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Curran Law Firm P.S.  
Post Office Box 140  
Kent, WA 98035-0140  
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KING COUNTY, WA

**AUDITOR'S INDEXING FORM**

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| DOCUMENT TITLE:  | AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR HIGHPOINTE |
| GRANTOR:   | HIGHPOINTE (FKA PIONEER RIDGE) HOMEOWNERS ASSOCIATION, INC.                               |
| GRANTEE:   | HIGHPOINTE (FKA PIONEER RIDGE) HOMEOWNERS ASSOCIATION, INC.                               |
| LEGAL DESCRIPTION:<br>Abbreviated form (lot, block, plat name, section-township-range) | PLAT OF PIONEER RIDGE   |
| ASSESSOR'S PROPERTY TAX PARCEL OR ACCOUNT NUMBER:                                      |   |
| REFERENCE NUMBERS OF DOCUMENTS ASSIGNED OR RELEASED OR RELATED DOCUMENTS:              | 921020144   |

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**AMENDED & RESTATED DECLARATION OF COVENANTS  
CONDITIONS AND RESTRICTIONS FOR HIGHPOINTE**

THIS AMENDED AND RESTATED Declaration pertains to and amends and restates the Declaration of Covenants, Conditions and Restrictions for Highpointe (FKA Pioneer Ridge) Homeowners Association, Inc., a Washington non-profit corporation (the "Association") dated October of 1992, and which was recorded on October 20, 1992 under King County, Washington Auditor's File No. 921020144, and all supplements and amendments thereto (hereinafter collectively the ("Original Declaration")). This Amended and Restated Declaration of Covenants, Conditions and Restrictions for Highpointe Homeowners Association was approved by the affirmative approval and agreement of the requisite number of members of the Association pursuant to Article XIII, Section 17 of the Original Declaration, and as required by any other applicable laws and provisions within the Association's governing documents. This Amended and Restated Declaration is substituted for and supersedes entirely the Original Declaration, effective as of the date this instrument is recorded.

**WITNESSETH**

WHEREAS, Declarant, Pioneer Properties, Inc., was the owner in fee of the PLAT OF PIONEER RIDGE, an addition to King County, Washington, (known as Highpointe Homeowners Association, including all annexed properties) as recorded in Volume 159 of Plats, pages 83 through 89 records of King County as described in instrument recorded under Auditor's File No. 9202040247.

AND WHEREAS, Declarant will convey said properties, subject to certain protective covenants, conditions, restrictions, reservations, liens and charges as hereinafter set forth;

NOW, THEREFORE, it is hereby declared that all of the properties described above shall be held, sold and conveyed subject to the following easements, restrictions, covenants and conditions, all of which are for the purpose of enhancing and protecting the value, desirability and attractiveness of the real property.

These easements, covenants, restrictions and conditions shall run with the real property and shall be binding on all parties having or acquiring any right, title or interest in the described properties or any part thereof, and shall inure to the benefit of each owner thereof.

**ARTICLE I  
DEFINITIONS**

Section 1.1 "Association" shall mean and refer to HIGHPOINTE HOMEOWNERS ASSOCIATION, its successors and assigns.

Section 1.2 "Properties" shall mean and refer to that certain real property hereinbefore described, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 1.3 "Common Area" shall mean all real property owned by the Association for the common use and enjoyment of members of the Association.

Section 1.4 "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map or maps of the properties with the exception of the Common Area contained therein.

Section 1.5 "Member" shall mean and refer to every person or entity who holds membership in the Association.

Section 1.6 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, except that purchasers under a real estate contract shall be deemed the owner, as against the contract seller. Those having an interest merely as security for the performance of an obligation shall not be deemed an "owner" as herein provided.

Section 1.7 "Declarant" shall mean and refer to PIONEER PROPERTIES, INC., its successors and assigns.

