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Skagit County Auditor

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CHICAGO TITLE CO.

QB2557

DECLARATION AND COVENANTS, CONDITIONS

RESTRICTIONS, EASEMENTS AND RESERVATIONS

FOR THE PLAT OF FIR CREST

PLANNED UNIT DEVELOPMENT

ANACORTES, WASHINGTON

THIS DECLARATION AND COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND RESERVATIONS (this "Declaration") is made by Fir Crest Development NW, LLC ("Declarant") as of the 3rd day of September, 2004.

RECITALS

Declarant is the owner of certain real property (the "Property") in Skagit County, Washington, legally described on Exhibit "A" hereto.

The Property is subdivided as FIR CREST PLANNED UNIT DEVELOPMENT, according to the plat thereof recorded August 31, 2004, under AF#200408310219.

Declarant wishes to subject the Property to this Declaration.

NOW, THEREFORE, Declarant declares that the Property subject to all restrictions and easements of said plat, shall be held, transferred, sold, conveyed, leased, used and occupied subject to the covenants, conditions, restrictions, easements, assessments and liens hereinafter set forth which are for the purpose of protecting the value and desirability of and which shall touch and concern and run with title to the Property and which shall be binding on all parties having any right, title, or interest in the Property or any portion thereof, and their respective heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

ARTICLE 1 DEFINITIONS

Section 1.1 Words Defined. For the purpose of this Declaration and any amendments hereto, the following terms shall have the following meanings and all definitions shall be applicable to the singular and plural forms of such terms:

1.1.1 "Association" shall mean Fir Crest Owners' Association described in Article 4 of this Declaration, its successors and assigns.

1.1.2 "Board" shall mean the board of directors of the Association.

1.1.3 "Common Area" and "Common Area Improvements" shall each have the meaning set forth in Section 2.1.

1.1.4 "Construction" and "Constructed" shall mean any construction, reconstruction, erection or alteration of an Improvement, except wholly interior alterations to a then existing Structure.

1.1.5 "Declarant" shall mean Fir Crest Development NW, L.L.C., a Washington Limited Liability Company.

1.1.6 "Declaration" shall mean this Declaration of Covenants, Conditions, Restrictions, Easements and Reservations for the Plat of Fir Crest as it may from time to time be amended.



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1.1.7 "First Mortgage" and "First Mortgagee" shall mean, respectively,
(a) a recorded Mortgage on a Lot that has legal priority over all other Mortgages thereon, and
(b) the holder of a first mortgage.

For purposes of determining the percentage of First Mortgagees approving a proposed decision or course of action in cases where a Mortgagee holds First Mortgages on more than one Lot, such Mortgagee shall be deemed a separate Mortgagee for each such First Mortgage so held.

1.1.8 "Lot" shall mean any one of the lots numbered Lots 1 through 39, together with the Structures and Improvements thereon. Lot 40 is excluded from the Declaration.

1.1.9 "Mortgage" shall mean a recorded mortgage or deed of trust that creates a lien against a Lot and shall also mean a real estate contract for the sale of a Lot.

1.1.10 "Mortgagee" shall mean the beneficial owner, or the designee of the beneficial owner, of an encumbrance on a Lot created by a mortgage or deed of trust and shall also mean the vendor, or the designee of a vendor, of a real estate contract for the sale of a Lot.

1.1.11 "Owner" shall mean the record owner, whether one or more Persons, of fee simple title to a Lot within the Property, including a contract seller except those having such interest merely for the performance of an obligation.

1.1.12 "Person" shall mean an individual, corporation, partnership, association, trustee or other legal entity.

1.1.13 "Plat" shall mean the recorded Plat of Fir Crest and any amendments, corrections or addenda thereto subsequently recorded.

1.1.14 "Property" shall mean the land described on Exhibit "A" and such additions thereto as may hereafter be subjected to the terms of the Declaration, and all improvements and structures now or hereafter placed on the land.

1.1.15 "Structure" shall mean any building, fence, wall, patio, swimming pool, or the like.

1.1.16 "Transition Date" is defined in Section 4.10.

Section 1.2 Form of Words. The singular form of words shall include the plural and the plural shall include the singular. Masculine, feminine and neuter pronouns shall be used interchangeably.

ARTICLE 2 COMMON AREAS AND EASEMENTS

Section 2.1 Common Areas. "Common Areas" shall include Tracts A and B as shown on the face of the plat. The 25 foot Native Growth Protection Easement (NGPE) buffer on



the Western portion of the Plat shall also be common area but no cutting or clearing shall be permitted without the express permission of the City of Anacortes.

Section 2.2 Association to Maintain Common Areas. The Association shall maintain the Common Areas. If the Association does not maintain the Common Areas, the City of Anacortes shall have the right to enforce these covenants that pertain to the obligation of the Association to maintain those Common Areas.

