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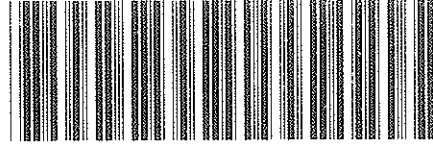
RECORDING REQUESTED BY
FIRST AMERICAN TITLE

2001051095 02/08/2001 08:30 AM
OFFICIAL RECORDS OF RECORDING FEE: 40.00
ALAMEDA COUNTY
PATRICK O'CONNELL

Recording Requested By And
When Recorded Return To:

Loretta K. Barsamian, Executive Officer
California Regional Water Quality Control
Board
San Francisco Bay Region
1515 Clay Street, Suite 1400
Oakland, California 94612

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(Above Space for Recorder's Use Only)

SP 158502

RECORDING REQUESTED BY
FIRST AMERICAN TITLE

**COVENANT AND ENVIRONMENTAL RESTRICTION ON PROPERTY
LOCATED AT
30460 Whipple Road, Union City
Alameda County, California**

This Covenant and Environmental Restriction on Property (this "Covenant") is made as of the 17th day of January, 2001 by Patrician Associates, Inc., a California corporation, and Principal Life Insurance Company, an Iowa corporation, formerly known as Principal Mutual Life Insurance Company (collectively, "Covenantor"), who is the Owner of record of that certain property situated in the City of Union City, County of Alameda, State of California, which is described in Exhibit A attached hereto and incorporated herein by this reference (such portion hereinafter referred to as the "Burdened Property"), for the benefit of the California Regional Water Quality Control Board for the San Francisco Bay Region (the "Board"), with reference to the following facts:

A. The Burdened Property and groundwater underlying the Burdened Property contain hazardous materials.

B. Soil and groundwater at the Burdened Property was contaminated with solvents used in cleaning and painting metal parts conducted by a manufacturer of fireplace tools. These operations resulted in contamination of soil and groundwater with organic chemicals including 1,1,1-trichloroethane ("1,1,1-TCA"), 1,1-dichloroethane ("1,1-DCE"), 1,1-dichloroethane ("1,1-DCA"), chloroethane, methylene chloride, tetrachloroethene, and trichloroethene, and possible vinyl chloride (collectively, the "Contamination"), which constitute hazardous materials as that term is defined in Health & Safety Code Section 25260. During 1994, soils that contained solvents were excavated from outside of each of two roll-up doors located north of the building located on the Burdened Property. Each excavation was dewatered in order to remove groundwater that contained solvents. Since that time, additional soil and groundwater samples have been collected at the Burdened Property to define the vertical and lateral extent of the Contamination in soil and groundwater. The residual chemicals present in soil are either beneath the building or are outside of the building and are covered with railroad ballast.

C. Exposure Pathways. The contaminants addressed in this Covenant are present in soil and groundwater on the Burdened Property. Without the mitigation measures which have

ACCOMMODATION RECORDING

THIS INSTRUMENT FILED BY FIRST AMERICAN
TITLE GUARANTY COMPANY AS AN ACCOMMO-
DATION ONLY. IT HAS NOT BEEN EXAMINED
AS TO ITS EXECUTION AND NO LIABILITY IS
ASSUMED AS TO ITS EFFECT UPON THE TITLE.

been performed on the Burdened Property, exposure to these contaminants could take place via dermal contact, ingestion or inhalation by humans. The risk of public exposure to the contaminants has been substantially lessened by the remediation and controls described herein.

D. Adjacent Land Uses and Population Potentially Affected. The Burdened Property is used for commercial purposes and is adjacent to warehouse and light industrial land uses.

E. Full and voluntary disclosure to the Board of the presence of hazardous materials on the Burdened Property has been made and extensive sampling of the Burdened Property has been conducted.

F. Covenantor intends that in order to benefit the Board, and to protect the present and future public health and safety, the Burdened Property shall be used in such a manner as to avoid potential harm to persons or property that may result from the Contamination.

ARTICLE I

GENERAL PROVISIONS

1.1 Provisions to Run With the Land. This Covenant sets forth protective provisions, covenants, conditions and restrictions (collectively referred to as "Restrictions"), upon and subject to which the Burdened Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. The restrictions set forth in Article III are reasonably necessary to protect present and future human health and safety or the environment as a result of the presence of the contamination on the Burdened Property. Each and all of the Restrictions shall run with the land, and pass with each and every portion of the Burdened Property, and shall apply to, inure to the benefit of, and bind the respective successors in interest thereof, for the benefit of the Board. Each and all of the Restrictions are imposed upon the entire Burdened Property unless expressly stated as applicable to a specific portion of the Burdened Property. Each and all of the Restrictions run with the land pursuant to Section 1471 of the California Civil Code. Each and all of the Restrictions are enforceable by the Board.

