

After Recording Return To:  
Northwest Holdings, L.L.C.  
P.O. Box 129  
Polson, Montana 59860

509198 COVENANTS Pages: 23  
STATE OF MONTANA LAKE COUNTY  
RECORDED: 09/09/2010 3:25 KOI: COVENANTS  
RUTH E. HODGES CLERK AND RECORDER  
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TO: ,

**FIRST AMENDED RESTATED DECLARATION OF COVENANTS, CONDITIONS  
AND RESTRICTIONS FOR FAIRWAY PROPERTIES II, MISSION BAY  
PHASES I, II, III, IV, V, VI, VII, VIII AND IX, BROWN'S LAKEVIEW  
LOTS 5 - 14 AND MISSION BAY VILLAGE**

This First Amended Restated Declaration of Covenants, Conditions and Restrictions is made this 8<sup>th</sup> day of September, 2010, by Northwest Holdings, L.L.C., a Delaware Limited Liability Company, of P.O. Box 129 Polson, Montana 59860, provides as follows:

RECITALS

1. Northwest Holdings, L.L.C. is the developer of certain real property, comprising four adjoining developments, located in Lake County, Montana, namely Fairway Properties II, Mission Bay Phases I, II, III, IV, V, VI, VII, VIII and IX, Brown's Lakeview Tracts Lots 5 - 14; and Mission Bay Village, PHASE 1, 2 & 3.
2. Pack River Ltd. Co., a Limited Liability Co., caused to be recorded on the records of Lake County, Montana a Declaration of Protective Covenants, Conditions and Restrictions, on October 17, 1996, under Document No. 369441, records of Lake County, Montana. The original document was supplemented by an Amendment of Declaration of Protective Covenants, Conditions and Restrictions dated May 20, 1997, recorded May 23, 1997, under Document No. 382021, records of Lake County, Montana. The Covenants were further supplemented by a document entitled Second Amendment of Declaration of Protective Covenants, Conditions and Restrictions dated August 22, 1997 and recorded August 25, 1997, Document No. 384072. (Collectively "Fairway Properties II Declaration").
3. Northwest Holdings, L.L.C. issued a Declaration of Covenants, Conditions and Restrictions for Mission Bay Subdivision Phase I dated January 16, 1998 and recorded January 21, 1998, under Document No. 387381, records of Lake County, Montana. (Mission Bay Declaration).
4. The portions of the Real Property, comprising Fairway Properties II and Mission Bay Phase I, were brought together and subjected to certain limitations and restrictions as contained in a document entitled "Amended Declaration of Covenants, Conditions

and Restrictions for Fairway Properties II and Mission Bay Subdivisions" dated November 24, 1998, and recorded upon the records of the office of the Lake County Clerk & Recorder on January 6, 1999, as Document No. 395962, which was later re-recorded on June 14, 2001, as Document No. 416504. (Fairway Properties II and Mission Bay Declaration) The Fairway Properties II and Mission Bay Declaration superseded and replaced the Fairway Properties II Declaration and the Mission Bay Declaration.

5. Subsequently, Mission Bay Phases II, III, IV, V, VI, VII, VIII and IX, were brought under the Fairway Properties II and Mission Bay Declaration. Additionally, the Fairway Properties II and Mission Bay Declaration was amended by documents dated November 21, 2001 and recorded on November 30, 2001, as Document No. 420647; June 10, 2002, and recorded on June 12, 2002, as Document No. 425774 and re-recorded on October 4, 2002, as Document No. 429018.
6. The portions of the Real Property, comprising Brown's Lakeview Tracts Lots 5 - 14, were brought under the Fairway Properties II and Mission Bay Declaration, by a document dated June 24, 2002 and recorded on July 1, 2002, as Document No. 426336.
7. By a document entitled "RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR FAIRWAY PROPERTIES II, MISSION BAY PHASES I, II, III, IV, V, VI, VII, VIII AND IX, BROWN'S LAKEVIEW LOTS 5 - 14 AND MISSION BAY VILLAGE" (The Restated Declaration), the Declarant superseded the covenants, conditions and restrictions as set out in the Fairway Properties II and Mission Bay Declaration, as amended, and replaced such covenants, conditions and restrictions with those as set out in the Restated Declaration, including Fairway Properties II, Mission Bay Phases I, II, III, IV, V, VI, VII, VIII and IX, Brown's Lakeview Tracts Lots 5 - 14; and Mission Bay Village in the Restated Declaration. The Restated Declaration was dated December 30, 2004 and recorded on January 5, 2005, as Document No. 454726.
8. The Restated Declaration, addressed the authority to amend as follows:

Amendment. The Declarant reserves the sole right to amend, modify, make additions to or deletions from this Restated Declaration it alone deems appropriate. This right of the Declarant to make such amendments shall continue for so long as Declarant is a Member in the Association. After that time the right to amend shall pass to the Association to be exercised only upon a concurrence of seventy-five (75) percent of the Lot Owners of Real Property in Mission Bay (See Article III: Membership and Voting Rights). In no event may those provisions of this Restated Declaration required by a preliminary plat

approval letter from the City of Polson to Declarant dated July 21, 1997, specifically items 13, 14, 16, 19, 22 and 29 of the letter be amended or deleted except with the express written consent of the City of Polson, its successors or assigns.

9. Northwest Holdings, L.L.C. is at the time of entry into this First Amended Restated Declaration an owner of more than one Lot subject to the Restated Declaration and as such remains a Member of the Association, having the sole right to amend, modify, make additions to or deletions from it, subject to the consent of the City of Polson, if the amendment, modification, addition or deletion affects a provision required by the preliminary plat approval letter as referenced above.
10. Northwest Holdings, L.L.C. consulted the City of Polson and were told that the amendments, modifications, additions and deletions in this First Amended Restated Declaration of Covenants, Conditions and Restrictions do not affect the provisions required by the preliminary plat approval letter. As result the consent of the City of Polson is not required.
11. Northwest Holdings, L.L.C. desires to amend the Restated Declaration for the express purpose of enhancing and protecting the value, desirability, and attractiveness of the Real Property as a desirable residential development, and that the Restated Declaration be superseded and replaced with this First Amended Restated Declaration.
12. NOW THEREFORE, Northwest Holdings, L.L.C. hereby declares that all the Real Property identified in this First Amended Restated Declaration shall be held, sold, and conveyed subject to the following restrictions, covenants, conditions, and easements, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the Real Property as a desirable residential development. These restrictions, covenants, conditions and easements shall run with the Real Property and shall be binding upon all parties having or acquiring any right, title or interest in the described Real Property, or any part thereof, and shall inure to the benefit of and be binding upon each successor in interest to the Owner thereof.

