

Recording requested by and  
When recorded, please return to:

Caldera Springs Owners' Association, Inc.  
P.O. Box 3609  
Sunriver, OR 97707  
Attn: Steve Runner



\$73.00

11/20/2015 11:15:58 AM

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\$25.00 \$11.00 \$21.00 \$10.00 \$6.00

### Easement and Use Agreement

This EASEMENT AND USE AGREEMENT ("Agreement") is entered into and effective as of the 31 day of December 2006, by and between CALDERA SPRINGS REAL ESTATE LLC, an Oregon limited liability company ("Caldera") and CALDERA SPRINGS OWNERS' ASSOCIATION, INC., an Oregon nonprofit corporation ("Association").

#### WITNESSETH:

WHEREAS, Caldera owns the property and facilities known as Caldera Springs Golf, comprised of a nine-hole short course golf facility, golf practice holes and putting green (the "Golf Facilities") located on that certain real property described on attached **Exhibit A**, at Caldera Springs Resort located near Sunriver, Oregon; and

WHEREAS, Association is a owners association, whose members ("Association Members") are owners of residential lots in the Caldera Springs residential development (the "Subdivision") located in the Caldera Springs Resort community near Sunriver, Oregon, that will, upon full buildout, be composed of approximately 320 residential lots and an additional 40-60 condominiums or townhomes; and

WHEREAS, Caldera and Association desire to enter into an Easement and Use Agreement whereby members of the Association will have access to and use of the Golf Facilities, all on the terms and conditions contained herein.

WHEREAS, this Agreement was intended to be recorded in 2006, but was inadvertently not recorded, the parties desire to execute this Agreement, effective as of the date first set forth above and to record the Agreement in the real property records of Deschutes County, Oregon.

NOW, THEREFORE, Caldera and Association hereby agree to the following:

1. Easement. Caldera hereby grants an easement to the Association to permit Association Members in good standing to access the Golf Facilities in accordance with this Agreement. The easement may not be used by any Association Member whose rights to use the Golf Facilities hereunder have been suspended or terminated.
2. Use Privileges for Association Members. Current and future members of the Association shall have the following non-exclusive rights to use the Golf Facilities: The right to use the nine-hole, short course golf facility, the golf practice holes and the putting green, subject to such rules and regulations as Caldera may establish from time to time. Such use shall be without the obligation to pay dues or greens fees. Such use shall further be subject to such rules and regulations as may be established and/or modified by Caldera from time to time. Association Members shall be entitled to reserve tee times at the short course in accordance with such procedures Caldera may establish from time to time.
3. Family Members. The right to use the Golf Facilities under this Agreement shall extend to family members of Association Members. As used herein, "family members" shall mean an Association Member's spouse or another adult permanently residing in the member's household, in the case of an unmarried couple, and approved by Caldera, and their unmarried children under the age of 25. Association Members' unmarried children age 25 and older also shall have access to the Golf Facilities on a discounted basis.
4. Guests. The right to use the Golf Facilities under this Agreement shall extend to accompanied guests of Association Members, subject to such rules and fees as may be established by Caldera from time to time.
5. Rules and Regulations/Discipline. All use of Golf Facilities pursuant to this Agreement shall be subject to such rules and regulations as may be established and/or modified by Caldera from time to time. Caldera shall be entitled to suspend or terminate the use rights and privileges of Association Members under this Agreement or take other disciplinary action against any Association Member (including family members or guests) for any cause that would justify disciplinary action under Caldera's Rules and Regulations, in accordance with such policies and procedures as Caldera may adopt from time to time. Any Association Member whose use rights and privileges have been suspended shall not be entitled to the use privileges granted pursuant to this Agreement during the period of suspension. Association Members shall assure that their family members and guests review and agreed to abide by all rules and regulations prior to using any of the Golf Facilities. Association Members shall be responsible for (including subject to discipline for) the behavior of their family members and guests.

