

Auditor File #: 2005 0629020

AM/RC

Recorded at the request of:

ALSTON, COURTNAGE & BASSETTI

on 06/29/2005 at 11:25

Total of 24 page(s) Fee: \$ 42.00

SAN JUAN COUNTY, WASHINGTON

SIA STEPHENS, AUDITOR

DMT

**WHEN RECORDED RETURN TO:**

**Andrew B. Bassetti**  
**Alston, Courtnage & Bassetti LLP**  
**1000 Second Avenue, Suite 3900**  
**Seattle, Washington 98104-1045**

**Document Title:** Amended and Restated Declaration of Covenants, Conditions, Restrictions and Easements, including Joint Maintenance and Use Agreements

**Grantor:**

1. Whitecliff Farm Partners, a Washington general partnership
2. Fantel, Alan and Jane, husband and wife
3. Bevan, Richard and Burvill-Holmes, Lesley, husband and wife
4. Baldwin, Gerald and Jane, husband and wife
5. Davids, John and Barbara, husband and wife

**Grantee:**

1. Whitecliff Farm Partners, a Washington general partnership
2. Fantel, Alan and Jane, husband and wife
3. Bevan, Richard and Burvill-Holmes, Lesley, husband and wife
4. Baldwin, Gerald and Jane, husband and wife
5. Davids, John and Barbara, husband and wife

**Legal Description:** **Abbreviated Legal Description:** Lots 1-4, Whitecliff Farm, Short Plat of Whitecliff Farm, Vol. 6 of Plats, pgs 64 through 64B, Recording No. 94020729

**Full Legal Description:** See Exhibit A attached

**Reference Nos. of Documents Released or Assigned:** 94020731

**AMENDED AND RESTATED DECLARATION  
OF COVENANTS, CONDITIONS, RESTRICTIONS AND EASEMENTS,  
INCLUDING JOINT MAINTENANCE AND USE AGREEMENTS  
FOR WHITECLIFF FARM**

This Declaration is made as of May 24, 2005, by the undersigned (collectively "**Declarants**").

**RECITALS:**

A. Declarants are the owners of certain real property located on Decatur Island in San Juan County, Washington, legally described on Exhibit A attached (the "**Property**").

B. The Property is also known as the Short Plat of Whitecliff Farm, recorded in Volume 6 of Plats, pages 64 through 64B, under Recording Number 94020729, records of San Juan County, Washington (the "**Original Plat**").

C. Declarants are processing a short plat, to be known as Whitecliff Farm – 1st Addition (the "**First Addition**"), the purpose of which is to divide Lot 4 of the Original Plat into two (2) residential lots and a non-building common area. Declarants anticipate that the First Addition will be recorded in the real property records of San Juan County, Washington, concurrently with, or shortly after, this Declaration is recorded.

D. Following the recording of the First Addition, the Property will consist of six (6) residential lots and a common area.

E. Declarants also own 2 residential lots within the Decatur Shores community which is located adjacent to the Property and additional such lots may be acquired (the "**Decatur Lots**").

F. The Property is currently subject to a Declaration of Covenants, Conditions, Restrictions and Easements, including Joint Maintenance and Use Agreements, recorded in the real property records of San Juan County, Washington under Recording No. 94020731 (the "**Original Declaration**").

G. The purpose of this Declaration is to amend, supersede and replace the original Declaration in its entirety.

**DECLARATION:**

In order to protect the character of the Property, and enhance the value and desirability of the individual lots of the Property, Declarants hereby declare that all of the

Property will be subject to the covenants, conditions, restrictions, agreements and easements set forth in this Declaration and the Property shall be held, sold and conveyed subject to all such provisions. All of the provisions in this Declaration shall run with the land, and shall be binding upon and inure to the benefit of any and all persons or entities now or hereafter having any right, title or interest in the Property, or any part thereof, their heirs, personal representatives, successors and assigns.

**ARTICLE I**  
**Definitions**

1. "**Association**" means the Whitecliff Farm Owners' Association, a Washington nonprofit corporation.

2. "**Board**" means the Board of Directors of the Association.

3. "**Bylaws**" means the bylaws governing the management and operation of the Association, as the same may be amended from time to time.

4. "**Common Area**" means the portions of the Property designated as common area on the Original Plat and the First Addition together with all easements for the common benefit of all Owners.

5. "**Common Facilities**" means all improvements, if any, now or hereafter located in the Common Area, all roads and trails located on the Property which are for the common use of all Owners, the Water System, all utility lines serving the Property, and all other present and future improvements located in, on or about the Property and intended for the common use and enjoyment of all Owners and their guests, including the homestead house, garden and surrounding orchard. The Common Facilities shall not include the tennis court in the Common Area leased to Decatur Tennis Club, LLC in the northeastern corner of the Property.

6. "**Declarants**" means the undersigned persons and entities.

7. "**Department**" means the San Juan County Department of Health and Community Services or any successor agency or department of San Juan County, Washington.

8. "**Lot**" means each separate residential lot shown on the Plat and/or the First Addition, with the exception of the Common Area.

9. "**Owner**" means the record owner, whether one or more persons or entities, of fee simple title to any Lot which is a part of the Property, including purchasers under real

estate contracts, but excluding those having an interest in a Lot as security for the performance of an obligation.

10. **"Plat"** means the Original Plat, as subsequently modified and supplemented by the First Addition.

