

NORTH "N", L.L.C. CONDOMINIUM ASSOCIATION  
19 Lake Drive  
Livingston, MT 59047

**CONDOMINIUM DECLARATION  
FOR THE NORTH "N", L.L.C. CONDOMINIUM ASSOCIATION**

This Condominium Declaration for The North "N", L.L.C. Condominium Association is made pursuant to Section 70-23-101, et seq., MCA.

The property subject to this Declaration shall be known as North "N", L.L.C. Condominiums, (hereafter referred to as "condominium" or the "Premises"), located in Livingston, Montana.

**I. DEFINITIONS**

Unless the additional definitions contained in this Document, or in context expressly provide otherwise, the definitions contained in §70-23-102, MCA (1999), shall pertain throughout this Declaration and the By-Laws for the condominium and the interpretation of either document:

- A. Aggregate Voting shall mean the entire number of votes or persons present or available to vote in person. These votes are based on the number of units set forth in these Declarations.
- B. Board or Board of Directors shall mean the Board of Directors as more particularly defined in the By-Laws.

- C. By-Laws means the By-Laws promulgated by the Association under this declaration and the Unit Ownership Act.
- D. Units. All units are residential units to be used exclusively for residential or home-based businesses that require no outside signage or increased traffic to the condominium.
- E. Common Elements means all common areas.
- F. Limited Common Elements means all common areas that are specific to any one building.
- G. Common Expenses means expenses of administration, maintenance, repair or replacement of general common elements, expenses agreed upon by vote as set forth in this agreement.
- H. Declaration means this document and all parts attached thereto or incorporated by reference.
- I. Limited Expenses means the expenses attributable to the maintenance, repair and replacement of limited common elements and are expenses only for owners of units for which expenses are accrued.
- J. Mortgagee means any mortgagee or beneficiary under a trust indenture.

## II. REAL ESTATE

A. Description: The real property which is, by this Declaration, submitted and subject to the Unit Ownership Act is described and attached as Exhibit "1"

B. Condominium Units: Each unit, together with the appurtenant undivided interest in the common elements of North "N", L.L.C. Condominiums shall together comprise one condominium unit, shall be inseparable, and may be conveyed, leased, rented, devised or encumbered as a fee simple interest in a parcel of real property.

C. 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 a 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 that 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 or 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.

D. Building: The units comprising the condominium are located in three (3) buildings.

E. Unit Boundaries: Each unit shall include the part of the building containing the unit that lies within the boundaries of the unit, which boundaries are as follows:

1. Upper and Lower Boundaries: The upper and lower boundaries of the units shall be the following boundaries, extended to an intersection with the perimeter boundaries:
  - (a) Upper Boundary: The plane of the lowest surface of the ceiling for all units is the plane of the lowest surface of the ceiling not including beams;
  - (b) Lower Boundary: The plane of the highest surface of the floor.
2. Perimeter Boundaries: The perimeter boundaries of the units shall be the following, extended to an intersection with the upper and lower boundaries:
  - (a) Exterior Building Walls: The plane formed by the center line of the exterior walls of the building, except that such boundary shall be extended so as to include within it all windows in the unit and glass doors in the unit and, when there is attached to the building a fixture or other portion of the building serving only the unit being bounded, such boundaries shall be the intersecting vertical planes adjacent to and which include all such structures and fixtures thereon.
  - (b) Interior Building Walls: The vertical planes of the centerline of walls bounding a unit extended to intersections with other perimeter boundaries. Where walls between units are of varying thickness, the

plane of the centerline of a boundary wall shall be the median line drawn between the two outermost boundaries of such wall.