#### ARTICLE I: DEFINITIONS

Section 1. Association. "Association" shall mean and refer to Mission Bay Homeowners Association, Inc., a Montana Non-profit Corporation, as the same may exist from time to time of record with the office of the Secretary of State, Helena, Montana, and its successors or assigns.

Section 2. Beach Area. "Beach Area" shall mean and refer to that portion of common area described as "Park Area on Flathead Lake" in condition 19 of the preliminary plat approval letter from the City of Polson to Declarant dated July 21, 1997, and further

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described as "Common Area" located immediately to the east of golf hole #5 on the preliminary plat of Mission Bay.

Section 3. Common Area. "Common Area" shall mean all that area shown on the preliminary plat of Mission Bay and the various phases thereof and upon the subdivision plats for Fairway Properties II, Brown's Lakeview Tracts Lots 5 - 14 and Mission Bay Village, and the various phases thereof or as may be shown on any other plat of any subdivision or property coming within the jurisdiction of this First Amended Restated Declaration.

Section 4. Declarant. "Declarant" shall mean and refer to Northwest Holdings, L.L.C., a Delaware Limited Liability Company, its successors and assigns if such successors or assigns should expressly acquire its rights as Declarant.

Section 5. Townhome. "Townhome" shall mean a single-family dwelling unit constructed so as to be attached by a common wall to one or more other dwelling units but separated by a property line.

Section 6. Lot. "Lot" shall mean and refer to any plot of land shown upon the recorded plat map of the Real Property subject to this First Amended Restated Declaration with the exception of the Common Area, Beach Area and streets and all roads dedicated or private. In the event other than a Lot as shown on the recorded plat map is utilized as a building site, as hereinafter authorized, such building site shall be considered as a Lot.

Section 7. Member. "Member" shall mean and refer to every person or entity who is a Member of the Association as described in Article III.

Section 8. Owner. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of any Lot which is a part of the Real Property, including buyers under a contract for deed, but excluding those having such interest merely as security for the performance of an obligation.

Section 9. Real Property. "Real Property" shall mean and refer to that certain Real Property described as Fairway Properties II, Mission Bay Phases I, II, III, IV, V, VI, VII, VIII and IX, Brown's Lakeview Tracts Lots 5 - 14; and Mission Bay Village and such other Real Property as is now or may hereafter be brought within the jurisdiction of this First Amended Restated Declaration and the Association.

## ARTICLE II: REPLACEMENT OF PRIOR COVENANTS

Section 1. Substitution of Prior Covenants. The terms and provisions hereafter set forth are intended to supersede and replace the terms and provisions in the Fairway Properties II and Mission Bay Declaration, as subsequently amended, and the preceding Mission Bay Declaration, and Fairway Properties II Declaration as amended. From and after the date of this First Amended Restated Declaration, the covenants, conditions and restrictions, as set out in this First Amended Restated Declaration shall control.

ARTICLE III: MEMBERSHIP & VOTING RIGHTS

Section 1. Membership. Every person or entity who is a record Owner of any Lot, including buyers under a contract for deed, shall be a Member of the Association. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation. Acceptance of title to any Lot whether by deed or other form of conveyance shall be deemed a consent to membership in the Association. Membership shall be appurtenant to and may not be separated from Ownership of the Lot. Ownership of such Lot shall be the sole qualification for membership, except all members of the Declarant shall be considered as Lot Owners for purposes of Association membership, and shall therefore be Members of the Association, so long as the Declarant owns one or more Lots. The Association if it acquires an interest in a Lot, which would otherwise qualify it for membership, shall not be considered a member either for voting or assessment purposes.

Section 2. Voting Rights. As to this First Amended Restated Declaration, the Owners of Lots shall be entitled to one vote for each Lot in which they hold an ownership interest, except for so long as the Declarant is the Owner of four or more Lots it shall be entitled to ten votes for each Lot it owns. When more than one person or entity owns an interest in any Lot, the vote for such Lot shall be exercised as such persons or entities determine, but in no event may more than one vote per Lot be cast, except as previously stated.

ARTICLE IV: HOMEOWNERS ASSOCIATION

Section 1. Homeowners Association. The Declarant has created a Montana non-profit corporation to act as the Homeowners Association in conjunction with the administration of this First Amended Restated Declaration. The Association shall administer the terms and provisions of this First Amended Restated Declaration and take such action as may be reasonable or necessary to carry out the functions of a homeowners association.

Section 2. Sub-Associations. The Declarant has also designated certain areas of the Real Property on which similarly designed homes are located as Sub-Associations. The intent of designating the Sub-Associations is to provide autonomy for Owners of the Lots within a Sub-Association to determine (by majority vote) the nature and extent of common exterior maintenance to be performed on the Lots within the area comprising the Sub-Association. This will provide flexibility should a Sub-Association choose to reduce the amount of common exterior maintenance and correspondingly reduce the common assessments for such maintenance or to increase the amount of common exterior maintenance which would increase the common assessments for such maintenance. The Sub-Associations shall be organized as Committees of the Association's Board of Directors, pursuant to the Bylaws and shall be comprised of two Directors, and an odd number of additional individuals chosen by majority vote of the Owners in the Sub-Association area.

The Sub-Association shall coordinate with the Association (and its manager or president) concerning the nature of common exterior maintenance to be performed. The Association shall be responsible to retain and compensate the necessary service providers to accomplish such maintenance, and to allocate among the Lots in each Sub-Association their common assessments for such maintenance. The Association shall remain responsible for maintenance of common area and streets within all Sub-Association areas.

