

2021002993Recording Requested By:
First American Title Company
Homebuilder Services DivisionOfficial Records of Sonoma County
Deva Marie Proto
01/11/2021 11:30 AM
FIRST AMERICAN TITLE SANTA ANA

ESMT 12 Pgs

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Fee: \$211.00

**RECORDING REQUESTED BY:**

Barbara Oif Stack, Esq.

AND WHEN RECORDED MAIL DOCUMENT TO:Barbara Oif Stack, Esq.
General Counsel
Irontate Development
50 Washington Street
Hoboken, NJ 07030

5805468**AMENDED AND RESTATED GRANT OF EASEMENT AND AGREEMENT OF
DEED COVENANTS, CONDITIONS AND RESTRICTIONS**

THIS AMENDED AND RESTATED GRANT OF EASEMENT AND AGREEMENT OF DEED COVENANTS, CONDITIONS AND RESTRICTIONS ("Easement Agreement") is made and entered into as of the 6th day of January, 2021 between **Timber Cove Country Inn LLC**, a California limited liability company, having its principal place of business at 50 Washington Street, Hoboken, NJ 07030 ("**Grantor**") and **Timber ID LLC**, a Delaware limited liability company, having its principal place of business at 50 Washington Street, Hoboken, NJ 07030 (hereinafter referred to as "**Grantee**").

WHEREAS, Grantor is the current owner of certain real property located in the County of Sonoma and State of California known as APN 109-070-010 and more particularly described on **Exhibit "1"** annexed hereto and made part hereof (the "**Burdened Property**");

WHEREAS, Grantee is the owner of certain real property located in the County of Sonoma and State of California and adjacent to the Burdened Property, known as APN #109-070-009, more particularly described on **Exhibit "2"** annexed hereto and made part hereof (the "**Benefitted Property**");

WHEREAS, the Burdened Property is intended to contain a portion of the Grantee's septic system that serves the Benefitted Property; and

WHEREAS, Grantor has granted to Grantee a permanent easement in and to the area described on **Exhibit "A"** annexed hereto and made part hereof and as shown on the map attached hereto as **Exhibit "A-1"** as the cross-hatched area (the "**Septic System Easement Area**") for the purpose of operating, maintaining, repairing and rebuilding the portion of Grantee's septic field located on the Burdened Property pursuant to Easement Agreement dated April 24, 2020 and recorded in the Official Records of Sonoma County as Instrument Number 2020032123 on April 29, 2020 (the "**Original Easement Agreement**").

First American Title Company has recorded this instrument
by request as an accommodation only and has not examined
it for regularity and sufficiency or as to its effect upon title to
any real property that may be described herein.

WHEREAS, the Grantor and Grantee desire to amend and restate the Original Easement Agreement in its entirety in order to incorporate certain covenants, conditions and restrictions required by the County of Sonoma in connection with the County's issuance of a septic permit to the Grantee as part of its review and approval of the septic system Grantee intends to develop on the Burdened Property

NOW, THEREFORE, in consideration of one dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor and Grantee do hereby amend and restate the Original Easement Agreement in its entirety and hereby covenant and agree as follows:

1. **Grant of Easement.** Grantor does hereby grant to Grantee and its successors and assigns the following easements (collectively, the "**Easement**"): (i) a permanent exclusive easement in, over across and through the Septic System Easement Area for the installation, operation, maintenance, repair, and replacement of a private sewage disposal system, including without limitation any and all surface or subsurface improvements appurtenant thereto and (ii) a temporary non-exclusive easement in, over and across the areas immediately adjoining the Septic System Easement Area reasonably necessary to enable Grantee to undertake the repairs and maintenance of the septic field that require use of the land outside the Septic System Easement Area. The Easement shall include the right of Grantee to do all things reasonably necessary to inspect, maintain, repair and/or replace the leach field and related improvements.

2. **Term.** This Easement Agreement shall continue in full force and effect from the date of recordation of the Original Easement Agreement in perpetuity, unless amended, modified or terminated by an agreement executed, acknowledged and recorded by Grantor and Grantee, subject to any approvals required by the County of Sonoma.

3. **Obligations of Grantee.** Grantee shall be solely responsible to maintain, repair, replace and reconstruct the septic facilities located in the Septic System Easement Area to ensure its safe and lawful operation and shall be solely responsible for the costs and expenses of the foregoing. Any work performed in the Septic System Easement Area and any use of the adjoining land reasonably necessary to facilitate the maintenance, repair, replacement and reconstruction the septic facilities shall be performed with a minimum of disruption to Grantor and shall be performed in compliance with applicable laws.

