Return To: Morrison & Frampton
341 Central Ave.
Whitefish, MT 59937

DECLARATION
FOR THE
FALCON PLACE CONDOMINIUMS

THIS DECLARATION is herby made and entered into this _____ day of _____, 200___, by FALCON DEVELOPMENT, INC (hereinafter referred to as the "Declarant" and sometimes the "Developer"), the owner of the Property subjected hereto, whereby lands and property hereinafter described are submitted and subject to the Montana Unit Ownership Act pursuant to Chapter 23, Title 70, MCA 2005, as amended.

The property subject to this Declaration shall be known as the Falcon Place Condominiums (hereinafter referred to as the "Condominium Property or Project"). The addresses of the Condominiums are 651,645,639 Woodland Place, Whitefish, Montana 59937.

NOW, THEREFORE, Declarant hereby declares that the Project shall be held, conveyed, mortgaged, encumbered, leased, rented, used, occupied, sold, and improved subject to the declarations, limitations, covenants, conditions, restrictions, and easements contained in this Declaration, all of which are imposed as equitable servitudes pursuant to a general plan for the development of the Project for the purpose of enhancing and protecting the value and attractiveness of the Project, and every part of it, in accordance with the plan for the improvements of the Project and its division into Condominiums. All of the limitations, covenants, conditions, restrictions and easements shall constitute covenants that run with the land and are binding upon, and inure to the benefit of, Declarant, the Association, and all parties having or acquiring any right, title, or interest in or to any part of the Project or the Property in the Project.

ARTICLE I
TITLE AND NATURE

The Project shall be known as Falcon Place Condominiums. The Project is established in accordance with the Montana Unit Ownership Act. The Project contains individual Units for residential use, as set forth herein and in the Bylaws, and each Unit is capable of individual utilization on account of having its own entrance from and exit to a Common Element of the Project. Each Unit Owner in the Project shall have an exclusive right to his Unit and shall have undivided and inseparable rights to share with other Unit Owners the Common Elements of the Project.

ARTICLE II
DEFINITIONS

Unless the context expressly provides otherwise, the following definitions shall pertain throughout this Declaration and in the interpretation thereof.

1. ***Agent*** shall mean Falcon Development, Inc., or its successors or assigns, and shall act as an agent for the Fractional Interest Owners to assist in the group ownership, use and maintenance of the Fractional Units.

2. ***Aggregate Voting*** shall mean the entire number of votes or persons present or available to vote in person or by proxy in a particular circumstance.

3. ***Articles*** shall mean the Articles of Incorporation of the Association.

4. ***Association and/or Association of Unit Owners*** shall mean the Falcon Place Condominium Owners Association, Inc, a nonprofit corporation organized under the laws of the State of Montana.

5. ***Board or Board of Directors*** shall mean the Board of Directors of the Association as more particularly defined in the Bylaws.

6. ***Building*** means a building containing a condominium Unit.

7. ***Bylaws*** means the Bylaws promulgated by the Association under this Declaration and the Unit Ownership Act.

8. ***Common Elements*** means both General Common Elements and Limited Common Elements.

   a) ***General Common Elements*** includes all those elements that are for the use of all Owners and guests of Owners of the Falcon Place Condominiums. Specifically included are: all parts of the Property not located within the Boundaries of a Unit, including but not limited to the land, the framework, columns, trusses, supports, roof and other structural components of the buildings, exterior structural walls, gutters and vertical roof drains, electrical, gas, television, telephone, water and sewer lines and connections serving all of the Units, beneficial easements, landscaping, plants and other materials and improvements separate from and outside of the Buildings containing the Units, and other elements necessary for the safety, maintenance and existence of the Project in which each Unit Owner shall have the designated percentage of interest, set forth in Article V below.

   b) ***Limited Common Elements*** as used in this Declaration shall mean those common elements that are reserved for the use of the owners of the Unit to which they are appurtenant. Specifically, as to any given Unit Owner or Owners, Limited Common Elements shall mean the following common elements which are located within or affixed to the building containing his/her Unit: flues, chimneys, ducts, cables, conduits, electrical heat elements, public utility lines, water, sewer, electrical, gas, cable television lines and hot and cold water pipes (all such utility pipes and lines are Limited Common Elements where they service less than all the Units, where they service all Units they shall be General Common Elements), entrances, stoops, furnaces, patios, decks, balconies, hot water tanks, heating ducts, cold air returns, and fixtures, or other portions of a building servicing only a particular Unit or less than all of the Units.

9. ***Common Expenses*** means expenses of administration, maintenance, repair or replacement of General Common Elements and all other expenses of the Association, and expenses declared common by the Unit Ownership Act.

10. ***Declaration*** means this document and all parts attached thereto or incorporated by reference.

11. ***Developer and/or Declarant*** means Falcon Development, Inc, and its successors and assigns. Both successors and assigns shall always be deemed to be included within the term "Developer" whenever, however and wherever such terms are used in the Governing Documents.

12. ***Fractional Interest*** means an undivided interest in a Fractional Unit (which includes the exclusive right to use and occupy such unit during one or more use periods) together with an undivided interest in the common elements which bears the same relationship to the whole as such undivided interest in the unit bears to the entire ownership of the Project.

13. ***Fractional Units*** means those Unit(s), as designated by the Declarant as a Fractional Unit, which shall be fractionally owned and used according to the Fractional Plan and attached schedule, hereby attached as Exhibit B.

14. ***Garage*** shall be the separate designated parking space for each Unit. Each parking space shall be appurtenant to its designated Unit and cannot be separately conveyed.

15. ***Governing Documents*** shall mean this Declaration, the Bylaws, Articles and Rules of the Association.

16. ***Limited Expenses*** means the expenses attributable to the maintenance, repair and replacement of Limited Common Elements.

17. ***Manager*** means the Board of Directors or any management company or any other person or group of persons retained or appointed by the Board, or by the Association of Unit Owners for the purpose of conducting the day-to-day operations of the Association and/or Fractional Units.

18. ***Property or Project*** means the land, buildings, improvements and structures thereon and all easements, rights, rights of way and appurtenances belonging thereto, which are herewith submitted to the Unit Ownership Act and subject to this Declaration.

19. ***Unit*** shall be the separate Units of the Condominium (including those designated as Fractional Units) and is a parcel of property including and containing one or more rooms, intended for independent residential use, and with a direct exit leading to a street or highway or to common elements leading to a street or highway whether directly or indirectly by way of an easement connecting to a street or highway.

20. ***Unit Designation*** is the combination of letters, numbers and words that identify the designated Units.

21. ***Unit Owner and Owner*** means the person owning a Unit in fee simple absolute individually or as Co-Owner in any real estate tenancy relationship recognized under the laws of the State of Montana, including but not limited to the persons owning a Fractional Interest in a Fractional Unit.

22. ***Unit Ownership Act*** means and refers to the Unit Ownership Act of the State of Montana, Chapter 23, Section 70-23-101, MCA (2005) *et seq.* as amended.

23. ***Use Week or Weeks*** means the individual, separate periods of time into which the use of a Fractional Unit has been divided through the filing of a deed, which Use Weeks are listed in Exhibit B attached hereto.

24. ***Declarant's Control Period shall*** be the greater of (1) 120 days after the date by which 75 percent of the Units,

and Fractional Interest therein, have been conveyed to third party purchasers, or (2) five years following the first conveyance of a Unit or any fractional interest therein to a third party purchaser.

Whenever any reference herein is made to one gender, the same shall include a reference to any and all genders where the same would be appropriate; similarly, whenever a reference is made herein to the singular, a reference shall also be included to the plural where the same would be appropriate and vice versa.

ARTICLE III
REAL ESTATE

1. **Description.** The property which is by this Declaration submitted and subject to the Montana Unit Ownership Act is described on Exhibit A attached hereto and incorporated herein.

