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OAK TRAIL ESTATES DECLARATION OF
COVENANTS, CONDITIONS AND RESTRICTIONS
RESTATED

OAK TRAIL ESTATES
DECLARATION OF
COVENANTS, CONDITIONS
AND RESTRICTIONS
RESTATED

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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS

OF

OAK TRAIL ESTATES

RECITALS AND DECLARATION

The DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF OAK TRAIL ESTATES TRACT NO. 11,737, A California Corporation, executed by Oak Trail Estates, Ltd., a corporation, and recorded on July 5, 1977, as Instrument No. 7733771, of the Official Records of Santa Barbara County, California ("Original Declaration") which affects all of the Properties described and commonly known as Oak Trail Estates, which is described as Lots 1 to 63, inclusive, of Tract 11,737, in the County of Santa Barbara, State of California, as shown on map on file in Book 92 of Maps, Pages 36 to 43, inclusive, in the office of the County Recorder of said County, is hereby amended and restated in its entirety to read as follows:

RECITALS

On January 25, 2002, seventy six percent (76%) of the Owners of Lots within the Subject Property voted by written ballot to amend and restate the Original Declaration, all in accordance with the procedures for amendment set forth in the Original Declaration. It was the intention of said Owners to replace the Original Declaration, in its entirety, with the recordation of this Declaration. The Owners' action to amend and restate the Original Declaration as set forth herein, and the fact that the requisite percentage of affirmative votes required in the Original Declaration was achieved, is attested by the execution of this First Restated Declaration by duly authorized officers of the Association. As so amended and restated, the covenants, conditions and restrictions as set forth herein shall run with the Subject Property and shall be binding upon all parties having or acquiring any right, title, or interest in the Subject Property and shall inure to the benefit of each Owner.

This First Restated Declaration shall supersede and replace the following:

- a) The Original Declaration of Covenants, Conditions and Restrictions of Oak Trail Estates Tract No. 11,737, recorded on July 5, 1977 as instrument number 7733771 in the official records of Santa Barbara County, California;
- b) First Amendment to Declaration of Covenants, Conditions and Restrictions of Oak Trail Estates Tract No. 11,737, recorded on July 19, 1983, as instrument number 83-37167 in the official records of Santa Barbara County, California;
- c) Second Amendment to Declaration of Covenants, Conditions and Restrictions of Oak Trail Estates Tract No. 11,737, recorded on April 5, 1989, as

instrument number 89-021959 in the official records of Santa Barbara County, California.

The Property is an area of much natural beauty, particularly suited for ranching uses; it is the desire and intent of the Owners to provide an atmosphere which will enhance such ranching uses and preserve such natural beauty for the enjoyment and convenience of persons living thereon. The covenants, conditions and restrictions established by this Declaration are intended to secure such objectives.

DECLARATION

NOW, THEREFORE, it is hereby stated that the Property shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions which are for the purpose of protecting the value and desirability of, and which shall run with, the real property and be binding on all parties having any right, title or interest in the described properties or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE I: DEFINITIONS

1. ASSOCIATION

The Association shall mean and refer to the Oak Trail Estates Homeowners Association, its successors and assigns.

2. BOARD

The Board means the Board of Directors of the Association.

3. COMMON AREA

The Common Area is the real property, including, but not limited to easements for roads, trails, and the Water System Property, owned by the Association for the common use and enjoyment of the Owners.

4. MUTUAL WATER COMPANY

The Mutual Water Company shall mean and refer to the Oak Trail Estates Mutual Water Company, its successors and assigns.

5. WATER SYSTEM PROPERTY

Water System Property shall mean the real property which is subject to non-exclusive easements in favor of the Mutual Water Company granted over the Property consisting of well sites and easement for pipe lines; all as specifically shown on the recorded subdivision map of Tract No. 11,737; and all necessary easements under and across the

roads within the Property for the delivery of water to each of the Lots; provided, further, that in the event it is deemed convenient or necessary by the Mutual Water Company, the Water System Property shall also include alternate drilling sites located within road right-of-ways on the Property.

6. WATER SYSTEM

The Water System shall mean and refer to the water wells, pumps, pipes and all related equipment located within the Property for the purpose of supplying and delivering water to each Lot.

7. LOT

Lot shall mean and refer to any plot of land shown upon any recorded subdivision map of the Property, with the exception of the Common Area.

8. OWNER

Owner shall refer to the record owner, whether one or more persons or entities have a fee simple title to any Lot which is part of the Property, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

9. STRUCTURE

Structure shall mean and refer to all exterior improvements of every type which will require County permitting or be visible to other properties within the Association, specifically excluding conventional landscaping, and excluding the Water System.

10. ARCHITECTURAL REVIEW COMMITTEE

The Architectural Review Committee (known hereafter as ARC) shall be the Committee appointed by the Board to perform the functions set out in Article V, hereof.

ARTICLE II: PROPERTY RIGHTS

1. OWNER'S EASEMENTS

Every Owner shall have a right and easement of enjoyment in and to the Common Area and a right to receive water from the Water System, which rights shall be appurtenant and shall pass with the title to every Lot, as shown on the subdivision map for Tract No. 11,737, subject to the following provisions:

- a. Every Owner shall have and grant mutual and reciprocal easements to every other Owner through, over and across the Common Area for the use of trails

and paths as are or may be established by the Association for the purpose of horseback riding and hiking; provided, however, that such easements shall be confined to such trails and paths, and that in no event shall such easements be used or such trails and paths be established in such a manner as to unreasonably interfere with the peaceful and quiet enjoyment of said Lot by adjoining Owners.