4. **Damage to Burdened Property.** If the Burdened Property shall sustain any damage from the operation, maintenance por repair of the septic facilities in the Septic System Easement Area or Grantee or its agents or contractors shall damage the Burdened Property, Grantee shall, at the option of Grantor, either promptly repair such damage and restore the Burdened Property to the condition before such damage occurred or reimburse Grantor for its reasonable repair and restoration costs and expenses.

5. **Performance of Work and Construction Liens.** Any work performed by Grantee and its agents or contractors with respect to rights granted hereby shall be done in a good and

workmanlike manner in accordance with all laws, rules, regulations and legal requirements. In the event a construction lien is filed against the Septic System Easement Area or other property owned by Grantor for any labor or material furnished (or claimed to have been furnished) in connection with the maintenance, repair and reconstruction of the Septic System Easement Area, the lien shall be promptly discharged by Grantee.

6. **Indemnity and Insurance.** Grantee shall at all times, and from time to time, indemnify, defend and save Grantor and its direct and indirect members and managers (the "**Grantor Parties**") harmless from any and all liabilities, demands or obligations of any nature (including reasonable counsel fees and court costs) arising from the construction, reconstruction, repair, replacement, use, control, operation and maintenance by Grantee of the Septic System Easement Area. Grantee shall, at its own cost and expense, procure and maintain a policy of commercial general liability insurance, naming the Grantor Parties as additional named insureds, insuring against damage for bodily injury (including death) and property damage. Such insurance shall be in aggregate limits of Five Million (\$5,000,000) Dollars and such limits shall be increased every five (5) years by the same percentage of increase that has occurred during such five (5) year period in the Consumer Price Index. Grantee shall, within ten (10) days of demand, provide Grantor with a certificate evidencing such insurance, providing that such insurance shall not be cancelled without thirty (30) days notice to the recipient of the certificate.

7. **Covenant, Conditions and Restrictions.** The parties hereto hereby expressly declare, covenant, acknowledge and agree, for themselves and their grantees, successors, heirs, personal representatives and assigns that the Easement herein granted and the Burdened Property shall be, and are hereby made subject to each of the following covenants, conditions, and restrictions ("**Covenants and Restrictions**") which are required as a condition for the approval by the County of Sonoma of a permit to install a sewage disposal system on the Burdened Property for the benefit of the Benefitted Property:

- a. This Easement Agreement shall bind and inure to the benefit of the respective heirs, grantees, personal representatives, successors and assigns of Grantor and Grantee and specifications of the Easement shall pertain to and run with the land.
- b. The creation of this Easement is a condition relative to the approval of a sewage disposal permit, and alteration or elimination of the rights and duties of the Easement without the express written consent of the County of Sonoma may constitute a violation of State and local laws.
- c. The use of the area of the leach field Easement by the Grantor shall be restricted from uses which are incompatible with proper leach field operation, including building of structures, vehicular parking, roadways, wells or drainage courses, grading, or any other use which would disrupt the leach field.
- d. The Burdened Property shall not be used in any manner which may interfere with or adversely affect the safe operation of the sewage disposal system for the structure of Benefitted Property.

- e. The sewage disposal system shall be located in the area described in "Exhibit A" and "Exhibit A-1" which are attached hereto and made a part hereof.

8. **Expiration Upon Connection to Public Sewer.** The Easement and Covenants and Restrictions herein described shall expire and shall be of no further force or effect when the public sewer is available and connected to the Benefitted Property or alternate means of sewage disposal are approved by the County of Sonoma Public Health Officer. The Easement and Covenants and Restrictions shall not be modified or terminated without the written consent of the County of Sonoma Public Health Officer, which consent shall not be unreasonably withheld.

9. **County Approval of Sewerage Disposal Permit.** The provision of the Easement is a condition of the Sonoma County Permit & Resource Management Department, Well & Septic Division relative to approval of a sewage disposal permit and may not be quitclaimed or altered without the written consent of the Sonoma County Public Health Officer, which shall not be unreasonably withheld.

10. **No Merger.** It is the intent of Grantor and Grantee that this Easement created hereby will not merge with the underlying fee interest even if the Easement and the fee come into the same ownership; this Easement is intended to survive severance of the estates and to be included in conveyances to subsequent purchasers.

