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DECLARATION  
OF  
COVENANTS, CONDITIONS, RESTRICTIONS AND  
RESERVATIONS  
FOR  
THUNDERBIRD TERRACE

TITLE OF DOCUMENT:

DECLARATION OF COVENANTS,  
CONDITIONS, RESTRICTIONS AND  
RESERVATIONS FOR THUNDERBIRD  
TERRACE

GRANTOR:

THUNDERBIRD TERRACE, L.L.C.

GRANTEE:

THE GENERAL PUBLIC

ABBREV. LEGAL DESCRIPTION:

LOTS 2, 3, 4 & 5 THUNDERBIRD TERRACE  
SHORT PLAT, AF # 200503070126

TAX PARCEL NOS.:

P122559, P122560, P122561,  
P122562, P122563

## TABLE OF CONTENTS

ARTICLE I – IDENTIFICATION OF DECLARANT AND PROPERTY; PURPOSE .....	1
1.1. Identification of Declarant and Property .....	1
1.2. Identification of Community and Platting Documents .....	1
1.3. Purpose .....	1
ARTICLE II – DEFINITIONS .....	1
ARTICLE III – DESCRIPTION OF DEVELOPMENT PLAN AND AMENITIES .....	3
3.1. Development Plan .....	3
3.2. Amenities .....	3
ARTICLE IV – LOTS .....	4
4.1. Number and Location .....	4
4.2. Street Addresses .....	4
4.3. Initial Construction of Dwellings and Other Improvements Within Lots .....	4
4.4. No Permanent Construction Within Easements .....	4
4.5. Upkeep of Lots .....	4
ARTICLE V	
COMMON AREAS .....	5
5.1. Common Areas .....	5
5.2. Maintenance, Repair and Replacement .....	5
5.3. No Interference with Common Areas .....	5
5.4. Right of Access .....	5
ARTICLE VI – MAINTENANCE OF COMMON AREAS .....	5
6.1. Association's General Maintenance Responsibility .....	5
6.2. Upkeep of Stormwater Drainage Facilities .....	6
6.3. Perpetual Existence - Rights of the City of Mount Vernon .....	6
ARTICLE VII – OWNERS ASSOCIATION .....	6
7.1. Name and Form of Association .....	6
7.2. Powers of Association .....	6
7.3. Membership and Voting Rights .....	6
7.4. Bylaws of Association .....	6
ARTICLE VIII – MANAGEMENT OF ASSOCIATION .....	7
8.1. Management by Declarant .....	7
8.2. Authority of the Board .....	7
8.2.1. General Authority .....	7
8.2.2. Incurring and Payment of Common Expenses .....	7
8.2.3. Acquisition of Property .....	7
8.2.4. No Business Authority .....	7
8.2.5. Board as Attorney in Fact .....	7
ARTICLE IX – PERMITTED USES .....	8
9.1. Permitted Uses .....	8
9.1.1. Residential Use .....	8
9.1.2. Use of Common Areas .....	8
9.1.3. Trees and Vegetation .....	8
9.1.4. Surface Water Run-Off .....	8



200605030007

Skagit County Auditor

9.1.5.	Noise, Offensive or Illegal Activity	8
9.1.6.	Privacy Fencing	8
9.1.7.	Vehicle Operation and Parking Restrictions	9
9.1.8.	Signs	9
9.1.9.	Underground Utilities	9
9.1.10.	Uses by Declarant	9
ARTICLE X –	ASSESSMENTS AND LIENS FOR COMMON EXPENSES	10
10.1.	Assessments for Common Expenses	10
10.1.1.	Liability of Lots	10
10.1.2.	Timing of Payments.	10
10.1.3.	Special Assessments.	10
10.1.4.	Limited Common Assessments	10
10.1.5.	Owners Personally Liable for Common Expenses	10
10.2.1.	Budget for Common Expenses	11
10.2.2.	Meeting of Association to Ratify Budget	11
10.3.	Liability Following Conveyance of Lot	11
10.4.	Lien for Assessments.	12
10.5.	Perfection of Lien.	12
10.6.	Priority of Lien.	12
10.7.	Enforcement of Lien.	12
10.8.	Limitation of Lien Enforcement.	12
10.9.	Rent Subject to Lien for Assessments	12
10.10.	Remedies Cumulative	13
ARTICLE XI –	INSURANCE MATTERS	13
11.1.	Association's Insurance	13
11.2.	Deductible	13
11.3.	Insurance for Lot Owners	13
ARTICLE XII –	CONDEMNATION	13
ARTICLE XIII –	COMPLIANCE WITH LAW AND COVENANTS	13
13.1.	Compliance by Owners and Occupants	13
13.2.	Enforcement by Association.	14
13.3.	Legal Proceedings.	14
13.4.	Costs and Attorney's Fees.	14
13.5.	Late Charges and Interest.	14
13.6.	No Waiver of Rights.	14
13.7.	Remedies Cumulative.	14
ARTICLE XIV –	LIMITATION OF LIABILITY	15
14.1.	No Liability for Equipment Failure, Etc.	15
14.2.	No Bailment.	15
ARTICLE XV –	MORTGAGEE PROTECTION	15
ARTICLE XVI –	EASEMENTS AND SPECIAL DECLARANT RIGHTS	15
16.1.	Easements for Lots and Lot Owners	15
16.1.1.	In General	15
16.1.2.	Specific Easement Shown on Short Plat	16
16.2.	Easement for Association Functions	16
16.3.	Easement for Utilities	16

