARTICLE II. RESTRICTIONS ON DEVELOPMENT

2.1. Renovation; Establishment of Condominium:

(a) The Developer covenants, promises and agrees, for itself, its successors and assigns, to undertake and complete the improvements referred to herein and described in the Special Permit (including the Senior Center) in accordance with the Senior Center Plans and any plans and specifications referred to in the Special Permit, and to comply in all respects with the terms and conditions of the Special Permit, and further to comply with all building, zoning and other applicable laws, ordinances and regulations. The Developer shall use its best efforts to complete the improvements described in the Special Permit according to the schedule contained in the Special Permit; and in any event all construction work on the Property shall be completed on or before the date 18 months from the date of delivery of the Deed hereunder, provided that if Developer's performance and completion of such improvements is delayed by reason of labor disputes for which Developer is not at fault, fire, unusual delay in transportation, unavoidable casualties or other causes beyond the Developer's control, then such period of 18 months may be extended only for the period of delay so caused.

(b) Within 30 days from the date of this Agreement, the Developer shall deliver to the Town Manager of the Town, with a copy to Norman P. Cohen, Esquire, Palmer & Dodge, One Beacon Street, Boston, Massachusetts 02108, proposed forms of documents (the "Condominium Documents") to be used by the Developer to

submit the Property to the provisions of Chapter 183A of the Massachusetts General Laws in order to convert the Property into a mixed use condominium (the "Condominium"). The forms of the declaration of trust of the Condominium trust, the by-laws of the Condominium trust and the master deed and unit deeds shall be subject to the written approval of the Town. Such approval shall not be unreasonably withheld or delayed, but the Town may disapprove of the Condominium Documents or any of them which are not consistent with the provisions or intent of this Agreement. Without limitation, the Condominium Documents shall make reference to the applicable restrictions set forth in the Deed to be delivered under this Agreement. The Condominium shall be comprised of at least seventy (70) residential units ("Units") plus a manager's unit and the Senior Center.

If the Town disapproves of the proposed form of any of the Condominium Documents delivered to it as provided herein, it shall so notify the Developer in writing. If no written notice of disapproval is sent to Developer within thirty (30) days after delivery of the proposed Condominium Documents to the Town, or delivery of revised Condominium Documents as hereinafter provided, the Condominium Documents as so submitted or resubmitted, as the case may be, shall be deemed approved. In the event the Condominium Documents are disapproved, the Developer shall, within thirty (30) days after the date Developer receives written notice of disapproval, deliver to the Town, in the manner hereinabove provided, revised Condominium Documents altered to meet the grounds for disapproval. Such resubmitted Condominium Documents shall be subject to review and approval by the Town in accordance with the procedure hereinabove provided for an original submission, until the Condominium Documents shall be approved by the Town.

The approval of each of the Condominium Documents by the Town shall be conclusively established by an endorsement thereon signed and acknowledged by the Town Manager or any member of the Board of Selectmen of the Town stating that such document has been approved by the Town of Lexington, except that only the first unit deed and not subsequent unit deeds need contain such endorsement. Approvals of any of the Condominium Documents given by the Town pursuant to this Agreement shall not preclude imposition of conditions relating thereto in connection with issuance of the Special Permit by the special permit granting authority. The Developer agrees that the Developer shall not exercise its voting rights under the Condominium Documents to amend any of the Condominium Documents without the prior written consent of the Town, which consent shall not be unreasonably withheld.

(c) The Developer shall record the declaration of the Condominium trust, the by-laws of the Condominium and the Condominium master deed, all as approved by the Town, and take all

other actions necessary to lawfully and validly submit the Property to the provisions of Chapter 183A of the Massachusetts General Laws, on or before the date thirty (30) days after Completion of Construction (hereinafter defined), and in no event later than June 1, 1985, provided that if such actions by Developer are delayed by reason of fire, unavoidable casualties, or other causes beyond the Developer's control, then such date may be extended only for the period of the delay so caused. The Developer shall promptly deliver to the Town copies of all of the Condominium Documents as recorded, indicating the place of recording of same in the Middlesex South District Registry of Deeds.

2.2. Improvements on the Property: Except insofar as otherwise provided in this Agreement, no building, structure or other improvement shall be constructed or maintained on the Property, nor any alteration made in the exterior of the building located on the Property except as permitted by the terms of the Deed.

2.3. Sale of Condominium Units by Developer:

(a) At least forty percent (40%) of the Units (not including the manager's unit or the Senior Center unit) in the Condominium shall be sold by the Developer subject to certain restrictions described in Section 2.4 and set forth in the Deed for the benefit of the Town, its successors and assigns. Units subject to the restrictions shall be referred to hereinafter as "Restricted Units," and Units not subject to the restrictions shall be referred to as "Unrestricted Units." The Developer hereby agrees to and shall in good faith offer for sale at least thirty percent (30%) of the Units of the Condominium prior to the Commencement of Construction which shall be defined as the date of the later to occur of (i) issuance of a building permit for construction work on the Property, or (ii) conveyance by the Town of the Property to the Developer hereunder. All Units sold prior to the Commencement of Construction shall be Restricted Units. Further, the Developer shall continuously and in good faith offer for sale all remaining unsold Units of the Condominium during the construction work and until the date (the "3-Month Date") ninety (90) days after the Completion of Construction (hereinafter defined). All Units sold on or before the 3-Month Date shall be Restricted Units. The Developer may sell any Units remaining unsold as of the 3-Month Date as Restricted Units or Unrestricted Units in the Developer's sole discretion, provided, however, that in any event at least forty percent (40%) of the Units in the Condominium shall be Restricted Units. Without limitation, the Developer shall at all times use its best efforts to market and sell the Units, so that as many Units as possible shall be sold prior to the 3-Month Date as Restricted Units. For purposes of this Article, the sale of a Unit shall be deemed to take place on the date that a purchase and

sale agreement (in whatever form and however denominated) covering such Unit is executed (notwithstanding any subsequent amendment or extension of such agreement) provided that a conveyance is made pursuant to such purchase and sale agreement. As used herein, Completion of Construction shall mean the date of the later to occur of (i) issuance by the Lexington building inspector of the first certificate of occupancy for a Unit, and (ii) issuance by the Lexington Town Manager of a certificate stating that all improvements to the Property in accordance with this Agreement and the Special Permit (other than the Senior Center) have been completed except for minor finishing work. The Town and the Developer agree to execute and record a certificate or certificates conclusively stating the date of Commencement of Construction and the date of Completion of Construction.

(b) Restricted Units shall be sold by the Developer only to the Town or to persons whose annual household incomes as of the date of the certificate of compliance with restrictions described in the Deed, are equal to or less than the following amounts:

1 person household	\$35,000
2 person household	\$40,000
3 person household	\$41,500
4 or more person household	\$43,000 plus \$1,500 for each person in excess of 4.

The "household" of a prospective purchaser shall mean the purchaser and any person who shall reside in the Unit with the purchaser for at least fifteen weeks during the twelve-month period commencing on the date of conveyance of the Unit to the purchaser. The "annual household income" of a household as of a given date shall mean the sum of the adjusted gross incomes as defined in then-applicable provisions of the U.S. Internal Revenue Code of each member of the household for the two calendar years next preceding such date (less any annualized medical expenses of any such household member in excess of three percent of the adjusted gross income of such person for any one year) divided by two. Compliance of Restricted Unit purchasers with the income restrictions set forth herein shall be established by affidavit pursuant to the procedures set forth in the Deed.

The Developer has compiled a list of approximately 100 prospective purchasers who have made refundable deposits and, notwithstanding the maximum household incomes set forth above, the Developer agrees to provide prospective purchasers appearing on such list and having annual household income equal to or less than

the following amounts with an opportunity to purchase Units, not to exceed a total of 28 Units, prior to Commencement of Construction:

1 person household	\$25,500
2 person household	\$28,500
3 person household	\$30,000
4 or more person household	\$31,500 plus \$1,500 per person in excess of 4

After Developer has offered to sell Restricted Units to all prospective purchasers appearing on such list and having annual household income equal to or less than such lower income amounts, and if less than 28 Units have been purchased by such purchasers within the reasonable time given by Developer to such purchasers to respond, the Developer shall offer any remaining Units to prospective purchasers appearing on such list and meeting the higher maximum household income guidelines set forth above.

(c) The Developer agrees to offer Units in the Condominium for sale, and to use its best efforts to sell such Units, at prices in accordance with the following schedule (the Developer hereby agreeing that Units shall be sold only for consideration expressed or valued in United States dollars):

(i) Pre-Sold Units: At least thirty percent (30%) of the Units shall be offered for sale by the Developer prior to the Commencement of Construction at such prices as shall result in an Average Base Selling Price not to exceed \$55,050 at any time prior to the Commencement of Construction. The "Average Base Selling Price" at a given time shall equal the sum of the selling prices for each and every unsold Unit offered for sale at such time plus the prices directly or indirectly paid for each and every Unit sold, including all special or separately stated charges for improvements in and to such Units, excluding only the prices of option packages, if any, which may be selected by the purchasers of Units as described in the Developer's materials presented at the Lexington Town Meeting, divided by the number of Units offered for sale at such time or sold. At least three (3) days prior to the date on which the Developer commences offering Units pursuant to a given price list, the Developer shall deliver to the Town Manager a copy of such price list. The Developer may have more than one price list during a given period, provided that the applicable Average Base Selling Price is not exceeded at any time. The Developer shall reserve one (1) three-bedroom Unit for the Town and

shall not offer to sell or sell such Unit. If and when the Developer shall have sold thirty percent of the Units prior to Commencement of Construction at an Average Base Selling Price not to exceed \$55,050, then the Developer may thereafter offer Restricted Units for sale at the prices applicable to such Units during construction in accordance with subsection (ii) below.