3. Finished and Unfinished Surfaces: The owners of the respective units own the undecorated and/or unfinished surfaces of the perimeter walls, floors and ceilings surrounding their respective units. The owners shall not be deemed to own pipes, wires, conduits or other public utility lines running through the respective units which are utilized for, or serve more than one (1) unit, except as tenants in common with the other unit owners as provided in this Declaration. The owner shall be deemed to own the interior walls and partitions which are contained in the owners' respective units, (except where the same are structural or bearing walls, which shall be common elements) and also shall be deemed to own the interior and/or finished surfaces of the interior walls, floors and ceilings, including paneling, plaster, paint, carpeting, wallpaper, etc.

### III. EASEMENT - COMMON ELEMENT - INTERIOR REMODELING

A. Common Element Easements: A nonexclusive right of ingress and egress and support through the general common elements is appurtenant to each unit and all the general common elements are subject to such rights. Such easements include an easement for ingress and egress from and to each unit to the public streets or other means of access bounding the Condominium property.

B. Utilities: An easement shall exist over, across and into the general and limited common elements as shown on the site plan and in the condominium units themselves for installation, maintenance and repair of all utilities, including lines, wires, pipes, equipment and other items necessary for supplying light, heat, water, sewer, power, telephone, television and other means of communication to the condominium.

C. Interior Remodeling: Each unit owner shall have the exclusive right to paint, repair, tile, wallpaper, panel, carpet, brick or otherwise maintain, refinish and decorate the inner surfaces of the walls, ceilings, floors, windows and doors bounding his or her own unit, and the interior thereof, so long as such work does not affect the structural integrity of the building.

### IV. OWNERSHIP AND VOTING - EXHIBITS - USE

A. Percentage of Interest: Each unit owner shall be entitled to the exclusive ownership, use, and possession of his or her unit and the percentage of undivided interest of each unit's ownership of the general common areas and appropriate limited common areas.

1. The use of the general common area and the limited common areas shall be for the enjoyment of the unit owners, their guests, tenants, lessees, and invitees, as their interest may be defined and as set forth below. 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. Each owner shall be obligated to maintain and keep in good order and repair his or her own unit. Should any person obstruct any common area, without the prior express consent of the Board, such obstruction may be removed by the Association and the costs of removal and storage shall be borne by the person causing such obstruction. Such costs shall be paid prior to return of the item.
2. Nothing shall be done or kept in any unit or in the common elements which will increase the rate of insurance on the building or contents thereof, without the prior written consent of the Association. No owner shall permit anything to be done or kept in his or her unit or in the common elements which will result in the cancellation of insurance on the buildings, or any part of a building, or contents thereof, or which would be in violation of any law, this Declaration, or the Association By-Laws. No waste will be permitted in the common elements.
3. Owners shall not cause or permit anything to be hung or displayed on the outside or inside of windows, other than plain shades, curtains, or drapes, or placed on the outside walls of the building. No sign, awning, canopy, radio or television antenna shall be affixed to or placed upon the exterior walls or roof, or any part thereof, without the prior written consent of the Association.
4. No pets or other animals of any kind shall be raised, bred or kept in any unit, except that household pets such as dogs, cats, birds and fish may be kept in the units, subject to rules and regulations adopted by the Association, provided that they are not kept, bred or maintained for any commercial purpose. In the event that any pet is found in any area of the premises, while not under the strict control of the pet owner, the pet will be immediately removed to the Humane Society Animal Shelter and the owner of the pet shall be responsible for all fees charged by the Humane Society for the return of the animal.

5. No nuisances shall be allowed upon the property. No immoral, improper, offensive or unlawful use shall be made of the property, nor any part thereof, and all valid laws, zoning ordinances and regulations or all governmental bodies having jurisdiction thereof shall be observed.
6. Nothing shall be done in any unit or in, on or to the common elements which will impair the structural integrity of the building or which would structurally change the building, except as is otherwise provided herein.
7. Nothing shall be altered or constructed in or removed from the common elements, except upon the written consent of the Association.
8. Use by the owners of the units in the Condominium shall at all times be in compliance with all of the laws of the State of Montana. Such compliance shall also include and extend to any repair, remodeling or refurbishing of the units.

D. Exclusive Ownership: Each owner(s) shall be entitled to exclusive ownership and possession of his or her unit. 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.

