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**DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
OF  
THE POINTE AT SAN JUAN HOMEOWNERS ASSOCIATION**

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THE POINTE AT SAN JUAN HOMEOWNERS ASSOCIATION**

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**DECLARATION OF  
COVENANTS, CONDITIONS, AND RESTRICTIONS  
OF  
THE POINTE AT SAN JUAN HOMEOWNERS ASSOCIATION**

**THIS DECLARATION** ("The Declaration") is made on the date hereinafter set forth by the undersigned as The Pointe at San Juan Homeowners Association ("The Association"):

**RECITALS**

WHEREAS The Association, a Washington nonprofit corporation formed under the provisions of Chapter 24.03 RCW, was incorporated December 29, 1995 under U.B.I. Number 601 679 080; and

WHEREAS The Association was formed to provide for maintenance, preservation and architectural control of the real Property now or hereafter subject to the Declaration of Covenants, Conditions and Restrictions of The Pointe, recorded in the real property records of Skagit County on December 19, 1989, under recording number 8912190053, as amended by Addendum No. 1 to the Declaration of Covenants, Conditions, and Restrictions, recorded in the real property records of Skagit County on September 12, 1990, under recording number 9009120078, as supplemented by First Supplement to Declaration of Covenants, Conditions, and Restrictions of The Pointe, recorded in the real property records of Skagit County on September 12, 1990, under recording number 9009120079 (collectively, the "Previous Declaration"); and

WHEREAS The Association has expanded the real Property subject to the Previous Declaration, as agreed upon by the Declaration of Agreement of Covenants, Conditions and Restrictions, recorded in the real property records of Skagit County on December 9, 2005, under recording number 200512090199, and for which real property the owner applied for a short plat on October 14, 2005 under Skagit County Plat Number PL05-0414, but which short plat had not been finally approved and was still pending as of December 17, 2007; and

WHEREAS The Association has the power to exercise all the powers and privileges and to perform all the duties and obligations of The Association as set forth in the Previous Declaration, to the extent permitted by law; and

WHEREAS The Association wishes to subject all real Property subject to the Previous Declaration to The Declaration, thereby replacing in its entirety the Previous Declaration, and more than sixty-seven percent (67%) of the total Member votes entitled to be cast having voted in favor of The Declaration,

**NOW, THEREFORE,** The Association hereby declares that all said Property including all individual Lots and such properties as are annexed and/or are made subject hereto by The Association 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 right, title, or interest therein



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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 **"The Association"** shall mean THE POINTE AT SAN JUAN HOMEOWNERS ASSOCIATION, a Washington nonprofit 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 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 designated as common areas on the plats located within the Property; (iii) land which shall hereafter be granted or conveyed 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 and the private roadways and detention pond shown on short plat no. PL05-0414, as that may be recorded in the records of Skagit County, Washington.

1.4 **"The Declaration"** shall mean this Declaration of Covenants, Conditions, and Restrictions applicable to the Properties, as recorded in the Office of the County Auditor, Skagit County, Washington, under recording number \_\_\_\_\_, and all subsequent amendments thereto.

1.5 **"Lot"** or **"Parcel"** shall mean 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, and lots zoned for other purposes are not considered Lots under The Declaration.

1.6 **"Map"** shall mean the plat, commonly known as THE POINTE DIVISION NO. 2, contained in instrument recorded under Auditor's file no. 8806270037, records of Skagit County, Washington; and 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; and the plat, commonly known as THE POINTE DIVISION NO. 3, contained in instrument recorded under Auditor's file no 9011050014, records of Skagit County, Washington; and short plat no. PL05-0414 commonly known as the Short Plat of P32593, which short plat has not been recorded as of December 17, 2007 but which applies to the property described in the Declaration of Agreement of Covenants, Conditions and Restrictions recorded on December 9, 2005, under recording number 200512090199, records of Skagit County, Washington; and such additional plat maps as may hereafter be subjected hereto and brought within the jurisdiction and control of The Association and The Declaration as provided herein.

1.7 **"Member"** or **"Membership"** shall mean those persons entitled to membership in The Association as provided in Section IV herei



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1.8 **"Owner"** shall mean record holders of a fee interest and contract purchasers who are in possession of a Lot.