11. **"Plat Roads"** means all roads located in the Plat which are for the common use and enjoyment of all Owners.

12. **"Property"** means the real property located on Decatur Island, in San Juan County, Washington, legally described in Exhibit A attached.

13. **"Reserve Account"** means the funds set aside for the replacement, repair, betterment or addition to the Common Facilities. The Reserve Account shall consist of funds aggregating not less than fifty percent (50%) of the costs reasonably expected to be incurred in the ensuing five (5) years as estimated by the Board and approved at the annual meeting of the Owners in accordance with the terms of the Bylaws. The Reserve Account shall start to be funded on a straight line basis over five (5) years within one (1) month of completion of the initial sale by Whitecliff Farm Partners of the second of Lots 5 and 6 of the Property, as created pursuant to the First Addition, and shall be fully funded within five (5) years of that date.

14. **"Water System"** means the Group B water system constructed for the purpose of providing water service to the Lots, including all wells, well pumps, piping, water storage tanks and distribution lines. The System is approved for six (6) connections by the Department.

## **ARTICLE II**

### **Conveyance of Common Area**

The Declarants hereby covenant that the Common Area and the Common Facilities shall be transferred to and owned by the Association. The Association will own, operate and manage the Common Area and the Common Facilities for the common benefit of the Owners and their respective guests and invitees, subject to the terms of this Declaration. No interest in the Common Area or the Common Facilities shall be partitioned voluntarily or involuntarily, including by operation of law.

## **ARTICLE III**

### **Property Rights**

1. Owners' Easements of Enjoyment. Every Owner shall have a right and easement of enjoyment in and to the Common Area and the Common Facilities which shall be appurtenant to and shall pass with the title to each Lot, subject to the following provisions:

(a) any rules and regulations now or hereafter adopted by the Association governing the use and enjoyment of the Common Area and the Common Facilities;

(b) the right of the Association to suspend any Owner's right to use the Common Facilities for any period during which any assessment or fee against such Owner or his or her Lot pursuant to this Declaration remains unpaid, and for a period not to exceed thirty (30) days for any infraction of any rules and regulations adopted by the Association pursuant to this Declaration; and

(c) the right of the Association to dedicate or transfer all or any part of the Common Area or Common Facilities to any public agency, authority, or utility provider for such purposes and subject to such conditions as may be approved by the Board.

2. Delegation of Use. Any Owner may delegate his or her right of enjoyment to the Common Area and the Common Facilities to the members of his or her family, and the permitted guests and invitees of an Owner. Said rights of enjoyment are subject to modification by the Association pursuant to its right to enact rules and regulations regarding the use of the Common Area and the Common Facilities.

#### **ARTICLE IV** **Voting Rights; Administration**

1. Voting Rights. On all matters subject to the vote of the Owners pursuant to this Declaration or the Bylaws, each Owner shall be entitled to one vote for each Lot owned. When more than one person or entity holds an interest in any Lot, although each such person or entity shall be an Owner for purposes of this Declaration and the Bylaws, the vote for such Lot shall be exercised as they determine collectively, but in no event shall more than one vote be cast with respect to any Lot. If the persons owning a Lot cannot agree on how to cast the vote of allocated to such Lot, the Owners of such Lot shall be deemed to have abstained from the vote. During any period in which an Owner is in default in the payment of any fee or assessment (including fines) authorized pursuant to this Declaration for a period in excess of thirty (30) days, such Owner's voting rights under this Declaration and the Bylaws shall be suspended until such fee or assessment, including any applicable interest and penalties, has been paid in full. The suspension of an Owner's voting rights pursuant to this paragraph shall not in any way cancel or reduce such Owner's obligation to pay assessments or fees which are assessed and/or become due and payable pursuant to this Declaration during the period of suspension.

2. Association. The purpose of the Association shall be to own, operate and maintain the Common Area and the Common Facilities and to administer this Declaration. Each Owner shall be a member of the Association. Subject to the terms of this Declaration, the Board shall have the power and duty to collect and enforce annual and special assessments and fees, and shall have the power and authority to enact rules and regulations whenever the

Owners have such power or authority under this Declaration. The Board shall be primarily responsible for the administration of this Declaration. The scheduling of annual and special meetings of the Owners and the Board shall be governed by the Bylaws.

3. Rules and Regulations. From time to time, the Association may adopt and amend rules and regulations governing the use of the Common Area and the Common Facilities and to carry out the intent and purposes of this Declaration. All rules and regulations so adopted must be in writing and approved by the Board. The Board shall provide each Owner with written notice (and a copy) of any such rules and regulations. Each Owner shall be responsible for causing its guests and invitees to comply with any rules and regulations so adopted. Any rules and regulations adopted by the Owners are intended to have the same force and effect as the provisions set forth in this Declaration and all such rules and regulations are incorporated into this Declaration by this reference. At the request of any Owner or other person or entity with a recorded interest in a Lot, the Board shall provide the requesting party with a copy of any rules and regulations so adopted.

## **ARTICLE V**

### **Maintenance Assessments and Fees**

1. Assessments. The Declarants, for each Lot within the Property, hereby covenant, and each Owner of each Lot by acceptance of a deed to his or her Lot, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay such assessments and fees as the Board determines to be established and collected as provided in this Declaration. The assessments and fees, together with interest, shall be a lien on the land and shall be a continuing lien upon each Lot until paid in full. Each assessment and fee, together with interest, costs, and reasonable attorneys' fees, also shall be the joint and several personal obligations of the persons or entities that constitute the Owner of such Lot. Except as provided in Paragraph 8 below, the sale or transfer of any Lot shall not affect the lien of any assessment or fee.

