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DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
OF
THE POINTE

JERRY HEINTZ
SEAL

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REQUEST OF

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Anaheim

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**DECLARATION OF
COVENANTS, CONDITIONS, AND RESTRICTIONS
OF
THE POINTE**

THIS DECLARATION ("Declaration") made on the date hereinafter set forth, by the undersigned as "Declarant":

RECITALS:

WHEREAS Declarant is the developer of certain real property in Skagit County, Washington, known as "The Pointe," a portion of which has already been sold by Declarant, and the remainder of which is owned by or under option to Declarant. The aggregate acreage eventually included as successive subdivisions of The Pointe could exceed 180 acres; and

WHEREAS Declarant has previously caused to be recorded four plats within The Pointe as (a) short plat No. 19-85 and the adjoining long plat, both commonly known as THE POINTE, Div. No. 1, contained in instruments recorded under Auditor's file Nos. 8506100021 and 8701260004 records of Skagit County, Washington (hereinafter referred to collectively as "Division 1"); and, (b) the long plat, commonly known as "THE POINTE," DIVISION NO. 2, contained in instrument recorded under Auditor's file no. 8806270037, records of Skagit County, Washington (hereinafter referred to as "Division 2"); and, (c) short plat No. 10-89, commonly known as ROCK POINTE contained in instrument recorded under Auditor's file No. 8908020066 records of Skagit County, Washington (hereinafter referred to as "Rock Pointe"); and

WHEREAS Declarant wishes to subject all property within Division 2 and Rock Pointe to this new Declaration, thereby replacing in its entirety the existing Declarations Of Rights, Reservations, Easements, & Protective Covenants recorded under Skagit County Auditor's No. 8902240067 covering Division 2 and creating an initial Declaration covering Rock Pointe (see paragraph 13.1 below); and

WHEREAS, Declarant desires hereafter to subject successive subdivisions of The Pointe to this Declaration and the Association by merger and annexation, in order to create an integrated and mutually-beneficial structure for all of The Pointe,

NOW, THEREFORE, Declarant hereby declares that all of the said property including all individual lots within Division 2 and such properties as are annexed and/or are made subject hereto by Declarant are and shall be held, sold, and conveyed subject to the easements, restrictions, covenants, and conditions set forth herein. These easements, restrictions, covenants, and conditions are intended to protect the value and desirability of the aforesaid real property. They shall run with the land and the aforementioned lots and shall be binding on all parties having or acquiring any

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right, title, or interest therein or any part thereof, as well as their heirs, successors, and assigns. They shall inure to the benefit of each present or future owner of the aforementioned real property.

I. DEFINITIONS

1.1 "Association" shall mean and refer to THE POINTE HOMEOWNERS ASSOCIATION, a Washington non-profit corporation, and its successors and assigns.

1.2 "Board" shall mean the Board of Directors of the Association.

1.3 "Common Area" shall mean (i) the private roadways shown on all of the recorded plats within the Properties; (ii) open spaces, greenbelts, trail easements, playground areas, landscaped plat entrances, planter islands, common parking areas, and all other areas which are designated as common areas on the plats located within the Property; (iii) land which the Declarant shall hereafter grant or convey to the Association for use and maintenance as "Common Area"; and (iv) any other property which is hereafter obtained by the Association for that purpose as provided herein. Common Area shall include improvements such as fences, playground equipment or other improvements upon areas held by the Association for common use by Members. Common Area does not include any areas dedicated to Skagit County as open space or park land.

1.4 "Declarant" shall mean and refer to San Juan Fidalgo Holding Co., Inc., and its successors and assigns designated by it as Declarant for the Properties.

1.5 "Declaration" shall mean and refer to this Declaration of Covenants, Conditions, And Restrictions applicable to the Properties, as recorded in the Office of the County Auditor, Skagit County, Washington, under fee number 8912190053, and all subsequent amendments thereto.

1.6 "Designated Representative" or "Representative" shall mean the single representation of sub-associations, corporations, partnerships, and other joint and common owners. Each Representative shall be an employee of, or agent retained by an Owner.

1.7 "Development Period" means the period of time from the recording of this Declaration until all of the land within the Properties has been sold by the Declarant, or January 1, 2015, whichever comes first.

1.8 "Lender" shall mean all mortgagees, beneficiaries under a deed of trust, or lender under a land contract, secured by an interest in any Lot, and their successors and assigns for security purposes.

1.9 "Lot" or "Parcel" shall mean and refer to the platted single-family residential lots shown on any recorded subdivision map within the Properties. Each separate platted lot counts as one lot, even if it is combined with others under one ownership. Roadways, Common Areas, platted multi-family parcels, and lots zoned for other purposes are not considered Lots under this Declaration.

1.10 "Map" shall mean the plat maps of The Pointe recorded under Skagit County Auditor's fee numbers, and any project map given to a Lot purchaser by Declarant.

1.11 "Member" or "Membership" shall mean and refer to those persons entitled to membership in the Association as provided in Section IV herein.

1.12 "Owner" shall mean and refer to record holders of a fee interest and contract purchasers who are in possession of a Lot. Declarant shall be considered the Owner of all Lots which it has not yet sold, or which it reacquires.

1.13 "Property" or "Properties" shall mean and refer to that certain real property within Division 2 and such additions as may hereafter be subjected hereto and brought within the jurisdiction and control of the Association and this Declaration as provided herein.

II. PROPERTY RIGHTS/EASEMENTS

2.1 Common Areas. Each Owner shall have a right to the use, employment, and benefit of a non-exclusive perpetual easement for ingress, egress, use and enjoyment over and upon the Common Area. Such easement shall be subject to the right of all other Members of the Association to use, enjoy, and have the benefit of the Common Area upon the same terms.

2.1.1 Suspension. Such easement will also be subject to the right of the Association to suspend the right of an owner to use such easement or to vote during any period for which (i) any assessment against his Lot remains unpaid, or (ii) any violation of these covenants or of the Association's published rules for which he is responsible remains unabated.

2.1.2 Delegation. An Owner may delegate his right of use and enjoyment of the Common Area to the members of his family, his invitees, and his tenants.

2.1.3 Limitations on Use. The Board may totally bar or limit the Owners' use of the steep bluffs and other portions of the Common Area where ordinary use could be dangerous, interfere

with Association maintenance or operation, or unreasonably increase Association costs. However, there shall be no liability for a failure to restrict use.

2.1.4 Government Access: Declarant hereby grants to the Sheriff's Department, Fire District, and other government agents and officials with jurisdiction over The Pointe the non-exclusive right to enter upon the Common Area for the purpose of carrying out their official duties.

2.1.5 Title. The Association may convey any of the Common Area it owns to a municipal corporation, public agency, or authority if requested by the same percentage vote of the Membership required for amendment hereof.

2.2 Damage or Destruction - Reconstruction. In the event of damage or destruction to any part of the Common Area, the Board shall promptly, and in any event within 30 days after the date of damage or destruction, make the following determinations with respect thereto employing such advice as the Board deems advisable:

2.2.1 The nature and the extent of the damage or destruction, together with an inventory of the improvements and property directly affected thereby.

2.2.2 An estimate of the cost to repair and/or restore the damage and destruction, which estimate shall, if practicable, be based upon two or more firm bids obtained from responsible contractors.

2.2.3 Anticipate the insurance proceeds, if any, which will be available from insurance covering the loss, based on the amount paid or initially offered by the insurer.