- b. The Association shall have the right to suspend the voting rights and right to use the Common Area facilities by an Owner for any period during which any assessment against his Lot remains unpaid, and for any infraction of its published rules and regulations after hearing by the Board.
- c. The Association shall have the right to dedicate or transfer all or any part of the Association Property to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to in writing by the Owner's of at least two-thirds (2/3) of the voting interest in the Association.

2. WATER RIGHTS

Every Owner shall have an equal right to receive water from the Water System subject to regulations as may be imposed by the Mutual Water Company. In the event of any dispute as to the amount of water to be received from the Water System, such dispute shall be referred to and finally decided by the Mutual Water Company.

3. DELEGATION OF USE

Any Owner may delegate his right of enjoyment to the Common Area to the members of his family, his tenants, or contract purchasers who reside on the Property.

ARTICLE III: RESTRICTIONS ON USE

1. RESIDENTIAL-RANCH USE

No Lot shall be used for any purpose other than that of a single family residence, for agricultural uses or for the raising, breeding, keeping, use or sale of horses or cattle, in such numbers not to exceed one animal for each 20,000 square feet of the area within any Lot.

2. NO COMMERCIAL USE

Except as expressly provided herein, no part or parcel of the Property shall ever be used for any business, commercial or industrial purpose, or for any other purposes inconsistent with the use of the Property as a residential ranch community; provided, however, that nothing herein contained shall prohibit the Association from entering into leases for the commercial grazing of cattle or other ranch oriented commercial operation on the

Property subject to the approval of a majority of the Owners of the voting interest in the Association as provided above; and provided further, that in any event no part or parcel of the Property shall ever be used for the retail sale of food or beverages to the general public. Notwithstanding that vineyards are agricultural, the products thereof may be sold offsite but shall not be sold to the public from any Lot or in the Common Area.

3. SUBDIVISION

No parcel or Lot shown on the recorded subdivision map of Tract No. 11,737 shall be subdivided or resubdivided.

4. PERMITTED STRUCTURES

No Structure shall be erected or maintained on any Lot other than one single-family residence and a private garage, together with buildings incidental to residential ranch use, including a guest house, ranch employee housing, barns and corrals, none of which may be rented or sold separately from the main residential structure, or used for any purpose whatsoever except residential ranch family use.

5. HOUSE TRAILERS

No house trailer or recreational vehicle shall be permitted on any Lot, unless it is fully enclosed by a Structure or screened by landscaping in such manner as may be approved by the ARC/Board except that the ARC/Board may grant permission for a house trailer to be used on a Lot during the period of actual construction of a residence on such Lot for a period not to exceed eighteen months, or longer if actual construction has been and is still continuing, and the ARC /Board approve such extension of time.

6. GROUND FLOOR AREA; CONSTRUCTION

The floor area of any main residential structure, exclusive of garages, porches and patios, shall not be less than 2000 square feet, except that in the case of split-level residences, the ground floor area shall be subject to the written approval of the ARC / Board prior to the commencement of construction. The construction of any building shall be completed within eighteen (18) months from the date of commencement thereof or as soon thereafter as possible, with approval of the ARC /Board.

7. SETBACKS

No structure, other than a fence or hedge, shall be erected or permitted, except by variance, closer than seventy-five (75) feet from the right-of-way line of any road. No barn, stable, or corral shall be closer than one hundred fifty (150) feet from any adjacent homeowner's living quarters.

8. ARC AND BOARD APPROVAL

No Structure, including any fence, shall be erected, nor shall any alteration or modification of an existing Structure which would substantially affect the structural integrity or exterior appearance thereof be made upon the Property without the prior written approval of the ARC/Board. All utilities servicing any Structure must be located underground.

9. SIGNS

Permitted signs must be no more than 2' by 3' in size. All signs must be constructed of wood or metal and may not be illuminated or electrically powered. No signs of any kind, other than "for sale", "for lease", "no trespassing", "no hunting", "security alarm/service" or signs posted at the ranch entrance for the purpose of stating ranch name and address, or other reasonable informational signs, are permitted.

10. RIDING TRAILS

No motor vehicles of any type or description shall be permitted upon the riding trails within the Property, except for maintenance. Permission for parking for special events may be requested to the ARC/Board

11. NO NUISANCES

a. Noxious Activities

No illegal or noxious activities shall be conducted upon any Lot or common area, nor shall anything be done within the Property which is an unreasonable nuisance to other Owners. All exterior lighting shall be shielded so as not to cause glare or trespass upon adjacent properties.

b. Garbage and Debris

No rubbish, trash, or garbage of any kind, including but not limited to organic trimmings and natural materials, inoperable vehicles; collection of building, ranch, or industrial materials; household or similar appliances; shall be placed or permitted to accumulate upon any Lot. No odors shall be permitted so as to render any portion of a Lot unsanitary, unsightly, offensive, or detrimental to any other property in the vicinity or to its occupants. Any trash that is accumulated by an Owner outside the interior wall of a structure shall be stored entirely within appropriately covered disposal containers and facilities which shall be on the Owner's Lot and screened from view from any road or other Lot. This does not eliminate the ability to create piles of tree cuttings or brush to dry for burning during the next burning season.

12. REPAIRS

No building or other improvement on any portion of the Property shall be permitted to fall into disrepair, and each such improvement shall at all times be kept in good condition and repair and adequately painted or otherwise finished by the Owner thereof.

