



200910290090  
Skagit County Auditor

10/29/2009 Page 1 of 7 4:00PM

When Recorded, Return to:

HILLIS CLARK MARTIN & PETERSON  
Attn: Michael N. Kot  
1221 Second Avenue, Suite 500  
Seattle, WA 98101

GUARDIAN NORTHWEST TITLE CO.  
NON-MERGER STATUTORY WARRANTY DEED 985252  
IN LIEU OF FORECLOSURE

<b>Grantor:</b>	THOMAS CREEK LLC
<b>Grantee:</b>	THOMAS, ABBOTT GORDON, AS TRUSTEE OF THE ABBOTT GORDON THOMAS REVOCABLE TRUST UA MAY 1999
<b>Legal Description (Abbreviated):</b>	LOTS 4, 6, AND 7, "THE GLADE AT THOMAS CREEK LONG CARD PL-05-0093"
<input checked="" type="checkbox"/> Complete legal on EXHIBIT A	
<b>Assessor's Tax Parcel ID Nos.:</b>	49010000040000; 49010000060000; 49010000070000 P124885 P124897 P124898
<b>Reference Nos. of Documents Affected:</b>	200409270185; 200506290035; 200608040089

This NON-MERGER STATUTORY WARRANTY DEED IN LIEU OF FORECLOSURE (the "Deed in Lieu") dated this 26th day of October, 2009, is made by and among THOMAS CREEK LLC, a Washington limited liability company, ("Grantor") and ABBOTT GORDON THOMAS, as Trustee of the ABBOTT GORDON THOMAS REVOCABLE TRUST UA MAY 1999 ("Grantee").

1. **Grant.** For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Grantor hereby irrevocably and unconditionally grants, conveys, warrants, assigns, and confirms to Grantee, the following real and personal property (the "Property"):

1.1 **Land, Appurtenances, Easements.** That certain real property and all interests therein located in Skagit County, Washington, more particularly described in EXHIBIT A attached hereto and incorporated herein by this reference, subject to all matters of record, together with all existing and future easements, access rights, appurtenances, privileges, licenses, hereditaments, franchises and tenements, including all minerals, oil, gas, and other commercially

valuable substances that may be in, under or produced from any part of it (collectively, the "Land");

**1.2 Improvements.** All buildings, improvements, structures, fixtures, and articles of property now or hereafter erected on, attached to, located on, or used or intended to be used in connection with the Land (the "Improvements");

**1.3 Related Real Property and Improvements.** All real property and improvements on it, and all appurtenances and other property and interests of any kind or character, whether described in EXHIBIT A or not, that may be reasonably necessary or desirable to promote the present and any reasonable future beneficial use and enjoyment of the Land and Improvements;

**1.4 After-Acquired Title.** Any after-acquired title of Grantor in and to the Land and in and to land lying in streets and roads adjoining the Land;

**1.5 Rents.** The rents, issues, profits, royalties, income, and other benefits derived from the Land;

**1.6 Permits, Plans, and Contracts.** All of Grantor's right, title, and interest in all permits, approvals, commitments, designs, plans, specifications, architectural and engineering contracts, construction contracts, surveys, environmental or other reports, appraisals, listing agreements, warranties, and any and all other work product or general intangibles relating to the Land or Improvements or any part thereof and now or hereafter owned by Grantor, including, without limitation, any and all rights or claims that relate to the construction of Improvements on or to the Land that Grantor may have against any person or entity supplying, or who has supplied, labor, materials, or services in connection with the construction of Improvements on the Land; *provided, however,* that nothing herein shall be construed as an assumption by Grantee of Grantor's obligations under any contract or other agreement in the absence of an express written assumption thereof by Grantee;

**1.7 Rights Under Covenants.** All of Grantor's rights under any declarations of covenants, conditions, and restrictions recorded for the Land or Improvements, including development and special declarant rights and all of Grantor's rights and powers to elect, appoint, and remove officers and directors for any Homeowners' Association established for the Property;

**1.8 Insurance; Eminent Domain.** All of Grantor's rights under any and all contracts and policies of insurance with respect to the Land or Improvements, including without limitation the proceeds from any claims made or to be made under any such insurance policy, as well as the right to settle and compromise any such claims made or to be made with respect to the Land or Improvements, and all of Grantor's rights to any and all awards made in connection with any eminent domain or condemnation proceedings, or purchases in lieu thereof, of the whole or any part of the Land or Improvements;