Section 2.3 Alteration of Common Area. Nothing shall be altered or constructed upon or removed from the Common Areas except upon the prior written consent of the Board.

Section 2.4 Easements for Utilities and Drainage. Declarant does hereby establish, create and reserve for the benefit of itself, the Association and all Owners, and their respective heirs and assigns, an easement (the "Utilities and Drainage Easement") for the installation and maintenance of master television antenna and/or cable systems, security and similar systems, and all utilities, including, but not limited to, storm sewers and drainage systems and electrical, gas, telephone, water and sewer drainage systems and electrical, gas, telephone, water and sewer lines over the area designated for easements and shown on the plat map for Fir Crest. No Lot Owner shall allow or permit any structure or landscaping to be located, installed or grow upon the area subject to the Utilities and Drainage Easement which might in any way damage or interfere with the installation and operation of such utilities and systems. Each person utilizing the Utilities and Drainage Easement areas located on another's Lot shall promptly restore such area to a condition as close to its original condition as reasonably practical after making such use. Each Lot Owner shall maintain the area of his Lot subject to the Utilities and Drainage Easement in a condition which will not interfere with the operation and maintenance of said utilities and systems.

Section 2.5 Maintenance of Entry. The landscaped entry shall be maintained by the Association, including signs and the property in the right of way.

Section 2.6 Common Areas to be Available for Easements. The common areas shall be available for easements, for utility purposes.

ARTICLE 3 CONSTRUCTION ON LOTS AND USE OF LOTS

Section 3.1 Uniformity of Use and Appearance. One of the purposes of this Declaration is to assure within the Property a uniformity of use and quality of workmanship, materials, design, maintenance and location of Structures with respect to topography and finish grade elevation. It is the best interests of each Owner that such uniformity of use be maintained as herein provided. No building (except for Accessory Structures) shall be erected, altered, placed or permitted to remain on any Lot other than one single family dwelling. Accessory Structures including carports and storage buildings are permitted as allowed by the provisions contained herein. Notwithstanding anything herein set forth, the Construction of any Structure shall comply with the more restrictive of either

(a) the terms and conditions of this Declaration or



(b) the laws, codes, ordinances and regulations of any governmental entity having jurisdiction.

Section 3.2 **Submission of Plans.** At least ten (10) days before commencing Construction of any Structure on any Lot, the Owner shall submit to the Board three (3) complete sets of detailed building, Construction, surface water run-off control and landscaping plans and specification and a site plan showing the location of all proposed Structures (the plans, specifications and site plans are individually and collectively referred to herein as the "Plans"). The Plans shall be submitted in a form satisfactory to the Board, which may withhold its approval by reason of its reasonable dissatisfaction with the location of the Structure on the Lot, color scheme, finish, architecture, height, impact on view from another Lot or Lots, appropriateness of the proposed Structure, materials used therein, or because of its reasonable dissatisfaction with any other matter which, in the reasonable judgment of the Board, would render the proposed Structure inharmonious with the general plan of development of the Property or other Structures nearby. The Board's approval or disapproval of Plans shall be in writing and approval shall be evidenced by written endorsement on such Plans, two (2) copies of which shall be delivered to the Owner of the Lot upon which the Structure is to be Constructed. This section shall not apply to Declarant or any business owned by Declarant until after the transition date as defined herein.

Section 3.3 **Construction.** No Structure shall be Constructed or caused to be Constructed on any Lot unless the Plans for the Structure, including landscaping, have been approved in writing by the Board. The Board's review and approval or disapproval of Plans on the basis of cost, aesthetic design, harmony with previously approved Structures on or about other Lots in the Property, and location, shall be absolute and enforceable in any court of competent jurisdiction. The Board's approval of any Plans, however, shall not constitute any warranty or representation whatsoever by the Board or any of its members that such Plans were examined or approved for engineering or structural integrity or sufficiency or compliance with applicable governmental laws, codes, ordinances and regulations, and each Owner hereby releases any and all claims or possible claims against the Board or any of them, and their heirs, successors and assigns, or of any nature whatsoever, based upon engineering or structural integrity or sufficiency or compliance with applicable governmental laws, codes, ordinances and regulations. This section shall not apply to declarant or to any business owned by declarant until after the transition date defined herein.

Section 3.3.1 **Power of the Board to Grant a Variance.** The Board shall have the power to grant a variance to an Owner, who, at the time the Owner submits his plans for approval, also submits a request for a variance. The variances which may be allowed by the Board shall be limited to those matters herein covered by Section 3.4 (minimum size), and Section 3.6.12 (setbacks). The granting of the request for a variance shall be in writing and shall also be entered in the minutes of the Board.

