

**DECLARATION RESCINDING COVENANTS, CONDITIONS,
AND RESTRICTIONS, AND IMPOSING COVENANTS,
CONDITIONS, AND RESTRICTIONS**

WHEREAS, PACIFIC CASCADE LAND COMPANY, INC., hereinafter called “Declarant,” is the owner of the following described property:

Lots 766 to 1379 inclusive, of Lake Don Pedro Unit Three according to the Map recorded in Volume 4 of Subdivisions, at page 8, Tuolumne County Records, hereinafter sometimes called the “Unit”;

and

WHEREAS, it is the desire and intention of the owner to sell the property described above and to impose on it mutual beneficial restrictions under a general plan or scheme of improvement for the benefit of all the lands in the tract and the future owners of those lands; and

WHEREAS, there was previously recorded a Declaration of Covenants, Conditions, and Restrictions, which Declaration was recorded on October 30, 1968, in the office of the Recorder of Tuolumne County, California, in Volume 260, of Official Records, at page 172.

NOW, THEREFORE, the owner hereby declares that all of the Covenants, Conditions and Restrictions heretofore imposed upon said real property by said Declaration, as amended, are hereby rescinded and cancelled, and the owner hereby declares that all of the property described above is held, and shall be held, conveyed, hypothecated, above is held, and shall be held, conveyed, hypothecated, or encumbered, leased, rented, used, occupied, and improved, subject to the following limitations, restrictions, conditions, and covenants, all of which are declared to be in

furtherance of a plan for the subdivision, improvement, and sale of the unit which will be one of several units in the subdivided land area generally known as Lake Don Pedro (hereinafter referred to as the “Subdivision”), which have been or will be developed from adjoining lands owned by Declarant and annexed to the subdivision as detailed herein. Declarant does hereby establish these **limitations**, restrictions, conditions, and covenants for the purpose of enhancing and protecting the value, desirability, and attractiveness of said real property, and every part thereof. All of the limitations, restrictions, conditions, and covenants shall run with the land and shall be binding on all parties having or acquiring any right, title, or interest in the described real property, or any part thereof.

1. USE COVENANTS.

Lots 766 to 802 inclusive, 807 to 821 inclusive, 826 to 1379 inclusive, shall be for residential purposes and such other purposes permitted by the R-E TX zoning ordinance for Tuolumne County. Lots 803 to 806 inclusive and 822 to 825 inclusive shall be for commercial and residential purposes. All lots in the unit may be used as a Church site and shall be subject to the following requirements:

(a) That no building to be occupied as a residence with a floor area of less than 800 square feet shall be placed or maintained on said property.

(b) That no building shall be erected nearer to any side line than 10 feet, nor shall be located closer than 20 feet from the front or street line and shall be no closer than 10 feet to the rear line.

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(c) That no basement, tent, shack, garage, barn or other outbuildings erected in the unit shall, at any time, be used as a residence temporarily or permanently, nor shall any structure of a temporary character be used as a residence, except as herein provided.

(d) That during the construction of a single family residence, a house trailer may be used as a temporary dwelling, provided, however, that such use of house trailers must be approved in writing by the Architectural Board and the County of Tuolumne for a period of time which shall not exceed a total of one (1) year.

(e) Individual sewage disposal systems will be each designed by a person familiar with the latest research on this field and sound principles of engineering and subject to the approval of the Tuolumne Health Department.

(f) That pedestrian and equestrian ways shall be reserved where shown on the map and shall be subject to the use of pedestrians, animals, and vehicles of all kinds, as to provide reasonable access to and from streets and roads so as to serve the subject lot and all other lots in the Subdivision.

(g) That all lots subject to these provisions, conditions, restrictions, and covenants shall be and remain of the size and dimension shown on the unit map referenced above, save and except where a change in lot size and dimension shall be approved by the Architectural Board and the County of Tuolumne.

No house, garage, outbuildings, fence, or other structure shall be built, erected, placed, or altered on any residential lot in the unit or subdivision unless and until the building plan specifications and plot plan have been reviewed by the Architectural Board, and the same has been approved conditionally or otherwise.

Said review and approval shall include without being restricted topography, finish, ground elevations, landscaping, drainage, color, material, design, artistic conformity to the terrain, and other residences in the area, and architectural symmetry. Said requirements as to the approval of the architectural design shall apply only to the exterior appearance of said improvements. It not being the intent of these restrictions to control the interior layout or design of said structures.

For the period of time specified herein, said Architectural Board will be appointed by Declarant owner herein, and any party seeking approval **therefrom** may contact said Architectural Board through Declarant. At any time, Declarant may request and the Association (as defined in paragraph Two hereof) may elect to accept responsibility for appointment of the Architectural Control Board, provided further that in any event, appointment of the Architectural Control Board shall be the sole and exclusive responsibility of the Association when a period of thirty calendar months shall have elapsed from the date of Declarant's last filing with the State of California Division of Real Estate of a Questionnaire and application for Public Resort for any unit in the Subdivision.

