

Recording Requested By:)

When Recorded Mail To:)

Richard F. McEntyre)
KIMBALL, MITCHELL, NELL AND)
McENTYRE)
655 Second Street)
Encinitas, California 92024)

The foregoing instrument is a full, true and correct copy
of the original recorded on Nov 4, 1977
File/Page 77-458748, Series _____
Book _____ of Official Records, San Diego County.
Title Insurance and Trust Company

Dance Howard

Above Space for Recorder's Use

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

FOR

LA POSADA CONDOMINIUMS

S & L ENTERPRISES, INVESTMENTS, a partnership, referred to below
as "Developer," is the owner of the real property (the "Real Property")
located in the City of Carlsbad, County of San Diego, State of California,
described on Exhibit "A" attached hereto and by this reference made a part
hereof.

Developer hereby desires and intends, in connection with the
creation of a condominium project upon the Real Property, to impose upon
all of said Real Property mutually beneficial restrictions under a general
plan for the benefit of all of the condominiums in the project and their
owners, as follows:

1. Declaration. Developer hereby declares that the Real Property
is held and shall be held, conveyed, hypothecated, encumbered, leased,
rented, used, occupied and improved subject to the following covenants,
conditions, restrictions and provisions, all of which covenants, conditions,

restrictions and provisions are hereby declared to be in furtherance of a general plan for the improvement and sale of said Real Property as a condominium project and are hereby established for the purpose of enhancing and perfecting the value, desirability and attractiveness of said Real Property as a condominium project. An unincorporated association is hereby created among the condominium owners in order to accomplish the purposes of these covenants, conditions and restrictions.

2. Definitions. The following terms shall have the respective meanings given below, unless a contrary meaning is evident from the context:

a. "Declaration" means this Declaration of Covenants, Conditions, and Restrictions as the same may from time to time be amended.

b. "Plan" means that certain Condominium Plan for LA POSADA CONDOMINIUMS recorded in the Official Records of San Diego County, California on Nov. 4, 1977, as Document No. 77-458747

c. "Project" means the entire Real Property to be divided, and as divided, into Condominiums, including all structures thereon. The name of the Project is LA POSADA CONDOMINIUMS.

d. "Condominium" means an estate in the Project consisting of a Unit and an undivided interest in the Common Area.

e. "Unit" means the elements of a Condominium which are not owned in common with the owners of other Condominiums. Each Unit, of which there shall be six (6), shall be a separate freehold estate consisting of the space bounded by and contained within the finished interior surfaces of the perimeter walls, floors, ceilings, windows and doors, if any, throughout each Unit. Each Unit shall include the areas designated on the Plan respective to such Unit, as "Living Area", "Garage", "Parking Area" (if applicable),

"Patio", and "Balcony" and the airspace encompassed therein. The vertical limits of the Units as shown on the Plan are horizontal planes having lower and upper elevations as shown on the Plan. Each Unit includes the areas above described and the airspace so encompassed; but the following are not part of any Unit: bearing walls, columns, floors, roofs, foundations, central heating and other central services, slabs, stairways, pumps, pipes, ducts, flues, chutes, conduits, wires and other common utility installations, wherever located, (except the outlets thereof when located within the Unit). The physical boundaries of the Units as constructed, or of any Unit reconstructed in substantial accordance with the original plans, shall be conclusively presumed to be the boundaries rather than any metes and bounds description expressed in any deed or plan, regardless of settlement or lateral movement of the building and regardless of any minor variance between boundaries shown in any deed or plan and those of the building.

f. "Common Area" means the entire Project excepting all Units.

g. "Condominium Owner" means the person(s) who hold(s) record title to any Condominium shown on the Plan. Prior to the conveyancing of any particular Condominium by Developer, Developer shall be, as to such Condominium, the Condominium Owner. Such Condominium Owner is by virtue of such ownership a member in the Association.

h. "Association" means the Condominium Owners' Association, an unincorporated association created by this Declaration and composed of all of the Condominium Owners.

i. "Board" means the Board of Governors of the Association.

j. "Governor" means one member of the Board of Governors.

k. "Mortgagee" shall mean and refer to a beneficiary under or holder of a deed of trust, as well as a mortgagee.

l. "Mortgage" shall mean and refer to a deed of trust as well as a mortgage.

3. Ownership and Control of the Common Area, Personal Property and Easements through Common Area.

a. The Common Area is and shall be owned by the Condominium Owners as tenants-in-common, in equal, undivided shares, one share for each Unit. Any transfer or conveyance, (by operation of law or otherwise) of a Unit shall be presumed to transfer or convey the entire Condominium including but not limited to the undivided interest of the Condominium Owner of such Unit in and to the Common Area. Control and management of the Common Area shall be transferred from the Developer to the Association upon the first meeting of the Association to be held in accordance with Paragraph 6 hereof.

b. The beneficial interest in the personal property acquired by the Association shall be owned by the Condominium Owners in the same proportion as their respective interests in the Common Area. A transfer or conveyance (by operation of law or otherwise) of a Condominium shall transfer to the transferee ownership of the transferor's beneficial interest in such personal property. The transfer of such personal property by the Association pursuant to Paragraph 12 (13) hereof shall transfer title thereto free and clear of any claim on the part of any Condominium Owner. Except as set forth in this Paragraph, the beneficial interest of any Condominium Owner in such personal property shall not be transferable.

c. A nonexclusive easement for ingress, egress and support throughout the Common Area is hereby given and shall be appurtenant to each Unit, and the Common Area is and shall be subject to such easement.