## ARTICLE V: PROPERTY RIGHTS

Section 1. Members' Easements of Enjoyment. Every Member shall have a right and easement of enjoyment in and to the Common Areas and such easement shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions:

- a. The lake access and all Common Areas shown on the preliminary plat of Mission Bay, Phases I, II, III, IV, V, VI, VII, VIII and IX, Fairway Properties II, Brown's Lakeview Tracts Lots 5 - 14, Mission Bay Village or any other subdivision plat coming within the jurisdiction of this First Amended Restated Declaration, shall remain in private ownership for the exclusive use of the Members of the Homeowners Association and their guests;
- b. The right of the Association to provide reasonable restrictions on use of the Common Areas for the overall benefit of its members;
- c. The right of the Association to charge reasonable fees for maintenance and snow removal and other fees for the use of the Common Areas. The Common Areas shall not be maintained nor any alteration made to the Common Areas by the Owners of any Lot;
- d. The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of improving the Real Property, and the rights of such mortgagees in said Real Property shall be subordinate to the rights of the Homeowners hereunder;
- e. To the extent permitted or authorized by the City of Polson, the right of the Association or Declarant to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon under the Bylaws of the Association;

- f. The right of the Association and Declarant to grant easements under any Common Area to any public agency, authority, or utility without charge;
- g. The right of the Association or Declarant to run utility service lines or connections including a water or sewer system that serves any portion of the Real Property under or through any Common Areas; and
- h. Certain Lots are subject to drainage swale easements as depicted on the plats. No Lot shall be developed or landscaped in such a manner as to interfere with the purpose of the drainage swale easement.

**Section 2. Assignment of Use.** Any Member may assign, in accordance with this First Amended Restated Declaration, his right of enjoyment to the Common Areas and facilities to the members of his family, or others who reside on the Real Property.

**Section 3. Encroachment Easement.** If any part of a dwelling located upon a Lot and configured as a "Townhome" shall at this time or a subsequent time unintentionally encroach (whether due to construction, settling, shifting or otherwise) upon another Lot, the Owner of the encroaching dwelling shall and does have a perpetual easement for such encroachment and for maintenance of the same.

**Section 4. Maintenance Easement.** The Owner of each Townhome unit has an easement over that portion of the adjacent Lot on which the connecting Townhome is located, to make repairs to the Owner's Townhome. For purposes of general building maintenance, landscaping and lawn care, the Association, its agents, subcontractors and employees may utilize the easement herein provided for.

**Section 5. Common Walls.** The dwellings located on some Lots are designed in a "Townhome" configuration, so as two or more dwellings will share a common wall and design. The Owner of each Lot shall own, in fee simple, that portion of the common wall lying within the boundaries of his Lot. Each Owner having a common wall is granted a mutual reciprocal easement for replacement of said common wall. No Owner shall commit or omit any act the result of which is infringement of the adjoining Lot Owner's rights in the common wall absent written agreement between such Owners.

## ARTICLE VI: SERVICES PROVIDED BY ASSOCIATION

**Section 1. Common Areas.** The Association shall mow, water or otherwise maintain the Common Areas (as identified in the preliminary plat of Mission Bay subdivision and as subsequently identified or amended in recorded plats of the Phases of Mission Bay subdivision) as is reasonably necessary. The Association shall be responsible for the maintenance of all private roads within the subdivisions subject to the jurisdiction of this First Amended Restated Declaration. Neither the City of Polson nor other public agencies are responsible for maintenance of the private roads until such time as the private roads

are designed and constructed to the then existing public road standards and are accepted by the City of Polson as dedicated public streets.

Section 2. City Park. The Declarant has entered into an agreement with the City of Polson providing for the City to provide ongoing maintenance of a park area as identified on the preliminary plat of Mission Bay. The park area is adjacent to Lot 19 of Fairway Properties II, Phase I. If the City ceases such ongoing maintenance, the Association shall thereafter provide for the ongoing maintenance of the park.

Section 3. Exterior/Lawn Maintenance. Upon completion of any Townhome units, all exterior maintenance such as painting, repair of walls, roofs, lawns and shrubs (excepting flower beds and deck planter boxes) shall be done exclusively by the Association, acting through the applicable Sub-Association, as provided in Article IV, Section 2.

Section 4. Additional Services. The Association may provide additional services as it sees fit. The Association may provide such services for all or a portion of the Real Property within its jurisdiction or with which it may contract and levy assessments on such portion of its Members or others as derive benefits from services concerned.

Section 5. Fees. The Association shall establish a fee schedule for providing these services, which fees shall be considered as assessments, as set forth above. Such schedule may include the assessment of:

- a. Charges for availability of a service even though it is not used by the Owner of a Lot.
- b. Charges for use based on a flat rate.
- c. Additional charges for excess use.
- d. Such other charges as may be required to maintain the private roads within the Real Property.

#### ARTICLE VII: RULES AND REGULATIONS

Section 1. Association to Establish Rules. The Association may promulgate such rules and regulations as it deems necessary and appropriate for the use of the Common Areas, Beach Area and private roads as identified on the plat of the Real Property. Rules and regulations promulgated by the Association shall only be effective upon the Association's receipt of the affirmative vote of 60% of the Lot Owners. (See Article III: Membership and Voting Rights).

Section 2. Rules for Maintenance and Repairs. The Association may also promulgate reasonable rules and regulations for the maintenance, repair or improvement

of the Real Property. Such rules must be uniformly and evenly applied, but may differ between Townhomes and single-family residential homes.

#### ARTICLE VIII: ASSESSMENTS

**Section 1. Assessments.** The general assessments levied by the Association shall be used for such purposes as are deemed desirable by the Association including but not limited to expenditures for construction, reconstruction, repair or replacement of any capital improvement; maintenance, repair and upkeep of drainage facilities; maintenance, upkeep, real property taxes, hazard and liability insurance, and related expenses in regard to any Common Area, Beach Area, the City Park, administrative costs of the Association incurred in its day to day activities and any costs or expenses, including attorneys fees, incurred in enforcing the conditions, restrictions or charges set forth in this First Amended Restated Declaration.

**Section 2. Rate of Assessments.** Assessments for services may be based on either a flat rate or on usage. As to charges for private roads, exterior maintenance, lawn care or similar charges, the Association shall assess those service costs to the Real Property Owners who benefit directly from the services. The cost of maintenance, snow removal and other service costs associated with a Sub-Association shall be prorated among the Owners of Lots in the Sub-Association, but should not be assessed against other Lot Owners. The same concept of user benefit assessment should be applied to exterior maintenance of Townhomes, lawn care and similar services. All other assessments, including those for capital improvements on systems utilized to provide services, shall be fixed at a uniform rate per Lot. Undeveloped Lots owned by Declarant shall be subject to assessment at one-fourth (that is, 25%) of the amount of assessments fixed for other Lots.

**Section 3. Special Assessments.** Upon determination by the Board of Directors of the Association, assessments may be levied for special or particular purposes. Such assessments may include related administration costs and such other costs or charges as are reasonably required. The assessments shall be fixed, established and collected in the amount and manner as the Association might determine but in any event they shall be separately treated from other assessments provided for by this Article. Funds utilized for special assessments shall be accounted for separately.