2. LAKE DON PEDRO OWNERS' ASSOCIATION

Every person, including Declarant, who acquires title, legal or equitable, to any lot in the Unit shall become a member of the Lake Don Pedro Owners' Association, a California nonprofit corporation, herein referred to as "Association"; provided, however, that such membership is not intended to apply to those persons who hold an interest in any such lot merely as security for the performance of an obligation to pay money, e.g., mortgages, deeds of trust, or real estate contract purchases. Declarant's membership (by reason of its ownership of unsold lots) need not be evidenced by certificates of membership as provided in the Association's by-laws.

The general purpose of the Association is to further and promote the community welfare of property owners of the Unit.

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The Association shall be responsible for the maintenance, repair and upkeep of common areas and community facilities within the Unit and the appurtenant drainage and slope easements reserved by Declarant. The Association shall also be the means for the promulgation and enforcement of all regulations necessary to the governing of the use and enjoyment of such streets and parks and such other properties within the Unit as it may from time to time own.

The Association shall have all the powers that are set forth in its articles of incorporation and by-laws or that belong to it by operation of law, including the power to levy against every lot in the Unit uniform annual charges as set forth in its by-laws of not less than five dollars (\$5.00) nor more than seventy dollars (\$70.00) per year; provided; however, that no such charge is or shall be levied against or payable by Declarant, the Association itself, or any corporation that may be created to acquire title to and operate any utilities servicing the Unit, or any other common facilities within the Unit solely by reason of ownership or control thereof. Notwithstanding anything herein to the contrary, expenses incurred by the Association in the maintenance of its properties and in the furthering and promoting of its purposes shall be borne proportionately by all lot owners, as herein provided, including Declarant insofar as it retains any lots within the Unit.

Every such charge made shall be paid by the member to the Association on or before the date established by its Board of Directors pursuant to the resolution adopted by such Board fixing the amount of the annual charge. Written notice of the charge so fixed and the date of payment shall be sent to each member. Said charges shall remain a lien upon the property of the respective member until paid.

Upon the adoption of a resolution of charges, the Association shall forthwith cause a notice thereof and of the lien created thereby to be signed and acknowledged by it and recorded in the Offices of the County Recorder of Mariposa County, California and of Tuolumne County, California.

Such recorded notice shall embody said resolution and state the rate of the charge, the time payable, and when it becomes a lien. When paid, the Association shall from time to time execute, acknowledge and record in said County Recorders' offices a release or releases of lien with respect to the property for which payment has been made. Full receipts shall be issued to lot owners upon payment.

Each lot owner in the Unit shall, by acceptance of a deed thereto or the signing of a contract or agreement to purchase the same, whether from Declarant or a subsequent owner of such lot, bind himself, his heirs, personal representatives and assigns to pay all charges determined and levied upon such lot, including interest thereon and collection costs thereof, if any, including attorney's fees; and the obligation to pay such charges, interests and costs thereby constitutes an obligation running with the land. Sale or transfer of any lot shall not affect any lien for charges provided for herein.

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All liens herein provided for shall be enforceable by foreclosure proceedings in the manner provided by law for the foreclosure of mortgages and/or trust deeds; provided, however, that no proceeding for foreclosure shall be commenced except upon the expiration of four (4) months from and after the date the charge giving rise to such lien becomes due and payable.

Liens of first mortgages and/or first trust deeds placed upon any lot for the purpose of constructing a residence or other improvement thereon which are recorded in accordance with the laws of the State of California, shall be, from the date of recordation of such, superior to any and all such liens provided for herein, save and except that these conditions and restrictions shall be binding upon and effective against the owners of any lot in the Unit whose title thereto is acquired by foreclosure of any mortgage or deed of trust or otherwise.

The funds arising from such charges, so far as may be sufficient, shall be applied toward the payment of expenses incurred by the Association in the maintenance of its properties and in furthering and promoting the community welfare of property owners in the Unit, all as set forth and provided in its articles of incorporation and by-laws.

3. MUTUALLY OF BENEFIT AND OBLIGATION

The declarations and agreements set forth herein are made for the mutual and reciprocal benefit of each and every lot in the Unit and the Subdivision and are intended to create mutual, equitable servitudes upon each of said lots in favor of each and all of the other lots therein; to create reciprocal rights between the respective owners of all of said lots; to create a **privity** of contract and estate between and grantees of said lots, their heirs, successors and assigns; and shall, as to the owner of each such lot, his heirs, successors or assigns, operate as covenants running with the land for the benefit of each and all other lots in the Unit and Subdivision and their respective owners. Declarations substantially the same as those contained herein shall be recorded on all future units of the Subdivision in conformity with the general scheme of improvement of all lands to be included therein.

4. ANNEXATION OF SUBSEQUENT UNITS FOR PARCELS

Declarant, or its successors in interest, may, from time to time and in its sole discretion, annex to the Subdivision all or any part of the real property presently or hereafter owned by Declarant in the counties of Tuolumne and Stanislaus, State of California, less that portion thereof to which these declarations are already applicable, and to all other units of the Subdivision presently of record to which declarations substantially identical to those set forth herein apply. These declarations shall apply to subdivided, numbered lots only and are specifically excluded from application to other parcels or lands in Mariposa County, Tuolumne County and/or Stanislaus County, State of California, of Declarant, which parcels and lands are intended for future,

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commercial, multiple dwelling, single family residence, or recreational uses.