4. Partition. The Project shall remain undivided, and there shall be no judicial partition thereof, except that an action may be brought

by one or more of the Condominium Owners for partition of the Project by sale of the entire Project, as if all of the Condominium Owners in the Project were tenants in common in the Project in the same proportion as their interests in the Common Area; provided, however, that such partition shall be made only upon the showing that:

a. Within three years after damage to or destruction of the Project which renders a material part of it unfit for its use prior thereto the Project has not been rebuilt or repaired substantially to its state prior to its damage or destruction; or

b. Three-fourths (3/4) or more of the Project has been destroyed or substantially damaged, and Condominium Owners holding in aggregate more than fifty percent (50%) interest in the Common area are opposed to repair or restoration of the Project; or

c. The Project has been in existence in excess of fifty (50) years; it is obsolete and uneconomic; and Condominium Owners holding in aggregate more than a fifty percent (50%) interest in the Common Area are opposed to repair or restoration of the Project.

The component elements comprising a Condominium shall not be severable nor separately transferred until the expiration of fifty (50) years from the date of this Declaration, nor shall such component elements be partitioned except pursuant to a partition made in accordance with the foregoing provisions of this paragraph. The foregoing shall not, however, be deemed to prevent partition of a co-tenancy in a particular Condominium. The Board of Governors shall have, and is hereby given, a power of attorney to sell the Project for the benefit of all the then Condominium Owners when

partition thereof may be had pursuant to this Paragraph 4. This power of attorney shall be binding upon all the Condominium Owners and may be exercised by a majority vote of the Board. The power of attorney is hereby declared to be irrevocable and one coupled with an interest.

5. Membership in the Association. The Association is hereby created to serve as a "management body" to provide for the management, maintenance and preservation of the Common Area, all as more specifically set forth in this Declaration and in the rules and regulations from time to time adopted by the Association. The Association shall have one (1) class of members only and the property and other rights, interests and privileges of each member in good standing shall be equal. Every Condominium Owner shall be and become a member of the Association contemporaneously with his acquisition of a Condominium without further documentation of any kind. Membership in the Association shall be appurtenant to and may not be separated from ownership of any Condominium. No certificate of membership or other documents evidencing membership in the Association shall be used. Transfer of membership of any Condominium Owner shall be only by conveyance of the Condominium by such Condominium Owner. In the event that any such Condominium is owned by two (2) or more persons, then all such persons shall be members of the Association; provided, however, that in no event shall more than one (1) vote be cast with respect to any one Condominium, which voting power shall be exercised as such persons among themselves determine.

6. Meetings of Members - Requirements. Regular meetings of members of the Association shall be held not less frequently than once each calendar year. The first meeting of the Association, whether a regular or special meeting, shall be held within forty-five (45) days after the

closing of the sales of four (4) Condominiums, but in no event shall the meeting be held later than six (6) months after the date of the first closing of a sale of a Condominium. At the time of the said first meeting, the control and management of the Common Area shall pass to the Association. Annual regular meetings of the members of the Association shall thereafter be held annually on the anniversary date of said first meeting. Special meetings of members of the Association shall be promptly called by the Board upon (1) a majority of a quorum of the Board voting to hold such meeting, or (2) upon the Board's receipt of a written request therefor signed by members representing not less than twenty-five percent (25%) of the total voting power of the Association or by members representing not less than fifteen percent (15%) of the voting power residing in members other than the Developer. As to all annual and special meetings of the members of the Association, reasonable written notice (and in no event, except in an emergency situation, less than ten (10) days' written notice) shall be given to the Condominium Owners specifying the place, day and hour of such meeting, and in the case of a special meeting, such notice shall state the nature of the business to be undertaken. Meetings of the Association shall be held within the Project or at a meeting place to be determined by the Board as close thereto as possible. Unless unusual conditions exist, members' meetings shall not be held outside San Diego County.

7. Meetings of Members - Quorum and Voting. Condominium Owners holding a majority of voting power, present in person or by proxy, shall constitute a quorum at any meeting of the Association. The Chairman of the Board or any Governor in the Chairman's absence shall preside; the Secretary

of the Board or any Governor in the Secretary's absence shall record the proceedings. Minutes or similar records of the proceedings, when signed by such presiding Governor and such recording Governor, shall be presumed to truthfully evidence the matters set forth therein. If any meeting cannot be held because said quorum is not present, the Condominium Owners present, either in person or by proxy, may adjourn said meeting to a date not less than five (5) days and not more than thirty (30) days from the original meeting date; at said subsequent adjourned meeting, Condominium Owners holding at least twenty-five percent (25%) of the voting power of the Association, present in person or by proxy, shall constitute a quorum. Each Condominium Owner shall have one (1) vote for each Condominium owned, and on all matters the majority of voting power shall determine the issue, except as otherwise provided herein. Voting at all meetings of the Association shall be by written ballot, orally, or by any other method, at the presiding Governor's discretion. The vote (or votes, in case of elections for or removals of Governors) appurtenant to any Condominium owned by more than one legal person may be cast by only one of such persons. The duly appointed guardian, conservator, executor, or other personal representative authorized by law to act with respect to the property of any Condominium Owner shall have the right to exercise the voting privilege of such Owner. Voting may be in person or by proxy. Proxies shall be in such written form as the Association may prescribe and shall be filed with the Association at or prior to the time of exercise thereof. Except as otherwise limited by governing law, a proxy shall be effective for the term therein specified or until there be filed with the Association a written revocation or later proxy. Death or

incapacity of the grantor of a proxy shall not constitute revocation of the same until and unless written notice of such death or incapacity is filed with the Association. The grantor of a proxy may elect to vote in person, in which case the proxy shall be suspended as to any question so voted on by such grantor.

