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Paula Robinson, Flathead County Montana

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BYLAWS
OF
THE TERRACES AT SOMERS BAY CONDOMINIUM ASSOCIATION

ARTICLE I
NAME

The name of the corporation is THE TERRACES AT SOMERS BAY CONDOMINIUM ASSOCIATION, hereinafter referred to as the "Association".

ARTICLE II
DEFINITIONS

2.1 The definitions contained in the Declaration are incorporated by reference herein.

2.2 "Declaration" shall mean and refer to the Declaration of covenants, conditions and restrictions applicable to the Property recorded on August 8, 2007 at Document No. 200700023866 in the Office of the Recorder of Flathead County, State of Montana.

ARTICLE III
MEETINGS OF MEMBERS AND VOTING

3.1 **Membership and Voting:** Membership shall be held as provided in the Declaration. Each Member shall be entitled to one vote per Unit ownership. If more than one person or entity owns a Unit, the multiple owners are entitled to vote one vote together. There shall be no fractional voting.

3.2 **Annual Meeting:** The annual meeting of the Members shall be held in the month of January, at a date, time and place to be set by the Board. The first annual meeting shall be held in January following the first sale of a Unit from the Declarant to a third party.

3.3 **Special Meetings:** Special meetings of the Members shall be promptly scheduled at any time by the Board in response to the vote of the Board, or a request by the President, or upon written request of twenty percent (20%) of the Members of the Association.

3.4 **Notice and Place of Meetings:** Written notice of each meeting of the Members, annual or special, shall be given by, or at the direction of, the secretary or manager, by personal service by a process server or mailing a copy of such notice, first class mail, postage prepaid, at least thirty (30) days but not more than sixty (60) days before such meeting, to each first lienholder requesting notice and to all Members, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. If more than one person or entity owns a Unit, one notice shall be sent or served at the address designated in the Association's books. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting. If action is proposed to be taken at any meeting for approval of any proposals, the notice shall also state the general nature of the proposal. Member action on the following items is invalid unless the notice states the general nature of the proposal(s): (a) removing or electing a director; (b) amending the Governing Documents; (c) approving a conflict of interest transaction with a director; (d) indemnification of officers, employees or agents; (e) merger; (f) sale of assets; or (g) dissolution. Meetings shall be held within the Property or at a meeting place within the same county, as close to the Property as possible.

3.5 **Quorum:** The presence either in person or by proxy, at any meeting, of a majority of the Members of the Association shall constitute a quorum for any action except as otherwise provided in the Declaration, or these Bylaws. If, however, such quorum shall not be present or represented at any meeting, the Members thereat shall have power to adjourn the meeting to a date not less than five (5) days and not more than thirty (30) days later. Notice of the time and place of the adjourned meeting shall be given to Members in the manner prescribed for special meetings. The quorum for any such adjourned meeting shall not be less than one-third of the Members of the Association.

3.6 **Proxies:** At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the secretary before the appointed time of each meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his or her Unit, or upon receipt of written notice by the secretary or the manager of the death or judicially declared incompetence of a Member, or upon the expiration of eleven (11) months from the date of the proxy. Any form of proxy distributed by any persons to the Members shall afford the opportunity to specify a choice between approval and disapproval of each matter to be acted upon. The proxy shall provide that, where the Member specifies a choice, the vote shall be

cast in accordance with that choice. The proxy also shall identify the person or persons authorized to exercise the proxy and the length of time it will be valid. In addition, voting by proxy shall comply with any other applicable requirements of Montana Code Annotated, Section 35-2-539.

3.7 **Conduct of Meetings:** Meetings of the Members shall be conducted in accordance with a recognized system of parliamentary procedure adopted by the Board. Notwithstanding any other provision of law, notice of meetings of the Members shall specify those matters the Board intends to present for action by the Members, but, except as otherwise provided by law, any proper matter may be presented at the meeting for action.

3.8 **Action Without Meeting:** Any action that may be taken at any annual or special meeting of Members (except for the election or removal of directors) may be taken without a meeting in accordance with the provisions of Montana Code Annotated, Section 35-2-529. Any form of written ballot distributed by any persons to the Members shall afford the opportunity to specify a choice between approval and disapproval of each matter to be acted upon.