The Project consists of the real property described in Exhibit "A". The units comprising the Condominium will be located in one building containing three levels total. The ground level will have 3 units, a storage area with identifiable space for each Unit, a garage area with 12 parking spaces to which each Unit shall have a designated space and common horizontal and vertical circulation space. The second level will have 5 units, common outdoor deck space and common horizontal and vertical circulation space. The third level will have 4 units and common horizontal and vertical circulation space. All Units shall be sold as single family dwelling units or as undivided condominium ownership Fractional Interests. The program of fractional ownership and use, and the additional restrictions, obligations and provisions governing those owning an interest in a Fractional Unit are set forth in Exhibit B. Currently Declarant is designating zero (0) Units as Fractional Unit(s), 1/4 share fractional interests, but Declarant and/or its assigns reserves the right to amend this Declaration to change any Unit(s) owned by it to a Fractional Unit. See Exhibit C attached hereto for floor plans of the individual Units. See Exhibit D for a site plan and the location of the Condominium. The provisions of this Declaration and the Bylaws shall be construed to be covenants running with the land and shall include every Unit and shall be binding upon the Unit Owners, their heirs, personal representatives and assigns for as long as this Condominium Declaration and Bylaws are in effect. The Twelve Units herein shall be referred to as Falcon Place Condominiums.

2. **Condominium Units.** Each Unit, together with the appurtenant undivided interest in the Common Elements of the condominium shall together comprise one condominium Unit, shall be inseparable, and may be conveyed, leased, rented, devised or encumbered as a condominium in accordance with this Declaration.

3. **Encroachments.** If any portion of the General Common Elements or Limited Common Elements encroaches upon a Unit or Units, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. If any portion of the Unit encroaches upon the General Common Elements, or Limited Common Elements, or upon an adjoining Unit or Units, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. Such encroachments and easements shall not be considered or determined to be encumbrances either on the General Common Elements, the Limited Common Elements, or on the Units for the purpose of marketability of title. In the event the building or any portion thereof is destroyed and then rebuilt, the Owners of the Unit or Units agree that minor encroachments of parts of the General Common Limited Common Elements because of such construction shall be permitted and that an easement for such encroachment and the maintenance and repair of the same shall exist. Furthermore, the Owners of the Unit(s) agree that minor encroachments on parts of the Common Elements, for further construction on the Project shall be provided that an easement for such encroachment and maintenance and repair of the same shall exist.

4. **Buildings.** Initially, the Units comprising the condominium are contained in one building. The location of this building is depicted on Exhibit D. The land on which the building is located is a Common Element of the Project.

5. **Unit Boundaries.** Each of the Units as separately shown, numbered, and designated in Exhibit C consists of the space bounded by and contained within the interior unfinished surfaces of the perimeter walls, floors, ceilings, windows, window frames, doors, door frames, and trim of each Unit, each of those spaces being defined and referred to in this Declaration as a "Unit". Exposed beams in ceilings shall not be part of the Unit. Each Unit includes the utility installations located within its boundaries of which the Owner has exclusive use, including, without limitation: hot water heaters, space heaters, lighting fixtures, cabinetry, and air-conditioning equipment located entirely within the Unit they serve. Each Unit includes both the portions of the Building so described and the airspace so encompassed. The Unit does not include those areas and those things that are defined as Common Elements in Article I of this Declaration. A designated parking space and storage space is appurtenant to each Unit and is a Limited Common Element.

6. **Fixtures and Furniture.** All fixtures, furniture and equipment contained in each Unit shall be conveyed with the Unit and shall be the property of the Unit Owner. The Owner shall be responsible for the maintenance and upkeep of the fixtures, furniture and equipment of each Unit.

7. **Parking Spaces in the Garage.** Each Unit shall be designated the use of one (1) parking space in the covered garage. Unit and parking space shall be inseparable and shall not be leased and/or rented separately by the Owner of said Unit

ARTICLE IV
EASEMENTS

1. **Common Element Easements.** A nonexclusive right of ingress and egress and support through the General Common Elements are appurtenant to each Unit and any Limited Common Elements and all the General Common Elements are subject to such rights. Except as otherwise limited in this Declaration, each Unit Owner shall have the right to use the Common Elements for all purposes incident to the use of and occupancy of the Unit, and such other incidental uses permitted by this Declaration, which rights shall be appurtenant to and run with the whole Unit.

2. **Easement for Utilities.** Each Unit may have its air space penetrated by electrical wires and lines, gas lines, hot and cold water lines, waste water lines and vents and other utility and mechanical lines, pipes or equipment. These lines, where they serve only one Unit shall be appurtenant to such Unit, but where they serve more than one Unit shall be part of the Common Elements, either limited or general, depending upon how many Units are being served thereby as defined in Article II, paragraph 9. Such items shall be so installed and maintained so that they shall not unreasonably interfere with the use of the Unit air space by the Owners of the same. A non-exclusive easement shall exist through, over and across each Unit for structural support of the utility lines and mechanical equipment and for the use, inspection, installation, maintenance, replacement and repair of such utility lines and mechanical equipment for the use of all of the Unit Owners or the Unit Owners being serviced by the air space being penetrated by such lines and/or equipment. After completion of construction of a Unit an easement for ingress and egress for the purpose of such inspection, installation, maintenance, replacement or repair of such easement rights shall only be exercised under the direction and approval and with the authority of the Association and/or the Manager unless an emergency exists in which event any action may reasonably be taken which is justified under the circumstances to minimize damage which would otherwise occur as a consequence of such

emergency. There shall be easements to, through and over the Units and the Common Elements for the continuing maintenance and repair of all utilities in the Condominium. There shall exist easements of support with respect to any Unit interior wall that supports a Common Element. The foregoing easements are all permanently reserved to the Declarant, the Association and the Owners.

3. **Easements for Public Utilities.** The Developer reserves the right at any time during the development and sales period of the Project or any additional phases of the Project to grant easements for utilities over, under and across the Project to appropriate governmental agencies or public utility companies and to transfer title of utilities to governmental agencies or to utility companies. Any such easement or transfer of title may be conveyed by the Developer without the consent of any Unit Owner, mortgagee or other person and shall be evidenced by an appropriate amendment to this Declaration and recorded in the office of the Flathead County Clerk and Recorder, Flathead County, Montana. All of the Unit Owners and mortgagees of Units and other persons interested or to become interested in the Project from time to time shall be deemed to have irrevocable and unanimously consented to such amendment or amendments of this Declaration as may be required to effectuate the foregoing grant of easement or transfer of title.

4. **Grant of Easements by Association.** The Association, acting through its lawfully constituted Board of Directors, shall be empowered to grant such easements, licenses, rights-of-entry and rights-of-way over, under and across the Project for Utility purposes, access purposes or other lawful purposes as may be necessary for the benefit of the Association.

5. **Easement for Maintenance, Repair, and Replacement.** The Developer, the Association and all public or private utilities have such easements over, under, across and through the Condominium Project, including all Units and Common Elements, as may be necessary to fulfill any responsibilities of maintenance, repair, or replacements which they or any of them are required or permitted to perform under the Governing Documents or by law. These easements include, without any implication of limitation, the right of the Association to obtain access at all times to meters, controls, valves, pipes, conduits and other Common Elements located within or to gained through any Unit or its appurtenant Limited Common Elements.

6. **No Restrictions on Rights.** There are no restrictions on the rights of Developer to grant easements to other parties over and with respect to such roadway, parking areas and utility easements, and Developer may require such other parties to pay such charges as Developer may, in its sole discretion, determine.