1.2 Concurrence of Owners Presumed. All purchasers, lessees, or possessors of any portion of the Burdened Property shall be deemed by their purchase, leasing, or possession of such Burdened Property, to be in accord with the foregoing and agree for and among themselves, their heirs, successors, and assignees, and the agents, employees, and lessees of such owners, heirs, successors, and assignees, that the Restrictions as herein established must be adhered to for the benefit of the Board and the future Owners and Occupants of the Burdened Property and that the interest of the future Owners and Occupants of the Burdened Property shall be subject to the Restrictions contained herein.

1.3 Incorporation into Deeds and Leases. Covenantor desires and covenants that the Restrictions set out herein shall be incorporated in and attached to each and all deeds and leases of any portion of the Burdened Property. Recordation of this Covenant shall be deemed binding

on all successors, assigns, and lessees, regardless of whether a copy of this Covenant and Agreement has been attached to any given deed or lease.

1.4 Purpose. It is the purpose of this instrument to convey to the Board real property rights, which will run with the land, to facilitate the remediation of past environmental contamination and to protect human health and the environment by reducing the risk of exposure to residual hazardous materials.

ARTICLE II

DEFINITIONS

2.1 Board. "Board" shall mean the California Regional Water Quality Control Board for the San Francisco Bay Region and shall include its successor agencies, if any.

2.2 Improvements. "Improvements" shall mean all buildings, roads, driveways, regrading, and paved parking areas, constructed or placed upon any portion of the Burdened Property.

2.3 Occupants. "Occupants" shall mean Owners and those persons entitled by ownership, leasehold, or other legal relationship to the exclusive right to occupy any portion of the Burdened Property.

2.4 Owner or Owners. "Owner" or Owners" shall mean the Covenantor and/or its successors in interest, who hold title to all or any portion of the Burdened Property.

ARTICLE III

USE OF THE BURDENED PROPERTY

3.1 Restrictions on Development and Use. Covenantor promises to restrict the use of the Burdened Property as follows:

- (a) Development of the Burdened Property shall be restricted to industrial, commercial or office space;
- (b) No residence for human habitation shall be permitted on the Burdened Property;
- (c) No hospitals shall be permitted on the Burdened Property;
- (d) No schools for persons under 21 years of age shall be permitted on the Burdened Property;
- (e) No day care centers for children or day care centers for Senior Citizens shall be permitted on the Burdened Property;

(f) In the event that subsurface activities are planned on the Burdened Property, a Health and Safety Plan shall be prepared in accordance with California Occupational Safety and Health Administration (CCR, Title 8, Section 5192) and Occupational Safety and Health Administration ("OSHA") standards for hazardous waste operations (CFR, Title 29, Section 1910.120) prior to the commencement of work. Any contaminated soils brought to the surface by grading, excavation, trenching, or backfilling shall be managed by Covenantor or his agent in accordance with all applicable provisions of local, state and federal law. All uses and development of the Burdened Property shall preserve the groundwater monitoring system installed on the Burdened Property pursuant to the requirements of the Board (as set forth in the Board's letter dated April 6, 1998, attached hereto), unless otherwise expressly permitted in writing by the Board.

(g) No Owners or Occupants of the Burdened Property or any portion thereof shall drill, or bore, otherwise construct, or use a well for the purpose of extracting water for any use, including but not limited to, domestic, potable, or industrial uses, unless expressly permitted in writing by the Board.

(h) The Covenantor agrees that the Board, and/or any persons acting pursuant to Board orders, shall have reasonable access to the Burdened Property for the purposes of inspection, surveillance, maintenance, or monitoring, as provided for in Division 7 of the Water Code.

(i) No Owner or Occupant of the Burdened Property shall act in any manner that will aggravate or contribute to the existing environmental conditions of the Burdened Property.

3.2 Enforcement. Failure of the Owner or Occupant to comply with any of the restrictions, as set forth in paragraph 3.1, shall be grounds for the Board, by reason of this Covenant, to have the authority to require that the Owner or Occupant modify or remove any Improvements constructed in violation of paragraph 3.1, or necessary to remedy any such violations. Violation of the Covenant shall be grounds for the Board to file a civil action against the Owner or Occupant as provided by Law.

3.3 Notice in Agreements. After the date of recordation hereof, all Owners and Occupants shall execute a written instrument which shall accompany all purchase agreements or leases relating to the property. Any such instrument shall contain the following statement:

The land described herein contains hazardous materials in soils and in the ground water under the property, and is subject to a Covenant and Environmental Restriction on Property dated as of _____, 2001, and recorded on _____, 2001, in the Official Records of Alameda County, California, as Document No. _____, which imposes certain covenants, conditions, and restrictions on usage of the property described herein. This statement is not a declaration that a hazard exists, nor an admission of any liability or an admission against interest.