2.2.4 Determine the amount, if any, that the estimated cost of repair and restoration will exceed the anticipated insurance proceeds, and the amount of any special assessment which will be necessary in such event.

2.2.5 Determine whether such damage or destruction should be repaired or restored.

2.2.6 The Board shall have the authority to employ architects and attorneys, advertise for bids, let contracts to contractors and others, and to take such other action as is reasonably necessary to accomplish the repair and restoration. The Board may also authorize the insurance carrier involved to proceed with the repair and restoration.

2.2.7 Insurance proceeds for damage or destruction to any part of the Common Area shall be paid to the Board on behalf of the Association, which shall segregate such proceeds from

other funds of the Association for use and payment for the loss or damage suffered. The Association, acting through the Board, shall have the authority to settle and compromise any claim under insurance obtained by the Association, and their insurer may accept a release and discharge of liability made by the Board on behalf of the named insureds under the policy.

2.3 Service Easements. In addition to other rights reserved or provided for under these Declarations, each Lot Owner has a non-exclusive perpetual easement to, under, upon, above, and through the Common Areas and facilities for ingress, egress, and all support elements and utilities, wiring, heat, and services as required to effectuate and continue maintenance and preservation of their individual Lot improvements. There is hereby reserved to the Association such easements as are necessary to perform the duties and obligations of the Association as set forth in this Declaration and the Bylaws of the Association.

2.4 Utility Service. Puget Sound Power and Light, Cascade Natural Gas, Del Mar Community Service, Inc., TCI Cablevision of Washington, Inc. (or its successors or assigns), and any other electric, telephone, television cable (in the event TCI is no longer servicing the Property), gas, garbage, water, sewer or other utility company, public or private, or their permittees shall, subject to approval of Declarant during the Development Period and the Association thereafter, have a nonexclusive perpetual easement over, under, upon, to, or above the Common Area so they may install, construct, operate, maintain, alter, and repair their respective utilities or services. They shall not unreasonably interfere with roadway usage, and shall promptly restore the affected areas to their pre-existing condition after any excavating or other construction.

III. MAINTENANCE, IMPROVEMENT, AND DEDICATION

3.1 Maintenance. The Association shall have full responsibility for maintenance and repair of the Common Area. Declarant and Skagit County shall have the right to make all necessary slopes for roadway cuts and fills outside the roadways, and to drain water from such roadways across any Lot or Lots where it takes a natural course.

3.2 Road Improvement Agreement. The private roadways shown on the Map as local access streets or roads in accordance with the wishes of the Membership, may be required for future County roads or thoroughfares. Upon approval by a sixty-seven percent (67%) Membership vote:

3.2.1 Each Owner hereby agrees to participate in, and/or not oppose or protest, the formation of a County Road Improvement District (RID) pursuant to the Revised Code of Washington, or

any road improvement project sanctioned by Skagit County, which is designed to improve the immediate street system of which it is a part.

3.2.2 Timing of the formation of said RID or other road improvement project shall be determined by Skagit County consistent with the Revised Code of Washington. The street improvement authorized by the RID or other improvement project may call for the improvement of the above-described roads and immediate street system to at least the minimum Skagit County road standards applicable to the above-described roads and the immediate street system at the time of the RID, or other road improvement project; if the requisite 67% Membership vote requires a higher standard, i.e., curbs, gutters, underground drainage, etc., that standard shall prevail.

3.2.3 Buildings constructed on any parcel abutting the above-described roads shall be set back from the above-described road boundary by that distance which equals the yard requirement of the zone.

3.3 Dedication. Upon prior approval of a 67% Membership vote and a request by Skagit County that any private easement roads within the Property be dedicated to Skagit County, each affected Owner shall dedicate the roadway portion of his Lot to the County for use, operation, and maintenance as public County roads. A deed conveying such roadway area shall then be delivered to the County on demand.

3.4 Governmental Maintenance Fees. The Association shall pay all fees for insurance, maintenance, and repair of the storm water detention facilities along the roads in The Pointe which may be hereafter charged by Skagit County, or any other government agency, regardless of whether the fee(s) is originally against the Declarant, the individual Lot Owners, or the Association. Each Owner hereby agrees to pay a special assessment to the Association in order to defray the cost of the above fee(s). The amount of the special assessment shall be established by the Board of Directors and collected from the Owners in accordance with Article V.

IV. THE ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS THEREIN

4.1 Membership. Each Owner and Declarant shall be a Member of the Association as provided in Article VIII of the Association's Articles of Incorporation, and be bound by the Articles and Bylaws thereof.

4.2 Voting Rights. Membership voting rights shall be as set forth in Article VIII of the Association's Articles of Incorporation.

4.3 Merger/Annexation. Upon the request of the Class B Member, any Owner, or an adjoining landowner, the Association may annex additional properties and Common Area and so add to its Membership and area of coverage. Such annexation shall be effective upon resolution of either (i) the sole and unfettered approval of the Class B Member alone as set forth in paragraph 12.3 below; or, (ii) sixty-seven percent (67%) of the total Member votes entitled to be cast and approval of the Class B Member if during the Development Period. The new Members may be required to submit to all or part of this Declaration and have such vote, burdens, benefits, and other characteristics as the expansion resolution shall provide.

4.4 Dissolution. The Association may be dissolved as provided in its Articles of Incorporation.

4.5 Limitation of Liability.

4.5.1 The Association shall obtain such fire, liability, and other insurance as the Board deems prudent pursuant to its Bylaws.

4.5.2 Neither individual Owners, Declarant, the Board, committee members, nor their managing agents shall be liable for any failure of any utility or other service obtained and paid for by the Association, or for the injury or damage to persons or property caused by the elements, or resulting from electricity, water, rain, or wind; nor shall they be liable for any damages caused by freezing or for temporary inconvenience to Owners or others lawfully on the Association premises or common areas for any action taken to comply with law, ordinance, or orders of a governmental authority.

4.5.3 So long as a Board member or Association officer or Declarant, or Declarant's managing agent, have acted in good faith, without willful or intentional misconduct, on the basis of such information as may be possessed by such person, then no such person shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error, or negligence of such person; provided, that this section shall not apply where the consequences of such act, omission, error, or negligence are covered by insurance obtained by the Association.

V. ASSESSMENTS

5.1 Regular and Special Assessments. Each Member shall pay to the Association all regular annual assessments, and special assessments, approved by the Association.

5.1.1 Lien/Personal Obligation. Such regular annual and

special assessments, together with interest, costs, and reasonable attorneys' fees, shall be a personal obligation of each Member at the time when the assessment is due. Delinquent assessments, together with interest, costs, and reasonable attorneys' fees, shall become a lien upon the Member's Lot if the Association files a Claim of Lien with the Skagit County Auditor. The priority of such lien shall be based upon the date the Claim of Lien is filed. The regular annual and special assessments shall be levied at a specified dollar amount per Lot.

5.2 Calculation of Assessments. The Class A Members shall be assessed pro rata based on the number of Lots that they own, except for exemptions pursuant to paragraph 5.11 below. The assessment for any golf course property once it is functional shall be computed and assessed as though each five (5) acres therein were the equivalent of one Lot for purposes of this Section V; acreage information submitted to the Association by the golf course operator shall be presumed accurate unless a Member submits evidence which clearly establishes a different acreage figure for its land.

5.3 Purposes of Assessments.

5.3.1 The regular annual assessments levied by the Association shall be used to administer the Declaration, to maintain the Common Area, to pay off-site utility expenses benefiting the Lots, and to carry out the broad purposes of the Association.