13. NO HAZARDOUS ACTIVITIES

No activity shall be conducted on any property and no improvements constructed on any property which are or might be unsafe or hazardous to any person or property.

14. DRILLING

Drilling, boring, exploring and mining of any kind are prohibited on any portion of the property except for such activity undertaken by the Mutual Water Company, or drilling for dry wells for septic purposes.

ARTICLE IV: THE ASSOCIATION

1. FORMATION

The Association has been incorporated under the name of Oak Trail Estates Homeowners Association as a non-profit corporation under laws of the State of California and shall be charged with the duties and invested with the powers prescribed by law and set forth in the Articles of Incorporation, and the By-Laws and this Declaration. Neither the Articles nor the By-Laws shall, for any reason, be amended or otherwise changed or interpreted so as to be inconsistent with this Declaration. In the event of any such inconsistency, the provisions of this Declaration shall prevail.

2. MEMBERSHIP

a. Qualifications

Each Owner of a Lot shall be a member of the Association. Ownership of a Lot shall be the sole qualification for membership in the Association. Each Owner shall remain a member thereof until such time as his ownership ceases for any reason, at which time his membership in the Association shall automatically cease. In the event any Lot is owned by a corporation or other entity, such corporation or entity may appoint individuals to exercise its rights hereunder.

b. Members' Rights and Duties

Each member shall have the rights, duties and obligations set forth in this Declaration, the Articles of Incorporation, the By-Laws, the Association rules and the ARC rules, as the same may from time to time be amended.

c. Transfer of Membership

The Association membership of each owner shall be appurtenant to the Lot giving rights to such membership, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon a transfer of title to said Lot, and then only to the transferee of title to said Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association appurtenant thereto to the new Owner thereof.

3. VOTING

Association votes shall be limited to one vote for each Lot within the Association. The right to vote may not be severed or separated from the ownership of the Lot to which it is appurtenant, and any sale, transfer or conveyance of such Lot to a new Owner or Owners shall operate automatically to transfer the appurtenant vote to the new Owner or Owners.

4. JOINT OWNER VOTES

The vote for each such Lot must be cast as a unit, and fractional votes shall not be allowed. In the event that the joint owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose the right to vote on the matter in question. If any owner or owners cast a vote representing a certain Lot, it will thereafter be conclusively presumed for all purposes that he or they were acting with the authority and consent of all other owners of the same Lot. In the event more than one (1) vote is cast for a particular Lot, none of said votes shall be counted and said votes shall be deemed void.

5. CUMULATIVE VOTING

In any election of the members of the Board, every Owner entitled to vote in the election shall have the right to accumulate his votes and give to one candidate, or divide among any number of the candidates, the number of votes held by the Owner multiplied by the number of Directors to be elected. The candidates receiving the highest number of votes up to the number of Board members to be elected, shall be deemed elected.

6. REMOVAL OF DIRECTORS

Any member of the Board may be removed without cause at any regular or special meeting of the Owners called for that purpose by a vote of a majority of the members of the Association.

7. DUTIES OF THE ASSOCIATION

In addition to powers delegated to it by its Articles, without limiting the generality thereof, the Association shall have the obligation and power to conduct all business affairs of common interest to all Owners and to perform each of the following duties:

a. Operation and Maintenance of Common Area

Operate, maintain and otherwise manage or provide for the operation, maintenance and management of the Common Area and all facilities, improvements and landscaping thereon, and all other property acquired by the Association. In this connection, the Association may enter into contracts for services or materials for the benefit of the Association or Common Area, provided, however, that the term of any such service contract shall not exceed one (1) year unless approved by a majority of the Owners.

b. Taxes and Assessments

Pay all real and personal property taxes and assessments separately levied against the Common Area or against the Association and/or any property owned by the Association. Such taxes and assessments may be contested or compromised by the Board; provided, however, that they are paid or a bond insuring payment is posted prior to the sale or the disposition of any property to satisfy the payment on such taxes.

c. Water and Other Utilities

Acquire, provide and/or pay for water, mowing, garbage disposal, refuse and rubbish collection, electrical, telephone and gas and other necessary utility services for the Common Area.

d. Insurance

Obtain, from reputable insurance companies, and maintain in effect blanket public liability insurance for the Common Area, casualty insurance and fire insurance with extended coverage for full insurable value of the Common Area but without prejudice to the right of any

Owner to obtain individual insurance. Insurance premiums for any such blanket insurance coverage, and any other insurance deemed necessary by the Board, shall be a common expense to be included in the regular assessments levied by the Association.

e. Rule Making

Make, establish, promulgate, amend and repeal the Association rules.

f. ARC

Appoint and remove members of the ARC all subject to the provisions of this Declaration.

g. Enforcement of Restrictions and Rules

Perform such other acts, whether or not expressly authorized by this Declaration, as may be reasonably necessary to enforce any of the provisions of this Declaration and the Association rules.

8. POWERS AND AUTHORITY OF THE ASSOCIATION

The Association shall have all powers of a nonprofit corporation organized under the general nonprofit corporation laws of the State of California subject only to such limitations upon the exercise of such powers as are expressly set forth in the Articles, the By-Laws and this Declaration. It shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under this Declaration, the Articles and the By-Laws, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the express powers of the Association, including without limitation:

a. Assessments

To levy assessments on the Owners and to force payment of such assessments, all in accordance with the provisions of this Declaration.

b. Right of Enforcement

- (1) Institute and Maintain Actions. The Association in its discretion shall have the power and authority from time to time in its own name, on its own behalf or on behalf of any Owner or Owners who consent thereto, to commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of this Declaration or the Articles and By-Laws, and to enforce by mandatory injunction or otherwise all provisions hereof.

