



Fomento urbano de San Carlos, S.A.

Dear Buyer:

As developers of the San Carlos Country Club we share with you one of our main concerns which is to keep the beauty of the area properly balanced. This is possible with the adequate architectural planning and construction.

To achieve this, which will mean an increase in the appreciation value of your property, we are presenting the following declarations of covenants, conditions and restrictions, which will apply to all the buyers of real estate in the San Carlos Country Club Development.

Very sincerely,

Fomento Urbano de San Carlos, S.A.

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

THIS DECLARATION is made this 3rd day of September, 1976, by FOMENTO URBANO DE SAN CARLOS, S.A. FOMENTO URBANO DE SAN CARLOS, S.A., its successors and assigns shall hereinafter be referred to as "Declarant".

RECITALS

1.- WHEREAS, Declarant is the fee owner of the real property described in Exhibit A, attached hereto and made a part hereof, which shall be the covered property under this Declaration. This Declaration is being imposed by Declarant on the covered property.

2.- WHEREAS, Declarant has deemed it desirable to establish covenants, conditions and restrictions which shall run with the land upon the covered property and each and every portion thereof, which will constitute a general scheme for the development, use, occupancy and enjoyment thereof, all for the purpose of enhancing and protecting the value, desirability and attractiveness thereof:

NOW, THEREFORE, Declarant hereby declares that all of the property described in Exhibit A is held and shall be held, conveyed, hypothecated or encumbered, leased, rented, used, occupied and approved subject to the following covenants, conditions and restrictions, all of which are declared and agreed to be in furtherance of a plan for the subdivision, improvement and sale of said property or beneficial trust interest therein and are established and agreed upon for the purpose of enhancing and protecting the value, desirability, and attractiveness of said property and every part thereof. All of the covenants, conditions and restrictions shall run with the land and shall be binding on all parties having or acquiring any right, title, or interest in the property described in Exhibit A or any part thereof, and shall inure to the benefit of each owner thereof.

ARTICLE I

DEFINITIONS

1.- "Covered property" shall mean and refer to all the real property and all improvements constructed thereon known as and more particularly described in Exhibit A attached hereto.

2.- "Set-back" means the minimum distance between the residence or other structure referred to and a given street or line.

3.- "Street" means any street, highway or other thoroughfare shown on the Map of said property, whether designated thereon as street, avenue, boulevard, place, drive, road, terrace, way, lane, circle, or otherwise.

4.- "Building site" means a single lot as shown on the Map of said property or a parcel consisting of contiguous portions of any two or more contiguous lots, or all of one lot in parts of one or more lots adjacent thereto, unless the context and circumstances otherwise requires.

5.- "Lot" means one of the subdivided parcels of real property within the covered property.

6.- "Owner" shall mean one or more persons or entities who either alone or collectively are the record owner of a fee simple title to a lot, including Declarant, the Beneficiary of a duly issued Mexican Bank Trust or the Occupant under a Conditional Contract to Acquire A Mexican Bank Trust, but excluding those having such interest merely as security for the performance of an obligation.

7.- "Building limits" means the area defined by the set-back from the street and side lot lines and a building limit line across the rear of the lots.

8.- "Established drainage" is defined as the drainage which occurred or will occur at the time the overall grading of the lots, including the landscaping, if any, of each lot, was or is completed by Declarant.

9.- "Mortgage" shall mean and refer to any duly recorded valid mortgage or the like encumbering any property within the covered property.

ARTICLE II

BASIC RESTRICTIONS

1.- USE OF PROPERTY. No building shall be erected, constructed, altered, or maintained on any lot other than a single-family detached private residence with customary and suitable out buildings incidental thereto, including a private garage or carport for not more than three cars. Declarant specifically reserves the right to use any lot which it owns for a model home site and/ or display or sales office for any of the covered property or to grant this right to anyone else for any of the covered property.

2.- RE-SUBDIVISION OF LOTS. No lot shall be re-subdivided or split into lots of a lesser size than the size of the original lot without the written consent of Declarant first had and obtained.

