DECLARATION AND COVENANTS, CONDITIONS RESTRICTIONS, EASEMENTS AND RESERVATIONS FOR DERBY DOWNS

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AMENDED AND RESTATED DECLARATION AND COVENANTS, CONDITIONS RESTRICTIONS, EASEMENTS AND RESERVATIONS FOR DERBY DOWNS

THIS AMENDED AND RESTATED DECLARATION AND COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS AND RESERVATIONS FOR DERBY DOWNS (the "Declaration") is made by Juanita Bay, Inc., a Washington corporation ("Declarant") as of this 12th day of February 1996. This Declaration shall supersede, in its entirety that certain Declaration of Covenants, Conditions and Restrictions, recorded January 8, 1988 as under Kitsap County Auditor's File No. 8801080058, as amended by instrument recorded January 8, 1988, under Kitsap County Auditor's File No. 8801080059.[1]

WHEREAS, Declarant is the owner of that certain real property located in Kitsap County, Washington, legally described in Exhibit A (the "Property"); and

WHEREAS, the Property has been subdivided as shown on the Plat of Derby Downs P.U.D. recorded in Volume 25 of Plats, pages 107 and 108, records of Kitsap County, Washington (the "Plat"); and

WHEREAS, George Filler and Evelyn Filler, husband and wife, doing business as Cottingham Farms and Filler Enterprises, own certain real property situate in Kitsap County, Washington, described on Exhibit "B," hereinafter referred to as the "Filler Tract," which is contiguous to the Property and which requires access through the Property, and which, in accordance with the terms of this Declaration, may be annexed to the Property at some time in the future; and

NOW, THEREFORE, in order to preserve the natural beauty of the Property, and to provide for the control of structures to be erected thereon, improvements to be made thereon, and the use thereof in general, the Declarant declares that the Property shall be held transferred, sold conveyed, leased, used and occupied subject to the following covenants, charges, assessments, restrictions, easements, liens and conditions hereinafter set forth which are for the purpose of protecting the value and desirability of and which shall touch and concern and run with title to the Property and which shall be binding on all parties having any right, title or interest in the Property or any portion thereof, and their respective heirs, successors and assigns, and shall inure to the benefit of each owner thereof.

Two of Declarant's primary considerations in the development of and restrictions pertaining to the Property are (i) maintaining to the maximum extent possible the existing natural environment and (ii) creation of a congenial, residential community which accommodates and encourages equestrian-related activities. Design and development of the Property should result in a pastoral equestrian community which incorporates groomed grassed pastures and clean and consistent fence lines, interlaced in a rolling wooded setting. Those who join this community should place high priorities on the preservation and maintenance of those values both in the construction of improvements and ongoing maintenance thereof, and should be committed to

[1] This document is further amended via Amendments #1 (25th June 1998), #2 (12th July 2000), and #3 (3rd March 2003). This document contains only the latest wordings provided by such amendment.

blending the appropriate design relationships of their residences and grounds to the total concept, working harmoniously with other residents to make Derby Downs a beautiful and congenial community.

ARTICLE 1. DEFINITIONS

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

1.1.1 "Association" shall mean Derby Downs Homeowners Association described in Article 7[2] of this Declaration, its successor and assigns.

1.1.2 "Board" shall mean the Board of Directors of the Association, and "Directors" shall mean members of the Board of Directors.

1.1.3 "Common Areas" shall mean the real property (including the improvements and facilities thereon) described as all areas of the Property outside the Lots, including roadways, walkways, parking areas and open space areas shown on the Plat which will be conveyed by Declarant to the Association and held for the common use and enjoyment of the members of the Association, but shall not include any streets or other areas now or hereafter dedicated for public use. Common Areas shall include Tracts A through G, N.E. Triple Crown Drive, Citation Court and Affirmed Lane, all as designated on the face of the Plat.

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

1.1.5 "Declarant" shall mean Juanita Bay, Inc., a Washington corporation, or such successor or assign (including a Participating Builder) as Declarant may designate by a writing recorded in the records of the Auditor of Kitsap County.

1.1.6 "Declaration" shall mean this Amended and Restated Declaration of Covenants, Conditions, Restrictions, and Reservations for Derby Downs, as it may from time to time be amended.

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

[2] Originally this para referred to Article 4 which appears to have been an error. In this document, the reference article has been changed to Article 7 as it seems more likely that this is what was originally intended.

1.1.8 “Lot” shall mean any legally platted plot of land shown upon any recorded subdivision map of the Property, with the exception of the Common Areas.

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

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

1.1.11 “Owner” shall mean the record owner, whether one or more Persons, of fee simple title to a Lot within the Property, including a contract purchaser entitled to beneficial possession.

1.1.12 “Participating Builder” shall mean a Person who acquires from Declarant one or more Lots for the purpose of improving the same for resale to future Owners.

1.1.13 “Person” shall mean an individual, corporation, partnership, association, trustee, or other legal entity.

1.1.14 “Plat” shall mean the recorded plat of Derby Downs P.U.D. and any amendments, corrections or addenda thereto subsequently recorded.

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

1.1.16 “Structure” shall mean any building, fence, wall, driveway, walkway, patio, garage, storage shed carport, mailboxes, swimming pool, rockery, dog run or the like.

1.1.17 “Transition Date” shall be as defined in Section 7.10.

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

Section 1.3 Exhibits. The following are exhibits to this Declaration:

Exhibit A - Legal Description of the Property.

Exhibit B - Legal Description of Filler Tract.

ARTICLE 2. COMMON AREAS AND EASEMENTS.

Section 2.1 Conveyance to Association. Declarant hereby conveys the Common Areas to the Association.

Section 2.2 Use. Each Owner and the Owners of the Filler Tract shall have the right to use the Common Areas in common with all other owners. The right to use the Common Areas shall be appurtenant to and pass with the ownership of each Lot and shall extend not only to each Owner, but also to his agents, tenants, members of his household, invitees, and licensees. The right to use the Common Areas shall be governed by the provisions of this Declaration, the Bylaws, and the rules and regulations of the Association.

Section 2.3 Abandonment of Common Areas. The Common Areas may not be abandoned, partitioned, subdivided, encumbered, sold or transferred by the Association, any Owner or any third party, provided that with the approval of at least 67% of the Owners and compliance with any restrictions on the face of the Plat, the Common Areas may be transferred to or encumbered for the benefit of a public agency, authority, or utility. The granting of easements for utilities or for other purposes consistent with the intended use of the Common Areas by the Owners shall not be deemed a partition or division. Provided, further, that with the approval of at least 67% of the Owners, Tract C of the Common Area may be legally segregated for purposes of locating and constructing an equestrian facility if such segregation is required in order to obtain financing for the facility or for such other purposes reasonably determined by the Board.

Section 2.4 Alteration of Common Areas. Nothing shall be altered or constructed in or removed from any Common Areas except upon the prior written consent of the Board.

Section 2.5 Easements for Utilities. Declarant hereby creates and reserves a 15-foot easement along all front property lines adjoining the private road cul-de-sacs, a 10-foot easement along all other front property lines and a 5-foot easement along all side and rear property lines for the benefit of the Declarant. Should Declarant elect to install a water system or other utility system, the electrical utility company, the telephone company, Washington Natural Gas, cable television franchise, and such other similar public or private utility and drainage users as may be authorized by the Board, all for installation, repair, replacement and operation of the utility services provided by such entities. No structures, except for fences, shall be constructed on any area reserved for these easements. The Board, with the consent of at least 51% of the voting power of the Association, shall be entitled to designate those additional private utilities that shall be entitled to utilize the easement area reserved in this Section 2.5.

Section 2.6 Private Streets. All roads are private within the Plat. After conveyance by Declarant, the Association shall be responsible for maintaining all roads within the Plat. Each Lot shall have an undivided one-sixteenth interest in the right-of-way for the private roads for tax purposes, which proportionate interest shall be adjusted with the annexation of additional property.

Section 2.7 Conditions for Grant of Easements. The easements granted in Section 2.5 are subject to the agreement of grantees to compensate grantor (or grantor's successors and assigns) for any damage to the affected property caused by the exercise of grantee's easement rights; to use reasonable care in carrying out any construction or repair in the easement areas and to restore such areas, to the extent reasonably practicable to the condition they were immediately prior to such works and to indemnify and hold harmless grantor (and grantor's successors and assigns) from any and all claims for injuries and/or damages suffered by any person caused by grantee's exercise of the rights therein granted.