11. **Binding Effect and Governing Law.** This Easement Agreement and all covenants and restrictions contained herein shall, to the fullest extent permitted by law and equity, and without regard to technical classifications or designations, be deemed to be covenants running with the land of the Burdened Property, and shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. This Easement Agreement is made with the intent of satisfying Section 1468 of the California Civil Code. This Easement Agreement shall be governed and construed in accordance with the laws of the State of California.

12. **Entire Agreement.** This Easement Agreement, including the recitals and Exhibits "1", "2", "A" and "A-1" attached hereto, all of which are incorporated herein by this reference, constitute the entire agreement between the parties with respect to the grant of Easement hereunder.

13. **Amendments.** This Easement Agreement may be amended, modified or supplemented only by a written document executed by both of the parties hereto (or their successors and assigns).

14. **Mortgagee Protection.** No violation or breach of the terms and conditions of this Easement Agreement shall affect or impair the liens or security rights of the holder of a Mortgage (as hereafter defined) given in good faith and for value which is now or in the future recorded against the Burdened Property; *provided, however*, that any such mortgagee shall be obligated to comply with any non-disturbance, recognition, attornment or similar agreement that it executes. With respect to any Mortgage recorded against the Burdened Property subsequent to the recording of this

Easement Agreement, such mortgagee or any purchaser at a foreclosure sale resulting from such mortgage or other party taking title to the Burdened Property shall take subject to this Easement Agreement and the terms and conditions set forth herein. The term "**Mortgage**" shall mean any recorded mortgage or deed of trust encumbering the Burdened Property.

15. **No Third Party Beneficiaries.** This Easement Agreement is only for the benefit of the parties hereto and their successors and assigns as set forth in Section 7 above. No other person or entity or property shall be entitled to rely hereon, receive any benefit herefrom or enforce any provision hereof against any party hereto (or their respective successors and assigns.)

16. **Counterparts.** This Easement Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Easement Agreement as of the date first above written.

"GRANTOR"

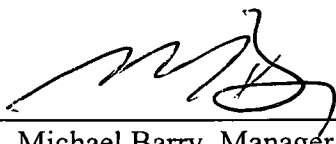
TIMBER COVE COUNTRY INN LLC

a California limited liability company

By: Ironstate Timber Cove LLC

By: Ironstate Holdings LLC

By: MIB Holdings LLC

By: 
Michael Barry, Manager

"GRANTEE"

TIMBER ID LLC

a Delaware limited liability company

By: Ironstate Timber Cove LLC

By: Ironstate Holdings LLC

By: MIB Holdings LLC

By: 
Michael Barry, Manager

STATE OF NEW JERSEY)
) ss.
COUNTY OF HUDSON)

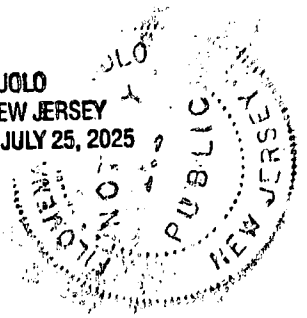
On January 6, 2020 before me, Filomena Andriuolo, a Notary Public, personally appeared Michael Barry, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of New Jersey that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Filomena Andriuolo
Notary Public in and for said State

FILOMENA ANDRIUOLO
A NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES JULY 25, 2025



STATE OF NEW JERSEY)
) ss.
COUNTY OF HUDSON)

On January, 2021 before me, Filomena Andriuolo a Notary Public, personally appeared Michael Barry, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of New Jersey that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Filomena Andriuolo
Notary Public in and for said State