(ii) Units Sold During Construction; Town Units:

Within ten (10) days after the first to occur of: (1) sale by the Developer of thirty percent (30%) of the Units, and (2) Commencement of Construction, the Developer shall deliver to the Town Manager floor plans showing all of the Units not then sold, together with any other sales marketing materials used or to be used by the Developer in marketing Units. Within fourteen (14) days after receipt by the Town Manager of such materials from the Developer, the Town or its designee shall give notice to the Developer specifically identifying up to ten (10) Units (the "Town Units") based upon the material delivered by the Developer. The Town Units may include not more than one (1) three-bedroom Unit, and may include the following numbers of two-bedroom Units: If the Town designates 9 or 10 Town Units, not more than three (3) two-bedroom Units; if the Town designates 5,6,7 or 8 Town Units, not more than two (2) two-bedroom Units; and if the Town designates 1,2,3 or 4 Town Units, not more than one (1) two-bedroom Unit. The Town Units so identified shall be reserved by the Developer for purchase by the Town or any designee of the Town, and shall not be offered for sale or sold to any other person without the prior written approval of the Town in each instance. The Town or its designee may enter into purchase and sale agreements with the Developer for the purchase of any or all of the Town Units, within 120 days of the date of notice to the Developer identifying the Town Units, at the respective prices applicable to such Units after Commencement of Construction under this subsection (ii), with deposits in the amount of \$5,000.00 per Unit, and otherwise in accordance with the standards for conveyance set forth in Section 3.3. The Town Units with respect to which the Town shall enter into purchase and sale agreements may include not more than the following numbers of two-bedroom Units: If the Town purchases 9 or 10 of the Town Units, not more than three (3) two-bedroom Units; if the Town purchases 5,6,7 or 8 of the Town Units, not more than two (2) two-bedroom Units; and if the Town purchases 1,2,3 or 4 of the Town Units, not more than one (1) two-bedroom Unit. On and after the date on which the Town shall have given notice to the Developer identifying the Town Units and at all times prior to the Completion of Construction, each and every Unit not "pre-sold" in accordance with subsection (i) above shall be offered for sale (the Town Units being offered only to the

Town) at such prices as shall result in an Average Base Selling Price not to exceed \$60,050 at any time during such period. Any Town Units with respect to which purchase agreements between the Town and the Developer have not been executed as of such date 120 days after notice to the Developer identifying the Town Units may thereafter be sold by the Developer to purchasers other than the Town in accordance with this Section 2.3.

(iii) Units Sold Prior to the 3-Month Date: On and after the Completion of Construction and prior to the 3-Month Date, each and every Unit not sold prior to the Completion of Construction shall be offered for sale at such prices as shall result in an Average Base Selling Price not to exceed \$65,050 at any time during such period.

(iv) Units Sold After the 3-Month Date: On and after the 3-Month Date, all Units not sold prior to the 3-Month Date may be offered for sale at such prices as shall result in an Average Base Selling Price not to exceed \$75,050, and may be marketed by the Developer as Unrestricted Units or as Restricted Units. Thereafter, the maximum price at which each unsold Unit may be offered for sale shall be the selling price at which such Unit was offered in accordance with the preceding sentence plus \$2,000 for each 30-day period which has elapsed after the date 30 days after the 3-Month Date, plus any buy down or other payments made by the Developer for the purpose of qualifying the purchaser with a lender. In the case of any Unit sold after the 3-Month Date, the Developer shall deliver to the Town a certificate signed by the Developer showing completely and in detail the calculation of the purchase price according to the formula set forth above. Five percent (5%) of the total sales price of any Unit which is sold under this subsection (iv) at a price greater than the price at which such Unit was offered under subsection (iii), shall be paid to the Town in cash or by check within ten (10) days of conveyance of title to or occupancy of such Unit.

(d) Upon request the Developer shall deliver to the Town copies of materials employed by the Developer and other information reasonably requested concerning the efforts made by the Developer in attempting to sell Units in the Condominium. Developer agrees to use its best efforts prior to and during construction work on the Property and thereafter if necessary to obtain a commitment from a bank or other institutional lender to finance the purchase of Restricted Units by prospective purchasers who meet the income qualifications set forth in Sub-section 2.3(b).

2.4. Restricted Units: Restricted Units shall be subject to certain restrictions as to maximum resale prices and maximum purchaser household income, all as set forth in the Deed to be delivered hereunder, Exhibit C.

2.5. Management of Condominium: The Developer shall construct a dwelling Unit in the Condominium for the use of a resident manager (the "Manager's Unit"), which shall be available for the manager of the Condominium. The Developer agrees to use its best efforts to provide all management services customary for a first class residential or mixed use condominium comparable in size to the Condominium during construction and at all times after Completion of Construction, for a period of at least three years after Completion of Construction for a fee to be agreed upon with the association of unit owners to be organized in connection with the Condominium (the "Unit Owner's Association"). The Developer shall prepare an appropriate management contract to be executed by the Developer and the Unit Owner's Association after the Condominium Documents have been recorded. The Town acknowledges that such management contract may contain a provision permitting the Unit Owner's Association to terminate the contract if and to the extent required by Unit mortgage lenders or secondary mortgage market participants. Not later than the date on which the Developer shall cease to provide management services for the Condominium at any time for whatever reason, Developer shall convey the Manager's Unit to the Unit Owner's Association by a good and sufficient quitclaim unit deed meeting all the requirements of M.G.L. Chapter 183A and conveying good and clear, record and marketable title to the Manager's Unit free from all liens, encumbrances and restrictions except (i) those matters of record subject to which the Property was conveyed by the Town to the Developer, (ii) the Special Permit, the Deed, and the Condominium Documents, (iii) easements which do not affect the use of such Unit for residential purposes, and (iv) provisions of existing building and zoning laws. The Developer's obligation so to convey the Manager's Unit to the Unit Owner's Association shall remain in effect until such conveyance, and shall be contained in the management contract referred to above.

ARTICLE III. SENIOR CENTER

3.1. Senior Center: As part of the consideration for the conveyance of the Property to the Developer, the Developer agrees to complete and convey to the Town the Senior Center as provided in this Article III. The Senior Center shall be located in the building to be improved and converted by the Developer in accordance with this Agreement and the Special Permit, and shall be a part of the Condominium.

3.2. Completion of Improvements:

(a) The Developer shall not apply for a building permit for the construction of the Senior Center without the prior certification of the Town Manager that the plans and specifications accompanying the building permit application are in accordance with the Senior Center Plans. No work shall be done on the construction of the improvements if such work deviates from the Senior Center Plans in any respect, except and only to the extent that modifications have been approved in writing by the Town.

(b) Construction of the Senior Center by the Developer shall be undertaken and completed in conformity with all applicable state and local laws and regulations, and all applicable rules, regulations, standards and guidelines relating to access for the handicapped and disabled.

(c) During construction of the Senior Center, the Town shall have the right to inspect all work of the Developer. The Developer shall diligently continue construction of the Senior Center in order to complete such construction not later than eighteen (18) months after the date of conveyance of the Property to the Developer. If the Senior Center shall be damaged by fire or other casualty prior to conveyance thereof to the Town in accordance herewith, the Developer shall repair such damage and restore and complete construction of the Senior Center in accordance with the Senior Center Plans approved by the Town or any modifications thereof so approved. If the Senior Center or the building in which the Senior Center is to be constructed shall be substantially destroyed by fire or other casualty prior to conveyance of the Senior Center to the Town in accordance herewith, \$195,000 of the proceeds of insurance as provided below shall be paid to the Town subject to the rights of the Construction Lender (hereinafter defined). When the Senior Center has been fully completed and is ready for occupancy and the Developer shall have obtained and delivered to the Town Manager a certificate of occupancy for the Senior Center Unit, the Town may make a final inspection of the facility and shall notify the Developer whether the Senior Center is acceptable to the Town, and, if it is not acceptable, indicating in what respects it is not acceptable. After the Senior Center has been fully completed to the satisfaction of the Town, the Town Manager shall issue a certificate of completion to the Developer stating that the Senior Center has been so completed and is acceptable to the Town.

3.3. Conveyance of Senior Center to Town: After the certificate of completion described in Section 3.2 has been issued, and on the date set by notice to the Town from the Developer, which date shall be not more than ten (10) days after the later to occur of issuance of the certificate of completion of the Senior Center as provided in Section 3.2 or establishment of

the Condominium by recording of a master deed, all in accordance herewith, the Developer shall convey the Senior Center to the Town, or any nominee designated by the Town by written notice, as hereinafter provided. The Senior Center shall be conveyed by a good and sufficient quitclaim unit deed meeting all the requirements of M.G.L. Chapter 183A and conveying good and clear, record and marketable title to the Senior Center Unit free from all liens, encumbrances and restrictions except (i) those matters of record subject to which the Property was conveyed by the Town to the Developer, (ii) the Special Permit, the Deed and the Condominium Documents, (iii) easements which do not affect the use of such Unit for its intended purposes, and (iv) provisions of existing building and zoning laws. Until delivery of the unit deed, the Developer shall maintain all risk insurance on the Property in an amount approved by the Town Manager, for the benefit of the Developer and the Town and first payable in case of loss to the Town, subject to the rights of any Construction Lender (hereinafter defined). At the time of such conveyance, the Developer shall deliver to the Town an owner's title insurance policy or binding commitment therefor insuring the Town's title to the Senior Center Unit subject only to the foregoing, without cost to the Town. At the time of such conveyance the Senior Center shall be in the same condition it was in at the time of the issuance by the Town of the certificate of completion referred to in Section 3.2, and the Senior Center and the Property shall comply as of right with all provisions of statutes, laws, by-laws, regulations, ordinances or orders of governmental authority with respect to building and zoning.