Section 1.8 "General Plan" as approved by the County of King shall mean the preliminary and final plat for the properties and contain: (a) a general indication of size and location of additional development phases and proposed land uses in each; (b) the approximate size and location of common properties proposed; (C) the general nature of proposed common facilities and improvements.

## **ARTICLE II ANNEXATION OF ADDITIONAL PROPERTIES**

Section 2.1 Annexation of additional property other than that included in the General Plan referred to in Section 1.8 above, when requested by the owner or owners of such additional property shall require the assent of two-thirds (2/3) of the members at a meeting duly called for the purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting, setting forth the purpose of the meeting. The presence of members or of proxies entitled to cause sixty percent (60%) of votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half (1/2) of the required quorum for the preceding meeting; provided, however, the minimum quorum shall be twenty-five percent (25%) of the votes of the membership. No such subsequent meeting shall be held more than 60 days

following the preceding meeting. In the event that two-thirds (2/3) of the membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat.

### **ARTICLE III MEMBERSHIP**

Section 3.1 Every person or entity, who is an owner of record of any lot which is subject by covenants of record to assessment by the Association, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. No owner shall have more than one membership for a particular lot. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment by the Association. Ownership of such lot shall be the sole qualification for membership.

### **ARTICLE IV VOTING RIGHTS**

Section 4.1 Each member shall have one vote for each lot owned whether improved or not. When more than one person holds such interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot.

### **ARTICLE V PROPERTY RIGHTS**

Section 5.1 Member's Easement of Enjoyment. Every member shall have a nonexclusive right and easement of enjoyment in and to the Common Area and such easement shall be appurtenant to and shall pass with title to every assessed lot, subject to the following provisions:

- (a) the right of the Association to limit the number of guests of members;
- (b) the right of the Association to charge reasonable admissions and other fees for the use of any recreational facility situated upon the Common Area;
- (c) the right of the Association to borrow money for the purpose of improving the Common Area and facilities and in aid thereof convey a security interest in said property, and the rights of such security holder in said properties shall be subordinate to the rights of the homeowners hereunder;

- (d) the right of the Association to suspend the voting rights and right to use of the recreational facilities by a member for any period during such times any assessment, fine or other charge against his/her Lot remains unpaid for more than thirty (30) days; and for a period not to exceed 180 days for an infraction of its published rules and regulations;
- (e) the right of the Association to dedicate or transfer all or any part of the Common Area to any public agency, authority or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument signed by members entitled to cast two-thirds (2/3) of the votes of the membership has been recorded, agreeing to such dedication or transfer, and unless written notice of the proposed action is sent to every member not less than 30 days nor more than 60 days in advance.
- (f) the right of members from subsequent divisions of Highpointe, when developed, to use and enjoy the common area consistent with the rights and responsibilities set forth herein

## **ARTICLE VI COVENANT FOR MAINTENANCE ASSESSMENTS**

Section 6.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned within the Properties hereby covenants, and each Owner of any Lot by acceptance of a deed thereof, whether or not it shall be so expressed in any such deed or other conveyance, is deemed to covenant and agree to pay to the Association: (a) monthly, quarterly, or annual assessments (also known as "maintenance charges"); (b) special assessments for capital improvements, and (c) fines, late fees, and other charges duly and properly imposed by the Board of Directors, as hereinafter provided. The annual assessments, special assessments, and fines, late fees, and other charges duly imposed, together with such interest thereon and costs of collection thereof, including reasonable attorney fees and costs, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment or charge is made. Each such assessment or charge, together with such interest, costs and reasonable attorney fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment or charge fell due. The personal obligation shall not pass to his/her successors in title unless expressly assumed by them. Subsequent divisions of Highpointe shall not be subject to assessment until after the final plat(s) therefor are recorded."

Section 6.2 Purpose of Assessments. The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety and welfare of the residents in the Properties and in particular for the improvement and maintenance of the Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Areas and of the homes situated upon the Properties.