7. **Additional Easements for Other Projects.** Developer hereby reserves the following easements in connection with any improvements constructed or to be constructed by Developer on any tracts of land contiguous to the Project, whether or not such improvements are made a part of the Project (such improvements being hereinafter collectively referred to as the "Other Projects").

   a) A perpetual nonexclusive easement for utilization, tapping, tying into, extending and enlarging all utility mains located in the Project, including, but not limited to, water, gas, storm and sanitary sewer mains. Developer will pay all costs of such utilization, tapping, tying into, extending and enlarging, and will restore all areas thereby disturbed to their original condition immediately prior to commencement thereof. All expenses of maintenance, repair, replacement and resurfacing of such utility mains shall be shared by the Association and the Owners of Units in the Other Projects utilizing such utility mains on a proportionate basis determined on the basis of the respective number of Units in the Condominium and the number of Units of the Other Projects utilizing such utility mains.

b) A perpetual nonexclusive easement located at Developer's discretion, in, over and upon the General Common Elements of the Project for such demolition, construction, and alteration of the General Common Elements of the Condominium as may be deemed necessary or appropriate by Developer for connection of the Other Projects to the Project. Developer will pay all cost of such demolition, construction and alteration, and will restore all areas disturbed by such demolition, construction and alteration.

c) A perpetual nonexclusive easement located as determined by Developer in, over and upon the General Common Elements of the Project for the purposes of ingress and egress to and from the Other Projects subject to such reasonable rules and regulations governing such access as may be enacted by the Association, which rules and regulations shall be equitable and nondiscriminatory.

The above easements shall be for the benefit of Developer and Owners of the Other Projects, and their respective heirs, successors, assigns, families, guests and invitees. Developer hereby agrees that it will not cause or allow the Project to be encumbered by any lien in connection with any construction engaged in by Developer regarding the matters referenced in (a) through (c) above, and agrees to indemnify and hold the Association harmless against all costs and expenses incurred in connection with defending the Project against any such liens.

8. **Specific Written Easements.** Developer may, by subsequent instrument, prepared and recorded in its sole discretion without the necessity of consent by any interested party, specifically define or amend by legal description the easements created by this Article IV.

9. **Right of Access.** The Association shall have the irrevocable right, to be exercised by the Board or the Manager, to have access to each Unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the Common Elements therein or accessible therefrom or for making emergency repairs therein necessary for the maintenance, repair or replacement of any of the Common Elements therein necessary to prevent damage to the Common Elements or to any Unit.

Damage to the interior or any part of the Unit resulting from maintenance, repair, emergency repair or replacement of any of the Common Elements or as a result of an emergency repair within another Unit at the instance of the Association shall be designated Common Expenses by the Association and assessed in accordance with such designation.

ARTICLE V
OWNERSHIP

1. **Percentage of Interest.** Each Unit Owner shall be entitled to the exclusive ownership, use and possession of his Unit and appurtenant parking and storage space and the percentage of undivided interest of each Unit Owner in the Common Elements as set forth below. Such percentage represents his ownership interest in the General Common Elements, his liability for Common Expenses, and the voting interest of the Unit Owner or Owners in all matters concerning the Association of Unit Owners. The percentage of interest was determined on the basis of the relative square footage of each Unit as the square footage of the building. (The percentage of interest is assigned to each Unit and each owner of a Fractional Interest, as later determined by Declarant, shall be allocated ¼ of the percentage interest attributable to the Unit of which he owns a Fractional Interest.) Such percentage of interest owned by each of the Units in the condominium is set forth on Exhibit E, attached hereto.

2. **Floor Plans and Exhibits.** The condominium shall first consist of the Property as described above, and a total of

Twelve (12) separate Units, all of which have designated spaces within the garage. For identification and descriptive purposes, the following Exhibits are attached and by reference hereto incorporated into and made a part of this Declaration:

Exhibit A: Legal description of the real estate initially included in the Condominium.

Exhibit B: Fractional Plan and Fractional Interest Schedule.

Exhibit C: Floor plans showing the layout of each of the Units of the condominium, the area of each, the dimensions and the designation of each Unit and the Certificate of Architect.

Exhibit D: Site plan of the condominium showing the property, the location of the buildings containing the condominium Units on the Property and the general common areas, as herein identified, to which each Unit has access.

Exhibit E: Percentage of Ownership Interest and Designation of parking and storage spaces.

3. **Exclusive Ownership.** With the exception of those owning Fractional Units, each Owner or Owners shall be entitled to exclusive Ownership and possession of their Unit and appurtenant parking and storage space. For those owning Fractional Units, each Owner or Owners shall be entitled to exclusive Ownership of their Unit and their rights of possession and occupation shall be set forth on Exhibit B. All Owners may use the General and Limited Common Elements in accordance with the purposes for which they are intended and as they may otherwise agree between themselves, so long as they do not hinder or encroach upon the lawful rights of other Unit Owners.

4. **Completion of Construction.** Developer shall not be required to construct all proposed Units within any set time frame. Developer reserves the right to build the Units in accordance with the floor plans and site plan attached hereto and as the same may be amended in accordance with any amendments to those documents made in compliance with the guidelines provided by this Declaration. When a Building and the Unit contained therein are completed, the Developer shall file with the Clerk and Recorder of Flathead County an amendment to this Declaration to which shall be attached a verified certificate or statement of a registered architect, registered professional engineer, or registered land surveyor certifying that the floor plan previously filed or being filed simultaneously with the amendment fully and accurately depicts the layout of the Units and the Buildings and the date construction of the Buildings and Units was completed. If there is any change in the floor plans or site plan or the Unit Owner's percentage interest in the Common Elements, then the amendment shall include such changes.

   Until a Unit is completed and the amendment is filed, the assessments levied against such uncompleted Unit by the Association shall be limited to assessments for the General Common Elements relating to the land, including real estate taxes and assessments, public liability insurance and other assessments and costs relating to the General Common Element, but not including assessments for Building maintenance, fire and casualty insurance or other assessments and costs relating to the Common Elements applicable to or servicing only the Buildings and completed Units.

5. **Declarant's Right to Amend.** Declarant shall have the right to execute, file and record any amendment to this Declaration and such other documents as required to accomplish such amendment for a period of time not to exceed the greater of (hereinafter "Control Period") (1) 120 days after the date by which 75 percent of the Units,

and Fractional Interest therein, have been conveyed to third party purchasers, or (2) five years following the first conveyance of a Unit or any fractional interest therein to a third party purchaser. Furthermore, the Declarant shall have the right, as long as it owns a Unit, to amend this Declaration to Fractionalize Unit(s) which it owns. The Unit Owners, Association, lienholders, mortgagees and all others acquiring any interest or lien on the Units or Common Elements shall be bound by the foregoing rights of the Declarant to amend the Declaration (and Bylaws if required) and their consent is implied to such amendments by the acceptance or acquisition of any interest or lien in the Units or Common Elements. Developer is appointed the Unit Owners' and lienholders' agent and attorney in fact to execute and record such amendments. These provisions shall be deemed a covenant running with the Units and Common Elements.

Upon the execution and recording of any such amendment, the Unit Owners, lienholders and mortgagees shall be bound and subject to the terms, provisions, conditions and consequences of such amendment. The recorded amendment shall be mailed to each Unit Owner and to the Association. Each Unit Owner shall mail a copy of the recorded amendment to any mortgagee or other lienholder of his or her respective Unit.

After the recording of such amendment, any transfer, conveyance deed, encumbrance, lien, mortgage, or assessment shall reflect any new or changed percentage of interest in the Common Elements. The failure to accurately reflect or state a Unit's new percentage interest shall not void any document, and the error may, at anytime, be corrected by the appropriate corrective document.