Section 3.4 **Minimum Size.** The floor area of the main house Structure, exclusive of open porches and garages shall be not less than

- (a) 1,000 square feet for a dwelling containing a single level and
- (b) 1,600 square feet for a dwelling containing two (2) levels.



Each home must have a garage which shall be of such size as to accommodate at least two full size automobiles. The Board is authorized to grant a variance as to these size requirements upon receiving an application from the Owner of a lot showing that the grade of the lot will not reasonably accommodate those size requirements.

Section 3.5 Maximum Height. All buildings or Structures shall be constructed in accordance with the laws of the City of Anacortes and other applicable codes, and in conformance with height restrictions contained therein.

Section 3.6 Use Restrictions.

3.6.1 "Residential Use". The dwellings within the Structures are intended for and restricted to use as single family residences only, on an ownership, rental, or lease basis, and for social, recreational or other reasonable activities normally incident to such use. In addition to the foregoing, Declarant and any Participating Builder may use dwellings it owns as sales offices and models for sales of other Lots.

3.6.2 "Maintenance of Buildings and Lots". Each Owner shall, at the Owner's sole expense, keep the interior and exterior of the Structure on the Owner's Lot, as well as the Lot, in a clean and sanitary condition, free of rodents and pests, and in good order, condition and repair and shall do all redecorating, painting, landscaping and maintenance at any time necessary to maintain the appearance and condition of the Structure and the Lot. The landscaping shall be maintained to the curb on the edge of the street.

3.6.3 "Completion of Construction". Any Structure erected or placed on any Lot shall be completed as to external appearance within eight (8) months from the date Construction is started; however, with good cause shown, the Board may extend this term. All yards and landscaping must be completed within three (3) months from the date of completion of the Structure; however, with good cause shown, the Board may extend this term. All Lots shall be maintained in a neat and orderly condition during Construction.

3.6.4 "Parking". No trucks, campers, trailers, boats, motorcycles, inoperable vehicle, or part thereof, shall be parked or permitted to remain on any Lot, unless the same is stored or placed in a garage or in the rear yard area and screened from sight. No such vehicles shall be parked on any street adjoining any Lot. The exception shall be passenger vehicles, which may be parked on the owner's driveway. No vehicles shall be parked on Fir Crest Boulevard or Fir Crest Place, provided that such vehicles belonging to guests may occasionally be so parked. The Board may establish such other parking regulations as it may deem necessary and appropriate.

3.6.5 "Signs". No sign of any kind shall be displayed to the public view on or from any Lot without the prior written consent of the Board, except for "For Rent" or "For Sale" signs in a form not prohibited by any rules and regulations of the Board. This Section shall not apply to the Declarant or any Participating Builder.

3.6.6 "Animals". Animals, including horses, livestock, poultry, reptiles or pigs, shall not be kept on any lot. Household pets shall not exceed three (3) in number; provided that unweaned puppies or kittens may be kept. All animal enclosures must be kept in a clean,



neat and odor free condition at all times. All animals must be kept at a distance of not less than 20 feet from neighboring homes or as required by the Board. The Board may at any time require the removal of any pet which it finds is disturbing other Owners or tenants unreasonably, in the Board's determination, and may exercise this authority for specific pets even though other pets are permitted to remain. Notwithstanding anything set forth herein all Owners shall comply with all applicable governmental laws, codes, ordinances and regulations pertaining to animals.

3.6.7 "Temporary Structures". No Structure of a temporary character, trailer, tent, shack, garage, barn or other outbuilding shall be installed, placed or used on any Lot as a residence, either temporarily or permanently.

3.6.8 "Clothes Lines". No washing, rugs, clothing apparel or any other article shall be hung from the exterior of any Structure or on a Lot so as to be visible from the streets and roadways adjoining the Lots.

3.6.9 "Radio and Television Aerials". No television or radio aerial and no satellite receiving dish or other electronic receiving device in excess of 12 inches in diameter shall be placed or erected outside of any building on any lot.

3.6.10 "Trash Containers and Debris". All trash shall be placed in sanitary containers either buried or screened so as not to be visible from adjoining Structures or streets or roadways. No Lot or any portion thereof shall be used as a dumping ground for trash or rubbish of any kind. Yard rakings, dirt and debris resulting from landscaping work or Construction shall not be dumped onto adjoining Lots or streets or roadways. Compost piles may be kept upon the Lots provided they are kept in a clean, neat and sanitary condition.

3.6.11 "Offensive Activity". No trade, craft, business, profession, commercial or manufacturing enterprise or business or commercial activity of any kind, including day schools, nurseries or church schools shall be conducted or permitted on any Lot, nor shall goods, equipment, vehicles or materials used in connection therewith be kept, parked, stored, dismantled or repaired outside of any Lot or any street with the Property. No noxious or offensive activity, including but not limited to the creation of excess levels of noise, shall be carried on in any Lot, nor shall anything be done therein which may be or become an annoyance or nuisance to other Owners or tenants.

