

DECLARATION  
OF

CONDITIONS, COVENANTS, RESTRICTIONS,  
EASEMENTS AND CHARGES AFFECTING THE  
REAL PROPERTY KNOWN AS

TIMBER COVE PROPERTIES, INC., UNIT TWO

Which is situated in the County of Sonoma,  
State of California

THIS DECLARATION, made this 5<sup>th</sup> day of  
March, 1965 by TIMBER COVE PROPERTIES, INC., a California  
corporation, hereinafter called Declarant,

WITNESSETH:

WHEREAS, Declarant is the owner of the real property described in Clause I of this Declaration, and is desirous of subjecting the real property described in said Clause I to the restrictions, covenants, reservations, easements, liens and charges hereinafter set forth, each and all of which is and are for the benefit of said property and for each owner thereof, and shall inure to the benefit of and pass with said property, and each and every parcel thereof; and shall apply to and bind the successors in interest, and any owner thereof; and

WHEREAS, the power to interpret and enforce certain of the conditions, restrictions, covenants, reservations, easements, liens and charges set forth in this Declaration shall be vested in Declarant and in TIMBER COVE HOMES ASSOCIATION, a non-profit corporation organized and existing under and by virtue of the laws of the State of California, hereinafter referred to as the Association.

NOW, THEREFORE, Timber Cove Properties, Inc. hereby declares that the real property described in and referred to in Clause I hereof is and shall be, held, transferred, sold and conveyed subject to the conditions, restrictions, covenants, reservations, easements, liens and charges hereinafter set forth.

CLAUSE I

Property Subject to this Declaration

The real property which is, and shall be, held and shall be conveyed, transferred, and sold subject to the conditions, restrictions, covenants, reservations, easements, liens and charges with respect to the various portions thereof set forth in the various clauses and subdivisions of this Declaration is located in the County of Sonoma, State of California, and is more particularly described as follows, to-wit:

Timber Cove Properties, Inc., Unit Two, as shown  
on the Subdivision Map filed in the Official Records  
of Sonoma County.

Book 103 Page 11-25 Recorded 3-5-65.

Save and excepting therefrom Lots 3, 17, 24, 25 and 131, Block 6; Lot 1, Block 5. In addition, Declarant reserves the right to exclude, at its discretion, a reasonable number of lots, not to exceed five, for the purpose of extending the areas of commercial use.

No property other than that described above shall be deemed subject to this Declaration, unless and until specifically made subject thereto.

The Declarant may, from time to time, subject additional real property to the conditions, restrictions, covenants, reservations, liens and charges herein set forth by appropriate reference hereto.

## CLAUSE II

### General Purposes of Conditions

The purpose of this Declaration is to maintain for the benefit of Declarant and all subsequent individual land owners, insofar as it be possible, the natural character of the land and to require that all man-made structures blend into the natural background rather than stand out against it. In setting out these requirements, Declarant's desire is not to infringe on the individual rights of home builders, but rather to protect the land from undesirable use and to create standards against which prospective home builders can measure themselves to determine whether they are in sympathy with a community such as Declarant envisions at Timber Cove.

This Declaration is written in the strong belief that the proper utilization of the land such as Timber Cove is realized only through the enforcement of certain minimum standards of architectural compatibility. It is the purpose of the Declarant to be absolutely rigid in the enforcement of what it regards as minimum standards of compatibility between architectural improvements and the natural landscape. Below the said minimum standards, certain offensive practices; e.g., the use of garish colors, offensive signs and, in general, physical improvements which are openly offensive to a trained eye, absolutely will not be tolerated and the Declarant will utilize all available legal machinery to effect the removal or necessary modifications of any offenses. This Declaration is an effort to set out clearly in writing these minimum standards in order to avoid any confusion or misunderstanding as to their application.

It is not a requirement herein that property owners use architects; however, the Declarant's purpose will best be met if the property owners cause their homes to be designed by competent persons, whether or not they be architects. The existence of this Declaration in the hands of any architect or building designer will make it possible for such a person to design a residence and submit it for approval in the sure knowledge that it will not be rejected.

As stated elsewhere, Declarant reserves the right to waive certain of these covenants when, in its judgement, such action is so warranted by specific conditions; or when, in its judgement, or subsequently, the judgement of a competent architectural committee, the general esthetic purposes of this Declaration are better served. Declarant recognizes that it is impossible to set down verbal standards for the level of architectural quality which is sought at Timber Cove. For this reason, it must be recognized that it is entirely possible to meet these standards while at the same time deviating in one or more respects from the minimum standards set out herein. Declarant, nevertheless, reserves the right to enforce these minimum standards to the letter, notwithstanding the fact that it may, from time to time, waive certain of these standards as set out above.

## CLAUSE III

### Further Subdivision

No lot as described on said Subdivision Map shall be further subdivided. The owner or owners of two or more contiguous lots may change the interior boundaries of said lots provided such changes are approved by the Association, and provided further, that no such change or changes shall have the effect of increasing the number of lots.