6. **Use.** The Units and Common Elements shall be occupied and used as follows:

a. The property may be used for lawful purposes. The Units shall only be used for lawful residential purposes including transient rentals, as limited by this Declaration, or for lawful fractional recreational use in accordance with the provisions in this Declaration and Exhibit B. The Garage and storage spaces may only be used for parking or storage, and may not be used for residential purposes.

b. There shall be no obstruction of the Common Elements nor shall anything be stored in or on the Common Elements without the prior written consent of the Association. With the exception of those owning Fractional Units, each Owner shall be obligated to maintain and keep in order and repair the interior of his own Unit. The Agent shall be obligated to maintain and keep in order and repair all Fractional Units, provided the costs incurred by the Agent to comply with this maintenance requirement shall be allocated among the Fractional Interest Owners of each Fractional Unit and shall be shared by the owners thereof equally.

c. Owners shall not cause or permit anything to be placed, hung or displayed on the outside of windows or placed on the outside of windows or placed on the outside walls of a building and no air conditioning, sign, awning, canopy, radio or television antenna, satellite dish, other reception device shall be affixed to or placed upon the exterior walls or roof or any part thereof, without the prior written consent of the Association, except as allowed by the Bylaws.

d. Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the structural integrity of any building or which would structurally change any building, except as is otherwise provided herein.

e. Nothing shall be altered or constructed in or removed from the common elements, except upon the prior

written consent of the Association.

ARTICLE VI
THE ASSOCIATION

1. **Membership.** Any Owner of a Unit, or Fractional Interest therein, in the condominium shall automatically, upon becoming the Owner of said Unit, be a member of the Association, and shall remain a member of said Association until such time his ownership ceases, whereupon his membership in said Association shall automatically cease. The membership shall be limited to Unit Owners as defined in this Declaration.

2. **Function.** It shall be the function of the Association to:

   a) Adopt Bylaws for the governance of the Association.

   b) Make provisions for the general management and/or repairs and maintenance of the Common Elements.

   c) Levy assessments as provided for in the Declaration, Bylaws and Unit Ownership Act.

   d) Adopt and implement a policy for the affairs of the Association.

   e) Enter into contracts to hire personnel for the management of the affairs of the Association and the maintenance and repair of the Common Elements.

3. **Vote.** On all matters, unless excluded by this Declaration, to be decided by the Association, each Owner shall have a vote equal to his percentage of interest in the Common Elements. When more than one (1) person owns any Unit (as simple joint ownership or tenants in common), such persons shall appoint and authorize one person to represent the owners of that particular Unit. Such representative shall be a Unit Owner and shall have the power to cast votes on behalf of the multiple Owners as a member of the Association, and serve on the Board of Directors if elected. Fractional Interest Owners shall vote pursuant to the procedure set forth in Exhibit B. Meetings of the Association shall only be conducted when a quorum is present, as defined in the Association Bylaws. Except as otherwise provided in the Unit Ownership Act, this Declaration or the Bylaws, a majority of the aggregate voting interest present at any meeting or by proxy shall be sufficient to act on matters brought before the Association.

4. **Failure to Comply – Attorney Fees.** Each Owner shall comply strictly with the provisions of this Declaration, the Bylaws, rules, regulations, decisions and resolutions of the Association adopted pursuant thereto as the same may be lawfully amended from time to time. Failure to comply with any of the same shall be grounds for an action by the Board to levy fines, impose sanctions, recover sums due, for damages or injunctive relief or both, and for reimbursement of all costs, including attorney fees incurred in connection therewith, which action shall be maintainable by the Board or the Manager in the name of the Association, on behalf of the Owners or by an aggrieved Owner where there has been a failure of the Association to bring such action within a reasonable time. Such sanctions may include, without limitation, some or all of the following:

   a) Reasonable monetary fines, as established by the Board, (including for failure to grant reasonable Permission to enter a Unit as may be reasonably requested by the Association in accordance with this Declaration) shall constitute a lien upon the violator's Unit.. Such fines shall be assessed in

accordance with a fee/fine schedule established by the Board and shall be consistent with applicable law;

b) Suspending an Owner's right to vote;

c) Suspending any Person's right to use any recreational facilities within the Common Property (provided, however, nothing herein shall authorize the Board to prohibit ingress or egress to or from a Unit);

d) Suspending any services provided by the Association or Manager to an Owner or the Owner's Unit if the Owner is more than 30 days delinquent in paying any assessment or other charge owed to the Association;

e) Taking action to abate any violation of the Governing Documents in a non-emergency situation (specifically including, but not limited to, the towing of vehicles that are, after appropriate warning, in violation of any applicable parking rules and regulations);

f) Requiring an Owner, at its own expense, to remove any structure or improvement on/in such Owner's Unit in violation of the Governing Documents and to restore the Unit to its previous condition. If the Owner fails to do so, the Board or its designee may seek a court order to enter the property, remove the violation, and restore the property to substantially the same condition as previously existed;

g) Levying Benefited Assessments to cover costs incurred by the Association to bring a Unit into compliance with the Governing Documents.

h) In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents without the necessity of compliance with the procedures set forth in the By-Laws:

i. Exercising self-help in any emergency situation; and,

ii. Bringing suit at law or in equity to enjoin any violation or to recover monetary damages or both.

5. **Initial Board of Directors.** The Declarant hereby appoints the following persons to serve on the Board of Directors until the first meeting of the Association to-wit:

Name	Position	Address
_____	Chairman	_____
_____	Director	_____
_____	Director	_____

7. **Maintenance by Owners Association.** The Association shall maintain and keep in repair the Common Elements of the Condominium. All fixtures, utility lines and equipment installed in the Unit commencing at a point where the utilities enter the Unit shall be maintained and kept in repair by the owner thereof. The Association shall do no act or any work that will impair the structural soundness or integrity of the Building or impair any easement.

Each Owner of a non Fractional Unit shall also keep all Limited Common Elements appurtenant to his Unit in a

clean and sanitary condition. The Agent shall keep all Limited Common Elements appurtenant to a Fractional Unit in a clean and sanitary condition and the Fractional Owners of such Fractional Unit shall be assessed all costs associated with the cleaning required by this paragraph. The right to repair, alter, and remodel a Fractional Unit is coupled with the obligation to replace any finishing or other materials removed with similar types or kinds of materials.

ARTICLE VII
ASSESSMENTS

1. **Payment of Assessments.** All assessments shall be due ten (10) days from the date of mailing notice of such assessments to the Owners. Assessments may be payable in installments, monthly or quarterly, at the option of the Board. The amount of the Common Expenses assessed against each Unit and the amount of limited expenses assessed against each Unit shall be the personal and individual debt of the Owner thereof. No Owner may exempt himself from liability for these contributions toward the Common Expenses by waiver of the use of enjoyment of any of the Common Elements or by abandonment of his Unit. All assessments that are not paid within thirty (30) days from the date they are due and payable becomes delinquent and are subject to interest and penalty charges. The Board or Manager shall have the responsibility of taking prompt action to collect any unpaid assessment that become delinquent. In the event of delinquency in the payment of the assessment, the Unit Owner shall be obligated to pay interest at the rate to be determined by the Board on the amount of the assessment from the due date thereof, together with such late charges in the amount of ten percent (10%) of the delinquent assessment. Suit to recover a money judgment for unpaid Common Expenses and limited expenses may be maintainable without foreclosing or waiving the lien securing the same.

   Common Expenses and common profits, if any, of the Association shall be distributed among, and charged to the Unit Owners according to the percentage of interest of each in the Common Elements.

2. **Levying Assessments When Made – Purposes.** The Association of Unit Owners shall levy assessments upon the Unit Owners in the following manner and for the following reasons:

   The Board shall establish and levy annual assessments in an amount that the Board estimates will be sufficient to raise the funds needed to perform the duties of the Association during each fiscal year. The Board at any time may levy a special assessment in order to raise funds for unexpected operating or other costs, insufficient operating or reserve funds, or such other purposes as the Board in its discretion considers appropriate. The Board may not impose an annual assessment on any Unit which is more than twenty percent (20%) greater than the annual assessment for the immediate preceding fiscal year, or levy special assessments which in the aggregate exceed five percent (5%) of the total budget of the Association for that fiscal year, without the vote or written consent of a majority of the aggregate voting interests of the Association. Notice of the assessment, whether regular or special, the amount thereof, and the purpose for which it is made, including an annual budget for expenditures and operation, for regular annual assessments, shall be served on all Unit Owners, by delivering a copy of the same to the Owner personally or by mailing a copy of the notice to said Owners at their addresses of record at least ten (10) days prior to the due date for such meeting.