Such annexation shall be effective upon the recordation of declarations, designating the property subject thereto, which property shall thereupon become and constitute a part of the Subdivision and the Association shall accept and exercises such powers and jurisdictions over such property as are granted to it by such declarations. Such declarations shall be substantially the same as those contained herein; provided, however, that:

(a) The use in said restrictions of the word “Unit” shall be deemed to apply to the particular unit for which such restrictions are recorded; the use of the word “Subdivision” shall be deemed to mean the aggregate of all previously recorded units designated as being a part of Declarant’s general subdivision scheme of development; and the use of the words “lot” or “lots” shall be deemed to mean all subdivided lots described and set forth in any unit maps of the Subdivision and each unit of any multiple-family residence building or guesthouse, inn or hotel facility within the Subdivision, including condominium developments;

(b) Such restrictions shall be discriminate against lot owners whose property is already included in the Subdivision;

(c) The Association’s powers to make assessments and enforce liens shall not be curtailed with respect to such newly annexed units;

(d) The limits of uniform annual charges upon each lot in the Unit or other units already annexed to the Subdivision shall not be increased as a result of any annexations (but the Association may provide for a higher annual charge upon lots in the newly annexed unit when and if warranted by a different classification or use,;

(e) Such restrictions may impose additional limitations upon the property subject thereto, when and if warranted by a different classification or use, but shall not have the effect of alleviating any of the provisions herein or of any restrictions pertaining to other units already annexed to the Subdivision;

(f) No annexation of additional property shall be permitted unless the subdivision map and restrictions applicable thereto shall be recorded within three (3) years from the date of the

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Final Subdivision Public Report of the California Division of Real Estate applicable to the next preceding unit of the Subdivision; and

(g) Declarant, as a member of the Association, shall not be entitled to vote for the acceptance by the Association of any capital improvements which Declarant has constructed or which Declarant proposes to construct. Any real property or capital improvements constructed by Declarant and offered to and accepted by the encumbrances except easements or restrictions of record; current taxes and assessments not yet due or payable, and/or such other liens or encumbrances as are specifically accepted by the Association; provided, however, that Declarant shall not be entitled to vote for acceptance of such specified liens or encumbrances.

Any portion of such property described above and available for annexation into the Subdivision may, at the option of Declarant, its successors or assigns, subject, however, to subparagraphs (a) through (g) inclusive, of this paragraph, be so annexed as a condominium, or for use as a multiple-family residential, guesthouse, inn or hotel facility. Should property related to any of such uses not be so annexed, the Association shall, nevertheless, grant to the owners thereof the right to the use and enjoyment of the private streets and parks within the Subdivision, or any other assets of the Association, upon the payment of a reasonable charge for maintenance, repair and upkeep or in return for the reciprocal use and enjoyment of common areas of such facilities, or a combination of both.

5. GRANTEE'S ACCEPTANCE

The grantee of any lot subject to the coverage of these declarations, by acceptance of a deed conveying title thereto, or the execution of a contract for the purchase thereof, whether from Declarant or a subsequent owner of such lot, shall accept such deed or contract upon and subject to each and all of these declarations and the agreements herein contained, and also the jurisdiction, rights and powers of Declarant, and by such acceptance shall for himself, his heirs, personal representatives, successors and assigns, covenant, consent and agree to and with Declarant, and to and with the grantees and subsequent owners of each of the lots within the Subdivision to keep, observe, comply with and perform said declarations and agreements.

Each such grantee also agrees, by such acceptance, to assume, as against Declarant, its successors or assigns, all the risks and hazards of ownership or occupancy attendant to such lot, including but not limited to its proximity to any golf course fairways, equestrian facilities and trails, or lakeshores.

6. ENFORCEMENT

If the owners hereto, or their heirs and assigns, or any person or persons, firm or corporation deriving title from or through them shall violate or attempt to violate any of the covenants, conditions, and restrictions herein, it shall be lawful for any other person or persons, firm or corporation owning real property situated within the bounds of the unit to prosecute and proceed at law or in equity against such person or persons, firm, or corporation, violating or attempting to violate said covenants and restrictions, or any of them and either to prevent them or him from so doing or to recover damages or other such violation.

7. SEVERABILITY

Invalidation of any of these covenants, conditions, and restrictions by judgment or court order shall in no wise effect any of the provisions which shall remain in full force and effect.

8. BREACH OF RESTRICTIONS

Provided further that a breach 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 and for value as to any lot in the unit, or any part thereof, and any improvements thereon, but said provisions, conditions, and covenants, shall be binding upon and effective against the owners thereof, whose title thereto is acquired by foreclosure of any mortgage or deed of trust or otherwise.

IN WITNESS WHEREOF, the undersigned has executed the within Declaration on the 18th day of September, 1968.

PACIFIC CASCADE LAND COMPANY, INC.

By: /s/ John Sparrowk
Vice President

Attest /s/ Charles W. Mertel
Assistant Secretary