6. Annual Payment. In exchange for the use rights and privileges granted hereunder, the Association shall pay to Caldera an annual fee as follows: Commencing July 1, 2007, the Association shall pay to Caldera the annual sum of One Hundred Twenty-Five Thousand Dollars (\$125,000), payable in equal quarterly installments. Thereafter, the annual payment shall increase by an amount set by Caldera, which amount shall be not less than three percent (3%) nor more than six percent (6%) of the prior year's payment. Any late payments shall bear interest at the rate of the lesser of (i) prime (as reported by U.S. Bank, Portland, or its successor bank) plus three percent (3%); or (ii) the maximum rate permitted by applicable law. In the event any payment is missed, Caldera shall have the right to suspend all Association Member uses under this Agreement until such payment is made in full with all accrued interest. In the event that the golf course is not ready for play by July 1, 2007, (i) payments by the Association shall not commence until such date as the golf course is available for play; and (ii) Caldera shall not be in default hereunder. The Association's payment hereunder shall be prorated for 2007, based upon the first date on which the golf course becomes available for play.
7. Term. This Agreement shall be effective as of the date hereof and shall continue, unless otherwise terminated as provided herein, for a period of 30 years (the "Initial Term"), after which time they shall be automatically extended for successive periods of ten (10) years each, unless and until such time as the Association's Declaration of Protective Covenants, Conditions and Restrictions for Caldera Springs (the "Association CC&Rs") is terminated by the Association's members in accordance with the terms of the Association CC&Rs. Effective upon any such termination of the Association CC&Rs, this Agreement shall automatically terminate and the parties hereto shall thereafter have no further rights or obligations hereunder except for those rights and obligations accruing prior to the termination date. Recordation of a termination of the Association CC&Rs in the real property records of Deschutes County, Oregon, shall serve to remove this Agreement from title to the property described in attached **Exhibit A**. Effective upon the termination of this Agreement (regardless of whether the same occurs under this Section 6 or Section 7), all use privileges of Association Members hereunder shall expire.
8. Termination for Default. In the event of a Material Default hereunder on the part of the Association, Caldera shall have the right, in addition to all other remedies available to it at law and in equity, to terminate this Agreement. As used herein, "Material Default" shall mean a material default hereunder that is not cured within 60 days of the date on which Caldera provides written notice to the Association of the default; provided, however, in the event that the default is of such a nature that it cannot reasonably be cured within 60 days, then the Association shall have such longer period of time as is reasonably necessary to cure such default so long as the Association promptly commences and thereafter diligently prosecutes such cure.
9. Transfer and Assignment. Neither the Association nor any Association Member shall have the right to sell, pledge, hypothecate, assign, or otherwise transfer or encumber the use privileges granted pursuant to this Agreement. Caldera may assign its interests hereunder.
10. Amendment. This Agreement may be amended, in writing, from time to time by an instrument signed by Caldera, its successors or assigns, and by Association, its successors or assigns.

11. Survival/Recordation. This Agreement shall not terminate upon the sale of the Golf Facilities. As part of its development activities, Caldera will obtain a legal description of the golf course. At such time, Caldera shall attach the same to this Agreement and record it in the real property records of Deschutes County, Oregon.

**SIGNATURES ON NEXT PAGE**



NOTARY PUBLIC  
OREGON  
COM. NO. 929162  
EXPIRES JUNE 12, 2018

IN WITNESS WHEREOF, the undersigned parties have set their hands and seals effective as of the date first above written.

“Caldera”:

CALDERA SPRINGS REAL ESTATE LLC,  
an Oregon limited liability company  
By: Sunriver Resort Limited Partnership,  
a Delaware limited partnership,  
Member

By: Lowe Sunriver, Inc,  
a California corporation  
Its: General Partner

By: [Signature]  
Tom O’Shea, Managing Director

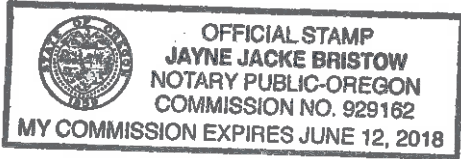
ASSOCIATION

CALDERA SPRINGS OWNERS ASSOCIATION,  
INC., an Oregon nonprofit corporation

Name: [Signature]  
Its: President

STATE OF OREGON )  
COUNTY OF Deschutes)ss.

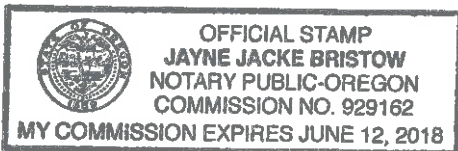
The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of November 2015, by Tom O’Shea, the Managing Director of Lowe Sunriver, Inc., a California corporation, the general partner of Sunriver Resort Limited Partnership, a Delaware limited partnership, the sole member of Caldera Spring Real Estate, LLC, an Oregon limited liability company, on behalf of the company.



Jayne Jacke Bristow  
Notary Public for the state of Oregon,  
My Commission Expires: 6/12/18

STATE OF OREGON )  
COUNTY OF Deschutes)ss.

The foregoing instrument was acknowledged before me this 11<sup>th</sup> day of November 2015, by STEVEN M. RUNNER the PRESIDENT of Caldera Springs Owners Association, Inc., an Oregon nonprofit corporation, on behalf of the corporation.



Jayne Jacke Bristow  
Notary Public for the state of Oregon,  
My Commission Expires: 6/12/18