(2) Discipline Members. In addition to the foregoing remedies, the Association shall have the right to suspend the voting privileges, suspend the privileges of the Common area, or impose monetary costs against any Owner by reason of any violation by an Owner or member of the Owner's family, or lessee or sublessee or guest, of the Articles, By-Laws, or this Declaration, or Association rules, adopted hereunder, subject to the following limitations:

- (a) The accused Owner must be given notice and an opportunity to be heard with respect to the alleged violation.
- (b) Any suspension of an Owner's Association privileges cannot exceed a period of 30 days for any one violation.
- (c) Any monetary costs imposed shall consist of costs incurred by the Association including attorney's fees, court costs, and all other incidental costs.
- (d) Each suspended or fined Owner or other person can appeal such action by filing written notice of intention to appeal with the Board. The action imposing the fine or suspension shall then become ineffective until the fine or suspension is approved by a majority of Board members at a regular or special meeting of the Board. The Owner or other person to be fined or suspended can appear, be represented by counsel and be heard at the meeting.
- (e) Should the owner being fined or suspended contest the decision of the Board, such owner may call for a special meeting within 30 days (as provided in Article IV, paragraph 12) at which time the member may present his case and call for a written vote of the association membership on the matter. A vote of a majority of the membership will be required to overturn the previous decision of the Board.
- (f) Should the member not accept the vote of the Association, the controversy shall be settled by mediation or arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the mediation or arbitration award rendered by the arbitrator(s) or mediator(s) may be entered in any court having jurisdiction thereof.

c. Easements and Rights of Way

To grant and convey to any third party licenses, easements and rights of way in, on, over, or under those portions of the Common Area upon which no building or other structure has been erected for the purpose of constructing overhead or underground lines, cables, wires, conduits or other devices for the transmission of electricity for lighting, heating, power, telephone, and other purposes; public sewers, storm water drains, and pipes, water system, sprinkling systems, water, heating and gas lines or pipes; and any similar public or quasi-public improvements or facilities.

d. Delegation of Powers

The Association shall have the authority to delegate its powers to committees, or to employees.

9. ASSOCIATION RULES

By majority vote of the Board, the Association may, from time to time, adopt, amend and repeal such rules and regulations as it deems reasonable (herein, the "Association Rules"). The Association Rules shall govern use of the Common Area and the roads. The Association Rules may not discriminate among Owners, and shall not be inconsistent with this Declaration, the Articles or By-laws. A copy of the Association rules as they may from time to time be adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner. Upon such mailing or delivery and posting, said Association Rules shall have the same force and effect as if they were set forth in and were part of this Declaration. In the event of any conflict between any such Association Rules and the provisions of this Declaration, the Articles or the By-laws, the Association Rules shall be deemed to be superseded to the extent of any such inconsistency.

10. PERSONAL LIABILITY

No member of the Board, or of any committee of the Association, or any officer of the Association shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on the account of any act, omission, error or negligence of the Association, the Board, or any other representative or employee of the Association or the ARC, or any other committee, or any officer of the Association provided that such person has, upon the basis of such information as may be possessed by him, acted in good faith without willful or intentional misconduct.

11. EXERCISE OF ASSOCIATION POWERS BY BOARD

The Board shall exercise for and on behalf of the Association all powers, duties and authority vested in or delegated to the Association and not otherwise requiring consent or approval of the members of the Association, or a portion or percentage thereof, by other provisions of this Declaration, the Articles or the By-laws.

12. ANNUAL MEETING AND SPECIAL MEETINGS

The Association shall hold an annual meeting during the month of May. Special meetings may be called for any purpose by any member or members representing ten percent (10%) of the voting rights of the members by giving written notice of the time, place, and purpose of the meeting to each Owner. Notice for all Owners' meetings, annual or special, shall be given by regular mail and shall be given not less than ten (10) days or more than thirty (30) days prior to the time of said meeting and shall set forth the place, date and hour of the meeting, and the nature of the business to be undertaken. All meetings shall be held at a reasonable place selected by the Board. The presence at a meeting in person or by proxy of Owners entitled to cast more than fifty percent (50%) of the total vote of all Owners of the Association shall constitute a quorum. If any meeting cannot be held because a quorum is not present, the Owners present, either in person or by proxy, may as otherwise provided by law, adjourn the meeting to a time not less than 48 hours nor more than thirty (30) days from the time the original meeting was called.

13. MAINTENANCE FUND

The Board shall budget for and maintain a maintenance fund for the payment of all common expenses, including maintenance of all roads in the common area; all taxes and assessments levied against the common area; and a reasonable reserve for contingencies. The Board shall levy assessments as provided in ARTICLE VI hereof and all funds collected hereunder together with special assessments or charges provided for in other sections of this Declaration shall constitute the maintenance fund referred to herein.

14. REVIEW AND ANNUAL REPORT

Within thirty (30) days after the close of each fiscal year, the Board shall cause an independent review of the accounts of the maintenance fund by a certified public accountant, and upon completion of the review cause to be prepared and delivered to each Owner within thirty (30) days after completion, a true and correct copy thereof. In addition, the Board shall prepare or cause to be prepared, an annual operating statement reflecting the income and expenditures of the Association for its fiscal year and a copy of said statement shall be distributed to each Owner within sixty (60) days after the end of each fiscal year.