## CLAUSE IV

### Uses Prohibited and Permitted

1. Said property shall not be used, nor shall any portion thereof be used, for any purpose other than private residence purposes and the purposes in subdivision 5 of Clause IV herein provided for.

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2. No buildings, other than a single family dwelling house and appurtenant outbuildings, including garages for private use, shall be erected, constructed or maintained on said property, nor shall any building constructed or erected on said property be used for any purpose other than a private dwelling house or appurtenant outbuilding, including a garage for private use.

3. Outbuildings appurtenant to said dwelling house, including separate garages, studios, guest houses and/or servants' quarters may be erected, constructed and maintained, provided, however, that no such outbuilding shall be used by persons other than the immediate family, servants or guests of the property owner or his tenant.

4. No outbuilding, garage, stable, shed, tent, trailer or temporary buildings or signs of any kind shall be erected, constructed, permitted or maintained on any lot or building site prior to commencement of the erection of such dwelling house as is permitted hereby, provided that nothing in this Declaration shall be understood or construed to prevent the erection, construction and maintenance by Declarant, or its agents, of structures for the conduct of its business or that of its duly appointed sales agent, or to prevent a sign or signs to be maintained upon any of said lots which it may own or control, or which it or its duly appointed agents may be selling agent for, or the construction of buildings and improvements, and the maintenance and operation on said property of equipment necessary in the development, sales or subdivision thereof, or to prevent the erection and maintenance of a building or structure for the use of and the conducting of the business of the Association in connection with said property. The Declarant shall have the express right and authority to erect, construct and maintain signs and structures, and to conduct the business and to maintain and operate the equipment above provided for, and the Association shall have the express right and authority to erect, construct and maintain the building and structures and to conduct the business above provided for. Temporary structures shall be permitted during the period of construction of such dwelling house as is permitted hereby, but such temporary structures shall be removed within 30 days after completion of said dwelling house or within 6 months of the date said temporary structure was erected, whichever period expires first. No house trailer or mobile home shall be parked on any lot or dwelling site unless covered continuously from the time of its installation by a structure approved in writing as to its appearance and location by the Association. No house trailer or mobile home under any circumstances shall be parked or stored at any time whatsoever on any lot on the ocean side of State Highway 1, or northeasterly of State Highway 1, on any lot which is within 750 feet of State Highway 1, or on any lot the major portion of which may be seen by persons standing on State Highway 1 or Timber Cove Road.

5. No store, market, shop, mercantile business, manufacturing establishment, trading or amusement establishment or business of any kind whatsoever shall be erected, maintained, operated, carried on, permitted or conducted on said property or any part thereof, except as provided in Section 4 of Clause IV. No quarry, pit, undertaking establishment, crematory, cemetery, radio tower, auto camp, trailer camp or haven, hospital, public baths, sanitarium, asylum or institution and no noxious, dangerous or offensive thing, activity or nuisance shall be erected, maintained, operated, carried on, permitted or conducted on said property or any part thereof. Subject to the approval of the Declarant or the Association, a lot may be permitted a limited professional usage; i.e., architect, doctor, etc., provided such usage is conjunctive to the usage which is principally residential. Included in the above-mentioned professional use, may be usages such as art gallery, ceramic, etc., for the purpose of an individual artist selling his own work and that of a limited use of others. Any secondary building constructed for the above purposes must be used by the owner or the principal tenant of the principal building.

6. No hogs, cattle, cows, goats, sheep, rabbits, hares, dogs, cats, pigeons, pheasants, game birds, game, fowl or poultry (except as in subdivision & hereof permitted) shall be kept or maintained on any part of said property.

7. Dogs, cats and other domestic pets may be kept upon said real property, provided they are not kept, bred, or maintained for any commercial use or purpose, but the Association shall have the power to exclude any particular pet or group of pets if, in its opinion, such pet or pets create a nuisance or are vicious or dangerous.

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8. No public stable, livery stable or riding academy shall be erected, conducted, carried on, kept, permitted or maintained, nor shall any horses, ponies, donkeys or burros be kept upon any part of said real property, except that private stables may be erected and maintained to accommodate not more than two of the following animals: horses, ponies, donkeys or burros, and not more than two such animals may be kept herein for the private use of owners upon whose land said stable may be erected. Such private stable shall not be constructed outside the building area of any lot as "building area" is defined herein. Such private stables shall be located, erected and constructed only in accordance with plans and specifications first approved by the Association, or its duly appointed agent, and all private stables and animals shall be maintained and kept in accordance with uniform rules and regulations from time to time adopted and established by the Association. It shall be the duty of the Association to revoke any permit so granted if such use of said property shall become a nuisance to the neighbors of such permittee. The Association may, at its discretion, build a stable for the specific use of its members on one, and only one, of Lots 1 through 34, Block 2; or Lots 39 through 50, Block 1; or Lots 1 through 14, Block 6. If the Association should elect to build such a stable, it shall be obliged to take all necessary precautions for the health and safety of the owners of the neighboring lots.