1.9 **"Previous Declaration"** shall mean the Declaration of Covenants, Conditions, and Restrictions of The Pointe, recorded in the real property records of Skagit County December 19, 1989, under recording number 8912190053, as amended by Addendum No. 1 to the Declaration of Covenants, Conditions, and Restrictions, recorded in the real property records of Skagit County September 12, 1990, under recording number 9009120078, as supplemented by First Supplement to Declaration of Covenants, Conditions, and Restrictions of The Pointe, recorded in the real property records of Skagit County September 12, 1990, under recording number 9009120079.

1.10 **"Property"** or **"Properties"** shall mean that certain real property as defined by the Map, and such additions as may hereafter be subjected hereto and brought within the jurisdiction and control of The Association and The Declaration as provided herein.

## II. PROPERTY RIGHTS / EASEMENTS

2.1 **Common Areas.** Each Owner shall have a right to the use, enjoyment, and benefit of a nonexclusive 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 under the same terms.

2.1.1 **Suspension.** Such easement shall 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 said owner's Lot remains unpaid, or (ii) any violation of these covenants or of The Association's published rules for which said owner is responsible remains unabated.

2.1.2 **Delegation.** An Owner may delegate the right of use and enjoyment of the Common Area to family members, invitees, and 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 The Association's maintenance or operation, or unreasonably increase costs to The Association. However, there shall be no liability for a failure to restrict use.

2.1.4 **Government Access.** The Association hereby grants to the Sheriff's Department, Fire District, and other government agents and officials with jurisdiction over the Property, the nonexclusive 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 retain 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 of 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 its 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 The Declaration, each Lot Owner has a nonexclusive 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 are hereby reserved to The Association such easements as are necessary to perform the duties and obligations of The Association as set forth in The Declaration and the Bylaws of The Association.

2.4 **Utility Service.** Puget Sound Power and Light, Cascade Natural Gas, Anacortes City Water, Comcast Cable (or its successors or assigns), and any other electric, telephone, television cable, gas, garbage, water, sewer or other utility company, public or private, or their permittees shall, subject to approval of The Association, have 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. The Association 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 of sixty-seven percent (67%) of the total Member votes entitled to be cast:

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 sixty-seven percent (67%) Member votes entitled to be cast 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 sixty-seven percent (67%) of the total Member votes entitled to be cast 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 Common Area roads in the Property which may be hereafter charged by Skagit County, or any other government agency, regardless of whether the fee(s) is originally against 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 Section V herein.

#### IV. THE ASSOCIATION, MEMBERSHIP AND VOTING RIGHTS THEREIN

4.1 **Membership.** Each Owner shall be a Member of The Association as provided in 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 The Association's Articles of Incorporation. The total Member votes entitled to be cast shall be equal to the total number of Lots defined by the Map, adjusted for the number of Lots subjected to suspension under section 2.1.1 of The Declaration and the conditions specified in the Declaration of Agreement of Covenants, Conditions and Restrictions, recorded in the real property records of Skagit County December 9, 2005, under recording number 200512090199.

4.3 **Merger / Annexation.** Upon the request of 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 sixty-seven percent (67%) of the total Member votes entitled to be cast. The new Members may be required to submit to all or part of The 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, 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, wind, fire, or earthquake; 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 Area for any action taken to comply with law, ordinance, or orders of a governmental authority.

4.5.3 As long as a Board member or officer of The Association 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 attorney's 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 Members shall be assessed pro rata based on the number of Lots that they own, except for exemptions pursuant to paragraph 5.11 below.

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's meeting at which each such special assessment was approved.

5.4 **Regular Annual Assessments.**

5.4.1 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.

5.4.2 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.

5.4.3 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.



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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 expense to The Association, 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 ten (10) days or more than fifty (50) days in advance of the meeting. Unintentional failure to notify a few Members (fewer than 5% of the total Member votes entitled to be cast) 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 times, 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 The 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 Nonpayment 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 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 mortgage 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's Treasurer. Unless otherwise prohibited by law, any mortgage 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 to the landlord by 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's 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.

## **VI. Architectural Control Committee**

**6.1 Members.** There is hereby established a 3-person Architectural Control Committee ("ACC"). The board shall select three board members to make up the ACC in the manner set forth in The Association's documents.