15. NOTICE OF DEFAULT

In the event of a default by any Owner in the payment due upon a promissory note secured by a mortgage to his individual Lot, the mortgagee shall have the right, upon giving written notice to said defaulting Owner and placing on record a notice of default, to exercise the vote of such Owner at all meetings of Owners or to execute the written approvals of Owners during such time as said default may continue. When the mortgagee shall have complied with such conditions, upon his written request, the remaining Owners shall notify him of all action to be taken by Owner so long as such default remains.

ARTICLE V: ARCHITECTURAL REVIEW COMMITTEE

1. MEMBERS OF THE COMMITTEE

The ARC shall consist of three (3) Owners appointed by the Board. Each of said Owners shall hold office until such time as he has resigned or has been removed, or his successor has been appointed as provided herein. Members of the ARC may be removed at any time without cause.

2. DUTIES OF THE COMMITTEE

The ARC shall consider and act upon the proposals and plans submitted to it; propose amendments or modifications to the Architectural Rules and Guidelines; perform other duties delegated to it by the Board; and carry out all other duties imposed upon it by this Declaration.

3. MEETINGS

The ARC shall meet from time to time as necessary to properly perform its duties. The vote or written consent of a majority of the ARC shall constitute the action of the Committee. The ARC shall keep and maintain a written record of all actions taken.

The Owner shall be entitled to appear at any meeting of the ARC and/or Board at which the Owner's proposal has been scheduled for review. The Owner shall be entitled to be heard on the matter and may be accompanied by his or her agent or representative. Other Owners whose properties may be affected by the proposed improvement shall also be entitled to attend the meeting. Reasonable notice of the time, place, and proposed agenda for ARC and/or Board meetings shall be communicated before the date of the meeting to any Owner whose application is scheduled to be heard and other Owners who have expressed an interest in the proposal or who may be affected by the project.

4. ARCHITECTURAL RULES AND GUIDELINES

The ARC and/or Board may, from time to time, recommend to the Owners that one or more of the rules known as the Architectural Rules and Guidelines be adopted, amended, or repealed. Any such changes must be approved by a simple majority of the Owners. In

the event of any conflict between the Architectural Rules and Guidelines and this Declaration, the provisions of this Declaration shall prevail.

5. ARC APPROVAL OF IMPROVEMENTS

a. Approval generally

- (1) Before commencing construction or installation of any improvement, the Owner planning such improvement must submit to the ARC a written request for approval. The Owner's request shall include a description of the project, all items identified in this Article and any additional items required by the Architectural Rules and Guidelines.
- (2) While applications for improvements shall be made to the ARC and shall comply with the requirements of this Declaration and the Architectural Rules and Guidelines, a recommendation for approval given by the ARC is effective only when approved by the Board.
- (3) Unless the ARC's recommendation for approval and Board's approval of the proposal is first obtained, no work on the Improvement shall be undertaken. The ARC/Board shall base the decision to approve, disapprove, or conditionally approve the proposed Improvement on the criteria described in this Article.

b. Modifications to Approved Plans Must Also be Approved

Once a work of Improvement has been approved by the Board, no modifications shall be made in the approved plans and specifications and no subsequent alteration, relocation, addition, or modification shall be made to the work of Improvement, as approved, without a separate submittal to, and review and approval by, the ARC/Board. If the proposed modification will have, or is likely to have, an effect on other aspects or components of the work, the Board may require that the Owner, his contractors and agent cease working not only on the modified component of the Improvement, but also on any other affected component.

c. Work on An Improvement Without Approval

In the event that it comes to the attention of the ARC/Board that a work of Improvement, or any modification thereof, is proceeding without proper approval, the Board shall be entitled to exercise enforcement remedies, including, without limitation, ordering an immediate cessation and abatement of all aspects of the work of Improvement until such time as proper ARC/Board review and approval is obtained.

d. Basis for Approval of Improvements

When a proposed Improvement is submitted to the ARC for review, the ARC shall recommend approval and the Board shall grant the requested approval only if it finds that all of the following provisions have been satisfied:

- (1) The Owner has complied with the provisions of all applicable portions of this Declaration and all additional applicable items in the Architectural Rules and Guidelines.
- (2) The Owner's plans and specifications will result in an Improvement that creates reasonable minimal negative impact to the appearance of the surrounding area and the Subject Property as a whole; will result in an Improvement that is in harmony with the external design of other structures and/or landscaping within the Subject Property; and will not interfere with the reasonable enjoyment of any other Owner of his or her property, including, without limitation, the other Owner's reasonable rights to scenic access free of unreasonable obstructions.
- (3) The proposed Improvement, if approved, will otherwise be consistent with the architectural and aesthetic standards of the subject Property and with the overall plan and scheme of development and the purposes of this Declaration.

The ARC/Board shall be entitled to determine that a proposed Improvement or component thereof is unacceptable when proposed on a particular Lot. Different locations for Improvements, the size of the structure, proximity to other residences or Common Areas and other factors may be taken into consideration by the ARC/Board in reviewing a particular submittal. The ARC/Board must act reasonably and in good faith.

e. Procedures for Obtaining Approvals of Plans and Specifications

Preliminary Approval. The application shall be in writing and shall present sufficient detail to apprise the ARC/Board of the general nature, location, dimensions, and contemplated exterior colors and finishes of the proposed Improvement.