#### CLAUSE V

##### Approval of Plans and Location of Structures

1. No building, outbuilding, garage, stable, fence, wall, retaining wall, or other structure of any kind shall be erected, constructed, placed or maintained on said real property, or any part thereof, nor shall any alteration, addition, changing, repairing, remodeling or adding to the exterior thereof be made, unless prior to the commencement of any construction, excavation, or any other work, two complete plans and specifications therefor, including front, side and rear elevations and floor plans for each floor and basement, color scheme thereof, and two block or plot plans indicating and fixing the exact location of such structure, or such altered structure on the building site with reference to the street and side lines thereof (grading plan if requested), shall have been first submitted in writing for approval, and approved in writing by the Association, or its duly appointed agent. A fee of not to exceed \$25 shall be paid to the Association in the submission of such plans to the Association. (Preliminary sketch of plans may be submitted prior to execution of detailed drawings.) \*\*\*See Addendum Page 12.

2. In the event the proposed improvement shall be one for repainting or redecorating the exterior of such structure without remodeling or changing it, or making additions thereto, it shall only be necessary to file two color schemes of such proposed work and have the same approved prior to the commencement of such work.

3. Approval of such plans, specifications and location of buildings (and grading plan if requested) by the Association shall be endorsed on both sets of said plans and specifications, and one set shall forthwith be returned by the Association to the person submitting the same to the Association, and the other shall be retained by the Association in its permanent records.

4. The approval by the Association of any plans or specifications submitted for approval, as herein specified, shall not be deemed to be a waiver by the Association of the right to object to any of the 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 use on other building sites.

5. After such plans and specifications, and other data submitted have been approved by the Association, no building, outbuilding, garage, stable, fence, wall, retaining wall, or other structure of any kind shall be erected, constructed, placed, altered or maintained upon said property unless the same shall be erected, constructed, or altered in conformity with the plans and specifications, color scheme, block plan and grading plan theretofore approved by the Association, or its duly appointed agent, as provided in subdivisions 1 and 2 of Clause V hereof. If any building, outbuilding, garage, stable, fence, wall, retaining wall, or other structure of any kind shall be erected, constructed, placed, altered or maintained upon said property, other than in accordance with the plans and specifications,

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color scheme, block plan and grading plan therefor, approved by the Association, such erection, construction, placing, alteration and maintenance shall be deemed to have been undertaken without the approval of the Association ever having been obtained as required by this Declaration.

6. Any agent or officer of the Association may, at any time inspect any building or property subject to the jurisdiction of the Association for the purpose of determining whether the exterior of said building conforms to the requirements of the Association and the conditions, covenants, restrictions or reservations hereof; in the event such building violates any of said requirements, conditions covenants, restrictions or reservations, the Association may take such steps as are necessary or expedient to compel the owner of such building to conform to all the requirements hereof.

7. The Association may, from time to time, delegate to a person or persons the right to approve or disapprove the plans and specifications, color scheme, block plan and grading plan in this clause referred to.

#### CLAUSE VI

1. ROOFS: The roofing material of each roof shall be uniform throughout; i.e., it shall be the same material. The following roofing materials shall not be used: aluminum, anodized aluminum, iron, metal in any form, any shiny material, paper, composition shingles, asbestos, and material with a painted, baked or ceramic surface or tar and gravel, except that tar and gravel may be permitted if the rock used is specifically approved by the Association and the roof has adequate pitch. The following roofing materials shall be permitted: shingles, shakes, wood, tile, concrete, glass, terra cotta, copper, slate or stone. The pitch of roofs shall not be flatter than two inches in twelve. Roofs shall overhang the exterior walls of the building at the most outside point by a distance of not less than three feet six inches, measured horizontally; this applies on all sides of the building, whether the roof is gabled or hipped. The design of all shed roofs shall be subject to specific approval by the Association. Sky lights shall be permitted, and all metal used in connection therewith shall be painted and the color shall be subject to approval by the Association unless said metal is stainless steel, copper or other specifically approved metal. Aerials or similar structures for similar purposes shall not be placed on the roof of any building; no aerial shall be so located so that, in the opinion of the Association, it is unsightly. The Association reserves the right of absolute approval of the shape, color, composition and character of any vents, chimney caps, flues or any exterior protrusion from the roof of any building, if said protrusion is visible from the road, the highway or the building area of any other property. Declarant or the Association must approve the design of chimney caps in any case.

2. WALLS: The exterior walls of the principal buildings and any outbuildings shall be as follows:

(a) The surface of the wall from one corner of the building to the next shall be broken at least twice on any one facade or elevation of the building by a change in direction and then a return to the original direction. Said change must be a minimum of 12 inches, preferably it will be greater, and the changes of direction shall be at right angles to the principal facade of the house unless otherwise approved.