3.6.12 "Setbacks". All Structures shall be set back from the lot boundaries such distances as provided in the restrictions contained in the plat of Fir Crest Addition to the City of Anacortes.

3.6.13 "Fences". No fence shall be constructed on any Lot without the prior written approval of the Board, which approval may be granted or denied in the Board's sole discretion. All fences shall be constructed in a good and workman-like manner of suitable fencing materials and shall be artistic in design and shall not detract from the appearance of any adjacent Structures. All fences shall comply with the design adopted by the Board.

3.6.14 "Underground Utilities". All utility lines located outside a dwelling unit shall be in conduits attached to such units or underground.



3.6.15 "Drainage". Any and all drainage from a Lot, which in the reasonable opinion of the Board causes erosion problems, shall be piped at the Lot Owner's expense to the nearest underground public storm sewer line, street ditch or dry well. All roof drains shall be connected to public storm sewer system. Absolutely no dumping of any pollutants into the storm sewer systems shall be permitted.

3.6.16 "Tree Cutting". The cutting of any trees within any common area is strictly prohibited unless approved by the Board. Trees within a natural growth or buffer area may be cut only with permission of the City of Anacortes Planning Department.

3.6.17 "Damage". Any damage to streets, plat improvements, entry structure, fences, landscaping, mailboxes, lights and lighting standards by Lot Owners, their children, contractors, agents, visitors, friends, relatives or service personnel shall be repaired by such Owner within twelve (12) days from the occurrence of such damage.

3.6.18 "Roofs". All roofs shall be constructed of "Celotex Presidential Roofing", "Autumn Blend" in color. All roofs are to have a 4:12 pitch or greater. Exceptions can be made with permission of, and where deemed appropriate, by the Board.

3.6.19 "Driveways". All driveways shall be paved with Portland cement concrete paving, or asphalt paving if approved by the Board, from the edge of the paved street to connect with the paved surface of the floor of the carport or the garage.

3.6.20 "Exterior Paint". All exterior paint choices must be approved by the Board.

3.6.21 "Landscape". All changes to landscaping must be approved by the Board. The use of pesticides, herbicides and excessive fertilizer shall be restricted, unless otherwise approved by the ACFL management. This was stipulated in the Findings of Facts from the City of Anacortes dated July 15, 2003.

3.6.22 "Mailboxes". All mailboxes must be of a standard accepted by the U.S. Postal Authorities and must be located in those areas so designed by the U.S. Postal Department. Structures containing mailboxes must be approved by the Board. Newspaper boxes are not allowed.

3.6.23 "Compliance with Laws". Notwithstanding anything to the contrary set forth herein, each Owner and the Association shall comply with the more restrictive of either
(a) the terms and conditions of this Declaration, or
(b) the laws, codes, ordinances and regulations of any governmental entity having jurisdiction.

3.6.24 Disclosure to Homeowners. The City will use the adjacent property to the South of the development for material and debris storage.



ARTICLE 4 FIR CREST OWNERS' ASSOCIATION

Section 4.1 Form of Association. The Owners of Lots within the Property shall constitute the members of Fir Crest Owners' Association. The rights and duties of the members and of the Association shall continue to be governed by the provisions of this Declaration.

Section 4.2 Board of Directors. The affairs of the Association shall be governed by a Board of Directors (the "Board") which shall be composed of one or more members, to be determined in the reasonable discretion of the Board. The initial Board shall be Nels Strandberg and William Welch. Subject to any specific requirements hereof, the Board shall have authority to establish operating rules and procedures. In the event of death or resignation of any member or members of the Board, the remaining member or members, if any, shall have full authority to appoint a successor member or members. Members of the Board shall not be entitled to any compensation for services performed pursuant to this Declaration. Upon the Transition Date and without further action by any person or persons,

(a) the term of the initial Board members or their successors shall end, and

(b) the initial Board members and their then successors shall be released from any and all liability whatsoever for claims arising out of or in connection with this declaration, exempting only claims arising prior to the Transition Date.

Section 4.3 Qualification for Membership. Each fee owner of a Lot (including Declarant) on the Property shall be a member of the Association and shall be entitled to one membership and one vote for each Lot owned; provided that if a Lot has been sold on contract, the contract purchaser shall exercise the rights of an Owner for the purposes of the Association and this Declaration, except as hereinafter limited, and shall be the voting representative unless otherwise specified. Ownership of a Lot shall be the sole qualification for membership in the Association.

Section 4.4 Transfer of Membership. The Association membership of each Owner (including Declarant) shall be appurtenant to the Lot giving rise to such membership, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except upon the transfer of title to the Lot and then only to the transferee of title to the Lot. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association to the new Owner.

