

SOLAR ENERGY SYSTEM INSTALLATION

I. Statement of Purpose

A. These Rules apply to Owners in the Nepenthe Association (“Association”) who want to exercise their rights pursuant to California Civil Code Section 714, and Civil Code Section 714.1, as modified January 1, 2018, or any comparable successor statutes, to install a rooftop solar energy system for their Lot within the Association’s common interest development (the "Development"), either on the roof of the Owner’s residence dwelling, the roof of the Owner’s garage, or both. A solar energy system may include, and is not limited to, a solar water-heating system and/or a solar electric generating system.

B. The purpose of these Rules is to provide procedures and requirements for Owners who wish to install a rooftop solar energy system for their Lot’s household purposes in conformance with Civil Code Sections 714.1, or any comparable successor statutes.

II. Application Process

Owners wanting to install rooftop solar energy systems for their Lot’s household purposes must obtain approval from the Board prior to any such installation in accordance with the Association’s CC&R provisions and rules regarding architectural improvement requests. Upon approval being granted, the Owners must sign the agreement attached hereto as Exhibit A, as modified from time to time, or a substantially similar agreement approved by the Board.

In order to obtain the above-referenced approval, the requesting Owner must first submit the required application to the Association’s Architectural Review Committee. The application must include the application form, attached hereto as Exhibit B, as modified from time to time or a substantially similar form approved by the Board. In addition the following must also be included with the application.

A. Plans, including elevation drawings or appended photo renderings depicting the installation of peripheral equipment if being installed on the exterior of the residence, specifications confirming the specific solar energy system proposed for installation, and the proposed location for the installation of the solar energy system (such as, where the solar panels will be located, path for any conduit required and where the generating equipment will be located).

1. Plans for the solar energy system shall include a site plan, structural views, uplift calculations, three-line diagram, and details including product information and specification sheets for solar panels, inverter, disconnects and meters. Elevation drawings, or appended proportional photo renderings, depicting the installation of peripheral equipment if on the

exterior of the residence shall be included with the plans and application as further example of information required.

B. The proposed energy system installer's name, contact information, and contractor's license number, and a certificate of insurance showing the installer maintains insurance for the following: (a) general liability of a minimum of one million dollars (\$1,000,000) per loss, and (b) for workers' compensation as required by law; and

C. the Owner's acknowledgment of the terms of the application by signing the above-referenced application agreement (Exhibit A).

The Architectural Review Committee shall then review the Owner's application and make its recommendation on approval or disapproval of the application to the Board, and the Board shall send a written response to the requesting Owner approving or denying the request within fortyfive (45) days of receipt by the manager of the submitted application. If the Board fails to deny the application within forty-five (45) days of submission, the application is deemed approved, unless approval or denial is delayed as a result of a reasonable request for additional information (Civil Code Section 714(e)(2)(A) and (B)).

III. Rules for Approval of Solar Energy Systems Installations

A. These rules adopt the Architectural Review Committee Guidelines, Section 24, Solar Energy Roof Panels, which apply to all solar energy system roof panels and provide the following:

1. Owners are requested to please meet with the Architectural Review Committee before developing plans or submitting an application for approval.
2. Installation of the solar energy system(s) must be installed by a registered contractor as determined by the California Solar Energy Industries Association and the California Energy Commission.
3. Solar water-heating systems must be of dull black, non-reflective material, including all piping, brackets, fittings, clamps, etc. The piping into the roof shall be immediately adjacent to the manifold. The Owner is to maintain the installation in a uniform black appearance. Specific justification for a panel area greater than 120 square feet shall be provided in accordance with Section II, Application Process above.
4. Solar electric generating systems must meet these requirements:
 - a. The peripheral equipment, including any conduit, inverter, etc., associated with the installation of roof panels shall be located in an area that will

minimize the visual and aesthetic impact on the community. The first locations to be considered for peripheral equipment shall be the interior walls of the garage. If the interior wall of the garage is technically unfeasible, inside the patio fence line should be the next consideration.

- b. Supports for the solar panels shall not impose a dead weight concentrated load exceeding 150 lbs. anywhere on the supporting roof.
- c. Continuous supports for the solar panels shall not impose a dead load exceeding 75 lbs. per ft. on the supporting roof.
- d. Continuous supports for the solar panels that are installed perpendicular to the roof slope shall have a drainage gap at 10 ft. maximum.
- e. A building permit shall be secured prior to commencement of the installation of an approved solar energy system. The Owner or the solar energy system contractor shall submit an application for a permit to the City Building Department for the installation of the solar energy system and provide evidence of the approved permit to the Association, prior to commencement of the installation of the approved system. Any change to the system design or location of panels or peripheral equipment will require resubmission of the application (Exhibit B) and new approval by the Board.
- f. Utility company (SMUD) approval of proposed location of peripheral equipment with respect to existing electrical panel and energy supply is required. The Owner of the solar energy system or contractor shall submit an application to SMUD for the installation of the solar energy system and provide evidence of the approved application to the Architectural Review Committee, prior to commencement of the installation of the approved solar energy system. Any change to the system design, location of panels or peripheral equipment required by SMUD will also require resubmission of the application (Exhibit B) and new approval by the Board.