(b) The following materials shall not be used: metal, asbestos, composition materials, paper or tar paper; the following materials shall be permitted: wood, stone, glass, slate, copper, concrete block or poured concrete, provided that the design of each poured concrete wall is subject to approval by the Association. With the exception of fenestration or of other glass elements in exterior surfaces, the exterior material of each wall of the entire edifice shall be uniform; it shall be the same material. Brick or stone may be introduced as a subordinate material or in conjunction with the building of a fireplace wall or chimney. Metal shall not be used for flues, vents, ducts, plumbing or otherwise where it is visible. No foundation wall shall be visible except as specifically approved by the Association. Notwithstanding other restrictions herein, the floor level of any building must be constructed as near to the ground as possible where the building is generally visible from neighboring property and where it is possible to accomplish this by reasonable excavation procedures. The Declarant or the Association to be the sole determinant of what is reasonable in this case.

3. FENCING: Fencing shall be permitted only within the building area, and no fence shall be more than eight feet in height. No fence shall be permitted which is not

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substantially parallel with the principal facades of the dwelling house unless first approved by the Association. Demarcation of lot lines shall not be permitted in any form. Exceptions to this requirement may be granted by the Association if, in its judgement, circumstances warrant it. Fencing, for example, will be permitted along the property line where the property line is State Highway 1.

4. LANDSCAPING: All landscaping plans must be approved in advance by the Association. In general, they should be in keeping with the following recommendations: landscaping

should be in keeping with the natural terrain with an effort to use trees, plants and shrubs which are indigenous to the immediate area of the building site. The arrangements of planting should be such as to cause a uniform transition from the immediate site of construction, and all of this transition should occur within the building area.

5. TREES: No trees shall be cut or planted without the approval of the Association. It shall be the duty of the Association to approve the removal of trees within the building area to the extent necessary for reasonable access to a view and to sunshine. All trees planted after the date hereof shall remain under the jurisdiction of the Association, and the Association shall have the power, at its own expense, to remove, prune, or top any such tree, if, in the opinion of the Association, such tree interferes with the view available to any other property owner, or is undesirable for any other reason.

6. COLOR: A complete color scheme shall be submitted to the Association with the plans of each structure, and such color scheme shall include a description of all visible materials to be used and all artificial coloring to be applied thereto, including paints, stains, varnish or any other surfacing whatsoever. It will be the intent of the Association to encourage use of colors and materials which are indigenous to the area and which will blend in with the site. No colors shall be permitted which clash with or stand out against the landscape. Construction shall not be commenced on any building until the exterior color scheme has been approved by the Association. In addition, the Association may request actual color samples; i.e., a stain sample on the wood to be used if, in its opinion, the samples submitted are inadequate or ambiguous. This requirement shall be understood to have jurisdiction over the color of every visible thing or part of any physical improvement undertaken by the property owners.

7. LIGHTING: No exterior lighting of any sort which is visible from the road or from the building area of any other property owner shall be permitted without first obtaining the permission of the Association.

8. SEPTIC TANKS: Any septic tank installation must comply with the Sonoma County Health Department specifications and with the provisions of Ordinance No. 798 of Sonoma County.\*\* See Addendum Page 12.

#### CLAUSE VII

##### Setbacks and Free Spaces of Buildings

Except as hereinafter specifically stated, the building area shall be an area of land within the lot such that the boundaries of the building area shall be parallel to the lot lines and the maximum size and location of the building area shall be such that if a straight line be drawn through the building area at any point, no more than 45% of its length within the lot shall be within the building area and no point in the building area lying on said line shall be less distant from the lot boundary measured along said line than 15% of the length of said line. In the case of lots fronting on the Pacific Ocean, the building area shall be deemed to extend all the way to the seaward lot line. No buildings, outbuildings, fencing, landscaping or excavations or physical improvements of any kind shall be permitted on any lot outside the building area except to the extent necessary for reasonable access to the road over a driveway, which in no event shall exceed 10 feet in width.

#### CLAUSE VIII

##### Easements, Reservations and Rights of Way

Streets,

1. Easements, reservations and rights of way shall be reserved on and across said property for the erection, construction and maintenance of:

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(a) Poles, wires and conduits for the transmission of electricity, power, lighting, telephone and other purposes, pipes and mains for water, gas and heating, and for necessary attachments in connection therewith.

(b) Public and private sewers, storm drains and land drains.

(c) Any other method of conducting or performing any public or quasi-public utility, function or use beneath the surface of the ground.

(d) Easements for pedestrian and equestrian access.

2. The right is reserved by Declarant, its successors and assigns, to create

such additional easements, reservations and rights of way as are necessary or convenient to accomplish the general purpose of this Declaration, provided such easements, reservations and rights of way shall not be within the building area of any lot after it has been designated.

3. Declarant or the Association shall have the right at any time to cut and remove any trees or branches from such easements, reservations and rights of way.