2. Purpose of Assessments. Assessments and fees shall be levied exclusively to promote the recreation, health, safety and welfare of the Owners of the Property and for the improvement and maintenance of the Common Area and the Common Facilities.

3. Annual Assessments. Annual fees and assessments for operations and the Reserve Account must be approved by the Owners at the annual meeting of the Owners in accordance with the terms of the Bylaws.

4. Special Assessments. In addition to the annual assessments and fees authorized above, special assessments and fees may be levied from time to time by the Board for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures

and personal property related thereto, or for such other purposes as may be approved by the Board.

5. Collection of Assessments. Except as otherwise determined by the Board, and except for charges for water that may be based on usage, both annual and special assessments and fees will be fixed at a uniform rate for all Lots. Unless otherwise approved by the Board, all assessments will be paid in equal monthly installments, due and payable on or before the fifteenth (15th) day of each calendar month, commencing with the fifteenth (15th) day of the first calendar month after the annual or special meeting at which the annual assessment or fee is approved. Unless otherwise approved by the Board, special assessments and fees shall be due and payable in full within thirty (30) days after having been approved.

6. Payment of Assessments. Annual and special assessments and fees shall be paid to the Association. The Association shall hold funds so collected in trust for all the Owners in a separate account and apply such funds only for the purposes collected or for other purposes approved by the Board. If the Owner of a Lot is composed of more than one person or entity, all of such persons or entities shall be jointly and severally liable for the payment of all assessments and fees (and interest thereon) levied against such Lot pursuant to this Declaration.

7. Delinquent Payments. Any assessment or fee not paid within thirty (30) days after the due date shall bear interest from the due date at an interest rate equal to the lesser of the maximum interest rate allowable under applicable law or the rate of one percent (1%) per month, from the date due until the date paid in full, unless otherwise approved by the Board. The Association on behalf of all Owners may bring an action against the Owner(s) obligated to pay the same or foreclose the lien against the Lot(s) of such Owner(s), in the same manner that a mortgage may be foreclosed under then applicable laws of the State of Washington. No Owner may waive or otherwise escape liability for any assessments levied pursuant to this Declaration by non-use of the Common Area or the Common Facilities or abandonment of his or her Lot. If a lawsuit or other legal proceeding is commenced to collect any past due assessments or fees, the Owner(s) who are then delinquent in the payment of the assessment or fee shall be jointly and severally liable for the costs incurred by the Association in connection with the lawsuit or other legal proceeding, including reasonable attorneys' fees and costs, whether such fees and costs are incurred in courts of original or appellate jurisdiction, in bankruptcy court or in other legal proceedings.

8. Rights and Obligations of Lenders. The benefits and burdens of this Declaration are and at all times shall be prior to the lien or charge of any mortgage or deed of trust now or hereafter encumbering all or part of the Property; however, the lien of the assessments and fees provided for in this Declaration shall be subordinate to the lien of any first mortgage or deed of trust made in good faith and for value. Sale or transfer of any Lot shall not affect the validity of any assessment lien. However, the sale or transfer of any Lot pursuant to the foreclosure of a mortgage or deed of trust or any transfer in lieu of foreclosure,

shall extinguish the lien of such assessments and fees as to payments which become due prior to the effective date of any such sale or transfer. No sale or transfer shall relieve a Lot from liability for any assessments and fees thereafter becoming due or from the lien thereof.

**ARTICLE VI**  
**Common Area and Common Facilities**

1. Maintenance. The Common Area and the Common Facilities shall be operated, maintained and preserved in such a manner as will allow use of the Common Area and the Common Facilities by the Owners and their guests, while preserving the natural surroundings and residential amenities of the Property.

2. Maintenance of Plat Roads. In addition to operating and maintaining the Water System and the other Common Facilities, the Association shall maintain and operate the Plat Roads for the benefit of all Owners. In using, maintaining and operating the Plat Roads, the Association shall comply with all applicable terms, covenants and conditions of the Plat, if any, and any rules and regulations adopted by the Association with respect to the Plat Roads. In accordance with Article V above, annual and special fees and assessments may be levied by the Association for purposes of operating and maintaining the Plat Roads. No Owner shall use, allow or cause the Plat Roads and the adjacent drainage ditches, turnouts and culverts to be used in any manner which violates any applicable governmental law, ordinance, regulation or requirement, the terms and conditions of this Declaration, or the provisions of any rules and regulations established by the Association pursuant to this Declaration.

3. Common Area. The Common Area and the Common Facilities, including the homestead house, garden and surrounding orchard, will be maintained in such a way as to ensure the effective operation of the Property's infrastructure while preserving its peaceful, traditional and rural character. The various elements may be rehabilitated and further developed for recreational and agricultural uses as approved by the Owners from time to time provided that the character of the Property is preserved and with due consideration to the concerns and interests of the Owner(s) of Lots adjacent to the area in which any such rehabilitation or development is occurring. Necessary outbuildings, fences, equipment, and materials may be constructed and acquired for such purposes except that no new construction or development may occur within twenty-five (25) feet of any Lot except by agreement of a majority of Owners and with the approval of the Owner of the adjacent Lot. Approval of the Owner of the adjacent Lot is not required for renovation or reconstruction of structures that are in existence on the date of approval of this Declaration provided that such renovation or reconstruction does not change the footprint nor the building envelope. All Owners and visitors shall comply with such rules and regulations as may be adopted by the Owners regarding the use of the Common Area and the Common Facilities. The Board will regulate use of the Common Area and the Common Facilities to minimize any disruption to adjacent Owner(s).