(ii)



200605030007

Skagit County Auditor

16.4.	Easement for Emergency Access .....	16
16.5.	Easements for Declarant .....	16
16.6.	Special Declarant Rights .....	16
16.6.1.	Reservation .....	16
16.6.2.	Status of Special Declarant Rights .....	17
ARTICLE XVII	– AMENDMENT OF DECLARATION OF COVENANTS .....	17
17.1.	Procedure for Amendment of Declaration of Covenants .....	17
17.2.	Recordation Required. ....	17
17.3.	Amendments by Declarant .....	17
ARTICLE XVIII	– MISCELLANEOUS .....	17
18.1.	Notices for All Purposes, Delivery .....	18
18.2.	Severability .....	18
18.3.	No Right of First Refusal .....	18
18.4.	Effective Date .....	18

(iii)



200605030007  
Skagit County Auditor

## ARTICLE I

### IDENTIFICATION OF DECLARANT AND PROPERTY; PURPOSE

#### 1.1. Identification of Declarant and Property.

THUNDERBIRD TERRACE, L.L.C., a Washington Limited Liability Company hereinafter referred to as the "Declarant," is the owner in fee simple of the land described in Section 1.2 hereof, together with all improvements, easements, rights and appurtenances thereunto belonging (all collectively referred to hereinafter as "the Property").

#### 1.2. Identification of Community and Platting Documents.

Declarant owns Lots 2 - 6 inclusive, Thunderbird Terrace Short Plat, recorded at Auditor's File 200503070126, records of Skagit County, Washington [the "Short Plat"]. When the word "Lot" is used hereinafter, it shall mean one of the above numbered Lots. All such Lots shall be known collectively as the "Community", which shall be known as Thunderbird Terrace. Lot 1, Thunderbird Terrace Short Plat, which fronts on N. Waugh Road, is not part of the Community.

#### 1.3. Purpose.

This Declaration of Covenants, together with the Short Plat referred to herein, state covenants, conditions, restrictions and reservations intended by the Declarant to effect a common plan for the development of the Property mutually beneficial to all of the described Lots. These covenants, conditions, restrictions, reservations and plan are intended to become, and by the recordation of this instrument shall be conclusively deemed to be legal and equitable servitudes which shall run with the land of the Property and shall be binding upon the entire Property and upon each such Lot therein as a parcel of realty, and upon its Owners, their family members, their heirs, personal representatives, successors and assigns, and their tenants, licensees and other lawful occupants, through all successive transfers of all or part of the Property or any security interest therein, without requirement of further specific reference or inclusion in deeds, contracts or security instruments, and regardless of any subsequent forfeiture, foreclosures, or sales of Lots under security instruments, or of any forfeiture, foreclosures, or sales instituted for nonpayment of government tax, levy or assessment of any kind.

## ARTICLE II

### DEFINITIONS

2.1. "Assessment" means all sums chargeable by the Association against a Lot including, without limitation: (a) Regular, Special and Limited Assessments for Common Expenses, charges, and fines imposed by the Association; (b) interest and late charges on any delinquent account; and (c) costs of collection, including reasonable attorneys' fees, incurred by the Association in connection with the collection of a delinquent Owner's account.

2.2. "Association" or "Owners Association" means the nonprofit corporation incorporated at the direction of the Declarant to manage the Common Areas of this Community and enforce the provisions of the Governing Documents.



2.3. "Board of Directors" means the body with primary authority to manage the affairs of the Association.

2.4. "Common Areas" means those portions of the property within the Community so designated on the Short Plat, along with any other real property owned by the Association or for which the Association has maintenance responsibilities under this Declaration of Covenants. Common Areas are further defined and described in Article V hereof.

2.5. "Common Expenses" means expenditures made by or financial liabilities of the Association, together with any allocations to reserves; without limitation, such expenses include those necessary or desirable for 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.

2.6. "Common Expense liability" means the liability for Common Expenses allocated to each Lot pursuant to Section 10.1 of this Declaration of Covenants.

2.7. "Community" means all the Property described in Section 1.2 hereof, along with all the improvements constructed therein, the Association, and all other institutions and things serving the Owners of Lots therein.

2.8. "Conveyance" means any transfer of the ownership of a Lot, including a transfer by deed or by real estate contract, but shall not include a transfer solely for security.

2.9. "Declarant" means the entity, person or group of persons acting in concert who (a) executes this Declaration of Covenants, or (b) reserves or succeeds to any Special Declarant Right under the Declaration of Covenants.

2.10. "Declarant control" means the right of the Declarant or persons designated by the Declarant to appoint and remove officers and members of the Board of Directors or to veto or approve a proposed action of the Board or Association pursuant to Sections 8.1 and 16.6 of this Declaration of Covenants.

2.11. "Declaration of Covenants" means this document, which facilitates the creation of this Community; the term also includes any lawful amendments to this document.

2.12. "Development Plan" means any formal plan of development, however termed under the Ordinance, approved by the City of Mount Vernon. The term also includes any amendments thereto approved by applicable governmental entities.

2.13. "Dwelling" means the principal housing structure constructed on a Lot by or under the direction of the Declarant.

2.14. "Foreclosure" means a forfeiture or judicial or nonjudicial foreclosure of a mortgage or a deed in lieu thereof.