The ARC/Board shall grant the preliminary approval only to the extent that its nature and characteristics as shown on the application, would be entitled to final approval on the basis of a full and complete application. Any preliminary approval shall be effective for a period of 90 days from

the date of issuance. In no event shall the preliminary approval constitute the final approval.

Final Approval. All Owners must apply for and obtain the ARC/Board approval before commencing with work on any Improvements subject to the provisions of this Declaration. The application shall be in writing and shall contain all information that is necessary to reasonably evaluate the nature, design, location, and extent of the proposed Improvement. The application, plans, specifications and related materials shall be delivered to the Chairperson of the ARC. As quickly as possible the ARC shall determine whether to recommend approval to the Board, and shall meet with the Board for approval or suggested changes. In approving an Improvement, the Board may condition final approval upon the adoption of modifications in the plans and specification or observance of restrictions as to location, noise abatement, outdoor lighting considerations, landscaping, color or materials modifications or similar mitigating conditions consistent with the provisions of this Declaration. A majority of the Board must agree to grant final approval.

f. Proceeding with Work

Upon receipt of final approval, the Improvement shall be commenced as soon as practical. In the event the Owner has not commenced the project within one year, the approval shall be deemed revoked unless the Owner has applied for and been granted an extension from the ARC/Board.

g. Failure to Complete Work

Unless the Owner has been granted an extension of time to complete the project by the ARC/Board, the Improvement must be completed within eighteen (18) months after construction has commenced unless the Board extends the time for completion for a valid reason such as impossibility or undue hardship on the Owner.

h. Inspection of Work by the ARC

During the course of construction, the ARC may visit the job site. Upon completion of work on the Improvement, the Owner shall give the ARC a written notice of completion. Thereafter, the ARC shall inspect the Improvement to determine whether it was done in compliance with the approval plans. If it was not done in compliance, the ARC must give the Owner a written notice of noncompliance detailing those aspects of the Improvement which must be corrected. If it is not corrected, the Board shall have enforcement rights and remedies as set forth in this Declaration.

The ARC has 45 days after receipt of the Owner's written notice of completion to give a notice of noncompliance, or the Improvement will be deemed to be in compliance.

i. Enforcement

The Board shall have the authority to order an abatement of any Improvement for which approval is required, if such approval has not been obtained. If the Owner then fails to obtain proper approvals, the Owner shall be deemed noncompliant, and the Board may institute legal proceedings against him. The Owner shall reimburse the Association for such expenses as may be incurred by the Association for any legal proceedings and incidental expenses related to any legal recourse. In the event the Association must remove the noncomplying Improvement or remedy the noncompliance in other ways, such costs against the Owner may be recovered as stated in other parts of this document.

j. Grandfather Clause

Any use or improvement existing prior to the date of adoption of this Declaration and which is nonconforming only by virtue of the adoption of this Declaration shall not be considered retroactively as a violation of this Declaration.

k. Variances

The ARC/Board may authorize variances from compliance with any of the terms and provisions of this Declaration when circumstances such as topography, natural obstructions or hardship may require. Such variances must be evidenced in writing and signed by the ARC/Board. If such variances are granted, no violation of this Declaration shall be deemed to have occurred with respect to the matter for which the variance was granted. The granting of such variance shall not operate to waive any of the terms and provisions of this Declaration for any purpose except as to the particular property and provision hereof covered by the variance.

l. No Waiver of Future Approvals

The approval by the ARC/Board of any proposals or plans and specifications shall not be deemed to constitute a waiver of any right to withhold approval or consent as to any similar proposals, plans and specifications subsequently or additionally submitted.

ARTICLE VI: ASSESSMENTS

1. PURPOSE OF ASSESSMENTS

Assessments levied by the Association shall be used exclusively for the health, safety and welfare of the Owners, the improvement operation and maintenance of the common area, and the performance of the duties of the Association.

2. COLLECTION OF ASSESSMENTS

The cost of collection of any assessments provided for herein, together with interest thereon, and including reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs and attorney's fees, shall also be the personal obligation of each person, firm or entity who was an Owner of such property at the time when such assessment becomes due and payable. The personal obligation for delinquent assessments shall not pass to an Owner's successors in interest unless expressly assumed by them.

3. REGULAR ASSESSMENTS

Not more than sixty (60) days nor less than thirty (30) days prior to the beginning of each calendar year, the Board shall estimate the total amount of funds necessary to defray the common expenses of the Association for the next calendar year and shall assess the record Owner of such Lot in December of each year for the following year. Said assessments shall be prorated in accordance with the total number of Lots in the Association. Each Owner shall thereafter pay the Association his assessment in monthly or quarterly installments.

The maximum assessment may be increased each year not more than three percent (3%) above the maximum assessment for the previous year without a vote of the membership. This increase shall be cumulative, if and to the extent the three percent (3%) increase is not imposed in any year or years. The maximum assessment may be increased above three percent (3%) by the vote or written assent of a majority of the Owners.

4. SPECIAL ASSESSMENTS

In the event that the Board shall determine that the regular assessment for a given calendar year is, or will become inadequate to meet the expenses of the Association for any reason; including but not limited to unexpected repairs or replacement of roads, the Board shall determine the approximate amount necessary to defray such expense and levy a special assessment applicable for that year only, provided that any such assessment

shall have the assent of a majority of the Owners voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be given to all Owners at least thirty (30) days in advance and shall set forth the purpose of the meeting.