**Section 4. Commencement of Assessments.** The Association is authorized to commence initial assessments as herein authorized at such time as it determines appropriate. Written notice of assessments shall be sent to every Lot Owner. The due dates shall be established by the Association. If Assessments are not paid by such due date then interest shall begin to accrue on them at a rate as determined by the Association.

**Section 5. Certificate of Payment.** The Secretary of the Association shall upon demand furnish a written statement signed by an officer of the Association setting forth the status of any assessments relative to a specific Lot. The statement shall, as applicable,

identify any delinquent assessments, the amount owed, the amount of any current assessments or accruing assessments or indicate that all assessments are current and paid. A reasonable charge may be made by the Association for the issuance of the statement. Such statement shall be conclusive evidence of payment of any assessment therein stated to have been paid. In addition, the Secretary of the Association shall maintain a roster of the individual Lots and the assessments due thereon.

Section 6. Nonpayment of Assessments. Any assessments or installment payments on assessments which are not paid when due shall be delinquent. The Association may bring an action at law to collect the amount of the delinquent assessment together with all interest, costs, and reasonable attorney's fees incurred in such action, or may take action to perfect and foreclose the lien for assessments.

Section 7. Obligation of Payment. All Lots are subject to the assessments set forth in this First Amended Restated Declaration. Each Lot Owner hereby covenants and agrees to pay to the Association the amount of all assessments; as such assessments are fixed, established and billed. The Association shall bill the Property Owner for the amount of any assessment and that Property Owner shall be responsible for any accruing assessments until and unless such Property Owner has provided to the Association's secretary a true and correct copy of a recorded deed or other document of conveyance transferring title of a Lot to another Owner.

Section 8. Creation of Lien. All assessments both current and delinquent, together with interest and cost of collection as herein provided for, shall be a charge upon the land and shall constitute a lien upon the Lot against which assessments are made. Such lien shall be deemed perfected upon filing with the County Clerk and Recorder of Lake County an account of the assessments due together with a correct description of the Real Property to be charged with such lien and shall continue until all unpaid assessments, interest and costs of collection shall have been fully paid. The priority of such lien shall be determined as of the time of filing with the Clerk and Recorder, and it shall be deemed subordinate to all previously recorded or filed interests. Conveyance of title to any Lot shall not be effective to avoid the obligation for payment of any sums then due and owing whether or not reduced to the status of a lien. The Association may establish such procedures for collection of obligations and perfecting of liens for payment of assessments as it deems necessary and appropriate.

Section 9. Property Subject to Assessment. All Lots shall be subject to assessments by the Association as herein provided except those Lots acquired by the Association.

#### ARTICLE IX: PROTECTIVE COVENANTS

The following protective covenants are designed to provide a uniform plan for the development of the Real Property. They shall constitute a covenant running with the land for each Lot within the Real Property.

Section 1. Design Review Committee. The Association shall maintain a Design Review Committee (MBDRC) to serve the functions as described in this Article and shall establish Design Guidelines specifically for the Real Property subject to the jurisdiction of this First Amended Restated Declaration. Separate Design Guidelines shall be established for the construction of Townhomes and for single family residential dwellings and from phase to phase. Members of the MBDRC shall be appointed and serve as set forth in the Bylaws of the Association.

The Design Guidelines by which the MBDRC will review any proposed plans for the construction of improvements or exterior modifications on any Lot shall be made available to the purchaser of any Lot. It is the obligation of the Owner of any Lot to obtain current versions of the Design Guidelines prior to preparation of plans or specifications for construction of improvements or exterior modifications and prior to submission of materials for review by the MBDRC. The MBDRC will evaluate proposed plans for construction of improvements or exterior modifications based upon the most recent Design Guidelines for review as may be in effect as of the time the plans are submitted for review and is not obligated to use the Design Guidelines in effect at the time the Lot was purchased. While the Design Guidelines must be reasonably designed to enhance and protect the nature of the Real Property in the area, purchasers of Lots need to be aware that the MBDRC may from time to time adopt more stringent Design Guidelines than what existed at the time a Lot was purchased.

The MBDRC may require payment of fees, application, review of proposed plans, review of complaints or protests alleging violation of this First Amended Restated Declaration as to matters within the jurisdiction of the MBDRC. The fees as set by the MBDRC shall be in an amount sufficient to reasonably compensate the MBDRC for its administrative costs and expenses likely to be incurred in connection with its activities. The MBDRC may require payment of the fee in advance as a condition of making its review or determination. Unless waived by the MBDRC, failure to pay any fee required for MBDRC review or action shall be interpreted as the matter was not present for review and no action of the MBDRC is required.

Section 2. Design Review Committee Approval. Approval or disapproval by the MBDRC shall be in writing. In the event the Committee fails to act within thirty (30) days after the proposed plans and specifications of any structure and required fees are submitted, no specific approval shall be required for such structure and the pertinent provisions of this First Amended Restated Declaration shall be deemed to have been fully complied with.

Section 3. Land Use and Building Type. No Lot shall be used except for residential purposes, and no business, trade, or manufacture shall be conducted thereon, except as provided in Section 4, below.

(a) New dwellings. No building shall be erected, altered, placed, or permitted to remain on any Lot other than one attached or detached single-

family dwelling not to exceed the specific height restrictions established by the MBDRC, and a private garage for no less than two (2) cars and accessory buildings, as permitted herein. No structure such as the residential dwelling, accessory buildings, fences, kennels, garages, antennas, signs, mailboxes and newspaper holders or any other structure may be located upon any Lot unless the plans and specifications for such structures have been reviewed and approved by the MBDRC. The MBDRC shall also have jurisdiction to determine and approve proposed grades of lawn, landscaping plans including seeding and planting and all other and similar items relating to the development and improvement of any Lot. All structures shall be constructed of new materials. However, suitable used materials such as used brick or beams may be utilized provided that advance approval has been obtained from the MBDRC as herein provided. No old structures, whether intended for use in whole or in part as the main dwelling house or as a garage or other structure shall be moved upon any Lot. No mobile homes, either double or single wide, or other pre-manufactured homes constructed primarily away from the Lot on which they would be situated shall be permitted. Provided, Declarant shall not be restricted by this section or this Restated Declaration from manufacturing or assembling components of structures on a site other than the Lot on which the building is to be located. The MBDRC of the Association is authorized in its discretion to approve exceptions to this section so that structures intended to serve the residents of the adjoining dwelling house may be constructed. No such additional structure shall be utilized as an additional dwelling house or for purposes other than to serve the residents of the dwelling house.

