

DRIVEWAY ENTRANCE GATE AGREEMENT

This DRIVEWAY ENTRANCE GATE AGREEMENT ("Agreement") is made by and between **L P P O Association, a Colorado non-profit corporation** ("Association") whose address is 1600 Lake Purgatory Drive, Durango, Colorado 81301 and **Cascade Creek Lodge, LLC, a Texas limited liability company** whose address is 2450 South Shore Blvd., Suite 215, League City, Texas 77573 ("Cascade Creek"). The foregoing entities may sometimes hereinafter be referred to individually as a "Party" and collectively as the "Parties." This Agreement shall be effective and fully enforceable by and between the Parties upon execution by both Parties ("Effective Date").

RECITALS

A. The Association is a Colorado non-profit corporation that serves the Lake Purgatory Unit I subdivision ("Subdivision").

B. The Subdivision is described on the plat recorded on September 1, 1970 in the Office of the Clerk and Recorder for La Plata County, Colorado at Reception Number 361058 ("Plat").

C. Cascade Creek is the owner of the following described real property located in the Subdivision:

*Lot 20A as described and depicted in the plat entitled **Lots 20 and 21, Lake Purgatory – Unit 1 Boundary Adjustment, Project No. 2017-0199, located within the Southwest 1/4 of the Southeast 1/4 of Section 36, Township 39 North, Range 9 West, N.M.P.M., La Plata County, Colorado**, recorded in the office of the La Plata Clerk and Recorder, La Plata County, Colorado, under Reception Number 1147396*

also known by street address as: 1785 Lake Purgatory Drive, Durango, Colorado 81301 (hereinafter "Cascade Creek Property").

D. In the land area adjacent to the Cascade Creek Property, the existing Subdivision roadway known as Lake Purgatory Drive was not constructed within the easement depicted and described on the Plat ("Platted Easement"). As a result, Cascade Creek has a driveway that extends from the existing Lake Purgatory Drive roadway to the Cascade Creek Property and traverses the Platted Easement.

E. In 2018, Cascade Creek constructed an entrance gate across its driveway. This entrance gate is located outside of the surveyed boundary of the Cascade Creek Property and within the Platted Easement.

F. The Association, acting through its covenants committee, notified Cascade Creek that the entrance gate was outside the surveyed Cascade Creek Property boundary line and issued a written decision that the entrance gate should be either moved to a location within the surveyed Cascade Creek Property or removed.

G. Cascade Creek disagreed with the covenant committee's written decision and appealed the decision to the Association's Board of Directors.

H. The Association's Board of Directors held a meeting on August 8, 2019 to consider Cascade Creek's appeal of the covenant committee's decision relating to the entrance gate.

I. At the August 8, 2019 meeting, Cascade Creek presented arguments supporting its position regarding the entrance gate encroachment. The Association's Board of Directors did not expressly agree with Cascade Creek's position; however, the Association's Board of Directors decided that it was in the Association's best interest to pursue resolution of the dispute, rather than litigation.

J. This Agreement is being executed to memorialize the conceptual resolution reached on August 8, 2019 between the Association and Cascade Creek relating to the entrance gate.

AGREEMENT

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

1. The Cascade Creek Property driveway entrance gate may remain in its current constructed location until the first of either of the following two events occur:

(A) the Association decides to move, reconstruct, enlarge, or modify the existing location of Lake Purgatory Drive roadway such that the entrance gate will either be in the new roadway or so close to the new roadway that it will unreasonably interfere with maintenance or use of the new roadway; or

(B) Cascade Creek sells the Cascade Creek Property to a third party or the Cascade Creek Property is transferred to a business entity that Doug Harrington is not a majority member, shareholder, or owner.

In the event either of the above two events occur, Cascade Creek and the new owner(s) of the Cascade Creek Property, at their sole expense, shall either move the driveway entrance gate to a location within the surveyed boundaries of the Cascade Creek Property or remove the gate. In the event that the driveway entrance gate is required to be moved, the Association shall provide Cascade Creek or the new owner of the Cascade Creek Property written notice of the need for such removal and provide a date by which such removal shall occur. The Association's written notice will allow Cascade Creek or the new owner of the Cascade Creek Property at least thirty (30) days from receipt of written notice to remove the gate so long as the notice is received between May 1 and October 1 of the applicable year to avoid the removal work having to be done in winter conditions. If such notice is provided between October 2 and April 30, Cascade Creek or the new owner of the Cascade Creek Property shall have through at least June 1 to remove the gate.

2. Cascade Creek acknowledges that the driveway entrance gate is located within the Platted Easement and on behalf of itself, its assigns and successors, hereby voluntarily releases,

holds harmless and forever discharges, the Association, including its board, officers, agents, and representatives, from any and all liability, claims, demands, or causes of action, which are in any way connected with, arise out of, or related to the driveway entrance gate, unless such claim is based on the negligence of the Association. Furthermore, Cascade Creek, its assigns and successors hereby agree to defend and indemnify the Association, including its board, officers, agents, and representatives, from any and all claims, losses, damages, and costs, including but not limited to attorney's fees, arising out of, connected with or related to the driveway entrance gate.

3. The terms stated in this Agreement run with the land and are binding upon Cascade Creek, its successors and assigns, and all future owners of the Cascade Creek Property. The terms stated in this Agreement benefit the LPPO Association only, there are no third-party beneficiaries to the terms stated herein.

4. Cascade Creek shall promptly record a copy of this Agreement in the Office of the Clerk and Recorder for La Plata County, Colorado.

5. Cascade Creek shall reimburse the Association for the attorney's fees it has incurred in addressing this driveway gate entrance issue in an amount not to exceed \$2,500.00, and by execution of this Agreement below, the Association acknowledges full receipt of such reimbursement from Cascade Creek.

6. Should any litigation be commenced between the Parties hereto regarding the terms of this Agreement, the Party prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for its attorney's fees in such litigation which shall be determined by the court or in a separate action brought for that purpose.


7. No amendment or modification of this Agreement shall be valid or binding unless expressed in writing and executed by the Parties hereto in the same manner as the execution of this Agreement.

8. This Agreement is made and shall be governed by and interpreted in accordance with the laws of the State of Colorado. Venue for any lawsuit arising hereunder shall be the appropriate court in La Plata County, Colorado.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the dates set forth next to their signatures below and on the following page.

L P P O ASSOCIATION

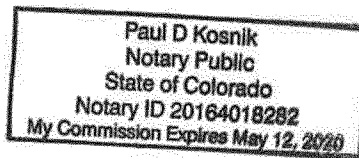
By: _____


Tom Clutinger, President

STATE OF COLORADO)
) ss.
County of La Plata)

This instrument was acknowledged before me on this 19th day of September, 2019
by Tom Clutinger, President of the L P P O Association.

Witness my hand and official seal.
My commission expires: May 12, 2020



Paul D Kosnik
Notary Public

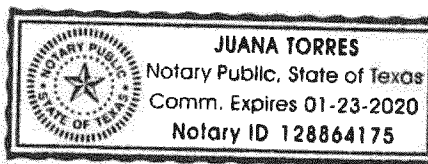
CASCADE CREEK LODGE, LLC

By: [Signature]
Douglas R. Harrington, Jr., as Member and Manager

STATE OF ^{Texas} ~~COLORADO~~)
) ss.
County of ^{galveston} ~~La Plata~~)

This instrument was acknowledged before me on this 24th day of September, 2019
by Douglas R. Harrington, Jr., as Member and Manager of Cascade Creek Lodge, LLC, a Texas
limited liability company.

Witness my hand and official seal.
My commission expires: January 23, 2020



Juana Torres
Notary Public