**FILOMENA ANDRIUOLO
A NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES JULY 25, 2025**

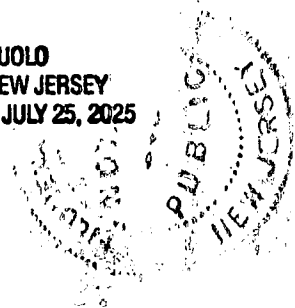


EXHIBIT 1

BURDENED PROPERTY

Legal Description: APN #109-070-010

COMMENCING AT THE TIMBER COVE COAST AND GEODETIC SURVEY TRIANGULATION STATION LOCATED IN ZONE 2 OF THE CALIFORNIA STATE COORDINATE SYSTEM AS GRID COORDINATES OF NORTH 318,035.17, EAST, 1,634,937.23; THENCE NORTH 21° 56' 42" EAST 60.00 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 68° 03' 18" WEST, 185.00 FEET, MORE OR LESS, TO A POINT WHICH BEARS NORTH 22° 25' WEST, 162.00 FEET; SOUTH 67° 35' WEST, 60.00 FEET AND SOUTH 21° 56' 42" WEST, 543.00 FEET FROM A CONCRETE MONUMENT ON THE EAST SIDE OF STATE HIGHWAY NO. 1, SAID CONCRETE MONUMENT BEARS SOUTH 22° 25' EAST 373.17 FEET FROM THE NORTHWEST CORNER OF LOT 31, BLOCK 6, AS DELINEATED UPON THE MAP OF TIMBER COVE PROPERTIES, INC., UNIT 2, FILED MARCH 5, 1965, IN BOOK 103 OF MAPS, PAGES 11 THROUGH 25, SONOMA COUNTY RECORDS; THENCE NORTH 21° 56' 42" EAST, 543.00 FEET TO A POINT ON THE WESTERLY LINE OF SAID STATE HIGHWAY NO. 1; THENCE NORTHWESTERLY ALONG SAID HIGHWAY LINE TO THE MOST EASTERLY CORNER OF LOT 15, IN BLOCK 5 OF SAID SUBDIVISION; THENCE ALONG SAID LOT LINE SOUTH 36° 38' WEST TO THE MOST SOUTHERLY CORNER THEREOF AND THE MEAN HIGH WATER LINE OF THE PACIFIC OCEAN; THENCE SOUTHERLY AND EASTERLY ALONG SAID MEAN HIGH WATER LINE TO A POINT BEARING SOUTH 68° 03' 18" EAST FROM SAID TRUE POINT OF BEGINNING; THENCE LEAVING SAID MEAN HIGH WATER LINE AND RUNNING NORTH 68° 03' 18" WEST TO SAID TRUE POINT OF BEGINNING.

EXCEPTING THEREFROM THE FOLLOWING DESCRIBED PARCEL:

BEING A PORTION OF THAT CERTAIN PARCEL OF LAND CONVEYED TO TIMBER COVE PROPERTIES, INC., BY DEED DATED JUNE 4, 1963, AND RECORDED IN BOOK 1965 OF OFFICIAL RECORDS, PAGE 800, SONOMA COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND CONTAINING 11,309.76 SQUARE FEET, BEING ENCOMPASSED WITHIN A CIRCLE HAVING A RADIUS OF 60.00 FEET AND HAVING AS ITS POINT OF RADIUS THE TIMBER COVE COAST AND GEODETIC SURVEY TRIANGULATION STATION LOCATED IN ZONE 2 OF THE CALIFORNIA STATE COORDINATE SYSTEM AS GRID COORDINATES NORTH 318,035.17 EAST 1,634,937.23.

EXHIBIT 2**BENEFITTED PROPERTY****Legal Description : APN #109-070-009**

COMMENCING AT THE TIMBER COVE COAST AND GEODETIC SURVEY TRIANGULATION STATION LOCATED IN ZONE 2 OF THE CALIFORNIA STATE COORDINATE SYSTEM AS GRID COORDINATES OF NORTH 318,035.17, EAST, 1,634,937.23; THENCE FROM SAID POINT OF COMMENCEMENT NORTH 21°56'42" EAST 60.00 FEET TO THE TRUE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL; THENCE NORTH 68°03'18" WEST, 185.00 FEET, MORE OR LESS, TO A POINT WHICH BEARS NORTH 22°25' WEST, 162.00 FEET; SOUTH 67°35' WEST, 60.00 FEET AND SOUTH 21°56'42" WEST, 543.00 FEET FROM A CONCRETE MONUMENT ON THE EAST SIDE OF STATE HIGHWAY NO. 1, SAID CONCRETE MONUMENT BEARS SOUTH 22°25' EAST 373.17 FEET FROM THE NORTHWEST CORNER OF LOT 31, BLOCK 6, AS DELINEATED UPON THE MAP OF TIMBER COVE PROPERTIES, INC., UNIT 2, FILED MARCH 5, 1965, IN BOOK 103 OF MAPS, PAGES 11 THROUGH 25, SONOMA COUNTY RECORDS; THENCE NORTH 21°56'42" EAST, 543.00 FEET TO A POINT ON THE WESTERLY LINE OF SAID STATE HIGHWAY NO. 1; THENCE ALONG THE WESTERLY AND SOUTHERLY LINES OF SAID STATE HIGHWAY NORTH 1 IN A SOUTHERLY DIRECTION TO THE INTERSECTION OF THE EASTERLY LINE OF SAID LANDS CONVEYED TO TIMBER COVE PROPERTIES; THENCE IN A SOUTHERLY DIRECTION AND ALONG THE EASTERLY LINE OF SAID LANDS OF TIMBER COVE PROPERTIES TO THE INTERSECTION WITH THE MEAN HIGH WATERS OF THE PACIFIC OCEAN; THENCE ALONG THE SAID MEAN HIGH WATER LINE TO A POINT BEARING SOUTH 68°03'18" EAST FROM SAID TRUE POINT OF BEGINNING; THENCE LEAVING SAID MEAN HIGH WATER LINE AND RUNNING NORTH 68°03'18" WEST TO SAID TRUE POINT OF BEGINNING.