3. Assessments shall be made for the maintenance, repair, replacement, insurance, management and administration of General Common Elements, fees, costs and expenses of the manager, taxes for Common Elements if any, utilities, reserves for contingent liabilities and other related items and assessments for the Unit Owner's percentage share of any Improvement or Utility Districts which may exist or be created. Assessments for General Common

Element and Limited Common Element Expenses shall be based upon and computed by using the percentage of interest that each Unit Owner has in relation to the Common Elements.

5. Assessments shall also be made for the payment of maintenance, repair and replacement of the Limited Common Elements as if such Limited Common Elements were General Common Elements, except that each Owner is responsible for the maintenance of the interior of the Unit and the Garage appurtenant to such Owner's Unit.

6. Assessments may also be made for any purpose contemplated by this Declaration and for any purpose set out in the Montana Unit Ownership Act.

7. In a voluntary conveyance of a Unit, the grantee of the Unit shall be jointly and severally liable with the grantor for all unpaid assessments by the Association against the latter for his share of the Common Expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefore. However, any such grantee shall be entitled to a statement from the Manager or Board of Directors of the Association, as the case may be, setting forth the amount of said unpaid assessments against the grantor due the Association and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments made by the Association against the grantor in excess of the amount therein set forth.

8. The annual assessment shall also include a portion for reserves as the Board considers appropriate to adequately meet the costs of the future repair, replacement or additions to the major Common Element improvements and fixtures that the Association is obligated to maintain and repair. Reserves for General Common Elements and Limited Common Elements shall be assessed according to the Unit's percentage interest.

9. Assessments to be paid by the Developer: During the period beginning with the recording of this Declaration and ending twelve (12) months after the closing of the first sale of a Unit, the Developer shall not pay any assessments on the Units it owns, provided, however, that during this period the Developer shall reimburse the Association for any expenses the Association incurs which are not covered by the assessment of other Unit Owners.

10. Liens and Foreclosure: All sums assessed but unpaid for the share of General Common Expenses and Limited Common Expenses chargeable to any Condominium Unit shall constitute a line on such Unit superior to all other liens and encumbrances, except only for tax and special assessment liens on the Unit in favor of any assessing authority, and all sums unpaid on a first mortgage or a first trust indenture of record, including all unpaid obligatory sums as may be provided by such encumbrance. To evidence such lien, the Manager shall prepare a written notice of lien assessment setting forth the amount of such unpaid indebtedness, the amount of accrued interest and late charges thereon, the name of the Owner of the Condominium Unit and a description of the Condominium Unit. Such notice shall be signed and verified by one of the officers of the Association or by the Manager, or his authorized agent, and shall be recorded in the office of the Clerk and Recorder of Flathead County, Montana. Such lien shall attach from the date of recording such notice. Such lien may be enforced by the foreclosure of the defaulting Owner's Condominium Unit by the Association in the manner provided in the Unit Ownership Act and as provided by the foreclosure of a mortgage on real property upon the recording of a notice of claim thereof. In any such foreclosure, the Unit Owner shall be required to pay a reasonable rental for the Unit and the Plaintiff in such foreclosure action shall be entitled to the appointment of a receiver to collect the same. Suit to recover a money judgment for unpaid Common Expenses shall be maintainable without foreclosure or waiving the lien securing the same. In any such proceeding the Owner may be required to pay the costs, expenses and attorney fees incurred in filing a lien, and in the event of foreclosure proceedings, additional costs, expenses and attorney fees incurred.

11. Bidding at Foreclosure: The Board of Directors of the Association on behalf of the other Unit Owners shall have the power to bid on the Condominium Unit at a foreclosure or other legal sale and to acquire and hold, lease, mortgage and convey or otherwise deal with the same. Any lienholder holding a lien on a Condominium Unit may pay, but shall not be required to pay, any unpaid General Common Expenses, or Limited Common Expenses payable with respect to any such Unit, and upon such payment, such lienholder shall have a lien on said Unit for the amounts paid of the same rank as the line of his encumbrance without the necessity of having to file a notice or claim of such lien.

12. Unpaid Assessments – Mortgagee: Where a lienholder or other purchaser of a Unit obtains title to the Unit as a result of foreclosure of the first mortgage or trust indenture, such acquirer of title, his successors and assigns, shall not be liable for the share of Common Expenses or assessments by the Association chargeable to such Unit which became due prior to the acquisition of title to such Unit by such acquirer. Such unpaid share of Common Expenses or assessments shall be deemed to be Common Expenses collectable from all of the Units including such acquirer, his successors and assigns.

ARTICLE VIII
DEVELOPER'S RIGHT TO CHANGE

The Developer reserves the right to change the interior design and arrangement of all Units, so long as the Developer owns the units so altered. No such change shall increase the number of Units or alter the boundary of the General Common Elements without an amendment of this Declaration.

ARTICLE IX
AMENDMENT

1. Subject to the Article V, Part 5 of this Declaration, the Unit Owners may, with the Declarant's approval during the Declarant's Control Period, as set forth herein, amend this Declaration in the following manner: At any regular or special meeting of the Association of Unit Owners, such amendment may be proposed as a resolution by any Unit Owner, or the Board or Manager. Upon adoption of the resolution by a majority vote of those present, the amendment shall be made subject for consideration at the next succeeding meeting of the Association with notice thereof, together with a copy of the amendment to be furnished to each Owner no later than thirty (30) days in advance of such meeting. At such meeting, the amendment shall be approved upon receiving the favorable vote of sixty-seventy percent (67%) of the aggregate percentage of interest of the Unit Owners, provided, however, that no amendment of Exhibit B or a provision specifically affecting the Factional Interest Owners or Fraction Units may be made without first complying with the specific amendment procedure set forth in Exhibit B. If so approved, it shall be the responsibility of the Association to file the amendment with the Clerk and Recorder's Office of Flathead County, Montana. Not withstanding the aforementioned provisions, only the Declarant shall have the right to amend this Declaration or any governing documents to provide for the Fractionalization of Units, until such time that Developer has sold all Units to 3ird party purchasers.

2. The Developer hereby reserves the right at any time, on behalf of itself and on behalf of the Association, to amend this Declaration and the Governing Documents without approval of any Unit Owner or mortgagee for the purposes of correcting survey or other errors and for any other purpose including the addition of new Units to the Declaration, and/or providing for the fractionalization of more Units, unless the amendment would materially alter or change the rights of a Unit Owner or mortgagee, in which event Unit Owner and mortgagee consent shall be

required as provided above. A change in a Unit Owners percentage interest in the General Common Elements shall not be considered a material alteration or change in the rights of Unit Owner.

3. Change in Percentage of Value. The value of the vote of any Unit Owner and the corresponding proportion of Common Expenses assessed against such Unit Owner shall not be modified without the written consent of such Unit Owner and his mortgagee, nor shall the percentage of value assigned to any Unit be modified without like consent, except as provided in this Declaration in the Bylaws or pursuant to the Unit Ownership Act or by the annexation of additional Units in subsequent phases, as described herein.

4. Approval of Developer and Agent. No amendment shall adversely affect the rights or privileges of the Developer and/or Agent without their written consent.

5. Notwithstanding the procedure set forth above, the Developer hereby reserves the right to amend this Declaration or any other Governing Documents during the Declarant's Control Period, as provided herein.

6. Power of Attorney. Each Unit Owner hereby appoints the Developer as his or her attorney-in-fact, and grants the Developer all necessary authority so that the Developer may file any amendment authorized by the process described herein.