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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 The 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 The Declaration and are in harmony with one another* and the surrounding streets and topography; and, (iii) all improvements meet the restrictions and requirements of The 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 therefore 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 that meet the terms of The Declaration. Such plans and specifications shall be submitted in duplicate, signed by 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



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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 The 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 The 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;



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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 The 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 that 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 The 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 The Declaration. Following that initial conference, all contractors shall comply with all ACC and other provisions 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 The Declaration, such improvement or use shall be deemed to have been undertaken in violation of The Declaration. Upon written notice from the ACC, any such improvement shall be immediately removed, altered, or cease so as to conform to The 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 2,500 square feet of floor area (excluding 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 sub-paragraph 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.



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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 The 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.

8.5 **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 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 of the Previous Declaration are "grandfathered" in and accepted "as is"; however, any further work on such Lots or any improvements thereon shall be subject to The 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 Property. Each Owner shall



also comply with all the terms and conditions of the plats, building permits, and all other permits and approvals given by public authorities for the building site.

9.2 **Subdividing.** No Lot may be subdivided.

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 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 Property, 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 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: 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.; 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 the Association or Skagit County as provided herein. Each Owner must install a culvert in the roadside ditch when building the driveway.



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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 or 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 Public Works Department and the ACC, 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 Property, or by any Owner on nearby land outside the Property, unless approved in advance by the ACC.

9.16 **Tanks.** No elevated tanks of any kind shall be erected, placed, or permitted on any part of the Property. 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 Property 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 its terms shall provide that it is subject in all respects to the provisions of The Declaration and the Bylaws of The Association. Any failure by a lessee to comply with all terms contained in The 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 ensure 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's treasurer to ensure compliance with The Association's rules and The Declaration, and to cover any damage to Common Areas and facilities.

9.20 **Parking.** Parking areas are restricted to use for parking of Owners and their guests, or their agents or invitees. No travel trailers, camper trailers, recreational vehicles, mobile homes, boats, boat trailers, trailers, or similar vehicles shall be permitted to be left in any parking areas other than Common Areas specifically designated thereof. 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, 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.

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

9.21 **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.

9.22 **Insurance.** No Owner shall permit anything to be done or kept on their premises or on the Common Areas that would 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.

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



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

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

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

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

9.23.5 No trees or bushes shall be cut or mutilated.

9.24 **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 Lots within the Property 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, there is hereby established a nonexclusive perpetual view easement, upon, over, and above all 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 Restrictions.**

10.2.1 General guideline restrictions for building heights within Division 2 acceptable to the Board 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.

10.2.2 General guideline restrictions for building heights within Division 3 acceptable to the Board shall be as follows:

Lot No.  
22

Feet Above Sea Level  
270



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|    |     |
|----|-----|
| 23 | 280 |
| 24 | 318 |
| 25 | 300 |
| 26 | 323 |
| 27 | 319 |
| 28 | 312 |
| 30 | 350 |
| 31 | 350 |
| 32 | 350 |
| 34 | 420 |

10.2.3 A Lot Owner may plant trees within his Lot only if 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 Board so that they do not interfere with the view from another Lot.

10.2.4 The location of a guesthouse or other structure on a portion of a Lot may be permitted, but is subject to Board approval to determine that the structure will not have an unreasonable adverse effect on the views of another Lot.

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

10.2.6. All heights set forth in paragraphs 10.2.1 and 10.2.2 above shall be subject to Board approval prior to start of construction, 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 destroyed or removed except within the building site envelopes, or as approved in writing in advance by the Board. In the event such trees are removed by an Owner or his contractor or agent, except as stated above, the Board 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 Board, the Board may replace any tree and charge the Owner therefore 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 Board.

10.4 **View Corridor Agreement.** When Owners work together in good faith to perpetuate views, they shall do so in accordance with the guidelines set forth in paragraphs 10.1, 10.2, and 10.3. If, as part of this good faith effort, it is determined that trees will be required to be cut, a View Corridor Agreement shall be generated and



approved by all affected Lot Owners and the Board. This agreement shall define any specific requirements deemed necessary by the affected Lot Owners and the Board, and shall specify a cost allocation plan.