5. UNIFORM RATE OF ASSESSMENT

Regular and special assessments must be fixed at a uniform rate for all Lots.

6. ASSESSMENT PERIOD

The regular assessment period shall commence on January 1 of each year and terminate December 31 of each year.

7. NOTICE AND ASSESSMENT DUE DATES

Ten (10) days prior written notice of regular assessments shall be sent to the Owner of every Lot subject thereto. The due dates for regular and special assessments shall be established by the Board. Each assessment shall become delinquent if not paid within thirty (30) days after the levy thereof. There shall accrue with each delinquent installment and special assessment, such late charges and/or interest at the maximum rate permitted by law calculated from the first day following the due date of such installment or assessment. Each Owner is personally liable for said assessments and no Owner of a lot may exempt himself from liability for his contribution by waiver of the use or enjoyment of the common areas or by abandonment of his lot.

8. DELINQUENCY, NOTICE

The Association may cause to be recorded in the office of the Santa Barbara County Recorder a notice of any delinquent sums due the Association from any Owner, and a claim of lien. Said notice and claim of lien shall state the amount of such delinquent sums and other authorized charges (including the cost of recording such notice and attorney's fees); a sufficient description of the lot against which the sum has been assessed, and the name of the record owner thereof. Each delinquency shall constitute a separate basis for a notice and claim of lien but any number of defaults may be included within a single notice and claim of lien. Upon payment to the Association of such delinquent sums and charges in connection therewith or other satisfaction thereof, the Association shall cause to be recorded a further notice stating the satisfaction and relief of such delinquent sums and charges. The Association may demand and receive the cost of recordation of such release together with applicable attorney's fees and other costs before recording the same. Any purchaser or mortgagee, acting in good faith and for value, may rely upon such notice of satisfaction and relief as conclusive evidence of the full satisfaction of the sums paid in the notice of delinquent sums.

9. ESTOPPEL CERTIFICATE

The Association, upon not less than twenty (20) days after a written request, shall execute, acknowledge and deliver to the party making such request a statement in writing stating whether or not to the knowledge of the Association, a particular lot Owner is in default under the provisions of this Declaration and further stating the dates to which assessments, regular or special, have been paid by said Owner, it being intended that any such certificate delivered pursuant to this section may be relied upon by any prospective purchaser or mortgagee of said Owner's interest, but reliance on such certificate may not extend to any default as to which the Association shall have had no actual knowledge.

ARTICLE VII: ENFORCEMENT OF ASSESSMENTS; LIENS

1. RIGHT TO ENFORCE

The right to collect and enforce the assessments on any Lot is vested in the Association. Each Owner of a Lot shall be deemed to covenant and agree to pay the Association each and every assessment provided for in this Declaration and agrees to the enforcement of all such assessments in the manner herein specified. In the event an attorney or attorneys are employed for the collection of any assessment, whether by suit or otherwise, or to enforce compliance with or specific performance of the terms and conditions of this Declaration, each Owner agrees to pay reasonable attorney's fees and costs thereby incurred in addition to any other amounts due or any other relief or remedy obtained against said Owner. The Board, or its authorized representative, may enforce the obligations of the Owners to pay the assessments provided for in this Declaration by commencement and maintenance of a suit at law or in equity or the Board may exercise the power of sale pursuant to this Article, to enforce the liens created hereby. Suit to recover money judgment for unpaid assessment shall be maintainable without foreclosing or waiving the lien hereinafter provided.

2. ASSESSMENT LIENS

a. Creation

There is a claim of lien with power of sale on each and every Property to secure payment to the Association of any and all assessments levied against any Owner pursuant to this Declaration, together with interest thereon at the maximum rate permitted by law and all costs of collection which may be paid or incurred by the Association in connection therewith, including reasonable attorney's fees. All sums assessed in accordance with the provisions of this Declaration shall constitute a lien on such respective property upon recordation of a notice of delinquency and claim of lien with the Santa Barbara County Recorder. Said lien shall be prior and superior to all other liens or claims created subsequent to the recordation of the notice of delinquency and claim of lien except for tax

liens for real property taxes to any property and assessments on any property in favor of any municipal or other governmental assessing unit which, by law, would be superior thereto.

b. Method of Foreclosure

Such lien may be foreclosed by appropriate action in court or by the Association, its attorney or other person authorized to make the sale, such sale to be conducted in accordance with the provisions of the California Civil Code applicable to the exercise of powers of sale in mortgages and deeds of trust, or in any manner permitted by law. The Board is hereby authorized to appoint its attorney, any officer or Director of the Association or any title company authorized to do business in California as Trustee for the purpose of conducting such power of sale foreclosure.

c. Rental During Foreclosure Proceedings

In any such foreclosure, the property Owner shall be required to pay reasonable rental for the property and the plaintiff in such foreclosure motion shall be entitled to the appointment of a receiver to collect the same. The Association acting on behalf of the property Owners, shall have the power to bid on the property at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. Suit to recover money judgment for unpaid regular or special assessments shall be maintainable without foreclosing or waiving the lien securing the same.

d. Required Notice

Notwithstanding anything contained in this Declaration to the contrary, no action may be brought to foreclose the lien created by recordation of the notice of delinquency and claim of lien, whether judicially, by power of sale or otherwise, until the expiration of thirty (30) days after a copy of such claim of lien has been mailed to the Owner of the property described in such notice of delinquency and claim of lien.