8. Board of Governors - Election Thereof. The governing body of the Association shall be its Board of Governors. At each annual meeting of the Association, commencing with the first meeting of the Association, three (3) Governors shall be elected, each of which must be a Condominium Owner, and any of whom may have previously served or be serving as a Governor. In any such election, the Condominium Owner of one or more Condominiums shall have, for each Condominium owned, three (3) votes and may divide and cast such votes in whole numbers among any number of candidates or cumulate such votes in favor of one candidate. The three (3) candidates receiving the highest number of votes shall be Governors, whose term as such shall commence at the adjournment of the meeting at which elected and continue until the adjournment of the meeting at which their successors shall be elected. In the event the election of any Governor shall be dependent upon the resolution of a tie vote, the same shall be resolved by drawing a lot in the manner prescribed by the presiding Governor. A special procedure shall be established by the rules of the Board to assure that at least one representative of the Board is elected solely by the votes of Condominium Owners other than the Developer at any election in which the Condominium Owners other than the Developer do not have a sufficient percentage of the voting power of the Association to elect at least one governing body member through the cumulating of all of their votes.

9. Board of Governors - Removal. In voting for the removal of a Governor (or Governors if more than one are to be voted upon) the Condominium Owner of one or more Condominiums shall have, for each Condominium owned, one (1) vote for each Governor for whom removal is sought, and may divide and cast his votes (if there be more than one) in whole numbers among the Governors being voted upon or may cumulate such votes for or against the removal of a single Governor; provided however, that unless the entire Board is removed, an individual Governor shall not be removed if the number of votes voted against the resolution for his removal exceeds the quotient arrived at when the total number of members entitled to vote is divided by one (1) plus the authorized number of Governors. At or after the time of removal, pursuant to this paragraph, of any Governor, the Condominium Owners may, in the manner prescribed in Paragraph 8 hereof elect a successor to the Governor so removed. A Governor who has been elected to office solely by the votes of members of the Association other than the Developer may be removed from office prior to the expiration of his term of office only by the vote of at least a simple majority of the voting power residing in Condominium Owners other than the Developer.

10. Board of Governors - Meetings. Regular meetings of the Board shall normally be held monthly, although the Board may prescribe such meetings as infrequently as every three (3) months if the business to be transacted by the Board does not justify more frequent meetings. Regular meetings of the Board shall be held at the time and place within the Project as fixed by the Board from time to time. Notice of the time and place of such meeting shall be posted at a prominent place or places within the Common Area for the benefit of all Condominium Owners. A special meeting

of the Board may be called by written notice signed by the President of the Association or by any two Governors other than the President. Such notice of special meeting shall specify the time and place of the meeting and the nature of the special business to be considered and shall be sent to all Governors and posted in a manner prescribed for notice of regular meetings not less than seventy-two (72) hours prior to the scheduled time of the meeting. Regular and special meetings of the Board shall be open to all members of the Association; provided, however, that Association members who are not on the Board may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the Board. The Board may, with the approval of a majority of a quorum of the Governors, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved and orders of business of a similar nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

11. Board of Governors - Number, Quorum and Voting.

a. A Board of Governors, consisting of three (3) persons, shall control the business and affairs of the Association and shall possess and be vested with the rights, powers, and duties hereinbelow set forth. Until such time as their successors shall be elected as hereinbelow set forth, the following persons shall constitute the initial Board:

(1) DOYLE M. WHITLOW
13787 Condesa Drive
Del Mar, CA 92014

(2) FARRIS E. WANKIER
13985 Mira Montana
Del Mar, CA 92014

(3) ROY E. LESTER
13786 Pine Needles Drive
Del Mar, CA 92014

Said initial Board shall perform its duties only until the first election of Governors held pursuant to Paragraph 8 hereof. Where a vacancy of the Board occurs by reason of the death, resignation, or judicial adjudication of mental incompetence of a Director the remaining Governors shall elect a successor to serve the remainder of the term of such terminated Governor.

b. A majority of the Governors shall constitute a quorum for the transaction of business. The vote of a majority of Governors present at any meeting of the Board shall constitute the decision of the Board as to the question voted upon. Any action permitted to be taken by the Board may be taken without a meeting of the Board if all the then existing Governors shall consent in writing to such action.

12. Board of Governors - Rights and Powers.

a. The Board of Governors shall have the following rights and powers, but the following is not intended to limit the rights and powers of the Board:

(1) To elect from among the Governors a Chairman, Secretary and such other officers as the Board may determine, to fix their respective powers and duties, and to establish rules and regulations not inconsistent herewith relating to notices of Board meetings and other matters relating to the conduct of Board meetings. Any two offices except those of Chairman and Secretary may be combined.

(2) To adopt reasonable rules and regulations not

inconsistent with the provisions contained in this Declaration, and to amend the same from time to time, relating to the use and operation of the Common Area and any facilities or property owned by the Association by the Condominium Owners and by their tenants or guests, and to the conduct of such persons with respect to storage of boats, trailers, bicycles and other objects, disposal of waste materials, drying of laundry, control of pets and other activities which, if not so regulated might detract from the appearance of the Project or offend or cause inconveniences or danger to persons residing or visiting therein. Such rules and regulations may provide that a Condominium Owner of a Condominium whose occupant leaves property on the Common Area in violation of the rules and regulations may be assessed to cover the expense incurred by the Association in removing such property and storing or disposing thereof. A copy of the rules and regulations shall be delivered to each Condominium Owner either personally or by mail. The rules and regulations shall be binding upon the Condominium Owners and occupants of the Condominiums, and their guests, and shall be enforceable to the same extent as if they were specifically set forth as provisions in this Declaration.