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SKAGIT COUNTY WASHINGTON  
REAL ESTATE EXCISE TAX

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Non-Merger Deed - Thomas Creek



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Amount Paid \$   
Skagit Co. Treasurer  
By *Cham* Deputy

**1.9 Rights of Sale.** All of Grantor's right, title, and interest in any contracts or agreements of sale with respect to the Land or Improvements, all purchase money indebtedness to Grantor related to any sale, and any cash proceeds of such sale;

**1.10 Goods, Materials, Fixtures, etc.** All improvements, fixtures, equipment, furnishings, appliances, machinery, apparatus, goods, construction materials, and other articles of personal property owned by Grantor and now or hereafter affixed to, placed upon, or used in connection with the Land, including, but not limited to, any structures constructed on the Land, all pipes for water and sewer lines, cables, electrical wires for power systems, and construction materials, and any and all replacements and improvements thereof;

**1.11 Other Property.** Any and all other property or rights of any kind or nature further identified herein or in any UCC financing statement filed in connection herewith; and

**1.12 Proceeds.** Any and all interest and estate that Grantor or Grantor's assigns may hereafter acquire in any of the Land or Improvements and all the rents, issues, proceeds, products, and profits of such Land or Improvements.

**2. Deed in Lieu.** This Deed in Lieu is an absolute conveyance, assignment, and transfer of all interests of Grantor in the Property and is executed and delivered by Grantor in connection with that certain Deed of Trust dated September 21, 2004, and recorded in the official records of Skagit County, Washington, under Recording No. 200409270185, which was subsequently amended by a First Amendment to Deed of Trust dated June 23, 2005, and recorded in the official records of Skagit County, Washington, under Recording No. 200506290035, and a Second Amendment to Deed of Trust, dated July 31, 2006, and recorded in the official records of Skagit County, Washington, under Recording No. 200608040089 (the "*Deed of Trust*").

**3. Warranties.** It is warranted and covenanted by Grantor in executing this Deed in Lieu, and agreed by Grantee in accepting this Deed in Lieu, as follows:

**3.1** The consideration for the execution of this Deed in Lieu for the Property consists of Grantee's agreement, upon execution of this Deed in Lieu, to be bound by the Covenant Not To Sue Grantor or Alan and Brenda Thomas (together with Grantor, "*Borrower*") as more fully described in the Deed in Lieu Agreement executed concurrently herewith by and among Borrower and Grantee with respect to the Property (the "*Deed in Lieu Agreement*"). Nothing herein is intended or shall be construed to release Borrower from any obligations to Grantee, or to preclude or otherwise prejudice Grantee's right to proceed with a foreclosure action against the Property.

**3.2** The consideration set forth above for the execution of this Deed in Lieu is equal to or greater than the fair market value of the Property and includes the fair and reasonable value of Grantor's interest in the Property.

**3.3** This Deed in Lieu is executed voluntarily by Grantor, and not pursuant to duress or threats of any kind. Furthermore, it is executed and delivered in mutual good faith between Grantor and Grantee, is not made in preference to Grantee over other creditors, and is



not given or intended to hinder, delay, or defraud any creditor, or to contravene any of the bankruptcy laws of the United States or any other applicable laws.

**3.4** This Deed in Lieu is not given as security for the payment of money or indebtedness, nor as security of any kind or nature, and there is no agreement or understanding, oral or written, between Grantor and Grantee herein, or any other person, relative to a conveyance of the Property back to Grantor, or to a sale or conveyance to anyone else for the benefit of Grantor, or to any division of any proceeds realized from the Property by sale or otherwise.

**3.5** Grantor intends by this Deed in Lieu to vest the absolute and unconditional title to the Property in Grantee, and forever to estop and bar Grantor, and all of Grantor's successors in interest, from having or claiming any right, title or interest of any nature whatsoever, either in law or equity, or in possession or in expectancy, in and to the Property or any part thereof. In this regard, and in reliance upon this Deed in Lieu and all of Grantor's warranties and representations made herein, Grantee shall be entitled to exercise and enjoy all of the rights, responsibilities, powers and privileges associated with the Property at such time and on such terms as Grantee deems appropriate; paying taxes and assessments levied against the Property; and otherwise acting with respect to the Property consistent with the quiet enjoyment and ownership thereof by Grantee.