3. SUBORDINATION TO CERTAIN TRUST DEEDS

The lien for the assessments provided hereunder in connection with a given property shall not be subordinate to the lien of any deed of trust or mortgage except the lien of a deed of trust or mortgage given and made in good faith and for value that is of record as an encumbrance against such given property prior to the recordation of a claim of lien for the assessments provided for in this Declaration against such given property. The sale or transfer of any property shall not affect the assessment lien provided for herein, nor the creation thereof by the recordation of a claim of lien on account of assessments becoming due whether prior to, on, or after the date of such sale or transfer, nor shall such sale or transfer diminish or defeat the personal obligation of any owner for delinquent

assessments as provided for in this Declaration; provided, however, that the sale or transfer of any property pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish a lien of such assessment as to payments which became due prior to such sale or transfer.

4. MORTGAGE PROTECTION CLAUSE

No breach of the covenants, conditions, or restrictions herein contained, nor the enforcement of any lien provisions herein shall defeat or render invalid the lien of any prior deed of trust made in good faith and for value, but all of said covenants, conditions, and restrictions shall be binding upon and effective against any Owner whose title is derived through foreclosure or trust deed sale or otherwise; provided, however, any holder of a mortgage which comes into possession of a property pursuant to the remedies provided in the mortgage, foreclosure of the mortgage, or deed (or assignment) in lieu of foreclosure, shall take the property free of any claims of unpaid assessments or charges against the mortgaged property which accrue prior to the time such holder comes into possession of the property.

ARTICLE VIII: DURATION AND AMENDMENT

1. DURATION

This Declaration shall continue in full force and effect unless an instrument, signed by seventy-five percent (75%) of the then Owners has been recorded agreeing to terminate or change said declaration in whole or in part.

2. AMENDMENT

A proposed amendment to this Declaration may be proposed at a meeting of the Association. The resolution shall be adopted by the approval of Owners owning in the aggregate not less than seventy-five percent (75%) of the parcels. A copy of each amendment shall be certified by at least two (2) officers of the Board. The amendment shall be effective when recorded in the Santa Barbara County public records.

ARTICLE IX: PARTITION

The undivided interest in the common areas and the fee titles to respective Lots of Owners conveyed therewith shall not be separated or separately conveyed, and each such undivided interest shall be deemed to be conveyed or encumbered with its respective Lot even though the description in the instrument of conveyance or encumbrance may refer only to the Lot.

ARTICLE X: CONDEMNATION

1. SALE BY UNANIMOUS CONSENT

In the event that an action for condemnation of all or a portion of the Oak Trail Estates is proposed or threatened by any governmental agency having the right of eminent domain, then, upon unanimous written consent of all of the Owners, the development, or such portion thereof may be sold.

2. DISTRIBUTION OF PROCEEDS OF SALE

Upon a sale occurring as described above, the proceeds resulting therefrom shall be distributed to the Owner or Owners and their mortgagees of each property, as their respective interests may appear, the Owner or Owners of each property to receive that portion of the total proceeds as the "full cash value" of the property bears to the total "full cash value" of all properties in the Association, as fixed by the Assessor of Santa Barbara County as of the last assessment date prior to the date of the agreement for sale to the government agency.

ARTICLE XI: MISCELLANEOUS

1. LEGAL PROCEEDINGS

Failure to comply with any of the terms of this Declaration, or the Articles and By-laws of Oak Trail Estates Homeowners Association (including the rules and regulations adopted pursuant thereto) shall be grounds for relief which may include, without limiting same, an action to recover sums due for damages, injunctive relief, foreclosure of lien, or any combination thereof, which relief may be sought by the Association, or if appropriate, by an aggrieved Owner.

Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision, or any other provision hereof. Any property Owner not at the time in default hereunder, or any member of the Association, shall be entitled to bring an action for damages against any defaulting Owner, and, in addition, may enjoin any violation of this Declaration. Any judgment rendered in any action or proceeding pursuant hereto shall include a sum for attorney's fees in such amount as the court may deem reasonable, in favor of the prevailing party.

2. SEVERABILITY

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or position hereof shall not effect the validity or enforceability of any other provisions hereof.

3. BINDING EFFECT OF ASSOCIATION AGREEMENTS

All agreements and determinations lawfully made by the Association in accordance with the voting rights established in this Declaration, the Articles, or the By-laws, shall be deemed to be binding on all Owners, their successors and assigns.

4. NOTIFICATION OF SALE OF PROPERTY

Concurrently with the consummation of the sale of any property, or within five (5) business days thereafter, the transferor or transferee of such property shall notify the Association in writing of the sale. Such notification shall set forth the name of the transferee and his transferor; the lot number and street address of the lot transferred; the mailing address of the transferee; and the date of sale.

Prior to receipt of such notice by the Association, all notices required or permitted to be given by the Association shall be deemed to be duly given to the transferee if duly and timely made to the transferor or the transferee.

IN WITNESS WHEREOF, Declarants have executed this Declaration the day and year first above written.

OAK TRAIL ESTATES HOMEOWNERS ASSOCIATION

A California Non-Profit Corporation

By Val Rhodes
Val Rhodes, President

By Janice Edwards
Janice Edwards, Secretary

State of California

County of Santa Barbara

On January 25, 2002, before me, Julia A. Hanselka a Notary Public, personally appeared Val Rhodes and Janice Edwards, proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons or entity upon behalf of which the persons acted, executed the instrument.



WITNESS my hand and official seal.

Julia A. Hanselka
Signature of Notary Public