#### CLAUSE IX

On the lots on the ocean side of Highway 1 and Lots 23, 26, 27, 28, 29 and 30, Block 6, no overhead poles nor overhead wires shall be permitted except on easements specifically reserved for such purpose by Declarant; on said lots, the telephone and electric wiring to each house must be underground and the cost of such installation must be borne by the individual property owner. The Association may, at its discretion, elect to bear certain costs in this connection. The Association or Declarant will have complete jurisdiction over placement of poles anywhere in the subdivision, notwithstanding easements which may have already been granted.

#### CLAUSE X

##### Signs

No signs or other advertising device of any character shall be erected, pasted, posted, displayed or permitted upon or about any part of said real property without the written permission of the Declarant, except as provided in Section 4 of Clause IV, and said Declarant shall have the right, in its uncontrolled discretion, to prohibit or to restrict and to control the size, construction, material and location of all signs, and advertising devices, and may summarily remove and destroy all unauthorized signs and other advertising devices. Nothing herein shall prevent the erection of a sign on each lot stating the name of the owner, but such signs shall be no larger than 6 inches by 24 inches and shall be of material and colors which blend in with the landscape.

#### CLAUSE XI

##### Provision for Upkeep

1. Each respective parcel of said property (except streets, parks, playgrounds now or hereafter opened, laid out or established, open spaces and areas maintained for the general use of owners of portions of said property, and land dedicated, taken or sold for public improvement or use, and land dedicated, taken or sold to a public or quasi-public utility) shall be subject to an annual charge or assessment, which shall be equal for each lot, for the purpose of maintaining the Association.

2. The annual charge or assessment upon said property shall not exceed the sum of \$200.00 for each lot and the Declarant expressly delegates to the Association the sole authority to fix the rate of such charge or assessment.

3. Said annual charge or assessment shall be determined and fixed by the Association or Declarant during December of each year for the ensuing calendar year, as the needs of said property may, in its best judgement, require.

4. The right to collect and enforce the collection of such charges or assessments is hereby retained by Declarant until said right is transferred by it to the Association. Such charges or assessments shall be paid annually in advance to the Declarant at Timber Cove, California, or to the Association after said right has been transferred to it,

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on the second day of January in each and every year, on which date such charge or assessment for the ensuing calendar year shall become a lien upon the lot or lots, respectively, affected thereby, and shall continue until fully paid. If any suit or action shall be brought to collect such charge or assessment, then there shall be added to the amount thereof costs of suit and reasonable attorneys' fees, to be fixed by the Court.

5. The purchasers of portions of said property by the acceptance of deeds therefor, whether from Declarant or subsequent owners of such property or by signing contracts or agreements to purchase the same, shall become personally obligated, and agree to pay such charges or assessment upon the portion, or portions, of said property owned by them, or agreed to be purchased by them, costs of suit and reasonable attorneys' fees as above provided, and shall thereby vest in Declarant or its assigns the right and power to bring all actions for the fees, and for the enforcement of such liens. Such right and power shall continue in Declarant and its assigns, and such obligations shall run with the land so that the successive owner, or owners, or

record of any contract or agreement for the purchase thereof shall in turn become liable to pay all such charges and assessments which shall become a lien thereon during the time that they may be the owner or purchaser of any portion of said property, or which were a lien against such portion at the time they become the owner or purchaser of such portion, costs of suit and reasonable attorneys' fees as above provided. After an owner or purchaser under a contract or agreement of purchase of any portion of said property shall transfer of record the real property owned by him, or assign his right under a contract or agreement of purchase, he shall not be liable for any charges or assessments thereafter to accrue against such portion of said property.

6. Whenever such charges or assessments are levied upon property owned by the Declarant, Declarant may discharge its obligation to pay the same by payment to the Association of a sum of money equal to the aggregate amount of all such charges or assessments levied upon all lots belonging to the Declarant in Timber Cove Properties, Inc., Unit Two, as such lots are described or set out on the Map thereof, multiplied by a fraction of which the numerator is 224 minus number of such lots owned by the Declarant and the denominator is 224.

7. Said charges or assessments and the lien thereof shall be subordinate to the lien of any prior-recorded mortgage or deed of trust in good faith and for value covering any part of said real property, provided that upon foreclosure sale or trustee's sale under any such mortgage or deed of trust, the property therein described shall be sold subject to the charges or assessments imposed by this Clause, and the lien thereof, and the purchaser at such foreclosure sale or trustee's sale shall take title subject to such lien.

8. Said charges or assessments shall be applied by the Association toward payment of the cost of any of the following:

(a) To acquire, erect, construct, light, improve and maintain streets and such ornamental features and land and beach areas as the Association deems desirable for the general use of the owners of lots or building sites in said property.

(b) To care for vacant and unimproved lots in said property, remove and destroy any unsightly and obnoxious things therefrom, and to do any other things and perform any labor necessary or desirable in the judgement of the Association to keep the property and the land contiguous thereto neat and in good order.