ARTICLE IV
DIRECTORS

4.1 **Number and Qualification:** The affairs of this Association shall be managed by a Board of five (5) directors, all of whom must be Members in good standing. For the purposes of this section, good standing means current in the payment of Assessments and in compliance with the Governing Documents. Where more than one person owns a Unit, only one Owner from that Unit may serve on the Board. Notwithstanding the foregoing, until seven (7) Units are sold, Declarant may select any number of the directors, which directors do not have to be Members of the Association.

4.2 **Nomination:** Nomination for election to the Board may be made by a nominating committee appointed by the Board. Nominations may be made by petition signed by twenty percent (20%) of the Members. Nominations may also be made from the floor at the annual meeting. The nominating committee shall consist of a chairman, who shall be a director, and one (1) or more Members. The nominating committee may be appointed not less than ninety (90) days prior to each annual meeting of the Members, to serve until the close of such annual meeting. The nominating committee may make as many nominations for election to the Board as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. All candidates shall have reasonable opportunity to communicate their qualifications to Members and to solicit votes. Notice to the Members of the annual meeting shall include the names of all those who are nominees at the time the notice is sent.

4.3 **Election:** The initial directors shall be appointed by the Declarant. Thereafter, the election of the Board shall be conducted at the annual meeting of the Members. At such

election the Members or their proxies may cast their vote for each vacancy. The persons receiving the largest number of votes shall be elected. There shall be no cumulative voting. Voting for directors or for their removal shall be by secret written ballot.

4.4 **Term:** At the first annual meeting of the Members, three (3) directors shall be elected for a term of two (2) years, and two (2) directors shall be elected for a term of one (1) year. Thereafter, the term of each director shall be two years. Unless vacated sooner, each director shall hold office until the director's term expires and a successor is elected.

4.5 **Removal; Vacancies:** Any director may resign by giving notice to the Board. Any director, except a director appointed by the Declarant, may be removed by the vote of a majority of a quorum of the Members. Notwithstanding anything to the contrary contained in this paragraph, any director, except a director appointed by the Declarant, who fails to attend three (3) consecutive Board meetings or becomes 90 days delinquent in the payment of assessments may be removed from office by a vote of the Board, and the successor director shall be chosen by the Board. If a director dies or resigns, the vacancy shall be filled by the Board at a duly held meeting, or by the sole remaining director. The Members may elect a director at any time to fill any vacancy not filled by the Board. A vacancy created by the removal of a director by the Members can only be filled only by election by the Members. A successor director shall serve for the unexpired term of his or her predecessor.

4.6 **Compensation:** No director shall receive compensation for any service rendered to the Association as a director. However, any director may be reimbursed for his or her actual expenses, if reasonable, incurred in the performance of his or her duties.

4.7 **Indemnification:** The Association shall indemnify any present or former director or officer of the Association to the fullest extent authorized under Montana Code Annotated, Sections 35-2-447 and 35-2-452, or any successor statutes.

ARTICLE V
MEETINGS OF DIRECTORS

5.1 **Regular Meetings:** Regular meetings of the Board shall be held quarterly or as often as deemed necessary by the Board at such time as may be fixed from time to time by resolution of the Board.

5.2 **Special Meetings:** Special meetings of the Board may be called by the president, vice president or any three (3) Directors.

5.3 **Notice and Place:** Board meetings shall be held on the Property or a meeting place within the County, as close to the property as possible. Notice of the time and place of

regular and special meetings of the Board shall be given to each director at least four (4) days by first class mail or seventy-two (72) hours delivered personally or be telephone or other electronic means prior to the meeting. For a special meeting, the notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be given to each director by one (1) of the following methods: (a) by personal delivery; (b) written notice by first class mail, postage prepaid; (c) by telephone communication, including a voice message system or other system or technology designed to record and communicate messages, telegraph, facsimile, electronic mail or other electronic means, either directly to the director or to a person at the director's office or home who would reasonably be expected to communicate such notice promptly to the director. All such notices shall be given or sent to the director's address, email address, or telephone number as shown on the records of the Association. Notice of all Board meetings, except emergency meetings, shall be given to the Members by posting in prominent places in the Common Element, by mail, or by newsletter at least four (4) days prior to the meeting. In addition, notice shall be mailed at least four (4) days prior to the meeting to any Member who has requested notification of Board meetings by mail, at the address requested by the Member.

5.4 **Quorum:** A majority of the directors shall constitute a quorum for the transaction of business. Every act performed or decision made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

5.5 **Open Meetings:** All meetings of the Board shall be open to all Members, and the Board shall permit any Member to speak at any meeting of the Board, except for meetings of the Board held in executive session. The Board shall establish a reasonable time limit for all Members to speak before a meeting of the Board.