In the event that a View Corridor cannot be agreed upon, and if the board, after full consideration of the requirements in paragraphs 10.1, 10.2, and 10.3, has determined, in its sole and unfettered discretion, that cutting of trees is required, the board shall develop an Association Cutting Plan in accordance with the requirements set forth in paragraphs 10.5, 10.6, and 10.7.

View Corridors are subject to the provisions of Special Term b. of the instrument recorded under Skagit County Auditor's file number 200512090199, applying to the property addressed by Skagit County Short Plat PL05-0414.

**10.5 Association Cutting Plan.** Tree cutting within the Property, except as allowed pursuant to paragraphs 10.1, 10.2, and 10.3 above, may be done only 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 that 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.

**10.5.1 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 total Member votes entitled to be cast 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 total 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 Section. Board Members may not vote on cutting plans that benefit their Lot.

**10.6 Limitations.** 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.



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10.7 **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 and unfettered 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 THE DECLARATION**

11.1 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 ensure 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 The Declaration.

11.2 Each Owner shall comply strictly with the provisions of The 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 The 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 The 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 The Declaration if the same was authorized by ACC permits issued pursuant to The Previous Declaration.

11.4 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 Property.



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Each Owner shall hold 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 The 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. THE ASSOCIATION RESERVED RIGHTS**

12.1 **Easements.** The Association reserves to itself and its agents, employees, successors, assigns, and designated grantees, a nonexclusive perpetual easement for ingress, egress, and utility service over, under, upon, through, and above the roadway easements in the Property.

12.2 **Improvements.** The Association reserves the right to improve or upgrade all or part of the Common Area at any time.

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

12.3.1 By subjecting such adjacent properties to The 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 The Association; or

12.3.2 By recording a separate declaration of covenants, conditions, and restrictions for such adjacent property with provisions different from those in The 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.

## **XIII. COVERAGE / AMENDMENT**

13.1 **Covenants Running with the Land.** The covenants, conditions, restrictions, uses, limitation, and obligations contained in The 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 sixty-seven percent (67%) of the total Member votes entitled to be cast.

**13.2 Amendment.** The Declaration may be amended at any time by an instrument approved by sixty-seven percent (67%) of the total Member votes entitled to be cast.

13.2.1 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.

**13.3 Recording.** Any changes in the Map, Plat, or in The 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 The 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 to The 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 The 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 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 The 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 the case of a conflict between The Declaration and The Association's Articles of Incorporation, The Declaration shall control; in the case of a conflict between The Declaration and The Association's Bylaws or any resolution or other action of the Board or The Association, The Declaration shall also control.



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Skagit County Auditor

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

**IN WITNESS WHEREOF**, the undersigned, being the President and Secretary of The Association herein, have hereunto set their hands for and on behalf of The Association.

**THE ASSOCIATION:**

The Pointe at San Juan Homeowners Association

By Richard W. Seay

RICHARD W. SEAY, President

**ADDRESS:**

P.O. Box 415  
Anacortes, WA 98221

Attest:

Dennis Doneen

DENNIS DONEEN, Secretary

State of California )  
County of San Diego )

ss.

On this 24 day of December, 2007, before me <sup>David Thornton, Notary Public</sup> personally appeared Richard W. Seay, to me known to be the president of the corporation that executed the within and foregoing instrument, 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 execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.



David Thornton  
(signature)



David Thornton

(print name)

Notary Public for the State of CA

Residing at La Jolla CA

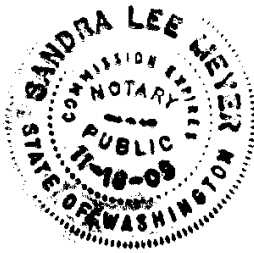
State of Washington

County of Skagit

ss.

On this 27<sup>th</sup> day of December, 2007, before me personally appeared Dennis Doneen, to me known to be the secretary of the corporation that executed the within and foregoing instrument, 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 execute said instrument.

In Witness Whereof I have hereunto set my hand and affixed my official seal the day and year first above written.



Sandra Lee Meyer  
(signature)

Sandra Lee Meyer  
(print name)

Notary Public for the State of Washington  
Residing at Anacortes



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Skagit County Auditor

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