**DECLARATION OF EASEMENTS, COVENANTS, CONDITIONS,**

**AND RESTRICTIONS FOR**

**CHERRY RIDGE ESTATES PROPERTY OWNERS ASSOCIATION**

THIS DECLARATION of Easements, Covenants, Conditions and Restrictions for the CHERRY RIDGE ESTATES PROPERTY OWNERS ASSOCIATION is made this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_, 2019, by the Declarants named in Exhibit A , hereinafter referred to collectively as "Declarants".

# RECITALS:

A. Declarants are the owners of the real property and improvements thereon which is situated in Snohomish County and legally described in Exhibit A, attached hereto and fully incorporated herein (referred to as the “Property” or “Cherry Ridge Property”).

B. Declarants intend by this Declaration to impose upon the Property mutually beneficial restrictions and to establish rights and obligations among Declarants for the benefit of all Owners within the Property.

The foregoing recitals are a material part of this Declaration.

NOW, THEREFORE, to accomplish the foregoing purposes, the Declarants hereby covenant and declare that the Property shall be held, sold, conveyed, encumbered, leased, rented, used, occupied, and improved subject to the following covenants, conditions, restrictions, easements, and reservations, all of which are for the purpose of enhancing, protecting, and conserving the natural resources, character, attractiveness, and desirability of Cherry Ridge Property. These covenants, conditions, restrictions, easements, and reservations shall run with the Property and shall be a burden upon and a benefit to the Property and to assigns. Acceptance of an interest in any portion of the Property shall be deemed acceptance of the terms and provisions of this Declaration.

# ARTICLE I: DEFINITIONS

1.1 Association. The Cherry Ridge Estates Property Owners Association, a non-profit corporation organized pursuant to Title 24 of the Revised Code of Washington, whose membership is comprised of the Owners of the Property.

1.2 Board of Directors or Board. The body with primary authority to manage the affairs of the Association.

1.3 Cherry Ridge Property or Property. Refers to the Property described in Exhibit A, including the buildings and other improvements constructed and to be constructed thereon.

1.4 Common Area. That portion of the Property for which the Association has, or will have, an easement for maintenance responsibilities. Without limitation, Common Areas include the Road Easements. Presently the Association owns no real property.

1.5 Common Expenses. The actual and estimated expenses of operating the Association, including any reasonable reserves, all as may be found to be necessary and appropriate by the Board of Directors pursuant to this Declaration, the Association's Bylaws and Articles of Incorporation. Without limitation, such expenses include those deemed necessary or desirable for developing, maintaining, repairing, replacing, insuring or managing the Common Areas, along with taxes, other insurance, professional services and all other goods and services provided by the Association to its members.

1.6 Declarant. Those Owners signing this Declaration shall be referred to as “Declarant” or “Declarants”.

1.7 Declaration. This Declaration of Easements, Covenants, Conditions, and Restrictions. The term shall also include any lawful amendments to this document.

1.8 Lots. The lots as legally described at Exhibit A and depicted on Exhibit B.

1.9 Owner or Lot Owner. Any person or persons owning a Lot either in fee title or a vendees interest under a Real Estate Contract, as shown by the records of the Auditor of Snohomish County, Washington.

1.10 Person. Any individual, firm, corporation, partnership, association, unincorporated association or other legal entity.

1.11 Road Easement. An easement granted for the benefit of Lots for ingress, egress, drainage and utilities over and across Lots, as described in Exhibit A and depicted on Exhibit B, subject the terms and conditions set forth herein.

1.12 Resident. Each person lawfully residing on or in any part of a Lot; and members of the immediate family of each such person actually living in the same household with such person.

1.13 Road Expenses. Road Expenses shall mean all costs incurred by the Association for maintenance, repairs, insurance premiums, or other reasonable expenses required for maintenance, improvement, and repair of the Road Easements.

1.14 Road Improvements. Road Improvements shall mean roadway improvements, including utilities, pavement or enhanced surfacing, drainage facilities, gates, signs, fences or other structures or improvements within the Road Easements.

1.15 Upkeep. Shall mean care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction.

# ARTICLE 2: EASEMENTS FOR ROADS AND UTILITIES

2.1 Road and Utility Easements. Private roadway easements sixty (60) feet in width are hereby dedicated and established as shown on the Plat and such additional easements as may be dedicated by Declarants, the owner or owners of a Lot or Lots or the Association to provide a way of access to all Lots. Such easements shall be for the purposes of ingress and egress and utilities and shall be appurtenant and beneficial to each of the Lots. In addition, there is reserved to Declarants and to the Cherry Ridge Estates Property Owners Association, their agents and servants, an easement over and upon each and every Lot for entry and access at reasonable times and places for the performance of all their rights and duties as provided in this Declaration.