5.3.2 The special assessments levied by the Association shall be used exclusively for the purposes described in the minutes of the Association meeting at which each such special assessment was approved.

5.4 Regular Annual Assessments.

5.4.1 The maximum regular annual assessment for calendar year 1990 shall be \$300 per Lot.

5.4.2 The maximum regular annual assessment may be increased by the Board each subsequent year to not more than ten percent (10%) above the assessment for the previous year, without a vote of the Membership.

5.4.3 The maximum regular annual assessment may be increased more than ten percent (10%) above the prior year by the affirmative vote of Members holding a majority of the Member votes present, and entitled to be cast, at a meeting duly called for this purpose.

5.4.4 The actual amount of the regular annual assessment

shall be fixed by the Board, and shall not exceed the maximum adjusted as set forth above. In establishing the amount of the assessments, the Board shall make provisions for creating, funding, and maintaining reasonable reserves for operation, off-site utilities, and the repair and replacement of the Common Area facilities.

5.5 Special Assessments. In addition to the regular annual assessments authorized above, the Association may levy a special assessment applicable to one or more years for the purpose of defraying, in whole or in part, the cost of any Association expense, including without limitation the cost of any construction, reconstruction, repair, or replacement of any capital improvement upon the Common Area, including fixtures and personal property related thereto and off-site utilities. Any such assessment shall have the assent of a majority of the Member votes entitled to be cast at a meeting duly called for this purpose. Such assessments shall be separately billed and accounted for by the Association.

5.6 Notice for Any Action Authorized Under Paragraphs 5.4 and 5.5. Written notice of any meeting called for the purpose of taking any action authorized under paragraphs 5.4 and 5.5 of this Section V shall be sent to all Members not less than 10 days nor more than 50 days in advance of the meeting. Unintentional failure to notify a few Members (fewer than 5% of the total) shall not invalidate the notice nor any subsequent actions taken pursuant thereto.

5.7 Date of Commencement; Collection. The assessments provided for herein shall be paid in advance for the specified period. Written notice of a regular annual assessment shall be sent to every Member subject thereto. The due dates shall be established by the Board. Assessments may be collected in such a manner, at such time, and in such installments as the Board may require. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by a Director of the Association setting forth whether the assessments fixed for the preceding year shall continue until a new assessment is fixed.

5.8 Omission of Assessment. Failure by the Board to timely fix the amount of the assessments for the next year, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or release of any Owner from the obligation to pay assessments, or any installment thereof, for that or any subsequent year; but the assessments fixed for the preceding year shall continue until a new assessment is fixed.

5.9 Proration. When ownership of a Lot changes, liability for regular annual and special assessments which have been established for the year of purchase shall be prorated between the buyer and seller, in accordance with the number of days remaining in that year on the date of closing. All assessments due and payable on the day of closing shall be paid at closing by the party liable,

and disbursed directly from any escrow involved.

5.10 Effect of Non-Payment of Assessment; Remedies of the Association.

5.10.1 Delinquency. Any assessment not paid by the due date is delinquent, and shall bear interest from that date at the rate set forth in the Association's Bylaws. No Member subject to assessment may waive or otherwise escape liability for the assessments provided for herein by non-use of Common Area or utilities or abandonment of his Lot.

5.10.2 Lien Indebtedness. All assessments shall be joint and several personal debts and obligations of the Lot Owner or Owners for which the same are assessed as of the time the assessment is made, and shall be collectible as such. The amount of any assessment, whether regular or special, assessed to any Lot and the Lot Owners, plus interest at the maximum rate then permitted in the State of Washington, and costs including reasonable attorney fees, shall be a lien upon such Lot. Suit to recover a money judgment for unpaid assessments shall be maintainable by the Board without foreclosure or waiving the lien securing the debt. The Association (or the Declarant if a Board has not been appointed or elected) may bring an action at law against the Member personally obligated to pay the same, or foreclose any lien against the subject Lot in the same manner as an action to foreclose a deed of trust on real property. From the time of commencement of such action, the Lot Owner shall pay to the Association all costs, interest, and fees incurred in the foreclosure action, whether it proceeds to judgment or is resolved earlier.

5.10.3 Certificate of Assessments. A certificate executed and acknowledged by the Treasurer or the President of the Association stating the indebtedness for assessments upon any Lot shall be conclusive upon the Association as to the amount of such indebtedness on the date of the certificate. A copy of such certificate shall be furnished to the Lot Owner and to any mortgagee of a lot within a reasonable time after request for payment. The certificate shall be in recordable form and may be recorded at the discretion of the Association Treasurer. Unless otherwise prohibited by law, any mortgagee of a lot bearing a lien for assessments may pay the assessments and thereafter add the amount to its lien previously recorded.

5.10.4 Rental of Premises. If any improved Lot is rented by the Lot Owner, the Owner is strictly responsible for the payment of all assessments and for any damages caused to Common Areas by his or her tenant. If any assessment is due and unpaid, the Board may obtain directly from the rent due the landlord from the tenant such sums as are necessary to pay

all assessments or other amounts owed, plus any costs incurred in collecting same.

5.10.5 Cumulative. The remedies provided herein are cumulative, and the Board may pursue them concurrently as well as any other remedies which may be available under law although not expressed herein.

5.10.6 Fidelity Bond. The Association may in its discretion obtain a fidelity bond naming the Association Treasurer as principal.

5.11 Exempt. The following Properties shall be exempt from the obligation to pay assessments created by this Section:

5.11.1 All Properties dedicated to and accepted by a municipal corporation or other local public agency and devoted to public use;

5.11.2 All Common Area;

5.11.3 Lots owned by Declarant; and

5.11.4 Lots acquired by a builder in the course of his business shall be exempt from assessment for a period of one year after the date of closing of the sale from Declarant, or until resold to a user, whichever comes first.

VI. ARCHITECTURAL CONTROL COMMITTEE

6.1 Members. There is hereby established a 3-person Architectural Control Committee ("ACC"). Persons serving on the ACC shall be selected by Declarant until the end of the Development Period, unless such right is earlier relinquished by Declarant by notice in writing mailed to the Association. After the end of the Development Period, or after Declarant has fully relinquished its right to select the ACC, the Association shall select its own ACC in the manner set forth in the Association's documents.

6.2 Sub-Committees. The ACC may appoint any sub-committees to carry out its duties; provided, such sub-committees shall be advisory only, without authority to bind the ACC.

6.3 Guidelines. By majority vote the ACC may adopt rules and "Design Guidelines" consistent with this Declaration for carrying out its duties hereunder. Each Owner shall be obligated to be familiar with said rules and Design Guidelines. The ACC may retain architects, landscape architects, engineers, and other agents and employees to assist it in carrying out its activities.

6.4 Review Fee. An architectural review fee shall be paid to the

ACC at the time plans and specifications are submitted to it, based upon the following schedule:

6.4.1 When the plans submitted are prepared by a registered architect or a builder previously approved by the ACC, the review fee shall initially be the sum of One Hundred Dollars (\$100); said fee may be changed by the ACC.

6.4.2 In all other cases, the review fee shall initially be the sum of Two Hundred Fifty Dollars (\$250), subject to change by the ACC.

6.5 Purpose. The purpose of the ACC shall be to ensure that (i) only high quality improvements are constructed within the Property; (ii) all improvements within the Property comply with the spirit of this Declaration and are in harmony with one another and the surrounding streets and topography; and, (iii) that all improvements meet the restrictions and requirements of this Declaration and all ACC rules and Design Guidelines.