**3.6** Grantor further warrants and represents: (a) that Grantor has full power and authority to execute and deliver this Deed in Lieu, (b) that this conveyance and assignment is freely and fairly made, (c) the consideration given to Grantor by Grantee for this conveyance, specifically including Grantee's Covenant Not To Sue, equals or exceeds the value of the right, title, and interest of Grantor in and to the Property, and (d) that there are no agreements, oral or written, other than those reflected in this Deed in Lieu and the Deed in Lieu Agreement, between Grantor and Grantee with respect to the ownership or possession of the Property.

**3.7** It is the express intent of Grantor and Grantee that this Deed in Lieu shall not operate to extinguish the Deed of Trust or any security agreement incorporated therein and that the Deed of Trust shall not be merged into or otherwise released by the recording hereof. Although Grantee has agreed not to take any action to seek or obtain a personal judgment against Borrower for each of Borrower's obligations secured by the Deed of Trust, Grantee retains the right to proceed with a foreclosure action under the Deed of Trust and any related security agreements against the Property on the basis of existing or future defaults under the obligations secured thereby in the event that a foreclosure is deemed necessary by Grantee for any reason, including to clear title to the Property of any existing or future encumbrances subordinate to the Deed of Trust.

**[SIGNATURES APPEAR ON THE FOLLOWING PAGE]**



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Skagit County Auditor

DATED as of the day and year first above written.

**GRANTOR:**

THOMAS CREEK LLC,  
a Washington limited liability company

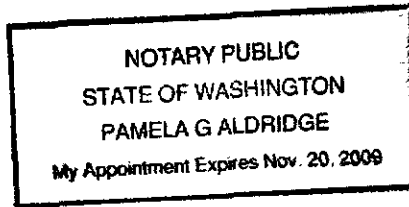
By *Brenda S. Thomas*  
Name: Brenda S. Thomas  
Its: President

**GRANTEE:**

ABBOTT GORDON THOMAS REVOCABLE  
TRUST UA MAY 1999

By *Abbott Gordon Thomas* Trustee  
Name: Abbott Gordon Thomas  
Its Trustee

STATE OF WASHINGTON }  
COUNTY OF Skagit } ss.



On this day personally appeared before me Brenda Thomas, to me known to be the president of THOMAS CREEK LLC, the Washington limited liability company that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such company, for the uses and purposes therein mentioned, and on oath stated that he/she was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 26<sup>th</sup> day of Oct., 2009.

*Pamela G. Aldridge*  
Printed Name Pamela G. Aldridge  
NOTARY PUBLIC in and for the State of Washington,  
residing at Sedro Woolley  
My Commission Expires 11-20-09



Minnesota  
STATE OF WASHINGTON }  
COUNTY OF Wright

ss.

On this day personally appeared before me Kathryn Ehlers, to me known to be the Trustee of ABBOTT GORDON THOMAS REVOCABLE TRUST UA MAY 1999, the trust that executed the foregoing instrument, and acknowledged such instrument to be the free and voluntary act and deed of such trust, for the uses and purposes therein mentioned, and on oath stated that he/she was duly authorized to execute such instrument.

GIVEN UNDER MY HAND AND OFFICIAL SEAL this 23 day of October, 2009.



Printed Name Kathryn Rae Ehlers  
NOTARY PUBLIC in and for the State of ~~Washington~~, MINNESOTA  
residing at Wright County  
My Commission Expires Jan. 31 2010



**EXHIBIT A**

**LEGAL DESCRIPTION OF THE LAND**

LOTS 4, 6, AND 7, "THE GLADE AT THOMAS CREEK LONG CARD PL-05-0093", APPROVED ON AUGUST 15, 2006 AND RECORDED ON AUGUST 21, 2006 UNDER AUDITOR'S FILE NO. 200608210099, TOGETHER WITH AN EASEMENT FOR INGRESS, EGRESS AND UTILITIES AS RECORDED UNDER AUDITOR'S FILE NO. 20031120047 AND AS DELINEATED ON THE FACE OF "THE GLADE AT THOMAS CREEK LONG CARD PL-05-0093."

SITUATED IN THE STATE OF WASHINGTON, COUNTY OF SKAGIT.

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*Non-Merger Deed - Thomas Creek*  
ND: 18384.002 4813-8805-9396v1



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Skagit County Auditor

hibit A