(c) To sweep, clean and sprinkle the streets within and bordering upon and adjacent to said property; to collect and dispose of street sweepings, garbage, rubbish and the like from said property; to provide for community police and fire protection of said property, and to construct, maintain and keep in repair fire hydrants and mains, sewers and any sewage disposal systems, but only to the extent deemed necessary or desirable by the Association.

(d) To pay the taxes and assessments, if any, which may be levied by any governmental authority upon streets and parks in said property, and any other open spaces maintained, and lands used or acquired for the general use of the owners of lots or building sites within said property, including taxes and assessments, if any, which may be

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levied by any governmental authority on entrance gateways, ornamental fences, fountains, and other ornamental features, whether taxed or assessed as a part thereof, or separately, and on any property of the Association, or which may be held in trust for the Association.

(e) To pay for the examination and approval or disapproval of plans, specifications, color schemes, block plans, and grading plans, as provided in Clause V hereof, and for such supervision of construction and inspection as may be required to insure compliance therewith, including the services of architects and other persons employed to examine and advise upon such plans, specifications, color schemes, block plans and grading plans.

(f) To enforce charges, restrictions, conditions and covenants existing upon and created for the benefit of said real property over which the Association has jurisdiction; to pay all expenses incidental thereto; to enforce the decisions and rulings of the Association having jurisdiction over any of said property; to pay all of the expenses in connection therewith and to reimburse Declarant for all costs and expenses incurred or paid by it in connection with the enforcement or attempted enforcement of any of the conditions, covenants, restrictions, liens, charges or terms set forth in this Declaration.



(g) To do any and all lawful things and acts which the Association at any time, and from time to time, shall, in its uncontrolled discretion, deem to be to the best interests of said property and the owners of the building sites thereon, and to pay all costs and expenses in connection therewith.

(h) To collect the charges or assessments provided for in this Clause; to pay all expenses in connection therewith, and all office and other expenses incidental to the conduct of the business of the Association, and all licenses, franchise taxes, and governmental charges levied or imposed upon or against the property of the Association.

(i) To maintain and generally care for the beach area south of Timber Cove Inn, said beach area to be available for the use of property owners; title to which is held by Declarant.

The Association shall be required to perform only such of the foregoing enumerated purposes as it shall, from time to time, deem to be in the best interests of said property and the owners thereof, and then only to the extent of the moneys available for such purposes. Neither the Association nor the Declarant shall in any way be liable to any owner, purchaser, or other person for any act or omission under this Clause.

## CLAUSE XII

### Scope, Duration of Conditions, Reservations, Covenants, Restrictions and Charges

1. All of the conditions, covenants, restrictions, reservations, liens and charges set forth in this Declaration are imposed upon said property for the direct benefit thereof and of the owners thereof as a part of the general plan of development, improvement, building, equipment and maintenance of said property. As hereinafter provided, and subject to the provisions of Clauses XIII and XIV hereof, until the fifteenth day of November, 2004, and shall, as then in force, be continued automatically and without further notice from that time for a period of forty years and thereafter for succeeding periods of forty years each without limitation, unless, within six months prior to November 15, 2004, or within six months prior to the expiration of any successive forty-year period thereafter, a written agreement executed by the then record owners of lots or building sites in the property then subject to this Declaration having an aggregate determined area equivalent to not less than 50% of the total determined area of the property then subject to this Declaration (excluding streets, parks, parkways and other public or quasi-public area) shall be placed of record in the office of the County Recorder of Sonoma County, State of California, or in such office as then may be required by law, in which agreement any of the conditions, covenants, restrictions, reservations, liens or charges may be changed, modified, waived or extinguished in whole or in part as to all or any part of the property then subject thereto in the manner and to the extent therein provided.

In the event that any such written agreement of change or modification

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fully executed and recorded, the original conditions, covenants, restrictions, reservations, liens and charges as therein modified shall continue in force for successive periods of forty years each, unless and until further changed, modified or extinguished, in the manner herein provided.

2. The determination by any court that any of the provisions of this Declaration are unlawful or void shall not affect the validity of any other provisions hereof.

3. Damages are hereby declared not to be adequate compensation for any breach of the covenants, conditions or restrictions of this Declaration, but such breach and the continuance thereof may be enjoined, abated and remedied by appropriate proceedings by the Declarant, the Association, or by any owner of any other building site in said property.

## CLAUSE XIII

### Modification and Annulment of Conditions, Covenants, Restrictions, Reservations and Charges

Any of the conditions, covenants, restrictions, reservations, liens or charges contained in this Declaration, except those set forth in subdivisions 1, 2, 5, 6, 7 and 8 of

Clause III and Clause IV and the upkeep and maintenance charges set forth in Clause XI hereof, may be annulled, waived, changed or modified with respect to all or any portion of said property by Declarant with the written consent of the Association and of the owner or owners of record of the property to which such annulment, waiver, change or modification shall apply, and further, the Declarant or the Association may, at its discretion, waive or appropriately modify any of the above-mentioned provisions except those set forth in subdivisions 1,2,5,6,7 and 8 of Clause III and Clause IV, if, in its opinion, the esthetic purposes as set out in Clause II of this Declaration are better served by so doing.