6.6 Written. All acts and decisions of the ACC as contemplated herein shall require at least a 2/3 majority vote of the ACC and shall be in writing.

VII. APPROVAL REQUIREMENTS

7.1 Improvements. No improvements of any kind shall be erected, placed, altered, or permitted to remain on any Lot by any Owner or occupant without approval of final plans and specifications therefor by the ACC; provided, however, that the ACC shall exercise its authority and responsibility under this Section VII in good faith and to the best of its reasonable judgment as to allow the construction of improvements which meet the terms of this Declaration. Such plans and specifications shall be submitted in duplicate, signed by an authorized agent of the Owner submitting them. Such plans and specifications shall contain at a minimum the following information:

7.1.1 A site development plan showing pad location and the nature, shape, composition, and location of all structures with respect to the particular Lot (including proposed front, rear, and side setback lines), and the number and location of all parking spaces and driveways, site lighting, heat pumps or similar exterior mechanical components, sports courts, utility sheds, and signs; and

7.1.2 Grading, septic system, and storm drainage plans; and

7.1.3 Landscaping plan; and

7.1.4 Building elevations showing dimensions, materials, and

exterior color scheme in no less detail than required for the issuance of a building permit.

7.1.5 Preliminary plans for pad location and driveways shall be reviewed with the ACC before working drawing stage of plan preparation.

7.1.6 Approval of such plans and specifications shall be evidenced by written endorsement on such plans and specifications, a copy of which must be received by the owner or owners of the Lot upon which the prospective building, road, driveway, or other structure is contemplated prior to the beginning of such construction.

7.1.7 No changes or deviations in or from such plans and specifications as approved shall be made without the prior written consent of the ACC.

7.1.8 The ACC shall not be responsible for any structural defects in such plans or specifications nor in any building or structure erected.

7.1.9 Any of the above documents which are required to be submitted to the government shall be first submitted in duplicate to the ACC for its approval. Any changes required by the government are also subject to approval by the ACC.

7.2 Basis for Approval. Approval shall be based, among other things, upon adequacy of site dimensions, underground utilities, conformity, harmony of external design with neighboring structures, effect of location and use of proposed improvements upon neighboring Lots, adequacy and nature of screening of mechanical, or other roof top installations, and conformity of plans and specifications to the purpose and general intent of this Declaration. Plans which provide for pre-engineered metal-clad buildings will not be approved; designs developed by an architect may be approved by the ACC after submission of preliminary plans. Except as otherwise provided herein, the ACC shall have the right to disapprove any plans and specifications for reasons including, but not limited to, the following:

7.2.1 Failure to comply with any of the terms or conditions of this Declaration or the ACC's rules or Design Guidelines;

7.2.2 Failure to include information as may have been reasonably requested by the ACC;

7.2.3 Objection to the exterior design, appearance of materials or type of materials utilized in any proposed structure;

7.2.4 Objection due to incompatibility of any proposed

structure or use with other existing or proposed structures or uses within the Property;

7.2.5 Objection to the location of any proposed use or structure with reference to other existing or proposed structures or uses within the subject property;

7.2.6 Objection to grading, drainage, or landscaping plan;

7.2.7 Objection to the color scheme, finish, proportions, style of architecture, height, bulk, or appropriateness of any structure;

7.2.8 Objection to the number or size of parking spaces, or to the design of the parking area or driveway(s); and

7.2.9 Any other matter which, in the judgment of the ACC would render the proposed improvements or use inharmonious with the intent of this Declaration.

7.3 Inaction. If the ACC fails either to approve or disapprove plans and specifications within forty-five (45) days after submission, it shall be conclusively presumed that the ACC has approved said plans and specifications; provided, however, that if within that 45-day period the ACC gives written notice that more time is required for the review, no such presumption shall be made until the expiration of any reasonable period of time stated in the notice, which period shall not exceed ninety (90) days.

7.4 Conditions to Approval. The ACC may approve plans and specifications as submitted, or as altered or amended, or subject to specific conditions. Upon approval or conditional approval, one copy of plans and specifications, together with any conditions, shall be retained for permanent record with the ACC, and one copy of approved plans and specifications, together with any conditions, shall be returned to the Owner submitting such plans and specifications.

7.5 Variances. The ACC shall also have authority to approve plans and specifications which do not necessarily conform in every respect to these restrictions, in order to overcome practical difficulties or to prevent hardships in the application of these or subsequent restrictive covenants; provided that such variations so approved shall not constitute a general waiver of restrictions generally applicable to that or any other Lot, but instead shall be in furtherance of the purposes and intent of this Declaration.

7.6 Contractors. All contractors building within the Property must first obtain approval from the ACC. First time builders must have a Pre-Bid Conference with the ACC to review plat requirements and these Declarations. Following that initial conference, all contractors shall comply with all ACC and other provisions

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contained herein.

7.7 Construction Without Approval. If any improvements be erected, placed, or maintained upon any Lot, or any new use commenced upon any Lot, other than with approval by the ACC or as authorized under the terms of this Declaration, such improvement or use shall be deemed to have been undertaken in violation of this Declaration. Upon written notice from the ACC, any such improvement shall be immediately removed, altered, or cease so as to conform to this Declaration. Should such removal, alteration, or cessation not be accomplished within thirty (30) days after notice, then the party in breach shall be subject to the enforcement procedures set forth in Section XI below.

7.8 Pre-Acquisition. For purposes of this Section VII alone, a party executing a purchase agreement for a Lot may begin the approval process before closing on the Lot, and actions taken with respect thereto by the ACC shall be binding in the event such prospective purchaser subsequently acquires that Lot.

VIII. BUILDING RESTRICTIONS

8.1 Construction Requirements. Any single-family private dwelling house erected upon any Lot shall contain at least 2,000 square feet of floor area (including garages, covered walks, and open porches), and shall be constructed only with materials, designs, and colors approved by the ACC, with either a shake or tile roof or other materials approved by the ACC. No white or light-colored roofs shall be permitted, unless approved by the ACC.

8.1.1 Fences. This same ACC approval is required for all fences and landscaping; chain link fences are not acceptable except for approved dog runs.

8.1.2 HVAC. No evaporative cooler or heat pump shall be placed, installed, or maintained on the roof or wall of any building or structure on any single-family lot, and all such shall be concealed; see location restrictions under subparagraph 7.1.1 above.

8.1.3 Driveways. All driveways shall be surfaced with either concrete or blacktop, and shall be completed within the same time frame applicable to building construction; there will be no exceptions unless authorized by the ACC.

8.1.4 Garage. Without prior approval of the ACC, no garage or other outbuilding shall be placed, erected, or maintained upon any part of the Property except for use in connection with a residence already constructed or under construction at the time that such garage or other outbuilding is placed or erected.

8.1.5 Occupancy. No private dwelling house erected upon any Lot shall be occupied in any manner while in the course of construction, nor at any time prior to its being fully completed, as required herein. Nor shall any residence, when completed, be in any manner occupied until made to comply with the approved plans, the requirements herein, and all other covenants, conditions, reservations, and restrictions herein set forth.

8.1.6 Completion Schedule. All construction shall be completed within nine (9) months from the start thereof, provided, that the ACC may extend such time when conditions in its opinion warrant such extension. All landscaping and drainage work shall be completed as approved within six (6) months of completion of the main residence building, unless approved for an extension of up to three additional months by the ACC.

8.1.7 Rental. Separate rental of any guest house or "apartment" within or associated with a house is prohibited, the occupancy thereof being limited to either guests or household staff.

