

**FREE RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

La Cañada Flintridge
1327 Foothill Boulevard
La Cañada Flintridge, CA 91011
Attn: Community Development Department

(For Recorder's Use Only)
Exempt from filing fee per Gov Code 27383

**DECLARATION OF RESTRICTIVE USE COVENANT AFFECTING REAL
PROPERTY AT _____
(RE: ACCESSORY DWELLING UNITS)**

This RESTRICTIVE USE COVENANT AGREEMENT AFFECTING REAL
PROPERTY AT _____ ("Covenant") is made
this ____ day of _____ 2018 by
_____ ("Owners").

RECITALS

- A. Owners are the record owners of a parcel of real property in the City of La Cañada Flintridge, County of Los Angeles, State of California, commonly known as _____, La Cañada Flintridge, California 90201 and more particularly described on Exhibit "A" attached hereto (hereinafter referred to collectively as the "Property").
- B. The Owners own the property as _____.
- C. The Property, which is located in the City's _____ Zone, is currently developed with one _____ residential dwelling unit.
- D. The Owners desire to establish and maintain an Accessory Dwelling Unit (hereinafter referred to as an "ADU") on the Property. An ADU is defined in section 17.33.010 in the La Cañada Flintridge Municipal Code as "an attached or a detached residential dwelling unit which provides complete independent living facilities for one or more persons characterized by physical features providing privacy for the occupants separate from the occupants of the primary dwelling unit, including a separate exterior entrance. If detached, it shall include permanent provisions for living, sleeping, eating, cooking and sanitation on the same parcel as the single-family dwelling is situated. If attached, it shares at least one wall with the primary unit and has separate permanent provisions for living, sleeping, eating, cooking and sanitation in the

unit, whether or not it is connected to the primary unit by an interior door or hall.”

- E. Pursuant to the La Cañada Flintridge Municipal Code, ADU's are permitted in on each lot in any R-1 zone, overlay zone where single-family or multifamily residential uses are permitted, R-3 zone or residential planned development (RPD) zone if the property owner satisfies the standards identified in said section.
- F. Owners have applied to the City of La Cañada Flintridge to establish and maintain an ADU in conformance with Chapter 17.33 of the La Cañada Flintridge Municipal Code and applicable state law including, but not limited to, Government Code section 65852.2.
- G. Pursuant to Section 17.33.040 of the La Cañada Flintridge Municipal Code, the Owners are required to record a covenant on the Property which “shall identify the occupancy and use limitations of the site, including, but not limited to, the requirement that the property owner occupy either the primary or accessory dwelling unit at all times. Evidence of recordation shall be provided to the city prior to issuance of any occupancy permit on the accessory dwelling unit.”
- H. Owners are executing this Covenant to memorialize and acknowledge their understanding of the requirements for maintaining an ADU on their Property.

NOW, THEREFORE, in consideration of the foregoing, Owners declare, covenant, and agree, by and for them, their heirs, executors and assigns, and all persons claiming under or through him or her, that the Property shall be held, transferred, encumbered, used, sold, conveyed, leased, and occupied subject to the covenants and restrictions hereinafter set forth, which covenants are established expressly and exclusively for the use and benefit of the Property.

TERMS AND CONDITIONS

COVENANTS, CONDITIONS AND RESTRICTIONS

1. Compliance with Law. Owners shall maintain the ADU on the Property in accordance with the applicable standards set forth in Chapter 17.33 of the La Cañada Flintridge Municipal Code and applicable state law including, but not limited to, Government Code section 65852.2, as each may be amended. In the event the La Cañada Flintridge Municipal Code is preempted by, or in conflict with state law, then state law shall govern.

2. Covenant. Owners agree that, for the term of this Covenant, either the primary residence of the ADU must be owner-occupied at all times as permitted by the La Cañada Flintridge Municipal Code or applicable state law.

3. Term. This Covenant shall be recorded against the Property and shall continue in full force and effect until the Covenant is released pursuant to Section 4 below.

4. Release of Covenant. This Covenant shall be released by the City upon City's receipt of written notice from the Owners that the ADU has been demolished and the City's verification of same. Once this has occurred, City shall promptly all action necessary to release the Covenant including, but not limited to, executing and recording a "Release of Covenant". In releasing the Covenant, the City shall not condition the release on any terms other than those contained in this Covenant. The Release of Covenant must be in a form approved by the City Attorney and may be executed by the City Manager.

5. Indemnification and Release. Owners agree to indemnify the City, its officers, agents and employees against, and will hold and save them and each of them harmless from, any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities (herein "claims or liabilities"), that may be asserted or claimed by any person, firm or entity arising out of or in connection with (i) this Covenant, (ii) the Accessory Dwelling Unit, or (iii) the acts or omissions of the Owners, their agents, employees, subcontractors, tenants, invitees or other persons on or about the Property, whether or not there is concurrent passive or active negligence on the part of the City, its officers, agents or employees but excluding such claims or liabilities arising from the gross negligence or willful misconduct of the City, its officers, agents or employees, who are directly responsible to the City.

6. Enforcement. In the event of any violation of any of the provisions of this Covenant, then, in addition to, but not in lieu of, any of the rights or remedies the City may have to enforce the provisions hereof, the City shall have the right (i) to enforce the provisions hereof as if a party hereto; (ii) to withhold or revoke, after giving written notice of said violation, any building permits, occupancy permits, certificates of occupancy, business licenses and similar matters or approvals pertaining to the Property or any part thereof or interests therein as to the violating person or one threatening violation; (iii) to enjoin the development of the Property, and (iv) to undertake all other appropriate remedies. The foregoing shall be conditioned on the City providing notice and an opportunity to cure to the Owner.