ARTICLE X
ASSIGNMENT

Any or all of the rights and powers granted or reserved to the Developer or to Declarant in the Governing Documents or bylaws, including the power to approve or disapprove any act, use or proposed action or any other matter or thing, may be assigned by it to any other entity or to the Association. Any such assignment or transfer shall be made by appropriate instrument in writing duly recorded in the office of the Flathead County Clerk and Recorder.

ARTICLE XI
RESTRICTIONS

All of the Units and Common Elements in the Condominium shall be held, used and enjoyed subject to the following limitations and restrictions:

1. **Use.** The Units in the Condominium shall be used only for purposes of residential occupancy by Unit Owners, their families, and their guests and invitees who do not pay consideration for such occupancy, consistent with the other restrictions contained in the Governing documents, only for transient rental accommodation, limited by restrictions of Section XI (2) and may not be used for any other purposes whatsoever. The Garages and storage facility appurtenant to each Unit may only be used for parking or storage and may not be used for residential purposes.

2. **Leasing.** A Unit may only be leased in a fashion consistent with the restrictions set forth in the Governing Documents. Owners shall be responsible for all violations of the Governing Documents or damages caused to the Common Elements by their tenants. A Unit Owner may not lease his Unit as a transient accommodation unless the Unit is leased through a leasing agent pursuant to a standard property management agreement, and upon such terms as such leasing agent may require, provided that said terms and conditions shall be substantially the same as for other similarly managed Units. The initial leasing agent shall be JES Management, Inc. of 439 Grand

Ave Suite 113, Bigfork, MT 59911, but the Unit Owners may replace such leasing agent upon the majority vote of the Unit Owners.

3. **Alterations and Modifications.** No Unit Owner shall make any alteration or modification of any Common Element. The Association shall only undertake such alterations and modifications if the Developer has given approval. So long as the Developer owns any Unit in the Condominium or until all proposed phases are completed, there shall be no obstruction of the Common Elements nor shall anything be stored in or on the exterior Common Elements without the prior written consent of the Association. Nothing shall be altered or constructed in or removed from the Common Elements, except upon the prior written consent of the Association.

4. **Activities.** No immoral, improper, unlawful or offensive activity shall be carried on in any Unit or upon the Common Elements nor shall anything be done which may be or become an annoyance or a nuisance to the Unit Owners of the Condominium. No unreasonably noisy activity shall occur in or on the Common Elements or in any Unit. No Unit Owner shall do or permit anything to be done or keep or permit to be kept in his Unit or on the Common Elements anything that will increase the rate of insurance on the condominium without the written approval of the Board, and each Unit Owner shall pay to the Association the increased cost of insurance premiums resulting from any such activity or the maintenance of any such condition even if approved. Activities which are deemed offensive and are expressly prohibited include, but are not limited to, the following: any activity involving the use of firearms, air rifles, pellet guns, B-B guns, bows and arrows, or other similar dangerous weapons, projectiles or devices.

5. **Pets.** Household pets may be maintained by any Unit Owner in his Unit or elsewhere in the Project. Any Unit Owner who causes any animal to be brought or kept upon the premises of the Condominium shall indemnify and hold harmless the Association from any loss, damage or liability that the Association may sustain as the result of the presence of such animal on the premises.

6. **Aesthetics.** The Common Elements shall not be used for storage of supplies, materials, personal property or trash or refuse of any kind, except as provided in duly adopted rules and regulations of the Association. No unsightly conditions shall be maintained on any patio, porch or deck and only furniture and equipment consistent with the normal and reasonable use of such areas shall be permitted to remain there during seasons when such areas are reasonably in use and no furniture or equipment of any kind shall be stored thereon during seasons when such areas are not reasonably in use. Trash receptacles shall be maintained in areas designated therefore at all times and shall not be permitted to remain elsewhere on the Common Elements except for such short periods of times as may be reasonably necessary to permit periodic collection of trash. The Common Elements shall not be used in any way for the drying, shaking or airing of clothing or other fabrics. In general, no activity shall be carried on nor condition maintained by a Unit Owner, either in his Unit or upon the Common Elements, which is detrimental to the appearance of the Condominium.

7. **Advertising.** No signs or other advertising devices of any kind shall be displayed which are visible from the exterior of a Unit or on the Common Elements, including "For sale" signs, without written permission from the Association and the Developer, so long as it owns a Unit in the Condominium.

8. **Storage of Vehicles.** No Owner shall park, store or maintain in or on the Property in public purview any boats, trailers, campers or commercial type trucks, or vehicles other than ordinary passenger cars, sport utility vehicles and three-quarter (3/4) ton or smaller pick-up trucks; however, boats, trailers, campers and prohibited vehicles may be allowed to be maintained in garages. The temporary parking of boats, trailers, campers, or other vehicles not

customarily used for means of general transportation for periods of short duration, but not to exceed four (4) hours within any forty-eight (48) hour period, as an incident to loading or unloading thereof, shall not be deemed a violation of this paragraph. No Owner shall park more than two (2) passenger vehicles on the Property without the prior written consent of the Board. No repairs to any vehicle may be made on the Property, except in case of strict emergency. No noisy, smoky or unlicensed vehicles shall be operated upon the Property. The Association may cause the removal of any vehicle wrongfully parked on the Property, including a vehicle owned by any Owner, their family guests or tenants, in any manner allowed by law. The Association shall not be liable for any damages incurred by the vehicle owner, or any Owner, because of the removal in compliance with this section, or for any damage to the vehicle caused by the removal. Notwithstanding the foregoing, the Association may cause the removal, without notice, of any vehicle parked in a marked fire lane, within fifteen (15) feet of a fire hydrant, in a parking space designated for handicapped without proper authority or in a manner which interferes with any entrance to, or exit from, the Property or any condominium, parking space or garage located thereon.

9. **Rules and Regulations.** It is intended that the Board of Directors of the Association may make rules and regulations from time to time to reflect the needs and desires of the Unit Owners in common. Reasonable regulations consistent with the Act, this Declaration and the Bylaws concerning the use of the Property may be made and amended from time to time by any Board of Directors of the Association, including the first Board of Directors. Copies of all such rules, regulations and amendments thereto shall be furnished to all Unit Owners.

10. **Right to Access of Association.** The Association or its duly authorized agent shall have access to each Unit and any Limited Common Elements appurtenant thereto from time to time, during reasonable working hours, upon notice to the Unit Owner thereof, as may be necessary for the maintenance, repair or replacement of any of the Common Elements. The Association or its agent shall also have access to each Unit and any Limited Common Elements appurtenant thereto at all times without notice as may be necessary to make emergency repairs to prevent damages to the Common Elements or to another Unit. It shall be the responsibility of each Unit Owner to provide the Association means of access to his Unit and any Limited Common Elements appurtenant thereto during all periods of absence, and in the event of the failure of such Unit Owner to provide means of access, the Association may gain access in such manner as may be reasonable under the circumstances and shall not be liable to such Unit Owner for any necessary damage to his Unit and any Limited Common Elements appurtenant thereto caused thereby or for repair or replacement of any doors or windows damaged in gaining such access.

11. **Reserved Rights of Developer.** None of the restrictions contained in this Article shall apply to the commercial activities or signs or billboards, if any, of the Developer during the development and sales period or of the Association in furtherance of its powers and purposes set forth herein, as the same may be amended from time to time. Notwithstanding anything to the contrary elsewhere herein contained, Developer shall have the right to maintain a sales office, a business office, a construction office, model Units, storage areas and reasonable parking incident to the foregoing and such access to, from and over the Project as may be reasonable to enable development and sale of the entire Project by Developer and may continue to do so during the entire development and sales period of all proposed phases.