(3) To maintain bank account(s) for funds coming under control of the Association.

(4) To prepare budgets and financial statements for the Association, subject to the provisions of Paragraph 15 hereof.

(5) To levy assessments and otherwise act as set forth in Paragraph 14 hereof.

(6) To enforce the provisions of the Declaration and/or the rules and regulations of the Board, (although this shall not be

construed to prohibit enforcement of the Declaration by any Condominium Owner).

(7) To initiate and execute disciplinary proceedings against Condominium Owners for violations of this Declaration and/or the rules and regulations promulgated by the Board, including the imposition of monetary penalties and/or temporary suspensions of a Condominium Owner's rights as a member of the Association.

(8) To contract for and maintain fire, casualty, liability, workmen's compensation, medical, hospital, and other insurance on behalf of the Association insuring the Condominium Owners and/or the Association, and bonds of Governors, or some of them, and other persons subject to the provisions of Paragraph 18 hereof.

(9) To contract for a period not exceeding one (1) year and provide and pay for (a) maintenance, repair, utility, gardening and other services, and tools, equipment, materials, supplies and other personal property, for the benefit of the Common Area, (b) employment of persons necessary for operation of the Project buildings and (c) legal and accounting services.

(10) To contract for and pay for reconstruction of any portion or portions of the Project damaged or destroyed.

(11) To enter any Unit to the extent such entry is necessary to carry out the repainting, maintenance, or repair of the exterior surfaces of any building, or to perform any work required in the maintenance and upkeep of the Common Area, or for any other purpose reasonably related to the performance by the Board of its responsibilities under the terms of

this Declaration. Such right of entry shall be exercised in such manner as to interfere with the possession and the enjoyment of the occupant of such Unit as little as is reasonably possible and shall be preceded by reasonable notice wherever the circumstances permit.

(12) To pay taxes and assessments which are or could become a lien upon the entire Project or the Common Area, and to pay and discharge any lien or encumbrance levied against the entire Project or the Common Area.

(13) To dispose by sale or otherwise of maintenance equipment or other Association property acquired pursuant to Paragraph 12.a(a) hereof; funds received as consideration in such disposition shall be deemed "personal property" as that term is used in Paragraph 3.b. hereof.

(14) To delegate the Board's rights and powers or any of them to committees, officers or employees of the Association, so long as the Board retains ultimate responsibility.

(15) To sell, at such price and terms as the Board may determine, the entire Project for the benefit of all of the Condominium Owners and mortgagees thereof, as their interests shall appear. Said power to sell shall be exercisable only (a) when partition of the Project may be had under California Code of Civil Procedure Section 752 b, and pursuant to Paragraph 4 hereof, and (b) after recordation of a certificate by those holding such power that said power is properly exercisable.

(16) To prosecute or defend, under the name of the Association, any action affecting or relating to the Common Area or the personal property described in Paragraph 3 hereof, or any action in which all of the Condominium Owners have an interest in the subject of the action or in whom any right to relief in respect to or arising out of the same

transaction or series of transactions is alleged to exist.

(17) To impose monetary penalties and temporary suspensions of a Condominium Owner's rights as a member of the Association for failure of such Condominium Owner to comply with this Declaration and/or the rules and regulations of the Board, in accordance with Paragraph 13 hereof.

b. The Board shall be prohibited from taking any of the following actions, except with the vote or written assent of a majority of the voting power of Condominium Owners, other than the Developer:

(1) Entering into a contract with a third person wherein the third person will furnish goods or services for the Common Area or the Association for a term longer than one (1) year with the following exceptions:

(a) A management contract, the terms of which have been approved by the Federal Housing Administration or Veterans Administration.

(b) A contract with a public utility company if the rates charged for the materials or services are regulated by the Public Utilities Commission, provided that the term of such contract shall not exceed the shortest term for which the supplier will contract at the regulated rate.

(c) Prepaid casualty and/or liability insurance policies of not to exceed three (3) years duration, provided that the policy permits short rate cancellation by the insured.

(2) Incurring aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

(3) Selling during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

(4) Paying compensation to Governors or to officers of the Association for services performed in the conduct of the Association's business; provided, however, that the governing body may cause a member or officer to be reimbursed for expenses incurred in carrying on the business of the Association.

c. In discharging their duties and responsibilities, the Governors act on behalf of and as representative of the Board which acts on behalf of and as representative of the Condominium Owners, and no Governor thereof shall be individually or personally liable or obligated for performance or failure of performance of such duties or responsibilities unless he fails to act in good faith. No right or power conferred on the Board in this paragraph shall be construed as a duty, obligation or disability charged upon the Board or any Governor. If any right or power herein granted be exercised, Governors so exercising or voting for such exercise shall be held to the same standard of care as would a trustee acting for compensation.