4. Decatur Lots. Upon the formation of the Association, title to the Decatur Lots will be transferred to the Association, who shall hold title to the Decatur Lots for the benefit of the Owners. All costs and expenses incurred by the Association in connection with the ownership of the Decatur Lots shall be considered an additional cost or expense of owning and maintaining the Common Area and the Common Facilities.

## **ARTICLE VII** **Water System**

1. Ownership. Each Owner is granted an undivided interest in and to the use of the Water System. Each Owner shall be entitled to receive a supply of water for one residential dwelling and shall be furnished a reasonable supply of potable and healthful water for domestic purposes.

2. Operation and Management. All Owners will cooperate to maintain and operate the Water System to protect the water supply for all users by following the current operation and maintenance manual which includes a monitoring plan and conservation measures and conforming to a water use standard of 140 gallons per day per connection.

3. Cost of Maintenance. Each Owner shall equally share the maintenance and operational costs of the Water System. Such costs will be included in the regular assessments described in Article V above. The Reserve Account will include an amount equal to at least fifty percent (50%) of the costs expected to be incurred by the Water System for the ensuing five (5) years including all maintenance, repair, monitoring, electricity, supplies and other costs of the Water System. Declarants intend that annual or special fees for each Lot with respect to the Water System will equal the estimated annual operating costs of the Water System, plus an additional amount to be reserved for major maintenance, repair or upgrading as agreed at the annual meeting of the Owner, divided by the total number of Lots then subject to this Declaration.

4. Access to Well Site and Pump House. The well site and pump-house are situated on the Common Area and will be kept clear and readily accessible for the purpose of maintenance and repair.

5. Water line protection. All water lines are on Common Area shared by all Owners. No permanent or temporary buildings may be constructed on a strip of land five (5) feet wide centered over the water lines.

6. Maintenance and repair of pipelines. All pipelines in the Water System shall be sited and maintained so that there will be no leakage or seepage, or other defects which may cause contamination of the water, or injury, or damage to persons or property. Pipe material used in repairs shall meet applicable governmental requirements and standards. Cost

of repairing or maintaining common distribution pipelines shall be borne equally by all Owners. Each Owner shall be responsible for the maintenance, repair and replacement of pipe supplying water from the common distribution system to his or her own Lot.

7. Prohibited practices. The Owners will not construct, maintain or suffer to be used, constructed or maintained any of the following, within 100 feet of the well, so long as the same is operated to provide water for public consumption: septic tanks and drain fields, sewer lines, underground storage tanks, county or state roads, railroad tracks, vehicles, structures, barns, feeding stations, grazing animals, enclosures for maintaining fowl or animal manure, liquid or dry chemical storage, herbicides, insecticide, hazardous waste or garbage of any kind. The Owners will not cross connect any portion or segment of the Water System with any other water source without approved cross connection control from the Department.

8. Water System Purveyor. The Owners will designate an individual as purveyor of the Water System and will provide the Department with the current name, address and phone number for the purveyor. The purveyor, either directly or through a contract with a third party water system manager or operator approved by the Department, shall be responsible for compliance, including arranging submission of all required water samples, handling routine and emergency system operations and being the contact for emergencies such as system shutdown and repair. The purveyor is the contact person with the Department and is responsible for submitting sample results, meter readings, updates to the Water Facilities Inventory Form as changes are made to the system, and other system records. Water system records shall be available for review and inspection by all parties in this Declaration and the Department.

9. Provisions for Continuation of Water Service. The Owners will maintain a continuous flow of water from the Water System in accordance with public water supply requirements of the State of Washington and San Juan County. If the quality or quantity of water from the Water System becomes unsatisfactory as determined by the Department, the Owners shall develop a treatment system, develop a new source of water, and/or implement other approved options. Prior to development of a treatment system or a new source of water, the Owners shall obtain written approval from the Department. Each Owner shall share equally in the cost of developing the new source of water and installing the necessary equipment associated with the new source.

10. Future management. If the Water System at any time substantially fails to meet the requirements of the Department, the Owners shall contract with a third party water system manager or operator approved by the Department, for the operation and management of the Water System.

11. Restriction on Furnishing Water to Additional Parties. No water from the Water System may be furnished to any persons, properties or dwellings other than the

Lots, without the prior written consent of all Owners and the prior written approval of the Department.

12. Non-Conforming Parties and Properties. The Association may adopt regulations for the operation of the Water System, such as the termination of service if assessments are not paid as provided herein, and penalties for not complying with emergency conservation measures.

13. Use of the Water System. No Owner shall permit, cause or allow the Water System to be used in any manner which violates any law, ordinance, regulation, requirement or approval, or any rules and regulations adopted by the Owners with respect to the Water System. The Water System shall be used only for domestic use by single family residences and for noncommercial purposes related to the use, operation and maintenance of the Common Area and the Common Facilities. If any Owner violates the restrictions contained in the preceding sentence, such Owner's right to use the Water System may be terminated by the Board. No commingling of the Water System with any other water system will be permitted, other than for the purpose of providing backup water supply on a reciprocal basis with another private water system (subject to the approval of the Board) and if not in violation of any applicable law, approval, ordinance requirement or regulation.