CLAUSE XIV

Cancellation and Annulment of Restrictions and Charges

At any time after the fifteenth day of November, 2004, the owners of record of lots or building sites in the property then subject to this Declaration, having an aggregate determined area equivalent to not less than 65% of the total determined area of the property then subject to this Declaration and who shall include in their number the owners of record of not less than 75% of the building sites in the property then subject to this Declaration on which dwelling houses are then located, may change, modify, cancel and annul with respect to the property then subject to this Declaration all or any of the conditions, covenants, reservations, restrictions, liens and charges contained in this Declaration, by an instrument in writing signed by said owners, which shall be acknowledged by them so as to entitle it to record, and be recorded in the office of the County Recorder of Sonoma County, State of California, or in such other office as may then be provided by law.

CLAUSE XV

Subordination of Conditions, Covenants, Reservations, Restrictions and Charges

All of the conditions, covenants, reservations and restrictions set forth in this Declaration shall not be subject to nor subordinate to any recorded mortgage or deed of trust in good faith and for value at any time executed covering any part of said property, unless Declarant or the Association consents thereto in writing; and in the event of such written consent by Declarant or the Association, the breach of any such conditions, covenants, restrictions or reservations shall not defeat the lien of any such mortgage or deed of trust, and in case of entry the title shall remain subject to such mortgage or deed of trust; provided, however, that the purchaser at any foreclosure sale under any such mortgage or deed of trust and at any trustee's sale under any such deed of trust, his or its successors and assigns shall take and thereafter hold the title subject to all of the conditions, covenants, restrictions, reservations, liens and charges set forth in this Declaration.

(10)

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CLAUSE XVI

Violations of Conditions, Covenants, Reservations, Restrictions and Charges

A breach or violation of any of the conditions, reservations, restrictions or covenants shall give to the Declarant and to the Association the right to immediate re-entry upon the property upon which such violation exists, and summarily to abate and remove, at the expense of the owner thereof, any erection, structure, building, thing or condition that may be or exist thereon contrary to this Declaration, and to the intent and meaning of the provisions hereof, and the Declarant or the Association shall not thereby be deemed guilty of any manner of trespass for such entry, abatement or removal, nor shall the Declarant or the Association be liable for any damages occasioned thereby. The result of every act of omission or commission, or the violation of any condition, covenant, reservation or restriction hereof, whether such condition, covenant, reservation or restriction is violated in whole or in part, is hereby declared to be and to constitute a nuisance, and every remedy allowed by law or equity against such a nuisance, either public or private, shall be applicable against every such result and may be exercised by Declarant or by the Association or by the owner of any lot or building site, and may be prohibited and enjoined by injunction. Such remedy shall be deemed cumulative and not exclusive.

CLAUSE XVII

Right

to Enforce

The provisions contained in this Declaration shall bind and inure to the benefit of and be enforceable by the Declarant, the Association, or by the owner or owners of any portion of said property, their and each of their legal representatives, heirs, successors and assigns, and failure by Declarant, the Association, or by any other property owner, or their legal representatives, heirs, successors or assigns, to enforce any of such conditions, covenants, restrictions or charges herein contained shall, in no event, be deemed a waiver of the right to do so thereafter, unless otherwise herein provided.

CLAUSE XVIII

Assignment of Power

Any and all rights and powers and reservations of the Declarant herein contained may be deeded, conveyed or assigned to the Association, or to any other corporation or association which will assume the duties of Declarant hereunder pertaining to the particular rights, powers and reservations assigned, and upon such corporation or association evidencing its consent in writing to accept such assignment and to assume such duties and powers, it shall, to the extent of such deed, conveyance or assignment, have the same rights and powers, and be subject to the same obligations and duties as are given to and assumed by Declarant herein, and thereupon Declarant shall be relieved of the performance of any further duty or obligation hereunder to the extent of such deed, conveyance or assignment.

CLAUSE XIX

Reservation of Power to Declarant

All rights and powers herein conferred on or granted to the Association are reserved to and shall exist in the Declarant until the date the Association is formed and has elected a board of directors. The Association shall be formed not later than two years from the date hereof and not later than 30 days after the date on which 100 lots in said subdivision have been sold.

CLAUSE XX

The

Headings of Clauses

The headings as to the contents of particular Clauses are inserted only as a matter of convenience and for reference, and in no way are, or are they intended to be, a part of this Declaration or in any way define, limit or describe the scope or intent of the particular section or clause to which they refer.

(11)

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IN WITNESS WHEREOF, said Declarant has, by its proper officers thereunto duly authorized, caused its corporate name to be signed hereto on the day and year first written above.

TIMBER COVE PROPERTIES, INC.

