

**SADDLE CREEK ENTRANCE (PRIVACY) GATE OPERATING AGREEMENT
BETWEEN
SADDLE CREEK COMMUNITY SERVICES DISTRICT
AND
CASTLE & COOKE CALIFORNIA, INC**

This Saddle Creek Privacy Gate Operating Agreement (“Agreement”) is entered into on the 17th day of January, 2017, by and between Saddle Creek Community Services District, a political subdivision of the State of California and a community services district formed pursuant to the provisions of California Government Code section 61000 et seq., hereinafter referred to as “District” and Castle & Cooke California, Inc, DBA Saddle Creek Golf Course, a California Corporation, hereinafter referred to collectively as “Castle & Cooke”.

RECITALS

1. Castle & Cooke is the owner of certain real property situated in the County of Calaveras, State of California, commonly known as Saddle Creek Golf Course which includes an 18-hole golf course, lodge, retail shops, restaurant, rental lodging units and other commercial enterprises, herein referred to as “Golf Course”, and all of which are open to the general public.
2. District is community services district formed and operating pursuant to California Government Code Section 61000 et seq and authorized to provide certain public services to the Saddle Creek community within its boundaries. The authorized services include mosquito abatement and road system maintenance including storm drains, street lights, asphalt surfacing, common landscape area maintenance and operation of a community entrance control gate.
3. The Saddle Creek Community was developed and sold by Castle & Cooke California, Inc. as a gated (entrance) community, with privacy access gates installed to be controlled by personnel located in the gate operations building (gatehouse).
4. District is authorized by California Government Code Section 61110 within its boundaries to acquire, construct, improve, and maintain streets, roads, rights-of-way, bridges, culverts, drains, curbs, gutters, sidewalks, and any incidental works.

5. District is further specifically authorized by California Government Code 61105(g) to, for roads owned by the district and that are not formally dedicated to or kept open for use by the public for the purpose of vehicular travel, by ordinance, limit access to and the use of those roads to the landowners and residents of the District.
6. District has adopted Ordinance 03-002 and Administrative Rules and Regulations Section 2003-1 describing the conditions for entrance into the Saddle Creek community and prescribing the conditions for operation of the Privacy Entrance Gate applicable to residents, owners and Castle & Cooke. The District has installed automated controls and security monitoring systems to provide for continuous remote monitoring and control of the gate system, which is located at the primary entrance to the community in a configuration that regulates all traffic into the community for all purposes including to residences and the golf course facilities.
7. Castle & Cooke desires that the entrance gates be operated in a manner to allow convenient access by the general public to its commercial operations associated with the Golf Course and Lodge.
8. District and Castle & Cooke agree that the entrance gate operation is intended to maximize the privacy and tranquility of the residential portions of the community under the authority of the District.
9. District wishes to facilitate the needs and interests of Golf Course in an agreement that details the roles, responsibilities and obligations of all parties as they relate to the current and future operation of Saddle Creek community access gates.

NOW, THEREFORE, in consideration of the authorities and responsibilities of the District as detailed above, the promises, mutual obligations and agreements herein contained, the parties hereby agree as follows:

1. Gate Operating Agreement. The community entrance gate will be staffed by personnel approved by the District for all hours during which Castle & Cooke desires public access to the golf course facilities, within the operating schedule approved by the District as detailed herein.

During those times and dates when the gate is closed and staffed as detailed above, Castle & Cooke will provide personnel designated and trained by the District as a Privacy Officer. In the event that

Castle & Cooke requests that the entrance gates be operated to allow public access to Castle & Cooke facilities, but refuses to provide consistent, trained personnel meeting the requirements of the District, the District may provide the Privacy Officer on behalf of Castle & Cooke and at their expense as described herein. The entrance gates will at all times be operated in accordance with Ordinance 03 – 002 which regulates entrance onto roads under the exclusive control of the District, and District Administrative Regulations 2003-1, which establishes privacy gate rules for residents, owners and Castle & Cooke.