14. Water Meters and Usage. Prior to the commencement of any construction of improvements on a Lot, a water meter shall be installed at the cost of the Owner of the Lot to measure water usage and consumption on such Lot. By January 15, April 15, June 15 and September 15 of each calendar year, or more frequently as determined by the Board, each Owner shall provide the Board with a written statement showing the amount of water consumed on such Owner's Lot during the preceding three (3) calendar months. The Board may establish guidelines for water usage and/or schedules of charges.

## **ARTICLE VIII** **Building Restrictions**

### 1. Architectural Control.

(a) It is intended that each Lot will be improved by a house, guest-house, garage and other structures such as firewood sheds and enclosures, subject to the terms of this Article VIII and the rules, regulations and procedures adopted by the Association pursuant to this Article VIII. No building or other structure shall be commenced, erected or maintained upon any Lot, nor shall any exterior addition to or change or alteration be made to any building or other structure hereafter constructed on a Lot until plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved by the Board in writing as to harmony of external design and location in relation to surrounding structures and topography. The Board may adopt rules,

regulations, procedures and guidelines relating to the design and construction of buildings or other structures allowed on the Lots, including a design review process. All Owners and their Lots shall be subject to the terms of any such rules, regulations, procedures or guidelines. At the option of the Board, an architectural committee, comprised of at least three (3) Owners, may be formed. If an architectural committee is so formed it shall have the power and authority to receive, review and approve the plans and specifications for all buildings or other structures pursuant to this Article VIII, subject to such rules, regulations and procedures as may be approved by the Association from time to time.

(b) Notwithstanding any other provision in this Declaration, no prior approval shall be required for repairs, reconstruction or restoration of exterior improvements which have been damaged by fire or other casualty, if the purpose of the repairs, restoration or reconstruction of such improvements is to return the improvements to a condition previously approved by the Board (or an architectural committee established by the Board). If construction of any building or other structure is commenced prior to the date the plans and specifications for the structures have been approved in accordance with this Article VIII, a "stop work" order may be issued by the architectural committee established by the Board, or if none, the Board or the President of the Association (unless the President of the Association is the Owner who is proceeding without approval, in which case any other officer of the Association may issue the stop work order). If the stop work order is not complied with, the Board may commence a legal action to obtain a restraining order or other injunctive relief as necessary to enforce the terms of this Article VIII.

2. Construction Activities. Any building or other structures erected or placed on a Lot shall be completed as to external appearance, including finish painting, within eighteen (18) months from the commencement of construction. For reasons (other than financial) beyond the reasonable control of the Owner of the Lot, the foregoing eighteen (18) month period may be extended by a period of time equal to the length of the delay actually experienced by the affected Owner(s). If an Owner desires an extension of the foregoing eighteen (18) month period, he or she shall make written application to the Board or to the architectural committee if such a committee has been established by the Board. Any such request shall set forth the reasons for delays in construction and the period of the extension requested. For purposes of this Declaration, construction of a building or structure shall be deemed to have commenced upon the commencement of such clearing and grading as are necessary to install foundations, and construction will not be deemed complete until a certificate of occupancy (or the equivalent) is issued by San Juan County allowing the occupancy of the structure and all construction equipment, materials or detritus are removed from the site. Each Owner shall comply with and shall cause its contractors to comply with all rules and regulations adopted by the Association regarding construction activities on the Property. If an Owner or an Owner's contractor fails or refuses to comply with the rules and regulations regarding construction activities, then if such failure or refusal is not corrected within ten (10) days after written notice from the architectural committee established by the Board, or if none, the Board or the President of the Association (unless the President of the

Association is the Owner who is proceeding without approval, in which case any other officer of the Association may issue the stop work order), until the Owner not in compliance provides the architectural committee, or if none, the Board, with reasonably satisfactory evidence that the non-compliance has or will be corrected. All construction debris including but not limited to packaging, metal, paint, solvents and other liquids and their containers, plastic and other materials will be removed from the property at regular intervals and taken off the island for proper disposal, except that paper, cardboard and wood may be burned (subject to the requirements of Article IX).

3. Fire Control Equipment. Each Lot must be equipped with at least the following fire control equipment at the cost and expense of the Owner of the Lot: a fire standpipe and a fire hose contained in a cabinet located within 75 feet of the main residence located on the Lot. Each Owner shall have a right to enter any other Owner's Lot, in an emergency, to prevent damage or injury to any person or property, and any Owner so entering upon another Owner's Lot shall have no liability to any other Owner for claims, damages, losses, causes of action, costs and expenses incurred by the other Owners as a result of such entry, except to the extent the claims, damages, losses, etc. are caused by the gross negligence or intentional misconduct of the Owner entering another Owner's Lot.

#### **ARTICLE IX** **General Protective Covenants**

1. Future Lot Divisions. None of the Lots may be further divided by short plat, subdivision or otherwise, as permitted by applicable law, unless otherwise agreed in writing by a majority of the Owners.

2. Multiple Ownership. No Lot may be owned as a "timeshare" (as presently defined in RCW Chapter 64.30) or in any other form of multiple ownership or use; however, the foregoing shall not prohibit the multiple ownership of a Lot by members of a single family or by domestic partners.