3.4 Permitted Uses. Except to the extent of the Restrictions as described in Section 3.1 above and provided that such Owner and/or Occupant complies with the provisions of Section 3.3 above regarding disclosure, any Owner and/or Occupant of the Burdened Property may do all of the following: (i) fully use the Burdened Property for any lawful use and/or purpose; (ii) install, construct and otherwise make (a) any improvements, alterations, additions and/or modifications to any existing improvements in, on, under or about the Burdened Property, including without limitation, demolition, grading, grubbing and clearing of the site, and (b) any improvements, alterations, additions and modifications of the Burdened Property and any improvements contained therein; and (iii) transfer, sell, lease or otherwise convey any portion of the Burdened Property or any interest therein to a third person or entity.

ARTICLE IV

VARIANCE AND TERMINATION

4.1 Variance. Any Owner or, with the Owner's consent, any Occupant of the Burdened Property or any portion thereof may apply to Board for a written variance from the provisions of this Covenant. No Occupant (other than an Owner) may apply for any variance from the provisions of this Covenant without the consent of the Owner. If the Board grants a variance to any Owner or Occupant, an amendment to this Covenant shall be prepared, executed, acknowledged and recorded in the Official Records of Alameda County memorializing such variance.

4.2 Termination. Any Owner or, with the Owner's consent, any Occupant of the Burdened Property or a portion thereof may apply to Board for a termination of the Restrictions as they apply to all or any portion of the Burdened Property. No Occupant (other than an Owner) may apply for any termination of the Restrictions without the consent of the Owner. If the Restrictions are terminated as to all or any portion of the Burdened Property, an amendment to this Covenant shall be prepared, executed, acknowledged and recorded in the Official Records of Alameda County memorializing such termination.

4.3 Term; Modification. Unless terminated in accordance with paragraph 4.2 above, by law or otherwise, this Covenant shall continue in effect in perpetuity. Except as expressly provided in Section 4.1 and Section 4.2 above, no Occupant (other than an Owner) may modify, amend or terminate this Covenant.

ARTICLE V

MISCELLANEOUS

5.1 No Dedication Intended. Nothing set forth herein shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Burdened Property or any portion thereof to the general public.

5.2 Notices. Whenever any person gives or serves any notice, demand, or other communication with respect to this Covenant, each such notice, demand, or other

communication shall be in writing and shall be deemed effective (i) when delivered, if personally delivered to the person being served or official of a government agency being served, or (ii) three (3) business days after deposit in the mail if mailed by United States mail, postage paid certified, return receipt requested:

If to: "Covenantor"

Patrician Associates, Inc.
711 High Street
Des Moines, Iowa 50309
Attention: Asset Manager

and

Principal Life Insurance Company
711 High Street
Des Moines, Iowa 50309
Attention: Asset Manager

Provided, however, that after the above-named parties are no longer owners of the Burdened Property, notices to "Covenantor" shall be sent to the record Owner of the Burdened Property at the address shown in the tax assessor's records.

If to: "Board"

Regional Water Quality Control Board
San Francisco Bay Region
Attention: Executive Officer
1515 Clay Street, Suite 1400
Oakland, California 94612

5.3 Partial Invalidity. If any portion of the Restrictions or terms set forth herein is determined to be invalid for any reason, the remaining portion shall remain in full force and effect as if such portion had not been included herein.

5.4 Article Headings. Headings at the beginning of each numbered article of this Covenant are solely for the convenience of the parties and are not a part of the Covenant.

5.5 Recordation. This instrument shall be executed by the Covenantor and by the Executive Officer of the Board. This instrument shall be recorded by the Covenantor in the County of Alameda within ten (10) days of the date of execution.

5.6 References. All references to Code sections include successor provisions.

5.7 Construction. Any general rule of construction to the contrary notwithstanding, this instrument shall be liberally construed in favor of the Covenant to effect the purpose of this

instrument and the policy and purpose of the Water Code. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purpose of this instrument that would render the provision valid shall be favored over any interpretation that would render it invalid.

IN WITNESS WHEREOF, the parties execute this Covenant as of the date set forth above.

COVENANTOR:

PATRICIAN ASSOCIATES, INC.,
a California corporation

APPROVED
MR

By: *Michael D. Ripson*
Title: MICHAEL D. RIPSON
VICE PRESIDENT

By: *Bill Bramwell*
Title: BILL BRAMWELL
Vice President

PRINCIPAL LIFE INSURANCE COMPANY,
an Iowa corporation

By: *Doug Kintzle* Assistant Director
Title: DOUG KINTZLE
Assistant Director
Commercial Real Estate

By: *David M. Diamond*
Title: DAVID M. DIAMOND
Director
Engineering Services

AGENCY:

State of California
Regional Water Quality Board,
San Francisco Bay Region

By: *Loretta K. Barsamian*
Title: Executive Officer

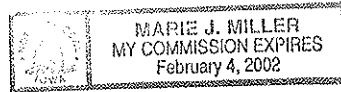
STATE OF Iowa)

COUNTY OF Polk)

On Jan 17, 2001, before me, the undersigned a Notary Public in and for said state, personally appeared Michael D. Ripson of Patrician Associates, Inc., personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument.