2.15. "Governing Documents" means the Declaration of Covenants, the Short Plat, the Bylaws of the Association along with any Rules and Regulations adopted by the Board of Directors.



2.16. "Limited Common Expenses" are portions of the Common Expenses for which one or more, but fewer than all Lot Owners may become liable under the terms of the Governing Documents.

2.17. "Lot" means a physical portion of the Community designated for separate ownership, the boundaries of which are depicted on the Short Plat.

2.18. "Lot Owner" means the Declarant or any other person who owns a Lot, but does not include a person who has an interest in a Lot solely as security for an obligation. "Lot Owner" means the vendee, not the vendor, of a Lot under a real estate contract.

2.19. "Mortgage" means a mortgage, deed of trust or real estate contract.

2.20. "Person" means a natural person, corporation, partnership, limited partnership, trust, governmental Community or agency, or other legal entity.

2.21. "Property" or "the Property" means all the real property described as being contained within the Short Plat and, where appropriate, includes all real property which may be from time to time either added to the Community by the Declarant or acquired by the Association pursuant to Section 8.2.3 hereof.

2.22. "Residential purposes" means use for dwelling and human habitation, whether on an ownership, rental or lease basis and for reasonable social, recreational or other uses normally incident to such purposes.

2.23. "Special Declarant Rights" means rights reserved for the benefit of the Declarant: (a) to complete improvements indicated on the Short Plat; (b) to maintain sales offices, management offices, signs advertising the Community, and models; (c) to use easements through the Common Areas for the purpose of making improvements within the Community; (d) to appoint or remove any officer of the Association or any member of the Board of Directors; or (e) to veto or approve a proposed action of the Board or Association during any period of Declarant Control reserved in this Declaration of Covenants. Special Declarant Rights are described in Section 16.6 hereof.

2.24. "Upkeep" means any care, inspection, maintenance, operation, repair, repainting, remodeling, restoration, improvement, renovation, alteration, replacement and reconstruction that is required to maintain property in a decent, safe and sanitary condition, in keeping with the standards of the Community and with all applicable legal, administrative or regulatory requirements.

### ARTICLE III

#### DESCRIPTION OF DEVELOPMENT PLAN AND AMENITIES

##### 3.1. Development Plan.

The Lots in this Community were authorized to be created by the City of Mount Vernon under provisions of the Mount Vernon Municipal Code, subject to certain conditions appearing on the face of the Short Plat. Many of such conditions are reproduced in the text of the Covenants which follow.

##### 3.2. Amenities.



The Subdivision's amenities include a shared private driveway providing access to Lots 2 - 6, along with a stormwater bio-swale and retention system in areas depicted on the Short Plat.

#### ARTICLE IV

##### LOTS

#### 4.1. Number and Location.

The Community contains five (5) Lots which are depicted on the Short Plat. The location of those Lots and their dimensions are shown on the Short Plat. Lot 1, Thunderbird Terrace Short Plat, is not part of the Community.

#### 4.2. Street Addresses.

A list of the street addresses for the Lots in the Community is attached hereto as Exhibit A.

#### 4.3. Initial Construction of Dwellings and Other Improvements Within Lots.

Dwellings and related improvements, including fencing and accessory structures, will be constructed within the Lots by or under the direction of the Declarant, according to a common design scheme established by the Declarant. No manufactured homes are permitted. Any addition, alteration or improvement upon any Lot shall be consistent with the Declarant's scheme, and shall be constructed in accordance with the building code and other ordinances of the City of Mount Vernon.

#### 4.4. No Permanent Construction Within Easements.

No permanent building, deck, fencing or other structure shall be constructed within the easement areas on the Lots depicted on the Plat Map.

#### 4.5. Upkeep of Lots.

Each Lot Owner shall, at his or her sole expense, have the right and the duty to keep the Lot, its Dwelling and all other improvements in good order, condition and repair and shall do all Upkeep, decorating, landscaping and painting at any time necessary to maintain its good appearance and condition. Each Owner shall perform this Upkeep responsibility in such manner as shall not unreasonably disturb or interfere with the other Owners.

#### 4.6. Damaged Improvements.

If a Dwelling or other major improvement located upon a Lot is damaged or destroyed, the Owner thereof shall restore the site either (i) by repairing or reconstructing such building or improvement or (ii) by clearing away the debris and restoring the site to an acceptable condition compatible with the remainder of the Property. Unless the Board of Directors permits a longer time period, such work must be commenced within four months after the casualty and be substantially completed within twelve months after the casualty. The four-month period may be extended for a reasonable period thereafter in the event that repairs or reconstruction have not commenced because of factors beyond the control of the Owner, provided that the





Owner has exercised and does thereafter continue to exercise due diligence in an effort to commence required work.

## ARTICLE V

### COMMON AREAS

#### 5.1. Common Areas.

The Common Areas of the Community consist of a series of Easement Areas depicted on the Short Plat which variously burden and benefit the Lots for the purposes of providing rights of ingress, egress, utilities, stormwater conveyance and sanitary sewer service, as depicted on the Short Plat. These areas contain the improved surface of the shared driveway and its associated drainage facilities, as well as the utility and sanitary sewer service corridors depicted on the Short Plat.

#### 5.2. Maintenance, Repair and Replacement.

The Association, through its Board of Directors, is and shall remain perpetually responsible for all necessary Upkeep of the Common Areas. See Article VI hereof for further details.

#### 5.3. 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. Nothing shall be altered or constructed in or removed from the Common Areas except with the prior written consent of the Board of Directors.