Section 2.8 Reservation of Rights in Declarant. Declarant hereby reserves the right, at Declarant's sole discretion, to grant easements for ingress and egress over and across N.E. Triple Crown Drive to one or more of the owners of Lots 13, 14 and 24 (which may be subdivided into three parcels) in G.O. Snider's 5 and 10 Acre Tracts, per plat recorded in Volume 4 of Plats, page 113, records of Kitsap County, Washington. As consideration for construction and installation of N.E. Triple Crown Drive, Declarant shall be entitled to retain any monetary consideration derived from granting the ingress and egress easements. The grant of easements shall be consistent with the terms of this Declaration and grantees shall be subject to assessments for maintenance, repair and replacement of N.E. Triple Crown Drive, and the easements shall be subject to termination in the event the grantees fail to pay their assessments or otherwise breach the provisions of the easements.

ARTICLE 3. BUILDING DESIGN COMMITTEE

Section 3.1 There is hereby created a Building and Design Committee (the "Design Committee") that shall be responsible for reviewing the plans for all proposed new construction, additions or modifications of Structures within the Plat No Structure shall be Constructed or caused to be Constructed on any Lot unless the Plans for the Structure have been approved in writing by the Design Committee. The Design Committee's approval of any Plans shall not constitute any warranty or representation whatsoever by the Board or any of its members that such Plans were examined or approved for engineering or structural integrity or sufficiency or compliance with applicable governmental laws, codes, ordinances and regulations, and each Owner hereby releases any and all claims or possible claims against the Design Committee or any of them, and their heirs, successors and assigns, or of any nature whatsoever, based upon engineering or structural integrity or sufficiency or compliance with applicable governmental laws, codes, ordinances and regulations. The Design Committee shall be responsible for ascertaining that the plans and subsequent construction meet the minimum building requirements set forth in this Declaration and its primary purpose shall be to assist Owners in achieving compliance with the said building restrictions. The Design Committee shall allow latitude and flexibility in the design of Structures, but shall require that Structures be designed in a compatible and harmonious manner to each other, encouraging design consistent with a "traditional Country Home"

theme, utilizing steep-sloped roofs (primary roof areas a minimum of 6/12 pitch) wide overhangs, porches, etc.

Section 3.2[3] The Design Committee shall consist of no less than three (3) nor more than five (5) members to be appointed by the Board.

Section 3.3 At least 45 days before commencing construction, any Owner seeking to construct a Structure or to add to or modify an existing Structure shall submit two complete sets of detailed building and construction plans and specifications (collectively, "Plans") to the Design Committee for review. Within thirty (30) calendar days thereafter, the Design Committee shall meet to review the Plans. The Design Committee may withhold its approval by reason of its reasonable dissatisfaction with the location of the Structure on the Lot, color scheme, finish, architecture, height, impact on view from another Lot or Lots, appropriateness of the proposed Structure or materials used therein, or inconsistency with the "traditional Country House" theme. Within fifteen (15) days thereafter, the Design Committee shall deliver its decision to the Owner, in writing.

Section 3.4 The Design Committee shall, if it observes deviations or lack of compliance with this Declaration, report said deviations or lack of compliance to the Board for appropriate action.

ARTICLE 4. BUILDING RESTRICTIONS

Section 4.1 The Plat shall consist of single-family Lots and shall be used solely for residential purposes. The Lots shall not be further subdivided.

Section 4.2 All Lots shall be used and improved exclusively for purposes in conformance with this Declaration All Structures shall be consistent with the applicable single-family zoning designation of the City of Bainbridge Island. No Structure shall used for or in connection with multi- family living, except to the extent permitted under applicable zoning laws.

Section 4.3 Any main house Structure shall have a minimum heated floor area exclusive of one-story open porches and garages, which shall be not less than two thousand seven hundred fifty (2,750) square feet Every main house Structure constructed shall have a minimum of at least a two-car garage.

Accessory Structures may be located on each Lot, and may consist of a two-stall barn, attached horse runs and other ancillary spaces, for the boarding of up to two adult horses, and for the storage of feed, farm equipment, trailers, or other uses permitted by applicable zoning laws.

Barns, runs and pastures shall be located and maintained in compliance with separation requirements of all zoning and health department regulations, as

[3] Section 3.2 was replaced via Amendment #4 (24th December 2010). This document shows the up to date version.

applicable to wells, septic systems, and residences. These considerations shall be made not only to existing facilities but also to those proposed on adjoining lots approximately as shown on the Derby Downs Master Plan, so as to not render the primary building site, septic, or well locations on those lots unusable. No wells shall be drilled on any Lot without the prior written consent of Declarant, prior to the Transition Date, or the Design Committee, after the Transition Date. All building and zoning regulations shall be complied with not only with respect to Lots within the Plat, but also with respect to the Filler Tract and any other property located adjacent to the Play including, without limitation, those lots identified in the Derby Downs Master Plan Notwithstanding the foregoing, all Owners in Derby Downs hereby waive the requirement contained in Section 18.36.060 ("Yards") of the City of Bainbridge Island Zoning Code (or as it may be amended) with regard to the 200-foot distance required for confined feeding areas or structures to house livestock from preexisting residences on adjacent properties. All Owners hereby agree such minimum Yard (distance) shall be 100 feet rather 200 feet.

Section 4.4 No main house Structure shall be constructed on any Lot at a cost of less than Three Hundred Thousand Dollars ($300,000), exclusive of the cost of the Lot and site preparation and utility installation costs (the "Base Cost"). For purposes of this Section, "Base Cost" shall mean the actual retail sales price of a home built on speculation, or custom contract price of the Structure to the initial Owner. The Base Cost shall be adjusted based upon the increase in the Consumer Price Index, all Urban Consumers, for the Seattle/Tacoma SMSA, published by the United States Department of Labor, Bureau of Labor Statistics which is in effect June 1, 1995. The corresponding index which is in effect June 1 of the year of commencing construction shall be used as a comparison in determining the amount of the Base Cost increase. If the Index should cease to be published, or should be modified, the most nearly comparable index will be used, or the method of calculating the increase in the Base Cost shall likewise be modified, as elected by Declarant or the Board. Prior to the Transition Date, Declarant retains the sole discretion to modify this provision so as to decrease the minimum cost provided in this section. Declarant also retains the sole discretion to set different Base Costs for the different Lots; specifically, the Base Cost allocated to Lots 2 - 6, inclusive, may be decreased by Declarant due to topographical constraints.

Section 4.5 No accessory Structure shall at any time be used as a temporary or permanent residence or living quarters, unless constructed as living quarters of the same quality as the main house Structure and as permitted under other provisions of this Declaration and applicable zoning regulations.

Section 4.6 Any construction commenced on any Structure shall be completed on the exterior, including all painting, within twelve (12) months from date of commencement of such construction.

Section 4.7 No sign of any kind shall be displayed to public view on any Lot except one sign advertising the property for sale, or a sign which does not exceed six (6) square feet. Notwithstanding the foregoing, during the initial sales and development phase, model home signs, builder, architect, financing and other sales signs may be placed on or about the Lot, which signs shall be limited in size by applicable governmental regulations.

Section 4.8 All Lot Owners shall provide and maintain proper facilities to control stormwater runoff onto adjacent properties and to insure sediments do not enter the natural drainage system, or contaminate wells.

Section 4.9 All Structures shall be constructed in compliance with the pertinent zoning and buildings codes of the City of Bainbridge Island or such other governmental entity as may have jurisdiction at the time of undertaking such buildings and improvements. As an example, and without limitation, all Structures (exclusive of fences and similar structures) shall comply with the minimum building setback lines and bulk and height restrictions, if any.

Section 4.10 All lines or wires for telephone, power, cable television, or otherwise shall be placed underground and no such wires shall be shown on the exterior of any Structure unless the same shall be underground or in a conduit attached to a Structure. No television or radio antenna or other aerial dish, tower or other transmitting or receiving structure or support thereof, shall be erected, installed, placed or maintained unless so erected, installed, placed or maintained such that it is visible from any road or other Common Area, any other Lot, or from the Filler Tract. Small Digital Satellite dishes not in excess of 20” in diameter and as expressly approved as to location and color by the Design Committee shall be permitted.