8.2 Proceeding with Work. Upon receipt of approval from the ACC, the Owner shall, as soon as practicable, satisfy any and all conditions of such approval and diligently proceed with the commencement and completion of all approved excavation, construction, and alterations.

8.2.1 Delay/Revocation. In all cases, work shall commence within one (1) year from the date of approval. If work is not so commenced, approval shall be deemed revoked unless the ACC, pursuant to written request made and received prior to the expiration of said one (1) year period, extends that period of time.

8.2.2 Contractor. No improvements may be made on any Lot by a contractor other than by one properly licensed under the laws of the State of Washington, unless prior approval of that Contractor has been given by the ACC.

8.3 Completion of Work. Any improvement commenced pursuant hereto shall be completed within twenty-four (24) months from the date of approval of the plans and specifications therefore by the ACC; provided, that such twenty-four (24) month completion period shall be automatically extended for a period of time equal to the time such improvements are delayed or prevented from being completed due to strike, fire, national emergency, natural disorder, or other supervening force beyond the reasonable control of Owner or if completion of the proposed improvements would impose a great hardship upon the Owner. Failure to complete the proposed

improvements within the required time period, as extended, shall constitute a breach of this Declaration and the party in breach of this Section shall be subject to the enforcement procedures set forth in Section XI.

8.4 Temporary Buildings. Except as provided in paragraph 9.5 below, no trailers, temporary building, or other temporary structures shall be permitted on any Lot.

8.4.1 The type, number, and location of any trailer, temporary building, or other temporary structure allowed under this section shall be determined by the ACC, in its sole discretion.

8.4.2 Trailers, temporary buildings, and the like shall be permitted only for construction purposes during the construction period of permanent improvements. Such structure shall be placed as inconspicuously as practicable, shall cause no inconvenience to Owners or occupants of other Lots, and shall be removed not later than thirty (30) days after the date of substantial completion or beneficial occupancy of the improvement for which the temporary structure was used.

8.4.3 The ACC may approve the use of a trailer or temporary building on a Lot as a sales, leasing, or development office.

8.5 Laws and Regulations. Each owner shall comply with all laws, regulations, and ordinances of any federal, state, or local government entity with jurisdiction over the Property. Each Owner shall also comply with all of the terms and conditions approved by Skagit County for the Property, copies of which are available at the County.

8.6 Existing Improvements. Existing improvements within Division 2 as of the date hereof are "grandfathered" in and accepted "as is"; however, any further work on such Lots or any improvements thereon shall be subject to this Declaration in all respects.

IX. LAND USE RESTRICTIONS

9.1 Regulations. Each Owner shall comply with all laws, regulations, ordinances, and orders of competent public authorities applicable to The Pointe. Each Owner shall also comply with all of the terms and conditions of the plats, building permits, and all other permits and approvals given by public authorities for his building site.

9.2 Subdividing. No Lot may be subdivided unless shown otherwise on the Map. The Map may designate certain areas for a higher or lower permissible density.

9.3 Vehicles and Boats. No trucks, tractors, bulldozers, other heavy equipment, boats, utility trailers, motor homes, travel trailers, or similar recreational or utility vehicles may be stored on any Lot unless they have been screened or hidden in a manner acceptable to the ACC in its sole and unfettered discretion; such uses are not favored within the Property.

9.4 Waste Material. No Lot shall be used as a dump for trash or rubbish of any kind. All garbage and other waste shall be kept in sanitary containers for proper disposal. The Owners of the Lots shall provide regular sanitary disposal for all garbage and rubbish. Rocks, dirt, brush, grass, and other materials generated as a result of landscaping or maintenance shall not be dumped into the roads or setback areas.

9.5 Temporary Structures. No structure of a temporary character, including mobile homes, trailers, basements, tents, shacks, garages, barns, or any other structure shall be used on any Lot at any time as a permanent residence. Campers, trailers, mobile homes, motor homes, and other similar movable residential vehicles may be used for vacations and other temporary periods only if approved in advance by the Board.

9.6 Animals. No animals other than dogs or cats may be kept within The Pointe, except small household domestic animals or birds kept only inside a residence.

9.6.1 The total number of dogs shall not exceed two (2) per Owner. Dogs shall not be allowed to run free; they shall be kept on a leash, tied up, or in a fenced enclosure approved by the ACC.

9.6.2 In no event shall the keeping of any animals result in inappropriate noise, odor, debris, or a public nuisance or annoyance to the owners of adjacent lots as determined within the sole and unfettered discretion of the Board, particularly barking dogs. Any barking of a repetitious, habitual, or consistent nature shall be considered a nuisance and shall not be allowed.

9.6.3 The Board itself may at any time remove or require the removal of any animal which it finds is disturbing other Owners unreasonably or which animal does not come within the definition of animals allowed on the Owner's premises.

9.7 Signs. No sign of any kind shall be displayed to the public view on any Lot except for: one sign of not more than 16 square feet advertising a Lot for sale or rent; one sign of not more than six square feet declaring individual property rights such as "No Trespassing," "No Woodcutting," etc.; any signs erected by Declarant, including those for sales activities; or permanent subdivision entrance markers.

9.8 Drainage. No drainage water on any Lot shall be diverted or blocked from its natural course so as to discharge onto another Lot or the roadway easement except by Declarant or Skagit County as provided herein. Each Owner must install a culvert in the roadside ditch when he builds his driveway.

9.9 Sewage. No individual sewage disposal system shall be permitted on any Lot unless such system is designed, located, and constructed in accordance with the requirements, standards, and recommendations of the Skagit County Health Department. Approval of such system as installed must be obtained from such authority.

9.10 Nuisances. No noxious or offensive activity shall take place on any Lot, nor shall any action or inaction on the Lot cause an annoyance or nuisance to the neighborhood. No Lot shall be used in whole or in part for the storage of rubbish of any character whatsoever, nor for the storage of any property or thing that will cause such Lot to appear in an unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing, or material be kept or operated upon any Lot that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort, or serenity of the occupants of surrounding property. In particular, inoperable vehicles or unsightly devices of any kind shall not be stored on any Lot in view of the roadway of the homes of other Owners.

9.11 Encroachment or Easements. No buildings or permanent structures of any kind shall be permitted within any native growth protection easements, nor within the storm drainage easements unless approved by the Skagit County Hydraulics Department and the ACC, all as shown on the Map.

9.12 Setbacks. All homes or other structures built upon the Lots shall be set back from all Lot lines in accordance with the applicable Skagit County zoning requirements. Lot Owners may not top, prune, or remove any trees within the setback areas or do any grading within the setback areas except to provide an access roadway to a dwelling unit, construct fences, clean up debris (i.e., stumps, dead trees, brush piles, etc.), or as otherwise expressly provided for herein.

9.13 Conflicts. Various restrictions in this Section IX are also addressed in Section X VIEW EASEMENT/TREES, and the conditions and restrictions in Section X will supersede those in this Section IX in case of any conflict.

9.14 Wires. No lines or wires for the transmission of electric current or for telephone use shall be constructed, placed, or permitted to be placed upon any Lot outside the buildings thereon, unless the same shall be underground or in a conduit attached to the building, unless otherwise approved by the ACC.

9.15 Communications Equipment. No exposed or exterior radio, television, or other communication antennas or devices (including satellite dishes) shall be erected, placed, or maintained within The Pointe, or by any Owner on nearby land outside The Pointe.