(b) Remodeling or Alteration. No remodeling or other alteration of any existing structure which alteration or remodeling or the results thereof, will be visible from the exterior of the structure shall be undertaken, commenced or completed without the plans for such remodeling or alteration having first been approved by the MBDRC.

Section 4. Residential Use. All Lots, shall be known and described as residential Lots and no business, trade, or commercial activity of any kind or description shall be conducted thereon, other than home occupations, which are permitted if such activities take place solely within the dwelling house located on the premises, so long as such use does not increase the flow of vehicular traffic on the real property; so long as such use does not result in noise, disturbance, or in any way negatively impact the residential nature of the real property and so long as such use does not change or conflict with the residential nature of the real property. This restriction shall not be deemed to prohibit the rental of a residential dwelling for residential purposes and for periods of time no less than 30 days, as otherwise permitted pursuant to Article IX, Section 25. Further provided the Declarant shall be permitted to maintain a sales office in either a model home or a specially constructed building, to be utilized to promote the development of the Real Property.

**Section 5. Setback Requirements.** No structure shall be placed within the described setback area on said Lots. Any waiver or alteration of a setback requirement as to any Lot shall not be deemed to have waived the setback requirement set forth herein, nor shall it set a precedent that in any way obligates the MBDRC to make subsequent waivers or make adjustments to setback requirements for other Lots. The setback requirements for Mission Bay Phases I, II, III, IV, V, VI, VII, VIII and IX, Fairway Properties II and Mission Bay Village are different than those for Brown's Lakeview Tracts Lots 5 through 14. Such setback requirements are as follows:

- a. **Mission Bay Phases I, II, III, IV, V, VI, VII, VIII and IX, and Fairway Properties II.** The building setbacks for all structures from golf course fairways are identified on the preliminary plat of Mission Bay subdivision. No building, residence or other structure shall be located closer to the golf course than is permitted by the setback lines identified on the preliminary plat. For Lots upon which Townhomes are to be constructed, side Lot setbacks are waived as to common walls. Side yard setbacks for that portion of any Townhome unit not attached to a connecting structure shall be no less than 5 feet. Townhome Lots shall have a minimum front yard setback of 20 feet and a rear yard setback of no less than 15 feet. Single family residential Lots not affected by fairway setbacks as set forth above shall have a minimum front setback of 30 feet, side yard setbacks a minimum of 10 feet and rear yard setbacks no less than 15 feet. Any setback requirement may be waived or altered by the MBDRC.
- b. **Brown's Lakeview Tracts Lots 5 through 14.** Rear, side-yard and front building setbacks for all structures located on that portion of the Real Property, known as Brown's Lakeview Tracts Lots 5 through 14 shall be as identified on Exhibit "A" attached hereto and by this reference made a part hereof as though fully set forth at this place.
- c. **Mission Bay Village.** The setbacks for Mission Bay Village shall be established and controlled by the zoning applicable to Mission Bay Village and by this section.

**Section 6. Exterior Maintenance.**

(a) **Single Family Residences.** The Owner of each Lot upon which a single family residential structure may or is located shall provide exterior maintenance upon such Lot and structures, if any, to include painting and repairing the structures; maintaining the lawn and grounds including trimming to preclude weeds, underbrush, and other unsightly growths; and not permitting refuse piles or other unsightly objects to accumulate or remain on the grounds. In providing such exterior maintenance, the Owner shall maintain the exterior color, design and appearance, including landscaping, as originally approved by the MBDRC. In the event any Owner shall fail or neglect to provide such exterior maintenance, the Association shall notify such Owner in writing specifying the failure or neglect. Such

notice shall demand that the Owner remedy the failure or neglect, within thirty (30) days if related to maintenance of the single family structure or within three (3) days if related to matters other than maintenance of the single family structure (e.g., lot, lawn, weeds, or refuse). If the Owner shall fail or refuse to provide such exterior maintenance within the thirty (30) day period, the Association may then enter such Lot and provide required maintenance at the expense of the Owner. The full amount shall be due and payable within thirty (30) days after the Owner is billed therefore and shall become a special assessment upon that Lot. The Association may exercise all rights to collect that assessment. Such entry on the Lot by the Association shall not be deemed a trespass.

(b) Townhome Lots. All maintenance of the exterior of the Townhome structure and the Lot upon which it is located shall be performed by the Association, its employees, agents and authorized Independent Contractors acting through the applicable Sub-Association, as provided in Article IV, Section 2. The Owner may, at their election, maintain flower boxes or deck planters as they deem appropriate or desirable.

Section 7. Utilities. All utility lines shall be underground. The Owner of each Lot shall pay all initial connecting costs for cable television and telephone service, together with all subsequent charges for all utilities.

Section 8. Easements. Easements for installation and maintenance of utilities and drainage facilities are reserved as shown on the recorded plat. No permanent building of any kind shall be erected, placed, or permitted to remain on such easements.

Section 9. Boundary Control Monuments. The Declarant has caused survey monuments to be placed on the corners of each Lot. It shall be the responsibility of the Owner of each Lot to provide for immediate professional replacement of any survey monuments that are removed or become lost or obliterated from his or her Lot.

Section 10. Garbage. No Lot shall be used or maintained as a dumping ground, nor shall any rubbish, trash, garbage or other waste be allowed to accumulate except in sanitary containers which shall be emptied on at least a weekly basis by a local garbage collection firm. This provision does not prohibit temporary storage of gravel, topsoil or building materials on Lots if such items are to be used in further construction. All garbage shall be stored in containers of metal, plastic, or other suitable material which have sufficiently tight-fitting covers to prevent the escape of noxious odors and to prevent entrance by pets. On garbage collection days, garbage cans may be placed in a location convenient for collection. Garbage cans shall be stored indoors or screened from public view on all four sides through the use of walls, fences or plantings which are attached to the house and approved by the MBDRC. Provided, on garbage collection day garbage containers may be placed in a location convenient for pickup. Compost piles are prohibited, unless located inside the dwelling house and odorless.

Section 11. Burning of Trash. There shall be no burning of leaves or trash.