5. Owner's Responsibilities for Rooftop Solar Energy Systems

- a. The Owner shall be aware that penetrations of the roofing for the new solar panel installation or re-installation compromises the warranty for the roofing and the Owner will be responsible for the cost of any damage to the building's structure and interior due to water leakage caused by said penetrations.

- b. The Owner will be responsible for additional costs related to the removal and replacement of the solar panel system that will be incurred for future roofing replacements or repairs and inoperable systems must either be fixed or removed from the property (at the owner's expense) within one (1) year of becoming inoperable.
 - c. The Owner will be responsible for additional costs related to the removal of rooftop debris, whether during regular rooftop cleaning by the Association or for special cleaning required to clear debris that has collected under or around panels.
- B. Solar energy system installations are limited to those systems approved by the Board, and any installations in the common area will not be approved.
- C. Owners may install solar energy systems only upon approval by the Board of Directors.
- D. Installation of solar energy systems must meet all applicable health and safety standards imposed by the State of California and local permitting authorities.
- E. Owners may not cut, trim, remove, or take any action regarding any tree within the Association's common area for the solar energy system installation.
- F. Owners must maintain liability insurance on their Lot and Residence and provide evidence of the insurance to the Association within fourteen days of the Association's approval of the application and annually thereafter.
- G. Owners must (1) reimburse the Association for any additional costs the Association may incur in maintaining, repairing, replacing or restoring the components of Owner's Lot or Residence upon which the solar energy system is installed, including the roof of the building upon which the solar system is installed, and if necessary the removal and replacement of the solar energy system for purposes of performing these activities, and restoring the components to their original condition after removal; (2) be responsible for the costs for the maintenance, repair, and replacement of the solar energy system until the system has been removed; (3) hold the Association harmless for any damage that arises as a result of the installation and continuing presence of the solar energy system, and/or removal of the system and/or its re-installation; and (4) bear any additional insurance costs that the Association incurs arising from the installation and continuing presence of the solar energy system.
- H. Owners must indemnify, defend, hold harmless, and reimburse the Association or its members for loss or damage caused by the installation, maintenance, replacement, removal or use of the solar energy system, including but not limited to restoration of the components of Owner's Lot or Residence upon which the solar system is installed, including the roof of the building upon

This Agreement Affecting Real Property (the “Agreement”) is entered into between Nepenthe Association, a California nonprofit mutual benefit corporation (the “Association”), and _____ (“Owner”).

A. Owner is the owner of that certain property located in Sacramento County, California, commonly known as _____, Sacramento, CA (the “Home”) and with the following legal description:

[Insert legal description]

B. The Home is a part of the community development located in Sacramento County, California commonly known as Nepenthe Association (the “Development”), and as such is subject to the Third Amended and Restated CC&Rs of Covenants, Conditions & Restrictions of Nepenthe Association, recorded on October 14, 2015, at Book 20151014, Page 0349, in the official records of Sacramento County, California (the “Declaration”), and any successor amended and/or restated CC&Rs.

C. The Association is the owners’ association formed to manage the Development in accordance with the provisions of the Declaration.

D. Section 4.1(a) of the Declaration requires owners to obtain approval from the Association prior to making any addition to or alteration of their Lots, Residences or the Development.

E. Civil Code Section 714.1 provides that the Association may impose reasonable restrictions on the Owners’ installation of solar energy systems, which (a) provide for the maintenance, repair, or replacement of roofs or other building components, and (b) require installers of solar energy systems to indemnify or reimburse the association or its members for loss or damage caused by the installation, maintenance, or use of the solar energy system.

F. Owner wishes to install a solar energy system for Owner’s household purposes for Owner’s Home on the roof of Owner’s Home (residence and/or garage). Owner’s plans and specifications call for the solar energy system to be physically installed on the roof(s). Because installed solar energy systems might compromise the integrity of the waterproof barrier of the roof and adjacent components and buildings, and might lead to other maintenance problems, including, without limitation, increased costs, the installed solar energy system will be approved only if the requesting Owner agrees to the following: (1) reimburse the Association for any additional costs the Association may incur in maintaining, repairing, replacing or restoring the components of the Owner’s Residence and garage, and the roofs thereon, and adjacent components or buildings, and if necessary the removal and replacement of the solar energy system for purposes of performing these activities, and restoring the components and buildings to their original condition after removal; (2) be responsible for the costs for the maintenance, repair, and replacement of solar energy system until it has been removed; (3) hold the Association harmless for any damage that

arises as a result of the installation and continuing presence of the solar energy system, and/or removal of the system and/or its re-installation; and (4) bear any additional insurance costs that the Association incurs arising from the installation and continuing presence of the solar energy system;