Section 4.5 Number of Votes. The total voting power of the Association at any given time shall equal the number of Lots included within the Property at that time. The Owner or Owners of each Lot within the Property shall be entitled to one vote. If a Person (including Declarant) owns more than one Lot, he or she shall have the votes appertaining to each Lot owned.

Section 4.6 Voting. If a Lot is owned by husband and wife and only one of them is at a meeting, the one who is present will represent the marital community. The vote for a Lot must be cast as a single vote, and fractional votes shall not be allowed. If joint Owners are unable



to agree among themselves how their vote shall be cast, they shall lose their right to vote on the matter in question.

Section 4.7 Pledged Votes. An Owner may, but shall not be obligated to, pledge his vote on all issues or on certain specific issues to a Mortgagee; provided, however, that if an Owner is in default under a Mortgage on his Lot for ninety (90) consecutive days or more, the Owner's Mortgagee shall automatically be authorized to declare at any time thereafter that the Lot Owner has pledged his vote to the Mortgagee on all issues arising after such declaration and during the continuance of the default. If the Board has been notified of any such pledge to a Mortgagee, only the vote of the Mortgagee will be recognized on the issues that are subject to the pledge.

Section 4.8 Annual and Special Meetings. Within the period commencing thirty (30) days before the Transition Date and ending thirty (30) days after the Transition Date, there shall be a meeting of the members of the Association and thereafter there shall be an annual meeting of the members of the Association in the first quarter of each fiscal year at such reasonable place and time as may be designated by written notice from the Board delivered to the Owners no less than thirty (30) days before the meeting. At the first such meeting, and at each annual meeting thereafter, the Owners shall elect by majority vote individuals to serve as Board members until a successor is elected at the next annual meeting. Each Lot shall be entitled to one vote for each director and the voting for directors shall be non-cumulative. The financial statement for the preceding fiscal year (if any) and the budget the Board has adopted for the pending fiscal year shall be presented at the annual meeting for the information of the members. Special meetings of the members of the Association may be called at any time upon not less than fourteen (14) days prior written notice to all Owners, for the purpose of considering matters which require the approval of all or some of the Owners, or for any other reasonable purpose. Any First Mortgagee of a Lot may attend or designate a representative to attend the meetings of the Association.

Section 4.9 Books and Records. The Board shall cause to be kept complete, detailed and accurate books and records of the receipts and expenditures (if any) of the Association, in a form that complies with generally accepted accounting principles. The books and records, authorizations for payment of expenditures, and all contracts, documents, papers and other records of the Association shall be available for examination by the Lot Owners, Mortgagees and the agents or attorneys of either of them, during normal business hours and at any other reasonable time or times.

Section 4.10 Transition Date. The "Transition Date" shall be the date control of the Board passes from the initial Board to the Association. The Transition Date will be either

- (a) the date designated by Declarant in a written notice to the Owners, which date may be by Declarant's election any date after this Declaration has been recorded or
- (b) the later of
 - (i) three (3) years after the recording of this Declaration or
 - (ii) the 120th day after Declarant has transferred title to the purchasers of Lots representing 70% of the total voting power of all Lot Owners in the Association.



For purposes of the foregoing clause (b), however, transfer of title to a Lot by Declarant to any Participating Builder shall be disregarded and title to any Lot owned by Participating Builder shall not be deemed transferred for the purposes of determining the Transition Date until the Lot is further transferred by Participating Builder to a purchaser who is not either a Participating Builder or Declarant. From and after the Transition Date, the then Owners of 70% of the Lots in the Property shall have the power through a written instrument recorded in the real property records of Skagit County, Washington to restrict or eliminate all or any of the approval powers and duties of the Board set forth in this Declaration, excluding the duty to maintain the Common Areas.

ARTICLE 5 NOTICES FOR ALL PURPOSES

All notices given under the provisions of this Declaration or rules or regulations of the Association shall be in writing and may be delivered either personally or by mail. If delivery is made by mail, the notice shall be deemed to have been delivered on the third day of regular mail delivery after a copy has been deposited in the United States mail, first class, postage prepaid, addressed to the Person entitled to such notice at the most recent address known to the Board. Mailing addresses may be changed by notice in writing to the Board. Notices to the Board may be given to any Board member or mailed to the residence address of the president or secretary of the Board.

ARTICLE 6 AUTHORITY OF THE BOARD

Section 6.1 "Adoption of Rules and Regulations". The Board is empowered to adopt, amend and revoke on behalf of the Association detailed administrative rules and regulations necessary or convenient from time to time to insure compliance with the general guidelines of this Declaration to promote the comfortable use and enjoyment of the Property and to govern the operation and procedures of the Association. The rules and regulations may, without limitation, authorize voting by proxy or mail, or both, on Association matters. The rules and regulations of the Association shall be binding upon all Owners and occupants and all other Persons claiming any interest in the Property.