Any contract entered into, or instrument executed, in the name "The Board of Governors of the La Posada Condominium Owners Association" under "Declaration of Covenants, Conditions and Restrictions" recorded on 1977, as File/Page No. , Official Records of San Diego County, California (said recording reference being the recording data of this Declaration) by any two or more Governors pursuant to resolution of the Board shall be (1) valid and subsisting according to the tenor of such contract or instrument, (2) a charge upon all cash, bank accounts, and

other personal property under the control of the Board, and (3) a debt of all Condominium Owners in the same proportion as their respective interests in the Common Area. Any transfer, assignment, or conveyance to, or contract right in favor of, the Board in the manner quoted above shall vest in the Board, for the benefit of the Condominium Owners in the same proportion as their respective interests in the Common Area, the property, right, title, interest, estate or thing so transferred, assigned, conveyed, or contracted. So long as he acts within the scope of his authority as a Governor, no Governor shall have any personal liability under any such contract or instrument; the foregoing shall not be construed to relieve any Governor from liability as such Condominium Owner.

d. No Condominium Owner shall have the right without the prior approval of the Board to exercise any of the rights and powers given to the Board by this Declaration.

13. Discipline of Condominium Owners for Breach of Governing Instruments.

a. The membership rights and privileges, including the voting rights, of any Condominium Owner may be suspended by the Board for any period of time during which such Condominium Owner is determined by the Board to be in breach of this Declaration or the Board's rules and regulations; provided, however, that no such suspension shall be effective until the Board gives to such Condominium Owner the opportunity of a hearing before the Board on such matter, which hearing shall be held not sooner than ten (10) days following the delivery to such Condominium Owner of written notice thereof. The rules and regulations of the Board may also include the imposition of reasonable fines against Condominium Owners for violations of the obligations imposed by this Declaration or said rules and regulations,

so long as the opportunity for hearing provided for above is made available to the Condominium Owner in violation.

b. Notwithstanding anything that may be construed to the contrary, the Association has no power or right to cause a forfeiture or abridgement of a Condominium Owner's rights to the full use and enjoyment of his individually-owned Unit on account of a failure by such Condominium Owner to comply with the provisions of the Declaration and/or the Board's rules and regulations except where such abridgment or forfeiture is the result of the judgment of a court or a decision arising out of arbitration or on account of a foreclosure or sale under a power of sale for failure of said Condominium Owner to pay his share of assessments levied by the Association.

14. Assessments and Liens.

a. Creation of Personal Obligation for Assessments and Liens. The Developer, for each Condominium owned within the Project, hereby covenants, and each Condominium Owner of any Condominium by acceptance of a deed thereto, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association in accordance with this Declaration: (1) Regular assessments to defray expenses of the Association attributable to the maintenance and operation of the Common Area and (2) special assessments for capital improvements to, or for other purposes for the benefit of the Common Area. All such assessments are to be established and collected as provided for herein and in any rules and regulations adopted by the Board. These regular assessments and any special assessments, together with interest, costs and reasonable attorney's fees, shall be a continuing lien upon the Condominium against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the

person or persons who were the Owners of such Condominium at the time when the assessment fell due.

b. Uniform Rate of Assessment. Regular assessments shall be levied at a uniform rate for all Condominiums, that is, levied against each Condominium Owner according to the ratio that the number of Condominiums owned by him bears to the total number of Condominiums in the Project, and may be collected on a monthly basis or otherwise as determined by the Board in its rules and regulations.

c. Date of Commencement of Assessments and Due Dates. The Board shall fix the amount and due dates of regular assessments and special assessments against each Condominium as provided herein. Written notice of the assessment shall be sent to every Condominium Owner. The Association shall, upon demand and for a reasonable charge, furnish a certificate signed by a Governor setting forth whether the assessments on a specified Condominium have been paid. Regular assessments against all Condominiums in the Project shall commence on the first date of a closing of a Condominium sale or on the first day of the month following such closing date.

d. Limitations on Increases in Regular Assessments. The Board may not, without the vote or written assent of a majority of the voting power of the Association residing in Condominium Owners other than the Developer, impose, annually, a regular assessment per Condominium which is more than twenty percent (20%) greater than the regular assessment for the immediately preceding fiscal year.

e. Limitations Regarding Special Assessments.

(1) In any fiscal year, the Board may not, without the vote or written assent of a majority of the voting power of the Association residing in Condominium Owners other than the Developer, levy special

assessments to defray the costs of any action or undertaking on behalf of the Association which in the aggregate exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year.

(2) Every general special assessment shall be levied upon the same basis as that prescribed for the levying of regular assessments.

(3) The above provisions with respect to special assessments do not apply in the case where the special assessment against a Condominium Owner is a remedy utilized by the Board to reimburse the Association for costs incurred in bringing the Condominium Owner and his Condominium into compliance with provisions of this Declaration.

f. Effect of Nonpayment of Fees and Assessments: Remedies of the Board. Any regular or special assessment not paid within thirty (30) days after the due date thereof shall bear interest from said due date at the rate of ten percent (10%) per annum until paid. The Association may bring an action at law against the Condominium Owner personally obligated to pay the same and/or foreclose the lien against the Condominium in question. No Condominium Owner may waive or otherwise escape liability for the fees and assessments provided for herein by non-use of the Common Area or abandonment of his Condominium or any part thereof.

g. Notice of Delinquency. At any time after any assessments levied by the Association affecting any Condominium have become delinquent, the Board may file for recording in the Office of the San Diego County Recorder a notice of delinquency as to such Condominium, which notice shall state all amounts which have become delinquent with respect to such Condominium and the costs (including attorney's fees) and interest which have accrued thereon, the amount of any fees or assessments relating to such Condominium which are due and payable although not delinquent, a description of the