2.2 Use of Easements. The roadway easements shall be used for the purpose of constructing, installing, maintaining, repairing and replacing roads, drainage system and utilities equipment and services, including, without limitation, telephone, electric, gas, water and sewer lines, equipment and services.

2.3 Maintenance of Easements. Every Lot shall be subject to assessment for the maintenance, repair and replacement of the roads and drainage system. Maintenance of such roads and drainage system shall include, but not be limited to the following:

A. Removing all paper, debris, and refuse to the extent necessary to keep the roads in a clean and orderly condition;

B. Replacing and keeping in repair any required signs, markers, or lines;

C. Installing and replacing such artificial lighting fixtures as required, and operating keeping in repair, and replacing where necessary any existing lighting fixtures;

D. Removal of snow and ice;

E. Payment of all costs for materials, supplies, and equipment necessary to maintain, service, repair, and operate the roads including, but not limited to, engineering fees, surveyors’ fees, contractors’ fees, and any other fees;

F. Maintaining, repairing, and replacing the drainage system existing in the roads;

G. Payment of premiums for a policy or policies of insurance against liability coincidental to the use and maintenance of the roads and access points; and

H. Payment of the costs of administration and attorneys’ fees incurred in connection with the roads and drainage system.

2.4 Run with the Land. The Road Easements described in herein are perpetual and shall run with the land and are appurtenant to the Property and/or affected portion of the Property.

# ARTICLE 3: ROAD EASEMENT RESPONSIBILITY

3.1 Lot Owner Responsibility. Each Lot Owner shall be responsible for their pro rata share of the cost of Road Improvements for those segments of the Road Easements as set forth herein and depicted on Exhibit B.

3.2 Utilities in Road Easements. All of the Lots share common utilities (including electrical and water lines) which are located within the Road Easements. Repair and maintenance of the common utilities, including electrical lines and water lines, that are not covered by the utility provider shall be divided equally among the Lot Owners served by such utility.

3.3 Road Easements Maintenance. Road maintenance shall be performed by the Association. Each Lot Owner shall be assessed by the Association for their pro rata share of Road Maintenance Expenses as set forth herein.

3.4 Driveway Connections.

3.4.1 All driveway connections to the roads shall be made in such a way that they do not unreasonably interfere with the use of the private roads by other Lot Owners.

3.4.2 Entrance driveways shall be so constructed as to prevent the flow of surface water from the driveway onto the road surface of the private roads. Driveway crossings over drainage ditches must be constructed with culverts of adequate size to assure the free and unobstructed passage of the waters therein. Such culverts shall be at least twelve (12) inches in diameter and shall be installed at a depth sufficient to permit an unobstructed water flow in the ditch. The Lot owner or other person in control or possession of the driveway shall keep the culvert under it unobstructed and in good operating condition.

3.4.3 Any damage caused by driveway connections to the roads shown on the plat, or to the ditches or shoulders of the roads, or to the flow of drainage water along the said roads, shall be repaired at the expense of the Lot Owner connecting such driveways. If such Lot Owner fail to repair the damage within fourteen (14) days of notice by the Association of the need for repair, the Association may cause the repairs to be made and charge such Lot Owner for the costs of repair. If unpaid, the costs shall become a lien on such Owner’s Lot which may be foreclosed by the Association as provided in this Declaration.

3.4.4 In the event that the Lot Owner should by their use of the roads cause them to be subjected to other than ordinary and reasonable wear, an should the roads be damaged by such use, the Lot owner subjecting the roads to such extraordinary use shall have the obligation to repair the damaged roads to the condition existent prior to such use, and all expenses therefrom shall be borne by such Lot Owner.

# ARTICLE 4: ROAD IMPROVEMENTS

4.1 Construction by Association. The Association may elect to construct Road Improvements, and may assess Lots.

4.2 Road Construction. The Association may make Road Improvements to the Road Easements, and may assess Lots.

# ARTICLE 5: COMMUNITY ASSOCIATION

Declarants have formed a community association designated herein as the “Association” that include as its members the Owners of all Lots. This organization is a non-profit corporation organized pursuant to Title 24 of the Revised Code of Washington, known as the Cherry Ridge Estates Property Owners Association.

5.1 Purpose.The purpose of the Association shall be the regulation, use, care, construction, operation, repair, maintenance, improvement and preservation of the Road Easement, Road Improvement, and any Common Property; the regulation, maintenance and repair of facilities thereon; payment of taxes, if imposed, on Road Easements and improvements and any Common Property; the payment of Common Expenses; and other provisions of this Declaration.