5.6 **Executive Session:** The Board may meet and convene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved, and matters relating to the formation of contracts with third parties. Matters involving Member discipline or assessment payments shall be held in executive session and the Members involved are entitled to attend. Any matter discussed in executive session shall be generally noted in the minutes of the immediately following open meeting.

5.7 **Telephone Attendance:** In the case of absence, a director may participate in a Board meeting by conference telephone, so long as all directors and Members participating in the meeting can communicate with one another.

5.8 **Action Without Meeting:** In the case of an emergency, any action required or permitted to be taken by the Board may be taken without a meeting if all directors consent in writing to the action. . Such action by written consent shall have the same force and effect as a unanimous vote of the Board. Such written consent or consents shall be filed with the minutes of the proceedings of the Board. An explanation of the action taken shall be reported in the minutes

and posted at a prominent place or places within the Common Elements within seven (7) days after the written consent of all directors have been obtained.

ARTICLE VI
POWERS AND DUTIES OF THE BOARD OF DIRECTORS

6.1 **Powers and Duties:** It shall be the exclusive duty of the Board to exercise all powers and duties of the Association as expressed in the Governing Documents, and to manage and conduct the affairs of the Association, except as expressly reserved to a vote of the Members. Such powers and duties shall include, but are not limited to, the following:

A. To review and direct the officers and Manager to assure that the policies of the Board are being accomplished in a reasonable and prudent manner and that the requirements for the operation of the Association as set forth in the Governing Documents and the laws applicable to the Property are fulfilled to the extent reasonable and appropriate.

B. To call annual meetings of the Association and give due notice thereof.

C. To conduct elections of the Board of Directors.

D. To enforce the provisions of the Governing Documents by appropriate action.

E. To promulgate and adopt rules and regulations for the use of the Common Elements and for the occupancy of the Units so as to not interfere with the peace and quiet of all the Unit Owners.

F. To provide for the management of the Condominium by hiring or contracting with suitable and capable management and personnel for the day-to-day operation, maintenance, upkeep and repair of the General Limited Common Elements.

G. To levy Assessments as allowed by the Declaration, these Bylaws and the State of Montana, and to provide for the collection, expenditure and accounting of said Assessments.

H. To pay for the expenses of the maintenance, repair and upkeep of the Common Elements and to approve payment vouchers either at regular or special meetings.

I. To delegate authority to the Manager for the conduct of Association business, to carry out the duties and powers of the Board, however, such authority shall be precisely defined with ultimate authority at all time residing in the Board of Directors.

J. To provide a means of hearing grievances and foreclosure proceedings of Unit Owners and to observe all due process requirements imposed upon owners associations for condominiums.

K. To meet at regularly scheduled times and hold such meetings open to all Unit Owners or their agents.

L. To levy and collect special Assessments whenever, in the opinion of the Board, it is necessary to do so in order to meet increased operation or maintenance expenses, costs, or additional capital expenses, or because of emergencies.

M. To take appropriate legal action to collect any delinquent Assessments, payments or amounts due from Unit Owners or from any person or persons owing money to the Association, and to levy a penalty and to charge interest on unpaid amounts due and owing.

N. To defend in the name of the Association any and all lawsuits wherein the Association or Condominium is a party defendant.

O. To enter into contracts with third parties to carry out the duties herein set forth, for and on behalf of the Association.

P. To establish bank accounts and to keep therein all funds of the Association. Withdrawal of monies from such accounts shall only be by checks signed by such persons as are authorized by the Board of Directors.

Q. To manage, maintain, and make repairs, alteration and improvements to the Common Elements consistent with managing the Property in a first class manner and in the best interest of the Unit Owners.

R. To arrange, keep, maintain, and renew the insurance for the Association as set forth in the Declaration.

S. To allow first lienholders to inspect Association and Board records.

T. To establish a fiscal year for accounting purposes.

U. To insure the Common Elements pursuant to the Declaration, and to pay and collect Assessments therefor.

V. In general, to act for and carry on the administration and affairs of the Association as authorized and prescribed by the Declaration and the Members and to do all those

things which are necessary and reasonable in order to carry out the governance and operation of the Condominium.

W. To exercise all the powers generally granted to a Montana nonprofit corporation under Montana Code Annotated, Section 35-2-118.