E. Use of Limited Common Elements: Although each unit owner shall have the use of any limited common elements associated with the owner's unit, such owner may not use or occupy such area in a manner which adversely affects the value or aesthetics of the remaining units, nor the use and enjoyment of such other owners of their limited common elements.

## V. THE ASSOCIATION

A. Membership: An owner of a unit in the Condominium shall automatically, upon becoming the owner of the unit, be a member of North "N", L.L.C. Condominium Association, hereinafter referred to as the Association, and shall remain a member of the Association until such time as his or her ownership ceases for any reason, at which time his or her membership in the Association shall cease. Membership shall be limited to unit owners as defined in this Declaration.

B. Function: It shall be the function of the Association to:

1. Be responsible for the upkeep, maintenance, repair, refurbishing and remodeling of the common elements of the condominium including the lands, grounds, landscaping, shrubbery, trees, garages, as well as the exteriors of the units including the walls and roofs, as well as any fences bounding the condominium.
2. Adopt By-Laws for the governance of the Association not inconsistent with this Declaration.
3. Make provisions for the general management of the Condominium.
4. Levy and collect assessments as provided for in the Declaration.
5. Adopt and implement policies for the affairs of the Condominium.
6. Enter into contracts for the maintenance and repair of the Common Areas.
7. To represent the owners of the Condominium in all affairs affecting the Condominium, and to collect the assessments from the owners as set forth.
8. Additionally, the Association shall have the power to do such other things and take such other action as are deemed necessary, reasonable and proper to carry out its functions and as are allowed by law.

C. Vote: On all matters to be decided by the Association, unless excluded by this Declaration, each unit owner shall have a vote equal to his or her percentage of interest as set forth in Exhibit "A"; except that when a unit is owned by more than one person, the vote associated with that unit may not be split between the various owners. It shall be the responsibility of the owners of each unit to appoint one person who shall be entitled to cast the vote for that unit. Except as otherwise provided in the Unit Ownership Act, this Declaration or the By-Laws, a majority of the aggregate interest present at any meeting, or by proxy, and entitled to vote on the matter at issue, shall be sufficient to act on matters brought before the Association. Meetings of the Association shall only be conducted when a quorum is present, as defined in the Association By-Laws.

D. Failure to Comply: Each owner shall comply strictly with the provisions of this Declaration, the By-Laws of the Association, as the same may be lawfully amended from time to time as well as the rules, regulations, decisions and resolutions of the Association adopted

pursuant to the Declaration and By-Laws. Failure to comply with any of the same shall be grounds for an action to recover sums due, for damages or injunctive relief or both, and for reimbursement of all costs, including attorneys' fees incurred in connection therewith, which action shall be maintainable by the manager in the name of the Association, on behalf of the owner, or by an aggrieved owner where there has been a failure of the Association to bring such action within a reasonable time.

E. Payment of Assessments - When Due: All assessments shall be due no later than the 10th day of the month, following the meeting at which the assessments are levied by the Association. The amount of the common expenses assessed against each unit, whether general or limited, shall be the personal and individual debt of the owner thereof. No owner may exempt himself or herself from liability for this contribution toward the common expenses by waiver of the use or enjoyment of any of the general common elements or limited common elements or by abandonment of his or her unit. All assessments which are not paid within ten (10) days from the date they are due and payable become delinquent and are subject to interest and penalty charges. The Association or manager shall have the responsibility of taking prompt action to collect any unpaid assessments which becomes delinquent. In the event of delinquency in the payment of the assessment, the unit owner shall be obligated to pay a late charge of ten dollars (\$10) per month, for each month, or portion thereof, in which the assessment is delinquent, and interest at a rate of ten percent (10%) per annum on the amount of the assessment from the due date thereof. The interest rate shall not exceed that which is allowed by law and shall be stated at the time of the assessments. 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, in which case the prevailing party shall be entitled to recover court costs and reasonable attorney fees.