3.4. Security for Developer's Obligations: The parties hereto acknowledge that the Town has reduced the agreed cash purchase price for conveyance of the Property to the Developer in the amount of \$195,000.00 in consideration of the agreement of the Developer to convey to the Town the Senior Center in accordance with this Agreement. Recognizing that the Developer has been paid in full in advance for the construction and conveyance to the Town of the Senior Center, it is agreed that the obligations hereunder of the Developer so to complete and convey the Senior Center shall be secured for the benefit of the Town. Accordingly, at or prior to the time provided herein for conveyance of the Property, and as a condition precedent of any obligation hereunder of the Town so to convey the Property, the Developer shall deliver to the Town a mortgage of the Property from the Developer to the Town, in the form attached hereto as Exhibit E (the "Mortgage"). The terms of the Mortgage shall provide for subordination of the Mortgage to the Construction Mortgage. The Town will release for no consideration Units from the Mortgage as they are sold by the Developer, provided, however, that the Town shall have no obligation to release a Unit from the Mortgage if (i) less than

eleven Units of the Condominium remain unso'd at such time, and (ii) the Senior Center has not been conveyed to the Town as provided in Section 3.3.

If all or substantially all of the Senior Center or the building located on the Property is destroyed by fire or other casualty prior to conveyance of the Senior Center to the Town or its designee in accordance herewith, and if for any reason the amount of insurance proceeds paid to the Town are less than \$195,000.00, funds shall be paid to the Town by the Developer in an amount such that the sum of such funds and the amount of insurance proceeds paid to the Town equal not less than \$195,000.00 and, upon receipt by the Town of funds totalling \$195,000.00, the Town shall discharge the Mortgage.

3.5. Certificate of Completion: When the certificate of completion referred to in Section 3.2 has been issued and the Senior Center has been conveyed to the Town in accordance with Section 3.3, the Town, by its Town Manager, shall discharge the Mortgage granted to the Town pursuant to Section 3.4, and the Town Manager shall deliver to the Developer a certificate of completion and release of conditions in recordable form stating that the Developer has complied with the agreements and conditions contained in Sections 3.1 through 3.4 of this Article III to the satisfaction of the Town. Such certificate shall be conclusive evidence of the Developer's performance of such agreements and compliance with such conditions, and of the release of the Developer and the Property from such conditions by the Town; provided, however, that such certificate shall not release the Developer, its successors or assigns or the Property from the terms, conditions, covenants and restrictions contained in the Deed of the Property from the Town and in the Special Permit, or from building, zoning and other applicable laws, ordinances or regulations.

3.6. Maintenance of Senior Center: Developer agrees that for so long as Developer or any affiliate of Developer shall provide management services for the Condominium, Developer will guarantee that the sum of the total cost of condominium common fees or charges payable by the owner of the Senior Center Unit plus the costs of heating, lighting and cleaning the Senior Center Unit (but excluding local real estate taxes and the cost of the Senior Center's programs and services) (collectively, the "Maintenance Costs") shall not exceed \$14,000.00 per year for three consecutive years commencing on the date on which the Senior Center is conveyed to the Town or its nominee. Accordingly, the owner of the Senior Center Unit shall pay to the Developer an amount equal to \$1,167.00 per month, in advance, (pro-rated for any partial month) on and after the date on which the Senior Center Unit is conveyed to such owner and until the earlier to occur of (i) the date three years from the date on which the

Senior Center is conveyed pursuant to this Agreement, and (ii) the date on which the Developer ceases to provide management services for the Condominium; and until the earlier of such dates, the Developer shall pay or cause to be paid the Maintenance Costs. The Developer shall deliver to the owner of the Senior Center Unit annually within 60 days from the end of each calendar year or partial calendar year, as the case may be, a statement specifying in reasonable detail the Maintenance Costs paid by the Developer for the preceding year or partial year. If the Maintenance Costs paid by the Developer with respect to any calendar year shall be less than \$14,000.00, or if the Maintenance Costs paid by the Developer with respect to any partial calendar year shall be less than the pro-rata portion of \$14,000.00 attributable to such partial calendar year, then the Developer shall pay to the owner of the Senior Center Unit an amount equal to one half of such deficiency within ten (10) days after the date on which such statement of Maintenance Costs is prepared and delivered. The agreements contained in this Section 3.6 shall be included in a separate agreement between the Developer and the owner of the Senior Center Unit to be prepared by the Developer and executed at the time of conveyance of the Senior Center.

ARTICLE IV. TRANSFER AND MORTGAGE OF DEVELOPER'S INTEREST

4.1. No Transfer: The Developer agrees that it will not, prior to conveyance of all Units in the Condominium, including conveyance of the Senior Center to the Town or its nominee, make or suffer to be made any assignment or any other transfer of any of its interest in the Property or any portion thereof or in this Agreement, other than sales of individual Condominium Units in accordance with Article II or Article III, except with the prior written approval of the Town to a transferee or transferees so approved who shall have expressly assumed, for themselves and their successors and assigns, by written instrument satisfactory to the Town, all obligations of the Developer provided in this Agreement, provided that all legal documents employed in affecting a transfer pursuant to this Section 4.1 have been submitted to and approved by the Town; provided, however, that Developer may grant one or more mortgages (the "Construction Mortgage") on the Property to secure the payment of any loan or loans obtained by the Developer from a bank, insurance company, savings and loan association, trust company or other institutional lender, or a non-institutional lender if approved in writing in advance by the Town (the "Construction Lender") only for financing or refinancing of the construction of the improvements referred to in this Agreement and in the Special Permit. The Developer shall deliver a copy of the construction loan agreements to the Town.

The fact that any transferee of, or any other successor in interest whatsoever to, the Property or any part thereof, shall, for whatever reason, not have expressly assumed all of the obligations of the Developer hereunder and all conditions and restrictions contained herein, shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the Town) relieve or except such transferee or successor of or from such obligations, conditions or restrictions, or deprive or limit the Town of or with respect to any rights, conditions or restrictions with respect to the Property or the construction of the improvements thereon; it being the intent of this, together with other provisions of this Agreement, that (to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership of the Property shall operate, legally or practically, to deprive or limit the Town of or with respect to any such rights, conditions or restrictions provided in or resulting from this Agreement with respect to the Property and the construction of the improvements thereon that the Town would have, had there been no such transfer or change. Therefore, in the absence of a specific written agreement by the Town to the contrary, no such transfer or approval thereof by the Town shall be deemed to relieve the Developer or any other party bound in any way by this Agreement or otherwise with respect to the construction of the improvements, from any of its obligations with respect thereto.

4.2. Construction Mortgage; Rights and Obligations of Construction Lender:

(a) No Construction Lender shall be deemed to have assumed or to be bound to perform the obligations of the Developer hereunder by reason of having acquired an interest in the Property for security purposes except as provided herein. A Construction Lender shall have the right to perform any action in order to cure or make good any default in the performance of the Developer's obligations under this Agreement, and the Town shall accept such performance by the Construction Lender to the same extent as if the same were performed by the Developer. If the Construction Lender shall acquire or succeed to the Developer's interests in the Property by reason of foreclosure or similar remedial action or upon conveyance of the Property in lieu of foreclosure, the Construction Lender shall assume only the obligations of the Developer accruing hereunder during the period in which the Construction Lender holds possession of the Property or owns the Developer's interest therein. The Town agrees that the Construction Lender may sell, assign or otherwise dispose of the Developer's interest to which it has so succeeded or which it has so acquired, provided that the transferee shall agree with the Town, in written form acceptable to the Town, to assume all covenants, agreements and obligations of the Developer hereunder.

Upon any such sale, assignment or disposition, such Construction Lender shall be released from all obligations and liabilities of the Developer whatsoever arising under this Agreement after the effective date of such sale.

(b) If a Construction Lender shall by written notice to the Town notify the Town of the execution, delivery and recording of a Construction Mortgage, and of the name and address of the Construction Lender for notice purposes, and of the recording reference of its Construction Mortgage, and with such notice shall furnish to the Town a true copy of its Construction Mortgage, the Town agrees that from the date of such notice until such Construction Mortgage shall be discharged or released of record, the following provisions shall apply:

(i) There shall be no cancellation, surrender, termination or modification of this Agreement by joint action of the Town and the Developer, without in each case first securing the prior written consent of each Construction Lender;

(ii) The Town shall, upon giving to the Developer any notice of default under this Agreement, simultaneously give a copy of such notice to each Construction Lender, and no notice of default given to the Developer shall be effective until a copy thereof has been given to each Construction Lender. Whenever pursuant to this Agreement notice is to be given to a Construction Lender, a notice addressed to such Construction Lender at its address specified in accordance with the foregoing provisions of this section and otherwise complying with the terms of the notice provisions of this Agreement shall conclusively be treated as having been "given" within the meaning of the respective provisions hereof calling for notice to a Construction Lender;

(iii) Each Construction Lender shall have the same period (thirty (30) days), after such notice of default has been given to it, for remedying any default of the Developer in performance of any of its obligations hereunder or causing the same to be remedied, as is given the Developer after the giving of such notice to the Developer, plus an additional period of thirty (30) days, and if such default cannot with due diligence be cured within such additional thirty (30) day period, an additional time thereafter, provided that such cure is initiated during such additional thirty (30) day period and thereafter the curing of the same is continuously prosecuted with diligence, and the Town shall accept such performance by a Construction Lender as if performed by the Developer.