#### 5.4. Right of Access.

Each Lot Owner shall afford to the Association, and to its agents or employees, access through the Owner's Lot as may be reasonably necessary for the purposes of maintenance, repair and replacement of the Common Areas. If damage is inflicted on the Lot or its any improvements or appurtenances as a result of such activities, the Association shall be liable for the repair thereof.

## ARTICLE VI

### MAINTENANCE OF COMMON AREAS

#### 6.1. Association's General Maintenance Responsibility.

The Board shall develop a schedule of routine maintenance for all components of the Common Areas which require Upkeep, establishing appropriate times during each year when such maintenance should occur. The Board should also periodically undertake an analysis of the adequacy of the Association's reserve fund; such analysis should (i) ascertain the probable remaining useful life of each component of the Common Areas which will require replacement or major repairs, (ii) estimate the probable cost of such replacement or repair for each such component, (iii) establish an annual reserve budget which would, when funded,



minimize the necessity for the imposition of a special assessment upon the Owners within the foreseeable future.

6.2. Upkeep of Stormwater Drainage Facilities.

All necessary Upkeep of the components of the Stormwater System shall be conducted by the Association in accordance with provisions of the DOE Stormwater Management Manual for Western Washington ["DOE Stormwater Manual"], as the same may be updated from time.

6.3. Perpetual Existence - Rights of the City of Mount Vernon.

The restrictions contained in this Article VI shall exist in perpetuity. No changes in the uses described herein for any of the Common Areas may occur without the advance written approval of the City of Mount Vernon. The City reserves the right to enter upon the Property to inspect the stormwater system and to perform necessary maintenance thereto should the Association fail to do so.

ARTICLE VII

OWNERS ASSOCIATION

7.1. Name and Form of Association.

The name of the Association shall be the "Thunderbird Terrace Community Association." The Association has been or will be incorporated by the Declarant as a non-profit corporation under the laws of the State of Washington. The rights and duties of the members and of said corporation shall be governed by the provisions of the Homeowners Association Act and of this Declaration of Covenants. The Association shall remain organized as a profit or nonprofit corporation. In case of any conflict between Chapter 24.06 RCW, the Nonprofit Miscellaneous and Mutual Corporations Act, and the Homeowners Association Act, Chapter 64.38 RCW, the Homeowners Association Act shall control.

7.2. Powers of Association.

The Association shall have, through its Board of Directors, all powers available to homeowners associations under the Homeowners Association Act, and such additional powers as may be prescribed in the Articles of Incorporation or any Bylaws of the Association.

7.3. Membership and Voting Rights.

The Owner of each Lot in the Community shall be a member of the Association, and such membership shall be an inseparable appurtenance to the Owner's Lot. Membership and voting rights are further specified in the Articles of Incorporation and Bylaws of the Association. Each Lot is entitled to one vote in the Association.

7.4. Bylaws of Association.



Bylaws for the administration of the Association and for other purposes not inconsistent with the Homeowners Association Act and this Declaration of Covenants shall be adopted by the initial Board of Directors of the Association.

## ARTICLE VIII

### MANAGEMENT OF ASSOCIATION

#### 8.1. Management by Declarant.

The Declarant has reserved Special Declarant Rights to (a) appoint and remove the Officers and members of the Board of Directors of the Association, and (b) veto or approve a proposed action of the Board or the Association, for a period of three (3) years, or until all Lots in the Community are sold to purchasers unrelated to the Declarant. See Section 16.6 for further details.

#### 8.2. Authority of the Board.

##### 8.2.1. General Authority.

The Board, for the benefit of the Community and the Owners, shall perform all Upkeep for the Common Areas, shall enforce the provisions of the Governing Documents and shall have all powers and authority granted to the Board or the Association under the Homeowners Association Act and this Declaration of Covenants which are not expressly subject to the approval of the Owners.

##### 8.2.2. Incurring and Payment of Common Expenses.

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

##### 8.2.3. Acquisition of Property.

The Board may acquire 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.

##### 8.2.4. No Business Authority.

Nothing herein contained shall be construed to give the Board authority to conduct an active business for profit on behalf of all of the Owners or any of them.

##### 8.2.5. Board as Attorney in Fact.

Each Owner, by the act of becoming an Owner of a Lot, shall be deemed to have irrevocably appointed the Board of Directors as his or her attorney-in-fact, with full power of substitution, to take such actions as are reasonably necessary to perform the duties of the Association and Board hereunder, including,



but not limited to, the duties to maintain, repair and improve the Property, to grant licenses and easements, and to secure and distribute condemnation awards and/or insurance proceeds affecting the Common Areas.

## ARTICLE IX

### PERMITTED USES

#### 9.1. Permitted Uses.

##### 9.1.1. Residential Use.

The Lots in this Community are intended to be used for residential purposes, whether on an ownership, rental or lease basis and for common social, recreational or other reasonable uses normally incident to such purposes. The Board may permit the use of part of a Dwelling for a professional office or other low impact commercial use, provided that such use is consistent with all applicable laws, ordinances and regulations of any governmental authority, and so long as such use does not generate any appreciable levels of client or customer traffic, noise or other disturbance to other lawful occupants of the Community.

##### 9.1.2. Use of Common Areas.

The Common Areas shall be used only for the furnishing of such services and facilities for which the same are reasonably suited and which are incident to the use and occupancy of the Lots. The improvements located on the Common Areas shall be used only for their intended purposes. Except as otherwise expressly provided in the Governing Documents or Rules and Regulations adopted by the Board, no Owner shall make any private, exclusive or proprietary use of any of the Common Areas.