1. Common expenses, both general and limited, shall be charged to the unit owners according to the percentage of interest of each in the common elements. This shall include expenses for garbage, water and sewer.

F. 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 party acquiring title, as well as his or her successors and assigns, shall 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 of such unit by such acquirer.

G. Levying Assessments - When Made - Purposes: The Association may levy assessments upon the unit owners.

1. Assessments shall be made as a part of the regular, annual business meeting of the Association as provided in the By-Laws of the

Association, or assessments can be made for special purposes at any other regular or special meeting thereof. All assessments shall be fixed by resolution of the Board of Directors. For regular annual assessments, notice of the assessment, including an annual budget for expenditures and operation, shall be served on all unit owners affected, by delivering a copy of the same to the owner personally or by mailing a copy of the notice to the owners at their address of record at least ten (10) days prior to the date for such meeting. Such notice may allow the owner to pay in annual or monthly payments.

2. Assessments may be made for repair, replacement, insurance, general maintenance, creation of reserves, management, and administration of taxes for common areas, and assessments for special improvement districts and special acquisitions. Assessments shall be based upon and computed by using the percentage of interest that each unit owner has in relation to the common elements or limited common elements.
3. Assessments may also be made for the payment of limited expenses, which are expenses chargeable to the unit owners only for the expenses relating to their respective units. Such expenses shall be based upon the ratio of percentile interest which such unit bears to the percentile interest of the other unit or units sharing or having an interest in the limited common elements. If only one unit is associated with the limited common elements involved, then the entire costs of such repair, maintenance or replacement shall be born by that unit.
4. The Association shall have the authority to impose additional charges upon a unit for misuse of a common element by the owners of a particular unit, their guests and invitees.
5. Assessments may also be made for any purpose contemplated by this Declaration and for any purpose set out in the Montana Unit Ownership Act.
6. 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 or her share of the common expenses, up to the time of the grant or conveyance, without prejudice to the Grantee's rights to recover from the Grantor the amounts paid by the Grantee therefore. 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 such unpaid assessments against the Grantor due the Association. 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.

7. At the time that the Association holds its first meeting, a reserve account will be set up to which initial assessments shall then be deposited, in an amount to be determined by the association.
8. 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 lien on such unit superior to all other liens and encumbrances, except only for taxes and special assessment liens on the unit in favor of any assessing authority, and all sums unpaid on the 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 unit and a description of the unit. Such notice shall be signed and verified by one of the officers of the Association or by the manager, or his or her authorized agent, and shall be recorded in the office of the County Clerk and Recorder of Park County, Montana. Copies of such notice shall be mailed to the owner against whose interest the lien has been filed and the holder of any first lien of record and shall attach from the date of recording such notice. Such lien may be enforced by the foreclosure of the defaulting owner's unit by the Association in the manner provided in the Unit Ownership Act. 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's fees incurred in filing a lien and, in the event of foreclosure proceedings, additional costs, expenses and attorney's fees incurred.
9. Bidding at Foreclosure: The Board of Directors of the Association, on behalf of the other unit owners, shall have the power to bid on and purchase the unit at a foreclosure or other legal sale, including the appurtenant interest in the common elements. Any lienholder holding a

lien on a 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 the unit for the amounts paid of the same rank as the lien of his or her encumbrance, without the necessity of having to file a notice or claim of such lien.

## VI. AMENDMENT

A. Amendment of this Declaration by the Association, shall be made in the following manner:

1. 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 by the 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 regular or special meeting of the Association with notice thereof, together with a copy of the amendment to be furnished to each owner and each holder of a first lien on any unit or ownership interest in any unit, 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-six percent (66%) of the residential units. If so approved, it shall be the responsibility of the Association to file the amendment with the office of the County Clerk and Recorder of Park County, Montana.