EXHIBITS A and A-1

SEPTIC SYSTEM EASEMENT AREA

Exhibit A

An easement over the Lands of Timber Cove Country Inn LLC, a California limited liability company as described in that certain deed recorded under Document Number 2018-078800, Sonoma County Records, and as said lands are shown on that certain Record of Survey filed in book 708 Maps, page 21, Sonoma County Records (lands are shown on said map as Hojohn DN 1991-023914), said easement being more particularly described as follows:

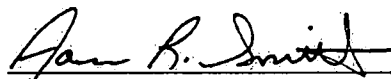
Beginning at a found $\frac{3}{4}$ inch iron pipe tagged PLS 5087 marking an angle point in the Lands of Timber Cove Country Inn LLC, a California limited liability company as described in that certain deed recorded under Document Number 2018-078800, Sonoma County Records, and as said lands are shown on that certain Record of Survey filed in book 708 Maps, page 21, Sonoma County Records (lands are shown on said map as Hojohn DN 1991-023914), from which a found $\frac{3}{4}$ inch iron pipe tagged PLS 5087 marking the corner of said lands at State Highway One bears, N $21^{\circ}55'42''$ E, 543.00 feet; thence from said **Point of Beginning** and along said line of Timber Cove Country Inn LLC, N $21^{\circ}55'42''$ E, 249.00 feet; thence leaving said line, N $55^{\circ}00'00''$ W, 122.00 feet; thence S $15^{\circ}00'00''$ W, 104.00 feet; thence S $74^{\circ}00'00''$ E, 54.00 feet; thence S $25^{\circ}00'00''$ W, 58.00 feet; thence S $78^{\circ}00'00''$ W, 41.00 feet; thence S $16^{\circ}00'00''$ E, 139.00 feet; thence N $87^{\circ}28'54''$ E, 24.40 feet, to the lands of Timber Cove Country Inn LLC; thence along said lands, N $63^{\circ}33'05''$ W, 18.00 feet, to the Point of Beginning.

Affecting 19,572 square feet, more or less.

Affecting Assessor's Parcel Number 109-070-010

Basis of Bearings N $21^{\circ}55'42''$ E: being the monumented easterly line of the Lands of Timber Cove Country Inn LLC being the Lands of Hojohn as shown on that certain map titled Record of Survey filed in book 708 Maps, page 21, Sonoma County Records.

Prepared by:


Aaron R. Smith, PLS 7901



Date: April 28, 2020

AAI JN 15046
ARS 20200116
Septic Easement

Legend

- Found 3/4" Iron Pipe, PLS 5087

Exhibit A-1

Highway 1

Scale: 1" = 50'

Timber Cove Country Inn, LLC
APN 109-070-010
DN 2018-078800

Timber ID, LLC
APN 109-070-009
DN 2014-093726

"Record of Survey"
708 Maps 21

"Record of Survey"
646 Maps 37

Point of Beginning

Pacific Ocean

Timber Cove Lodge

N 87°28'54" E
24.40'

State of California

APN 109-070-011
DN 1980-000272

April 28, 2020

Date



Aaron R. Smith
Aaron R. Smith, PLS 7901

Private Easement



adobe associates, inc.
civil engineering | land surveying | wastewater
1220 N. Dutton, Ave., Santa Rosa, Ca. 95401
P (707) 541-2300; F (707) 541-2301

Job No. 15046-(JLJ)

Affecting APN 109-070-010

January 22, 2020

File: T:\2015 PROJECTS\15046\dwg\Adobe-Survey\15046-Septic Ease.dwg Time: Apr 28, 2020 - 11:50am