9.15.1 This restriction does not apply to antennas or dishes placed by Declarant or other entity approved by the Declarant to provide TV reception service to area residents within The Pointe and possibly outside.

9.16 Tanks. No elevated tanks of any kind shall be erected, placed, or permitted on any part of the Property, unless being used by Declarant in the development process. Any tanks for use in connection with any residence constructed on such premises, including tanks for the storage of fuels, must be buried or walled sufficiently to conceal them from view from neighboring Lots, roads, or streets.

9.17 Enclosures. All clothes lines, garbage cans, equipment, coolers, wood piles, or storage piles shall be walled in to conceal them from view of neighboring Lots, roads, or streets; plans for all enclosures of this nature must be approved by the ACC prior to construction.

9.18 Lighting. No mercury vapor or similar high-intensity lights will be permitted within The Pointe unless approved in advance by the ACC.

9.19 Rental/Leasing.

9.19.1 It is recognized that homes may be leased or rented on a month-to-month basis by their Owners or successors in interest. A mortgagee in possession of any Lot may lease or rent it for any term at its discretion.

9.19.2 Each lease or rental agreement shall be in writing, and by its terms shall provide that it is subject in all respects to the provisions of these Declarations and the Bylaws of the Association. Any failure by a lessee to comply with all terms contained in this Declaration or the Association's Bylaws shall cause the Lease to be in default, and the default may be enforced directly by the Association. No Owner may lease less than the entire home without Board approval.

9.19.3 The Association may supervise all leasing, rental, or subleasing of homes to insure compliance with these provisions, and the Association may require the Owner to deposit not more than two (2) months market rental value of the home (regardless of the actual rental rate) with the Association treasurer to insure compliance with the

Association rules and this Declaration, and to cover any damage to Common Areas and facilities.

9.20 Sales Facilities of Declarant. Notwithstanding the provisions for use and/or leasing, Declarant, its agents, employees, and contractors, may maintain during the period of sale of Lots within the Pointe, such facilities as in the sole opinion of Declarant may be reasonably required, convenient, or incidental to the sale of Lots, including a business or sales office, signs, storage facilities, and parking areas for prospective purchasers.

9.21 Parking. Parking areas are restricted to use for parking of Owners and their guests, Declarant, or their agents or invitees. No travel trailers, camper trailer, recreational vehicle, mobile home, boat, boat trailer, trailer, or similar vehicle shall be permitted to be left in any parking areas other than Common Areas specifically designated therefor. Declarant or the Board may require removal of any inoperative or unsightly vehicle, and any other equipment or items improperly stored in any parking areas. If improper use of parking areas is not immediately corrected, Declarant or the Board may cause removal at the risk and expense of the owner thereof. The use of all parking areas shall be subject to the rules and regulations adopted by the Board.

9.21.1 Regular on-street parking of vehicles within the Property shall not be permitted.

9.22 Driveway, Walkways, etc. Driveways, walks, and other common facilities used for access shall be used exclusively for normal ingress and egress, and no obstruction shall be placed therein unless permitted by the Board.

9.23 Insurance. No Owner shall permit anything to be done or kept on their premises or on the Common Areas which will increase the fire insurance premiums for any Member or result in the cancellation of insurance. Neither shall any Owner erect, construct, or allow any type of apparatus or recreational equipment in any Common Area that would increase the risk of harm and liability to other Owners.

9.24 Common Areas. The following activities shall not take place in or upon the Common Area without the prior written approval of the Board:

9.24.1 No motorized vehicles of any kind shall be allowed except for maintenance and construction purposes;

9.24.2 No leaves, rocks, dirt, or yard rakings shall be dumped;

9.24.3 No boats or motor vehicles shall be parked or stored;

9.24.4 No sheds, gardens, bulkheads, or other structures or personal improvements shall be constructed or maintained; and

9.24.5 No trees or bushes shall be cut or mutilated.

9.25 Smoke. Air quality is of concern to the Owners. No wood stoves shall be allowed on any Lot unless such stove has Environmental Protection Agency certification and was manufactured after 1987. Offensive or obnoxious smoke emissions shall be considered a nuisance to the neighborhood, and the ACC shall be the sole and unfettered judge of what level of emissions is acceptable.

X. VIEW EASEMENT/TREES

10.1 Easements. An integral part of the market value and aesthetic appeal of many of the Lots in The Pointe is based on beautiful views of the mountains and Puget Sound. The views are an essential aspect of the subdivisions, and all Owners shall work together in good faith to perpetuate them. In order to carry out this purpose, Declarant hereby establishes a non-exclusive perpetual view easement upon, over, and above all of the Lots, subject to the guidelines set forth below, which shall be used, protected, and enforced in accordance with the terms and conditions set forth herein.

10.2 General Height Restrictions.

10.2.1 General guideline restrictions for building heights acceptable to the ACC shall be as follows: Lot 1 - one story; Lot 2 - one story; Lot 3 - two stories; Lot 4 - two stories; Lot 5 - one story with daylight basement; Lot 6 - two stories; Lot 7 - two stories; Lot 8 - two stories; Lot 9 - one story with permission for two stories; Lot 10 - one story; Lot 11 - one story with permission for daylight basement; Lot 12 - one story; Lot 14 - one story with daylight basement and permission for two stories; Lot 15 - no restrictions; Lot 16 - one story with daylight basement; Lot 17 - no restrictions; Lot 18 - no restrictions; Lot 19 - one story with daylight basement; Lot 20 - no restrictions; and Lot 21 - no restrictions. Acceptable height guideline for a one-story rambler or one story with daylight basement shall be 18 feet from the prepurchase grade at building pad site to highest point of roof, and a two story shall have a 26 foot maximum height. These heights and any variances therefrom are subject to ACC approval prior to start of construction.

(a) A Lot Owner may plant trees within his Lot only with prior ACC approval of his landscaping plan and its determination that they will not have an unreasonable adverse effect on the views of another Lot; he must thereafter prune or cut them at his expense as determined

by the ACC so that they do not interfere with the view from another Lot.

(b) The location of a guest house or other structure on a portion of a Lot may be permitted, but is subject to ACC approval to determine that the structure will not have an unreasonable adverse effect on the views of another Lot.

(c) Except as otherwise provided herein or in his deed, a Lot Owner may build houses or cut trees without limitation by the view easement.

10.2.2 PROVIDED, HOWEVER, that all heights set forth in paragraph 10.2.1 above shall be subject to ACC approval, which approval shall be within its sole and unfettered discretion.

10.3 Native Growth. Native growth trees over four (4) inches in diameter within the Property (other than alder or willow) shall not be permitted to be destroyed or removed except within the building site envelopes, or by Declarant, or as approved in writing in advance by the ACC. In the event such trees are removed by an Owner or his contractor or agent, except as stated above, the ACC may require the replanting or replacement of same; the cost thereof shall be borne by the Lot Owner. If the Owner does not replace same within 30 days of notice from the ACC, the ACC may replace any tree and charge the Owner therefor and secure that expense by recording a lien against the Lot in the manner of any other violation hereunder.

10.3.1 Thinning of heavy or low-growing branches or limbs shall be acceptable with prior approval of the ACC.

10.4 Association Cutting Plan. Tree cutting on developed Lots or within common areas, except as allowed pursuant to paragraphs 10.1, 10.2, and 10.3 above, may only be done pursuant to a "cutting plan" prepared and administered by a Forester designated by the Board. The cutting plan shall preserve as many trees as possible under prudent forest practices, while still fully carrying out the purposes of this view easement. Trees may be cut only in accordance with the following priorities:

(i) Topping and Pruning - in a way which leaves healthy, attractive trees.