ARTICLE XII
CHANGES, REPAIRS, LIENS

1. Alterations by Unit Owners: Notwithstanding any rights to remodel the Units, bearing walls may not be moved. No change in the boundaries of Units shall encroach upon the boundaries of the Common Elements except by amendment to this Declaration.

2. Maintenance by Unit Owner: Each Unit Owner shall maintain and keep in repair the interior of his own Unit and the interior of the Garage appurtenant to such Unit. The exterior of the Garage shall be maintained by the Association. All fixtures, utility lines and equipment installed in a Unit commencing at a point where the utilities enter the Unit shall be maintained and kept in repair by the Owner. It is specifically understood that the Fractional Interest Owners shall delegate this maintenance right and obligation to the Agent and the Agent shall assess the costs of such maintenance and repair to the Fractional Unit Owners. An Owner shall do no act, nor any work, that will impair the structural soundness or integrity of the Building or impair any easement. An Owner shall also keep all areas and Limited Common Elements appurtenant to his Unit in a neat, clean and sanitary condition. No acts of alteration, repairing or remodeling by the Owner shall impair in any way the structural integrity of Limited Common Elements or General Common Elements.

3. Exterior Alterations: No Owner may change, alter or remodel the exterior of his Unit without the prior written approval of the Board of Directors of the Association and, so long as they own a Unit in the Condominium or until the completion of all proposed phases of the Project, Developer, or the Declarant.

4. Maintenance by Association: The Association shall take all necessary steps, including, but not limited to, painting, roof repairs, concrete, brick and stone repairs, repairs to walls, sidewalk maintenance, repair, upkeep and replacement or repair of all broken or worn parts, to ensure that the Common Elements and the exteriors of the Garages do not unnecessarily deteriorate. The Board of Directors of the Association shall annually inspect the Common Elements and Garages and proceed with any necessary maintenance or repairs. Failure by the Board of Directors of the Association to make annual inspections and/or proceed with any necessary maintenance shall give any mortgagee or beneficiary of any trust indenture the right to order such work done and bill the Association therefore after notice to the Association of such intent by the said lienholder and giving the Association a reasonable time to perform such work. Any lienholder or representative of the same, upon written request, shall have the right to join in the annual inspection made by the Board of Directors and suggest needed repairs and maintenance necessary to preserve the security value of the condominium Project.

5. Liens for Alterations: Labor performed and materials furnished and incorporated into a Unit pursuant to the Governing Documents, or with the consent of or at the request of the Unit Owner, his agent, his contractor or subcontractor shall be the basis for the filing of a lien against the Unit or the Unit Owner consenting to or requesting the same. Each Unit Owner shall indemnify and hold harmless each of the other Owners and the Association from liens against the Unit or against the General Common Elements or Limited Common Elements for construction performed or for labor, materials, services or other products incorporated in the Owner's Unit at such Owner's request.

ARTICLE XIII
INSURANCE

1. All insurance policies upon the condominium Property shall be purchased by the Association and shall be insured by an insurance company authorized to do business in Montana.

   a) Named Insured – Personal Property: The named insured shall be the Association individually as agent for the Unit Owners without naming them. Such policies shall provide that payments for losses thereunder by the insurer shall be paid to the Insurance Trustee hereinafter designated, and all policies and endorsements thereon shall be deposited with the Insurance Trustee. Unit Owners may obtain insurance coverage at their

own expense upon their own personal property and for their personal liability and living expense.

b) Copies to Mortgagees and Owners: Upon written request by a mortgagee, the Association shall furnish one copy of each insurance policy and of all endorsements to each mortgagee of a Unit Owner.

2. Coverage.

a) Casualty: All buildings and improvements upon the Property shall be insured to any amount equal to the full insurable replacement value and all personal property included in the Common Elements shall be fully insured, with all such insurance to be based on current replacement value, as determined annually by the Board, the insurer and any first lienholder or their representatives, but subject to such deductible clauses as are required in order to obtain coverage at reasonable costs, and which coverage shall be increased by the Board as may be necessary to provide that the insurance proceeds will be sufficient to cover replacement, repairs or reconstruction. Such coverage shall afford protection against:

i) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and

ii) Specifically such other risks including flood and earthquake loss as from time to time shall customarily be covered with respect to buildings similar in construction, location and use as the building on the land.

The policies shall state whether the following items are included within the coverage in order that the Unit Owners may insure themselves if the items are not insured by the Association: air-handling equipment for space cooling and heating, service equipment such as dishwasher, disposal, laundry, fireplaces, refrigerator, stove, oven, whether or not such items are built-in equipment, interior fixtures such as electrical and plumbing fixtures, floor coverings, inside paint and other wall finishing.

b) Public Liability: In such amounts and with such coverage as shall be required by the Board of Directors of the Association, including, but not limited to, hired automobile and no Owner automobile coverage, if applicable, and with cross-liability endorsement to cover liabilities of the Unit Owners as a group to a Unit Owner.

c) Errors or Omissions Insurance for the Directors, Officers and Managers, if the Association so desires, in amounts to be determined by the Board.

d) Other Insurance: Such other insurance as the Board of Directors of the Association shall determine from time to time to be desirable and as may be required by the Federal and State laws.

3. Premiums. Premiums upon insurance policies purchased by the Association shall be paid by the Association as a Common Expense, except that the amount of increase in the premium occasioned by use for other than a residence, misuse, occupancy or abandonment of a Unit or its appurtenances or of the Common Elements by a Unit Owner shall be assessed against the Owner. Not less than ten (10) days prior to the date when a premium is due, evidence of such payment shall be furnished by the Association to each lienholder requesting notice.

4. Insurance Trustee. All insurance policies purchased by the Association shall be for the benefit of the Association and the Unit Owners and their mortgagees as their interests may appear. Upon such election being made by the

Board of Directors of the Association, the Board shall provide that all proceeds covering property losses shall be paid to such bank or escrow company in Montana as may be designated as Insurance Trustee by the Board of Directors of the Association, which trustee is herein referred to as the Insurance Trustee. The Insurance Trustee shall not be liable for payment of premiums nor for the renewal or the sufficiency of policies nor for the failure to collect any insurance proceeds. The duty of the insurance trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes elsewhere stated in this instrument and for the benefit of the Unit Owners and their mortgagees in the following shares, but which shares need not be set forth in the records of the insurance Trustee:

a) Unit Owners: A share for each Unit Owner, such share being the same as the percentage interest in the Common Elements appurtenant to this Unit.

b) Mortgagees: In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in Trust for the mortgagee and the Unit Owner as their interests may appear, provided however, that no mortgagee shall have any right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired, and no mortgagee shall have any right to apply or have applied to the reduction of a mortgage debt any insurance proceeds except distributions thereof made to a Unit Owner and a mortgagee pursuant to the provisions of this Declaration.

5. Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficiary Owners in the following manner:

a) Miscellaneous: Expenses of administration, Insurance Trustee and construction or remodeling supervision shall be considered as part of the cost of construction, replacement or repair.

b) Reconstruction or Repair: Any balance remaining shall be used for reconstruction and repair as hereafter provided.

c) If there is no reconstruction or repair the first proceeds for distribution after paying the Insurance Trustee shall be made to the first lienholders for such Units before distribution to the Unit Owners. If the Unit or Units are destroyed and partially rebuilt, distribution shall be made to Unit Owners or the Insurance Trustee, as their interests appear based on the reconstruction of the Units.

d) After distribution of the insurance proceeds as set forth in subparagraph (a), (b) and (c) above, any remaining proceeds shall be distributed to the Unit Owner(s) as such Owner(s)' interest shall appear.

e) Certificate: In making distribution to Unit Owners and their lienholders, the Insurance Trustee may rely upon a certificate of the Association made by its representative or Manager as to the names of the Unit Owners and their respective shares of the distribution.

6. Association as Agent. The Association is irrevocably appointed agent for each Unit Owner and for each Owner of a mortgage or other lien upon a Unit and for each Owner of any other interest in the condominium Property to adjust all claims arising under insurance policies purchased by the Association and to execute and deliver releases upon the payment of claims.