Section 6.3 Maintenance Charges. The Board of Directors of the Association shall have the right and power to subject the property situated in the plats of Highpointe, except the common areas, to a monthly, quarterly or annual maintenance charge. At the discretion of the Board of Directors of the Association, the maintenance charge may be aggregated and billed annually or for any portions of the year. By February 1 of each year thereafter, each Owner of property in Highpointe shall pay to the Association the assessment, and such payments will be used by the Association to continue a maintenance fund to be used by the Association as hereinafter stated. The assessment shall be delinquent when not paid within thirty (30) days after it becomes due. In the event that an owner acquires title to property in Highpointe after the due date for the maintenance charge, then such owner shall be given a pro rata credit for the maintenance charge from the due date to the date on which said owner acquires title, or becomes a contract purchaser.

The assessment may be adjusted or reduced from year to year by the Board of Directors, but in no event shall the increase in any year exceed the sum of twenty-five percent (25%) of the preceding year's assessment."

Section 6.4 Uses of the Maintenance Fund. The Maintenance Fund may be used:

To pay real property taxes and insurance for the Common Area and for lighting, improving and maintaining the streets and dedicated right-of-way areas maintained for the general use of the owners and occupants of land included in Highpointe;

For operating and maintaining any storm water drains now or hereafter constructed in such subdivision that are not or will not be under the direct supervision of the state or county;

For employing policemen and watchmen;

For initiating actions to enforce the covenants, restrictions or other regulations, including retaining counsel;

For establishing and maintaining any park or recreational facilities on the Common Area of Highpointe; and

For doing any other thing necessary or desirable, in the opinion of the Board of Directors of the Association, to keep the property neat and in good order, and to eliminate free hazards, or which in the opinion of the Board of

Directors may be of general benefit to the owners or occupants of the land included in Highpointe.

Section 6.5 Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereto, provided that, any such assessment shall have the assent of two-thirds (2/3) of the votes of the members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 30 days nor more than 60 days in advance of the meeting for the purpose of the meeting.

Section 6.6. Effect of Nonpayment of Assessments, Special Assessments for Capital Improvements, and Fines, Late Fees, and Other Charges: Remedies of the Association. The Association shall have a lien on all the lots in Highpointe to secure the payment of Assessments, Special Assessments for capital improvements, and fines, late fees, and other charges duly and properly imposed by the Board of Directors due and to become due, and the Owners of such lots shall be personally liable for all such charges. The Association may bring an action at law or in equity against the Owner personally obligated to pay the same, including the cost of foreclosing the lien against the property, plus interest, costs and reasonable attorney fees of any such action. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his/her Lot.

Upon demand, the Association shall furnish to any owner or mortgagor or other interested person a certificate showing the unpaid maintenance charges against any or all lots.”

Section 6.7 Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis.

Section 6.8 Quorum for Any Action Authorized Under Section 5. At the first meeting called to take an action, as provided in Section 5 hereof, the presence at the meeting of members or proxies entitled to cause sixty percent (60%) of all votes of the membership shall constitute a quorum. If the required quorum is not forthcoming at such first meeting, another meeting may be called, subject to the notice requirement set forth in Section 5 and the required quorum at any such subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting; provided, however, the required quorum shall not be less than twenty five percent (25%) of all votes of this membership. No such subsequent meeting shall be held more than sixty (60) days following the preceding meeting.

Section 6.9 Date of commencement of Annual Assessments: Due Dates.

The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area to the Association. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Trustees shall fix the amount of the annual assessment. The Association shall upon demand at any time furnish a certificate in writing signed by an officer of the Association setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for issuance of these certificates. Such certificates shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 6.10 Subordination of the Lien to Mortgages. The lien of the assessments and other charges provided for herein shall be subordinate to the lien of any mortgage, mortgages, or deed of trust, and the Association will, upon demand, execute a written subordination in accordance with this paragraph. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to any mortgage or deed of trust, pursuant to a decree of foreclosure under such mortgage or any proceeding in lieu of foreclosure thereof, or trust deed or sale under deed of trust, shall extinguish the lien of such assessments as to payments thereof which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 6.11 Exempt Property. The following property subject to this Declaration shall be exempt from the assessments created herein; (a) all properties dedicated to and accepted by a local public authority; (b) the Common Areas.