(ii) Thinning - removal of some trees in an area.

(iii) Clearing - the creation of small meadows. Land may be cleared only if all the slash and cutting debris are removed, the stumps are removed, the disturbed areas are planted with an approved grass or ground cover, and a buffer zone is left where feasible to protect houses from being seen from the

roadway or other houses.

10.4.1 Plan Approval. The proposed cutting plan shall be open to comment by the Owners at a regular or Special meeting of the Association called for this purpose. The final cutting plan is subject to approval by the Board. If twenty-five percent (25%) of the Members of the Association sign a petition opposing an approved cutting plan, the Board must call a special meeting of the Members to vote on this issue, and implementation of the cutting plan must be postponed. If sixty percent (60%) of the Member votes entitled to be cast are voted against the cutting plan, it shall be defeated. The Members may not adopt a new cutting plan at this meeting. Except as provided herein, there shall be no appeal or judicial review of any of the Board's decisions under this Article. Board Members may not vote on cutting plans which benefit their Lot.

10.5 Limitations. Cutting shall be permitted only between February 1 and July 30 of even-numbered years. Roads and driveways may be blocked only for short periods during daylight hours. Any damage to improvements on the Lots shall be promptly repaired. Cutting debris shall be disposed of and the Lots reasonably cleaned up after cutting is completed. The Forester may sell merchantable timber and apply the proceeds to reduce the cost of the tree cutting and the cutting plan.

10.6 Cost. All cutting pursuant to the cutting plan shall be paid by the Association, and charged to the benefited Owners on the basis of one share per benefited Lot. The Board shall determine within its sole discretion which Lots are benefited by a cutting plan. The amount charged shall be considered a special assessment and shall be collected from each benefited Owner in accordance with Section V.

XI. INTERPRETATION, ADMINISTRATION, AND ENFORCEMENT OF THIS DECLARATION

11.1 Subject to prior approval by Declarant, the Association may from time to time adopt reasonable additional provisions in its Bylaws or in the rules and regulations of the Association as may be necessary or advisable to insure compliance with or to supplement the foregoing covenants, conditions, and restrictions, and the Owners shall comply in all respects therewith. The ACC or the Association may at all reasonable times enter upon any Lot for the purpose of performing their functions under this Declaration.

11.2 Each Owner shall comply strictly with the provisions of this Declaration and with the Bylaws, rules, and regulations adopted by the Board. Failure to comply shall be grounds for an action to recover sums due for damages, or injunctive relief, or both, and

be maintainable by the Board acting through its officers on behalf of the Association, or by the aggrieved Owner on his own. The ACC, the Association, any Owner, or Skagit County shall have the right to enforce, by any proceedings at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The violator(s) shall be responsible for all costs incurred in enforcing this Declaration, including all court costs, expert witness fees, and reasonable attorneys' fees whether or not the matter goes to trial.

11.3 No building construction, landscaping, remodeling, or alteration work which has been commenced shall be deemed in violation of this Declaration if the same was authorized by ACC permits issued pursuant to this Declaration.

11.4 The Declarant, the Owners, the Association, the ACC, the Board, and their agents and employees shall not be liable for any damage, loss, or prejudice suffered or claimed by any person on account of:

11.4.1 The approval or disapproval of any plans and specifications, whether or not in any way defective.

11.4.2 The development of any Lot or the construction of any improvement, or performance of any work, whether or not pursuant to approved plans and specifications.

11.4.3 Injury to any person or property due to construction, the performance of any work, location of any physical object, or resulting from the performance of any industry or other activity within The Pointe.

Each Owner shall hold Declarant, the Owners, the Association, the ACC, and the Board harmless from any and all such claims which might arise from any activity, construction, or condition existing on such Owner's Lot.

11.5 If a Lot is not maintained in accordance with this Declaration after ten (10) days' written notice from the ACC, then the ACC shall have a right of entry onto the Lot to accomplish such work in any manner within its sole and unfettered discretion, and the reasonable cost of such work shall be a personal obligation of the Owner and a lien upon the Lot. Said lien may be perfected by filing a Notice of Lien with the Skagit County Recording Officer, and the priority of said lien shall date from the time of filing. Said lien may be foreclosed and include reasonable attorneys' fees and other costs incurred in connection therewith in the same manner as any other enforcement action hereunder.

XII. DECLARANT'S RESERVED RIGHTS

12.1 Easements. Declarant reserves to itself and its agents, employees, successors, assigns, and designated grantees, a non-exclusive perpetual easement for ingress, egress, and utility service over, under, upon, through, and above the roadway easements in The Pointe.

12.2 Improvements. Declarant reserves the right to improve or upgrade all or part of the Common Area at any time, without Association approval, and to pay for all of the costs of such work itself.

12.3 Expansion of Property. Declarant reserves the right to expand the size of the Property to include other adjacent properties. Declarant may carry out this expansion in any of the following ways:

12.3.1 By subjecting such adjacent properties to this Declaration by recording a supplement hereto. Said supplement may contain entirely different standards or provisions than those set forth herein, including but not limited to those pertaining to voting, land use restrictions, lot size, density, architectural controls, and view easement. The Owners of said adjacent real property shall become Members of the Association with voting rights, liability for assessments, and any other characteristics as provided by Declarant; or

12.3.2 By recording a separate declaration of covenants, conditions, and restrictions for such adjacent property with entirely different provisions than this Declaration, which makes the owners of that property Members of the Association created herein with voting rights, liability for assessments, and any other characteristics as provided in that separate declaration; or

12.3.3 By granting the owners of such adjacent property easements for ingress, egress, and utility service over any Property which Declarant may reserve for common use.

12.4 Remaining Lots. Declarant reserves the right to amend this Declaration and adopt more restrictive provisions limiting the use of Lots which it still owns. This Reserved right shall not constitute any limitation on the general power to amend this Declaration.

12.5 Adjacent Property. Declarant reserves the right to develop land adjacent to the Property into any lot size, density, or use category allowed by law, including without limitation a golf course. Said parcels may be smaller than those shown on the Map, including multi-family or commercial, and may use the roads through

the Property for ingress, egress, and utilities for which Declarant and its successors and assigns reserve a perpetual non-exclusive easement for such ingress and egress and for installation, repair, maintenance, replacement of subservice and underground installations in connection with the furnishing of such utilities and drainage.

XIII. COVERAGE/AMENDMENT

13.1 Covenants Running with the Land. The covenants, conditions, restrictions, uses, limitations, and obligations contained in this Declaration shall be deemed to run with the land and shall be a burden and benefit upon the Lots and all other portions of the Property and the Common Area, and shall be binding upon all persons acquiring or owning any interest therein, their grantees, successors, heirs, executors, administrators, and assigns until January 1, 2015, after which time they shall be automatically extended until terminated by an instrument approved by a sixty-seven percent (67%) Membership vote.