7. Benefit to Mortgagees. Certain provisions in this Article are for the benefit of mortgagees or trust indenture

beneficiaries, and all such provisions are covenants for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee or beneficiary.

8. Notice to Lienholder. Upon written request by first lienholder, the Owners Association will notify the holder of any first lien on any of the Units of the occurrence of any loss in excess of $10,000.00 within thirty (30) days of such loss.

9. Reconstruction:

a) Repair after Casualty: If any part of the condominium Property shall be damaged by casualty, whether or not it shall be reconstructed or repaired, shall be determined in the following manner:

i) Lesser Damage: If a Unit or Units are found by the Board of Directors of the Association to be tenantable after the casualty, the damaged property shall be repaired.

ii) If a Unit or Units are found by the Board of Directors to be not tenantable after the casualty, the damaged property may be reconstructed or rebuilt as provided in the applicable provisions of the Unit Ownership Act.

iii) In the event the Owners Association elects not to rebuild as herein provided and set forth in 70-23-802 MCA, the insurance proceeds shall be used to satisfy any outstanding liens or encumbrances on the property, and then disbursed as provided in 70-23-805, MCA.

iv) Certificate: The Insurance Trustee may rely upon a certificate of the Association made by its President or Manager as to the determination whether or not the damaged property is to be reconstructed or rebuilt.

b) Plans and Specifications: Any reconstruction or repair must be substantially in accordance with the plans and specifications for the original improvements, or if not, then according to plans and specifications approved by not less than sixty-seventy percent (67%) of the aggregate voting interests of the Unit Owners, including the Owners of all Units the plans for which are to be altered. Any such reconstruction not in accordance with the original plans and specifications must be set forth in an amendment to the Declaration.

c) Responsibility: The responsibility for reconstruction or repair after casualty shall be the Owners Association who shall work with the Insurance Trustee to carry out the provisions of this Article.

d) Assessments: If the proceeds of insurance are not sufficient to defray the estimated costs of reconstruction or repair for which the Association is responsible, or if at any time during such reconstruction or repair, or upon completion of such reconstruction or repair, the funds for the payment of the costs thereof are insufficient, assessments shall be made against all Unit Owners in sufficient amounts to provide funds to cover the payment of such costs. Such assessments shall be in proportion to the Owner's percentage of interest in the General Common Elements.

e) Construction Funds: The funds for payment of costs of reconstruction or repair after casualty, which shall consist of proceeds of insurance held by the Insurance Trustee and funds collected by the Association

from assessments against Unit Owners, shall be disbursed in the sound discretion of the trustee and according to the contract of reconstruction or repair, which contract must have the approval of the Board of the Association involved.

f) Surplus: It shall be presumed that the first monies disbursed in payment of costs of reconstruction and repair shall be from the insurance proceeds. If there is a balance in a construction fund after payment of all costs of the reconstruction and repair for which the fund is established, such balance shall be paid to the Association for the use and benefit of the Unit Owners.

ARTICLE XIV
REMOVAL OR PARTITION – SUBDIVISION

The Condominium may only be removed from condominium Ownership, and may only be partitioned or sold, upon compliance with each of the conditions hereof:

a) The Board of Directors of the Association must approve the plans of removal, partition or sale, except for the rights reserved to Developer or the Declarant. Such approval shall include the details of how any partition or sale and the distribution of property or funds shall be accomplished.

b) The plan of removal, partition, subdivision, abandonment, termination or sale must be approved as provided in the Montana Unit Ownership Act. If approval for any of the foregoing is not required by the Unit Ownership Act, then approval shall be required from at least seventy-five percent (75%) of the aggregate percentage interests of the Owners. Upon obtaining such approval, the Board shall be empowered to implement and carry out the plan of removal, partition, subdivision, abandonment, termination or sale.

c) No Unit may be divided or subdivided into a small Unit, nor any portion thereof sold or otherwise transferred, except as provided herein.

d) The Common Elements of the Condominium shall not be abandoned, partitioned, subdivided, encumbered, or sold or transferred without compliance with all of the above requirements.

ARTICLE XV
INTERPRETATION

The provisions of this Declaration and of the Bylaws to be promulgated and recorded herewith shall be liberally construed to effectuate the purposes of this Declaration and Bylaws and to create a building subject to and under the provisions of the Unit Ownership Act.

ARTICLE XVI
REMEDIES

All remedies provided for in this Declaration and Bylaws shall not be exclusive of any other remedies that may not be, or are hereafter, available to the parties hereto as provided for by law. In any action to enforce the Governing Documents, the prevailing party shall recover his attorney fees and court costs.

ARTICLE XVII
SEVERABILITY

The provisions hereof shall be deemed independent and severable and the invalidity or partial invalidity or unenforceability of any one or more provision shall not affect the validity or enforceability of any other provision hereof.

ARTICLE XVIII
MISCELLANEOUS

1. **Expenditures.** With the exception of expenditures required for emergency situations, no single expenditure or debt in excess of Five Thousand Dollars ($5,000.00) may be made or incurred by the Manager without the prior approval of the Board of Directors of the Association. The Board of Directors may modify the limitation on single expenditures without amendment to these Declarations.

2. **Benefit.** Except as otherwise provided herein, this Declaration shall be binding upon and shall inure to the benefit of the Declarant, the Association and each Unit Owner, and the heirs, personal representatives, successors and assigns of each.

3. **Service of Process.** The name and address of the person to receive service of process for the Condominium until another designation is filed of record shall be George J. Joseph, 341 Central Avenue, Whitefish, Montana 59937.

4. **Notice to Lienholder.** Upon written request, a first lienholder will be entitled to written notification from the Association of any default in the performance by an individual Unit Owner of any obligation under the Governing Documents that is not cured within sixty (60) days.

5. **Right to Examine Books.** Every Unit Owner and first lienholder shall have the right to examine the books and records of the Owners Association by giving a written notice requesting such examination. Upon receipt of such notice, the party receiving the notice shall schedule a mutually agreeable date and time during normal business hours for the examination. This date shall be not more than ten (10) days following the receipt of the notice requesting the examination.

6. **Warranties.** The Declarant expressly makes no warranties or representations concerning the property, the Units, the Declaration, the Bylaws or deeds of conveyance except as specifically set forth therein and no one may rely upon such warranty or representation not so specifically expressed therein. Estimates of Common Expenses are deemed accurate, but no warranty or guarantee is made or is intended, nor may one be relied upon.

7. **Notices.** All writings required or permitted to be given or delivered under this Declaration shall be deemed to have been given or delivered when deposited in the United States mail or by delivering it personally to an officer of the Association, Developer, or directly to a Unit Owner.

Developer: FALCON DEVELOPMENT, INC.
PO Box 2046
Whitefish, MT 59937

Association: FALCON PLACE CONDOMINIUM ASSOCIATION, INC
C/O George J. Joseph,

341 CENTRAL AVE., WHITEFISH, MT 59937

Unit Owner: Address as shown on the records of the Association.

The Association or Developer may change its address for the purposes of delivery of such writings by delivering written notice of such change to the Unit Owner in the manner above provided at least ten (10) days prior to the effective date of such change.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be made and executed according to the provisions of the Montana Unit Ownership Act, Section 70-23-101, *et seq.*, MCA (2005).

DECLARANT: FALCON DEVELOPMENT, INC.

By: _____ _____
As: President Date

STATE OF MONTANA)
:ss
County of Flathead)

On this ___ day of _____, _____, before me, the undersigned, a Notary Public for the State of Montana, personally appeared George J. Joseph, as President of Falcon Development, Inc., known to me or proved to me to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year last above written.

_____
Printed Name: _____
Notary Public for the State of Montana
Residing at _____, Montana
My commission expires: _____