##### 9.1.3. Trees and Vegetation.

Following the construction of a dwelling structure on a Lot, its Owner(s) shall endeavor to preserve mature trees on the Lot and properly maintain any landscaping vegetation on the Lot, so as to enhance the appearance and value of the Lots in the Community and to prevent the spread of noxious weeds.

##### 9.1.4. Surface Water Run-Off.

No Lot shall be improved in such a way as to cause excess surface water run-off that may damage or inconvenience other Lots or contiguous properties or the owners thereof.

##### 9.1.5. Noise, Offensive or Illegal Activity.

No person shall cause any unreasonably loud noise anywhere in the Community, nor shall any person permit or engage in any noxious, offensive or illegal activity, practice or behavior causing annoyance, discomfort or disturbance to any person lawfully present on any portion of the Property. Quiet hours shall be observed from 11:00 p.m to 6:00 a.m., during which only minimal noise shall be permitted to emanate from any Lot.

##### 9.1.6. Privacy Fencing.



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Fences are permitted but must conform to the style installed by the Declarant, consistent with such further standards as required by the City of Mount Vernon. Any fencing installed by Declarant shall be maintained by the abutting Lot Owners within the Community.

9.1.7. Vehicle Operation and Parking Restrictions.

9.1.7.1. General Restrictions.

Vehicle parking is permitted on portions of the Lot which have been improved for such purposes. A minimum of two off-street parking spaces is required per Lot, which can be accomplished by using the driveway area in front of the garage associated with each Dwelling.

9.1.7.2. No Parking on Shared Driveway.

No vehicle parking is permitted on the shared driveway.

9.1.7.3. Power to Regulate Vehicle Speed and Operation.

The Board shall have the authority to regulate the speed and other aspects of vehicle operation on the private driveway. No motor vehicles may be operated elsewhere in the Common Areas unless permitted by these Covenants or by rules and regulations adopted by the Board.

9.1.8. Signs.

The Association shall continuously maintain "No Parking, Fire Lane" signage on the shared driveway, consistent with requirements of the Mount Vernon Fire Department. Initially, no other sign of any kind, shall be displayed to the public view on or from any Lot or the Common Areas without the prior consent of the Board; provided that this section shall not apply to Declarant or Declarant's agents, nor shall it be deemed to prohibit the Owner of a Lot from displaying a sign for a period of time in which the Lot is for sale or rent. The Board may by resolution establish further policies regarding signs, to reflect the sentiments of the Community while giving due regard to traditional democratic rights of free speech, religion and expression of Persons owning or occupying Lots in the Community. The Board's judgment in such matters shall be conclusive, except to the extent governed by applicable state or federal law.

9.1.9. Underground Utilities.

All utilities are required to be located underground.

9.1.10. Uses by Declarant.

Nothing in the Governing Documents shall be construed to prohibit the Declarant or its designees from using any Lot owned by the Declarant (or any other Lot with the permission of the Owner thereof) or any portion of the Common Areas for promotional, marketing, display or customer service purposes (such as a visitors' center) or for the closing of sales of Lots. Further, the Declarant specifically reserves the right to operate a construction office or a rental, brokerage and management office at any time on Lots owned or leased by the Declarant (or any other Lot with the permission of the Owner thereof) and on any portion of the Common Areas, to the extent permitted by law. The Declarant may assign its rights



under this subsection to or share such rights with one or more other persons, exclusively, simultaneously or consecutively with respect to the Common Areas and Lots owned or leased by the Declarant or such persons.

## ARTICLE X

### ASSESSMENTS AND LIENS FOR COMMON EXPENSES

#### 10.1. Assessments for Common Expenses.

##### 10.1.1. Liability of Lots.

Except as provided in Section 10.1.4 hereof, the total amount of the estimated funds required to pay the Common Expenses of the Association set forth in the Annual Budget adopted by the Board of Directors for the fiscal year shall be assessed equally against the Lots in the manner prescribed in Section 10.2 hereof.

##### 10.1.2. Timing of Payments.

Until changed by resolution of the Board of Directors, the annual Assessment against each Lot for its share of the Common Expenses shall be due and payable on the first day of the month of February of each year. The Board may adopt further payment policies which permit payment in monthly or quarterly installments under conditions to be determined by the Board. Until changed by resolution of the Board of Directors, Assessments against each Lot for its share of the Common Expenses shall be due and payable on the first day of February of each year. The Board may adopt further payment policies which permit payment in installments under conditions to be determined by the Board.

##### 10.1.3. Special Assessments.

The Board of Directors may levy a Special Assessment for the purpose of defraying the cost of any unexpected repair or other nonrecurring contingency, or to meet any other deficiencies in operations or reserves occurring from time to time, but by statute, the Budget Ratification process described in Section 10.2 must be undertaken by the Board with respect to any such Assessment.

##### 10.1.4. Limited Common Assessments.

If any Common Expense is caused by the negligence or misconduct of a Lot Owner, or if the Association provides Upkeep to a Lot, the Association may, subject to the provisions of the Bylaws, levy a Limited Common Assessment for that expense against the Owner's Lot; any other costs, fees, charges, or fines imposed or incurred by the Association associated with the Lot, along with any costs and/or attorney's fees recoverable under the Governing Documents, and interest on any delinquent account shall also be deemed a Limited Common Assessment. Further, by resolution supported by a majority of all possible votes in the Association, the Association may require that any Common Expense or portion thereof benefitting fewer than all of the Lots shall be assessed exclusively against the Lots benefitted.