WITNESS my hand and official seal.

Marie J. Miller
Notary Public in and for said
County and State



STATE OF Iowa)

COUNTY OF Polk)

On Jan 17, 2001, before me, the undersigned a Notary Public in and for said state, personally appeared Bill Bramwell of Patrician Associates, Inc., personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument.

WITNESS my hand and official seal.

Marie J. Miller
Notary Public in and for said
County and State



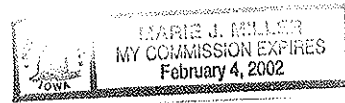
STATE OF Iowa)

COUNTY OF Polk)

On Jan 17, 2001, before me, the undersigned a Notary Public in and for said state, personally appeared Doug Kintzle of Principal Life Insurance Company, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument.

WITNESS my hand and official seal.

Marie J. Miller
Notary Public in and for said
County and State



STATE OF Iowa)

COUNTY OF Polk)

On Jan 17, 2001, before me, the undersigned a Notary Public in and for said state, personally appeared David Diamond of Principal Life Insurance Company, personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument.

WITNESS my hand and official seal.

Marie J. Miller
Notary Public in and for said
County and State

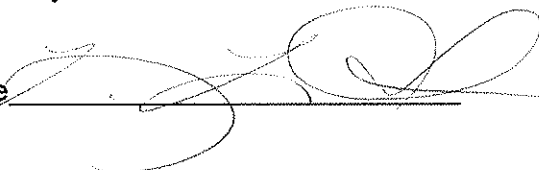


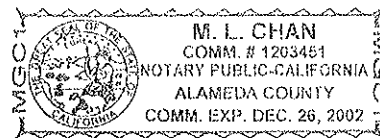
NOTARY ACKNOWLEDGMENT

STATE OF CALIFORNIA }ss
COUNTY OF Alameda }

On February 7, 2001, before me, M. L. Chan, a Notary Public in and for said State, personally appeared Loretta K. Barsamian

_____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) or the entity upon behalf of which the person(s) acted, executed the instrument.
WITNESS my hand and official seal.

Signature 



(This area for official notarial seal)

OPTIONAL:

DESCRIPTION OF ATTACHED DOCUMENT

Title or Type of Document

Date of Document

ILLEGIBLE NOTARY SEAL DECLARATION (GOVERNMENT CODE 27361.7)

I DECLARE UNDER PENALTY OF PERJURY THAT THE NOTARY SEAL ON THE DOCUMENT TO WHICH THIS STATEMENT IS ATTACHED READS AS FOLLOWS:

NAME OF NOTARY PUBLIC: Marie J. Miller

COMMISSION NUMBER: n/a

DATE COMMISSION EXPIRES: Feb. 4, 2002

STATE: Iowa COUNTY: Polk

SIGNATURE OF DECLARANT: H. Baeza

PRINT NAME OF DECLARANT: HUMBERTO BAEZA

CITY & STATE OF EXECUTION: OAKLAND, CALIFORNIA

DATED SIGNED 2/1/2001

EXHIBIT "A"

(City of Union City)

PARCEL ONE:

Lot 2, Tract 5514, filed February 9, 1987, in Book 167, at Page 47, of Maps, Alameda County Records.

Excepting therefrom that portion thereof lying below a depth of 500 feet, measured vertically, from the contour of the surface of said property; but not including the right for any purpose whatsoever to enter upon, into or through the surface of said property of any part thereof lying between said surface and 500 feet below said surface.

Reserving therefrom a Reciprocal Access and Parking Easement between Lot 1 and Lot 2, Tract 5514, as contained in the Declaration of Easement and Covenants for Reciprocal Access and Parking by Lincoln Alvarado, a limited partnership and Patrician Associates, Inc., a California corporation, recorded February 9, 1987, Series No. 87-38022, Official Records.

PARCEL TWO:

A Reciprocal Access and Parking Easement between Lot 1 and Lot 2, Tract 5514, as contained in the Declaration of Easement and Covenants for Reciprocal Access and Parking between Lot 1 and Lot 2, Tract 5514, by Lincoln Alvarado, a limited partnership and Patrician Associates, Inc., a California corporation, recorded February 9, 1987, Series No. 87-38022, Official Records.

Assessor's Parcel Number: 482-0096-004