

DECLARATION OF CONDITIONS AND RESTRICTIONS

OF

PARCEL #2, TRACT NO. 700

THIS DECLARATION, made this 1st day of April, 1962, by CONVERTAPLANE, INC., a California Corporation, herein called the "DECLARANT",

WITNESSETH:

WHEREAS, the Declarant is the owner of that certain Parcel #2, Tract 700, Imperial County, California, as per plat thereof recorded in Book 8, Page 49 in records of said County, and

WHEREAS, Declarant is about to offer said parcel for sale and desires to establish and impose a general plan for the improvement, development, use and occupancy of said property and each and every part thereof, all of which shall be binding on and inure to the benefit of the owner and future owners of said parcel and all thereof, in order to enhance its value, desirability and attractiveness and to subserve and promote the sale thereof;

NOW THEREFORE, Declarant hereby declares that said parcel is held and shall henceforth be sold, conveyed, used, improved, occupied, resided upon, hypothecated, and held upon and subject to the manner, provisions, conditions, restrictions, agreements and covenants between Declarant and the several purchasers and subsequent owners thereof, and their and each of their heirs, personal representatives, successors and assigns, all of which provisions, conditions, restrictions, agreements and covenants are and each of them is, impressed and imposed upon said parcel of said property as a servitude in favor of said parcel thereof as the dominant tenement or tenements as follows, to-wit:

All of the said restrictions, conditions, covenants, provisions and agreements are made for the benefit of the contiguous community to create a privity of contract and estate between the grantees of said parcel, their heirs, successors and assigns, and shall as to the owner of said parcel in said tract, his heirs, successors or assigns, operate as covenants running with the land for the benefit of the contiguous community and its owners.

SAID CONDITIONS ARE AS FOLLOWS: GENERAL

1. All buildings must follow types of architecture and design acceptable to the Architectural Board which shall be appointed by Declarant. In addition to the structure, swimming pools, walls, fences, and landscaping may be installed subject to approval of plans by the Architectural Board.

2. That all boat docks must be approved by said Architectural Board. In no case shall docks extend more than twenty five (25) feet into the canal from the shore line. All docking facilities for boats longer than twenty five (25) feet must be parked parallel to the shore line and in no case shall dock or boat extend beyond twenty five (25) feet from the shore line.

3. No buoys or floating markers, cables, swimming nets, etc., are permitted beyond twenty five (25) feet from the shore line.

4. No swimming in the canals is permitted unless a swimming net is installed and swimming is restricted to within twenty five (25) feet from the shore line.

5. That no changing of the canal shore line is permitted for any reason whatsoever without prior written approval of the Architectural Board.

6. Neither the undersigned nor any architect or agent of the undersigned shall be responsible in any way for any defects in any plans or specifications submitted, revised or approved in accordance with the foregoing, nor for any structural or other defects in any work done according to such plans or such specifications.

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7. No buildings or improvements of any kind constructed or placed upon said parcel thereafter shall be moved without the prior written approval of Declarant.

8. Declarant may allow reasonable variances and adjustments of these conditions and restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the application of the regulations contained herein, provided this may be done in conformity with the intent and purposes hereof and also provided in every instance that such variance or adjustment will not be materially detrimental or injurious to other property or improvements in the neighborhood.

9. No horses, cattle, sheep, goats, pigs, rabbits, poultry, or other livestock of any description shall be kept or maintained on any part of said property, with the exception of dogs, cats, or other animals which are bonafide household pets and which do not make objectionable noises nor otherwise constitute a nuisance or inconvenience to any of the residents of adjacent property, whereupon the persons having same in custody forthwith shall remove same from the properties.

10. Any building placed, erected or maintained upon said parcel in the tract shall be entirely constructed thereon, and same shall not nor shall any part thereof be moved or placed thereon from elsewhere, except with the express written consent of the Declarant.

11. No derrick or other structure designed for use in boring for water, oil, or natural gas shall be erected, placed or permitted upon any part of said property, nor shall any water, oil or natural gas be produced or extracted therefrom except by Declarant. All rights to water, oil and natural gas underlying same are reserved to Declarant.

12. No elevated tanks of any kind shall be erected, placed or permitted upon any part of said property. Any tanks for use in connection with any residence constructed on said property, including tanks for the storage of gas and oil, must be below ground. All types of refrigerating, cooling or heating equipment must be on the ground level and concealed.

13. Said parcel at all times shall be kept in a clean, sightly and wholesome condition. No trash, litter, junk, boxes, containers, bottles, cans, implements, machinery, lumber or other building materials shall be permitted to remain exposed upon said parcel so they are visible from any neighboring lot, road or canal, except as necessary during the period of construction.

14. In the event any structure is destroyed either wholly or partially by fire or any other casualty, said structure shall be promptly rebuilt or remodeled to conform to this declaration or all remaining portions of the structure, including the foundations and all debris, shall be promptly removed from the property.

15. Said parcel shall at all times be kept clear of weeds and other unsightly growth. In the event of violation of this provision, Declarant shall have the right to clear said parcel at the owner's expense and said violation will give Declarant a lien right.

16. Said parcel shall not be used in whole or part for the storage of any property or thing that will cause such lot to appear in an unclean, disorderly or untidy condition, or that will be otherwise obnoxious. No noxious or offensive activity shall be carried on upon said parcel nor shall anything be done, placed or stored thereon which may be, or become an annoyance or nuisance to the neighborhood or occasion any noises or odor which will, or might disturb the peace, quiet, comfort, or serenity of the occupants of nearby properties.