Section 6.2 Enforcement of Declaration, Etc. The Board shall have the power to enforce the provisions of this Declaration, and the rules and regulations of the Association for the benefit of the Association. The failure of any Owner to comply with the provisions of this Declaration, or the rules and regulations of the Association will give rise to a cause of action in the Association (acting through the Board) and any aggrieved Lot owner for recovery of damages, or injunctive relief, or both. If a legal action is brought to interpret or enforce compliance with the provisions of this Declaration, or the rules or regulations of the Association, the prevailing party shall be entitled to judgment against the other party for its reasonable expenses, court costs and attorney's fees in the amount awarded by the court.

Section 6.3 Goods and Services. The Board shall acquire and pay for as common expenses of the Association all goods and services reasonably necessary or convenient



for the efficient and orderly maintenance of all portions of the Common Areas not maintained by public utility companies or a governmental entity. The goods and services shall include (by way of illustration and not limitation) policies of insurance; and maintenance, repair, landscaping, gardening and general upkeep of the Common Areas. The Board may hire such employees as it considers necessary.

Section 6.4 Protection of Common Area. The Board may spend such funds and take such action as it may from time to time deem necessary to preserve the Common Areas, settle claims or otherwise act in what it considers to be the best interests of the Association.

ARTICLE 7 BUDGET AND ASSESSMENT FOR COMMON EXPENSES

Section 7.1 Fiscal Year; Preparation of Budget. The Board may adopt such fiscal year for the Association as it deems to be convenient. Unless another year is adopted, the fiscal year will be the calendar year. As soon as the Board in its discretion deems advisable and prior to the expiration of each fiscal year thereafter, the Board shall establish a budget for the costs of maintaining the Common Area during the ensuing fiscal year. The Board shall then assess each Lot within the Property with its pro rata share, based upon the number of Lots then within the Property, of such estimated costs. The Board, at its election, may require the Lot Owners to pay the amount assessed in equal monthly or quarterly installments or in a lump sum annual installment. The Board shall notify each Lot Owner in writing at least ten (10) days in advance of each assessment period of the amount of the assessment for said period, which notice shall be accompanied by a copy of the budget upon which the assessment is based. The assessments levied by the Board shall be used exclusively to promote the recreation, health, safety and welfare of the Lot Owners and for the improvement and maintenance of the Common Areas.

Section 7.2 Certificate of Unpaid Assessments. Any failure by the Board or the Association to make the budget and assessments hereunder before the expiration of any fiscal year for the ensuing fiscal year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the Owners from the obligation to pay assessments during that or any subsequent year, and the assessment amount and payment method established for the preceding fiscal year (if any) shall continue until a new assessment is established. Upon the request of any Owner or Mortgagee or prospective Owner or prospective Mortgagee of a Lot, the Board will furnish a statement of the amount, if any, of unpaid assessments charged to the Lot. The statement shall be conclusive upon the Board and the Association as to the amount of such indebtedness on the date of the statement in favor of all purchasers and Mortgagees of the Lot who rely on the statement in good faith. All assessments and other receipts received by the Association shall belong to the Association.

Section 7.3 Date of Commencement of Annual Assessments. The annual assessments provided for herein shall commence as to all Lots at such time as the Board in its absolute discretion deems advisable. The first annual assessment shall be adjusted according to the number of months remaining in the fiscal year.



ARTICLE 8 LIEN AND COLLECTION OF ASSESSMENTS

Section 8.1 Assessments Are a Lien; Priority. All unpaid sums assessed by the Association for the share of the common expenses chargeable to any Lot and any sums specially assessed to any Lot under the authority of this Declaration shall constitute a lien on the Lot and all its appurtenances from the date the assessment becomes due and until fully paid. The lien for such unpaid assessments shall be subordinate to tax liens on the Lot in favor of any assessing unit and/or special district, and to all sums unpaid on all First Mortgages of record, but, to the extent permitted by applicable law, shall have priority over all other liens against the Lot. A First Mortgagee that obtains possession through a Mortgage foreclosure or deed of trust sale, or by taking a deed in lieu of foreclosure or sale, or a purchaser at foreclosure sale, shall take the Lot free of any claims for the share of common expenses or assessments by the Association chargeable to the Lot which became due before such possession, but will be liable for the common expenses and assessments that accrue after the taking of possession. The Lot's past due share of common expenses or assessments shall become new common expenses chargeable to all of the Lot Owners, including the Mortgagee or foreclosure sale purchaser and their successors and assigns, in proportion to the number of Lots owned by each of them. Notwithstanding any of the foregoing, however, the Owner and the real estate contract purchaser shall continue to be personally liable for past due assessments as provided in Section 8.3. For purposes of this Section, "Mortgage" does not include a real estate contract and "Mortgagee" does not include the vendor or the assignee or designee of a vendor of a real estate contract.