(iv) In the case of any such default by the Developer which is not susceptible of being cured by the Construction Lender, the Town agrees that it will take no action to obtain specific performance of this Agreement or to effect a termination of this Agreement by reason of such default without first giving to each Construction Lender a reasonable period of time after notice under (iii) above either to obtain possession of the Property (including possession by receiver) and to cure such default, in the case of a default which can be cured when the Construction Lender has obtained possession, or to institute foreclosure proceedings and to complete such proceedings or otherwise to acquire the Developer's interest, in the case of a default which cannot be cured by such Construction Lender without first obtaining the interest of Developer in the Property, provided, however: (1) that such Construction Lender shall not be required to continue such possession or to continue such foreclosure or other proceedings if said default shall be cured, (2) that the period for obtaining possession or acquiring the interest of the Developer by foreclosure or otherwise, as the case may be, shall be extended for any period not to exceed six months during which such action is enjoined or stayed by a court of competent jurisdiction, (3) that such Construction Lender shall continue good faith efforts to perform all of the Developer's other obligations under this Agreement which are susceptible of being performed by such Construction Lender during the period of such forbearance, and (4) that nothing herein shall require any Construction Lender to begin or continue such possession or foreclosure or other proceedings or preclude the Town from exercising (subject to the provisions of this Article IV) any rights or remedies under this Agreement with respect to any other defaults by Developer during the period of such forbearance;

(v) In the event of the termination of this Agreement for any reason, or in the case of the rejection or disaffirmance of this Agreement pursuant to bankruptcy law or other law affecting creditors' rights, the Town agrees to enter into a new agreement with the Construction Lender effective as at the date of such termination, rejection or disaffirmance, upon all the covenants and agreements, terms, provisions and limitations contained in this Agreement (including, without limitation, this section), provided that such Construction Lender shall, in writing, request the Town to enter into such new agreement within sixty (60) days after the effective date of such termination, rejection or disaffirmance. The provisions of this clause shall survive the termination, rejection or disaffirmance of this Agreement and shall continue in full force and effect thereafter to the same extent as if this clause were a separate and independent agreement, and during the period ending 60 days after the

effective date of the termination, rejection or disaffirmance of this Agreement, any Construction Lender may quietly enjoy the Property without hindrance by the Town or any person or party claiming by, through or under the Town.

(vi) Within thirty (30) days after receiving a written request so to do from any Construction Lender, the Town will deliver to such Construction Lender a statement, certified by an authorized official, stating either (1) that this Agreement is in full force and effect and no default hereunder has occurred and is then continuing, or (2) that this Agreement is then in default, specifying the nature and status of such default. If such statement is not delivered by the Town to the Construction Lender so requesting within thirty (30) days after such request, such Lender may conclusively assume that this Agreement is in full force and effect and that no default hereunder has occurred and is then continuing.

ARTICLE V. INSURANCE

5.1. Insurance Coverage:

(a) Without limitation of the provisions of Article III, the Developer shall, until the Completion of Construction and establishment of the Condominium, keep the Property and all of the insurable property and equipment in respect of the Property insured by fire and extended coverage insurance and builder's risk insurance to the same extent and amount which is normally required by institutional mortgagees for similar property and equipment. Such insurance shall be in amounts sufficient to comply with the co-insurance clause applicable to the location and character of the property or equipment, and, in any event, in amounts not less than the full insurable replacement value of the Property (other than land and foundations) and equipment. All such insurance shall be by standard policies, obtained from financially sound and responsible insurance companies authorized to do business in Massachusetts, and loss thereunder shall be payable to the Developer and the Construction Lender, and to the Town as its interests may appear.

(b) Each insurance policy shall be written to become effective at the time the Developer becomes subject to the risk or hazard covered thereby, and shall be continued in full force and effect for such period as the Developer is subject to such risk or hazard.

(c) Certificates of such policies and renewals thereof shall be filed with the Town on or about the effective date thereof.

5.2. Town May Procure Insurance if Developer Fails To Do So:

In the event the Developer at any time refuses, neglects or fails to secure and maintain in full force and effect any or all of the insurance required pursuant to this Agreement, the Town at its option may, without limiting any other rights or remedies available to it, upon ten (10) days written notice to the Developer, procure or renew such insurance, and all amounts of money paid therefor by the Town shall be payable by the Developer to the Town with interest thereon at the rate of ten percent (10%) per annum from the date the same were paid by the Town to date of payment thereof by the Developer. The Town shall notify the Developer in writing of the date, purposes, and amounts of any such payments made by it.

5.3. Developer's Obligations With Respect To Restoration And Reconstruction:

(a) Whenever any improvement, or any part thereof, constructed on the Property shall be damaged or destroyed prior to Completion of Construction and establishment of the Condominium, conveyance of the Senior Center to the Town, and thereafter until all Units have been sold by the Developer, the Developer shall (to the extent permitted under the Condominium Documents, if the Condominium shall have been established at such time) proceed promptly to establish and collect all valid claims which may have arisen against insurers or others based upon any such damage or destruction. All proceeds of any such claim and any other monies provided for the reconstruction, restoration or repair of any such improvement, shall be deposited in a separate account of the Developer or of any Construction Lender.

(b) The insurance money and any other proceeds so collected shall be used and expended for the purpose of fully repairing or reconstructing the improvements which have been destroyed or damaged to a condition at least comparable to that existing at the time of such damage or destruction in accordance with the approved plans and specifications referred to in the Special Permit to the extent that such insurance money and other proceeds may permit. Any excess proceeds after such repair or reconstruction has been fully completed shall be retained by the Developer, subject to the rights of any Construction Lender, and subject to the Condominium Documents if the Condominium shall have been established at such time;

(c) Subject to the provisions of the Condominium Documents if the Condominium shall have been established at such time, the Developer, with the written approval of the Town and any Construction Lender, may determine that all or any part of any such damage to or destruction of such improvements shall not be

reconstructed, restored, or repaired, and, in such event, the proceeds of any claims against insurers or others arising out of such damage or destruction, to the extent not used for such reconstruction, restoration, or repair shall be paid to the Developer, subject to the requirements of Article III with respect to insurance proceeds arising out of damage to or destruction of the Senior Center, and subject to the rights of any Construction Lender. In such event, the covenants and restrictions contained in the Deed shall terminate as to those improvements or portions thereof which have been damaged or destroyed and not reconstructed or restored.

(d) Developer shall commence to reconstruct or repair any improvements and equipment on the Property, or any portion thereof, which have been so destroyed or damaged within a period not to exceed three (3) months after the insurance or other proceeds with respect to such destroyed or damaged property have been received by the Developer or any Construction Lender (or, if the conditions then prevailing require a longer period, such longer period as the Town may reasonably approve in writing), and shall well and diligently and with dispatch prosecute such reconstruction or repair to completion, such reconstruction or repair in any event to be completed within eighteen (18) months after the start thereof.

ARTICLE VI. RIGHTS, REMEDIES AND PROCEDURES IN THE EVENT OF A BREACH BY DEVELOPER

6.1. Failure by Developer to Purchase Property: In the event that the Developer shall fail to fulfill and comply with any of Developer's agreements and obligations under Article I or Section 2.1.(b) of this Agreement, the Town shall have the right to retain the deposit held by it pursuant to Section 1.4 as full liquidated damages, but not as a penalty, without any deduction or offset, and such retainage shall be the Town's sole and exclusive remedy at law or in equity for such a default by the Developer; and the Town may, upon such failure or refusal, in its sole discretion terminate, by written notice to the Developer, all of its obligations to the Developer hereunder, in addition to retaining such deposit.

6.2. Failure by Developer to Complete Construction, Establish the Condominium or Discharge Encumbrances; Unauthorized Transfers of Interest: In the event that:

(a) The Developer shall fail to perform its obligations under Section 2.1.(a) of this Agreement with respect to commencement and completion of construction of improvements in accordance herewith and with the Special Permit or under Article III with respect to completion and conveyance of the Senior Center; or

(b) The Developer shall fail to establish the Condominium as provided in Section 2.1.(c) or shall employ for such purpose any procedure or document not in accordance with this Agreement or approved in writing by the Town or shall at any time fail to comply with Sections 2.2, 2.3, 2.4 or 2.5 or with the covenants and restrictions contained in the Deed; or

(c) The Developer shall place or suffer to be placed on the Property any encumbrance or lien not contemplated by this Agreement or authorized in writing by the Town; or

(d) There is in violation of this Agreement any transfer of the Property or any part thereof or interest therein, or if the Developer shall fail to perform any other obligation under Article IV or Article V;

the Town may in writing notify the Developer of such failure or violation. The Developer shall thereupon have thirty (30) days from the receipt by it of such written notice to cure such failure or violation (or, if a longer period is reasonably required to complete cure of such failure or violation, such longer period provided that the Developer promptly commences to cure such violation within such thirty-day period and diligently and continuously proceeds to complete such cure as promptly as possible). If the Developer does not cure such failure or violation within such period and if the Construction Lender does not exercise its rights to cure such violation or failure (as provided in Section 4.2 hereof), or if this Agreement is cancelled, terminated or suspended, the Town shall be entitled to enforce the terms of this Agreement and the covenants and restrictions contained herein and in the Deed against the Developer, including any successor in interest to the Developer, by proceedings at law or in equity to restrain such violations or compel specific performance hereof and/or for damages, and, if the Town shall prevail in any such action, it shall be entitled to all costs and expenses, including attorney's fees incurred in connection with such action. Nothing herein contained shall limit the Town's rights and remedies under the Deed, any letter of credit, surety bond or other instrument securing the obligations or performance of the Developer hereunder.