5.2 Membership and Control. Each Owner, or real estate contract vendee of a Lot, shall be deemed a member in the Association. Ownership of a Lot shall be the sole qualification for membership in the Association, and the membership of the Association at all times shall consist exclusively of all the Lot Owners. The foregoing is not intended to include persons who hold an interest merely as security for the performance of an obligation, and the giving of a security interest shall not terminate or in any way affect the Owner’s membership.

5.3 Shares. There shall be one (1) membership share per Lot (“shares”) in the Association. Each share shall be entitled to one (1) vote. Single shares may not be divided. Each membership share shall be appurtenant to and run with each Lot, and shall not be assigned, transferred, pledged, hypothecated or conveyed in any way except upon the transfer of a Lot, and then only to the new Owner of said Lot. The term “member” shall mean and refer to every record owner of a Lot, whether one or more persons or entities. While every person or entity having an interest in a Lot is considered a member of the Association, each membership share shall consist of only one (1) vote per Lot. All decisions of the Association shall be made by majority vote of shareholders, provided that no single Lot Owner may cause an action to be taken nor prevent an action from being taken. No share shall be sold or distributed unless it remains connected to a Lot.

5.4 Bylaws of Association. Bylaws for the administration of the Association and the Property, and for other purposes not inconsistent with the state law and this Declaration have been or will be prepared by the Declarants, subject to the approval of the Board of Directors of the Association.

# ARTICLE 6: COMMON AREAS AND COMMON EXPENSES

6.1 Common Areas. The Association shall maintain Common Areas for construction and maintenance of roads, a gate or gates, and common natural landscaping for the use and enjoyment of all Lot Owners.

6.2 No Interference with Common Areas. No Lot Owner shall obstruct any of the Common Areas nor shall any Lot Owner place or cause or permit anything to be placed on or in any of the Common Areas without the approval of the Board of Directors. Nothing shall be altered or constructed in or removed from the Common Areas except with the prior written consent of the Board of Directors.

6.3 Maintenance, Repair, Replacement, Protection and Preservation. The Association is responsible for the development, maintenance, repair, and replacement of the Road Easements and any other Common Areas.

6.4 No Partition or Abandonment of Common Areas. The Common Areas shall remain undivided and shall not be abandoned by act or omission, and no Lot Owner or other person may bring any action for partition, division, or divesture of the Common Areas.

6.5 Rights and Obligations of the Association. The Association, subject to the rights and obligations of Owners set forth in the Declaration, shall be responsible for the maintenance and repair of the Road Easements and any other Common Areas, any improvements thereon, and shall keep said Common Areas in good condition, order and repair, pursuant to the terms and conditions hereof. The Association, subject to the rights and obligations of Owners set forth in the Declaration shall also be responsible for issues pertaining to oversight and enforcement of the rights, privileges and restrictions granted herein to the Wildlife Reserve Area. All Common Expenses and Road Expenses shall be paid by the Association. All such funds for Common Expenses and Road Expenses shall be collected from assessments paid by Lot Owners, as provided herein. The Association may exercise any other right or privilege given to it expressly by this Declaration, its Articles of Incorporation or Bylaws, and every other right or privilege reasonably to be implied by the existence of any right or privilege given to it herein or reasonably necessary to effectuate any such right or privilege.

6.6 Incurring and Payment of Common Expenses. The Board of Directors shall acquire and shall pay for, as Common Expenses, all goods and services deemed necessary or desirable for the proper functioning of the Association.

6.7 Acquisition of Property. The Board may acquire, upon prior majority vote by Owners that are Members in Good Standing, and hold in the name of the Association, for the benefit of the Owners, tangible and intangible personal property and real property and interests therein, and may dispose of the same by sale or otherwise. Such property shall thereafter be held, sold, leased, rented, mortgaged or otherwise dealt with for the benefit of the Association as the Board may direct.

6.8 Indemnification. Each and every Lot Owner shall indemnify and hold harmless each and every other Lot Owner and the Association from any and all claims, causes of action and lawsuits for property damage or personal injury or death arising from his/her negligent acts or omissions related to use of the Common Areas and the negligent acts or omissions of his/her guests or invitees related to use of the Common Areas; except where such claim, cause of action or lawsuit arises from the sole negligence of another Lot Owner or the Association.