3.- NUISANCE. No nuisance or any noxious or offensive trade or activity shall be carried on upon the covered property, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the owners or occupants of said property, including but not limited to the storage of any materials which might create an insect pest control problem, or the maintenance of any landscape material. No animals, birds, or insects of any kind, shall be raised, bred or kept on any lot, except dogs, cats and other common household pets, provided they are not kept, bred, or maintained for any commercial purposes or in unreasonable numbers. No act shall be permitted or caused to be done which shall increase the rate of insurance on any portion of the covered property.

4.- PROPERTY MAINTENANCE. Each owner covenants to keep, maintain, water, plant and replant all areas, slopes, banks, rights-of-way, and set-back areas located on his lot so as to prevent erosion and to present an attractive, clean, slightly and wholesome appearance at all times; however, no grass of any kind shall be planted on any lot within the covered property without the written consent of the Technical Department of the Declarant inasmuch as certain grasses could detrimentally affect the golf course.

5.- TEMPORARY RESIDENCE. No tents, shacks, trailers, basement, garage or out building shall at any time be used on any lot as a residence, either temporarily or permanently; nor shall any residences of a temporary character be constructed, placed or erected on any lot; however, the owner of a lot is authorized to build a temporary structure on his lot for storing materials during the construction period.

6.- VEHICLES.- No trailer, motor home, truck in excess of three tons, boat in excess of seven meters in length, or similar equipment or vehicle shall be kept on any lot or the streets bordering thereon within an enclosed garage or carport, for more than twelve hours. No painting, repairing or mechanical work, other than customary work and minor emergency repairs shall be done on any motor vehicle on any lot except in enclosed areas.

7.- GARAGES.- No garages or carports situated on any lot shall be used for any purpose other than parking and storage of motor vehicles or for such other purpose not incompatible with such use.

8.- REFUSE. No lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage, or other refuse or waste shall not be kept on any lot except in plastic garbage bags in sanitary containers, except building materials during the course of any approved construction. If trash or other refuse is to be disposed of by being picked up on a regular and recurring basis, sanitary containers may be placed in the open for not more than eighteen (18) hours prior to such pick-up.

9.- WELLS, DERRICKS, MINES, BUSINESS AND TRADES. No wells for the production of, or from which there is produced, water, oil or gas shall be operated upon any lot. No mining or quarrying operations of any kind shall be permitted upon the covered property, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted on any lot. No machinery, appliance or structure may be placed, operated or maintained on the covered property for use connection with any trade or business and no business of any kind shall be conducted on the covered property.

10.- EASEMENTS AND RIGHTS-OF-WAY. Every lot is subject to such easements and rights-of-way for erecting, constructing, maintaining and operating public sewers, poles, wires and conduits for lighting, heating, power, telephone, television and any other method of conducting and performing any public or quasi-public utility service or function beneath the surface of the earth as such easements and rights-of-way are more particularly set forth in the map recorded in the Public Registry of Property and Commerce in the City of Guaymas pertaining to each lot. Within these easements and rights-of-way, no structure, planting or other materials shall be placed or permitted to remain which may damage or interfere with the installation or maintenance of such utilities, or which may change the direction of, obstruct or retard the flow of water through drainage channels in the easements. The easement area of each lot and all improvements within it shall be maintained continuously by the owner of such lot, except for those improvements for which a public authority or utility company is responsible.

11.- GRADES, SLOPES AND DRAINAGE. No change in the established grade or elevation of said lots, and no change in the established slope and ratio of the cuts and fills, which alters the established drainage patterns shall be permitted. Declarant hereby reserves the right to make any and all cuts and fills on any lots, and to do such grading as in its judgment may be necessary to grade streets and lots. Each of the owners of the lots covenants to permit free access by Declarant and owners of adjacent lots to slopes or drainage ways located on his property when such access is required for the maintenance of permanent stabilization of said slopes, or maintenance of the drainage facility or for the protection and use of property other than the lot on which the slope drainage way is located.