3. Residential Purposes Only. Except as provided below, no building shall be erected, altered, placed or permitted to remain on any Lot other than one single-family dwelling. Accessory structures, including garages, guest-houses, carports, firewood sheds and storage buildings, shall be allowed but such accessory structures must be substantially similar or coordinated with the design, color and architectural style of the single-family dwelling located on the Lot, and must be approved prior to the commencement of construction, pursuant to Article VIII above.

4. Additional Use Restrictions. No noxious or offensive activity shall be permitted upon any Lot, nor shall anything be done on a Lot which constitutes a nuisance or otherwise disturbs any other Owner's quiet enjoyment of his or her Lot. No loud noise emanating from any Lot shall be audible on other Lots after 11:00 p.m. and before 7:00 a.m.,

Monday through Friday, or after 11:00 p.m. and before 9:00 a.m. on a Saturday, Sunday or holiday, except as otherwise agreed by the Owner(s) of adjacent Lots. No Owner shall conduct or permit to be conducted on any Lot, any trade or business of any description without the approval of the Board. The foregoing sentence is not intended to preclude an Owner from maintaining a home office in his or her residence.

5. Temporary Structures. Neither temporary buildings or structures, nor trailers, mobile homes or recreational vehicles, may be erected or parked on a Lot, whether or not used for residential purposes, unless the type, design and location are approved by the Board or the architectural committee established pursuant to this Declaration. Any such building, structure, trailer or vehicle used for residential purposes shall include appropriate sanitation facilities.

6. Signs. Subject to such rules and regulations as may be adopted by the Owners, no sign of any kind shall be displayed for the public view on any Lot.

7. Animals. No animals, livestock or poultry of any kind shall be raised, bred or kept on any Lot or the Common Area unless approved by the Board, except that dogs, cats, or other household pets may be kept for noncommercial purposes. Such household pets shall be fenced, otherwise restrained, or trained to stay on their Owner's Lot. No commercial boarding or kenneling shall be allowed on any Lot. Domestic animals, whether the property of Owners or guests or visitors, shall be maintained in a manner not to constitute a hazard or nuisance to Owners, guests or visitors. Domestic animals of guests or visitors will not be permitted to roam the Property without restraint.

8. Vehicles. No Owner shall permit any vehicle (other than an "historic" vehicle whose presence is approved by the Board) which is in a state of disrepair, to be abandoned or to remain parked on his or her Lot for a period in excess of thirty (30) days, unless such vehicle is stored out of public view in a garage or screened area. If any Owner fails to remove such a vehicle or cause such vehicle to be stored out of public view, within ten (10) days following the date on which another Owner gives written notice to the Board and the offending Owner that such Owner is in violation of this covenant, the Association may have the vehicle removed and charge any reasonable fees incurred in removing the vehicle may be charged to the Owner(s) of the Lot on which the vehicle was located. A vehicle will be deemed to be in a state of disrepair, when it is not then operable and its condition offends the reasonable sensibilities of the other Owners as determined by the Board. Any charges incurred by an Owner pursuant to this paragraph may be enforced as if it is a special assessment upon the Lot of the Owner on whose Lot the vehicle was located.

9. Refuse. No trash, garbage, ashes or other refuse, or other unsightly growth or objects shall be thrown, dumped or allowed to accumulate on any Lot. Trash, garbage and other waste shall not be kept on a Lot except in sanitary containers. Trash or other refuse which contains hazardous or toxic wastes or substances (including but not limited to batteries,

solvents, oil and other chemicals) shall be removed from the Property at regular intervals and shall not be allowed to accumulate so as to create a potentially dangerous or hazardous condition. If garbage containing such materials accumulates on any Lot for a period in excess of thirty (30) days, any Owner may serve the Owner(s) of the offending Lot written notice requesting the Owner(s) of the Lot to remove the garbage. If such Owner(s) fails to do so within thirty (30) days after receiving the written notice, the Owner giving notice may enter the Lot and do so and charge all costs incurred in removing the garbage to the Owner(s) of the Lot. Any costs so incurred by an Owner and charged to a Lot may be enforced as if it is a special assessment on the Lot in question. Each Owner shall comply with such rules and regulations regarding refuse removal, composting and recycling as may be adopted by the Owners.

10. Lighting. No Owner shall install outdoor lighting fixtures on his or her Lot of such a size, location or design that light or glare is cast into adjacent Lots or dwellings, or adjacent portions of the Common Area.

11. Fences. The design, color and location of all fences shall be subject to approval pursuant to Article VIII above.

12. Rentals and Guests. All Lots shall be limited to private, single-family residential use. No rentals shall be permitted, except the rental of Lots for a minimum of three months during long-term absences or as permitted in such rules and regulations regarding the rental of Lots as may be adopted by the Association. Each Owner shall be responsible for the acts and omissions of its renter or other guests or invitees while such persons are on the Property, and all renters or guests shall be obligated to comply with the terms of this Declaration and all rules and regulations enacted by the Owners pursuant to this Declaration. Each Owner shall provide its guests and renters with copies of all pertinent rules and regulations adopted by the Owners. Any guests, invitees or renters not accompanied by an Owner shall be required to register in a guest book to be maintained at a location on the Property established by the Association. All animals brought on the Property by guests or renters shall be kept in control of the guests or renters and all dogs brought on the Property by guests or renters must be leashed. A guest or a renter who fails to comply with the rules and regulations of the Owners may be excluded from the Property in the future.