Section 4.11 No fences shall be constructed except after approval and review by the Design Committee as provided in Article 3. All fences shall be designed and constructed consistent with the Fence Design Criteria as adopted by Design Committee, and in a manner so as to not constitute a nuisance or create an offensive effect upon other persons residing within the Plat Each Lot shall be permitted to have fenced horse pastures or pastures for the grazing of up to two adult horses. All pastures shall be rotated to avoid overgrazing and shall be kept grassed to ensure that run off pollution and erosion will not occur and to maintain a clean and pastoral setting of the highest possible quality.

Section 4.12 No noxious, illegal, or offensive use of property shall be carried on upon any Lot, nor shall anything be done thereon which may be, or become, an annoyance or nuisance to the Plat No grantee or grantees, under any conveyance, nor vendees shall at any time conduct or permit to be conducted on any Lot any trade or business of any description, either commercial or non-commercial, religious or otherwise, including day schools, nurseries, or church schools, nor shall any Lot be used for any other purpose whatsoever except for the purpose of providing a

private, single-family dwelling or residence. Except, however, home offices may be located within the Plat in accordance with single-family zoning regulations of the City of Bainbridge Island.

Section 4.13 No trash, garbage, ashes, or other refuse, junk, vehicles, vehicles in disrepair, underbrush, or other unsightly growths or objects shall be maintained or allowed upon any Lot. All fences and Structures shall be kept in a good state of repair. All Structures shall be painted or stained, from time to time, so as to maintain a reasonable star of repair. All containers must be buried or screened so as not to be visible from any road, other Common Area, other Lot or the Filler Tract.

Barn waste, stall bedding and manure piles shall not be stored on any Lot, except temporarily, and shall be stored or placed in a garage or fully enclosed or fully screened space and in a location where it will not be visible from any road or other Common Area, any other Lot within Derby Downs, or where odors will be detectable or offensive to the other Lot Owners. Notwithstanding the foregoing, an Owner may spread barn waste over pastureland as fertilizer, provided such spreading is done in a manner consistent with established agricultural procedures so as to be spread evenly over pastureland and to minimize odors.

Section 4.14 No boat, boat trailer, horse trailer, house trailer, automobile, recreational vehicle, truck, tractor or other vehicle, or any part thereof shall be stored or permitted to remain on any Lot unless the same is stored or placed in a garage or fully enclosed or fully screened space, in a location where it will not be visible from any road or other Common Area, any other Lot, or from the Filler Tract, except for storage of said vehicles not to exceed fifteen (15) consecutive days in duration, with said temporary occurrences not to exist more than three (3) times in any one calendar year.

Section 4.15 Each Lot Owner shall exercise as much care as is possible to retain natural vegetation, trees, shrubs, and other materials. Each Lot Owner shall, within ninety (90) days of the completion of the main house Structure, landscape all yards fronting on a street, provided, however, that a right to extend the time period for completion of said landscaping may be sought in writing and obtained at the sole discretion of the Design Committee, where there are extenuating circumstances.

Section 4.16 All mailboxes and mailbox holders must be of a standard design accepted by the Design Committee and adhering to the U.S. Postal specifications and must be located as directed by the U.S. Postal Department. All mailboxes shall be maintained and replaced from time to time by the Lot Owner so as to keep the same in a good state of repair at all times. In the event that a community mailbox grouping is established within the Plat each mailbox will conform to the standards so established

Section 4.17 No animals, livestock, or poultry, except horses, shall be raised, bred, or kept on any Lots for commercial purposes. Notwithstanding the same no other animals

except dogs, cats and horses shall be maintained upon the Lots without authority of the Design Committee, which shall have the right to require appropriate fencing or screening and the construction of appropriate shelter so as to protect the Plat from any potential nuisances. No more than two adult horses shall be permitted on each Lot.

Section 4.18. All buildings shall comply with the following standards:

Section 4.18.1 All exterior covering materials on Structures shall be of wood, brick, stone, stucco, glass or architectural concrete, and shall be designed so that the appearance blends and coordinates with the natural surroundings in a pleasing manner. Exterior colors must also blend and coordinate with the natural surroundings. Bright, flashy, UN-NATURAL COLOR SCHEMES ARE NOT PERMITTED.

Section 4.18.2 Exposed concrete block construction is not permitted for any construction except for normal foundations, buried from view. Architectural surfaced and/or tinted in natural tones, may be permitted for retaining walls and exposed foundations.

Section 4.18.3 Bright reflective metal roofs are not permitted. Self-oxidizing copper, corten, lead, zinc or painted metal roofs are permitted, providing that the colors are muted and non-reflective.

Section 4.18.4 Roofs of the main house Structure shall be constructed with a minimum of 6/12 pitch, excluding appurtenances, dormers and porches, which may have a lesser pitch.

Section 4.19[†] Lot Owners shall maintain all trees and shrubs planted by human endeavour on their Lot(s) after the date of recording of the Plat (collectively, "New Trees") so that New Trees shall not exceed twenty-five (25) feet in height above grade at the base of the tree or shrub, if the height in excess of twenty-five (25) feet either (a) blocks an uphill Lot Owner's view from his or her house of the natural terrain across a lower Lot (as opposed to the view of a house on the lower Lot) or (b) at noon on the fall or spring equinox blocks the natural light reaching the Lot of another Lot Owner at a distance twenty-five (25) feet interior to the Lot line of the other Lot Owner (in other words, a protected lot is not to have its natural light shaded, except for the exterior-most twenty-five (25) feet of that protected Lot as measured by a tree at noon on the fall and spring equinox). The intent of this provision is to (a) protect the natural beauty of the Property; (b) provide Lot Owners with protection of their views and light, while allowing New Trees to grow in excess of twenty-five (25) feet if necessary to block an uphill Owner from looking directly from the uphill Owner's house into windows of a house on the lower Lot that contains the subject trees or shrubs, and (c) allow New Trees to

[†] This paragraph was added via Amendment #3 (3rd March 2003)

grow in excess of twenty-five (25) feet if they do not block the views or natural light of adjoining Lot Owners.

If, upon twenty-one (21) days written notice, a Lot Owner does not top or remove New Trees in violation of this Section 4.19, the Association or a Lot Owner affected by such failure to act may hire a licensed arborist to top the New Trees to twenty-five (25) feet or more, and the non-acting Lot Owner shall be obligated to pay the reasonable cost of the topping and clean-up within ten (10) days of receipt of invoice for the costs thereof, plus twelve percent (12%) interest from the date the bill is incurred.

ARTICLE 5. COMMUNITY OPEN SPACE AND AMENITIES

Section 5.1 Prior to the Transition Date, Declarant shall construct an uncovered equestrian facility on the open space tract designated on the Plat as Tract C, for the benefit of the Plat and the Filler Tract, and additional property annexed to the Plat by Declarant in the future. After the equestrian facility is constructed, it shall be conveyed or assigned by Declarant to the ASSOCIATION and accepted by it, and Declarant's obligations related thereto shall be satisfied and shall thereafter terminate.

Section 5.2 Prior to the Transition Date Declarant also shall construct the trails, roads, initial utility extensions and entry monument to be located in the Common Areas. Declarant may, at its sole discretion, elect to construct a water system to service the Plat After completion of construction in accordance with the building standards of the applicable jurisdiction, Declarant shall convey or assign all Common Area Improvements to the Association, and thereafter the Association shall maintain all such Common Area Improvements, together with any other improvements or amenities which may thereafter be constructed, in a safe and attractive condition.

Section 5.3[4] Riding Trails - Indemnification. As part of construction of Common Area Improvements, Declarant has constructed or shall construct riding trails (the "Riding Trails") throughout the Plat. In some instances, portions of the Riding Trails have been or may be constructed upon and over individual Lots, with the permission of the individual Lot Owner. The Association shall indemnify, defend and hold each Lot Owner harmless from and against any and all actions, claims, damages, costs and fees, including reasonable attorney's fees, arising from or in connection with use of the Riding Trails by others, provided, that this indemnification shall not apply to damages to persons or property to the extent caused by the indemnified Lot Owner's gross negligence or willful misconduct. The

[4] Paragraph 5.3 was added via Amendment #1 (25th June 1998).