ARTICLE VII. MISCELLANEOUS PROVISIONS

7.1. Waiver: Except as otherwise expressly provided herein, failure on the part of either party to complain of any action or non-action on the part of the other, no matter how long the same may continue, shall never be deemed to be a waiver by such party of any of its rights hereunder. Further, it is covenanted and agreed that no waiver at any time of any of the provisions hereof by either party shall be construed as a waiver of any of the other provisions hereof, and that a waiver at any time of any of the

provisions hereof shall not be construed as a waiver at any subsequent time of the same provisions. The consent or approval to or of any action by either party requiring such consent or approval shall not be deemed to waive or render unnecessary such consent or approval to or of any subsequent action by such party.

7.2. Invalidity of Particular Provisions: If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term, covenant, condition or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

7.3. Provisions Binding: This Agreement may be cancelled, modified or amended only by a written instrument executed by both parties.

7.4. Governing Law: This Agreement and the performance hereof shall be governed exclusively by the laws of Massachusetts, as the same may from time to time exist.

7.5. Recording: The parties hereto agree that a fully executed original of this Agreement shall be recorded with the Middlesex County Registry of Deeds. The cost of recording this Agreement shall be borne by the Developer.

7.6. Notices: Except as otherwise expressly provided herein, whenever notices, demands, requests or other communications shall or may be given under this Agreement either to the Town or to the Developer, the same shall be deemed adequately given if in writing and hand delivered or sent by registered or certified mail, postage prepaid, return receipt requested: If intended for the Town, addressed to it at the mailing address set forth on the first page of this Agreement, with copies to Norman P. Cohen, Esquire, Palmer & Dodge, One Beacon Street, Boston, MA 02108; and, if intended for Developer, addressed to the Developer at the mailing address set forth on the first page of this Agreement, with copies to Robert Schafer, Esquire, Csaplar & Bok, One Winthrop Square, Boston, MA 02110; or to such other address or addresses as may from time to time hereafter be designated by either party to the other by like notice; and such notices shall be effective upon receipt if hand delivered or upon deposit in the U.S. mail if subsequently received.

The Town and the Developer each agrees to give prompt written notice to the other party of all material notices received by it from third parties relating to the Property.

7.7. Interpretation: As used here, the singular shall include the plural and the plural shall include the singular as the context may require. The article and section headings used throughout this instrument are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement. References herein to successors and assigns of the Developer are not intended to constitute a consent to assignment or transfer by the Developer but refer only to those instances in which the Town shall have given consent thereto in accordance with the terms of this Agreement.

7.8. No Partnership: It is agreed that nothing contained in this Agreement shall be deemed or construed as creating a partnership, joint venture, or any association between the Town and the Developer, or cause the Town to be responsible in any way for the debts or obligations of the Developer.

7.9. No Broker: The Town and the Developer warrant each to the other that they have not dealt with any broker or salesperson in connection with this Agreement.

7.10. Secondary Mortgage Market: So long as no substantive changes are required, the Town agrees to modify the restrictions contained herein and to be contained in the Deed if the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation so requires as a condition precedent to its approval or agreement to acquire mortgages on the individual Units in the Condominium issued or to be issued in connection with the sale of such Units to persons or entities not a party to this Agreement.

7.11. Certificates of Completion and Release of Conditions: If and when the Developer shall have performed and complied with some or all of the agreements and conditions set forth in this Agreement, the Town shall upon request of the Developer deliver to the Developer one or more certificates of completion and release of such conditions, in recordable form, signed by a majority of the Board of Selectmen of the Town of Lexington and stating that the Developer has performed and complied with some or all of the agreements and conditions set forth in this Agreement to the satisfaction of the Town. Such a certificate shall be conclusive evidence of the Developer's performance of such agreements and compliance with such conditions as are stated in such certificate and of the release of the Developer and the Property from such conditions by the Town, provided, however, that such certificates shall not discharge or release the Developer, its successors or assigns or the Property from the terms, conditions, covenants and restrictions contained in the Deed and in the Special Permit, or from building, zoning and other applicable laws, ordinances or regulations.

7.12. Authority of Developer: The Developer and any officer of the Developer executing this Agreement and any other documents required in connection with this Agreement, the Deed, or the conveyance to be made hereunder have the requisite power and authority to enter into and carry out this Agreement, the Deed, and all other documents executed and delivered in connection herewith or therewith. The execution and delivery of this Agreement and all other documents executed and delivered in connection with this Agreement have been duly authorized by the Developer's board of directors, to the extent required by law or the Developer's articles of organization or by-laws, and no other action of the Developer is required for the execution, delivery and performance of this Agreement, the Deed, and all other documents executed and delivered in connection herewith or therewith.

7.13. Town Designation of Nominee: If at any time the Town shall in accordance with this Agreement designate another person or other entity to act for the Town with respect to this Agreement or to administer any provisions hereof or if the Town shall assign or otherwise transfer its rights to enforce the provisions hereof and to hold the benefit of and enforce the restrictions and conditions contained herein, the Town shall prepare a certificate in recordable form setting forth such facts and shall deliver a copy thereof to the Developer, if the Developer has any interest in the Property at such time, and shall record such certificate in the appropriate registry of deeds, and a marginal notation shall be made on this Agreement and/or the Deed referring to such certificate and the place of recording thereof. The Town hereby designates the Town Manager as the initial "Muzzey Administrator" as defined in the Deed, Exhibit C, and hereby confirms that the Town Manager shall have authority to give the notices, approvals and certifications and to take such other actions, as are provided to be given, taken or performed by the Town Manager under this Agreement or by the Muzzey Administrator under the Deed, and the Developer and any Unit purchaser or lender may rely on any such notice, approval or certification or action taken by the Town Manager. Notice to the Developer of designation of the Town Units in accordance with Section 2.3(c) (ii), and all other determinations, approvals and certifications relating to the Town Units, shall be given by a majority of the Board of Selectmen of the Town, unless another person or entity is designated by the Board of Selectmen to give such notice or make or give such determinations, approvals or certifications, as described above.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under seal this 31 day of October, 1983.

TOWN OF LEXINGTON
Acting by a Majority of
its Board of Selectmen

James F. Gann
Stephen M. Polite

Robert F. Lacer
John T. Gifford

SYDNEY NOYES ANDERSON, INC.

By R. Kul Noyes President
(Hereunto duly authorized)
AND Treasurer



Commonwealth of Massachusetts

Middlesex, ss.

October 31, 1983

Then personally appeared the above-named James F. Crain, Stephen M. Poliri, Robert F. Sacco, John F. McLaughlin and acknowledged the foregoing instrument to be the free act and deed of the Board of Selectmen of the Town of Lexington, before me

Marion A. Shaw

Notary Public
My Commission Expires: April 28, 1988



Commonwealth of Massachusetts

Suffolk, ss.

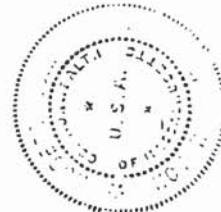
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Then personally appeared the above-named R. Kirk Noyes, President and acknowledged the foregoing instrument to be the free act and deed of Sydney Noyes Anderson, Inc., before me

Robert Schaffer

Notary Public
My Commission Expires:

ROBERT SCHAFER
NOTARY PUBLIC
My Commission Expires May 21, 1987



TOWN OF LEXINGTON

ARTICLE 2 AS ADOPTED AT THE SPECIAL TOWN MEETING HELD FEBRUARY 14, 1983

Article 2. MOTION: That the Selectmen be and they hereby are authorized to convey the Muzzey Junior High School property on Massachusetts Avenue consisting of the building and the land immediately adjoining, but excluding the so-called soccerfield to Sydney Noyes Anderson, Inc. for the purchase price of \$238,000 plus the construction of a senior center and on such other terms as the Selectmen shall determine; and that the Selectmen be and they are hereby authorized to petition the General Court for an act to establish a non-profit housing corporation to provide affordable housing in the Town and to accept funds from the sale of Muzzey Junior High School and any other available funds for such purpose.

In favor: 138 Opposed: 24
More than the required two thirds having voted in
favor the motion was adopted. 10:50 P.M.

Lexington, Mass., October 5, 1983

I, Mary R. McDonough, Town Clerk of the Town of Lexington, Massachusetts, do hereby certify the above to be a true and exact copy of Article 2 as adopted at the Special Town Meeting held February 14, 1983 and as same appears on record.