13. Firearms; Hunting. Unless otherwise approved by the Board, no hunting shall be permitted on the Property and the discharge of firearms shall not be allowed.

14. Equipment. Owners may use, on their own Lots, equipment and other resources that are part of the Common Facilities provided that (i) the equipment is not needed at that time for Association purposes, and (ii) that the equipment be returned to its place of storage cleaned, fueled and ready for further use. The Board may from time to time adopt rules, guidelines and restrictions governing use and maintenance of equipment and resources.

15. Fuel. Use of fuel from the tank that forms part of the Common Facilities will be governed by such regulations as the Board adopts.

16. Antennas. Television, radio antennae or satellite dishes shall be located and screened to minimize visibility from other Lots, pedestrian paths or the homestead site, and subject to approval of the Board or, if established, the Architectural Committee.

## **ARTICLE X**

### **Tree Cutting and Landscaping**

1. Landscaping. Owners may landscape, clear vegetation and plant within their own Lots at their discretion, with the exception that each Owner shall comply with such rules and regulations as may be adopted by the Board with regards to the cutting and trimming of trees and tree limbs and the removal of vegetation. No madrone trees on the Property may be cut without the Approval of the Board, unless the condition of a tree poses an imminent threat of danger or injury to person or property. The removal of natural vegetation will be minimized to the extent necessary to protect the stability of the slopes within the Property. On unstable slopes, stumps and the roots of any trees or underbrush which have been cut will be retained as necessary to enhance the stability of the slopes.

2. View Preservation. No Owner shall trim any trees in the Common Area unless approved by the Board.

## **ARTICLE XI**

### **Easements**

All easements for vehicular or pedestrian ingress and egress, or for the installation and maintenance of utilities and drainage facilities are reserved as shown on the Plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the installation and maintenance of utilities, or which may change the direction or flow of drainage channels in the easements, or which may obstruct or retard the flow of water through drainage channels in the easements. The easement areas on each Lot and all improvements in it shall be maintained continuously by the Owner of the Lot, except for those improvements for which a public authority or utility company is responsible, or for those improvements which are designated as Common Facilities pursuant to this Declaration.

## **ARTICLE XII**

### **General Provisions**

1. Enforcement.

(a) Except as provided in subparagraph (b) below, the Association or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, rules, regulations, agreements, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Association or by any Owner to enforce any covenant, restriction, condition, rule, regulation or agreement contained in this Declaration or adopted pursuant to this Declaration shall in no event be deemed a waiver of the right to do so thereafter. In any enforcement proceeding (including arbitration), the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees and costs.

(b) Any controversy or claim arising out of this Declaration, or the breach thereof, first shall be submitted to nonbinding arbitration in accordance with this paragraph and the rules then in effect of the American Arbitration Association (or such other arbitration or organization as may be agreed to by the parties involved). All arbitration proceedings pursuant to this paragraph shall be conducted in Seattle, Washington and shall be administered by the Seattle office of the American Arbitration Association, unless otherwise agreed by the parties involved. If the American Arbitration Association no longer has a Seattle office, unless otherwise agreed by the parties involved, the arbitration shall be administered by the office of the American Arbitration Association which then has jurisdiction over the Seattle area. If the American Arbitration Association ceases to exist or maintain an arbitration panel in Seattle, Washington, unless otherwise agreed by the parties involved, any arbitration initiated pursuant to this paragraph shall be conducted in accordance with RCW Chapter 7.04, as the same may be amended, or any statute in replacement thereof. Notwithstanding any of the foregoing, no party entitled to enforce the provisions of this Declaration shall be required to commence arbitration proceedings prior to seeking injunctive relief in order to prevent a violation of the terms and conditions of this Declaration.

2. Fines and Penalties. An Owner may be fined for violating the terms of this Declaration or any rules, regulations or procedures enacted pursuant to this Declaration. Any fines must be approved by the Board. Any fines levied against an Owner shall attach to his or her Lot and shall be collected and enforced in the same manner as a special assessment levied pursuant to this Declaration.

3. Duration; Amendment. The covenants, conditions, agreements, restrictions and easements of this Declaration shall run with and bind the Property, for a term of twenty (20) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years unless a written agreement terminating this Declaration is executed by all Owners and recorded prior to the end of the initial twenty (20) year period or any succeeding ten (10) year period. This Declaration may be amended by an instrument signed by not less than seventy-five percent (75%) of the Owners. Any amendment must be recorded and signed by an officer of the Association on behalf of the Owners as provided in the Bylaws.

4. Additional Property. Additional residential property and Common Area may be annexed to the Property with the unanimous consent of the Owners.

5. Severability. If any provision of this Declaration is finally adjudicated to be illegal, invalid or unenforceable, that provision will be deleted to that extent and all other provisions will remain in full force and effect.

6. Applicable Law. This Declaration shall be governed by and interpreted under all of the laws of the State of Washington.