Association shall maintain commercial general liability insurance in amounts deemed reasonably sufficient by the Board.

Section 5.4[5] Easements for Riding Trails. Declarant hereby grants and conveys to the Association, for the benefit of all Lot Owners, permanent, non-exclusive easements for those portions of the Riding Trails which have been constructed over and upon individual Lots as of the date hereof. With respect to Riding Trails located on individual lots, neither the Association nor Declarant shall have the right to relocate the Riding Trails existing as of the date hereof or construct any additional Riding Trails without the prior written consent of the individual Lot Owner on whose property the applicable Riding Trail is located. [6] All vehicles are prohibited from using the Riding Trails constructed or to be constructed pursuant to Section 5.2 above. This includes the portions of Riding Trails throughout the common areas and individual lots. This prohibition includes, but is not limited to, all-terrain vehicles, motorcycles, off-road vehicles, and similar vehicles, whether or not these vehicles are powered by gas, electricity, or other means. This provision does not apply to the limited use of vehicles for the sole purpose of maintenance of the trails.

Section 5.5[7] All-terrain vehicles, motorcycles driven by persons without a valid driver's license, off-road vehicles, and similar vehicles, whether or not these vehicles are powered by gas, electricity, or other means, are prohibited from using the Common Areas of Derby Downs, as defined in Section 1.1.3.

ARTICLE 6. ROADS, EASEMENTS AND UTILITIES

Section 6.1 Declarant, at Declarant's expense, shall construct all of the private roadways shown on the face of the Plat After completion of construction by Declarant, Declarant shall convey or assign all such roadways to the ASSOCIATION, which shall accept such conveyance or assignment. The ASSOCIATION shall thereafter maintain said roadways in a good and safe condition. All costs for maintenance, operation, repairs and additions, insurance, and costs of any other nature whatsoever shall be the responsibility of the ASSOCIATION. Said roads shall remain private roads and shall not be dedicated or otherwise transferred to the City of Bainbridge Island or any other public entity without the express written consent of Declarant prior to the Transition Date, or a vote of 75% of the Owners after the Transition Date.

[5] Paragraph 5.4 was added via Amendment #1 (25th June 1998).

[6] Paragraph 5.4 was extended at this point via Amendment #2 (12th July 2000).

[7] Paragraph 5.5 was added via Amendment #2 (12th July 2000).

Section 6.2 Lot Owners are obligated to participate in a pro-rata share of any future Road Improvement District formed for improvements to WARDWELL Road, and hereby waive any and all objections thereto.

Section 6.3 There is hereby reserved to George and Evelyn Filler, husband and wife their successors and assigns (collectively, "Filler") for the benefit of the Filler Tract, a perpetual easement for ingress, egress and utility purposes over and under the property designated "Triple Crown Drive" on the Plat, all as more particularly described in that certain Easement wherein Declarant is the Grantor and Filler is the Grantee. Filler shall be obligated to contribute toward the maintenance and repair of Triple Crown Drive, as provided herein.

Section 6.4 There is hereby reserved to Declarant, the ASSOCIATION and Filler, blanket easements upon across, above and under any and all of the Common Areas for access (including for recreational purposes), ingress, egress, installation, improving, repairing, and maintaining utility systems including but not limited water, gas, sanitary sewer, telephone, cable television and electricity, which may be developed by Declarant, the ASSOCIATION, or a Kitsap County Public Utility District to serve the Lots or the Filler Tract.

Section 6.5 If a water or other utility system is constructed by Declarant for the benefit of the Lots, upon completion of construction, which shall be at Declarant's cost Declarant shall convey or assign ownership of such water or other utility system to the ASSOCIATION, which shall accept it. After conveyance by the Declarant, the cost for any expansion, maintenance and repair or replacement of such system(s) 'shall be the responsibility of the ASSOCIATION. The ASSOCIATION shall thereafter maintain in good working condition any and all utility systems transferred to it. Any and all hook-up costs or other charges associated with a utility system that may be constructed by a Kitsap County Public Utility District to serve the Lots shall also be the responsibility of the ASSOCIATION.

Section 6.6[8] "Declaration of Covenants for Water Supplies, Declarant has constructed the water system described in new Section 6.7 (the "Water System"), to which Declarant may make modifications, as more specifically provided therein. No Owner shall construct, maintain, or suffer to be constructed or maintained upon any lot and within 100 feet of any well (with the exceptions of the residences on Lots 15 and 16, which shall maintain a well setback of 75 feet, as allowed by the Bremerton Kitsap County Health District in letters issued February 26, 1996 and May 7, 1996), so long as the wells are operated to furnish water for public consumption as part of the Water System **ANY POTENTIAL SOURCE OF CONTAMINATION INCLUDING BUT NOT LIMITED TO:** dwellings, outbuildings, cesspools, sewers, privies, septic tanks, drainfields, manure piles, fenced pasture, garbage of any kind or description, any enclosure or structures for the keeping or storage of nonbiodegradable fertilizers, liquid or dry chemicals, herbicides or insecticides as

[8] Paragraph 6.6 was replaced via Amendment #1 (25th June 1998). This is the replaced version.

well as any enclosures or structures for the keeping or maintenance of fowl or animals such as barns, chicken houses, rabbit" hutches, pigpens, livestock sheds, and further agree(s) not to use, apply, dispose or suffer to be used, applied or disposed, nonbiodegradable fertilizers, any liquid or dry chemicals, herbicides or insecticides within the above described protective radius.

Each Owner who is connected to a Class B system further covenants and agrees to restrict or manage water flows on their Lot(s) so as to cause the Water System, as it may be modified, to comply with State requirements for Class B systems, which prohibit the following unless a water right permit is obtained from the Department of Ecology (the Class A water right described in Section 6.7): (a) system-wide withdrawal which exceeds water use of 5,000 gallons per day; and (b) irrigation of total property by the system in excess of one-half acre of non-commercial lawn or garden

Section 6.7[9][10] Water System. Declarant shall provide an adequate water supply for single family residential purposes 10 each Lot, by two-party wells, four-party wells, a Class B system, a Class A system, or any combination as Declarant may select. As of the date of this Amendment the water system presently serving the Property consists of the following elements: two two-party wells; a single structure containing two well houses with a common wall; and an underground distribution system which will provide water to individual water meters located on each Lot (the "Water System"). Declarant has submitted an application to the Bremerton-Kitsap County Health District for approval of two Class B systems, System #1 serving Lots 1 through 10, and System #2 serving Lots 11 through 16. Each Class B system, if approved, will serve six (6) Lots, requiring four (4) of the Lots within System #1 to be supplied by a supplemental water source consisting of a third Class B system or individual or two-party wells (the "Supplemental System"). The allocation of which six lots shall be served by the approved Class B System #1, and which of the additional four Lots shall be served by which Supplemental System, shall be at the sole discretion of Declarant. In addition to an application for approval of two Class B systems, Declarant has also applied for a Class A water right At such time as the Class A water right is approved, whether prior to or after the Transition Date, Declarant or the Association, as applicable, shall intertie System #1 and System #2 into a Class A water system; provided, however: (1) the engineering and planning requirements imposed by the State Department of Health and the Bremerton-Kitsap County Health District as of the date of approval of the Class A water right are substantially the same as those contained in the approval of the Derby Downs #1 and Derby Downs #2 Intertie Plan dated as of June 12, 1996; and (2) Declarant has not previously installed the Supplemental System or any portion thereof. As of the date of this Sixth Amendment, one Class B

[9] Section 6.7 was added via Amendment #1 (25th June 1998).

[10] Section 6.7 was modified via Amendment #4 (24th December 2010) and again via Amendment #6 (9th December 2014)

system ("System 1") serves Lots 2, 3, 4, 7, 8 and 9 and one Class B system ("System 2") serves Lots 11, 12, 13, 14, 15 and 16. With the permission of the Kitsap County Public Health District, System 1 also is currently providing water service to Lot 1, in anticipation of the water system becoming a Group A Community Water System.