## **ARTICLE VII ARCHITECTURAL CONTROL**

Section 7.1 Before any building is erected, placed or altered upon any lot, notice of intent to build or locate such structure shall be filed with the ARCHITECTURAL CONTROL COMMITTEE. The ARCHITECTURAL CONTROL COMMITTEE, within five days from receipt of such notice, may require the submission by the applicant or owner of the construction plans and specifications and a plan showing the location of the structure. In the event of such requirement, no building shall be erected, placed or altered upon any lot until such plans have been approved by the ARCHITECTURAL CONTROL COMMITTEE as to quality of workmanship and materials, harmony of external design with existing structures and as to location with respect to topography and finished grade elevation. All dwellings shall have shake roofs or wood roofs unless written permission is obtained from the ARCHITECTURAL CONTROL COMMITTEE.



Section 7.2 No fence or wall shall be permitted between the front portion of the house and the roadway right-of-way, except that decorative fences having a height not exceeding three feet may be constructed in said areas. All fences in the front and/or back yard shall be of a wood material unless written permission is obtained from the ARCHITECTURAL CONTROL COMMITTEE. The decision of the ARCHITECTURAL CONTROL COMMITTEE shall be final and binding upon all parties. Approval shall be as provided in the paragraphs next below,

Section 7.3 The ARCHITECTURAL CONTROL COMMITTEE shall be appointed by the Board of Directors, and shall consist of at least three and no more than five members, which may include member(s) of the Board of Directors. If the Board of Directors does not appoint an ARCHITECTURAL CONTROL COMMITTEE, then the Board of Directors shall constitute the ARCHITECTURAL CONTROL COMMITTEE.

Section 7.4 The ARCHITECTURAL CONTROL COMMITTEE shall act within fifteen (15) days of the date all plans and documents requested have been delivered to a member of the ARCHITECTURAL CONTROL COMMITTEE. If the ARCHITECTURAL CONTROL COMMITTEE fails to act within such a time period, its consent shall be deemed to have been given.

## **ARTICLE VIII USE RESTRICTIONS**

Section 8.1 The area covered by these covenants is the entire area described above.

Section 8.2 No lot shall be used except for residential purposes. No building shall be erected, placed or permitted to remain on any lot other than one detached single-family dwelling with a minimum double attached garage.

Section 8.3 Easements for installation and maintenance of utilities and drainage facilities are reserved as shown in the recorded plat. Within these easements, no structure, planting or other material shall be placed or permitted to remain which may damage or interfere with the maintenance of utilities, or which may change the direction of flow of drainage channels in the easements. The easement area of each lot and all improvements in it shall be maintained continuously by the owner of the lot, except for those improvement for which a public authority or utility company is responsible.

Section 8.4 No noxious or offensive activity shall be carried on upon any lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

Section 8.5 No structure of a temporary character, trailer, basement, shack, garage, barn or any other outbuilding shall be used on any lot at any time as a residence. either temporarily or permanently.

Section 8.6 No goods, equipment or vehicle (including busses or trailers of any description) shall be dismantled or repaired outside any building or residential lot.

Section 8.7 The land owners at no time shall keep or permit to be kept on their premises or Street area any house trailers, trucks (excluding pick-up trucks of one tone or less), campers, mobile homes, boats or boat trailers, unless housed within a garage except with the approval of the ARCHITECTURAL CONTROL COMMITTEE.

Section 8.8 No visible radio or television antenna shall be permitted without the written approval of the ARCHITECTURAL CONTROL COMMITTEE, unless within Federal Communication Commission (FCC) guidelines. All exposed fireplaces shall be of brick or quarry stone material or the same as the exterior and specifically not cement block.