6.2 **Enforcement (Notice and Hearing):** The Board shall have the power to enforce the Governing Documents, provided that any Owner charged with violating the Governing Documents, except for default in payment of Assessments, shall be entitled to a hearing before the Board. Notice of the hearing that shall include a description of the alleged violation and the potential remedies therefor, shall be given to the Member at least ten (10) days prior to the meeting. Notice shall be given as set forth in §3.4 hereof. The Board shall inform the Member of any disciplinary action within fifteen (15) days following the hearing.

6.3 **Budgets and Financial Statements:** The Board shall cause to be prepared and distributed budgets and financial statements to each Member as follows:

A. An operating budget for each fiscal year shall be distributed not less than thirty (30) days nor more than ninety (90) days before the beginning of the fiscal year consisting of at least the following:

(1) Estimated revenue and expenses on an accrual basis;

(2) A summary of the Association's reserves based upon the most recent review or study that shall include all of the following:

(a) The current estimated replacement cost, estimated remaining life, and estimated useful life of each major component;

(b) As of the end of the fiscal year for which the study is prepared:

(i) The current estimate of the amount of cash reserves necessary to repair, replace, restore, or maintain the major components;

(ii) The current amount of accumulated cash reserves actually set aside to repair, replace, restore, or maintain major components.

B. A report consisting of the following shall be distributed within one hundred twenty (120) days after the close of the fiscal year:

(1) a balance sheet as of the end of the fiscal year;

(2) an operating (income) statement for the fiscal year;

(3) a statement of changes in financial position for the fiscal year;

(4) a copy of a review of the financial statement of the Association prepared in accordance with generally accepted accounting principles by a licensee of the Montana State Board of Accountancy.

6.4 **Prohibited Acts.** The Board shall not take any of the following actions, except with the vote or written consent of a majority of the Members of the Association:

A. Incurring aggregate expenditures for new capital improvements to the Common Elements in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year;

B. Selling during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year; or

C. Paying compensation to directors or officers of the Association for services performed in the conduct of the Association's business; provided, however, that the Board may cause a director or officer to be reimbursed for the actual expenses, if reasonable, that are incurred in the performance of his or her duties.

ARTICLE VII
OFFICERS AND THEIR DUTIES

7.1 **Enumeration of Officers:** The officers of this Association shall be a president, and vice president, who shall at all times be directors, a secretary, and treasurer, and such other officers as the Board may from time to time by resolution create. The same person may fill the office of secretary and treasurer.

7.2 **Election of Officers:** The election of officers shall take place at the first meeting of the Board following each annual meeting of the Members.

7.3 **Term:** The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year and until his or her successor is elected. Officers may hold office for consecutive years.

7.4 **Special Appointments:** The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

7.5 **Resignation and Removal:** Any officer may be removed from office (but not from the Board, if he or she is also a director) with cause by the Board. Any officer may resign at any time by giving written notice to the Board, or the manager. Such resignation shall take effect at the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

7.6 **Vacancies:** A vacancy in any office may be filled by the Board. The officer appointed to such vacancy shall serve the remainder of the term of the officer he or she replaces.

7.7 **Duties:** The duties of the officers are as follows:

7.7.1 **President:** The president shall preside at all meetings of the Members and Board; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds, promissory notes and other written instruments. The president shall have the general powers and duties of management usually vested in the office of the president of a Montana nonprofit corporation, and shall have such powers and duties as may be prescribed by the Board or by these Bylaws.

7.7.2 **Vice President:** The vice president shall act in the place and stead of the president in the event of his or her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.

7.7.3 **Secretary:** The secretary shall supervise the recording of the votes and the maintenance of the minutes of all meetings and proceedings of the Board and of the Members; keep or have kept appropriate current records showing the Members together with their addresses and designated addresses, and shall perform such other duties as required by the Board.

7.7.4 **Treasurer:** The treasurer shall cause the receipt and deposit in appropriate bank accounts all monies of the Association and the disbursement of such funds as directed by the Board; shall keep or have kept proper books of account; and shall supervise the preparation of budgets and financial statements.

ARTICLE VIII
COMMITTEES

A nominating committee may be appointed, as provided herein. In addition, the Board may appoint other committees as deemed appropriate in carrying out its purpose. No

committee, regardless of Board resolution, may: (a) take any final action on matters which, under these Governing Documents or the non-profit corporation law of Montana, also require Board or Members' approval; (b) fill vacancies on the Board or in any committee; (c) amend or repeal any resolution of the Board; (d) appoint any other committees of the Board or the members of those committees; (e) approve any transaction to which the Association is a party and in which one or more directors have a material financial interest.