Section 12. Animals and Pets. No animals or fowl, domestic or wild, except for dogs, cats, birds and other small domestic animals, which are subject to the prior, written approval of the Association, shall be allowed on any Lot. In no event may more than two permitted dogs or cats be allowed on any Lot (for example no more than two dogs, two cats, one dog and one cat, may be allowed on any Lot). In no event may more than ten birds be allowed on any Lot. These animals will be kept within the Lot of their Owner unless leashed and under the immediate control of their Owner. Such animals shall not be permitted to become a nuisance or annoyance to the neighborhood. All animals kept on any Lot shall be properly fed, watered, and sheltered from the elements in such a manner as shall be consistent with their good health. Pet food should be fed indoors or within approved kennel areas only. This will reduce the conflicts with wild animals. Each Owner or person responsible shall treat and care for such animals in a humane and merciful fashion, so that other persons in the area shall not be required to tolerate or condone inhumane treatment of the animals. All animals kept on the Real Property must be kept within an approved fenced enclosure, approved kennel or within the dwelling house, except when accompanied by their Owner, as provided above. No kennels are permitted, other than kennels approved by the MBDRC as to construction, materials and location. All animals shall be kept in a humane manner but not chained. Animal manure shall be removed from the Real Property, immediately following deposit, so as not to become obnoxious, offensive, or a nuisance to surrounding residents. All carcasses of dead animals shall be removed immediately. No commercial sales of any animals shall be permitted. Violations of these requirements regarding animals shall be considered a complete breach of these protective and restrictive covenants, giving rise to such remedies as are allowed by law for the breach of any other covenants contained herein.

Section 13. Vehicles. There shall be no repairing of vehicles in the street. Each Lot shall contain a sufficient area for two off-street parking spaces, excluding the garage. There shall be no parking of vehicles on the street fronting any Lot. There shall be no overnight parking on any street. Guest parking is permitted only on driveways and on the designated parking areas on Lot 104 (the Community Center Lot). No motor homes, trailers, trucks exceeding one ton capacity, pickups carrying campers, campers, boats, boat trailers, or unsightly vehicles shall be parked or allowed to remain on any of the Lots or the adjoining streets. However, two exceptions are allowed – (i) such vehicles are allowed if they are stored in a garage or Accessory Building; and (ii) motor homes, camper trailers, and pickups carrying campers may be parked in a Lot's driveway for a period not to exceed 72 hours, to allow for loading, unloading and cleaning. Vehicle parking restrictions provided by this Restated Declaration will be strictly enforced, including but not limited to ticketing and towing of vehicles in violation. Snowmobiles, trail bikes, chainsaws and other noisy vehicles and equipment may not be used on any of the Real Property within the subdivisions without permission of the Association. This provision is not intended to preclude the entry of construction, maintenance, delivery, moving, or other such service vehicles while they are being utilized in connection with services for the Real Property.

Section 14. Signs. No advertising signs, billboards, or unsightly objects shall be erected, placed, or permitted to remain on any Lot with the following exceptions:

- a. One sign up to 10 square feet in size identifying the contractor of a building under construction;
- b. One sign up to 10 square feet in size identifying the architect of a building under construction;
- c. Signs erected within the subdivisions by the Declarant promoting the development of the Real Property and subdivisions;
- d. A sign not to exceed 2 square feet in surface area identifying the owner or occupant of the residential structure located on a Lot so long as the sign is permanently affixed to the structure;
- e. signs not to exceed eight square feet may be used to advocate for or against the election or appointment of a candidate for public office or the passage of a ballot issue, but only for 30 days immediately preceding the election and must be located on the Lot of the person erecting the sign;
- f. signs as might be required by law (e.g., signs indicating handicapped parking); and
- g. Such other signs as may be permitted or approved by the MBDRC.

**Section 15. Damaged Property.** Any dwelling damaged by fire or other casualty must be removed from the premises and repairs commenced within one hundred twenty (120) days unless an extension of time for such removal and repair is granted by the MBDRC. Any damaged dwelling not so removed and repaired may be removed at the Owner's expense and the MBDRC may pursue any and all legal and equitable remedies to enforce compliance and to recover any expenses incurred in connection herewith. Any cost incurred by the Association under this section shall become a special assessment upon the Lot of the Owner. The Association may exercise all rights to collect that assessment.

**Section 16. Access and Roadways.** Except for Declarant, no Owner shall use part of any Lot to provide access to any adjacent land. No roadway shall be used or constructed on any Lot for any purpose except one driveway for access to the dwelling facilities. No Owner of any Lot nor their guests or invitees shall utilize the emergency access between the Mission Bay subdivision and Bay View Drive except in the case of an emergency. The Association shall enforce the wrongful use of the emergency access and shall impose and levy fines against any Lot Owner for wrongfully using the emergency access. Each Lot Owner, as to the wrongful use of the emergency access, is responsible for the conduct of their guests and invitees including any tenants or renters of the Lot Owner's property. The Association may, either together with or as a separate action, suspend the Lot Owner's

privileges to utilize the beach access, or other Common Areas or any other service or facility of the subdivision as an additional penalty.

Section 17. Sanitary Restrictions. The Owners of every Lot shall comply with all governing laws and regulations relating to water supply, sanitation, sewage disposal, and air pollution.

Section 18. Accessory Buildings. As to the Lots upon which Townhomes are constructed, no accessory or outbuildings shall be erected, placed or maintained thereon. For non-Townhome Lots, the only accessory building or outbuilding permitted is one free standing or detached storage facility, the materials, size, color, appearance and location of which shall be first approved by the MBDRC. Upon Brown's Lakeview Tracts Lots 5 through 14, one free-standing accessory building, which may include storage space for a single recreational vehicle, shall be permitted, subject to the condition that the garage door shall not face the street and that the materials, size, color, appearance and location of which shall be first approved by the MBDRC.

Section 19. Imperiling of Insurance. Nothing shall be done within a Townhome or the Lot on which it is located which would result in an increase in the premiums for insurance maintained for a Lot or which might cause cancellation of such insurance for the Owner of the other Townhome or Lot.

Section 20. Construction Liens. No labor performed or materials furnished with the consent or at the request of an Owner, his agent, contractor or subcontractor shall create any right to file a construction lien against the Real Property of the Association or any other Owner, who does not request or consent to the same. Each contracting or consenting Owner shall indemnify, defend and hold harmless the Association and each of the other Owners from and against liability arising from the claim of any lien holder for labor performed or materials furnished at the request of the contracting or consenting Owner. At the written request of any Owner, the Association shall enforce such indemnity by collecting from the contracting or consenting Owner the amount necessary to discharge any such lien and all costs incidental thereto including attorney's fees and expenses. Said expenses may be added to such Owner's regular assessments.