# ARTICLE 7: ASSESSMENTS AND LIENS FOR

# COMMON EXPENSES AND ROAD EXPENSES

7.1 Proportionate Share of Expense. The total amount of the estimated funds required for payment of the Common Expenses and Road Expenses of the Association set forth in the Annual Budget adopted by the Board of Directors for the fiscal year shall be assessed against the Lots in proportion to each Lot’s share ownership and in conformance with this Declaration.

7.2 Levying of Lot Assessments for Expenses – Charge Against Lot. There are hereby created “Lot Assessments” for Common Expenses and Road Expenses as may be from time to time authorized by the Board of Directors of the Association (“Board” or “Board of Directors”). Common Expenses and Road Expenses assessed shall be those expenses determined by the Board of Directors, pursuant to the definition of “Common Expenses” and “Road Expenses” in Article 1 herein, to be for the benefit of the Association as a whole, consistent with the terms herein. Lot Assessments shall be allocated among all Lots within the Association in accordance with the terms set forth in this Section. Failure to pay such Lot Assessments in a timely manner may result in imposition of late charges as prescribed by the Board of Directors.

7.3 Payment. Lot Assessments shall be paid in such manner and on such dates as may be fixed in writing by the Board of Directors and notice of such given to the Owners. The Board of Directors may adopt further payment policies which permit payment in installments under conditions to be determined by the Board of Directors.

7.4 Lot Assessments are also Personal Obligation of Owner. Each Lot Assessment shall be the joint and several obligation of the Owner(s) of the Lot to which the same are assessed as of the time the Lot Assessment is due. Suit to recover a personal judgment for any delinquent Lot Assessment shall be maintainable in any court of competent jurisdiction without foreclosing or waiving the lien securing such sums. No Lot Owner may exempt himself or herself from liability with respect to the Common Expenses or Road Expenses by waiver of the enjoyment of the right to use any Common Property or Road Easements or by leasing, rental or abandonment of his or her Lot or otherwise. The failure or delay of the Board of Directors to adopt the Annual Budget for any year shall not constitute a waiver or release in any manner of a Lot Owner's obligation to pay his or her allocable share of the Common Expenses or Road Expenses as herein provided, and in the absence of an Annual Budget or adjusted Annual Budget, each Owner shall continue to pay (with or without notice) a Lot Assessment at the rate established for the preceding fiscal year until a Lot Assessment is made under a current Annual Budget or adjusted Annual Budget and notice thereof has been sent to the Lot Owner.

7.5 Statement of Unpaid Assessments. The Association, upon written request, shall furnish to a Lot Owner or a mortgagee a statement signed by an officer or authorized agent of the Association setting forth the amount of unpaid Lot Assessments against that Lot.

7.6 Liability Following Conveyance of Lot. A selling Lot Owner shall not be liable for the payment of any part of the Common Expenses assessed against his or her Lot subsequent to a sale, transfer or other conveyance by him of such Lot. The purchaser of a Lot shall be jointly and severally liable with the selling Lot Owner for all unpaid Lot Assessments against the Lot up to the time of the Conveyance without prejudice to the purchaser's right to recover from the selling Lot Owner the amounts paid by the purchaser therefore. The holder of a mortgage or other purchaser of a Lot who obtains the right of possession of the Lot through foreclosure shall not be liable for Lot Assessments that became due prior to such right of possession. Such unpaid Lot Assessments shall be deemed to be Common Expenses collectible from all the Lot Owners, including such mortgagee or other purchaser of the Lot. Foreclosure of a mortgage does not relieve the prior Owner of personal liability for Assessments accruing against the Lot prior to the date of such sale as provided above.

7.7 Lien. All Lot Assessments, together with interest at the highest rate allowable under the law, along with costs, reasonable attorney's fees, and late charges, shall immediately be a charge and shall immediately be a continuing lien upon the Lot against which each Lot Assessment is made. If an Assessment is payable in installments, the Association has a lien for the full amount of the Assessment from the time the first installment thereof is due.

7.8 Perfection of Lien. Recording of this Declaration constitutes record notice and perfection of the lien for Lot Assessments. While no further recording of any claim of lien for Lot Assessments shall be required to perfect the Association’s lien, the Association may record a notice of claim of lien for Assessments under this Section with the Snohomish County Auditor.

7.9 Priority of Lien. Such lien shall be superior to all other liens and encumbrances on such Lot, except for (a) liens for real property taxes; (b) assessment liens or other liens of a municipal corporation in connection with provision of water, stormwater or sewer service; or (c) liens for all sums unpaid on a first mortgage to an Owner duly recorded in the records of Snohomish County and all amounts advanced pursuant to such mortgage and secured thereby in accordance with the terms of such instrument. All other entities acquiring liens or encumbrances on any Lot after the recording of this Declaration shall be deemed to consent that such liens or encumbrances shall be inferior to future liens for Lot Assessments, as provided herein, whether or not prior consent is specifically set forth in the instruments creating such liens or encumbrances.