ARTICLE III

ARCHITECTURAL CONTROL

1.- ARCHITECTURAL CONTROL BOARD.

A.- Purpose: The purpose of the Architectural Control Board (hereinafter the "Board") is to achieve and maintain the aesthetic goals of Declarant. The function of the Board is to enforce the restrictions herein by the review of plans and specifications submitted for approval, and by inspection of actual construction itself and the progress of said construction to insure conformity with the plans specifications as approved. It is not the intent of The Declarant to deprive the individual owner from having a home of unique design but rather to protect the community as a whole and the individuals comprising the same, from undesirable construction. In this connection, in the case of a hardship or other good reason, exceptions to any of

the restrictions contained in any portion of this Declaration may be made by the Board at any time after proper application therefor in writing.

B.- The Board shall consist three (3) persons to be appointed by Declarant. Such persons shall be subject to removal by Declarant at any time. In the event of death, resignation or removal of any member of the Board, the remaining member or members shall appoint a new member or members.

C.- Board Action: The three (3) Board members shall work as a panel, first reviewing plans and specifications submitted, as hereinafter stated, individually, and then subsequently discussing such plans and specifications jointly. A written approval of two (2) members of the Board will constitute approval of said preliminary or final submittals as the case may be or if no notice of rejection is received after thirty (30) days from the date of receipt of said submittals, such inaction shall be deemed to be approval. Written notice of approval or rejection shall be in writing and shall be mailed or personally delivered to the applicant, mail, return receipt requested. The written approval or notice of rejection of the Board may be recorded in the said Public Registry of Property and Commerce in the City of Guaymas and shall be conclusive evidence of such approval or rejection. The actions or inactions of the Board or its agents, when said Board is exercising its discretion in enforcing this Declaration in good faith, shall not be a basis for damages to any owner here or any other person, nor shall any such action or inactions by Declarant or the Board any member of the Board or their officers or agents, individually or collectively, constitute a cause of action for damages or equitable relief to any owner here or any other person. Declarant, its successors or assigns, the Board or any member of the Board, or their officers or agents, all acting singularly or together, shall not be responsible for any loss or damage, or be liable in any other way for any errors or defects, either latent or patent, in the plans or specifications submitted for approval, or any building or structure erected, constructed, placed, altered or maintained in accordance or pursuant to such plans and specifications.

D.- Submission of Preliminary Plans: The owner of each lot on which construction is contemplated shall submit to the Board preliminary working drawings or plans, which shall consist of a plot plan, floor plan, and elevation. Upon review the Board may request additional drawings for clarification.

E.- Submission of Final Plans and Specifications: Upon approval of the preliminary plans, two sets of final plans and specification shall be submitted to the Board for final approval. Such plans and specifications shall describe in detail the floor plan arrangement, elevations, section structural solution, use of material, height and dimensions, site placement, fences, grading, drainage plans, access, landscape and patio plans, and other pertinent data as may be required to fully illustrate the intended design, construction and use. Physical samples of the exterior materials and colors shall be submitted for approval. Before giving any such final approval, the Board may require that said plans and specifications comply with any such requirements that the Board may impose as to structural features, types of building materials used, or characteristics not otherwise expressly covered by the provisions herein. The approval by the Board shall not relieve the owner from complying with any requirement of any public authority having jurisdiction and shall not constitute any representation or guaranty by the Declarant or by the Board or by any member of the Board as to the structural sufficiency of any construction or its compliance with any statute or ordinance pertaining thereto. Approval of the Board of any plans or specifications shall not be deemed to be a waiver by the Board of its right to object any other features or elements embodied in such plans or specifications if and when the same features or elements are embodied in any subsequent plans or specifications submitted for approval for the same or other lots.