13.1.1 Division 2. Pursuant to paragraph 17 of the recorded covenants for Division 2, its architectural control committee has absolute control over development of the premises including without limitation all lots, easements, roads, and the homeowners association until the last lot within Division 2 is sold, which last sale has not yet occurred. In exercising that authority, they have considered all aspects of Division 2 and concluded that for optimal development of Division 2 and its future as part of the total development at THE POINTE, it is in the best interest of the premises and all lot owners therein to subject all of Division 2 and the Lots and Owners therein to this Declaration. Therefore, upon recordation hereof:

(a) This Declaration shall replace in its entirety the existing declaration of covenants covering Division 2 recorded under Auditor's No. 8902240067, records of Skagit County, Washington, and shall thereupon become binding upon all Property and Owners within Division 2; and

(b) In conjunction therewith, and in compliance with the mandate given them pursuant to paragraph 16 of those existing Division 2 covenants replaced hereby, the existing Division 2 architecture control committee also determines and directs that all Lot Owners within Division 2 shall henceforth be Members of the Association and subject thereto in all respects; and

(c) The existing Division 2 architecture control committee has evidenced its intentions with respect to

this sub-paragraph 13.1.1 and these Declarations by signature of its representative below.

13.1.2 Rock Pointe. Upon recordation hereof, this Declaration shall also become binding upon all Lots in Rock Pointe and the Owners thereof shall thereafter become Members of the Homeowners Association.

13.2 Amendment. During the Development Period this Declaration may be amended by an instrument approved by Declarant and a fifty-one percent (51%) Membership vote (including Declarant); thereafter, this Declaration may be amended at any time by an instrument approved by a sixty-seven percent (67%) Membership vote.

13.2.1 For purposes of this paragraph 13.2 Owners of Lots within the Property other than Declarant shall have one (1) vote per Lot, Declarant shall have four (4) votes for each Lot it owns, and in the event a golf course is developed within the property the operator thereof shall be entitled to one (1) vote for each five (5) acres of golf course and associated facilities.

13.2.2 Any termination or amendment under this paragraph 13.2 as set forth above must be executed and acknowledged by the President and Secretary of the Association, and recorded with the Skagit County recording office. It shall describe the amendment, state that it was duly adopted at a regular or special meeting of the Association Membership, and that the required votes for approval were obtained.

13.2.3 Notwithstanding the foregoing, Declarant shall have the unilateral right, without approval of anyone, to amend or supplement this Declaration as provided in Section XII above.

13.3 Recording. Any changes in the Map, Plat, or in this Declaration shall be placed of record as amendments thereto as soon as they are fully executed.

13.4 Effective Date of Amendments.

13.4.1 Amendments to this Declaration or to the Map or Plats shall be effective upon the date the same are duly approved as provided herein, but shall not be binding upon third parties without knowledge thereof until recorded with the Skagit County Auditor.

13.4.2 Amendments to the Map and Plats shall be accompanied by an amendment of this Declaration which refers to and describes the amendment to the Map or Plat.

XIV. MISCELLANEOUS

14.1 Notices. Any notices permitted or required under the provisions of this Declaration may be delivered either personally or by mail. If delivery is by mail, any such notice shall be deemed to have been delivered 48 hours after a copy has been deposited in the United States mail. Notice to Lot Owners shall be sufficient if addressed to the mailing address for the Lot, or if such Lot is unimproved then to the address to which Skagit County then sends notice of real property tax assessments. Notices to the Association may be given to the person entitled to receive service of process or to the President or Secretary of the Association at the address for Declarant set forth below, or as subsequently changed by notice from the Association to the Membership.

14.2 Severability. The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or a portion hereof shall not affect the validity or enforceability of any other portion.

14.3 Interpretations. The provisions of this Declaration shall be liberally construed to effectuate its purposes to create a uniform plan for the development and maintenance of the Property.

14.4 Conflicts. In case of conflict between this Declaration and the Association's Articles of Incorporation, this Declaration shall control; in case of conflict between this Declaration and the Association's Bylaws or any resolution or other action of the Board or the Association, this Declaration shall also control.

14.5 Effective Date. This Declaration shall take effect upon recording with the Skagit County Auditor.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand this 19th day of December, 1989.

DECLARANT:

SAN JUAN FIDALGO HOLDING CO., INC.

By: Richard A. Labadie
RICHARD A. LABADIE, President

Address: 226 San Juan Blvd.
Anacortes, WA 98221

8912190053

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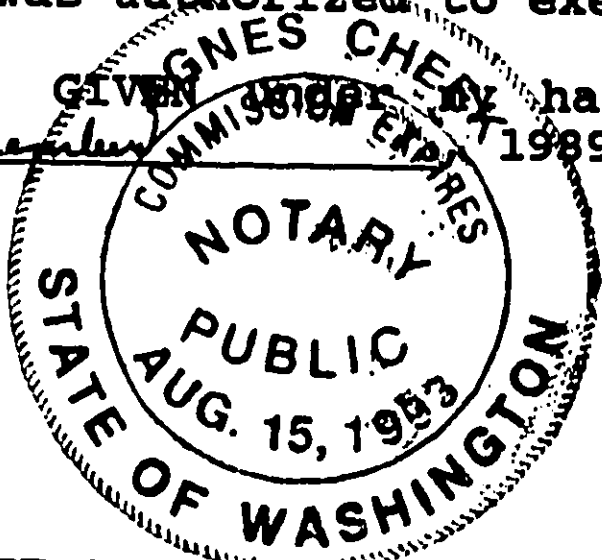
DIVISION 2 ARCHITECTURAL
CONTROL COMMITTEE

By: Ned C. England
NED C. ENGLAND

STATE OF WASHINGTON)
COUNTY OF SKAGIT) SS.

On this day personally appeared before me RICHARD A. LABADIE, to me known to be the President of SAN JUAN FIDALGO HOLDING CO., INC., a Washington corporation, and acknowledged said instrument to be the free and voluntary act and deed of said Corporation for the uses and purposes therein mentioned, and on oath stated that he was authorized to executed the said instrument.

GIVEN under my hand and official seal this 19th day of December, 1989.

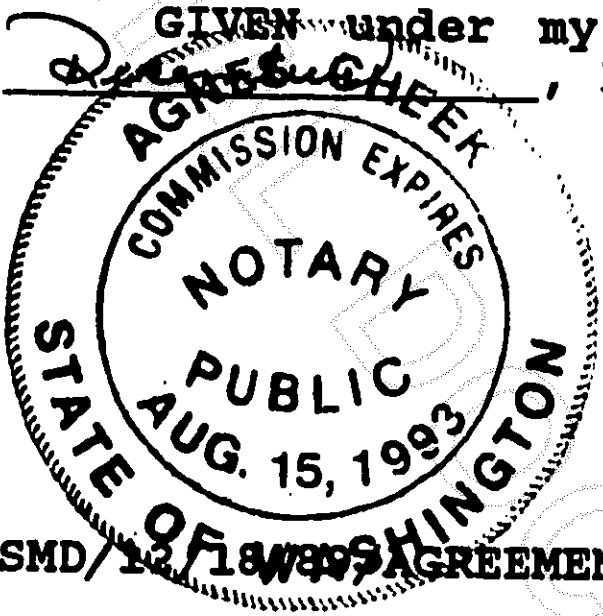


Agnes Cheek
NOTARY PUBLIC in and for the
State of Washington residing
at: Mount Vernon
My Commission Expires: Aug. 15, 1993

STATE OF WASHINGTON)
COUNTY OF SKAGIT) SS.

On this day personally appeared before me NED C. ENGLAND, to me known to be the individual described in and who executed the within and foregoing instrument, and acknowledge said instrument to be his free and voluntary act and deed for the uses and purposes therein mentioned.

GIVEN under my hand and official seal this 19th day of December, 1989.



Agnes Cheek
NOTARY PUBLIC in and for the
State of Washington residing
at: Mount Vernon
My Commission Expires: Aug. 15, 1993

SMD/12/18/89 AGREEMEN.MIS\POINTE.DEC