7.10 Collection of Lot Assessments. Each Owner hereby expressly vests in the Association and its agents, the right and power to bring all actions against each Owner personally for the collection of such Lot Assessments as a debt, and to enforce lien rights of the Association by all methods available for the enforcement of such liens, including foreclosure by an action brought in the name of the Association in like manner as a mortgage of real property. The liens provided for in this Section shall be in favor of the Association, and shall be for the benefit of the Association. The Association shall have the power to bid at foreclosure sale and to acquire and hold, lease, mortgage and convey the same. In the event the Association employs an attorney to enforce any lien, or the collection of any amount due, or to enforce compliance or specific performance of the Articles or Bylaws of the Association, Rules or Regulations adopted by the Association, or the provisions of this Declaration, the Association shall be entitled to recover reasonable attorney's fees and costs incurred, including costs for title examination and insurance.

7.11 Enforcement of Lien. The lien arising under this Section shall be enforced judicially by the Association or its authorized representative in the manner set forth in chapter 61.12 RCW. The Association or its authorized representative shall have the power to purchase the Lot at the foreclosure sale and to acquire, hold, lease, mortgage, or convey the same. Upon an express waiver in the complaint of any right to a deficiency judgment in a judicial foreclosure action, the period of redemption shall be eight (8) months. The Association may elect to take a deed in lieu of foreclosure in any such proceeding.

7.12 Remedies Cumulative. The remedies provided are cumulative and the Board may pursue them concurrently, along with any other remedies which may be available in law or equity although not expressed herein.

# ARTICLE 8: BENEFITS AND BURDENS RUN WITH THE LAND

The easements, covenants, conditions, restrictions, and reservations contained herein shall run with the land and shall be binding upon the Property and each portion thereof and all persons or entities owning, purchasing, leasing, subleasing or occupying any Lot on the Property, and upon their respective heirs, successors, and assigns in perpetuity. After the date on which this Declaration has been recorded, these easements, covenants, restrictions, reservations and conditions may be enforced by the Association, or Declarant who shall have the right to enforce the same, and also may be enforced by the Owner of any Lot. The Association is authorized to expend Association funds to enforce these easements, covenants, restrictions, reservations and conditions. Acceptance of an interest in a Lot or other portion of the Property shall be deemed acceptance of the terms and provisions of this Declaration, and any conveyance hereafter of any portion or interest in the Property shall be subject to these easements, covenants, conditions and restrictions, and reservations.

# ARTICLE 9: GENERAL PROTECTIVE COVENANTS

9.1 Enforcement. The terms of this Declaration shall be enforceable by the Association following authorization by a simple majority of share votes of Association members voting and/or by an affected Lot Owner on his/her own without Association involvement. All terms herein shall be enforceable in law and equity, and all legal and equitable remedies shall be available in such proceedings. More specific enforcement provisions contained herein shall be deemed supplemental to this general right of enforcement, except as otherwise provided. In any such action to enforce any provision of this Declaration, the prevailing party shall be entitled to recover its reasonable costs and attorney’s fees incurred.

9.2 Failure to Enforce.Failure to enforce any provision of this Declaration shall not operate as a waiver of any such provision or of any other provisions contained herein.

9.3 Venue. Venue for any court action arising under the terms of this Declaration shall be Snohomish County Superior Court.

9.4 Severability. If any section, subsection, sentence, clause or phrase of this Declaration is for any reason held to be invalid or unlawful, such decision shall not affect the validity of the remaining portions of this Declaration. The Declarant hereby declares that it would have entered this Declaration and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases has been declared invalid or unlawful.

9.5 Remedies.The remedies provided herein and in the Bylaws of the Association for collection of any assessment or other charge or claim against any member and/or their family members, lessees, and guests for and on behalf of the Association, are in addition to and not in limitation of any other remedies provided by law.

9.6 Costs and Attorney's Fees.In the event the Association employs an attorney to enforce any provision of the Declaration, the Bylaws of the Association or other rules and regulations adopted by the Association, the prevailing party in such action shall be entitled to an award of reasonable attorneys’ fees and costs incurred in said action.

9.7 Counterparts. This Declaration may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same document.

**IN WITNESS WHEREOF,** the Lot Owners named in Exhibit A being the Declarants herein, have hereunto set their hands and seals the day and year first above written.

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EXHIBIT A

(List of Lots)