7. No Waiver. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of

any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Covenant.

8. Covenant Running With the Land. This Covenant is designed to create equitable servitudes and covenants appurtenant to the Property and running with the Property. Owners hereby declare that the Property shall be held, sold, conveyed, encumbered, hypothecated, leased, used and occupied subject to these covenants, conditions, restrictions and equitable servitudes, all of which are for the purposes of uniformly enhancing or protecting the value, attractiveness and desirability of the Property. The covenants, conditions, restrictions, reservations, equitable servitudes, liens and charges set forth herein shall run with the Property and shall be binding upon all persons having any right, title or interest in the Property, or any part thereof, their heirs, successive owners and assigns; shall inure to the benefit of every portion of the Property and any interest therein; shall inure to the benefit of the City and its successors and assigns and successors in interest; shall be binding upon Owners, their successors and assigns and successors in interest; and may be enforced by the City.

Owners hereby declare their understanding and intent that the burdens of the covenants set forth herein touch and concern the Property. Owners further declare their understanding and intent that the benefits of such covenants touch and concern the land by furthering the health, safety and welfare of the possible future residents, lessees and visitors to the Property.

9. Successors. The term "Owners" as used herein includes any assignee or successor of Owners. Owners agrees that all of the terms, covenants, and conditions of this Covenant shall be binding on such successors and assigns.

10. Authority. Owners warrant and represent that Owners hold title to the Property as the owner and has all requisite power and authority to enter into and perform Owners' obligation under this Covenant.

11. Violations. If it is determined that the Owners have violated any term of this Covenant, the Owners shall demolish the ADU in accordance with all direction from the Community Development Department after Owners obtain all necessary approvals and permits for such demolition. Failure to comply with this Section shall be grounds for the City of La Cañada Flintridge to sue the Owners for breach of this Covenant as a breach of contract with the City of La Cañada Flintridge.

12. Notices. Any notice to be given under this Covenant shall be given by personal delivery or by depositing the same in the United States Mail, certified or registered, postage prepaid, at the following addresses:

City: La Cañada Flintridge
1327 Foothill Boulevard
La Cañada Flintridge, CA 91011

Attn: Community Development Department

With Copy to: Aleshire & Wynder, LLP
18881 Von Karman Avenue, Suite 1700
Irvine, CA 32612
Attn: Mark W. Steres

Owners: _____

Any notice delivered personally shall be effective upon delivery. Any notice given by mail as above provided shall be effective forty-eight (48) hours after deposit in the mail. Any party may change address for notice by giving written notice of such change to the other party.

13. Modification. Except as otherwise provided, this Covenant may not be modified, terminated or rescinded, in whole or in part, except by a written instrument duly executed and acknowledged by the parties hereto, their successors or assigns and duly recorded in the Office of the County Recorder, County of Los Angeles, or pursuant to a release as set forth in Section 4.

14. Attorneys' Fees. In any action between the parties seeking enforcement of any of the terms and provisions of this Covenant, the prevailing party in such action shall be awarded, in addition to any damages, injunctive or other relief, its reasonable costs and expenses, including attorneys' fees.

15. Counterparts. This Covenant may be executed in any number of counterparts each of which shall be an original but all of which shall constitute one and the same document.

IN WITNESS WHEREOF, the undersigned have executed this Covenant as of the date first written above.

“Owners”

[OWNERS MUST HAVE SIGNATURES NOTARIZED]

CONSENT TO AND SUBORDINATION OF COVENANT

Mortgagor hereby consents to the Covenant and agrees to subordinate the Mortgage to the Covenant, but does not thereby waive any of its rights under its Mortgage.

MORTGAGOR:

Signature: _____

Name: _____

Title: _____

Date: _____

Signature: _____

Name: _____

Title: _____

Date: _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2018 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(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 California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

<input type="checkbox"/> CAPACITY CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/> INDIVIDUAL	_____
<input type="checkbox"/> CORPORATE OFFICER	TITLE OR TYPE OF DOCUMENT
_____	_____
<input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED	_____
<input type="checkbox"/> TITLE(S) <input type="checkbox"/> GENERAL	NUMBER OF PAGES
<input type="checkbox"/> ATTORNEY-IN-FACT	_____
<input type="checkbox"/> TRUSTEE(S)	DATE OF DOCUMENT
<input type="checkbox"/> GUARDIAN/CONSERVATOR	_____
<input type="checkbox"/> OTHER _____	SIGNER(S) OTHER THAN NAMED ABOVE
_____	_____

SIGNER IS REPRESENTING:

(NAME OF PERSON(S) OR ENTITY(IES))

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2018 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(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 California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

<input type="checkbox"/> CAPACITY CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/> INDIVIDUAL	_____
<input type="checkbox"/> CORPORATE OFFICER	TITLE OR TYPE OF DOCUMENT
_____	_____
<input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED	_____
<input type="checkbox"/> TITLE(S) <input type="checkbox"/> GENERAL	NUMBER OF PAGES
<input type="checkbox"/> ATTORNEY-IN-FACT	_____
<input type="checkbox"/> TRUSTEE(S)	DATE OF DOCUMENT
<input type="checkbox"/> GUARDIAN/CONSERVATOR	_____
<input type="checkbox"/> OTHER _____	SIGNER(S) OTHER THAN NAMED ABOVE
_____	_____

SIGNER IS REPRESENTING:

(NAME OF PERSON(S) OR ENTITY(IES))