##### 10.1.5. Owners Personally Liable for Common Ex



Each 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 Assessment is due. Suit to recover a personal judgment for any delinquent 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 by waiver of the enjoyment of the right to use any of the Common Areas 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 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) an Assessment at the rate established for the preceding fiscal year until an Assessment is made under a current Annual Budget or adjusted Annual Budget and notice thereof has been sent to the Lot Owner.

10.2. Annual Budget - Development and Ratification.

10.2.1. Budget for Common Expenses.

Not less than 45 days prior to the Annual meeting of the Association, or at such other time as may be deemed necessary or desirable by the Association's accountant, the Board shall prepare an Annual Budget which shall estimate the Common Expenses, described generally in the Covenants, to be paid during such year. The Budget shall also contain provisions for creating, funding and maintaining reasonable reserves for capital improvements, major repairs and replacements of components of the project for which the Association is responsible, and the amount(s) of any deductible under any insurance policy obtained by the Association. The Budget shall further take into account any expected income and any surplus available from the prior year's operating fund.

10.2.2. Meeting of Association to Ratify Budget.

Within thirty days after adoption of any proposed budget for the Association, the Board of Directors shall provide a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen nor more than sixty days after mailing of the summary. Unless at that meeting the Owners to which a majority of the votes in the Association are allocated reject the budget, the budget is ratified, whether or not a quorum is present. In the event the proposed budget is rejected or the required notice is not given, the periodic budget last ratified by the Unit Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board of Directors. Pursuant to RCW 64.38.025(3), this procedure shall be deemed to govern both general assessments and special assessments.

10.3. 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 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 Assessments that became due prior to such right of possession. Such unpaid 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.

10.4. Lien for Assessments.

The Association shall have a lien on a Lot for any unpaid Assessments levied against a Lot from the time the Assessment is due. 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.

10.5. Perfection of Lien.

Recording of this Declaration of Covenants constitutes record notice and perfection of the lien for Assessments. While no further recording of any claim of lien for 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 in the real property records of the county in which the Community is located.

10.6. Priority of Lien.

A lien under this Section shall be prior to all other liens and encumbrances on a Lot except: (a) Liens and encumbrances recorded before the recording of the Declaration of Covenants; (b) a mortgage on the Lot recorded before the date on which the Assessment sought to be enforced became delinquent; and (c) liens for real property taxes and other governmental assessments or charges against the Lot.

10.7. 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 months. The Association may elect to take a deed in lieu of foreclosure in any such proceeding.

10.8. Limitation of Lien Enforcement.

A lien for unpaid Assessments and the personal liability for payment thereof is extinguished unless proceedings to enforce the lien are instituted within six years after the amount of the Assessments sought to be recovered becomes due.

10.9. Rent Subject to Lien for Assessments.

From the time of commencement of an action by the Association to foreclose a lien for nonpayment of delinquent Assessments against a Lot that is not occupied by the Owner thereof, the Association shall be entitled to the appointment of a receiver to collect from the lessee thereof the rent for the Lots as and when due. If the rent is not paid, the receiver may obtain possession of the Lot, refurbish it for rental up to a reasonable standard for rental Lots in this type of project, rent the Lot or permit its rental to others, and apply the rents first to the cost of the receivership and attorneys' fees thereof, then to the cost of refurbishing the Lot, then to applicable charges, then to costs, fees, and charges of the foreclosure action, and then to the payment of the delinquent Assessments. Only a receiver may take possession and collect rents under this



subsection, and a receiver shall not be appointed less than ninety days after the delinquency. The exercise by the Association of the foregoing rights shall not affect the priority of preexisting liens on the Lot.

10.10. Remedies Cumulative.

The remedies provided are cumulative and the Board may pursue them concurrently, along with any other remedies which may be available under the law although not expressed herein.

ARTICLE XI

INSURANCE MATTERS

11.1. Association's Insurance.

The Board of Directors may obtain and maintain casualty and liability insurance under such terms and for such amounts as shall be deemed necessary by the Board of Directors. Levels of coverage shall be determined annually by the Board of Directors with assistance from the agent of the insurance company affording such coverage.

11.2. Deductible.

The deductible, if any, on any policy of insurance purchased by the Board of Directors, shall be paid by the Association as a Common Expense. Funds to cover the deductible should be included in the Association's operating reserve account.

11.3. Insurance for Lot Owners.

Each Lot Owner should obtain property and personal liability insurance covering the Dwelling and other insurable improvements on the Lot, and providing liability coverage for the Lot and any portions of the Common Areas not covered by the Association's insurance policy

ARTICLE XII

CONDEMNATION

In the event that Common Areas of the Community are become subject to eminent domain proceedings, the Association shall be a necessary party to such proceedings.

ARTICLE XIII

COMPLIANCE WITH LAW AND COVENANTS

13.1. Compliance by Owners and Occupants.



Each Owner and occupant of a Lot shall comply strictly with the provisions of the Governing Documents. All remedies provided the Association in this Article may be enforced against any tenant or other occupant of a Lot.

13.2. Enforcement by Association.

The Board of Directors shall have primary responsibility for maintaining and enforcing compliance with the covenants, conditions and restrictions contained in the Governing Documents.