Section 21. Alteration. The dwellings located on some Lots were designed in a "Townhome" configuration, so that two or more dwellings will share a common wall and design. To enhance this design and to protect the structural integrity of the units, no Owner of a Townhome, or the Association shall make any change, modification, alteration or addition to the design, structure or color scheme of the dwelling's exterior without first obtaining the prior written consent of the MBDRC pursuant to this Article.

Section 22. Insurance. As to any Lots upon which Townhomes are located, each Owner of such Lots shall provide to the Association proof of fire and all risk hazard insurance covering the dwelling located upon his or her Lot for not less than the full insurable replacement value thereof. Such insurance shall be maintained with an insurance

company or companies of the Owner's choice, but having no less than an A- Rating by A.M. Best Company. Further, such insurance shall name the Association as loss payee, the purpose for which is to assure that the dwelling is replaced as contemplated by this Article. This shall not impair the ability of an Owner to identify other persons or entities as additional co-loss payees, including, without limitation, lending institutions obtaining a lien interest in an Owner's Lot. In the event a distribution of insurance proceeds exceeds that needed to repair or replace the damaged dwelling as required by this First Amended Restated Declaration, the Association shall have no further claim to such proceeds.

Section 23. Duty to Inspect Premises and to Notify of Defects. Each Owner of a Townhome shall have the duty to make reasonable inspections of his or her dwelling from time to time to determine if the same contain any obvious defects which result from structural or drainage problems occurring on the adjacent Lot to which the unit is connected. In the event of discovery of such a defect the Owner shall have the duty to give immediate written notice of the defect or condition to the adjoining property Owner and to the Association.

Section 24. Duty to Repair Defects. In the event a defect as described in Section 23 above or any other damage or defect may affect the dwelling located on the Lot of any other Owner, the Owner whose dwelling or Lot has the defect shall repair the same in a workmanlike fashion within a reasonable time following its discovery. Upon the failure of such Owner to so repair defects that are such Owner's responsibility, the Association shall have the duty to enter into and upon the Owner's Lot, including the dwelling, and effect such repair, the cost of which shall be paid by such Owner by assessment or otherwise.

Section 25. Rentals. No residence or any portion thereof may be rented for less than a thirty day minimum period. This restriction is intended to prohibit overnight, daily and weekly rentals.

#### ARTICLE X: BEACH/PARK AREA AND COMMUNITY CENTER

Section 1. Beach Area. Neither the Owners of any Lot nor their guests or invitees shall:

- a. Construct boat docks or ramps;
- b. Use any motorized water craft from the Beach Area;
- c. Use the area except between the hours of 7:00 a.m. to 11:00 p.m.; or
- d. The north boundary of the Beach Area shall be fenced. The developer shall post the Beach Area with no trespassing signs. After the initial posting by the developer, the Association shall maintain the no trespassing signs and the fence protecting the area for the exclusive use by the Lot Owners, their guests and invitees. The Association shall incorporate into its landscaping

and maintenance a vegetative screen along the north boundary of the Beach Area. The vegetative screen shall be comprised of trees or bushes which shall be in addition to the fence described above.

Section 2. Community Center. Located upon Lot 104, Mission Bay Phase VII is a Community Center, owned by the Mission Bay Homeowners Association, Inc. The purpose, use, rights and responsibilities pertaining to the Community Center are as set out in this Section. Lot 104, Mission Bay Phase VII is excluded and exempt from the provisions and requirements of Article IX, Sections 1 thru 6, 13, 14, and 21 thru 25 of this Restated Declaration. Neither Lot 104, Mission Bay Phase VII, nor the improvements located thereon shall be considered common elements under this Declaration or the Declaration for Mission Bay Preserve.

- a. Purpose – Joint Use. Except as otherwise provided in this Section, Lot 104, Mission Bay Phase VII shall be used as the site for a Community Center, intended for the use, benefit and enjoyment of the Owners of real property subject of this Restated Declaration and the Owners of real property located in Mission Bay Preserve. The use of Lot 104, Mission Bay Phase VII and its improvements are restricted by the terms and provisions of this Section.
- b. Declarant's Use. The Declarant or its designee may use a portion of the Community Center building as a sales office so long as Declarant desires. Any portion of the Community Center used by the Declarant for its sales office shall be under the control and direction of the Declarant. The Declarant shall be responsible to the Association for the payment of construction costs, maintenance assessments and similar fees or charges for the portion of the building and or facility that it occupies as a sales facility.
- c. Administration. Other than the portion of Lot 104, Mission Bay Phase VII and facilities constructed thereon, which are under the Declarant's control, such property shall be controlled and administered by the Community Center Committee established by this Section for the use, benefit and enjoyment of the Owners of real property subject of this Restated Declaration and the Owners of real property located in Mission Bay Preserve. The Community Center Committee shall be a joint committee comprised of five individuals, three of whom shall be appointed by the Mission Bay Homeowners Association, Inc. and two of whom shall be appointed by the Mission Bay Preserve Homeowners Association, Inc. All actions of the Community Center Committee shall be taken by majority vote of its members. From its five members, the Community Center Committee shall elect a chairperson, vice chairperson and secretary. The Community Center Committee shall meet on no less than a quarterly basis, at such reasonable times as may be set by the Chairperson. All meetings of the Community Center Committee shall take place at the Community Center and shall be open to Owners of real property subject to this Declaration and owners of real property subject to the Mission Bay Preserve Declaration.

d. Rules and Regulations. The Community Center Committee shall establish such rules and regulations for the use Lot 104, Mission Bay Phase VII and facilities constructed thereon, as it deems necessary and appropriate.

e. Entitlements. Subject to the rules and regulations as may from time to time be established by the Community Center Committee, the Owners, (including their guests and invitees) of Lots included among the Real Property and the Owners of Lots in Mission Bay Preserve shall be entitled to use the Community Center constructed on Lot 104, Mission Bay Phase VII.