The Association has been granted a Water Right Permit (GI-27465) for the Derby Downs water system. As of the date of this Sixth Amendment, action is being taken to (1) obtain a final water right in accordance with the conditions of the Permit, (2) intertie System 1 and System 2 into a consolidated system, and (3) convert the water system to a Group A Community Water System. In accordance with the conditions of the Permit, customers (Lot Owners) served by the Derby Downs water system are barred from installing individual or group domestic water wells that are exempt from permitting under RCW 90.44.050

Section 6.8[11] Notice to Prospective owners Whose Lots Will Be Connected to a Class B System. For those prospective (future) Owners whose Lots shall be connected to a Class B system, the design flow standards account for domestic use and watering of a typical lawn and garden space only. The design assumes that all residences will be equipped with ultra-low flow plumbing fixtures and that all users will keep conservation in mind whenever they use this System. Public water systems are subject to on-going requirements. These include periodic water quality monitoring, system maintenance and various records keeping, all of which shall be the responsibility of the Association after the Transition Date, and the responsibility of the Declarant, prior to the Transition Date. Prior to purchasing their Lot, each prospective owner is encouraged to contact the Department of Ecology to determine whether the Class B System is in compliance with applicable regulations. Fees may be charged by the Department for providing various services. The Department maintains current information on the Class B System to expedite retrieval of information for the use of prospective owners or for use of lending institutions which require information on the System as part of their loan approval process. Each time information changes, such as a change in the number of homes connected to the Class B System, a change in owner/operator name, address or phone number, etc., the owner of the Class B System must submit an updated Water Facilities Report Form to the Department. Class B public water systems are not required to have back-up facilities to cover power outages or other system failures. Prospective owners are encouraged to contact the Declarant or the Association, as applicable, as system owner for information regarding the reliability of the Class B System. As of the date of recording this Amendment, the Declarant, the System owner, anticipates monthly charges to each lot Owner to be from $30.00 - $40.00 per month, depending on usage, which shall include charges to properly operate and maintain the Class B System in compliance with state and

[11] Section 6.8 was added via Amendment #1 (25th June 1998).

local drinking water regulations. Current information on costs is available from the Declarant or after the Transition Date, from the Association

Section 6.9[12] Billing for Water. Each Owner who is connected to a Class B system agrees to have water usage metered and recorded for billing purposes. The Board has the right to employ a third party to read meters, and bill Lot owners on a monthly, or bi-monthly basis. Fees collected will be used for well operating expenses to cover electricity, repairs, propane and other operating services. Monies collected but not used for operations will be accrued in a reserve fund for Capital improvements. Failure to pay water usage fees 15 days after bill is due will result in late charges. These charges will be at the rate of 12% per annum. If bills for water usage aren't paid in two consecutive billing periods, the Board has the right to authorize water shut-off and disconnection from the system. If the Association is charged a fee for disconnecting water access, that fee, along with all past due water charges, must be paid by the lot owner before reconnection can occur.

ARTICLE 7. DERBY DOWNS HOMEOWNERS ASSOCIATION.

Section 7.1 Form of Association. The Owners of Lots within the Property shall constitute the members of Derby Dons Homeowners Association, a Washington nonprofit corporation to be formed by Declarant. The rights and duties of the members and of the Association shall continue to be governed by the provisions of this Declaration, and the Association's Articles of Incorporation and Bylaws.

Section 7.2 Board of Directors. The affairs of the Association shall be governed by a Board of Directors (the "Board"). The initial Board shall be as described in the Articles of Incorporation of Derby Downs Homeowners Association and shall serve until the Transition Date. After the Transition Date, the Board shall consist of such numbers of members as provided for in the Articles of Incorporation and Bylaws of the Association. Subject to any specific requirements hereof, the Board shall have authority to establish operating rules and procedures. In the event of death or resignation of any member or members of the Board, the remaining member or members, if any, shall have full authority to appoint a successor member or members. Members of the Board shall not be entitled to any compensation for services performed as Directors pursuant to this Declaration Upon the Transition Date and without further action by any person or persons, (i) the term of the initial Directors or their successors shall end, and (ii) the initial Directors and their then successors shall be released from any and all liability whatsoever for claims arising

[12] Section 6.9 was added via Amendment #4 (24th December 2010)

out of or in connection with this Declaration, excepting only claims arising prior to the Transition Date.

Section 7.3 Qualification for Membership. Each owner of all or a portion of the fee interest in a Lot (including Declarant) shall be a member of the Association. The persons constituting an Owner shall be entitled to one vote for each Lot owned; provided, that if a Lot has been sold on contract, the contact purchaser shall exercise the rights of an Owner for purposes of the Association and this Declaration except as hereinafter limited, and shall be the voting representative unless otherwise specified. Ownership of a Lot shall be the sole qualification for membership in the Association

Section 7.4 Transfer of Membership. The Association membership of each person constituting an Owner (including Declarant) shall be appurtenant to the Lot giving rise to such membership, and, except as specifically permitted herein, shall not be assigned, transferred, pledged, hypothecated, conveyed, or alienated in any way except upon the transfer of title to the Lot and then only to the transferee of title to the Lot Any attempt to make a prohibited transfer shall be void Any transfer of title to a Lot shall operate automatically to transfer the membership in the Association to the persons constituting the new Owner.

Section 7.5 Number of Votes. The total voting power of the Association at any given time shall equal the number of Lots included within the Property at that time, together with such Filler Tract lots whose owners have elected to use all or some of the Common Areas, all as more particularly described in Article 12. Each Owner of a Lot or Lots (including Declarant and including the Filler Tract lot owners) shall be entitled to one vote for each Lot owned.

Section 7.6 Voting. If a Lot is owned by more than one person and only one of them is present or represented at a meeting, the one who is present or represented will represent the Owner. The vote for a Lot must be cast as a single vote, and fractional votes shall not be allowed. If joint owners are unable to agree among themselves how their vote shall be cast, they shall lose their right to vote on the matter in question. An Owner may, by written notice to the Board, designate a voting representative for the Lot. The designated voting representative need not be an Owner. The designation may be revoked at any time by written notice to the Board from a Person having an ownership interest in a Lot, or by actual notice to the Board of the death or judicially declared incompetence of any person with an ownership interest in the Lot, except in cases in which the Person designated is a Mortgagee of the Lot. This power of designation and revocation may be exercised by the guardian of an Owner, the attorney-in-fact for the Owner under a durable power of attorney, and the administrator or executor of an Owner's estate. If no designation has been made, or if a designation has been revoked and no new designation has been made, the voting representative of each Lot shall be the group composed of all of its owners.

Section 7.7 Pledged Votes. An Owner may, but shall not be obligated to, pledge his vote on all issues or on certain specific issues to a Mortgagee; provided, however, that if an Owner is in default under a Mortgage on his Lot for 90 consecutive days or more, the Owner's Mortgagee shall automatically be authorized to declare at any time thereafter that the Owner has pledged his vote to the Mortgagee on all issues arising after such declaration and during the continuance of the default. If the Board has been notified of any such pledge to a Mortgagee, only the vote of the Mortgagee will be recognized on the issues that are subject to the pledge.

Section 7.8[13] Annual and Special Meetings. There shall be an annual meeting of the members of the Association in the last quarter of each fiscal year at such reasonable place and time as may be designated by written notice from the Board delivered to the Owners no less than 30 days before the meeting. At the first such meeting, and at each annual meeting thereafter, the Owners shall elect by majority vote individuals to serve as Directors until a successor is elected at the next annual meeting. Each Lot shall be entitled to one vote for each Director and the voting for Directors shall be non-cumulative. The financial statement for the current fiscal year and the budget the Board has approved for the pending fiscal year shall be presented at the annual meeting for the information of, and ratification by, the members. Special meetings of the members of the Association may be called at any time upon not less than 14 days prior written notice to all Owners, for the purpose of considering matters which require the approval of all or some of the Owners, or for any other reasonable purpose. Any First Mortgagee of a Lot may attend or designate a representative to attend the meetings of the Association

Section 7.9 Books and Records. The Board shall cause to be kept complete, detailed, and accurate books and records of the receipts and expenditures (if any) of the Association, in a form that complies with generally accepted accounting principles. The books and records, authorizations for payment of expenditures, and all contracts, documents, papers, and other records of the Association shall be available for examination by the Lot Owners, Mortgagees, and the agents or attorneys of either of them during normal business hours and at any other reasonable time or times.