13.3. Legal Proceedings.

Failure to comply with any of the terms of the Governing Documents shall be grounds for legal relief, including without limitation, actions to recover any sums due for money damages, injunctive relief, foreclosure of the lien for payment of Assessments, or any combination thereof and any other relief afforded by a court of competent jurisdiction, all of which relief may be sought by the Association or, if appropriate, by any aggrieved Owner, and shall not constitute an election of remedies.

13.4. Costs and Attorney's Fees.

The Association shall be entitled to recover any costs and reasonable attorneys' fees incurred in connection with the collection of delinquent Assessments, whether or not such collection activities result in suit being commenced or prosecuted to judgment. In addition, the Association shall be entitled to recover costs and reasonable attorneys' fees if it prevails on appeal and in the enforcement of a judgment. In any other proceeding arising out of an alleged default by an Owner, the prevailing party shall be entitled to recover the costs of the proceeding, and such reasonable attorney's fees as may be determined by the court. In the event that the prevailing party is the Association, the costs and attorney's fees so awarded shall constitute a Special Assessment against the Owner's Lot.

13.5. Late Charges and Interest.

The Board may impose and collect reasonable late charges to encourage prompt payment of Assessments. Until changed by resolution of the Board with advice of counsel, the Board may collect a late charge: (a) when any Assessment or installment thereof is received by the Association more than ten (10) days beyond the due date of such Assessment or installment; (b) in an amount not to exceed the greater of \$25.00 or ten percent (10%) of the amount of said Assessment or installment. Delinquent Assessments shall bear interest from the date of delinquency at the rate of 12% per annum, or the maximum rate permitted under RCW 19.52.020 on the date on which the Assessments became delinquent.

13.6. No Waiver of Rights.

The failure of the Association, the Board of Directors or of an Owner to enforce any right, provision, covenant or condition which may be granted by the Governing Documents or the Act, shall not constitute a waiver of the right of the Association, the Board or the Owner to enforce such right, provision, covenant or condition in the future.

13.7. Remedies Cumulative.



A suit to recover a money judgment for unpaid Assessments may be maintained without foreclosing or waiving the lien securing the same, and a foreclosure may be maintained notwithstanding the pendency of any suit to recover a money judgment. All rights, remedies and privileges granted to the Association, the Board of Directors or any Owner pursuant to any term, provision, covenant or condition of the Governing Documents or the Act shall be deemed to cumulative and the exercise of any one or more thereof shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other privileges as may be granted to such party by the Governing Documents or the Act or at law or in equity.

#### ARTICLE XIV

##### LIMITATION OF LIABILITY

###### 14.1. No Liability for Equipment Failure, Etc.

Except to the extent covered by insurance obtained by the Board pursuant to Article XI, neither the Association nor the Board nor the Declarant shall be liable for any failure of any equipment or services obtained by the Board, or for injury or damage to person or property caused by the elements, or for inconvenience or discomfort resulting from any action taken to comply with any law, ordinance or orders of a governmental authority. No diminution or abatement of liability for Common Expense Assessments shall be claimed or allowed for any such injury or damage, or for such inconvenience or discomfort.

###### 14.2. No Bailment.

Neither the Board of Directors, the Association, any Owner nor the Declarant shall be considered a bailee of any personal property stored or placed on the Common Areas (including property located in vehicles parked on the Common Areas), whether or not exclusive possession of the particular area is given to an Owner for parking or otherwise, nor shall they be responsible for the security of such personal property or for any loss or damage thereto, whether or not due to negligence, except to the extent covered by insurance in excess of any applicable deductible.

#### ARTICLE XV

##### MORTGAGEE PROTECTION

Any representative of a Mortgagee or the institutional insurer of any mortgage may attend and address any meeting which a Lot Owner may attend.

#### ARTICLE XVI

##### EASEMENTS AND SPECIAL DECLARANT RIGHTS

###### 16.1. Easements for Lots and Lot Owners.

###### 16.1.1. In General.



Each Lot has an easement in and through each other Lot and the Common Areas for utilities and for lateral and/or subjacent support.

16.1.2. Specific Easement Shown on Short Plat.

Easements shown on the Short Plat are hereby confirmed. Any easement shown on the Short Plat which benefits one or more Lots in the Community, or which benefits any third parties or any real property not included within the Project, confers various rights and benefits upon such third parties or owner(s) of any such real property, and may also impose obligations upon the Association. Reference should be made to the Short Plat.

16.2. Easement for Association Functions.

There is hereby granted and reserved to the Association, or its duly authorized agents and representatives, such easements as are necessary to perform the duties and obligations of the Association as are set forth in the Governing Documents.

16.3. Easement for Utilities.

A non-exclusive perpetual blanket easement is hereby granted over and through the Property for ingress, egress, installation and Upkeep of any utility lines, pipes, wires, ducts, conduits and/or other facilities and equipment for providing to any portion of the Property utilities of any type, whether public or private; such easement is hereby granted to any person installing or providing Upkeep for such utilities. Any pipes, conduits, lines, wires, transformers or any other apparatus necessary for the provision or metering of any utility may be installed, maintained or relocated where permitted by the Declarant or where approved by resolution of the Board of Directors. See the Short Plat for further details.

16.4. Easement for Emergency Access.

A non-exclusive perpetual easement is hereby granted on, over, under and across the Common Areas to all police, fire, ambulance and other rescue personnel for the lawful performance of their functions during emergencies.