Section 8.9 Any dwelling or structure erected or placed on any lot in this subdivision shall be completed as to external appearance, including finish painting and front yard landscaped, within nine months from date of start of construction.

Section 8.10 No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot except that dogs, cats or other household pets may be kept; PROVIDED, they are not kept, bred or maintained for any commercial purpose.

Section 8.11 No Lot or Common Area shall be used or maintained as a dumping ground for rubbish, debris, salvage, garbage, trash, equipment, cars, vehicles or other waste. Trash, garbage, yard waste, or other waste shall not be kept unless such waste is kept in sanitary container(s) that are screened from the view of other properties, the street, and the Common Area.

No trash, garbage, or yard waste shall be dumped on any Common Area, other Lots, or streets. The proper removal and disposal of all such materials shall be the sole responsibility of individual lot Owners. The Board of Directors may require that any of the above stated infractions be repaired, replaced and/or removed as they see fit.

Section 8.12 No oil drilling, oil development operations, oil refining, quarrying or mining operations of any kind shall be permitted upon or in any lot, nor shall oil wells, tanks, tunnels, mineral excavations or shafts be permitted upon or in any lot. No derrick or other structure designed for use in boring for oil or natural gas shall be erected, maintained or permitted upon any lot.

Section 8.13 Any removal of any tree must first have the approval of the ARCHITECTURAL CONTROL COMMITTEE.

Section 8.14 The Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, 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 or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. The costs of any enforcement actions initiated in a court of competent jurisdiction shall be awarded to the prevailing party.

Section 8.15 Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect.

Section 8.16 The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Association, or the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors and assigns, for a term of twenty (20) years from the date this Declaration is recorded, after which time said covenants shall be automatically extended for successive periods of twenty (20) years. The covenants and restrictions of this Declaration may be amended by an instrument signed by not less than sixty-five percent (65 %) of the Lot Owners, or affirmative vote, in person or by proxy, of the same percentage of Lot Owners at a regular or special meeting of Lot Owners. Any amendment must be properly recorded.

If there is any conflict between this Declaration and the Bylaws, or between this Declaration and the Articles of Incorporation, this Declaration shall control.

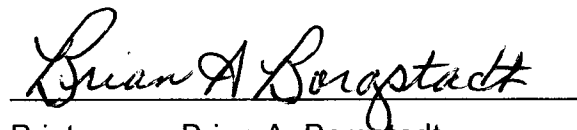
## **ARTICLE IX COMMON AREA MAINTNANCE**

Section 9.1 The Association through the Board of Directors shall preserve and maintain all Common Areas in the natural setting and in close conformity to the condition at the time Declarant conveyed the same to the Association. All pathways are to be kept open and free of all obstacles for safe access by all members.

### **ATTESTATION OF OFFICERS**

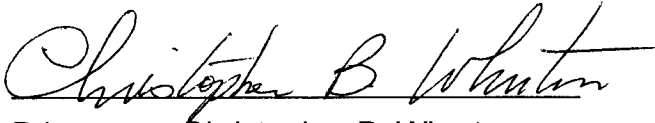
The undersigned, as President and Secretary of the Association, certify and attest to the fact that this Amended and Restated Declaration was properly adopted and approved by the affirmative written approval and agreement of the requisite number of members of the Association pursuant to Article XIII, Section 17 of the Original Declaration and any related covenant or other provisions governing amendments to the Declaration, and this instrument accurately states Original Declaration provisions and the amendments to it so adopted, and its terms are effective as of the date of recording of this instrument.

Dated: October 16, 2007

Handwritten signature of Brian A. Borgstadt in cursive script, underlined.

Print name: Brian A. Borgstadt

President of the Association

Handwritten signature of Christopher B. Whorton in cursive script, underlined.

Print name: Christopher B. Whorton

Secretary of the Association