17. Said parcel shall not be subdivided, without consent of the Architectural Board, except for the purpose of combining portions with an adjoining parcel, provided that no additional lot or building site is created thereby. Any ownership or single holding by any person comprising the whole of one parcel and part or parts of one or more adjoining parcels shall, for all purposes of this declaration of conditions and restrictions, be deemed as constituting a single parcel. Not less than one entire parcel as originally laid out shall be used as a building site.

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18. All provisions, conditions, restrictions and covenants herein shall be binding on said parcel of real estate and the owners thereof and a violation of said provisions, conditions, restrictions or covenants shall warrant the Declarant to apply to any court of law or equity having jurisdiction thereof for an injunction or other proper relief, and if such relief be granted, the Court may, in its discretion, award to the plaintiff his court costs and reasonable attorney's fees.

19. Provided further that a violation of any of the foregoing agreements, provisions, conditions, restrictions and covenants hereby established, declared and set forth, if continued for a period of 30 days from and after the date that Declarant shall have notified in writing the owner or lessee in possession of the parcel upon which such breach has been committed to refrain from a continuance of such action and to correct such breach, shall cause title to the parcel upon which such breach occurs to revert to Declarant, its successors and assigns, who shall have the right of immediate re-entry upon and possession of said parcel.

20. Provided further that a violation of any of the foregoing provisions, conditions, restrictions or covenants shall not defeat or render invalid the lien of any mortgage or deed of trust made in good faith for value as to any portion of said property. But such provisions, conditions, restrictions and covenants shall be enforceable against any portion of said property acquired by any successor in interest whether such interest is acquired through foreclosure or by deed in lieu of foreclosure or by any means whatsoever.

21. In the event of violation or breach of any of said restrictions, conditions, covenants or agreements herein contained Declarant also shall have the right to enter upon said parcel on which, or as to which such violation or breach exists, and summarily to abate or remove, at the expense of the owner thereof, any structure, thing or condition that may exist therein contrary to the intent and meaning hereof, and Declarant shall not be deemed guilty of any manner of trespass for or by reason of such entry, abatement or removal.

22. Each grantee of the properties included within this Declaration, by acceptance of a deed conveying said parcel or properties, shall accept title thereto upon and subject to each and all of the restrictions, conditions, covenants and agreements herein contained, and the jurisdiction, rights and power of this Declarant, and by such acceptance, shall for himself, his heirs, personal representatives, successors and assigns, covenant, agree and consent to and with Declarant, to keep, observe, comply with and perform said restrictions, covenants, conditions and agreements and each thereof.

23. No delay or omission on the part of the undersigned or its successors or assigns in interest, as owner of the reversionary rights herein as specified, or the owner or owners of any other lot or lots in said property in exercising any right, power or remedy herein provided for in the event of any breach of any of the provisions, conditions, restrictions and covenants herein contained, shall be construed as a waiver thereof or an acquiescence therein; and no right of action shall accrue nor shall any action be brought or maintained by for or on account of its failure or neglect to exercise any right, power or remedy herein provided for in the event of any such breach, or for imposing herein provisions, conditions, restrictions or covenants which may be unenforceable.

24. In the event that any one or more of the provisions, conditions, restrictions and covenants herein set forth shall be held by any Court of competent jurisdiction to be null and void, all remaining provisions, conditions, restrictions and covenants herein set forth shall continue unimpaired and in full force and effect.

25. Any or all of the right, title, interest and estate given to or reserved by Declarant herein may be transferred or assigned to any person, persons, or corporation by appropriate instrument in writing executed by Declarant and recorded in the Office of the County Recorder of said County of Imperial, California, and wherever Declarant is herein referred to, such reference shall be deemed to include its successor or successors in interest.

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26. The various rights and remedies of Declarant and of owners of property as hereinbefore set out are and shall be cumulative. All of them may be used, relied upon, resorted to and enforced without in any way affecting the ability of Declarant or the said property owners to use, rely upon, resort to or enforce the other, or any of them.

27. Any variances or adjustments of these conditions and restrictions granted by Declarant pursuant to Paragraph No. 8 hereof, or any acquiescence or failure to enforce any violation of the conditions and restrictions herein shall not be deemed to be a waiver of any of the conditions and restrictions in any other instance.

28. IN WITNESS WHEREOF, CONVERTAPLANE, INC., a California Corporation, has caused its name to be signed and its seal to be affixed and attached by its officers thereunto duly authorized this 9th day of April 1964.

CONVERTAPLANE, INC.

BY [Signature]
President

BY [Signature]
Secretary

STATE OF CALIFORNIA
COUNTY OF Imperial

On this 9th day of April, A.D., 1964
before me, the undersigned, a Notary Public in and
for said County and State, personally appeared

[Signature]
known to me to be the President, and
[Signature]
known to me to be the Secretary of the

Convertaplane, Inc.
the Corporation that executed the within and foregoing
Instrument and known to me to be the persons who exe-
cuted the within Instrument on behalf of the Corporation
therein named, and acknowledged to me that such Corpora-
tion executed the within instrument pursuant to its by-
laws or a resolution of its board of directors.

WITNESS my hand and official seal the day and year
in this certificate first above written.

[Signature]
Notary Public in and for said County and State

IRIS O. SMITH
MY COMMISSION EXPIRES APRIL 6, 1967

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RECORDED REQUEST OF
Title Insurance and Trust Company

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OFFICIAL RECORDS
IMPERIAL COUNTY, CALIF.
EVALYN B. WESTERFIELD,
COUNTY RECORDER

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