Condominium in respect to which the delinquent fees or assessments are owed, and the name of the record or reputed record Owner of such Condominium. Such notice shall be signed by a Governor or any officer designated by the Board, or by the Association's attorney. In the event the delinquent fees or assessments and all other fees and assessments which have become due and payable with respect to the same Condominium together with all costs (including attorney's fees) and interest which have accrued on such amounts are fully paid or otherwise satisfied prior to the completion of any sale held to foreclose the lien provided for in this paragraph, the Board shall record a further notice, similarly signed, stating the satisfaction and releasing of such lien. Immediately upon recording of any notice of delinquency pursuant to the foregoing provisions, the amounts delinquent, as set forth in such notice, together with the costs, including attorney's fees, penalties and interest accruing thereon, shall be and become a lien upon the Condominium described therein, which lien shall also secure all other payments and/or assessments which shall become due and payable with respect to said Condominium following such recording, and all costs, including attorney's fees, penalties and interest accruing thereon. Said lien shall continue until all amounts secured thereby are fully paid or otherwise satisfied.

h. Foreclosure of Lien. Each assessment lien may be judicially foreclosed as and in the same manner as the foreclosure of a deed of trust upon real property under the laws of the State of California, or may be enforced by non-judicial sale pursuant to Section 2924 of the California Civil Code, and to that end a power of sale is hereby conferred upon the Association.

i. Subordination of the Lien to Mortgages. Any assessment lien provided for herein shall be subordinate to the lien of any mortgage

made in good faith and for value upon any Condominium. Sale or transfer of any Condominium shall not affect the fee and assessment lien. However, the sale or transfer of any Condominium pursuant to judicial or non-judicial foreclosure of a deed of trust made in good faith and for value or any conveyance in lieu thereof shall extinguish such assessment lien as to payments which became due prior to such sale or transfer. No sale or transfer shall relieve such Condominium from lien rights for any assessments thereafter becoming due.

15. Budgets and Financial Statements.

a. Financial statements for the Association shall be regularly prepared and copies shall be distributed to each Condominium Owner as follows:

(1) A pro forma operating statement (budget) for each fiscal year shall be distributed not less than sixty (60) days before the beginning of the fiscal year.

(2) A balance sheet, as of an accounting date which is the last day of the month closest in time to six (6) months from the date of the first closing of a Condominium in the Project, and an operating statement for the period from the date of the first closing to the said accounting date, shall be distributed within sixty (60) days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the number of the Condominium and the name of the entity assessed.

(3) A balance sheet as of the last day of the Association's fiscal year and an operating statement for said fiscal year shall be distributed within ninety (90) days after the close of the fiscal year.

b. An external audit by an independent public accountant

shall be required for fiscal-year financial statements (other than budgets) for any fiscal year in which the gross income to the Association exceeds \$75,000.

16. Inspection of the Association's Books and Records.

a. The membership register, books of account and minutes of meetings of the Condominium Owners, of the Board and of committees of the Board shall be made available for inspection and copying by any Condominium Owner, or by his duly-appointed representative, at any reasonable time and for a purpose reasonably related to his interest as a member of the Association at the office of the Association or at such other place within the Project as the Board shall prescribe.

b. The Board shall establish reasonable rules with respect to:

(1) Notice to be given to the custodian of the records by the Condominium Owner desiring to make the inspection.

(2) Hours and days of the week when such an inspection may be made.

(3) Payment of the cost of reproducing copies of documents requested by a Condominium Owner.

c. Every Governor shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a Governor includes the right to make extracts and copies of documents.

17. Restrictions on Use.

a. Single-Family Residence Only. Each Unit shall be used as a single family residence and for no other purpose or purposes except

that a sales office and/or sales display area may be maintained by Developer in any of the Units until sales of all of the Condominiums in the Project have been consummated.

b. Repair of Units. Each Condominium Owner shall have the exclusive right and duty at his own expense to keep clean, repair, repaint, tile, wax, paper or otherwise refinish and decorate the inner surfaces of the walls, ceilings, floors, windows, and doors bounding his own Unit; provided, however, that no shutter, screen or appurtenance shall be constructed or permitted in or on any window or door on a Unit without the express written consent of the Board. No Condominium Owner shall permit laundry or other unsightly items to extend from or hang over the windows or balcony of his Unit. All windows shall have, facing the exterior, either draperies, drapery lining or casements of a neutral color approved by the Board.

c. No Uninsurable Use of Units. No Unit shall be occupied or used for any purpose or in any manner which shall cause such improvements to be uninsurable against loss by fire or the perils of the extended coverage endorsement to the California Standard Fire Policy form, or cause any policy or policies representing such insurance to be cancelled or suspended or the company issuing the same to refuse renewal thereof.

d. No Nuisances. No Unit shall be used in such manner as to interfere with the enjoyment of occupants of other Units or annoy them by unreasonable noises or otherwise, nor shall anything be done therein which may be or become an annoyance or nuisance to the Condominium Owners.

e. Pets. One domesticated cat, or one domesticated dog,

or other commonly accepted household pet, none of which shall exceed a maximum of 25 pounds in total weight, or caged birds or fish in a household aquarium may be kept and maintained in a Unit, so long as such pets shall not in the Board's opinion create an unreasonable annoyance or nuisance to the Condominium Owners. No other animals or pets shall be kept, maintained or permitted on the Project without the express written consent of the Board of pursuant to regulations adopted by the Board.

f. Use of Common Area. The Common Area, except buildings, shall be improved and used only for (1) vehicular parking, (2) vehicular and pedestrian movement within the Project, including access to the Units, (3) recreational use by the Condominium Owners and occupants of Units and their guests, subject to rules and regulations established by the Association and (4) beautification of the Project and providing privacy to the residents thereof through landscaping and such other means as the Association shall deem appropriate. No activity shall be carried on in the Common Area which shall be contrary to the rules and regulations of the Association relating to use of and activity in the Common Area.