Section 8.2 Lien May Be Foreclosed. The Lien for delinquent assessments may be foreclosed by suit by the Board, acting on behalf of the Association, in like manner as the foreclosure of a mortgage of real property. The Board, acting on behalf of the Association, shall have the power to bid on the Lot at the foreclosure sale, and to acquire and hold, lease, Mortgage and convey the same.

Section 8.3 Assessments Are Personal Obligations. In addition to constituting a lien on the Lot, all sums assessed by the Association chargeable to any Lot, together with interest, late charges, costs and attorney's fees in the event of delinquency, shall be the joint and several personal obligations of the Owner and any contract purchaser, and their grantees, of the Lot when the assessment is made. Suit to recover personal judgment for any delinquent assessments shall be maintainable without foreclosing or waiving the liens securing them.

Section 8.4 Late Charges and Interest on Delinquent Assessments. The Board may from time to time establish late charges and a rate of interest to be charged on assessments delinquent for a period of more than ten (10) days after the date when due. In the absence of another established, nonusurious rate, delinquent assessments shall bear interest at the rate of 12% per annum. If an installment on an assessment against a Lot is not paid when due, the Board may elect to declare the entire assessments against the Lot for the remainder of the fiscal year to be immediately due and payable.

Section 8.5 Recovery of Attorney's Fees and Costs. In any action to collect delinquent assessments, the prevailing party shall be entitled to recover as a part of its judgment a reasonable sum for attorney's fees and all costs and expenses reasonably incurred in connection with the action, in addition to taxable costs permitted by law.



Section 8.6 Remedies Cumulative. The remedies provided herein are cumulative and the Board may pursue them, and any other remedies which may be available under law although not expressed herein, either concurrently or in any order.

Section 8.7 No Avoidance of Assessments. No Owner may avoid or escape liability for assessments provided for herein by abandoning his or her Lot.

ARTICLE 9

FAILURE OF BOARD TO INSIST ON STRICT PERFORMANCE NO WAIVER

The failure of the Board in any instance to insist upon the strict compliance with this Declaration or rules and regulations of the Association, or to exercise any right contained in such documents, or to serve any notice or to institute any action, shall not be construed as a waiver or a relinquishment for the future of any term, covenant, condition or restriction. The receipt by the Board of payment of any assessment from an Owner, with knowledge of any breach by the Owner, shall not be a waiver of the breach. No waiver by the Board of any requirement shall be effective unless expressed in writing and signed by the Board.

ARTICLE 10

LIMITATION OF LIABILITY

So long as a Board member, or Association member, or Declarant has acted in good faith, without willful or intentional misconduct, upon the basis of such information as is then possessed by such Person, then no such Person shall be personally liable to any Owner, or to any other Person, 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 Article shall not apply where the consequences of such act, omission, error or negligence are covered by any insurance actually obtained by the Board.

ARTICLE 11

INDEMNIFICATION

Each Board member and Declarant shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of holding or having held such position, or any settlement thereof, whether or not he holds such position at the time such expenses or liabilities are incurred, except to the extent such expenses and liability are covered by insurance and except in such cases wherein such Board member or Declarant is adjudged guilty of willful misfeasance in the performance of his or her duties; provided, that in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being for the best interests of the Association.



ARTICLE 12 INSURANCE

At such times as the Board deems appropriate, the Board shall cause the Association to purchase and maintain as a common expense a policy or policies which the Board deems necessary or desirable to provide casualty insurance; comprehensive liability insurance; with such deductible provisions as the Board deems advisable; insurance, if available, for the protection of the Association's directors and representatives from personal liability in the management of the Association's affairs; and such other insurance as the Board deems advisable. The Board shall review the adequacy of the Association's insurance coverage at least annually.

ARTICLE 13 DAMAGE AND REPAIR OF DAMAGE TO PROPERTY

In the event of any casualty, loss or other damage to the Common Area for which the then current assessments by the Board are insufficient to repair or restore, or for which there are not insurance proceeds or insufficient insurance proceeds available to the Board for such restoration or repair, the Board may make a special assessment against each Lot within the Property for its pro rata share of the cost and expenses to repair and/or restore the Common Areas. The special assessment shall be payable, at the determination of the Board, in either monthly or quarterly installments or in a single lump sum amount. The Board shall notify each Lot Owner of any such special assessment not less than twenty (20) days prior to the date such special assessment or the first installment thereon is due and payable, which notice shall be accompanied by a reasonably detailed statement of the Board's estimated costs and expenses of repairing and/or restoring Common Areas.