G. Owner recognizes, acknowledges, and understands that an attached solar energy system might compromise the integrity of the roof of the Residence or garage upon which the solar system is installed, and the adjacent components and buildings, and might lead to other maintenance problems, including, without limitation, increased costs. In return for obtaining approval from the Association to install an attached solar energy system, Owner is willing to do the following: (1) reimburse the Association for any additional costs the Association may incur in maintaining, repairing, and replacing components of the Owner's Residence and garage, and the roofs thereon, and adjacent components and other buildings, and if necessary the removal and replacement of the solar energy system for purposes of performing the maintenance activities, and if not replaced then restoring the components and common area to their original condition after removal; (2) hold the Association harmless for any damage that arises as a result of the installation of the solar energy system, and/or removal of the system and/or its re-installation; and (3) bear any additional insurance costs that the Association incurs arising from the installation of the solar energy system.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and other valuable consideration, receipt of which is hereby acknowledged, the Association and Owner hereby agree as follows:

1. Approval of Owner's Application for Architectural Approval Request for Solar Energy System Installation. The Association hereby approves the Owner's architectural request for the installation of the solar energy system.

2. Payment of Costs. Owner agrees to (1) reimburse the Association for any additional costs the Association may incur in maintaining, repairing, replacing or restoring the components of the Owner's Residence and garage and the buildings upon which the solar system is installed, the roof of the building upon which the solar system is installed, removal of rooftop debris, and if necessary the removal and replacement of the solar energy system for purposes of performing these activities, and restoring the components and buildings to their original condition after removal, (2) be responsible for the costs for the maintenance, repair, and replacement of solar energy system until it has been removed, (3) hold the Association harmless for any damage that arises as a result of the installation and continuing presence of the solar energy system, and/or removal of the system and/or its re-installation; and (4) bear any additional insurance costs that the Association incurs arising from the installation and continuing presence of the solar energy system.

Owner agrees to bear and pay any additional insurance costs that the Association incurs arising from the installation and continuing presence of the solar energy system.

Owner shall reimburse the Association for any such additional costs within thirty (30) days following written request thereof, and if not paid within such period, any such amounts shall be, and shall be treated as, a Special Individual Assessment. Nothing herein shall be interpreted or construed as requiring the Association to reinstall the solar energy system if the Association causes it to be removed during its activities, and the Association shall not be liable in any way to Owner or anyone else for any damage that might occur to the solar energy system during such activities, except for such damage that arises out of the sole gross negligence of the Association.

3. Trees. Owner may not cut, trim, remove, or take any action regarding any tree within the Association's common area.

4. Permits. Owner shall be solely responsible for obtaining all necessary government building permits prior to commencing installation of the solar energy system and shall provide all necessary government building permits to the Association prior to commencing installation of the solar energy system.

5. Release. Owner, for itself and its agents, successors and assigns, hereby releases and agrees to hold harmless the Association and the members of its board of directors and their agents, employees, members and independent contractors, from any and all liabilities, claims, demands, causes of actions, or other expenses in any way arising from, connected with or related to the installation, continuing presence and/or removal of the solar energy system and/or its reinstallation. In doing so, Owner waives, and understands and acknowledges the significance and consequences of waiving, the provisions of California Civil Code Section 1542, which provides:

A general release does not extend to the claims which the creditor does not know or suspect to exist in his or her favor at the time of executing this release, which if known by him or her must have materially affected his or her settlement with the debtor.

6. Indemnification. Owner agrees to indemnify, hold harmless, and defend the Association from, any liabilities, claims, demands, or causes of action against the Association and any other expenses incurred by the Association, which arise from or are related to the installation, continuing presence and/or removal of the solar energy system, including but not limited to restoration of the common area in the event of removal of the solar energy system and regardless of whether the company that installs the solar energy system goes out of business, lacks insurance, or becomes bankrupt.

7. Owner's Contractor's Insurance, Bonds and County Building Permits. Owner shall provide to the Association a certificate of insurance covering the contractor installing the solar energy system showing proof of insurance for the following: (a) general liability of a minimum of one million dollars (\$1,000,000) per loss, and the certificate shall name the Association as "additional insured"; and (b) for workers' compensation as required by law. Owner shall provide the certificates to the

Association before installation of the solar energy system and the insurance must cover the duration of the contract for installation.

Owner shall provide to the Association proof of the contractors' bond at the Association's discretion.

Owner shall provide to the Association copies of all necessary government building permits prior to commencing installation of the solar energy system, and copies of all signed government building inspection certifications upon completion of installation of the solar energy system.