F.- Inspection of Construction: During and after completion of construction Declarant or any agent of Declarant or any member of the Board may from time to time at any reasonable hour or hours, with reasonable notice, enter into and inspect any property subject to this Declaration as to compliance with the approval submittals. Deviation shall be diligently guarded against, and all such deviations or nonconformity set forth in any notice of noncompliance issued by the Board shall be corrected prior to final acceptance as set forth below. Declarant, the Board or any agent of officer thereof, acting in good faith, shall not be deemed guilty of, or become liable for, any manner of trespass for such entry or inspection.

2.- ARCHITECTURAL STANDARDS AND CONTROLS.

A.- Subdivision Standards: These restrictions have neither the intent nor the purpose to in any way affect the subdivision standards which are established by the law of the State of Sonora or any other applicable laws.

B.- On-site Construction:

(i) **Set-backs:** All structures shall have a set-back of three (3) meters from the access road, one (1), meter from the adjacent lots and five (5) meters from the San Carlos Country Club golf course.

(ii) **Location on the Lot:** The location of the structure or structures on the building site and the landscaping shall bear an overall relation to the adjacent properties as to create an aesthetically pleasing overall appearance and to maintain views. Slopes are specifically excluded as building areas even though other set-back requirements are met.

(iii) **Height Restrictions:** No building height shall exceed five meters, or shall be more than one-story high, whichever is less in height.

(iv) **Lot Coverage:** No more than sixty percent of any lot shall be covered with structures or paving material.

(v) **Fences:** All fences, including their location, style, material, color, height, and function thereof, shall be subject to the written approval of the Board, prior to installation thereof. The Board shall consider the topography of the land and the maintenance of views before granting such approval. Fences, walls, rails or hedges shall be limited to one (1) meter in height. The owner will maintain and keep in good condition and repair such fences, walls and rails located on his lot.

(vi) **Landscaping:** Permanent Landscaping shall be installed by the owner around any residence in the front, side and rear yard areas not later than ninety days after construction. Said landscaping shall be maintained in a neat and orderly condition at all times after installation so as to present a pleasing appearance.

C. Basic Structural Requirements:

(i) **Type and Character of Design:** The exterior building design of all buildings shall be subject to approval by the Board, in its sole discretion. The decision of the Board shall be final.

(ii) **Colors:** All exterior colors, textures and materials, including roofs, must be set forth in the plans and specifications approved in writing by the Board prior to construction. Careful consideration of the adjacent and surrounding properties, as well as overall community appearance, will be the basis for approval or denial of such color schemes.

(iii) **Size Requirements:** No residence shall be erected on said property having a total ground floor area of the main structure, exclusive of open porches, garages, patios, exterior stairways and landings, of less than one hundred square meters. The minimum required floor area shall be deemed to include the total enclosed floor area of residence, building measurements to be taken for this

purpose from the inner facing of exterior walls.

(iv) **New Materials in Structures Only:** No second hand materials shall be used in the construction of any building or structure without the prior written approval of the Board. No buildings of any kind shall be moved from any place to any lot, or from one lot to another without prior written approval of the Board.

(v) **Signs:** No signs of any kind, or other advertising device of any kind or character, for any purpose or use whatsoever, shall be erected, posted, pasted, painted, displayed or maintained on any lot, except that (a) on any lot or building site, one sign, not larger than 15 cm. by 50 cm., setting forth the Owner's name or the name of the Owner's residence may be erected or maintained; (b) Declarant or its agents may erect and maintain on any property it owns such sign or other advertising devices as it may deem necessary or property in connection with the conduct of its operation for the development, improvement, subdivision or sale of said property.

(v) **Diligence in Construction:** The work of constructing and erecting any building or structure shall be prosecuted diligently and continuously from the commencement thereof until the same is completed. No out building shall be completed prior to completion of the building, except that temporary storage buildings may be erected for workmen engaged in building a dwelling on said property. Such temporary buildings must be removed as soon as the dwelling is completed. The construction schedule shall be submitted as a part of the plans and specifications and shall be subject to the purview of the Board.

(vii) **Alterations, Additions, Remodeling and Redecoration of Exterior Portions of Structures:** No alterations in the exterior design or color of any structure, including additions, shall be made without the prior approval of the Board. The materials used for any such approved alteration must harmonize and complement the original building or buildings and must be approved by the Board in writing prior to such alterations. No approval is required to repaint or restain any structure with the same color scheme as previously used and approved.