2. Gate Staffing Schedule. The initial staffing schedule as proposed by Castle & Cooke is as follows:
 - a. Sunday – Thursday: 6:45 a.m. to 5:00 p.m.; and
 - b. Friday and Saturday: 6:45 a.m. to 8:00 p.m.

The District requires a consistent staffing schedule for the predictability of operations and security, and to inform residents of any changes to schedule or personnel. Castle & Cooke shall provide ten days (10) advance notice in writing to the District for changes in schedule or the use of personnel not previously approved by the District and trained in gate operating procedures.

3. Gate to be closed when not staffed. The entrance gate is to be operated in the closed position on automatic operation with access limited to residents and their approved guests during all hours not staffed in accordance with this agreement.
4. Necessary Changes in Gate Operating Conditions. Based on conditions existing within the community, the District retains the authority and responsibility to modify the days, hours and method of operation of the entrance gates, and to prescribe such rules and regulations for its operation as it deems necessary.
5. Cost for Gate Operation. Castle & Cooke shall provide and pay the cost of Privacy Officer staffing, or may delegate the staffing responsibilities to the District. If the District provides the staffing, Castle & Cooke shall on a monthly basis and within 30 days of billing reimburse all District’s costs of privacy gate operation associated with Privacy Officer staffing, including:
 - a. Employee or contractor expenses - All direct and indirect employment expenses, direct

cost of contracting with temporary staffing or security firms or other staffing contractors, as determined by the District.

- b. Building costs - Costs associated with operating the gate entrance building including office and restroom supplies and equipment, any utility costs such as water, sewer, electricity and gas not already paid directly by Castle & Cooke.
- c. Administrative costs – An administrative fee in the amount of 20% will be charged to cover the District’s cost of providing and managing the gate staffing services. The Administrative Fee is calculated based on the total monthly bill for employee and building operating costs as described above.

6. Term of Agreement. This Agreement shall be effective until terminated by the parties as provided herein. Either party may terminate this agreement by providing thirty (30) days advance written notice to the other party. The District may terminate this Agreement immediately with cause due to the default or breach of Castle & Cooke as described below.

7. Default or Breach. In the event that Castle & Cooke fails to perform their obligations under this Agreement, the District will provide a thirty-day advance notice requiring that the failed condition be immediately cured, and after the thirty-first day may discontinue the staffed operation of the entrance gate and return the gate to automatic control, and/or terminate this agreement.

8. Miscellaneous Provisions

- a. Liability and Property Damage Insurance. Castle & Cooke shall provide a certificate of insurance and endorsement naming the District, its officers and agents as additionally insured under its property/liability insurance policies.
- b. Indemnification. Castle & Cooke hereby agrees to defend, indemnify, hold harmless and protect District from and against any and all claims, losses, damages, liabilities, suits, costs (including attorneys’ fees) as a result of personal injury and/or property damage in connection with or arising out of operating the entrance gate in accordance with this Agreement.

9. Notices. All notices hereunder must be writing and, unless otherwise provided herein, shall be

deemed valid if sent by certified mail, return receipt requested, addressed as follows (or to any other mailing address which the party to be notified may designate to the other party by such notice.).

Should Castle & Cooke or District have a change of address, the other party shall immediately be notified as provided in this paragraph of such change.

District: Saddle Creek Community Services District
Attention: General Manager
1000 Saddle Creek Dr
Copperopolis, California 95228

Castle & Cooke: _____

10. Successors and assigns. This agreement shall inure to the benefit of future successors of Castle & Cooke; who shall have the same rights and obligations under this agreement.

IN WITNESS WHEREOF, Castle & Cooke and District have duly executed this Agreement on the day and year first above written.

SADDLE CREEK COMMUNITY SERVICES DISTRICT

Larry Hoffman/President of the Board

ATTEST: _____
Peter Kampa/Secretary of the Board

Castle & Cooke _____

By: _____