Mary R. McDonough

TOWN CLERK
Lexington, Massachusetts
APR 15 1983
LEXINGTON

EXHIBIT B

PROPERTY DESCRIPTION

That certain parcel of land (the "Land") with the building (the "Building") and other improvements thereon (the Land, the Building and other improvements being sometimes collectively referred to herein as the "Property") situated in Lexington, Middlesex County, Massachusetts. The Land is designated as Lot #1 on a plan (the "Plan") entitled "Plan of Land in Lexington, Mass. Drawn for Sidney Noyes Anderson Inc." dated August, 1983, prepared by Merrimack Engineering Services, to be recorded herewith in the Middlesex South District Registry of Deeds. The Land is more particularly bounded and described according to the Plan as follows:

Beginning at a point in the easterly side-line of Massachusetts Avenue at the westerly corner of said Lot #1 as shown on the Plan, such point being marked "DH.FND.";

THENCE N 65°-34'-31" E by land now or formerly of Russel Square Condominium, a distance of four hundred sixty-one and 47/100 (461.47) feet to a point;

THENCE Southeasterly by land now or formerly of Boston & Maine R.R. along a curve to the right with a radius of 2,818.68 feet an arc distance of two hundred sixty-seven and 69/100 (267.69) feet to a point;

THENCE S 63°-08'-33" W by land now or formerly of the Town of Lexington, a distance of two hundred fifty-nine and 39/100 (259.39) feet to a point;

THENCE S 33°-33'-00" E by said land now or formerly of the Town of Lexington, a distance of one hundred twelve and 69/100 (112.69) feet to a point;

THENCE S 62°-54'-48" W by Lot #2 as shown on the Plan a distance of three hundred twenty-eight and 62/100 (328.62) feet to a point in the easterly side-line of Massachusetts Avenue;

THENCE Northwesterly along the easterly side-line of Massachusetts Avenue on a curve to the right with a radius of 2546.0 feet, an arc distance of two hundred nineteen and 82/100 (219.82) feet to a point;

THENCE N 25°-28'-00" W along the easterly side-line of Massachusetts Avenue, a distance of one hundred fifty-five and 14/100 (155.14) f t to the point of beginning.

Said parcel being 3.8519 acres in area, according to the Plan.

EXHIBIT C

QUITCLAIM DEED

The TOWN OF LEXINGTON, County of Middlesex, Commonwealth of Massachusetts, a municipal corporation (the "Grantor") having offices for the transaction of business at 1625 Massachusetts Avenue, Lexington, Massachusetts acting by and through its Board of Selectmen by the authority of the vote adopted by the Inhabitants of the Town of Lexington under Article 2 at the Special Town Meeting held on February 14, 1983, a certified copy of which is annexed hereto, and by virtue of the authority granted under Chapter 40 Section 3 of the Massachusetts General Laws, as amended, IN CONSIDERATION of Two Hundred and Thirty-Eight Thousand Dollars (\$238,000.00) cash and other good and valuable consideration, the total value of which is equal to FOUR HUNDRED AND THIRTY-THREE THOUSAND DOLLARS (\$433,000.00), PAID by Sydney Noyes Anderson, Inc., a Massachusetts corporation (the "Grantee") having offices for the transaction of business at 92 Main Street, Gloucester, Massachusetts, the receipt of which is hereby acknowledged, and in consideration of the conditions, covenants and restrictions set forth below HEREBY GRANTS, conveys and delivers to SYDNEY NOYES ANDERSON, INC., with QUITCLAIM COVENANTS, the following described premises:

That certain parcel of land (the "Land") with the building (the "Building") and other improvements thereon (the Land, the Building and other improvements being sometimes collectively referred to herein as the "Property") situated in Lexington, Middlesex County, Massachusetts. The Land is designated as Lot #1 on a plan (the "Plan") entitled "Plan of Land in Lexington, Mass. Drawn for Sidney Noyes Anderson Inc." dated August, 1983, prepared by Merrimack Engineering Services, to be recorded herewith in the Middlesex South District Registry of Deeds. The Land is more particularly bounded and described according to the Plan as follows:

Beginning at a point in the easterly side-line of Massachusetts Avenue at the westerly corner of said Lot #1 as shown on the Plan, such point being marked "DH.END.";

THENCE N 65°-34'-31" E by land now or formerly of Russel Square Condominium, a distance of four hundred sixty-one and 47/100 (461.47) feet to a point;

THENCE Southeasterly by land now or formerly of Boston & Maine R.R. along a curve to the right with a radius of 2,818.68 feet an arc distance of two hundred sixty-seven and 69/100 (267.69) feet to a point;

THENCE S 63°-08'-33" W by land now or formerly of the Town of Lexington, a distance of two hundred fifty-nine and 39/100 (259.39) feet to a point;

THENCE S 33°-33'-00" E by said land now or formerly of the Town of Lexington, a distance of one hundred twelve and 69/100 (112.69) feet to a point;

THENCE S 62°-54'-48" W by Lot #2 as shown on the Plan a distance of three hundred twenty-eight and 62/100 (328.62) feet to a point in the easterly side-line of Massachusetts Avenue;

THENCE Northwesterly along the easterly side-line of Massachusetts Avenue on a curve to the right with a radius of 2546.0 feet, an arc distance of two hundred nineteen and 82/100 (219.82) feet to a point;

THENCE N 25°-28'-00" W along the easterly side-line of Massachusetts Avenue, a distance of one hundred fifty-five and 14/100 (155.14) feet to the point of beginning.

Said parcel being 3.8519 acres in area, according to the Plan.

This deed is made and executed upon and is subject to the covenant, which shall run with the land conveyed hereby, that the Grantee and its successors and assigns shall at all times comply with the terms of a special permit (the "Special Permit"), filed with the Town Clerk of Lexington on _____, 1983, a copy of which is to be recorded herewith, issued by the Board of Selectmen of the Grantor with reference to the Property.

When the Grantee shall have completed renovation of the Building and taken all actions necessary to submit the Property to the provisions of Chapter 183A of the Massachusetts General Laws in order to convert the Property into a condominium (the "Condominium"), all units in the Condominium ("Units") sold by the Grantee, its successors or assigns as Restricted Units (such units being hereinafter referred to as "Restricted Units") shall be subject to the covenants and restrictions set forth below.

Restricted Units: Every unit deed conveying an interest in a Restricted Unit shall contain a statement that such Unit is a Restricted Unit subject to the provisions hereof, and shall include a reference to the place of recording of this Deed in the public land records. Whether or not the unit deed for any Restricted Unit shall contain the foregoing statement, every Unit conveyed by the Grantee, its successors or assigns shall be a Restricted Unit unless the first unit deed of such Unit contains a certification from the Grantor, duly signed and acknowledged by the person or entity designated of record by the Grantor to monitor and enforce these restrictions (the "Muzzey Administrator"), that such Unit is an Unrestricted Unit, or unless a separate certification identifying such Unit and stating that such Unit is an Unrestricted Unit is signed and acknowledged by the Muzzey Administrator at any time. Such certification shall be conclusive evidence that such Unit is an Unrestricted Unit. The Grantor hereby designates and appoints the Lexington Town Manager as the initial Muzzey Administrator. All Restricted Units shall be subject to the following restrictions, which are hereby imposed for the benefit of, and shall be enforceable by, the Grantor, its successors and assigns:

(a) Resale Restrictions: Except for first sales of Restricted Units by the Grantee, its successors and assigns, no Restricted Unit or interest therein shall at any time be sold, conveyed or otherwise transferred, and no attempted sale, conveyance or transfer thereof shall be valid, unless the aggregate value of all consideration and payments of every kind given or paid by the purchaser to the owner of such Restricted Unit for and in connection with the transfer of such Restricted Unit, is equal to or less than the Maximum Resale Price for such Unit determined as of a date not later than the date of transfer or conveyance of title to such Unit. The "Maximum Resale Price" for any Unit as of a given date shall be equal to the purchase price for the Unit paid by the then-current owner of the Unit (the "Seller's Price"), which shall be equal to the consideration recited in the unit deed to such current owner, increased at an annual rate of increase of four percent (4%) compounded annually as of the month and day on which such Unit was conveyed to such then-current owner, and pro-rated on a daily basis to the date as of which the Maximum Resale Price is to be determined; provided, however, that, in the case of Unit owners who purchased Restricted Units identified in their unit deeds as being eligible for an increase in Maximum Resale Price because of early purchase, the Maximum Resale Price for sale by such Unit owners only of such "pre-sold" Units shall be determined as set forth above

using, as the base to which the permitted annual increase is applied, the sum of (i) the Seller's Price and (ii) an amount equal to \$5,000.00 multiplied by a fraction, the numerator of which shall be the number of days such current owner has owned the Unit, but not to exceed the number of days in three calendar years, and the denominator of which shall be 1095.

(b) Income Restrictions: Except for first sales of Restricted Units by the Grantee, its successors and assigns, no Restricted Unit may be sold at any time except to a person or persons whose annual household income as of the date of the Certificate from Grantor hereinafter described is equal to or less than the Maximum Base Income for such Unit at such time. The Maximum Base Income with respect to a given prospective purchaser of a given Restricted Unit shall depend upon the number of persons in the prospective purchaser's household and shall be equal to the Maximum Resale Price for the Restricted Unit in question (determined as of a date not later than the date of transfer or conveyance of title) multiplied by the following fractions:

1 person household	0.583
2 person household	0.667
3 person household	0.692
4 person household	0.717 plus 0.025 for each person in excess of 4 persons.