f. Assessments. The Community Center Committee shall determine the amount of assessments to be charged to the owners of each Lot in the real property subject of this Declaration and the Lots subject of the Declaration of Covenants, Conditions and Restrictions for Mission Bay Preserve Subdivision (Mission Bay Preserve Declaration) for Lot 104, and the improvements thereon. Such assessments attributable to Lot 104 and its improvements shall be equally allocated on a per lot basis, including both Lots subject to this Restated Declaration and the Mission Bay Preserve Declaration. Each Association (Mission Bay Homeowners Association, Inc. and the Mission Bay Preserve Homeowners Association, Inc.) shall include such amount in their respective assessments. The amount of assessments as determined by the Community Center Committee shall consist of the costs of construction and maintenance of the facilities on Lot 104, Mission Bay Phase VII. The costs of construction may include loan payments, or direct reimbursement to the Declarant or parties responsible for construction of the facilities. Maintenance costs shall include, but are not limited to, insurance premiums, operational\ administrative expenses. As an exception to the provisions of Section 2, Rate of Assessments, set forth in Article VIII of this Restated Declaration, the assessments levied by the Association pursuant to this Section, shall not be prorated or discounted. Declarant shall be responsible for paying 100% of all assessments under this section applicable to any lots owned by Declarant, limited to the term of its ownership. The Community Center Committee may restrict access to Lot 104, Mission Bay Phase VII and the Community Center for those Owners, who are not current in paying the assessments provided herein.

g. Community Center Hours. The operating hours for the Community Center located on Lot 104, Mission Bay Phase VII shall be restricted to those hours between 6:00 am to 10:00 pm.

h. Storm Water Drainage. The Community Center Committee shall be solely responsible for maintenance of the storm water drainage system, including an oil filtration trap, for all storm water originating from Montana Landing Street and Lot 104, Mission Bay Phase VII.

## ARTICLE XI: GENERAL PROVISIONS

Section 1. Duration. The covenants, conditions, charges and restrictions of this First Amended Restated Declaration shall run with and bind the land and shall inure to the benefit of and be enforceable by the Association, the Declarant or the Owner of any Lot subject to this First Amended Restated Declaration, their respective legal representatives, heirs, successors, or assigns in perpetuity.

Section 2. Enforcement. Any Owner of a Lot, the Declarant or the Association shall have the option and right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, and charges now or hereafter imposed by the provisions of this First Amended Restated Declaration, along with any Design Guidelines, Rules and Regulations enacted by the Association. Each Owner may submit to the Association any complaint regarding alleged violation of this First Amended Restated Declaration or the Design Guidelines, Rules and Regulations enacted by the Association by any other Owner. Upon receipt of such complaint to Association shall conduct a reasonable investigation of the alleged violation. If the Association, in its sole discretion, deems that the complaint has merit it may elect to seek enforcement of this First Amended Restated Declaration or the Design Guidelines, Rules and Regulations enacted by the Association pursuant to this section. In any event the decision of the Association as to the merit of the complaint or its decision to pursue or not pursue enforcement shall not limit or restrict in any way any individual Owner's pursuit of enforcement of this First Amended Restated Declaration or the Design Guidelines, Rules and Regulations enacted by the Association. The method of enforcement may include legal action seeking an injunction or prohibit any violation, to recover damages, or both. In addition to the means of Enforcement provided elsewhere herein, the Association shall have the right to assess fines against an Owner in the event of a violation of this First Amended Restated Declaration, or any Design Guidelines, Rules and Regulations enacted by the Association, provided each such violator shall be given written notice of the alleged violation and the opportunity for hearing before the Board of Directors upon request made within 15 days of the notice. The amount of such fine shall not exceed \$250.00 per occurrence, and each reoccurrence of the alleged violation for each day during which such violation continues shall be deemed a separate offense. Such fines shall be collectible as any other assessment, as provided in this First Amended Restated Declaration, such that the Association shall have a lien against the violator's Lot for such purpose. Failure by any Owner, or by the Declarant, to enforce any such provisions shall in no event be deemed a waiver of the right to do so thereafter. Should any law suit or other legal proceeding be instituted against an Owner who is alleged to have violated one or more of the provisions of this First Amended Restated Declaration or the Design Guidelines, Rules and Regulations enacted by the Association, the prevailing party in such proceeding shall be entitled to reimbursement for the costs of such proceeding, including reasonable attorney's fees. Each Owner grants a license to the Association, its officers, employees and agents to go onto each such Owner's Lot, but not into any dwelling, for the purpose of enforcing this First Amended Restated Declaration and the Design Guidelines, Rules and Regulations enacted by the Association. Should the

Association, its officers, employees and agents exercise such license, they shall not be liable in civil or criminal trespass.

Section 3. Severability. Invalidation of any of the terms, covenants, conditions or restrictions as established by this First Amended Restated Declaration or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 4. Amendment. The Declarant reserves the sole right to amend, modify, make additions to or deletions from this First Amended Restated Declaration it alone deems appropriate. This right of the Declarant to make such amendments shall continue for so long as Declarant is a Member in the Association. After that time the right to amend shall pass to the Association to be exercised only upon a concurrence of two-thirds (2/3rds) of the Lot Owners of Real Property in Mission Bay (See Article III: Membership and Voting Rights). In no event may those provisions of this First Amended Restated Declaration required by a preliminary plat approval letter from the City of Polson to Declarant dated July 21, 1997, specifically items 13, 14, 16, 19, 22 and 29 of the letter be amended or deleted except with the express written consent of the City of Polson, its successors or assigns.

Section 5. Notices. Any notice called for or made under this First Amended Restated Declaration shall be either delivered personally to the recipient, deposited in the United States Mail with the postage prepaid thereon addressed to the recipient at his or her address as it appears upon the Association's membership rolls, or sent electronically at the e-mail address of the recipient, if he or she has agreed to receive notices electronically pursuant to the Association's Bylaws, at the e-mail address as it appears upon the Association's membership rolls.

Section 6. Liability of Declarant. The Declarant shall have no liability for any of its actions or failures to act, or for any action or failure to act of any Owner of any Lot.

IN WITNESS WHEREOF, the Declarant has executed the foregoing Declaration on the day and year first above written.

Northwest Holdings, L.L.C.,  
a limited liability company

By: Mulligan, Inc., a Montana corporation, - a Member

By: D. R. D.

Dennis R. Duty, President

Attest:

Tim Hinderman, Secretary

509198

STATE OF MONTANA )  
County of Lake ) : ss.  
                  )

This instrument was acknowledged before on the 8<sup>th</sup> day of  
September 2010, by Dennis R. Duty, as President and Tim Hinderman, as  
Secretary, of Mulligan, Inc., a Montana corporation and member of Northwest Holdings,  
L.L.C., a limited liability company.

(Notarial Seal)



RENEE ZUBOWICZ  
NOTARY PUBLIC for the  
State of Montana  
Residing at Polson, Montana  
My Commission Expires

Notary Public for the State of Montana  
Printed Name: Renee Zubowicz  
Residing at: \_\_\_\_\_  
My Commission expires: \_\_\_\_\_