## VII. CHANGES, REPAIRS AND LIENS

A. Alterations by Unit Owners: The interior plan of a unit may be changed by its owner, with the exception of the bearing walls, which may not be moved. Although No units may be subdivided, unless specifically provided for in this Declaration Prior to such alterations, however, the owner(s) of the unit to be altered shall give at least 30 days notice to the Association of the intent to alter the unit, together with all necessary information to conclusively establish that such alteration shall not impair the structural integrity or any of the common elements of the building. No change in the boundaries of the units shall encroach upon the boundaries of the common elements, except by amendment to this Declaration. Altered boundary walls must be equal to the quality of design and construction of the existing boundary walls. A change in the boundaries between units may be made, provided that such change shall be set forth in an amendment to this Declaration, In addition to compliance with the provisions of Article VI above, such an amendment must further set forth and contain plans for the units concerned, showing the units after the change in boundaries, which shall be attached to the amendment as exhibits. Such an amendment shall be signed and acknowledged by the owners of the units concerned, as well as those owners with an interest in any common elements affected, together with words of

conveyance in the amendment conveying interests acquired in the units or common elements by such change. The amendment shall also be approved by the Board of Directors of the Association and signed and acknowledged by all lienholders and mortgagees of the units concerned.

B. Maintenance by Unit Owner: An owner shall maintain and keep in repair the interior of his or her own unit and the fixtures thereof; 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. 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 or her unit in a clean and sanitary condition. The right of each owner to repair, alter, and remodel is coupled with the obligation to replace any finishing or other materials removed with similar types or kinds of materials. No acts of alteration, repairing or remodeling by any unit owner shall impair in any way the structural integrity of the adjoining units or the structural integrity of limited common elements or general common elements.

C. Liens for Alterations: Labor performed and materials furnished and incorporated into a unit with the consent of or at the request of the unit owner, the owner's agent, 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 from and against all liability arising from the claim of any lien 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.

## IX. INSURANCE

A. All insurance policies upon the condominium property shall be purchased by the Association except as in A. 1., below and shall be issued by an insurance company authorized to do business in Montana.

1. Named Insured - Personal Property: The named insured shall be the Association, as agent for the unit owners. 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 living expenses for alternate accommodations if they are dispossessed. Unit owners must obtain personal liability insurance in an amount not less than \$200,000.00 (Two Hundred Thousand Dollars) that designates the Association as an also named insured.

2. Copies to Mortgagees: One (1) copy of each insurance policy and of all endorsements thereon shall be furnished by the Association to each mortgagee of a unit owner on request.

B. Coverage:

1. Property: All buildings and improvements upon the land, and all personal property included in the common elements shall be insured to any amount equal to the full insurable replacement value, and all personal property included in the common elements shall be insured for its value, subject to such deductible clauses as are required in order to obtain coverage at reasonable costs. Such coverage shall afford protection against:

a. Loss or damage to the common elements by fire and other hazards covered by a standard coverage endorsement for residential or commercial condominiums, and such other coverage deemed appropriate by the Board or Association as a whole. In no event shall insurance coverage be in an amount less than the replacement value of the condominium. Should additional premiums be charged to cover limited common elements, the owner of any unit entitled to the use of any such limited common element shall be responsible for the additional premium;

b. Such other risks as may from time to time occur shall customarily be covered with respect to buildings similar in construction, location and use as the buildings on the land; and,

c. Errors and Omissions insurance for the Directors, Officers and managers if the Association so desires, in amounts to be determined by the Board.

2. The policy 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:

Airhandling equipment for space cooling and heating, service equipment such as dishwashers, disposals, washers, dryers, refrigerators, stoves, ovens, whether or not such items are built-in equipment, interior fixtures such as electrical and plumbing fixtures, floor coverings, inside paint and other inside wall finishings.

3. 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 non-owned automobile coverage, if applicable. Should any use result in higher

premiums for public liability insurance, the owner(s) engaged in such use shall share the additional premium expense, commensurate with the additional expense attributable to such owner's use.

4. 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.

