

ACCESS AGREEMENT

THIS ACCESS AGREEMENT (the “**Agreement**”) is made and entered into on _____, by _____ (“**Permittee**”):

RECITALS

A. Pajaro Dunes Association., Inc. a California mutual benefit corporation (“**PDA**”) is the owner of that certain real property situated in the County of Santa Cruz, State of California, commonly known as 2661 Beach Rd., Watsonville, CA 95076 (the “**Property**”).

B. Permittee desires to enter the Property to access those portions of the Watsonville Slough and Pajaro River Mouth running through the Property for the limited purpose of bird watching in accordance with the terms of this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Permittee agrees as follows:

AGREEMENT

1. Revocable Nonexclusive Access. Subject to the terms and conditions of this Agreement, PDA hereby allows Permittee a revocable nonexclusive access to the Property for the limited purpose of bird watching at the Watsonville Slough and Pajaro River Mouth. Permittee acknowledges that such access will be at the days, hours, and limited to the specific locations as determined by PDA in its sole and absolute discretion and that such access is revocable by PDA at any time and without notice. Nothing herein this agreement shall create an easement in favor of Permittee over or through the Property.

2. Compliance With Laws. Permittee shall at all times comply with all applicable laws, ordinances, regulations, and orders of any governmental authority having jurisdiction over the Property and shall at all times comply with all PDA rules, and PDA and its staff’s orders and directions.

3. General Protection of the Property. Permittee shall perform its activities in a safe manner and shall not disturb or interfere with the occupancy or operations of the Property or PDA, or any occupants of the Property. Promptly and at all times after PDA’s request Permittee shall exit the Property. Permittee agrees to exit the Property and all trails or other areas of the Property no later than 30 minutes before dusk.

4. Restoration. Permittee shall be responsible for any cost of restoration of the Property to the condition existing before any access by Permittee if the Property is damaged or disturbed by

Permittee. Permittee shall reimburse PDA on demand for its costs incurred in making any such restorations.

5. Release. Permittee acknowledges and understands and agrees that there are dangers inherent in the use of the Property, including possible personal injury, disability or death. Permittee further understands and agrees that there are foreseeable and unforeseeable risks and dangers in their use of the Property, including but not limited to conditions such as fallen trees, rocks, uneven roadways and other obstructions, weather-related conditions, and topographical conditions. Permittee hereby voluntarily assumes all such risks and dangers of injury, disability or death to Permittee incurred in connection with the use of the Property whether those risks and dangers are caused by the negligence of PDA or otherwise. As consideration of being permitted by PDA to use PDA property, Permittee hereby agrees that neither Permittee nor their assignees, heirs, distributees, guardians, and legal representatives will make a claim against, sue, or attach the property of PDA, its officers, directors, members, managers, employees, and other tenants on the Property (hereinafter referred to as **“Releasees”**) on account of any and all liabilities, claims, demands, causes of action, damages, losses, costs or expenses (including court costs and attorneys’ fees) of any kind or nature whatsoever (hereafter **“Liabilities”**), resulting from the negligence or other acts, howsoever caused, by PDA, Releasees, or any other party. Permittee hereby releases PDA and Releasees from all actions, claims, or demands that Permittee or their assignees, heirs, distributees, guardians, and legal representatives now have or may hereafter have for Liabilities, to either person or property, resulting from, arising out of, or relating in any way to Permittee’s presence at PDA’s property.

6. Indemnification. Permittee shall defend, hold harmless, and indemnify each of PDA, its agents, and its and their respective officers, directors, members, managers, employees, and other tenants on the Property (collectively, **“Indemnitees”**) from and against all claims, suits, demands, losses, liabilities, judgments, damages, and expenses (including reasonable attorney and consultants’ fees and costs) incurred by the Indemnitees or any of them by reason of the activities of Permittee on or relating to the Property. If a claim is brought against an Indemnitee the Indemnitee shall have the right to select counsel to defend it, and all fees and expenses of counsel shall be paid by Permittee. All costs and expenses of an Indemnitee, including those associated with depositions taken of Indemnitee’s personnel, production of documents, and the preparation of responses to interrogatories, shall be reimbursed by Permittee.

7. Dispute Resolution. Permittee agrees to mediate any dispute or claim arising out of this Agreement before resorting to arbitration or litigation.

8. Entire Agreement; Amendments. This Agreement constitutes the final, complete, and exclusive statement of the terms of this Agreement between Permittee and PDA.

9. Governing Law and Venue. This Agreement is made under and will be governed by and construed in accordance with the laws of the State of California, with venue for any action for interpretation or enforcement of this Agreement being in the County of Santa Cruz.

10. Validity. If any term or provision hereof is illegal or invalid for any reason whatsoever, such illegality or invalidity shall not affect the validity and binding effect of the remainder of this Agreement. To the extent that any portion of this Agreement is unenforceable as a matter of law the remaining provisions shall be effective and fully enforceable.

11. Knowing and Voluntary Execution. Permittee agrees that they have carefully read this Agreement and fully understand its contents. Permittee is aware that this Agreement is signed of Permittee's own free will and is signed voluntarily. No oral representations, statements, or inducements, apart from the foregoing written Agreement, have been made. Permittee is at least eighteen (18) years of age and fully competent.

12. Assignment. This Agreement is not assignable without PDA's prior written consent.

13. Interpretation. In the event any claim is made relating to any conflict, omission or ambiguity in this Agreement, no presumption or burden of proof or persuasion shall be implied by virtue of the fact that this Agreement was prepared by or at the request of a particular party or his or its counsel. Permittee further agrees that California Civil Code Section 1654 does not apply to this Agreement.

PERMITTEE has executed this Agreement on the day and year first above written at Watsonville, California.

Signature: _____

Print name: _____

Print address: _____

Print phone number and email: _____