Section 7.10 Transition Date. The "Transition Date" shall be the date control of the Board passes from the initial Board to the Association. Prior to the Transition Date, Declarant shall be entitled to exercise all rights and powers of the Board and the Association. At Declarant's option, the Transition Date will be either: (i) the date designated by Declarant in a written notice to the Owners, which date may be by Declarant's election any date after this Declaration has been recorded; or (ii) the 120th day after Declarant has transferred title to purchasers of all Lots in the Property. For purposes of the foregoing clause (ii) transfer of title to a Lot by Declarant to any

[13] Paragraph 7.8 was replaced via Amendment #1 (25th June 1998) and then again via Amendment #4 (24th December 2010). This is the most up to date version

Participating Builder shall be disregarded and title to any Lot owned by Participating Builder shall not be deemed transferred for purposes of determining the Transition Date until the Lot is further transferred by Participating Builder to a purchaser who is not either a Participating Builder or Declarant.

ARTICLE 8. NOTICES FOR ALL PURPOSES.

All notices given under the provisions of this Declaration or rules or regulations of the Association shall be in writing and may be delivered either personally or by mail (including e-mail). If delivery is made by postal mail, the notice shall be deemed to have been delivered on the third day of regular mail delivery after a copy has been deposited with the USPS, first class, postage prepaid, addressed to the Person entitled to such notice at the most recent address known to the Board. If delivery is made by e-mail, the notice shall be deemed to have been delivered two days after having been sent. Mailing addresses (including e-mail addresses) shall be provided to the Board and may be changed by notice in writing to the Board. The Board Secretary shall insure that all Lot owners have a current list of the addresses (including e-mail) of all owners. Notices to the Board may be given or mailed to any Director.

ARTICLE 9. AUTHORITY OF THE BOARD.

Section 9.1 Adoption of Rules and Regulations. The Board is empowered to adopt, amend, and revoke on behalf of the Association detailed administrative rules and regulations necessary or convenient from time to time to insure compliance with the general guidelines of this Declaration to promote the comfortable use and enjoyment of the Property and to govern the operation and procedures of the Association. The rules and resolutions may, without limitation, authorize voting by proxy or mail, or both, on Association matters. The rules and regulations of the Association shall be binding upon all Owners and occupants and all other persons claiming any interest in the Property.

Section 9.2 Enforcement of Declaration. Etc. The Board shall have the power to enforce the provisions of this Declaration, and the rules and regulations of the Association for the benefit of the Association. The failure of any Owner to comply with the provisions of this Declaration or the rules and regulations of the Association will give rise to a cause of action in the Association (acting through the Board) and any aggrieved Lot Owner for recovery of damages, or injunctive relief, or both if a legal action is brought to interpret or enforce compliance with the provisions of this Declaration, or the rules or regulations of the Association, the prevailing party shall be entitled to judgment against the other party for its reasonable expenses, court costs, and attorneys' fees in the amount awarded by the Court.

Section 9.3 Goods and Services. The Board shall acquire and pay for a common expenses of the Association all goods and services reasonably necessary or convenient for the efficient and orderly functioning of the Association and maintenance of all portions

of the Common Areas not maintained by public utility companies or a governmental entry and of any planter islands within the Snohomish County Right of Way inside the Plat The goods and services shall include (by way of illustration and not limitation) utility services for the Common Areas; policies of insurance; and maintenance, repair, landscaping, gardening and general upkeep of the Common Areas. The Board may hire such employees as it considers necessary.

Section 9.4 Protection of Common Areas. The Board may spend such funds and take such action as it may from time to time deem necessary to preserve the Common Areas, settle claims, or otherwise act in what it considers to be the best interests of the Association.

ARTICLE 10. BUDGET AND ASSESSMENT FOR COMMON EXPENSES.

10.1[14] Fiscal Year; Budget. The Board may adopt such fiscal year for the Association as it deems to be convenient. Unless another year is adopted, the fiscal year will be the calendar year. As soon as the Board in its discretion deems advisable after formation of the Association, and prior to the expiration each fiscal year thereafter, the Board shall establish a budget for the Association, which shall include, without limitation, the costs of maintaining the Common Area during the ensuing fiscal year, and shall mail a summary of the budget to all the owners. Within thirty days after adoption by the Board, the Board 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 of a majority of the votes in the Association are allocated or any larger percentage specified in the Articles or Bylaws reject the budget, in person or by proxy, 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 Owners shall be continued until such time as the Owners ratify a subsequent budget proposed by the Board. The Board shall then assess each Lot within the Property with its pro-rata share, based upon the number of Lots then within the Property, of such estimated costs. The Treasurer, with the Board's approval, may require the Lot Owners to pay the amount assessed in equal monthly, quarterly, semi-annual installments, or in a lump sum annual installment. The Board shall notify each Lot Owner in writing at least ten days in advance of each assessment period of the amount of the assessment for said period, which notice shall be accompanied by a copy of the budget upon which the assessment is based. The assessments levied by the Board shall be used exclusively to promote the recreation, health, safety and welfare of the lot Owners and for the improvement and maintenance of the Common Areas and provision of other goods and services described in Section 9.3.

[14] Section 10.1 was replaced via Amendment #1 (25th June 1998) and then modified by Amendment #4 (24th December 2010). This is the updated version

Section 10.2 Certificate of Unpaid Assessments. Any failure by the Board or the Association to make the budget and assessments hereunder before the expiration of any fiscal year for the ensuing fiscal year shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the owners from the obligation to pay assessments during that or any subsequent year, and the assessment amount and payment method established for the preceding fiscal year (if any) shall continue until a new assessment is established. Upon the request of any Owner or Mortgagee or prospective owner or prospective Mortgagee of a Lot, the Board will furnish a statement of the amount, if any, of unpaid assessments charged to the Lot. The statement shall be conclusive upon the Board and the Association as to the amount of such indebtedness on the date of the statement in favor of all purchasers and Mortgagees of the Lot who rely on the statement in good faith. All assessments and other receipts received by the Association shall belong to the Association.

Section 10.3 Initial Contribution, Annual Assessments. Each Lot Owner, at the time of purchase of his/her lot, shall make a start-up contribution to the Association in the amount of $300 (which shall supplement annual assessments to reimburse Declarant for maintenance and operating expenditures during the house sales period). The initial annual assessment shall be in addition to the start-up fee and shall be prorated for any partial year at the time of purchase of the Lot.

Section 10.4 Special Assessments; 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, reconstruction, repair or replacement of the Improvements upon the Common Area or any other area owned or required to be maintained by the Association, provided that such assessment shall be approved by a majority of the members voting at a meeting duly called for such purpose.

ARTICLE 11. LIEN AND COLLECTION OF ASSESSMENTS.

Section 11.1 Assessments Are a Lien: Priority. All unpaid sums assessed by the Association for the share of the common expenses chargeable to any Lot and any sums specially assessed to any Lot under the authority of this Declaration shall constitute a lien on the Lot end all its appurtenances from the date the assessment becomes due and until fully paid. The lien for such unpaid assessments shall be subordinate to tax liens on the Lot in favor of any assessing unit and/or special district, and/or all sums unpaid on all First Mortgages of record, but, to the extent permitted by applicable law, shall have priority over all other liens against the Lot. A First Mortgagee that obtains possession through a Mortgage foreclosure or deed of trust sale, or by taking a deed in lieu of foreclosure or sale, or a purchaser at a foreclosure sale, shall take the Lot free of any claims for the share of common expenses or assessments by the Association chargeable to the Lot which became

due before such possession, but will be liable for the common expenses and assessments that accrue after the taking of possession. The Lot's past-due share of common expenses or assessments shall become new common expenses chargeable to all of the Lot Owners, including the Mortgagee or foreclosure sale purchaser and their successors and assigns, in proportion to the number of Lots owned by each of them Notwithstanding any of the foregoing, however, the Owner and the real estate contact purchaser shall continue to be personally liable for past due assessments as provided in Section 11.3. For purposes of this Section, "Mortgage" does not include a real estate contract and "Mortgagee" does not include the vendor or the assignee or designee of a vendor of a real estate contract.