ARTICLE IX
BOOKS AND RECORDS

9.1 **Inspection by Members:** The membership register (including names, mailing addresses, and voting rights), accounting books and records, and minutes of meetings of the Members, the Board (including drafts and summaries), and of committees shall be made available for inspection and copying by any Member, or by his or her duly appointed representative, at any reasonable time and for a purpose reasonably related to his or her interest as a Member, at the office of the Association.

9.2 **Rules for Inspection:** The Board shall establish reasonable rules with respect to: a) notice to be given to the custodian of the records by the Member desiring to make the inspection; b) hours and days of the week when such an inspection may be made; c) payment of the cost of assembling and reproducing copies of documents requested by a Member.

9.3 **Inspection by Director:** Every director shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and copies of documents, at the expense of the Association.

9.4 **Documents Provided by Board:** Upon written request, the Board shall, within ten (10) days of the mailing or delivery of such request, provide any Member with a copy of (1) the Governing Documents; (2) a copy of the most recent budget and financial statements of the Association; (3) a true statement, in writing, from an authorized representative of the Association as to the amount of any assessments levied upon the Unit which are unpaid on the date of the statement, including late charges, interest, and cost of collection which, as of the date of the statement, are or may be made a lien upon the Owner's Unit; (4) a statement of any monetary fines or penalties levied upon the Owner's Unit that are unpaid; (5) a copy of any notice previously sent to the Owner that sets forth any alleged violations of the Governing Documents that remain unresolved; and (6) any change in the Association's current regular and special Assessments and fees which have bee approved by the Board, but have not yet become due and payable. The Board may impose a fee for providing the foregoing which may not exceed the reasonable cost to prepare and reproduce the requested documents.

9.5 **Minutes:** The minutes, minutes proposed for adoption that are marked to indicate draft status, or a summary of the minutes of any meeting of the Board, other than an executive session, shall be available to Members within thirty (30) days of the meeting. The minutes, proposed minutes, or summary minutes shall be distributed to any Member upon request and upon reimbursement of the Association's costs in making that distribution. Members shall be notified in writing at the time that the pro forma budget is distributed or at the time of any general mailing to the entire membership of the Association of their right to have copies of the minutes of meetings of the Board and how and where those minutes may be obtained.

ARTICLE X
MISCELLANEOUS

10.1 **Amendment of These Bylaws:** These Bylaws may be amended only by the affirmative vote or written consent of 75% of the Members.

10.2 **Conflicts:** In the case of any conflict between the Articles and the Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

10.3 **Fiscal Year:** The fiscal year of the Association shall begin on the first day of January and end on the thirty-first day of December of every year.

I, the undersigned, the duly elected and acting President of SOMMERS BAY VILLAS CONDOMINIUM ASSOCIATION, a Montana nonprofit corporation, do hereby certify:

That the within and foregoing Bylaws were adopted as the Bylaws of said corporation on the 26 day June, 2007, and that the same do now constitute the Bylaws of said corporation.

This certificate is executed under penalty of perjury under the laws of the State of Montana on the 26 day June 2007, at Whitefish, Montana.

THE TERRACES AT SOMERS BAY CONDOMINIUMS

Craig Denman, President

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AFFIRMED:

William R. Schottel Korb, Secretary

STATE OF MONTANA)
: ss.
County of Flathead)

This instrument was acknowledged before me on June 26, 2007, by [illegible], as President of THE TERRACES AT SOMERS BAY CONDOMINIUM ASSOCIATION, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity upon behalf of which he acted executed the instrument.

(Seal)

Print Name Karie R. Stidham
Notary Public for the State of Montana
Residing at Columbia Falls Montana
My commission expires March 15, ~~200~~ 2011

STATE OF MONTANA)
: ss.
County of Flathead)

This instrument was acknowledged before me on July 9, 2007, by William R. Schottel Korb, as Secretary of THE TERRACES AT SOMERS BAY CONDOMINIUM ASSOCIATION, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity upon behalf of which he acted executed the instrument.

(Seal)

Print Name Lois J. Peterson
Notary Public for the State of Montana
Residing at Martin City Montana
My commission expires 01/10, ~~200~~ 2011