ARTICLE 14 AMENDMENTS OF DECLARATION

Any Lot Owner may propose amendments to the Declaration to the Board. A majority of the members of the Board may cause a proposed amendment to be submitted to the members of the Association for their consideration. If an amendment is proposed by Owners of 20% or more of the Lots; then, irrespective of whether the Board concurs in the proposed amendment, it shall be submitted to the members of the Association for their consideration at their next regular or special meeting for which timely notice may be given. Notice of a meeting at which an amendment is to be considered shall include the text of the proposed amendment. Amendments may be adopted at a meeting of the Association or by written consent of the requisite number of Persons entitled to vote, after notice has been given to all Persons entitled to receive notice of a meeting of the Association. The unanimous consent of all Owners shall be required for adoption of either

- (a) an amendment changing the voting power or portion of assessments appurtenant to each Lot, or
- (b) an amendment of Section 3.7 or of this Article 14.

All other amendments shall be adopted if approved by 70% of the Lot Owners. Once an amendment has been adopted by the Association, the amendment will become effective when a

certificate of the amendment, executed by a member of the Board, has been recorded in the real property records of Skagit County, Washington.

ARTICLE 15 ANNEXATION AND SUBDIVISION

Residential property other than Common Areas may be annexed or added to the Property only with the consent of two-thirds of the Association. No Lot shall be subdivided or combined without the approval of all Lot Owners.

ARTICLE 16 DURATION

The covenants, conditions and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Owners, their respective legal representatives, heirs, successors and assigns, for a period of thirty (30) years from the date this Declaration is recorded, after which time the covenants, conditions and restrictions shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by a majority of the Lot Owners has been recorded agreeing to terminate the covenants, conditions and restrictions.

ARTICLE 17 RESERVATION OF DECLARANT'S RIGHT TO AMEND TO COMPLY WITH FNMA, FHLMC OR FHA REQUIREMENTS

Section 17.1 Amendment by Declarant. Declarant reserves the right to amend the Declaration as may be necessary to comply with Federal Home Loan Mortgage Corporation (FHLMC) or Federal National Mortgage Association (FNMA) or Federal Housing Administration (FHA) regulations or requirements as necessary to enable the holders of first mortgages or deeds of trust to sell first mortgages or deeds of trust to FHLMC or FNMA or if such amendment is necessary to secure funds or financing provided by, through or in conjunction with FHLMC, FNMA or FHA.

Section 17.2 Authorization to Amend. If Declarant, at its option, determines that it is necessary to so amend the Declaration, then Declarant, on behalf of all Lot Owners in the Association, is hereby authorized to execute and to have recorded (or filed, in the case of the Articles) said required amendment or amendments. All Lot Owners hereby grant to Declarant a full and complete power of attorney to take any and all actions necessary to effectuate and record said amendment or amendments and agree that said amendment or amendments shall be binding upon their respective Lots and upon them and their heirs, personal representatives, successors and assigns to the same extent as if they had personally executed said amendment or amendments. All Lot Owners hereby acknowledge and agree that the power of attorney granted herein shall be deemed coupled with an interest and shall be irrevocable.



Section 17.3
the Transition Date.

Duration. Declarant's rights under this Article shall exist only until

ARTICLE 18 SEVERABILITY

The provisions of this Declaration shall be independent and severable, and the unenforceability of any one provision shall not affect the enforceability of any other provision, if the remainder affects the common plan.

ARTICLE 19 EFFECTIVE DATE

This Declaration shall be effective upon recording.

ARTICLE 20 ASSIGNMENT BY DECLARANT

Declarant reserves the right to assign, transfer, sell, lease or rent all or any portion of the Property and reserves the right to assign all or any of its rights, duties and obligations created under this Declaration.

DATED this 3rd day of September, 2004

FIR CREST DEVELOPMENT NW, L.L.C.,
a Limited Liability Company

By: _____

NELS STRANDBERG, member



EXHIBIT "A"

All property included in FIR CREST PLANNED UNIT DEVELOPMENT, according to the plat thereof recorded August 31, 2004, under Auditor's File No. 200408310219, records of Skagit County, Washington.

Lot 40 shall be excluded from this Declaration.

Situate in Skagit County, Washington.



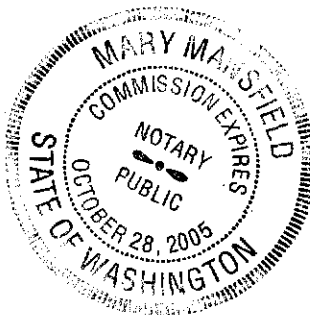
COUNTY OF SKAGIT

of FIR CREST DEVELOPMENT NW, LLC a Washington Limited liability Company to
be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: 9-3-04

Notary Public

My appointment expires



200409030133
Skagit County Auditor