g. No Structural Impairments and Garbage Removal. Nothing shall be done in any Unit or in, on or to the Common Area which will impair the structural integrity of any building or which would structurally change any building except as is otherwise provided herein. No drilling or mining operations of any kind shall be permitted upon or in any Unit or the Common Area. No Condominium Owner shall make any alteration or improvement to the Common Area or remove any planting, structure, furnishings or other object therefrom, except with the consent of the Board. All equipment, garbage cans and other containers shall be kept screened and concealed from view

from neighboring Units, streets and the Common Area. All rubbish, trash or garbage shall be regularly removed from each Unit and shall not be allowed to accumulate thereon or on the adjacent Common Area. Each Condominium shall be liable to the Association for all damages to the Common Area or to any improvements thereon or thereto, including but not limited to, buildings, recreational facilities and landscaping, caused by such Condominium Owner, his guests or any occupant of such Condominium Owner's Unit.

h. Sign Limitations. No Condominium Owner shall place any sign (for rent, sale, or exchange) on the interior walls of his Unit, except where such sign is of reasonable dimensions, as determined by the City of Carlsbad, pursuant to Sections 712 and 713 of the California Civil Code.

k. Garage Use. No Condominium Owner shall permit any vehicle to leak oil, water, brake fluid, antifreeze, grease, or other similar fluids on the uncovered floor of his garage and parking space (if his Unit has such). No Condominium Owner or guest shall perform or permit any automobile repair, motorcycle repair, or overhaul work anywhere upon the Project.

18. Insurance.

a. The Association shall keep (1) all buildings in the Project and (2) all personalty owned in common by the Condominium Owners insured for the benefit of all Condominium Owners and their mortgagees, as their interests may appear. The amount of coverage of such insurance shall be the maximum insurable replacement value of said buildings and fair market value of personalty as determined annually by any insurance carrier selected by the Association. Insurance proceeds (other than those paid to

mortgagees) shall be payable to the Association. In the event of any loss, damage or destruction so insured against, the Association shall cause the same to be replaced, repaired or rebuilt. In the event the cost of such replacement, repair or rebuilding exceeds the insurance proceeds available therefor, the deficiency shall be assessed equally to all of the Condominium Owners in the Project. In the event the insurance proceeds available for such replacement, repair or rebuilding exceed the cost thereof, the excess shall be deemed personalty governed by the provisions of Paragraph 3.b. hereof. Nothing contained in this paragraph shall be construed to supersede any provision of Paragraph 4 hereof relating to Partition. Every policy of said insurance held by the Association shall be primary to and shall not be affected by any right of setoff, proration or contribution by reason of any insurance held by an individual Condominium Owner and shall contain a waiver of subrogation rights by the insurer as against the Association, the Board and the individual Condominium Owners.

b. The Association shall procure and keep in force during the term hereof insurance in the name of the Association and the Condominium Owners against any liability to the public resulting from any occurrence in or about the Common Area in an amount not less than \$1,000,000.00 of combined single limit liability; this policy shall also include errors and omission coverage for the Board of Governors in an amount not less than \$300,000. Every policy of said insurance shall be primary to and shall not be affected by any right of setoff, proration or contribution by reason of any insurance held by an individual Condominium Owner.

c. Copies of all such insurance policies (or certificates thereof showing the premiums thereon to have been paid) shall be retained

by the Association and be open for inspection by the Condominium Owners at any reasonable time(s). All such insurance policies shall provide that they shall not be cancellable by the insurer, without first giving at least thirty (30) days prior notice in writing to the Association.

19. Maintenance, Repairs, and Alterations.

a. Common Area. The Association shall maintain the Common Area and such maintenance shall include, but not be limited to, mowing and care of lawns and other landscaping, replanting and redesigning of the landscaped areas; and repairing the structures and exteriors (including roofs) of the Project buildings. No Condominium Owner shall do anything which would interfere with the Association's maintenance of the landscaped areas and the structures and exteriors of the Project buildings. The Association shall recover the costs of such maintenance from the assessments provided for in Paragraph 14 hereof.

b. Units. Each Condominium Owner shall have the obligation at his own expense to repair, maintain, keep clean, repaint, tile, wax, paper and otherwise refinish and re-decorate, the inner surfaces of the walls, ceilings, floors, windows, doors, and trim of his Unit, including the fixtures attached thereto and the interior of the Unit's balcony.

20. Condemnation. In the event the Project or any portion thereof shall be taken or condemned by any authority under the power of eminent domain, all compensation and damages relating to the land and improvements shall be payable to the Association as trustee for all Condominium Owners and mortgagees according to their respective interests as they appear.

21. Damage to Project. If any portion of the Project is damaged

or destroyed by fire or other casualty, then:

a. If the cost of repairing or rebuilding does not exceed the amount of available insurance proceeds by more than \$5,000.00, the Board shall thereupon contract to repair or rebuild the damaged portions of the Project substantially in accordance with the original plans and specifications for the Project.

b. If the cost of repairing and rebuilding exceeds the amount of available insurance proceeds by more than \$5,000.00, and if a majority of the Condominium Owners agree to the repair or restoration of the Project, then the Board shall contract as provided in Paragraph 21.a. above. If said Condominium Owners do not so agree, then all insurance proceeds shall be paid to the account of the Association to be held for the benefit of the Condominium Owners and their Mortgagees as their respective interests appear.

c. If a bid to repair or rebuild is accepted, the Board shall levy a special assessment in proportion to the interest of each Condominium Owner in the Common Area to make up any deficiency between the total insurance proceeds and the contract price for such repair and rebuilding, and such assessment and all insurance proceeds, whether or not subject to liens of Mortgagees, shall be paid to the account of the Association to be used for such rebuilding.