(viii) **Clothes Lines, Storage Areas, Etc.:** All clothes lines, storage areas, equipment and service patios shall be prohibited upon the lots, unless obscured from view of adjoining lots, streets and the Clubhouse of San Carlos Country Club by walls or appropriate plants approved by the Board.

(ix) **Tanks:** All tanks for propane gas, gasoline, and oil shall be underground on the lot or shall be obscured from view of adjoining lots, streets and the Clubhouse of San Carlos Country Club by walls or appropriate plants approved by the Board.

ARTICLE VI

GENERAL PROVISIONS

A. Term: All the foregoing covenants and restrictions are imposed upon the covered property for the direct benefit thereof and of the owners thereof, as a part of a general plan of improvement, development, building, occupation and maintenance; and shall run with the land and shall be binding on all the owners of said property and all persons claiming under them, and continue to be in full force and effect for a period of twenty five years from the date that this Declaration is recorded in the Public Registry of Property and Commerce in the City in Guaymas. After said twenty-five year period, the covenants, conditions, restrictions and easements shall automatically be extended for successive periods of ten (10) years unless by a vote of a majority of the then owners of record of the covered property, it is agreed to change said covenants, conditions and restrictions in whole or in part.

B.- Amendments: These restrictions may be amended, and they may be so amended at any time, and from time to time, by an instrument in writing signed by the owners of record of three fourths (3/4) of the covered property, which said written instrument shall become effective upon recordation in the Public Registry of Property and Commerce in the City of Guaymas.

C. Interpretation: All questions of interpretation or construction of any of the terms or restrictions herein shall be resolved by the Board if the dispute requires interpretation under Article III or otherwise by the Declarant and each decision shall be final, binding and conclusive upon all the parties affected. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development of a residential subdivision and for the maintenance of the covered property. The Article and Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction. Invalidation of any one of these covenants, conditions or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect. Whenever the context of this Declaration requires the same, the singular shall include the plural and the masculine shall include the feminine and neuter.

D. Enforcement: The covenants hereby established shall operate as covenants running with the land; and further, Declarant and/or the Board and/or the owner of any other covered property, in the event of a breach of any of the within covenants, conditions or restrictions or a continuance of any such breach may by appropriate legal or equitable proceedings take steps to enjoin, abate or otherwise remedy such breach. Any legal action brought to enforce any of the provisions of this Declaration shall be brought in the appropriate Courts of the city of Guaymas, Sonora, Mexico. A breach of covenants contained in this Declaration shall not affect or impair the lien or charge of any bona fide mortgage made in good faith and for value on any lot; provided, however, that any subsequent owner of such property shall be bound by said covenants, whether such owner's title or beneficial trust interest was acquired by foreclosure or otherwise. A lender who acquires title or beneficial trust interest in a lot by foreclosure or otherwise shall not be obligated to cure any breach of covenants, conditions or restrictions which occurs prior to such acquisition of title or beneficial trust interest but shall be bound by said covenants, conditions and restrictions. The provisions contained in this Declaration shall inure to the benefit of and be enforceable by Declarant, its successors or assigns; the Board, or the owner of any of the covered property and each of their legal representatives, heirs, successors or assigns, and the failure to enforce any of such conditions, covenants, and restrictions shall in no event be deemed to be a waiver of the right to do so thereafter. In any legal proceeding commenced by anyone entitled to enforce or restrain a violation of this Declaration, or any provision thereof, the prevailing party shall be entitled to its reasonable attorneys' fees and costs of such suit.

E. Assignment: Declarant retains the right to assign or delegate any or all rights duties which it may have under this Declaration at any time.

IN WITNESS WHEREOF, Declarant has executed this instrument as of the day and year first above written.

FOMENTO URBANO DE SAN CARLOS, S. A.

By _____
Its Sole Administrator _____