8. Owner's Insurance. Owner shall provide to the Association a certificate of insurance covering the solar system installation, including but not limited to the Owner's unit, for at least one million dollars (\$1,000,000) in casualty and property damage, and at least one million dollars (\$1,000,000) in liability for property damage and personal injury. Owner shall provide the certificate upon signing this Agreement and annually thereafter.

9. Legal and Recordation Fees. Owner agrees to reimburse the Association for its legal and county recorder's fees to prepare and record this Agreement.

10. Assumption of Responsibility. Owner hereby assumes responsibility for any damages, liabilities, claims demands, or causes of action and any other expenses which arise from or are related to the installation, continuing presence and removal of the solar energy system.

11. Attorneys' Fees. In the event a dispute arises under or is related to this Agreement, and whether or not a lawsuit is filed or commenced, the prevailing party shall be entitled to all fees and costs, including attorneys' fees.

12. Complete Agreement and Modification. This Agreement represents the complete and total understanding of the parties with respect to the solar energy system proposed. With the exception of the Association's governing documents, any prior correspondence, memoranda, or agreements are replaced in total by this Agreement. No modification of this Agreement shall be made or effective unless and until such modification is executed by the Association and Owner, or their successors, or assigns, and recorded in the official records of Sacramento County, California. The recitals are hereby incorporated into and made a part of this Agreement.

13. Covenant Running with Property / Notice to Prospective Buyers. This Agreement shall run with the land and shall be binding on all parties having or acquiring any right, title, or interest in the Home, or any part thereof, and their heirs, successors and assigns.

Owner shall disclose to any prospective buyer of Owner's Lot the existence of the solar energy system, this Agreement and the related responsibilities of the Owner as stated herein.

14. Legal Counsel; Ambiguities. Each party acknowledges that it has had the opportunity to have this Agreement reviewed by legal counsel prior to executing the Agreement, and no presumption or rule that ambiguities shall be construed against the drafting party shall apply to the interpretation or enforcement of this Agreement.

15. Definition of Terms and Severability. Except as expressly provided herein to the contrary, all terms used in this Agreement which are defined in the Declaration shall have the same meaning as in the Declaration. Invalidation of any provision contained in this Agreement by judgment, court

order, or otherwise, shall in no way affect any other provision contained herein, or in the Declaration, which shall remain in full force and effect.

16. Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

17. Effective Date. This Agreement has been executed to be effective upon its recordation in the official records of Sacramento County, California.

Dated: _____

Dated: _____

Nepenthe Association

By Owner(s):

By President: _____
(sign name)

(sign name)

(print name)

(print name)

EXHIBIT B

NEPENTHE ASSOCIATION

APPLICATION FOR ARCHITECTURAL APPROVAL REQUEST

SOLAR ENERGY SYSTEM

Name _____

Lot Address _____

U.S. Mailing Address _____

Home Phone _____ **Work Phone** _____

Email _____

1. Applicant must submit this form and the following.
 - a. Plans as required under the CC&Rs for Solar Energy System Installations
 - b. Copy of the licensed contractor's certificate of insurance.
 - c. SMUD Approval (prior to commencement of work)
 - d. Approved Permit (prior to commencement of work)
2. Processing of this application may take up to forty-five (45) days. You may not begin work until the request is approved by the Board.
3. The purpose of this application is to provide compatibility and harmony in construction throughout the community and to minimize Association expense when maintaining the exterior of the home.
4. Approved requests will be valid for 12 months from the date of approval.
5. Any changes to the plans submitted as part of this application requires the applicant to submit a revised application which must be approved by the Board.

Proposed Start Date _____ **Proposed Completion Date** _____

Building Permit Required? ___ Yes ___ No

Guarantee/Warranty

Terms _____

General Description of Proposed Work (Attach additional sheets if necessary):

(Attach plans, specifications, pictures, brochure, etc.)

I hereby request authorization to make the above noted modification or addition to my residence. I understand and agree to the following, if the request is approved:

- a. All proposed changes must conform to building codes, if applicable.
- b. Owner accepts complete responsibility for painting, upkeep and maintenance of said improvements, including any necessary repairs to the exterior of the building as a result of said installation, hereafter.
- c. If applicable, owner may be required to obtain a building permit for this architectural modification.
- d. If applicable, owner will submit a copy City/County final inspection approval to the Association.
- e. Maintenance Responsibility Agreement may be required for certain modifications.
- f. Owner will assume all responsibility for any damage that occurs to the building, or other structures in connection with this architectural change.
- g. Owner acknowledges that the Owner must sign an agreement regarding the solar energy system that will be recorded with the county recorder.

Applicant Signature

Date: _____

Architectural Review Committee Action: Approved Denied

Comments: _____

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Architectural Review Committee Chair
(Signature)

Date: _____

(Printed Name)