C. Premiums: Premiums upon insurance policies purchased by the Association shall be paid by the Association as a common expense, except as otherwise set forth in this Declaration. Increases occasioned by use for other than a purpose stated in this Declaration, 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 listed in the roster of lienholders.

D. 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 interest may appear. Such policies shall provide that all proceeds covering property losses shall be paid to such bank in Montana with trust powers 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 as follows:

1. Unit Owners: An undivided share for each unit owner, such share being the same as the undivided share in the common elements appurtenant to his or her unit.
2. Mortgagees: In the event that a mortgagee endorsement has been issued for 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 the right to apply or have applied any insurance proceeds to the reduction of a mortgage debt, except, distributions thereof made to a unit owner and mortgagee pursuant to the provisions of this Declaration. The

Association shall 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 30 days of such loss.

E. Distribution of Proceeds: Proceeds of insurance policies received by the insurance trustee shall be distributed to or for the benefit of the beneficial owners and mortgagees in the following manner only:

1. Miscellaneous: Expenses of administration, insurance trustee and construction or remodeling supervision shall be considered as part of the cost of construction, replacement or repair, and shall be paid first.
2. Reconstruction or Repair: If the damage for which the proceeds are paid is to be repaired or reconstructed by the Association, the remaining proceeds shall be paid to defray the cost thereof, as elsewhere provided. Any proceeds remaining after defraying such costs shall be distributed to the beneficial owners. In the event that a lien exists upon the unit, the proceeds shall be payable to the owner and lienholder jointly.
3. 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 owner.
4. 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.
5. 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.
6. Benefit of Mortgagees: Certain provisions in this paragraph entitled "Insurance" are for the benefit of mortgagees or trust indenture beneficiaries of condominium parcels, and all such provisions are covenants for the benefit of any mortgagee of a unit and may be enforced by such mortgagee or beneficiary.

7. 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 same manner as in Paragraph VI.A.1.
  - b. If a unit or units are found by the Board of Directors of the Association to be able to be made tenantable with repairs after the casualty, the damaged property shall be repaired.
  - c. If a unit or units are found by the Board of Directors to not be able to be made tenantable with repairs after the casualty, the damaged property may be rebuilt or reconstructed, or, if not, then the property shall be subject to the applicable provisions of the Unit Ownership Act.
  - d. In the event that the Association elects not to rebuild as herein provided and set forth in the Unit Ownership Act, the insurance proceeds shall be first used to satisfy any outstanding liens or encumbrances on the property. The only circumstance under which the Association can elect not to rebuild the condominium units after a casualty loss is if the units in the building are damaged to the extent that they are uninhabitable.
  - e. Certificate: The insurance trustee may rely upon a certificate of the Association made by its President or manager to determine whether or not the damaged property is to be reconstructed.
8. 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 fifty-five percent (55%) of the unit owners, including the owners of all units which are to be altered, unless another percentage is required by the Montana Unit Ownership Act, in which case the latter percentage shall apply. Any such reconstruction not in accordance with the original plans and specifications must be set forth in an amendment to the Declaration, which amendment shall be prepared and filed of record in accordance

with the provisions of such amended filing, more particularly set forth in Articles VI, and VII hereinabove.

9. Responsibility: The responsibility for reconstruction or repair after casualty shall be the same as for maintenance and repair in the condominium property.
10. 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 for the payment of such costs. Such assessments shall be in proportion to the owner's percentage of interest in the general common elements
11. 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 unit owners involved.
12. 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.