22. Breach

a. A breach of any of the covenants, conditions and restrictions contained in this Declaration (other than a breach by failure to pay fees and assessments to the Association), or a breach of the rules and regulations adopted by the Board, which is not cured within fifteen (15) days from the

date notice of such breach is given by the Board to the Condominium Owner who has caused such breach, shall give to the Board and any other Condominium Owner the remedies hereinafter set forth.

b. Any such breach may be enjoined, abated or remedied by appropriate proceedings in law or equity by any Condominium Owner or by the Board. It is hereby agreed that damages at law for such breach are inadequate.

c. The results of every act or omission to act which are a breach are hereby declared to be and constitute a nuisance, and every remedy allowed by law or equity against a nuisance shall be applicable against every such result and may be exercised by any Condominium Owner or by the Board.

d. The remedies herein provided for breach are deemed cumulative, and none of such remedies shall be deemed exclusive.

e. The failure of the Board or any Condominium Owner to enforce any of the provisions contained in this Declaration and/or the rules and regulations shall not constitute a waiver of the right to enforce the same thereafter. (Such a breach shall not affect or impair the lien or charge of any bona fide deed of trust or mortgage made in good faith and for value on any Condominium; provided, however, that any subsequent Owner of such property shall be bound by said provisions, whether such new Owner's title was acquired by foreclosure or in a trustee's sale or otherwise.

23. Amendments to Declaration. Amendments of this Declaration may be enacted by the vote or written consent of a majority of the voting power of the Association residing in Condominium Owners other than the Developer; provided, however, that in no case shall the percentage of the voting power necessary to amend a specific clause or provision be less than the prescribed percentage of affirmative votes required for action to be

taken under that clause. For example, if the Declaration should state that seventy-five percent (75%) of the voting power must agree to an increase in the maximum annual assessment before such increase can be effected, then seventy-five percent (75%) of the voting power is necessary to amend this provision regardless of the percentage stated in the general provision respecting amendments. Any amendment shall become effective upon the recording thereof with the Office of the County Recorder of San Diego County, California.

24. General Provisions.

a. Severability. Should any provision in this Declaration be void or become invalid or unenforceable in law or equity by judgment or court order, the remaining provisions hereof shall remain in full force and effect.

b. Interpretation. All questions of interpretation or construction of any of the provisions contained in this Declaration shall be resolved by the Board, and its decision shall be final, binding and conclusive on all parties affected.

c. Extension of Declaration. Each and all of these covenants, conditions and restrictions shall terminate on that date fifty (50) years from the date of the recordation of this Declaration, after which date they shall automatically be extended for successive periods of ten (10) years, unless the Condominium Owners have executed and recorded at any time within six (6) months prior to the expiration of said 50-year period, or within six (6) months prior to the end of any such ten (10) year period, a writing in which it is agreed that said Declaration shall terminate on the expiration of said 50-year period, or at the end of any such ten (10) year period.

d. Binding on Successors. The provisions of this Declaration

shall bind and run with the property and shall inure to the benefit of, and be binding upon the heirs, legatees, devisees, executors, administrators, guardians, conservators, successors in interest, purchasers, lessees, encumbrancers, donees, grantees, mortgagees, lienors, and assigns of each Condominium Owner, and each person having or acquiring any right, title or interest in the Project or any portion of it.

e. Litigation. In the event any person or entity shall commence litigation to enforce any of the covenants, conditions or restrictions herein contained, the prevailing party in such litigation shall be entitled to costs of suit and such attorneys' fees as the Court may adjudge reasonable and proper.

Dated: MAR 18, 1977

S & L ENTERPRISES, INVESTMENTS

By: Roy E. Lester
ROY E. LESTER

By: Mozelle T. Lester
MOZELLE T. LESTER

By: Dan A. Swenson
DAN A. SWENSON

By: Farris E. Wankier
FARRIS E. WANKIER

By: Peggy L. Wankier
PEGGY L. WANKIER

By: Doyle M. Whitlow
DOYLE M. WHITLOW

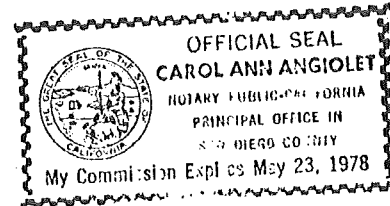
By: Gertrude C. Whitlow
GERTRUDE C. WHITLOW

General Partners

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.

On March 18, 1977 before me, the undersigned, a Notary Public in and for said State, personally appeared MOZELLE T. LESTER known to me to be the person whose name is subscribed to the within instrument as the Attorney in fact of ROY E. LESTER, one of the partners of the partnership that executed the within instrument, and acknowledged to me that she subscribed the name of ROY E. LESTER thereto as principal and one of the partners of the partnership that executed the within instrument, and her own name as Attorney in fact.
WITNESS my hand and official seal.


Notary Public



STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.

On March 18, 1977 before me, the undersigned, a Notary Public in and for said State, personally appeared MOZELLE T. LESTER, DAN A. SWENSON, FARRIS E. WANKIER, PEGGY L. WANKIER, DOYLE M. WHITLOW and GERTRUDE C. WHITLOW known to me to be the general partners of the partnership that executed the within instrument, and acknowledged to me that such partnership executed the same.
WITNESS my hand and official seal.


Notary Public