Section 11.2 Lien May Be Foreclosed. The lien for delinquent assessments may be foreclosed by suit by the Board, acting on behalf of the Association, in like manner as the foreclosure of a mortgage of real property. The Board, acting on behalf of the Association, shall have the power to bid in the Lot at the foreclosure sale and to acquire and hold lease, mortgage, and convey the same.

Section 11.3 Assessments are Personal Obligations. In addition to constituting a lien on the Lot, all sums assessed by Association chargeable to any Lot together with interest, late charges, costs and attorneys' fees in the event of delinquency, shall be the joint and several personal obligations of the Owner and any contract purchaser of the Lot when the assessment is made and their grantees. Suit to recover personal judgment for any delinquent assessments shall be maintainable without foreclosing or waiving the liens securing them

Section 11.4 Late Charges and Interest on Delinquent Assessments. The Board may from time to time establish late charges and a rate of interest to be charged on assessments delinquent for a period of more than 10 days after the date when due. In the absence of another established, nonusurious rate, delinquent assessments shall bear interest at the rate of 12% per annum. If an installment on an assessment against a Lot is not paid when due, the Board may elect to declare the entire assessments against the Lot for the remainder of the fiscal year to be immediately due and payable.

Section 11.5 Remedies Cumulative. The remedies provided herein are cumulative and the Board may pursue them, and any other remedies which may be available under law although not expressed herein, either concurrently or in any order.

Section 11.6 No Avoidance of Assessments. No Owner may avoid or escape liability for assessments provided for herein by abandoning his or her Lot.

ARTICLE 12. PAYMENT OF ASSESSMENTS BY OWNERS OF FILLER TRACT.

The Owners of the Filler Tract, jointly and severally, are hereby granted the right to use the Common Areas, at their sole discretion. For so long as the Common Areas are used by the

Owners of the Filler Tract, the Owners of the Filler Tract shall be obligated to pay assessments in the same manner as the Lot Owners, as provided in Article 10 of this Declaration. The amount of the assessments paid by the owners of the Filler Tract shall be in proportion to the Lots developed within the Filler Tract (if all Lots are owned by the same owner, one assessment shall be due and owing; if individual lots are sold to different owners, all such owners will be subject to an assessment). The amount of the assessment shall be the equal to the amount of the assessments paid by the owners of Lots within the Plat. One or more of the Owners of the Filler Tract may, at any time at their sole discretion, by written notice to the Board, elect to relinquish their use of one or more of the Common Areas. In such event, they will no longer be subject to assessments as provided herein, or shall be subject only to proportionate assessments allocable to those Common Areas actually used. This election shall terminate in the event the Filler Tract is annexed to the Plat, at which time all Owners of the Filler Tract shall become members of the Association. The Association may enforce collection of assessments against the owners of the Filler Tract in the same manner as provided herein for collection of assessments against Lot Owners. In addition, the Association, at its sole discretion, may elect to terminate the right of a delinquent Owner in the Filler Tract to use the Common Areas together with their right to vote, by providing notice of termination no sooner than 20 days after notice certificate of unpaid assessments. Those Owners of the Filler Tract lots who have elected to use some or all of the Common Areas shall be entitled to vote on the Directors of the Board in the same manner as the Lot Owners, and shall be provided notice of all meetings in the same manner as provided the Lot Owners. Each owner of a lot within the Filler Tract shall be allocated one vote.

[15]ARTICLE 12A. OTHER USERS OF TRIPLE CROWN DRIVE.

Owners of properties on Secretariat Lane NE, but not in the Filler Tract, may wish to use NE Triple Crown Drive for access to their properties and may also wish to use other common areas. Such requests should be submitted in writing to the Board. With agreement of the Board, use will be authorized, and assessments, and the rights to relinquish such use, will be the same as those provided to Owners of the Filler Tract as discussed in Article 12. This authorization may be revoked by the Board with notification to the users.

ARTICLE 13. FAILURE OF BOARD TO INSIST ON STRICT PERFORMANCE NO WAIVER.

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

[15] ARTICLE 12A was added via Amendment #4 (24th December 2010)

ARTICLE 14. LIMITATION OF LIABILITY.

So long as a Director, or Association member, or Declarant, acting on behalf of the Board or the Association, has acted in good faith, without willful or intentional misconduct, upon the basis of such actual information as is then possessed by such Person, then no such Person shall be personally liable to any Owner, or to any other Person, including the Association, for any damage, loss, or prejudice suffered or claimed on account of any act, omission, error, or negligence of such Person; provided that this Article shall not apply to the extent the liability of such person for such act, omission, error, or negligence is covered by any insurance actually obtained by the Board.

ARTICLE 15. INDEMNIFICATION.

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

ARTICLE 16. INSURANCE

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

ARTICLE 17. DAMAGE AND REPAIR OF DAMAGE TO PROPERTY.

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

ARTICLE 18. AMENDMENTS OF DECLARATION.

After the Transition Date, any Lot Owner may propose amendments to this Declaration to the Board. A majority of the members of the Board may cause a proposed amendment to be submitted to the members of the Association for their consideration. If an amendment is proposed by Owners of 20% or more of the Lots, then, irrespective of whether the Board concurs in the proposed amendment, it shall be submitted to the members of the Association for their consideration at their next regular or special meeting for which timely notice may be given. Notice of a meeting at which an amendment is to be considered shall include the text of the proposed amendment. Amendments may be adopted at a meeting of the Association or by written consent of the requisite number of Persons entitled to vote, after notice has been given to all Persons entitled to receive notice of a meeting of the Association. The unanimous consent of all Owners shall be required for adoption of an amendment changing the voting power or portion of assessments appurtenant to each Lot. All other amendments shall be adopted if approved by at least 67% of all Lot Owners. Once an amendment has been adopted by the Association, the amendment will become effective when a certificate of the amendment, executed by a member of the Board, has been recorded in the real property Records of Kitsap County, Washington.

ARTICLE 19. ANNEXATION AND SUBDIVISION.

Residential property other than Common Areas may be annexed or added to the Property by Declarant at any time prior to the Transition Date. Thereafter, residential property other than Common Areas may be annexed or added to the Property only with the consent of 67% of the Lot Owners. No Lot shall be subdivided or combined without the approval of all Lot Owners.

ARTICLE 20. DURATION.

The covenants, conditions, and restrictions of this Declaration shall run with and bind the Property and shall inure to the benefit of and be enforceable by the Owners, their respective legal representatives, heirs, successors, and assigns, for a period of 15 years from the date this Declaration is recorded, after which time the covenants, conditions and restrictions shall be automatically extended for successive periods of 10 years each unless an instrument signed by a majority of the then Owners has been recorded agreeing to terminate the covenants, conditions and restrictions.

ARTICLE 21. RESERVATION OF DECLARANTS RIGHT TO AMEND.

Section 21.1 Amendment by Declarant. Declarant reserves the right to amend the Declaration as may be necessary to comply with Federal Home Loan Mortgage Corporation (“FMC”) or Federal National Mortgage Association (“FNMA”) or Federal Housing Administration (“FHA”) regulations or requirements as necessary to enable the holders of first mortgages or deeds of trust to sell first mortgages or deeds of trust to FHLMC or FNMA or if such amendment is necessary to secure funds or financing provided by, through or in conjunction with FHLMC or FNMA or FHA or, if such amendment is necessary, in Declarant’s sole opinion, for the efficient functioning of the Association, the Property, or the Plat

Section 21.2 Authorization to Amend. If Declarant, at its option, determines that it is necessary so to amend the Declaration, then Declarant, on behalf of all Lot Owners in the Association, is hereby authorized to execute and to have recorded (or filed, in the case of the Articles) said required amendment or amendments. All Lot Owners hereby grant to Declarant a full and complete power of attorney to take any and all actions necessary to effectuate and record said amendment or amendments and agree that said amendment or amendments shall be binding upon their respective Lots and upon them and their heirs, personal representatives, successors and assigns to the same extent as if they had personally executed said amendment or amendments. All Lot owners hereby acknowledge and agree that the power of attorney granted herein shall be deemed coupled with an interest and shall be irrevocable.

Section 21.3 Duration. Declarant's rights under this Article 21 shall exist only until the Transition Date.

ARTICLE 22. SEVERABILITY.