## X. REMOVAL OR PARTITION - SUBDIVISION

A. The Condominium may only be removed from condominium ownership, and may only be partitioned or sold upon partition or removal, upon compliance with each of the conditions hereof:

1. The Board of Directors of the Association must approve the plan of removal, partition or sale, including the details of how any partition or sale and the distribution of property or funds shall be accomplished.
2. The plan of removal, partition, subdivision, abandonment, termination or sale must be approved as provided in the 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 ninety percent (90%) of the owners, or first lienholders in the condominium project, unless another percentage is required by the Montana Unit Ownership Act, in which case the latter percentage shall apply. Upon obtaining such approval, the Board shall be empowered to implement and carry out the plan of removal, partition, subdivision, abandonment, termination or sale.
3. No unit may be divided or subdivided into a smaller unit, nor any portion thereof sold or otherwise transferred, except as provided above.
4. This section shall not apply to the sale of individual condominium units and shall not be considered as a right of first refusal.
5. The common elements of the Condominium shall not be abandoned, partitioned, subdivided, encumbered, sold or transferred without compliance with all of the above requirements.

## XI. INTERPRETATION

The provisions of this Declaration and of the By-Laws to be promulgated and recorded herewith, shall be liberally construed to effectuate the purposes of this Declaration and By-Laws and to create a building or buildings subject to and under the provisions of the Unit Ownership Act.

## XII. REMEDIES

The remedies provided for in this Declaration and By-Laws shall not be exclusive of any other remedies which may now be, or are hereafter, available to the parties hereto as provided for by law.

## XIII. SEVERABILITY

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

## XIV. MISCELLANEOUS

A. Utility and Structural Easement: Easements are reserved through the condominium property as may be required for utility services, including water, sewer, power, telephone, natural gas, and television, in order to serve the condominium adequately; provided however, such easements through the property or through a unit shall only be according to the plans and specifications for the unit or building, as set forth in the recorded plat, or as the building is constructed, unless approved in writing by the unit owner. Every portion of a unit which contributes to the structural support of the building shall be burdened with an easement of structural support for the benefit of the common elements.

B. Right of Access: The Association shall have the irrevocable right, to be exercised by 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 limited common elements therein or accessible therefrom or for making repairs therein necessary for the maintenance, repair or replacement of any of the limited common elements therein necessary to prevent damage to the general or limited common elements or to any unit. Such access shall be upon reasonable notice to the unit owner, except in emergencies. Reasonable notice shall mean notice of more than 24 hours. In order to facilitate access during an emergency, owners are not permitted to re-key their entry way locks except with a key that is compatible with the master key. Damage to the interior or any part of the unit resulting from maintenance, repair, emergency repair or replacement of any of the general or limited common elements or as a result of any emergency repair within another unit at the instance of the Association shall be designated either limited or general common expenses by the Association and assessed in accordance with such designation. Each owner, his or her guests, invitees, tenants or lessees shall have an unrestricted right of ingress and egress to his or her unit over and across the general common elements of the condominium.

C. Expenditures: No single expenditure or debt in excess of \$1,000.00 may be made or incurred by the Association or manager without the prior approval of a majority of the unit owners.

D. Benefit: Except as otherwise provided herein, this Declaration shall be binding upon and shall inure to the benefit of the Association and each unit owner, and the heirs, personal representatives, successors and assigns of each, as well as holders of any, liens or encumbrances.

E. Service of Process: The name and address of the person to receive service of process for North "N", L.L.C. Condominium Association until another designation is filed of record, shall be Daniel E. Kaul of 19 Lake Drive, Livingston, Montana 59047.

F. A first lienholder, upon request, 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 condominium documents which is not cured within sixty (60) days.

G. First lienholders shall have the right to examine the books and records of the Association and any manager for the condominium project upon reasonable notice during regular business hours.

H. In every instance provided in this Declaration for notification of lienholders, such obligations shall not arise until such time as the Association is provided with the name and address of the lienholder, the basis for the lien, the name of the unit owner against whom the lien is claimed and the legal description of the unit.

I. The Association expressly makes no warranties or representations concerning the property, the units, the Declaration, the By-Laws 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.

IN WITNESS WHEREOF, the Association has caused this Amended Declaration to be made and executed according to the provisions of the Unit Ownership Act, Section 70-23-101, et. seq., MCA.

NORTH "N", L.L.C.  
CONDOMINIUM ASSOCIATION

By

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Its

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