7. Notices. Any notice, consent, call of meeting or other communication required or given pursuant to this Declaration must be in writing and will be deemed properly given when delivered by (a) personal delivery, (b) courier, (c) first class United States mail, postage prepaid, (d) facsimile (with a confirmatory duplicate copy sent by first class United States mail), or (e) electronic mail (with a confirmatory duplicate copy sent by first class United States mail), addressed to the party to whom directed at such address as an Owner may designate by written notice to the Board; however, if no such address has been designated by an Owner, notices shall be given to the address shown in the records of San Juan County, Washington for purposes of mailing real property tax notices with respect to the Lot owned by such Owner. Any such notice or communication shall be deemed to have been given either at (i) the time of actual delivery if personally delivered; (ii) in the case of courier, as of the date of first documented attempt at delivery at the address and in the manner provided herein; (iii) if mailed, three (3) days after being deposited in the United States mail, postage prepaid; (iv) if sent by facsimile, upon receipt; and (v) if sent by electronic mail, on the earlier of the date an acknowledgement of receipt is received by the sending party, or three (3) days after a copy of the electronic message is deposited in the United States mail, postage prepaid; provided, however, that service of a notice required by any applicable statute shall be considered complete when the requirements of that statute are met. If more than one person or entity constitutes an Owner (e.g., a husband and wife), notice to any one such person or entity shall constitute notice to all such persons or entities for purposes of this Declaration.

IN WITNESS WHEREOF, Declarants have caused this Declaration to be duly executed as of the day and year first written above.

**[SIGNATURES ON FOLLOWING PAGES]**

**WHITECLIFF FARM PARTNERS, a**  
Washington general partnership

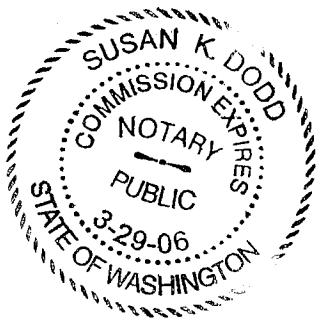
By: *Richard Bevan*  
**Richard Bevan, Managing General Partner**

STATE OF WASHINGTON )  
 )  
COUNTY OF King ) ss.  
 )

On this 25 day of May, 2005, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **Richard Bevan**, to me known to be the Managing General Partner of **Whitecliff Farm Partners**, the partnership named in and which executed the foregoing instrument; and he acknowledged to me that he signed the same as the free and voluntary act and deed of said partnership for the uses and purposes therein mentioned.

I certify that I know or have satisfactory evidence that the person appearing before me and making this acknowledgment is the person whose true signature appears on this document.

WITNESS my hand and official seal the day and year in this certificate above written.



*Susan K Dodd*  
Signature

Susan K Dodd  
Print Name

NOTARY PUBLIC in and for the State of  
Washington, residing at Seattle  
My commission expires 3/29/2006



*Richard Bevan*

Richard Bevan

*Lesley Burvill-Holmes*

Lesley Burvill-Holmes

STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF King )

On this 25 day of May, 2005, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **Richard Bevan**, and **Lesley Burvill-Holmes**, husband and wife, known to me to be the individuals named in and who executed the foregoing document, and acknowledged to me that they signed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

I certify that I know or have satisfactory evidence that the persons appearing before me and making this acknowledgment are the persons whose true signatures appear on this document.

WITNESS my hand and official seal the day and year in this certificate above written.

*Susan K Dodd*

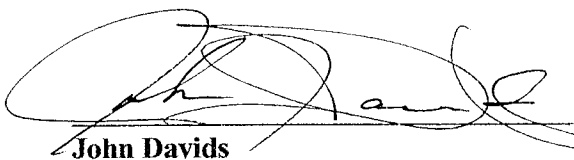
Susan K Dodd

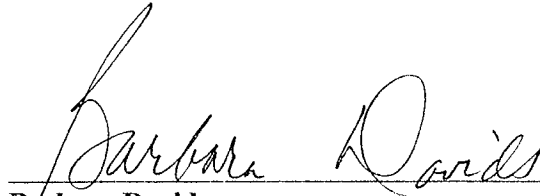
Print Name

NOTARY PUBLIC in and for the State of Washington, residing at Seattle

My commission expires 3/29/2006



  
**John Davids**

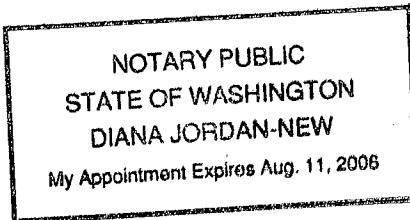
  
**Barbara Davids**

STATE OF WASHINGTON )  
COUNTY OF Skagit ) ss.

On this 2<sup>nd</sup> day of May, 2005, before me, a Notary Public in and for the State of Washington, duly commissioned and sworn, personally appeared **John Davids** and **Barbara Davids**, husband and wife, known to me to be the individuals named in and who executed the foregoing document, and acknowledged to me that they signed the same as their free and voluntary act and deed for the uses and purposes therein mentioned.

I certify that I know or have satisfactory evidence that the persons appearing before me and making this acknowledgment are the persons whose true signatures appear on this document.

WITNESS my hand and official seal the day and year in this certificate above written.



  
Signature

DIANA JORDAN-NEW  
Print Name

NOTARY PUBLIC in and for the State of Washington, residing at Anacortes.  
My commission expires 8/11/2006.



EXHIBIT A

Legal Description of Property

Lots 1, 2, 3 and 4 and Common Area, Whitecliff Farm, Short Plat of Whitecliff Farm,  
Volume 6 of Plats, pages 64 through 64B, Recording No. 94020729.