By \_\_\_\_\_

And \_\_\_\_\_

\*\*Addendum to CLAUSE VI

9. BUILDING HEIGHTS: On all lots where the average slope is 15% or less, no building shall be constructed more than one story in height. The plate lines of said building shall not be more than 10 feet above the ground at the highest point and the ridge lines shall in no circumstances exceed 18 feet. On lots where the slope exceeds 15%, step designs and loft

structures will be permitted in which the building has two stories for a distance not to exceed 30% of the horizontal distance along the axis of the appropriate cross-section. In no circumstance, however, shall the ridge height of the said building exceed 25 feet from the ground at any point directly below the ridge, however; all structures whose ridge lines exceed 18 feet in height or whose plate line exceeds 10 feet must be reviewed by the Committee and may be rejected, or the Committee may suggest modifications if, in its opinion, alternative arrangements would provide better conformity to the landscape, particularly on lots where the structures are visible from neighboring property on either side or from below.

Chimneys may exceed the stipulated heights by 24 inches, measured to the extreme top of the flue. The design of any draft-creating device or any appurtenance whatsoever placed on top of the flue must be approved by the Committee.

10. WINDOWS: All exterior openings, whether windows or doors, shall be arranged in a uniform, orderly fashion with head and sill elevations in alignment where possible. The Association may reject any set of plans in which, in the opinion of the Committee, the window arrangement is spotty, sloppy or for which an alternate arrangement may be suggested offering better compliance with this requirement. Aluminum may not be used in windows or doors unless specific arrangements are made to conceal it. Steel sash or doors may be used but the color must be approved by the Association.

Declarant may from time to time impose additional conditions under Clause VI to affect all of the then unsold portions of the subject property.

\*\*\*Addendum to CLAUSE V

1 (a). If the applicant chooses, he may submit to the Association a preliminary or tentative drawing, as is the custom and procedure in the architectural profession, to obtain approval of the overall design and layout prior to the commencement of detailed working drawings. If the applicant submits said preliminary, the Association shall submit its tentative approval or disapproval based on applicant's compliance or non-compliance with these restrictions. It is further requested that this procedure be followed to avoid possible unnecessary expense in the preparation of detailed drawings.

(12)

END OF DOCUMENT

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FIRST AMENDMENT TO

DECLARATION

OF

CONDITIONS, COVENANTS, RESTRICTIONS,  
EASEMENTS AND CHARGES AFFECTING THE  
REAL PROPERTY KNOWN AS

TIMBER COVE PROPERTIES, INC., UNIT TWO

Which is situated in the County of Sonoma,  
State of California

WHEREAS, a Declaration was recorded in the Official  
Records of the County of Sonoma, State of California, in Book 2112, at Page

651; and

WHEREAS, declarant is still the sole owner of all the real property subject to said Declaration;

TIMBER COVE PROPERTIES, INC., hereby amends said Declaration as follows:

I

All powers to interpret and enforce the conditions, covenants and restrictions and to levy assessments which are granted to the Association by said Declaration, and all powers to interpret and enforce the conditions, covenants and restrictions and to levy assessments which are reserved to declarant shall be vested in declarant until the date of the first organizational meeting of the Association, which meeting shall be held not later than two years from the date hereof, or not later than thirty days after the date on which 100 lots in said subdivision have been sold, whichever date occurs first.

II

The last two paragraphs in Clause I of said Declaration are hereby deleted.

III

Clause XV is deleted in its entirety and in its place the following clause is substituted:

CLAUSE XV

(A) The liens created hereunder upon the interest of any unit ownership shall be subject and subordinate to and shall not affect the rights of the holder of the indebtedness secured by any recorded first mortgage or deed of trust upon such unit ownership made in good faith and for value, provided, however, that the foregoing shall not apply to liens arising hereunder which were in existence prior to recordation of said mortgage or deed of trust, and provided that after the foreclosure of any such mortgage or deed of trust there shall be a lien on the interest of the

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purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as an owner after the date of such foreclosure sale, which lien shall have the same effect and be enforced in the same manner as provided herein.

IV

Clause XIX of said Declaration is deleted in its entirety.

V

Said Declaration, except as herein otherwise expressly provided, is in all respects hereby ratified and confirmed.

IN WITNESS WHEREOF, the undersigned has caused its signature to be affixed this 25<sup>th</sup> day of March 1965.

TIMBER COVE PROPERTIES, INC.

By Signature on file

Richard Clements, Jr.  
President

By Signature on file  
C.R.E. Smith  
Secretary

STATE OF CALIFORNIA     )  
) ss.

COUNTY OF SACRAMENTO    )

On March 25, 1965, before me, the undersigned Notary Public in and for said County and State, personally appeared RICHARD CLEMENTS, JR., known to me to be the President, and C.R.E. SMITH, known to me to be the secretary of the corporation that executed the within instrument, and known to me to be the persons who executed the within instrument on behalf of the corporation therein named, and acknowledged to me that such corporation executed the within instrument pursuant to the By-Laws or a Resolution of its Board of Directors.

WITNESS my hand and official seal.

Signature on file  
Notary Public in and for said County  
and State.

END OF DOCUMENT