The "household" of a prospective purchaser shall mean the purchaser and any person who shall reside in the Unit with the purchaser for at least fifteen weeks during the twelve-month period commencing on the date of conveyance of the Unit to the purchaser. The "annual household income" of a household as of a given date shall mean the sum of the adjusted gross incomes as defined in then-applicable provisions of the U.S. Internal Revenue Code of each member of the household for the two calendar years next preceding such date (less any annualized medical expenses of any such household member in excess of three percent of the adjusted gross income of such person for any one year) divided by two.

(c) Rental Restrictions: No Restricted Unit shall be leased, sublet or licensed without the written consent of the Muzzey Administrator, which consent shall

not be unreasonably withheld, provided that it shall be reasonable for the Muzzey Administrator to take into account the income of a proposed tenant relative to the then-applicable re-sale restrictions contained in this Deed in giving or withholding such consent.

Affidavit of Compliance with Restrictions: Prior to the sale of any Restricted Unit by the Grantee, its successors or assigns, or any subsequent owner of such Restricted Unit, the Grantee, its successors or assigns, or such subsequent owner, as the case may be, shall deliver to the Grantor, as further provided below, an affidavit executed under oath and acknowledged by the prospective purchaser of the Unit identifying the Unit in question, the then-current owner thereof and the prospective purchaser thereof and the names and ages of all persons in the prospective purchaser's household, and stating and affirming:

(i) The adjusted gross income of each member of the household of the prospective purchaser for the two completed calendar years next preceding the date of the affidavit, as declared on the federal income tax returns (Form 1040 or Form 1040A or any equivalent or successor form) of all members of such household for such two years, or as intended to be so declared if federal income tax returns for both such years shall not have been filed as of the date of the affidavit by any such household member, and including copies of all such tax return forms as filed with the Internal Revenue Service, and including evidence, if any, of medical expenses of any member of such household in excess of three percent (3%) of the adjusted gross income of such member for either of such two preceding years;

(ii) That the annual household income of such prospective purchaser for the then-current calendar year shall not exceed the Maximum Base Income; and

(iii) The agreed purchase price, including the aggregate value of all payments, all mortgages or other liabilities assumed and all other consideration of every kind, previously given or paid or subsequently to be given or paid by such prospective purchaser to the seller of the Unit for or in connection with the transfer of the Unit or any interest therein.

In addition, the seller of the Unit shall execute under oath, acknowledge and deliver to the Grantor an affidavit identifying the Unit in question, the seller and prospective purchaser thereof, and the agreed purchase price, including the aggregate value of all payments, all mortgages or other lia-

bilities assumed and all other consideration of every kind, previously given or paid or subsequently to be given or paid by such prospective purchaser to the seller for or in connection with the transfer of the Unit or any interest therein and, in the case of a proposed sale by a seller other than the Grantee, the Seller's Price paid for such Unit by such seller and calculation of the Maximum Resale Price of such Unit as of a date not later than the date set for closing of the proposed sale.

Certificate from Grantor: Prior to or upon the execution by the Grantee, its successors or assigns and a prospective purchaser of any contract or agreement for the sale of any Restricted Unit in the Condominium, or execution by any subsequent owner of any Restricted Unit and a prospective purchaser thereof of any such contract or agreement, and in any event at least twenty (20) days prior to the closing of any sale, conveyance or transfer of any such Unit, the Grantee, its successors or assigns, or such subsequent owner shall deliver 1) a copy of such contract or agreement (whether executed or proposed) and 2) the affidavits of compliance with restrictions described above (collectively, the "Approval Documents"), to the Grantor. The Approval Documents shall be delivered to the Grantor at its mailing address set forth on the first page of this Deed or such other address for the Town of Lexington as shall appear of record, marked to the attention of the Muzzey Administrator then appearing of record. In each case the Approval Documents so delivered shall be accompanied by a notice stating that a response to the matters referred to therein is required, and specifying the addresses for notice purposes of the prospective purchaser of the Unit and the seller. If the Approval Documents delivered to the Muzzey Administrator are acceptable and indicate to the satisfaction of the Muzzey Administrator that the annual household income of the prospective purchaser, and the sale or re-sale price of the Unit, comply with the restrictions set forth herein, and that the proposed sale is otherwise in compliance with such restrictions, then, within ten (10) business days of receipt by the Muzzey Administrator from the seller of the Approval Documents, the Muzzey Administrator shall prepare and deliver to the seller, at the current address for notice purposes of such party contained in the records of the Muzzey Administrator, or at the Unit in question:

(a) a certificate in recordable form signed and acknowledged by the Muzzey Administrator referring to the Unit in question, the seller thereof, the prospective purchaser thereof, and the purchase price therefor, and stating:

- (i) that the proposed sale or transfer of the Unit to the prospective purchaser is in compliance with the restrictions contained in this Deed; or
- (ii) that the Muzzey Administrator on behalf of the Town waives the right to enforce the restrictions set forth herein or any of them in connection with the proposed sale or transfer; or

(b) written notice stating that the Approval Documents delivered to the Muzzey Administrator are not satisfactory to the Town or do not indicate that the annual household income of the prospective purchaser, and the sale or re-sale price, as the case may be, comply with the restrictions contained herein, and specifying each particular in which the Approval Documents are not satisfactory or the prospective purchaser or the sale or re-sale price does not comply with such restrictions.

All certificates of the type described in (a) above issued by the Muzzey Administrator shall bear the date of execution thereof. Any good faith purchaser of any Restricted Unit and any lender or other party taking a security interest in such Unit may rely upon a certificate of the type referred to in (a) above referring to such Unit and such purchaser and so executed by the Muzzey Administrator as conclusive evidence of the matters stated therein and may record such certificate in connection with conveyance of the Unit, provided that, in the case of a certificate under (a)(i) above, the consideration recited in the deed or other instrument conveying such Unit is not greater than the consideration stated in the certificate, and provided that conveyance of such Unit in accordance with the restrictions takes place within one hundred and twenty (120) days from the date of the certificate of the Muzzey Administrator as provided above. If the conveyance of such Unit pursuant to such Approval Documents and certificate does not occur within one hundred and twenty (120) days of the date of execution by the Muzzey Administrator of such certificate, the prospective purchaser may execute and the seller may deliver to the Muzzey Administrator additional affidavits in the form provided above, or other revised Approval Documents, all in accordance herewith, and the provisions of this section with respect to issuance of a certificate or notice by the Muzzey Administrator and conveyance in accordance therewith shall be applicable to any such additional affidavits and other Approval Documents.

If in any instance the Muzzey Administrator shall give notice of the type referred to in (b) above, the seller of the Unit in question receiving such notice may submit to the Muzzey Administrator amended or additional affidavits or other documents. If in any such instance the Muzzey Administrator shall not have issued a certificate of the type referred to in (a) above on or before the date thirty (30) days after the date on which the Muzzey Administrator shall have given notice of the type referred to in (b) above, or if the Muzzey Administrator shall not have given notice in the form of (a) or (b) above after expiration of ten (10) business days from receipt of the Approval Documents by the Muzzey Administrator, or if the Muzzey Administrator shall fail to consent to the proposed lease, sublease or license ("rental") of a Unit by its Owner within 45 days from receipt by the Town of written request for such consent, such seller or owner may request arbitration by notice of such request to the Muzzey Administrator. If such notice shall be so given, the parties shall submit the determination of the conformity of the form and substance of the Approval Documents and the compliance of the annual household income of the prospective purchaser and the proposed sale or re-sale price with the restrictions referred to herein, including any questions or objections specified by the Muzzey Administrator in any notice given under (b) above, or the reasonableness of the refusal to consent to such rental, as the case may be, to the majority decision of a panel of three disinterested persons experienced in real estate, one to be selected by the Muzzey Administrator, one to be selected by the seller (the respective fees, if any, of each such person to be paid by the party selecting such person) and the third to be selected by such two persons so selected (the fees, if any, of such third person to be divided equally between the parties), and the parties shall be bound by the results of the majority decision of such panel. The Muzzey Administrator and the seller or owner of the Unit in question shall execute, acknowledge and record a certificate stating that arbitration has been commenced and naming the members of the panel. If the majority of such panel determines that the Approval Documents conform in form and substance to the terms hereof and that the annual household income of the prospective purchaser and the proposed sale or re-sale price comply with the restrictions contained herein and that the sale should be permitted, or that the refusal to consent to such rental is unreasonable, then such panel shall report such determination by written notice signed by each member of the panel to the Muzzey Administrator and to the seller, and, upon receipt of such notice, the Muzzey Administrator shall issue the certificate described in (a)(i) above, or consent to such rental, as the case may be, in accordance with the panel's determination. If the Muzzey Administrator shall not have issued such

certificate within five (5) days after receipt of such written notice from such panel of its determinations and its conclusion that the sale or rental should be permitted, then a majority of such panel may issue such certificate in the form prescribed above signed and acknowledged by a majority of such panel, and such certificate shall have the same force and effect as if issued by the Muzzey Administrator. If the majority of such panel determines that the Approval Documents do not conform in form or substance to the terms hereof or that the annual household income of the prospective purchaser or the proposed sale or re-sale price does not comply with the restrictions contained herein, or that the refusal to consent to such rental is not unreasonable, then such panel shall report such determination by written notice signed by each member of the panel to the Muzzey Administrator and the seller, and such determination shall be final and binding as between the parties with respect to the matters submitted to the panel for determination.