16.5. Easements for Declarant.

The Declarant reserves to itself and its any lawful successors an easement through the Common Areas for any and all activities necessary or desirable to complete the development of the Community or for exercising Special Declarant Rights.

16.6. Special Declarant Rights.

16.6.1. Reservation.

The Declarant has reserved the following Special Declarant Rights for the purpose of furthering and completing the development of the Community: To complete any improvements indicated on the Platting Documents or described earlier in this Declaration of Covenants; to maintain sales offices, management offices, signs advertising the Community, and models on the Property, all in such location or locations as the Declarant may unilaterally determine; to use easements through the Common Areas for the



purpose of making improvements within the Community; and to appoint or remove any Officer or Director of the Association, or to veto or approve a proposed action of the Board or of the Association during the Declarant Control Period described in Section 8.1 hereof; the Declarant shall be deemed to hold a proxy from all Lot Owners during the Declarant Control Period for such purposes.

16.6.2. Status of Special Declarant Rights.

Each Special Declarant Right reserved by Declarant in this Declaration of Covenants has been, is and shall remain an equitable servitude burdening all lands subject thereto and running with such lands. Each Special Declarant Right shall exist for the benefit of the Declarant and/or any assignee of Declarant and/or any successor declarant. Declarant has and shall retain, with respect to each Special Declarant Right, a power coupled with Declarant's interest in said lands.

ARTICLE XVII

AMENDMENT OF DECLARATION OF COVENANTS

17.1. Procedure for Amendment of Declaration of Covenants.

Amendments to the Declaration of Covenants shall be made by an instrument in writing entitled "Amendment to Declaration of Covenants" which sets forth the entire amendment. Except as otherwise specifically provided for in this Declaration of Covenants, any proposed amendment must be approved by a majority of the Board prior to its adoption by the Owners. Except in cases of amendments that may be adopted by the Declarant unilaterally pursuant to Section 17.3 hereof, amendments may be adopted only at a meeting of the Owners if at least 60% percent of the votes in the Association are cast for such amendment, or without any meeting if all Owners have been duly notified and Owners holding at least 60% of the votes in the Association consent in writing to such amendment. In all cases, the amendment when adopted shall bear the acknowledged signature of the President of the Association.

17.2. Recordation Required.

Every amendment to the Declaration of Covenants must be recorded with the County Auditor and is effective only upon recording. An amendment shall be indexed in the name of the Community and shall contain a cross-reference by recording number to the Declaration of Covenants and each previously recorded amendment thereto.

17.3. Amendments by Declarant.

The Declarant may unilaterally adopt and file amendments to the Declaration of Covenants for so long as the Declarant is the Owner of any Lot in the Community or until the expiration of the time limit for the exercise of any Special Declarant Rights reserved by the Declarant.

ARTICLE XVIII

MISCELLANEOUS



18.1. Notices for All Purposes, Delivery.

18.1.1. Any notice permitted or required to be delivered under the provisions of the Declaration of Covenants or the Bylaws may be delivered either personally or by mail, addressed to the person entitled to such notice at the most recent address given by such person to the Board in writing, or to the most recent address known to the Board. Notice to the Owner of any Lot shall be sufficient if mailed to his or her Lot if no other mailing address has been given to the Board. Mailing addresses may be changed from time to time by notice in writing to the Board. Notice to be given to the Association may be given to Declarant until the initial Board has been constituted and thereafter shall be given to the President or Secretary of the Association, or to its Registered Agent.

18.1.2. New Lot Owners must supply their names, addresses and telephone numbers to the Secretary of the Association promptly after conveyance.

18.2. Severability.

The provisions hereof shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision or portion thereof shall not affect the validity or enforceability of any other provision hereof, if the remainder complies with the Act and furthers the common plan of this Community

18.3. No Right of First Refusal.

There is no right of first refusal in the Association limiting or restricting the right of any Lot Owner to sell, transfer or convey his or her Lot.

18.4. Effective Date.

This Declaration of Covenants shall take effect upon recording.

DATED this 27<sup>th</sup> day of April, 2006.

DECLARANT:  
THUNDERBIRD TERRACE, L.L.C.

By  
Its

Manager



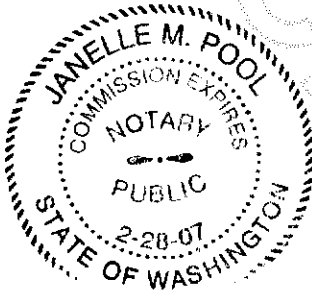
STATE OF WASHINGTON )

) ss.

COUNTY OF SKAGIT )

I hereby certify that I know or have satisfactory evidence that Brian Gentry is the person who appeared before me, and said person acknowledged that he signed this instrument, on oath stated that he was authorized to execute the instrument and acknowledged it as the Manager of the Declarant, THUNDERBIRD TERRACE, L.L.C., to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

DATED: April 27, 2006.



Janelle M. Pool  
NOTARY PUBLIC for the State of  
Washington. My Commission  
expires 02/28/07



**EXHIBIT "A"**

**List of Street Addresses**

**Lot#      Street Address**

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2	1119 N. Waugh Road
3	1115 N. Waugh Road
4	1123 N. Waugh Road
5	1125 N. Waugh Road
6	1127 N. Waugh Road



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Skagit County Auditor

5/3/2006 Page

24 of

24

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