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

ARTICLE 23. EFFECTIVE DATE.

This Declaration shall be effective upon recording.

ARTICLE 24. ASSIGNMENT BY DECLARANT.

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

[16]ARTICLE 25. LEASE OF LOTS

Section 25.1 Leases to Be in Writing. All agreements for the lease or rental of any Lot within the Property shall be in writing. Copies of all leases and rental agreements shall be delivered to the Association before the tenancy commences.

Section 25.2 General Leasing Rules. All leases or rental agreements for Lots within the Property shall provide that such leases or rental agreements shall be subject in all respects to the provisions of the Declaration and the Bylaws and rules and regulations of the Association and that any failure by the tenant to comply with

[16] ARTICLE 25 was added via Amendment #5 (9th November 2011)

the terms of such documents, rules and regulations shall be a default under the lease or rental agreement. All leases and rental agreements shall further provide that the tenant shall be jointly and severally liable with the Owner of the leased Lot for all assessments of the Association assessed during the term of the lease or rental agreement. If any lease or rental agreement subject to this Article 25 does not contain the foregoing provisions, such provisions shall nevertheless be deemed to be part of the lease or rental agreement and binding upon the tenant and the Owner of the leased Lot by reason of being stated in the Declaration pursuant to this Amendment.

Section 25.3 Association's Right to Enforce Declaration, Bylaws and Rules And Regulations Of The Association. If any tenant violates or permits the violation by his guests or invitees of any provisions of the Declaration, the Bylaws or the rules and regulations of the Association, the Board may give notice to the tenant and to the Owner to forthwith cease such violations, and if the violation is thereafter repeated, the Board shall have the authority, on behalf and at the expense of the Owner, to evict the tenant if the Owner fails to do so after thirty (30) days notice from the Board. The Board shall have no liability to a tenant or an Owner for any eviction made in good faith. The Association shall have a lien against the Owner's Lot for any costs incurred by it in connection with such eviction, including reasonable attorney 's fees, which may be collected and foreclosed by the Association in the same manner as assessments are collected and foreclosed.

Section 25.4 Pledge of Rents. If a Lot is leased or rented by its Owner, the rent is hereby pledged and assigned to the Association as security for any assessments or other amounts owed to the Association by the Owner, and the Association may collect and the tenant shall pay over to the Association, so much of the rent for such Lot as is required to pay any assessments or other amounts due the Association under the Declaration, plus interest, costs, fees, and expenses, including attorney's fees, incurred by the Association, if the same are in default over thirty (30) days. The tenant shall have no right to question payment due the Association and such payment by the tenant will discharge the tenants' duty of payment to the Owner for rent to the extent such rent is paid to the Association pursuant to this Article 25, but will not discharge the liability of the Owner and the Lot for any further assessments or other amounts owing the Association, nor shall it operate as an approval of the lease or rental agreement.

Section 25.5 Applicability. The terms and conditions of this Article 25 shall apply to all leases or rental agreements entered into after (the effective date of this Amendment), and to all renewals or extensions of any leases or rental agreements already in existence as of that date.

EXHIBIT A. LEGAL DESCRIPTION OF THE PROPERTY

Lots 1 through 16, inclusive, and Tracts A through G (Common Areas) and N.E. Triple Crown Drive, Citation Court and Affirmed Lane, all as shown on the Plat of Derby Downs PUD, according to Plat recorded in Volume 25 of Plats, pages 107 and 108, records of Kitsap County, Washington.

Tax Parcels :

5081 - 000-001-0000	5081 - 000.009.0002	5081 - 000.017.0002
5081 - 000-002-0009	5081 - 000.010.0009	5081 - 000.018.0001
5081 - 000.003.0008	5081 - 000.011.0008	5081 - 000.019.0000
5081 - 000.004.0007	5081 - 000.012.0007	5081 - 000.020.0007
5081 - 000.005.0006	5081 - 000.013.0006	5081 - 000.021.0006
5081 - 000.006.0005	5081 - 000.014.0005	5081 - 000.022.0005
5081 - 000.007.0004	5081 - 000.015.0004	5081 - 000.023.0004
5081 - 000.008.0003	5081 - 000.016.0003	5081 - 000.024.0003

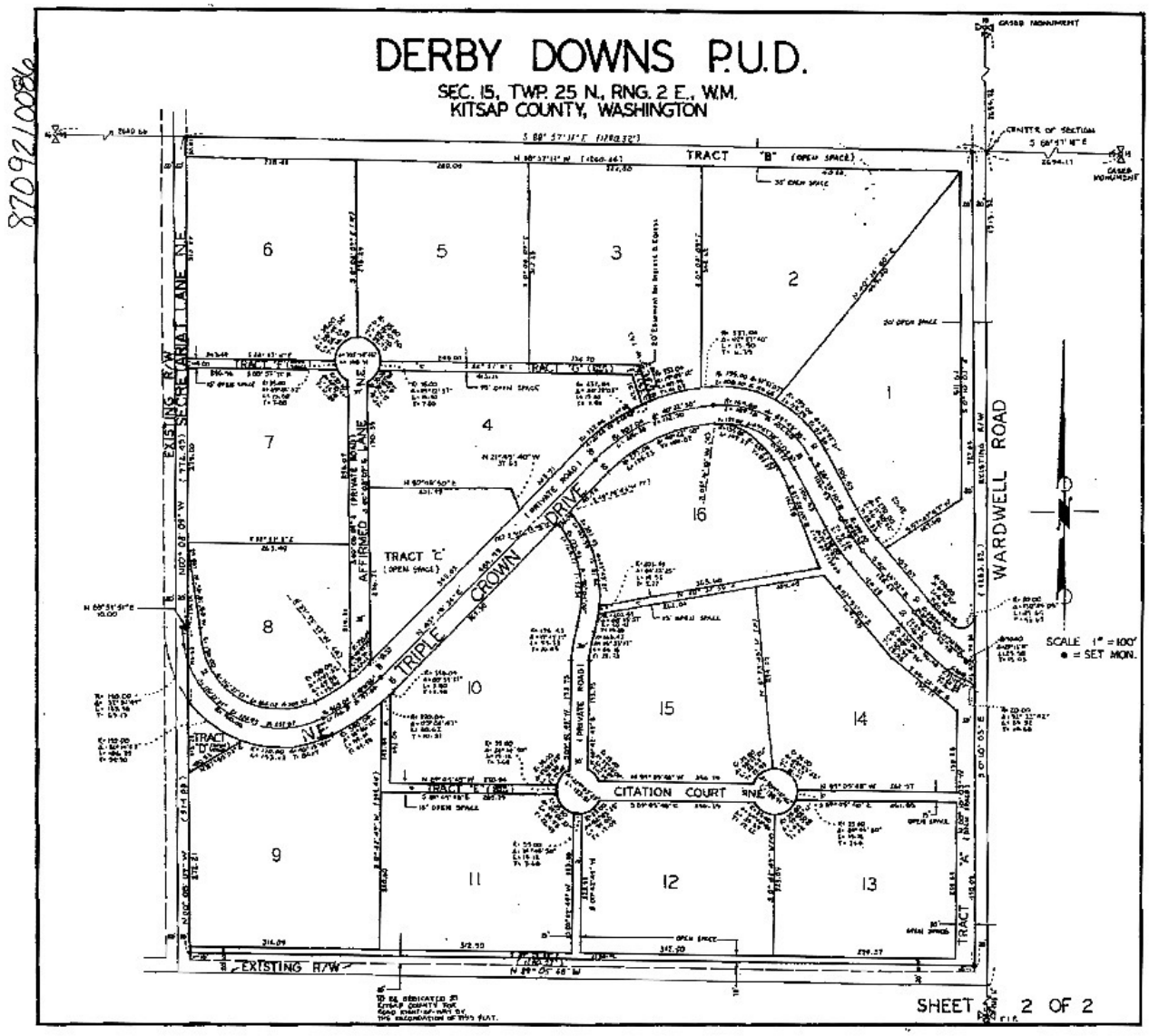

EXHIBIT B. LEGAL DESCRIPTION OF THE FILLER TRACT

Lots 18 through 23, inclusive, G. 0. Snider's 5 and 10 Acre Tracts, Volume 4, Page 113, of Plats, records of Kitsap County, Washington.