Within ten (10) days of the closing of the sale or rental of any Restricted Unit by the Grantee, its successors or assigns, the seller shall deliver to the Muzzey Administrator a true copy of the unit deed of such Unit as recorded, together with information as to the place of recording thereof in the public records, or a true copy of the rental agreement, as the case may be. Failure of the Grantee, its successors or assigns to comply with the preceding sentence shall not affect the validity of such unit deed.

Covenants to Run With the Land: It is intended and agreed that the agreements, covenants and restrictions set forth above shall run with the Property and shall be binding upon the Grantee, its successors and assigns, for the benefit of and enforceable by the Grantor and its successors and assigns for a period of 99 years. Without limitation on any other rights or remedies of the Grantor, its successors or assigns, any sale or other transfer or conveyance of any Restricted Unit in violation of the provisions of this Deed in the absence of a certificate from the Grantor approving such sale, transfer or conveyance as provided hereinabove, shall, to the maximum extent permitted by law, be voidable by the Grantor, its successors or assigns by suit in equity to enforce such restrictions.

In connection with the conveyance hereby made, there has been full compliance with the provisions of G.L. c.44, s. 63A.

The Grantor warrants and represents that it has not dedicated the conveyed premises to use as a public park in such manner as to require a special act of the General Court pursuant to Article 97 of the Amendments to the Massachusetts Constitution.

This conveyance is also made subject to the following restriction, which shall run with the Property for the benefit of the Grantor and its successors and assigns, and shall be binding upon the Grantee, its successors and assigns, for a period of 99 years:

No additional structures or improvements of any kind beyond those now existing or those provided for in the Special Permit or by law shall be erected on the Land without the prior, written approval of the Grantor or its successors or assigns. As used herein, "improvements" shall include, but shall not be limited to, parking lots, carports, equipment sheds, recreational facilities and swimming pools. However, in the event of fire or other damage to the Building, the Grantee or its successors may repair such damage or restore or rebuild the Building in accordance with the plans and specifications referred to in the Special Permit or in accordance with plans and specifications submitted to and approved in writing by the Board of Selectmen of the Town of Lexington.

This Deed and the restrictions contained herein may be amended by recorded agreement between the Grantor and the owner of the Property, or, upon establishment of the Condominium, between the Grantor and the organization of unit owners established in accordance with M.G.L. c.183A or any successor statute.

Witness our hands and seals this _____ day of _____, 1983

TOWN OF LEXINGTON
Acting by a Majority of
its Board of Selectmen

Commonwealth of Massachusetts

_____, ss. _____, 1983

Then personally appeared the above-named _____

_____ and acknowledged the foregoing instrument to be the free act and deed of the Board of Selectmen of the Town of Lexington, before me

Notary Public
My Commission Expires:

EXHIBIT D

Statement of Beneficial Interest Required by
M.G.L. C. 7 Section 40J

In compliance with the provisions of Section 12 of Chapter 579 of the Acts of 1980 (codified at Section 40J of Chapter 7 of the General Laws), I hereby state, under the penalties of perjury, that the true names and addresses of all persons who have or will have a direct or indirect beneficial interest in the property located at _____ in the Town of Lexington, Massachusetts, purchased by the undersigned from the Town of Lexington and conveyed to the undersigned by deed dated _____, 1983, are written below.

Names and residence of all persons with beneficial interests:

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____

Executed Under Seal

Sydney Noyes Anderson, Inc.

Dated: _____

By _____
Its
Hereunto duly authorized.

EXHIBIT EMORTGAGE

KNOW ALL MEN BY THESE PRESENTS that SYDNEY NOYES ANDERSON, INC., a corporation organized under the laws of Massachusetts (hereinafter called the "Mortgagor") having a mailing address at 92 Main Street, Gloucester, Massachusetts, for consideration paid, hereby grants unto the TOWN OF LEXINGTON, a municipal corporation, County of Middlesex, Commonwealth of Massachusetts (hereinafter called the "Mortgagee"), with MORTGAGE COVENANTS, to secure performance of the obligations and agreements of the Mortgagor relating to the completion and conveyance to the Mortgagee of a "Senior Center" so-called, as provided in a certain Land Disposition Agreement by and between the Mortgagor and the Mortgagee and recorded with Middlesex South District Registry of Deeds at Book _____, Page _____ (the "Land Disposition Agreement") and also to secure the performance of all covenants and agreements herein contained, the land described on the attached Exhibit A, together with all improvements now or hereafter located thereon.

The Mortgagee hereby agrees that this Mortgage shall be subject and subordinate to any mortgage or mortgages (hereinafter called the "construction mortgage") granted by the Mortgagor to any bank, trust company, insurance company, governmental agency or other institutional lender upon the premises hereby conveyed solely to secure construction financing for renovation or reconstruction thereof. The foregoing subordination is intended to be and shall be fully effective with respect to a construction mortgage hereafter given without the necessity for any further writing or agreement. However, at the request of the Mortgagor or any lending institution to which such construction mortgage is to be granted, the Mortgagee hereby agrees to confirm the foregoing subordination by an instrument in recordable form.

The Mortgagor covenants: to pay when due all taxes, charges and assessments which are or may become a lien upon the mortgaged premises; to keep the premises insured against fire, and other contingencies when required by such holder, in sums, forms and companies satisfactory, and first payable in case of loss, to the holder hereof subject to the rights of the holder of the construction mortgage; to keep such premises in good order, condition and repair, and not to permit any strip or waste thereof nor violation of any law or ordinance affecting the same or the use thereof; in case of any default hereunder to perform the obligations secured hereby at the option of the holder hereof, on demand; to pay the reasonable charges and expenses incurred by said holder in enforcing this Mortgage, including, without limitation, in any foreclosure proceedings.

The Mortgagor further covenants that if the ownership of the mortgaged premises, or any part thereof, becomes vested in a person, persons or entity other than the Mortgagor or any entity controlled by the Mortgagor, except as permitted by Article IV of the Land Disposition Agreement, and excepting the sale of residential condominium units as provided in and in accordance with the Land Disposition Agreement, without the prior written consent of the Mortgagee, then the sum of \$195,000.00 shall, at the Mortgagee's option, become immediately due and payable to the Mortgagee by the Mortgagor without notice.

The Mortgagor further covenants: faithfully to perform all of the terms and provisions of the construction mortgage; promptly to give notice to the holder hereof of any notices received by Mortgagor from the holder of the construction mortgage relative to any default or delinquency under the construction mortgage; upon the request of the holder hereof, to inform the holder hereof of the status of the construction mortgage; not to amend, terminate, renew, extend or refinance the construction mortgage without the prior written consent of the holder hereof; to keep the construction mortgage in good standing, free of any default, condition, or event which, with the giving of notice or lapse of time, or both, would constitute a default thereunder; in the event the Mortgagor shall fail to pay any installment of indebtedness due under the construction mortgage on or before the same shall become due and payable, the holder hereof shall have the right (but shall not be obligated) to make any such payment directly to the holder of the construction mortgage and any sums so advanced shall be and become a part of the obligations secured hereby; that upon any default under the construction mortgage the holder hereof may (but shall not be obligated to) pay any sum which may be in default under the construction mortgage or advance any sum for the purpose of curing any default under the construction mortgage and any sum or sums so advanced shall be and become a part of the obligations secured hereby; that the curing by the holder hereof of any default under the construction mortgage as aforesaid shall not constitute the curing of the default hereunder which occurred by virtue of the default under the construction mortgage.

The Mortgagor authorizes the holder hereof: to pay, when overdue, any taxes, assessments or charges which are or may become a lien on the mortgaged premises, premiums for insurance required hereunder and balances due under conditional sales of equipment or fixtures; to add all sums so paid to the obligations secured hereby; and, in the case of foreclosure sale, to sell all parcels then subject hereto although the proceeds may exceed the obligations then secured hereby and to retain one percent of the purchase money in addition to all charges and expenses.

The foregoing covenants, agreements and authorizations shall be binding on the successors and assigns of the Mortgagor.

Upon completion by the Mortgagor of renovation of the building located on and a part of the mortgaged premises, and submission of the mortgaged premises to the provisions of M.G.L. c. 183A in order to convert the mortgaged premises into a condominium, the Mortgagee agrees to release residential condominium units from this mortgage for no consideration as such units are sold by the Mortgagor, except that the Mortgagee shall have no obligation to release a unit or units from this mortgage if (i) less than eleven units in the condominium (other than the manager's unit and the Senior Center) remain unsold at such time, and (ii) the Senior Center has not been conveyed to the Mortgagee in accordance with the Land Disposition Agreement.

This Mortgage is upon the STATUTORY CONDITION, and upon the further condition that all covenants and agreements of the Mortgagor herein contained shall be kept and fully performed, for any breach of which the holder hereof shall have the STATUTORY POWER OF SALE.

WITNESS the execution hereof under seal as of this ___ day of _____, 198_.

SYDNEY NOYES ANDERSON, INC.

By _____
Its President and Treasurer

COMMONWEALTH OF MASSACHUSETTS

_____ ss. _____, 198_

Then personally appeared the above-named R. Kirk Noyes the President and Treasurer of Sydney Noyes Anderson, Inc., and acknowledged the foregoing instrument to be the free act and deed of said corporation, before me,

Notary Public

My commission expires: