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**SECOND RESTATED**  
**DECLARATION OF COVENANTS,**  
**CONDITIONS AND RESTRICTIONS**

★★ See attached for Assessor's SA



**SECOND RESTATED DECLARATION  
OF COVENANTS, CONDITIONS AND  
RESTRICTIONS FOR**

**SADDLEHORN**

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**SECOND RESTATED  
DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
FOR  
SADDLEHORN**

THIS SECOND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS OF SADDLEHORN (the "Restated Declaration") is made this 7<sup>th</sup> day of January, 2021 by Saddlehorn II LLC, a Minnesota limited liability company that is registered to do business in Montana ("Successor Declarant").

**RECITALS:**

1. On August 22, 2007, Saddlehorn LLC (the "Original Declarant") recorded the Declaration of Covenants, Conditions and Restrictions of Saddlehorn at Reception No. 200700025576, official records of Flathead County, Montana (the "Original Declaration").
2. On July 5, 2011, the Original Declarant recorded the Restated Declaration of Covenants, Conditions and Restrictions for Saddlehorn at Reception No. 201100013743, official records of Flathead County, Montana (the "Restated Declaration").
3. On November 7, 2017, the Successor Declarant became the successor declarant with all the rights of the Original Declarant pursuant to a Sheriff's Certificate of Sale dated November 7, 2017 which was recorded in the official records of Flathead County, Montana on November 27, 2017 at Reception No. 201700029262.
4. Pursuant to Section 13.1.1 of the Restated Declaration, the Successor Declarant has the right to amend the Original Declaration and desires to do so.
5. The Successor Declarant has provided the requisite notice to the Owners and less than 90% of the Owners have objected in writing within 30 days of the mailing of the notice.
6. The Successor Declarant hereby amends and restates the Restated Declaration by executing and recording this Second Restated Declaration which shall supersede and replace the Restated Declaration in its entirety.



**ARTICLE I**

**INTENTION OF DECLARATION**

1.1 OWNER Successor Declarant is the owner and developer of Saddlehorn which is situated in Flathead County, Montana, and is more particularly described below (the "Property"):

A portion of Section 31, Township 27 North, Range 19 West, P.M.,M., Flathead County, Montana, being more particularly described as follows:

Beginning at the northeast corner of the Southeast Quarter of Section 31, Township 27 North, Range 19 West, P.M.,M., Flathead County, Montana; thence along the east boundary of said aliquot part, South 00°19'58" West 2664.11 feet to the southeast corner of said aliquot part; thence along the south boundary of said aliquot part, North 88°53'26" West 2637.12 feet to the southwest corner of said aliquot part; thence along the south boundary of the Southwest Quarter of said section, North 89°16'54" West 1306.11 feet to the southeast corner of the Amended Plat of Lots 1-5, Subdivision No. 205, records of Flathead County, Montana; thence along the east boundary of said amended plat, North 00°07'59" West 1328.35 feet to the northeast corner of said amended plat; thence along the north boundary of said amended plat, North 89°11'42" West 1009.81 feet to the southeast corner of Certificate of Survey No. 10205, records of Flathead County, Montana; thence along the east boundary of said certificate of survey, North 00°13'45" West 95.08 feet; thence continuing along the east boundary of said certificate of survey, North 00°14'17" West 99.76 feet; thence continuing along the east boundary of said certificate of survey, South 89°49'06" West 70.20 feet; thence continuing along the east boundary of said certificate of survey, North 00°07'00" West 43.23 feet to the southeast corner of Fox Run Condominium, records of Flathead County, Montana; thence along the east boundary of said condominium, North 00°09'07" West 200.39 feet to the southeast corner of Certificate of Survey No. 10790, records of Flathead County, Montana; thence along the east boundary of said certificate of survey, North 00°23'38" West 322.53 feet to the southerly right-of-way of Montana Highway No. 209; thence along said southerly right-of-way, North 65°58'13" East 10.33 feet; thence continuing along said southerly right-of-way, North 87°47'28" East 118.03 feet; thence continuing along said southerly right-of-way, North 45°25'50" East 134.39 feet; thence continuing along said southerly right-of-way, North 62°44'20" East 25.66 feet; thence continuing along said southerly right-of-way, North 59°45'46" East 536.15 feet; thence continuing along said southerly right-of-way, North 72°41'41" East 125.38 feet; thence continuing along said southerly right-of-way, North 59°22'59" East 292.83 feet; thence continuing along said southerly right-of-way, North 59°26'26" East 35.82 feet; thence continuing along said southerly right-of-way, North 45°12'03" East 161.18 feet to the beginning of a 1850.00 foot radius curve, concave southeasterly; thence along said curve and continuing along said southerly right-of-way, through a central angle of 16°14'01", an arc length of 524.16 feet; thence continuing along said southerly right-of-way, North 75°37'45" East 1018.08 feet to the beginning of a 2805.00 foot radius curve, concave southeasterly; thence along said curve and continuing along said southerly right-of-way, through a central angle of 09°10'11", an arc length of 448.92 feet; thence continuing along said southerly right-of-way, South 79°49'59" East 80.30 feet to the beginning of a 2785.00 foot radius curve concave southerly; thence



along said curve and continuing along said southerly right-of-way, through a central angle of 10°44'57", an arc length of 522.50 feet; thence South 00°51'20" West 686.50 feet to the north boundary of aforesaid Southeast Quarter of Section 31, Township 27 North, Range 19 West, P.M.,M., Flathead County, Montana; thence along said north boundary of said aliquot part, South 89°08'40" East 1317.12 feet to the Point of Beginning, containing 297.500 acres of land, more or less.

1.2 PURPOSE. The Original Declarant and the Successor Declarant have created a development known as Saddlehorn on the Property (the "Community" or "Saddlehorn"). The Successor Declarant further intends to ensure the attractiveness of the Property, including the Residences and other Improvements constructed on it; to prevent any future impairment of the Property and to guard against the construction on the Property of Improvements of improper or unsuitable materials or with improper quality or methods of construction; to protect and enhance the values and amenities of the Property; to provide for the operation, administration, use and maintenance of the common areas within the Property; to preserve, protect and enhance the values and amenities of the Property; and to promote the health, safety, and welfare of the owners of the Property.

1.3 FACTS. This Second Restated Declaration is made with reference to the following facts:

1.3.1 Successor Declarant intends to continue developing the Property as a planned mixed-use development. Successor Declarant intends to continue developing the Property and additional annexed property pursuant to plans approved by Flathead County and/or Lake County, Montana. The Property will be developed in multiple phases (some of which may be developed concurrently).

1.3.2 Notwithstanding the foregoing, Successor Declarant reserves the right to amend any component of the plan for the Community.

1.4 IMPOSITION OF COVENANTS. To accomplish the purposes indicated above, the Successor Declarant hereby declares that from the date of recording the Original Declaration the Property has constituted a planned community known as Saddlehorn, and will be held, sold, and conveyed subject to the following covenants, conditions, restrictions and easements (collectively, the "Second Restated Declaration"). The Second Restated Declaration will run with the land and will be binding upon all persons or entities having any right, title, or interest in all or any part of the Property (including Successor Declarant) and their heirs, successors, and assigns, and their tenants, employees, guests, and invitees. This Second Restated Declaration will inure to the benefit of each owner of the Property.

1.5 RIGHT TO EXPAND. Successor Declarant also now owns or may in the future own additional real property in Flathead and or Lake Counties, Montana (the "Additional Property"), which it may desire to incorporate into Saddlehorn, and the Successor Declarant reserves the right, but will not be obligated, to incorporate the Additional Property in whole or in part in the regime established under this Declaration, all as provided below, so that the Additional Property, if and when annexed, will be treated as an integral part of Saddlehorn. Such annexation shall be accomplished by recording a Declaration of Annexation in compliance



with the provisions of this Declaration. After recordation of a Declaration of Annexation, the real property described therein shall be part of the Property, shall constitute a part of Saddlehorn and shall be subject to this Second Restated Declaration.

1.6 CONSENT TO NEIGHBORHOOD PLAN, PUD AND FUTURE DEVELOPMENT. Purchasers of property within Saddlehorn and all future Owners hereby consent to the Neighborhood Plan for the Community, as the same may be modified by the PUD and other regulatory processes. Purchasers and all future Owners also agree that they shall not object to or take any action to impede future development on the Property. By adoption of such Neighborhood Plan and this Declaration, Successor Declarant is not committing itself to undertake any specific future development or actions. One who acquires property in Saddlehorn will have the advantage of any further development of the Community, but shall not have any legal right to insist that there be such development, except as provided in this instrument or in the instruments which hereafter may be recorded annexing areas to Saddlehorn and subjecting them to this Second Restated Declaration.

1.7 VARIETY OF DEVELOPMENT. The Community will include a variety of different types of development parcels. Parcels within the Community will include Homesites and those other types and uses of the Property set forth in Section 1.3.1 above.

1.8 RESERVED RIGHT TO EXEMPT CERTAIN UNITS. Successor Declarant reserves the right to designate certain Units and or Phases as exempt from the terms and provisions of this Second Restated Declaration and the Assessments levied hereunder. Any such designation shall be accomplished by recording a Declaration of De-Annexation. After recordation of a Declaration of De-Annexation, the designated Unit(s) and or Phases shall not be subject to this Declaration. Additionally, Successor Declarant reserves the right to establish sub-associations for certain types of developments on the Property such as condominiums and/or townhouses.

1.9 INTELLECTUAL PROPERTY. Successor Declarant owns the mark "Saddlehorn" and the related emblems and logos. Such marks, emblems and logos are being used by Declarant in connection with the development and operation of the Community. Successor Declarant retains the exclusive ownership and rights to such marks, emblems and logos and shall be entitled to license their use to other persons, at Successor Declarant's sole discretion. By taking title to their Units, Owners agree that nothing in this Declaration or ownership of their Units provides them any right, title or interest in the marks, emblems or logos. Furthermore, the Owners agree that the use of the marks, emblems and logos shall only be undertaken with the prior written consent of Successor Declarant.

## ARTICLE II

### DEFINITIONS

Unless otherwise defined or unless the context clearly requires a different meaning, the terms used in this Second Restated Declaration, on the Plat and in the Community Documents shall have the meanings specified in this Article II.



2.1 ADDITIONAL CHARGES. The term "Additional Charges" shall mean costs, fees, charges and expenditures, including without limitation, attorneys' fees, late charges, interest and recording and filing fees actually incurred by the Association in collecting and/or enforcing payment of Assessments, fines and/or penalties. The term "Additional Charges" is further defined in Section 9.13.3.

2.2 ADDITIONAL PROPERTY. The term "Additional Property" shall mean any additional property annexed to Saddlehorn by the Successor Declarant, its successors and assigns or the Association.

2.3 ALTERATION. The term "Alteration" shall mean the remodeling or reconstruction of any Improvement but shall not include (i) repainting or refinishing any Improvement in the existing color; (ii) repairing any Improvement with the same currently existing materials; or (iii) the construction by Successor Declarant of any Improvements prior to the turnover of control to the Association pursuant to Section 5.4.

2.4 ARCHITECTURAL REVIEW COMMITTEE. The committee created by the Successor Declarant for the purpose of establishing architectural and design control over the Community to insure the proper, appropriate and harmonious development and improvement of the Community, including enforcing the terms and provisions of the Design Guidelines and the other provisions of the Community Documents. The Architectural Review Committee is sometimes herein referred to as the "Committee."

2.5 ARTICLES. The term "Articles" shall mean the Articles of Incorporation of Saddlehorn Community Association, which have been filed in the Office of the Secretary of State of the State of Montana.

2.6 ASSESSMENTS. Those assessments levied pursuant to and more specifically defined in Articles IV and IX. The various types of Assessments are: (1) Annual Assessments; (2) Special Assessments; (3) Reserve Assessments; (4) Transfer Assessments; (5) Reimbursement Assessments; and (6) Default Assessments.

2.7 ASSOCIATION. The term "Association" shall mean Saddlehorn Community Association, a non-profit corporation incorporated under the laws of the State of Montana.

2.8 BOARD. The term "Board" shall mean the Board of Directors of the Association.

2.9 BUDGET. The term "Budget" shall mean an operating budget prepared by the Board in accordance with Bylaws.

2.10 BYLAWS. The term "Bylaws" shall mean the Bylaws of the Association, as amended.

2.11 COMMON AREA. The term "Common Area" means any real property in which the Association owns an interest for the common use, benefit and enjoyment of some or all of the Owners and such other persons as may be permitted to use the Common Area under the terms of this Declaration or any contract with the Association. The Community shall contain three (3)

types of Common Area: (1) "rights-of-way" which are defined as the forty foot (40') or sixty foot (60') rights-of-way and the various utility corridors depicted on the Plat or Plats of the Community; (2) "open space" which is defined as the tracts of real property shown as open space on the Plat or Plats of the Community; and (3) "recreation sites" which are defined as the tracts of real property upon which recreational facilities have been or may be constructed.

2.12 COMMUNITY. The term "Community" as used herein shall mean Saddlehorn, as originally platted and as expanded by annexation.

2.13 COMMUNITY DOCUMENTS. The term "Community Documents" shall mean this Second Restated Declaration, the Articles, the Bylaws, the Design Guidelines, and the Rules.

2.14 CONVERSION DATE. The term "Conversion Date" shall mean the date upon which Class "B" membership shall cease and be converted to Class "A" membership. Such date shall be the date which is the earliest of (i) the date at which ninety percent (90%) of the total Units anticipated to be created within Saddlehorn have been conveyed to Class "A" Members; (ii) twenty five (25) years after conveyance of the first Unit to a Class "A" Member; or (iii) at such earlier time as the Successor Declarant may elect in writing to terminate Class "B" Membership.

2.15 COUNTY. The term "County" shall mean Flathead County, Montana. The term "County" may also mean Lake County, Montana should property situated in Lake County ever be annexed into Saddlehorn.

2.16 SUCCESSOR DECLARANT. The term "Successor Declarant" shall mean Saddlehorn II LLC, a Minnesota limited liability company, that is registered to do business in Montana, and its successors and assigns.

2.17 SECOND RESTATED DECLARATION. The term "Second Restated Declaration" shall mean this Second Restated Declaration of Covenants, Conditions and Restrictions for Saddlehorn, as amended.

2.18 DECLARATION OF ANNEXATION. The term "Declaration of Annexation" shall mean the instrument recorded in the County which extends the provisions of this Second Restated Declaration to any Additional Property.

2.19 DECLARATION OF DE-ANNEXATION. The term "Declaration of De-Annexation" shall mean the instrument recorded in the County which removes any Unit, Phase, or portion of the Property from the provisions of this Second Restated Declaration.

2.20 DESIGN GUIDELINES. Collectively, the phrase "Design Guidelines" shall mean the most current version of the written design and development guidelines, policies, application and review procedures and fee schedules, and all architectural controls which shall apply to all construction and other Improvements within the Community, that are enacted by the Association in accordance with this Second Restated Declaration.

2.21 ELIGIBLE HOLDER. The term "Eligible Holder" shall mean any Institutional Mortgagee who has delivered a written notice to the Association which contains its name,

address and the number or address of the Unit encumbered by the Mortgage and requests that the Association deliver written notice to it of any or all of the events specified in Article XII.

2.22 FAIR MARKET VALUE. The term "Fair Market Value" shall mean in the case of a Transfer that is in all respects a bona fide sale to a third party, the consideration paid for the Transferred real property. In the case of a Transfer that is not a bona fide sale to a third party, "Fair Market Value" shall mean the appraised fair market value of the Transferred real property, as determined by a real estate appraiser of good reputation, who is qualified to perform appraisals in Montana, who is familiar with local real estate values, and who shall be selected by the Saddlehorn Community Association. The appraisal so obtained shall be paid for by the Transferor and shall be binding on both the Association and the Owner.

2.23 FIRST MORTGAGE. The term "First Mortgage" shall mean a Mortgage which has priority under the statutes of the State of Montana over all other Mortgages encumbering a specific Unit.

2.24 FIRST MORTGAGEE. The term "First Mortgagee" shall mean the Mortgagee of a First Mortgage.

2.25 HOMESITE. The term "Homesite" means a platted Homesite within the Community. A Homesite includes all Improvements situated thereon. The term "Homesite" shall encompass all Homesites, as depicted on the final Plat of Saddlehorn, or future Plats of future Phases.

2.26 IMPROVEMENTS. The term "Improvements" shall mean everything constructed, installed or planted on the Property subject to this Second Restated Declaration, including without limitation, buildings, streets, fences, walls, paving, pipes, wires, grading, landscaping and other works of improvement, excluding only those Improvements or portions thereof which are (i) dedicated to the public, a public or quasi-public entity or utility company and accepted for maintenance by the public, such entity or utility company; or (ii) owned and maintained by Successor Declarant or Successor Declarant's successors and assigns.

2.27 INSTITUTIONAL MORTGAGEE. The term "Institutional Mortgagee" shall mean (i) a First Mortgagee which is the State of Montana, a bank, a savings and loan association, an insurance or mortgage company or other entity or institution chartered under or regulated by any federal and/or state law; or (ii) an insurer or governmental guarantor of a First Mortgage including without limitation the Federal Housing Authority and the Veteran's Administration.

2.28 INVITEE. The term "Invitee" shall mean any person whose presence within the Community is approved by or is at the request of the Association or a particular Owner, including but not limited to, lessees, tenants, and the family, guests, employees, licensees or Invitees of Owners, tenants or lessees.

2.29 MANAGER. The term "Manager" shall mean the professional manager or the management firm engaged to manage the Association in accordance with Section 6.2.5 below.

2.30 MAINTENANCE FUND. The term "Maintenance Fund" shall mean a fund established to provide for the normal, recurring maintenance charges for the Common Areas and for the Utilities and Services as further detailed in Section 9.5 below.

2.31 MEMBER. The term "Member" shall mean both Class "A" and Class "B" members of the Association.

2.32 MORTGAGE. "Mortgage" shall mean any duly recorded mortgage or deed of trust encumbering a Unit.

2.33 MORTGAGEE. The term "Mortgagee" shall mean mortgagee under a Mortgage as well as a beneficiary under a deed of trust as well as a contract vendor under an installment land contract.

2.34 NOTICE. The term "Notice" shall mean providing and/or receiving notice as set forth in Section 16.10 below.

2.35 NOTICE AND HEARING. The term "Notice and Hearing" shall mean the procedure which gives an Owner notice of an alleged violation of the Community Documents and the opportunity for a hearing before the Board. The procedure for Notice and a Hearing is set forth in the Bylaws and may be amended from time to time by the Board, provided the same is set forth in an amendment to the Bylaws or the Rules.

2.36 OWNER. The term "Owner" shall mean the holder of record fee title to a Unit, including Successor Declarant. If more than one person owns a single Unit (including fractionalized ownership), the term "Owner" shall mean all owners of that Unit. The term "Owner" shall also mean a contract purchaser under an installment land contract, but shall exclude the contract vendor and any person having an interest in a Unit merely as security for performance of an obligation.

2.37 PHASE. The term "Phase" shall mean any grouping of Units and the related Common Area which is made subject to the provisions of this Declaration either by recording this Second Restated Declaration or by recording a Declaration of Annexation.

2.38 PLAT. The term "Plat" shall mean the final subdivision plat of Saddlehorn, recorded in the official records of the County, including any subsequently recorded plats of additional Phases, amendments, certificates of correction, boundary line adjustments and/or certificates of survey. The term "Plat" shall also mean any of the foregoing documents recorded in relation to or involving real property incorporated in the Community by the filing of a Declaration of Annexation.

2.39 PROPERTY. The "Property" shall mean the real property described in Article I. The term "Additional Property" shall mean any real property annexed into the Community at any time. The term "Property" shall mean both the Property and any Additional Property annexed into the Community at any time.

2.40 RESERVE FUND. The term "Reserve Fund" shall mean a reserve fund for the replacement, in whole or in part, of the Common Area and any Improvements located in, on, or

under the Common Area or elsewhere for which the Association is responsible pursuant to this Second Restated Declaration, that will normally require replacement in more than three (3) and fewer than thirty (30) years, as further detailed in Section 9.6 below.

2.41 RESIDENCE. The term "Residence" shall mean a single-family residence located on a Homesite or a single residential dwelling unit such as a townhouse or condominium located in a multi-family structure.

2.42 RULES. The term "Rules" shall mean the rules and regulations for the Community adopted by the Board in accordance with Section 10.5 below. These Rules may at times be also be referred to as the "Saddlehorn Community Association Rules."

2.43 SADDLEHORN. The term "Saddlehorn" shall mean the Property and all Improvements constructed thereon subject to this Second Restated Declaration.

2.44 SPECIAL SUCCESSOR DECLARANT RIGHTS. The term "Special Successor Declarant Rights" shall mean the reserved rights of Successor Declarant set forth in Article XI.

2.45 SUB-ASSOCIATION. The term "Sub-Association" shall mean any sub-association created from time to time by Successor Declarant to govern the administration of any subset of Units that are subject to this Declaration. Each Sub-Association shall be subject to a separate declaration of covenants, conditions and restrictions and such other documents as may be established by Declarant in its sole discretion; provided, however, the terms of such documents shall remain subordinate to and subject to the terms of this Second Restated Declaration, the Articles and the Bylaws. A Sub-Association shall have the right to levy assessments separate from and in addition to the assessments levied hereunder by the Association.

2.46 TRANSFER. The term "Transfer" means and includes, whether in one transaction or in a series of related transactions, any conveyance, assignment, or other transfer of beneficial ownership of any Unit, including but not limited to (1) the conveyance of fee simple title to any Unit, (2) the transfer of more than 50 percent of the outstanding shares, membership interests, partnership interests or other ownership interests of a corporation, limited liability company, partnership or other entity which, directly or indirectly, owns one or more Units.

2.47 TURNOVER MEETING. The term "Turnover Meeting" shall mean the meeting of the Owners called by the Declarant to turn over control of the Association to the Class A Members.

2.48 UNITS. The term "Units" shall include all Homesites, whether or not Residences are constructed thereon, as well as all Residences constructed on the Property.

2.49 UTILITIES AND SERVICES. The term "Utilities and Services" shall mean all Improvements constructed by Declarant, the Successor Declarant, or the Association within the Community for installation of interior roads, water and sewer systems, and other utilities, which will include electricity, cable, and internet facilities. Successor Declarant shall have the right to assign the Utilities and Services to the Association at any time. Successor Declarant covenants for itself and its successor that each Owner of any portion of the Additional Property shall pay to

the Association its pro rata share of all usage fees and all maintenance and reserve costs incurred by the Association in connection with the Utilities and Services. For purposes of this Section 2.49, pro rata shares shall be determined by reference to equivalent Units of similar type and usage.

### ARTICLE III

#### PROPERTY SUBJECT TO DECLARATION: ANNEXATION

3.1 INITIAL DEVELOPMENT. Successor Declarant hereby declares that all of the Property shall be held, conveyed, hypothecated, encumbered, used, occupied and improved subject to this Second Restated Declaration.

3.2 ANNEXATION. Additional Property may be added to Saddlehorn by annexation in accordance with the provisions of this Article.

3.3 PROPERTY WHICH MAY BE ANNEXED. All property owned by Successor Declarant now or in the future, may be added to Saddlehorn by Successor Declarant as one or more subsequent Phases without the approval of the Association or any Owner other than the Successor Declarant, if annexed prior to the Turnover Meeting (the "Annexation Period"). Any other property owned by Successor Declarant and not annexed within the Annexation Period may be annexed to the Community upon obtaining the written approval of a majority of the Members.

3.4 PROCEDURE FOR ANNEXATION. In addition to approval by Members, if required, a Declaration of Annexation for the property to be annexed must be recorded with the County. The Declaration of Annexation shall describe the portion of the Additional Property to be annexed. The Declaration of Annexation may: (a) impose any additional covenants, conditions and restrictions on the Additional Property that are necessary to include the Additional Property in Saddlehorn and to reflect differences in nature, if any, of the Improvements to be constructed on the Additional Property; and (b) provide for a specified date on which Assessments shall commence for Units in that Phase. No Declaration of Annexation shall diminish the covenants, conditions or restrictions established by this Declaration nor shall it discriminate between the Owners in Saddlehorn. There shall be no limit on the number of Units that Successor Declarant may create or annex into Saddlehorn during the Annexation Period. Additionally, during such Annexation Period, there shall be no limitation on the right of Successor Declarant to annex additional Common Area into Saddlehorn.

3.5 EFFECT OF ANNEXATION. After complying with the procedures for annexation and upon the commencement of Assessments for Units in the annexed Phase, Owners of Units in the annexed Phase shall be Members and shall be subject to this Declaration. The Association shall reallocate the Assessments so as to assess each Owner of a Unit in Saddlehorn for a proportionate share of the total expenses of Saddlehorn. Such reallocations shall be determined by the Association in its reasonable discretion. In any Declaration of Annexation,

Successor Declarant may, but shall not be obligated to, establish easements particular to different Units and/or to create any such Sub-Associations as it may elect.

3.6 DEANNEXATION AND AMENDMENT. During the Annexation Period, Successor Declarant has the right, at its sole option, to remove from the Community any property by recording a Declaration of De-Annexation. All votes within the Association allocated to Units within the de-annexed property shall cease as of the date of de-annexation.

## ARTICLE IV

### OWNERSHIP/EASEMENTS/MEMBERSHIPS/FEEES

4.1 NON-SEVERABILITY. The interest of each Owner in the use and benefit of the Common Area shall be appurtenant to the Unit owned by the Owner. No Unit shall be conveyed by an Owner separately from the appurtenant interest in the Common Area. Subject to the right of the Association to manage, control and regulate the use of the Common Area, any conveyance of any Unit shall automatically transfer the appurtenant interest in the Common Area without the necessity of express reference in the instrument of conveyance. There shall be no judicial partition of the Common Area. Each Owner, whether by deed, gift, devise or operation of law, for the Owner's own benefit and for the benefit of all other Owners and each successor of each Owner, specifically waives and abandons all rights, interests and causes of action for judicial partition of any interest in the Common Area and does further agree that no action for judicial partition shall be instituted, prosecuted or reduced to judgment. The ownership interests in the Common Area and Units described in this Article are subject to the easements described, granted and reserved in this Second Restated Declaration and on the Plat. Each of the easements described, granted or reserved herein were established upon the recordation of the original Declaration, the Restated Declaration and/or this Second Restated Declaration and shall be enforceable as equitable servitudes and covenants running with the land for the use and benefit of the Owners and their Units superior to all other encumbrances applied against or in favor of any portion of the Community.

4.2 OWNERSHIP OF UNITS. Title to each Unit shall be conveyed in fee to the Owner.

4.3 OWNERSHIP OF COMMON AREA. Successor Declarant shall convey the Common Area to the Association at such time the Successor Declarant deems appropriate. Such conveyance shall occur no later than the date of the Turnover Meeting. Each Owner, by acceptance of a deed to a Unit, acknowledges and agrees that the Association shall accept title to the Common Area conveyed to it by the Successor Declarant.

4.4 EASEMENTS. The easements and rights specified in this Article are hereby created and shall exist whether or not they are also set forth in individual deeds to Units. All easements shall run with the land and be binding upon the successors-in-interest and assigns of the Owners of both the dominant and servient tenements.



4.4.1 Easements on Plat. All Units are subject to the easements and rights of way shown on the Plat.

4.4.2 Easements for Common Area. Subject to the Saddlehorn Community Association Rules, every Owner shall have a nonexclusive right and easement for the ingress, egress, use and enjoyment of the Common Area which shall be appurtenant to and shall pass with the title to every Unit, subject to the following provisions:

4.4.2.1 the right of the Board, after Notice and Hearing, to suspend an Owner's right to use the Common Area controlled by the Association;

4.4.2.2 the right of the Association to dedicate and or grant easements over all or any portion of the Common Area;

4.4.2.3 the easements and rights reserved to Declarant or otherwise granted in this Declaration; and

4.4.2.4 the right of the Association to promulgate Rules restricting access and use of the Common Area controlled by the Association.

4.4.3 Utilities. Notwithstanding anything expressed or implied to the contrary, this Second Restated Declaration shall be subject to all easements granted by Declarant and the Successor Declarant for the installation and maintenance of drainage facilities, master television antenna or cable systems, wireless communications systems, security and similar systems, and all utilities, including but not limited to sewers, storm drainage systems, retention ponds, electrical, gas, telephone, and water necessary or appropriate for the development of the Community. Even if not set forth on the Plat(s), all Units shall be subject to a utility easement twenty feet (20') in width, the centerline of which shall be all of the boundary lines of each Homesite or of the platted tract of land upon which the Unit is situated.

4.4.4 Environmental Easement. There is hereby reserved for the benefit of Successor Declarant, the Association and their respective Invitees, a non-exclusive easement on, over and across all portions of the Community excluding structures, for the purposes of taking any action necessary to effect compliance with environmental rules, regulations, and procedures promulgated or instituted from time to time by the Board or by any governmental entity. This easement includes, without limitation, the right, but not the obligation, to implement erosion control procedures and practices, the right to maintain any and all wetland areas in the Community, the right to drain standing water and the right to do whatever is necessary to comply with federal, state or local laws governing toxic or hazardous wastes.

4.4.5 Rights to Photograph. Successor Declarant hereby reserves a non-exclusive easement and right in gross to display, use and distribute for any and all purposes photographs, video recording and similar reproductions of all Units and Improvements constructed anywhere in the Community.



4.4.6 Easement to Government Entities and Security Services. All governmental and quasi-governmental entities, agencies and utilities and their agents shall have a non-exclusive easement over the Common Area for the purposes of performing their duties within the Community. All security personnel engaged by the Successor Declarant and the Association shall have a non-exclusive easement over the Property for the purposes of performing their security related duties within the community.

4.4.7 Association's Easements. The Association and its duly authorized agents and representatives shall have a non-exclusive right and easement as is necessary to perform the duties and obligations of the Association set forth in the Community Documents, including the right to enter upon Units, subject to the limitations contained in this Second Restated Declaration.

4.4.8 Easement to Declarant for Adjoining Property. Successor Declarant shall have, and hereby expressly reserves, a right and easement over and across the Common Area for the purposes of ingress to and egress from, over and across the Community, including private roads and pathways, to adjacent property owned by Successor Declarant, or affiliated entities.

4.4.9 Annexation of Additional Property. Upon the recordation of a Declaration of Annexation, the Units and the Owners of Units in the annexed Phase shall have all of the rights and easements specified in this Article as though the annexed Phase were initially part of Saddlehorn.

#### 4.5 TRANSFER ASSESSMENTS

4.5.1 Payment of Transfer Assessment. The Original Declarant covenanted in the Original Declaration and declared and the Successor Declarant hereby covenants and declares in this Second Restated Declaration that each Owner of any Unit, by acceptance of the deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay a Transfer Assessment upon the Transfer of any Unit as provided in this Section 4.5. The Transfer Assessment, together with interest, costs, and reasonable attorneys' fees required for collection, shall be a charge on the land and shall be a continuing lien upon the Unit against which each such Transfer Assessment is made. The Transfer Assessment shall also be the personal obligation of the Owner of the Unit. If there is more than one Owner of the Transferred Unit, each Owner shall be jointly and severally liable for the Transfer Assessment.

4.5.2 Amount of Transfer Assessments. The Transfer Assessment shall equal one half of one percent (1/2%) of the Fair Market Value (as defined in Section 2.22) of the Unit (and any Improvements located thereon) Transferred.

4.5.3 Collection and Use of Transfer Assessments. The Transfer Assessment shall be collected by the closing agent and remitted to the Saddlehorn Community Foundation, a Montana not-for-profit corporation (a 501(c)(3) public charity). The assessment shall be used by the Foundation in furtherance of its non-profit and/or tax-exempt purposes or for such other expenses as it deems appropriate in its sole and absolute discretion.

4.5.4 Reporting Transfers. The Owner of any Unit to be Transferred shall notify the Successor Declarant, the Association and the Saddlehorn Community Foundation in writing of the contemplated Transfer at least thirty (30) days prior to the closing or consummation of the Transfer.

4.5.5 Exceptions to Transfer Assessments. The Transfer Assessment shall not apply to any of the following, except to the extent that they are used for the purpose of evading the Transfer Assessment.

4.5.5.1 Any Transfer declared exempt by the Successor Declarant, in Successor Declarant's sole discretion.

4.5.5.2 Any Transfer to the Successor Declarant, the Association or the Saddlehorn Community Foundation or their successors.

4.5.5.3 Any Transfer from Successor Declarant to a successor of Successor Declarant, wherein the successor succeeds to all of the rights or part of the rights of Successor Declarant, as the declarant under the Declaration.

4.5.5.4 Any Transfer from Successor Declarant (or any successor of Successor Declarant) or a subsidiary, partner, joint-venturer, or shareholder of Successor Declarant, or other entity related to Successor Declarant, to any third party.

4.5.5.5 Any Transfer, whether outright or in trust, that is for the benefit of the Transferor or the principals of the Transfer, but only if there is no more than nominal consideration for the Transfer. For the purposes of this exclusion, the relatives of the principal(s) of Transferor shall include all lineal descendants of any grandparent of such principal, and the spouses of the descendants. Any person's stepchildren and adopted children shall be recognized as descendants of that person for all purposes of this exclusion. For the purposes of this exclusion, a distribution from a trust shall be treated as a Transfer made by the grantors of the trust, in the proportions of their respective total contributions to the trust.

4.5.5.6 Any Transfer arising solely from the termination of a joint tenancy or the partition of property held under common ownership, except to the extent that additional consideration is paid in connection therewith.

4.5.5.7 Any Transfer or change of interest by reason of death, whether provided for in a will, trust or decree of distribution.

4.5.5.8 Any Transfer made: (1) by an Owner to a corporation, partnership, joint-venture, limited liability company or other entity in which the Owner has an interest of at least 50%, or by a corporation, partnership, joint-venture, limited liability company or other entity to a shareholder, partner, joint-venturer or



member holding at least a 50% interest in such entity; or (2) by a corporation, partnership, joint-venture, limited liability company or other entity in connection with the liquidation of such entity if the Unit is Transferred generally on a pro-rata basis to the entity's owners and no consideration is paid for the Unit other than the cancellation of the ownership interest(s) in the entity.

4.5.5.9 Any Transfer made solely for the purpose of confirming, correcting, modifying or supplementing a Transfer previously recorded, making minor boundary adjustments, removing clouds on title, or granting easements, rights-of-way or licenses, and any exchange of Units between Successor Declarant and any original purchaser from Successor Declarant of the one or more Units being Transferred to Successor Declarant in such exchange.

4.5.5.10 Any Transfer pursuant to any decree or order of a court of record determining or vesting title, including a final order awarding title pursuant to a condemnation proceeding, but only where such decree or order would otherwise have the effect of causing the occurrence of a second assessable Transfer in a series of transactions which includes only one effective Transfer of the right to use or enjoyment of a Unit.

4.5.5.11 Any lease of any Unit (or assignment or Transfer of any interest in any such lease) for a period of less than three (3) years.

4.5.5.12 Any Transfer to secure a debt or other obligation or to release property which is security for a debt or other obligation, including Transfers in connection with foreclosure of a deed of trust or mortgage or transfers in connection with a deed given in lieu of foreclosure.

4.5.5.13 The subsequent Transfer(s) of a Unit involved in a "tax-free" or "tax-deferred" exchange under the Internal Revenue Code wherein the interim owner acquires property for the sole purpose of reselling or reconveying that property within 180 days after the exchange. In these cases, the first Transfer of title is subject to Transfer Assessment and subsequent Transfers will only be exempt as long as a Transfer Assessment has been paid in connection with the first Transfer of such Unit in such exchange.

4.5.6 Successor Foundation. In the event that the Saddlehorn Community Foundation shall ever cease to exist, the Transfer Assessment shall be paid to another 501(c)(3) non-profit organization designated by Successor Declarant before the Turnover Meeting or by the Association after the Turnover Meeting.

## ARTICLE V

### SADDLEHORN COMMUNITY ASSOCIATION

5.1 MEMBERSHIP. Every Owner of a Unit shall be deemed to have either a Class "A" or Class "B" membership in the Association, as provided in Section 5.2 below.

5.2 VOTING RIGHTS. The Association shall have two (2) classes of membership, Class "A" and Class "B" as follows:

5.2.1 Class A. Members of Class "A" shall be all Owners of Units, with the exception of the Class "B" Member (except that beginning on the date on which Class "B" membership is converted to Class "A" membership, and thereafter, Class "A" Members shall be all Owners, including Successor Declarant). Class "A" Members shall be entitled to one (1) vote for each Unit owned, regardless of the type of Unit. When more than one (1) person holds an interest in any Unit, all such persons shall be Members, but the vote for such Unit shall be exercised as they among themselves determine and in no event shall more than one (1) vote be cast with respect to any Unit. The Owner of a consolidated Unit shall be entitled to voting rights as set forth in Section 7.43.

5.2.2 Class B. The Class B Members shall be the Successor Declarant or its successors and assigns. The Class "B" Members shall be entitled to ten (10) votes per each Unit owned, including but not limited to, previously unsold Units. Upon and after the Turnover Meeting, the Class "B" Member shall become a Class "A" Member entitled to one (1) vote for each Unit in which the interest required for membership under Section 5.2.1 hereof is held.

5.3 SUSPENSION. All voting rights of an Owner shall be suspended during any period in which such Owner is delinquent in the payment of any Assessment duly established pursuant to this Declaration or is otherwise in default under this Declaration, the Bylaws or the Rules.

5.4 TURNOVER MEETING. On the earlier to occur of either: (1) the sale of ninety percent (90%) of all Units; or (2) such date and at such time as the Successor Declarant determines in its sole and absolute discretion; the Declarant shall call a Turnover Meeting for the purpose of turning over control of the Association to the Class A members. The Successor Declarant shall give notice of the Turnover Meeting to each Owner as provided in the Bylaws. The Turnover Meeting shall be conducted in accordance with the Bylaws. At the Turnover Meeting the Successor Declarant shall turn over to the Association the responsibility for the Community and for the Association and the Association shall accept such administrative responsibility. At the Turnover Meeting, the Owners shall elect a Board in accordance with the Bylaws. At the Turnover Meeting, the Successor Declarant shall deliver to the Association all Community Documents and any books, records and other documents necessary for the control and management of the Community and/or Association.

## ARTICLE VI

### GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS

6.1 BOARD. Successor Declarant shall have the right to appoint a board of three (3) directors, who shall serve as the Board until replaced by Successor Declarant or until their successors have been elected by the Owners at the Turnover Meeting.

6.2 PURPOSE OF MAINTENANCE FUND. The Board, for the benefit of the Owners, shall provide and shall pay for out of the Maintenance Fund provided for in Article IX below the following:

6.2.1 Taxes and Assessments. Taxes, assessments and other liens and encumbrances which shall properly be assessed or charged against the Common Areas rather than against the individual Units and/or Owners, if any.

6.2.2 Common Areas. Maintenance, repairs and enhancement of the Common Areas and any Improvements thereon.

6.2.3 Monthly Utilities and Services Fees. Payment of monthly Utilities and Services fees for the Common Areas.

6.2.4 Utilities and Services. Maintenance, repairs, capital improvements to and enhancement of the Utilities and Services.

6.2.5 Professional Manager. The services of a professional manager or management firm to manage the Association or any separate portion thereof to the extent deemed advisable by the Board and the services of such other personnel as the Board shall determine to be necessary or proper for the operation of the Association, whether such personnel are employed directly by the Board or by the manager; provided that a management agreement entered into prior to the Turnover Meeting shall not have a term in excess of three (3) years and shall be terminable without penalty if the Board gives not less than thirty (30) days written notice of termination to the other party not later than sixty (60) days after the Turnover Meeting. By taking title to their Units, Owners understand, acknowledge and agree that Successor Declarant may engage itself or any other qualified party as the Manager of the Association.

6.2.6 Legal and Accounting. Legal and accounting services as deemed necessary or advisable by the Board.

6.2.7 Insurance. Policy or policies of insurance insuring the Association and/or its Board and officers against any liability to the public or to the Owners (and/or Invitees or tenants) incident to the operation of the Association in any amount or amounts as determined by the Board, including policies of insurance as provided in Article X below.

6.2.8 Workers Compensation Insurance. Workers Compensation insurance to the extent necessary to comply with any applicable laws.

6.2.9 Fidelity Bonds. Such fidelity bonds as may be required by the Bylaws or as the Board may determine to be advisable.

6.2.10 Other. Other materials, supplies, insurance, furniture, labor, services, maintenance, repairs structural alterations, taxes or assessments which the Board is required, or determines is in the Association's best interest, to obtain or pay for pursuant to the terms of this Second Restated Declaration.

6.3 POWERS AND DUTIES OF BOARD. The Board, for the benefit of the Owners, shall have the following general powers and duties, in addition to the specific powers and duties provided for herein and in the Bylaws and the powers and duties of a non-profit corporation pursuant to the Montana Nonprofit Corporation Act, § 35-2-113, MCA, et seq.

6.3.1 Tax Assessments. Execute all declarations of ownership for tax assessment purposes with regard to the Common Areas, if any, on behalf of all Owners.

6.3.2 Borrow Funds. Borrow funds to pay costs of operation secured by assignment or pledge of rights against delinquent Owners if the Board sees fit.

6.3.3 Contracts/Bank Accounts. Enter into contracts, maintain one (1) or more bank accounts, and generally to have all the power necessary or incidental to the operation and management of the Association.

6.3.4 Common Areas. Protect or defend the Common Areas from loss or damage by suit or otherwise and to provide adequate reserves for replacement.

6.3.5 Rules and Regulations. Promulgate reasonable rules and regulations for the operation of the portions of the Common Area managed and controlled by the Association and amend them from time to time.

6.3.6 Annual Report. To make available for inspection by Owners within ninety (90) days after the end of each year an annual report and to make all books and records of the Association available for inspection by Owners at reasonable time and intervals.

6.3.7 Insurance Proceeds. To adjust the amount, collect and use any insurance proceeds to repair damage or replace lost property, and if proceeds are insufficient repair damage or replace lost property, to assess the Owners in proportionate amounts to cover the deficiency.

6.3.8 Enforcement. To enforce this Second Restated Declaration and the provisions of any Rules promulgated hereunder and to enjoin and seek damages from any Owner for violation of such provisions or rules.

6.3.9 Collect all Assessments. To collect all Assessments and enforce all penalties for non-payment including the filing of liens and institution of legal proceedings.



6.4 BOARD POWERS EXCLUSIVE. The Board shall have the exclusive right to contract for all goods, services and insurance on behalf of the Association.

6.5 MAINTENANCE CONTRACTS. The Board, on behalf of the Association, shall have full power and authority to contract with any Owner or other person or entity for the performance by the Association of services which the Board is not otherwise required to perform pursuant to the terms hereof, such contracts to be upon such terms and conditions and for such consideration as the Board may deem proper, advisable and in the best interest of the Association.

6.6 SECURITY. The Board, on behalf of the Association, shall have full power and authority to contract with any qualified party for the provision of security personnel and services. Such security personnel shall be responsible for overall security in the Community as well as provide assistance with the enforcement of violations of the Community Documents.

## ARTICLE VII

### USES AND RESTRICTIONS

7.1 GENERAL RESTRICTION. No Improvement or Alterations will be erected, placed, reconstructed, replaced, repaired or commenced on any Unit until plans for the Improvements or Alterations have been approved in writing by the Architectural Review Committee pursuant to the procedures set forth in Article XIV and the most current version of the Design Guidelines. Notwithstanding the preceding sentence, no Improvement or Alteration which fails to meet the following minimum standards shall be approved by the Architectural Review Committee. Compliance with the following minimum standards does not ensure or in any way guarantee approval by the Architectural Review Committee. On a case-by-case basis, the Committee shall have the discretion to grant individual variances. The grant of a variance shall in no way be deemed to set a precedent for future variances or to otherwise waive the restrictions contained in this Declaration or the Design Guidelines.

7.2 ANIMALS. Except for facilities specifically designated for such use by the Successor Declarant or the Board, no animals, livestock, reptiles, fowl or poultry shall be raised, bred or kept on the Property; provided, however that dogs, cats or other non-exotic household pets may be kept by Owners, provided that they are not kept, bred or maintained for any commercial purposes and provided further that they are kept in compliance with the terms of this Second Restated Declaration and any related Rules that may be promulgated. No overnight pasturing of horses is permitted on any Unit under any circumstances. Household pets must not constitute a nuisance or cause unsanitary conditions. Incessant barking or howling of a dog or other noise caused by an animal that is clearly audible shall be a nuisance. The Board shall have the right to prohibit maintenance of any pet which, after Notice and Hearing, is found to be a nuisance to other Owners. No dog shall be allowed in the Common Area unless it is under the control of a responsible person by leash. Each Owner or his or her Invitee shall restore the Common Area to the condition it was in immediately preceding its use by any dog permitted on the Common Area by the Owner or Invitee.



7.3 ANTENNAS. No outside television antenna, microwave or satellite dish, aerial, or other such device shall be erected, constructed or placed on any Common Area or any Unit, unless (i) installed by Successor Declarant; or (ii) first approved in accordance with the provisions of Article XIV.

7.4 BUILDABLE AREA. All Improvements (other than site work and landscaping) must be constructed within the Buildable Area located on each Homesite. The term "Buildable Area" shall mean the buildable area as such area is described in the Design Guidelines.

7.5 BUSINESSES. Except for (i) uses within Residences specifically permitted by local ordinances; (ii) home offices, entertainment, business meetings and social events which do not create regular customer, client or employee traffic; and (iii) the business of Successor Declarant and any contractors in completing and marketing the Community; no business of any kind shall be established, maintained, operated, permitted or constructed in any portion of the Community.

7.6 CLOTHES DRYING. Outside clotheslines and other outside facilities for drying or airing clothing are recommended, provided, however, that any such facility must be screened from the view of the other Units and the private roadways.

7.7 DRAINAGE. No Owner shall impede, alter or otherwise interfere with the drainage patterns and facilities in the Community until plans in conformance with the Design Guidelines have been submitted and approved pursuant to Article XIV and approved by any public authority having jurisdiction thereof. All storm water runoff from individual Units shall be managed in accordance with the specifications contained in the Design Guidelines.

7.8 DRIVEWAYS. All driveways shall be constructed in accordance with the specifications set forth in the Design Guidelines.

7.9 ENGINEERING REQUIRED. No Owner shall grade or fill or otherwise alter the slope or contour of any Unit, as established by Declarant, without first retaining a soils engineer or civil engineer, as appropriate, licensed by the State of Montana, and receiving from such engineer written recommendations, plans and specifications regarding such proposed grade, fill and/or alteration. No Owner shall perform any such grade, fill or alteration except in conformity with the recommendations, plans and specifications of such engineer. In addition, the Owner shall also obtain prior approval in accordance with the provisions of Article XIV of this Second Restated Declaration and shall comply with all applicable County requirements. Furthermore, if any Improvement, excavation, or driveway is to be undertaken or built on any slope with a slope greater than 25%, the Owners shall obtain a geo-technical/engineering study of the proposed work and shall submit the same for approval in accordance with the provisions of Article XIV of this Second Restated Declaration and shall comply with all applicable County requirements.

7.10 EXTERIOR LIGHTING. No Owner shall remove, damage or disable any exterior light, regardless of where located, which is connected to the Association's electric service. All exterior lighting shall comply with the provisions of Article XIV and any County requirements.

7.11 FENCING. Owners shall not install fencing on their Unit or anywhere within the Community. The Successor Declarant and the Association may install fencing in their sole discretion.

7.12 FIREARMS. No hunting, shooting, or discharge of firearms shall occur on the Property.

7.13 FIRE PROTECTION. Saddlehorn shall be a "Firewise Community." The term "Firewise Community" and other related terms contained in this paragraph are defined and explained at: [www.firewise.org](http://www.firewise.org) Owners shall familiarize themselves with the Firewise Community Program and comply with its best practices. The Successor Declarant and the Association maintain access and easement rights across all Units and property within the Community for the purpose of suppressing fire danger or related risk situations.

7.14 FUEL TANKS. Other than small propane tanks utilized in self-contained barbeque grills, no above or below-ground fuel oil or propane tanks shall be permitted on any Unit.

7.15 INVITEES. Each Owner shall be responsible for compliance with the provisions of the Community Documents by his or her Invitees. An Owner shall promptly pay any Reimbursement Assessment levied and/or any fine or penalty imposed against an Owner for violations committed by his or her Invitees.

7.16 LANDSCAPING. All landscaping shall be installed and maintained in accordance with the Design Guidelines. Owners shall not install or modify landscaping without obtaining approval pursuant to Article XIV.

7.17 LIQUOR SALES. Upon receiving prior Board approval, special event liquor licenses and other permits may be obtained for activities within Saddlehorn from time to time from the Montana Department of Revenue. Special event liquor licenses for events held on Common Area by the Successor Declarant or the Association do not require approval of the Board. By acceptance of a deed to a Unit, each Owner agrees not to contest any application for a liquor license to be used for the sale of liquor within any portion of the Community and not to object to any special event liquor licenses applied for or issued from time to time.

7.18 MINERAL EXPLORATION. No exploration for or removal of oil, hydrocarbons, or minerals of any kind may occur within the Community.

7.19 OUTSIDE BURNING. There will be no outside burning or exterior fires within the Community except for barbecues and contained fire-pits as may be approved by the Association. No Owner will permit any condition upon his Unit or the Property which creates a fire hazard or is in violation of fire prevention regulations.

7.20 PARKING. All parking within the Community shall be in conformance with the parking requirements set forth in the Design Guidelines and in accordance with any Rules promulgated by the Board. Any vehicle parked in violation this Section may be removed by the Association, at the expense of the vehicle's owner or the Owner of the relevant Unit.

7.21 RENTALS

7.21.1 Short-Term Rentals. Owners of Residences situated on Camp or Cabin Homesites shall not lease their Residences for less than ninety (90) days. Owners of townhome Residences are permitted to conduct short-term rentals of their townhome Residences on the conditions set forth below:

7.21.1.1 Short-Term Townhome Rentals. All rentals of Townhome Residences shall be managed by an approved professional property management company. Prior to the Turnover Meeting, the property management company shall be approved by the Successor Declarant. Subsequent to the Turnover Meeting, the property management company shall be approved by the Association. Additionally: (i) there shall be a written property management agreement specifying that the management company and all short-term tenants shall be subject to all of the provisions of the Community Documents; (ii) the Owner provides notice of the planned short-term rentals to the Board and has otherwise complied with the terms of the Community Documents; and (iii) the management company provides each tenant a summary of the pertinent terms of the Community Documents; and (iv) failure of the short-term tenants to comply with all provisions of the Community Documents shall constitute a default under this Restated Declaration.

7.21.2 Long-Term Rentals. Owners shall be entitled to rent or lease their Residences for terms of ninety (90) days or more if: (i) there is a written rental or lease agreement specifying that the tenant shall be subject to all provisions of the Community Documents and a failure to comply with any provision of the Community Documents shall constitute a default under this Restated Declaration; (ii) the Owner gives notice of the tenancy to the Board and has otherwise complied with the terms of the Community Documents; (iii) the Owner gives each tenant a copy of the Community Documents; and (iv) the Residence is not rented to or occupied by more than one (1) family at any time. A second family occupying a caretaker apartment or guesthouse shall not violate subsection (iv) above.

7.21.3 Recreational Sites. To utilize the recreational facilities located on the Common Area or controlled by the Saddlehorn Community Association, all tenants must either be authorized by the Owner from which they rent pursuant to a lease or authorized directly by the Successor Declarant or the Association. All such usage shall be subject to any rules promulgated by the Successor Declarant or the Board.

7.21.4 Unimproved Homesite. No Owner may lease or rent an unimproved Homesite.

7.22 ROOFING MATERIAL. Owners shall utilize only Class A or B roofing materials as rated by the National Fire Protection Association.

7.23 RULES. Neither an Owner nor its Invitees shall violate any provision of this Second Restated Declaration, the Bylaws or the Rules as the same may be amended from time to time.

7.24 SIGNS. All signs displayed within the Community shall be attractive and compatible with the design of the Community and shall comply with all applicable local

ordinances. The only signs of any kind which may be displayed to the public view on or from any Unit, Residence or the Common Area shall be as follows:

7.24.1 Signs Approved by the Board. Signs, posters and notices approved by the Board or specified in the Rules or in this Declaration may be posted in locations designated by the Board;

7.24.2 Successor Declarant's Signs. Signs may be displayed by Successor Declarant on Common Area, unsold Units and Residences, as Successor Declarant deems appropriate, advertising Units and/or Residences owned by Successor Declarant for sale or rent;

7.24.3 Legal Proceedings. Signs required by legal proceedings may be displayed;

7.24.4 Saddlehorn Identification. Appropriate signs may be displayed by the Association to identify Saddlehorn;

7.24.5 Sale or Rent. The Successor Declarant may post signs advertising a Unit or Residence for sale or rent. Unless specifically authorized by the Board or a Rule promulgated by the Board, signs advertising a Unit or Residence for sale or rent are prohibited; and

7.24.6 Traffic Signs. Appropriate signs may be displayed by the Association to regulate and control vehicular, pedestrian, equestrian, bicycle, cart and other traffic within the Community.

7.25 OTHER VEHICLES. No snowmobiles or off-road vehicles will be allowed to operate on any of the private roadways or trails in the Property, except for emergency egress purposes or in areas specifically designated for such purposes by the Board. Street legal motorcycles and all-terrain vehicles may be used on the private roadways in the Property only for transportation to and from a Unit or the recreational facilities and shall be operated in a quiet manner.

7.26 STORAGE OF WASTE MATERIALS. All garbage, trash and accumulated waste material shall be placed in appropriate covered trash containers, which may be placed on Common Area or where visible only on the night before and the day that pickup is to occur.

7.27 SWIMMING POOLS. No swimming pool may be constructed without the approval of the Architectural Review Committee as provided in Article XIV.

7.28 TEMPORARY STRUCTURES. No temporary structures will be permitted on the Property except as may be determined to be necessary during construction and as specifically authorized by the Architectural Review Committee, and except as necessary for the exercise by Successor Declarant of the Special Successor Declarant Rights.

7.29 TRAFFIC REGULATIONS. The Association may promulgate, administer and enforce reasonable Rules governing vehicular and pedestrian traffic, including reasonable safety measures and speed limits. Vehicular and pedestrian traffic includes but is not limited to motor

vehicles, trailers, carts, bicycles, skateboards and roller skates. The Association shall be entitled to enforce such provisions by establishing such enforcement procedures as it deems appropriate, including levying fines for the violation thereof, as long as such procedures are consistent with the Community Documents. Only drivers licensed to operate motor vehicles shall operate any type of motor vehicle within Saddlehorn. All vehicles of any kind which are operated within Saddlehorn shall be operated in a careful, prudent, safe and quiet manner and with due consideration for the rights of all Owners and their Invitees.

7.30 USE AND OCCUPANCY OF RESIDENCES. Each Residence shall be used solely for residential purposes. No Residence shall be permanently occupied by any more than two (2) persons per bedroom unless approved by the Association in writing. No Owner may permit or cause anything to be done or kept upon, in or about his or her Unit or Residence which might obstruct or interfere with the rights of other Owners or which would be noxious, harmful or unreasonably offensive to other Owners.

7.31 USE OF COMMON AREA.

7.31.1 Rights-of-Way. All use of the rights-of-way and the utility corridors shall be subject to the Rules. The management and control of the rights-of-way and the utility corridors shall be by the Association.

7.31.2 Open Space and Recreation Sites. During the term of the Lease Agreement, all use of the open space and the recreation sites shall be subject to any rules promulgated by the Association and the management and control of the open space and the recreation sites shall be by Association. Certain portions of the open space may provide unrestricted access and use, other areas will provide limited or restricted access and use, and some areas may provide no access or use whatsoever, all as set forth in any applicable rules promulgated by the Association.

7.31.3 Miscellaneous. There shall be no obstruction of any part of the Common Area. Nothing shall be stored or kept in the Common Area without the prior written consent of the managing entity. Nothing shall be done or kept in the Common Area which will increase the rate of insurance on the Common Area without the prior written consent of the managing entity. No Owner shall permit anything to be physically done or kept in the Common Area or any other part of the Community which might result in the cancellation of insurance on any part of the Common Area, which would interfere with rights of other Owners, or which would be a nuisance, noxious, harmful or unreasonably offensive to Owners or interfere with the operations of the Association. No waste shall be committed in the Common Area.

7.32 USES IN SURROUNDING AREAS. Areas surrounding the Community may be subject to a wide variety of uses, including but not limited to agricultural, commercial, retail, hotel, and bed and breakfast. Each Owner, by acceptance of a deed to a Unit, expressly waives for himself or herself and his or her successor(s)-in-interest and assigns any and all claims against owners of land within and/or adjacent to the Community, including Successor Declarant and all of its managers, members, directors and officers, and their successor(s)-in-interest and assigns which arise from the landowners' uses of their lands.

7.33 NOXIOUS WEEDS. The control of noxious weeds by the Association on those areas for which the Association is responsible and the control of noxious weeds by individual Owners on their respective Homesites shall be as set forth and specified under the Montana Noxious Weed Control Act, Sections 7-22-2101 through 7-22-2153, MCA, and the rules and regulations of the State of Montana and Flathead County, if any. Each Owner shall be responsible for the control of state and county declared noxious weeds on his or her Homesite. Both unimproved and improved Homesites shall be managed for noxious weeds. In the event an Owner does not control noxious weeds, after ten (10) days' notice from the Association, the Association may cause the noxious weeds to be controlled. The cost and expense associated with such weed management shall be assessed to the Owner and such Assessment may become a lien in accordance with the lien and foreclosure provisions set forth in Article IX.

7.34 WELLS AND SEPTIC TANK. Saddlehorn is served by the Bigfork County Sewer & Water District and has public water and public sewer. Therefore, no water well or septic tank shall be installed within the Community, unless specifically authorized by Successor Declarant.

7.35 WINDOW COVERINGS. No foil or other reflective materials shall be used on any windows for sunscreens, blinds, shades, or other purposes. No window-mounted heating or air-conditioning unit is permitted. All exterior window coverings shall be subject to approval by the Architectural Review Committee.

7.36 RECLAIMED WATER. Some of the irrigation lines for the Common Area may provide for the use of reclaimed water which may produce an offensive odor. The Association shall be permitted to use any such reclaimed water to irrigate Common Area landscaping.

7.37 SEWER PUMPS. Due to the physical contours and layout of the Property, some Units within Saddlehorn may require sewage pumps, a pressurized system, or similar facilities to connect to the main sewer lines in the Community. Each Owner shall be responsible for the cost of purchasing, installing and maintaining any such equipment required for his or her Unit.

7.38 UTILITIES. No Owner may obtain utilities services from any provider other than those designated by the Successor Declarant or the Association. All sewer and water services to the Community shall be provided by the Bigfork County Sewer & Water District via the sewer and water system that serves the Community.

7.39 HOMESITE CONSOLIDATION/PARTITION. Except for Units owned by the Successor Declarant, no Unit may be partitioned or otherwise subdivided. Two or more Units may be consolidated; provided, however, the Owner complies with the following:

7.39.1 The Owner shall first obtain approval from the County;

7.39.2 The Owner shall first obtain approval from the Architectural Review Committee;

7.39.3 The Owner shall intend to and shall actually construct its residential unit on parts of all of the Units to be consolidated; and

7.39.4 After consolidation, the consolidated Units may not be partitioned or otherwise divided.

Commencing the first day of the Association's first complete fiscal year after the consolidation is complete, the newly consolidated Unit shall be assessed at the rate of one (1) full assessment for the primary Unit and at the rate of forty percent (40%) of one (1) full assessment for each additional Unit that was consolidated with the primary Unit. For voting rights purposes, all consolidated Units shall have one (1) vote.

7.40 ENFORCEMENT. The Association may take such action as it deems advisable to enforce these Covenants as provided in this Second Restated Declaration. In addition, the Association will have a right of entry on any part of the Property for the purposes of enforcing this Second Restated Declaration, and any costs incurred by the Association in connection with such enforcement which remain unpaid 30 days after the Association has given notice of the cost to the Owner will be subject to statutory interest from the date of the advance by the Association through the date of payment in full by the Owner and will be treated as a Default Assessment enforceable as provided in Article IX.

## ARTICLE VIII

### MAINTENANCE, REPAIR AND RECONSTRUCTION OF IMPROVEMENTS

8.1 MAINTENANCE OF COMMON AREA. The Association shall be responsible for the maintenance, repair, replacement, management, operation and upkeep of all of the Common Area and the Improvements thereon. The Association shall keep these areas in good condition and repair, provide for all necessary services and cause all acts to be done which may be necessary or proper to assure the maintenance of these areas in a first class condition.

8.2 STREETS AND STREET LIGHTING. All of the private roadways and street lighting within the Community shall be private and, as Common Area Improvements, shall be operated, maintained, repaired and replaced, as necessary, by the Association. All private roadways within the Community shall be maintained by the Association in such a manner that adequate and safe access is provided at all times to vehicular traffic so that fire, police, health, sanitation and public utility vehicles can serve the Community and so that said vehicles will have adequate turning area.

### 8.3 RESPONSIBILITY FOR COMMON AREA

8.3.1 Responsibility. Only the Association or the Successor Declarant shall construct, reconstruct, refinish or alter any Improvement situated upon the Common Area. No Member shall construct Improvements on or otherwise modify any portion of the Common Area without the prior written consent of the Association.

8.3.2 Funding. Expenditures for maintenance, repair or replacement of an existing capital Improvement for which reserves have been collected may be made from the Reserve Fund. The Board may levy a Special Assessment to fund any construction,



alteration, repair or maintenance of an Improvement for which no reserve has been collected or to alter existing Improvements.

8.4 MAINTENANCE OF UNITS. Except as otherwise specifically provided in this Second Restated Declaration, each Owner shall maintain and care for his or her Unit in a manner consistent with the standards established by the Community Documents and other well maintained residential areas in the vicinity of Saddlehorn. Special architectural design standards shall be established in the Design Guidelines. Each Owner shall regularly clear all storm drainage inlets and maintain the capacity and flow of all storm drainage improvements and drainage swales situated on the Owner's Unit. Each Unit's drainage plan and drainage related Improvements shall not redirect runoff onto adjoining Units. The finished ground surface of each Unit shall be maintained to slope away from all structures at a minimum five percent (5%) grade for at least ten (10) feet or to a drainage swale located at five (5) feet from structures. Landscaping may not be installed in any manner which interferes with the storm drainage improvements or which traps or ponds water adjacent to a Residence. Any unimproved Homesite shall be maintained by the Owner in accordance with the Design Guidelines and Rules adopted by the Association for maintenance of unimproved Homesites. If the pavement or other Improvements located on the Common Area are damaged by the Owner of the Unit or his or her Invitees the Association shall repair it at the expense of the Owner.

8.5 ALTERATIONS TO RESIDENCES. Owners may alter or remodel the interiors of their Residences if the Alterations do not impair the structural integrity of the Residence and if the Owner complies with all laws and ordinances regarding Alterations and remodeling. All proposed Alterations or other Improvements to Units or to the exteriors of Residences shall be approved by the Architectural Review Committee in accordance with the provisions of Article XIV.

8.6 MAINTENANCE AND REPAIR OF FENCES. Installed and approved fences shall be maintained, repaired and replaced by the Successor Declarant and or the Association.

8.7 LANDSCAPING. All landscaping in the Community shall be maintained and cared for in a manner consistent with the standards of design and quality as established by Successor Declarant and in a condition comparable to that of other well maintained residential areas in the vicinity of the Community. Any weeds or diseased or dead lawn, trees, ground cover or shrubbery shall be removed and replaced. All lawn areas shall be neatly mowed and trees and shrubs shall be neatly trimmed. Other specific restrictions on landscaping may be established in the Rules.

8.7.1 Association. The Association shall be responsible for irrigating, maintaining, and replacing all landscaping located on Common Area.

8.7.2 Owners. Each Owner shall be responsible for all landscaping located on that Owner's Unit. If landscaping on a Unit is not installed by Successor Declarant, each Owner shall install permanent landscaping on his or her Unit in accordance with the Design Guidelines. Each Owner shall install and maintain landscaping and any necessary engineering measures to maintain slope stability in order to prevent soil movement and



erosion. Any soil movement or erosion which occurs on a Unit shall be promptly repaired by the Owner of the Unit.

8.8 RIGHT OF MAINTENANCE AND ENTRY. If an Owner fails to perform maintenance and/or repair which that Owner is obligated to perform pursuant to this Second Restated Declaration, and the Association determines, after Notice and Hearing given pursuant to the provisions of the Bylaws, that such maintenance and/or repair is necessary to preserve the attractiveness, quality, nature and/or value of the Community, the Association may cause such maintenance and/or repair to be performed. The costs of such maintenance and/or repair shall be charged to the Owner as a Reimbursement Assessment. In order to effectuate the provisions of this Second Restated Declaration, the Association may enter any Unit whenever entry is necessary in connection with the performance of any maintenance or construction which the Association is authorized to undertake. Entry within a Unit shall be made with as little inconvenience to an Owner as practicable and only after reasonable advance written notice of not less than forty-eight (48) hours, except in emergency situations.

8.9 DAMAGE AND DESTRUCTION. The term "restore" shall mean repairing, rebuilding or reconstructing a damaged Common Area Improvement to substantially the same condition and appearance in which it existed prior to fire or other casualty damage. If fire or other casualty damage extends to any Common Area which is so insured, the Association shall proceed with the filing and adjustment of all claims arising under the existing insurance policies. Insurance proceeds shall be paid to and held by the Association.

8.9.1 Bids. Whenever restoration is to be performed pursuant to this Section 8.10, the Board shall obtain such bids from responsible licensed contractors to restore the damaged Common Area as the Board deems reasonable; and the Board, on behalf of the Association shall contract with the contractor whose bid the Board deems to be the most reasonable.

8.9.2 Sufficient Proceeds. The costs of restoration of the damaged Common Area shall be funded pursuant to the provisions and in the priority established by this subsection 8.10.2. A lower priority procedure shall be utilized only if the aggregate amount of funds then available pursuant to the procedures of higher priority is insufficient to restore the damaged Common Area. The following funds and procedures shall be utilized:

8.9.2.1 The first priority shall be any insurance proceeds paid to the Association under existing insurance policies.

8.9.2.2 The second priority shall be all amounts in the Reserve Fund designated for the repair or replacement of the capital Improvement(s) which have been damaged.

8.9.2.3 The third priority shall be funds raised by a Special Assessment against all Owners levied by the Board up to the maximum amount permitted, if any, without the approval of the Members.



8.9.2.4 The fourth priority shall be any funds raised by a Special Assessment against Owners levied by the Board pursuant to a vote of the Members.

8.9.3 Additional Special Assessment. If the total funds available to restore the damaged Common Area pursuant to the first three priorities described in subsection 8.9.2 is insufficient to restore the damaged Common Area, then a special meeting of the Members shall be called for the purpose of voting whether to impose an additional Special Assessment and deciding upon the amount thereof. The Board shall then contract for the restoration of the damaged Common Area as described above, making use of whatever funds are then available to the Association.

8.10 DAMAGE OR DESTRUCTION TO RESIDENCES. If all or any portion of a Residence is damaged by fire or other casualty, the Owner shall immediately perform whatever work is necessary for the Unit to be clean and safe. Thereafter, the Owner shall either (i) restore the damaged Improvements; or (ii) remove all damaged Improvements, including foundations, and maintain the Unit in a clean and safe condition. Any restoration under (i) must be performed so that the Improvements are in substantially the same condition in which they existed prior to the damage, unless the Owner complies with the provisions of Article XIV. The Owner must commence such work within six (6) months from the date the damage first occurs and must complete the work within one (1) year thereafter.

## ARTICLE IX

### FUNDS AND ASSESSMENTS

9.1 COVENANTS TO PAY. Successor Declarant and each Owner covenants and agrees to pay to the Association the Assessments and any Additional Charges levied pursuant to this Article IX.

9.1.1 Liability for Payment. The obligation to pay Assessments shall run with the land so that each successive record Owner of a Unit shall in turn become liable to pay all such Assessments. No Owner may waive or otherwise escape personal liability for Assessments or release the Unit owned by the Owner from the liens and charges hereof by non-use of the Common Area, abandonment of the Unit or any other attempt to renounce rights in the Common Area or the facilities or services within the Community. Each Assessment shall constitute a separate Assessment and shall also be a separate, distinct and personal obligation of the Owner of the Unit at the time when the Assessment was levied and shall bind each Owner's heirs, devisees, personal representatives and assigns. Any Assessment not paid when due is delinquent. The personal obligation of an Owner for delinquent Assessments shall not pass to a successive Owner unless the personal obligation is expressly assumed by the successive Owner. No such assumption of personal liability by a successor Owner (including a contract purchaser under an installment land contract) shall relieve any Owner from personal liability for delinquent Assessments. After an Owner Transfers fee title of

record to his or her Unit, the Transferring Owner shall not be liable for any charge thereafter levied against the Unit.

9.1.2 Funds Held in Trust. The Assessments collected by the Association shall be held by the Association and shall be used solely for the operation, care and maintenance of the Community as provided in this Declaration.

9.1.3 Offsets. No offsets against any Assessment shall be permitted for any reason, including without limitation, any claim that the Association is not properly discharging its duties.

9.2 FUNDING. Subject to the terms of this Article IX, the Successor Declarant hereby covenants for each Unit owned within the Property, and each Owner of any Unit by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agrees to pay to the Association: (i) Annual Assessments; (ii) Special Assessments for capital improvements to the Common Areas or acquisition of additional Common Areas; and (iii) Reserve Assessments; (iv) Transfer Assessments; (v) Reimbursement Assessments; and (vi) Default Assessments, such Assessments to be established and collected as hereinafter provided. The Annual Assessments shall include any Reserve Assessments necessary to establish and maintain any reserve funds created under Section 9.6. Such assessments will remain effective for the full term and extended term, if applicable, of the within covenants. The Annual, Special, Reserve, Transfer, Reimbursement, Default and other assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Unit against which each such assessment is made. Each such Assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the Assessment fell due. The personal obligation for delinquent Assessments shall not pass to the successors in title of such Owner unless expressly assumed by them, in writing.

9.2.1 Consolidated Units – Assessment Rate. Upon the consolidation of two or more Units in accordance with Section 7.39 above, the second (and any subsequent) consolidated Unit shall be assessed at a rate of forty percent (40%) of the assessment rate per Unit on the condition that the second (or subsequent) Unit(s) be utilized only for a view buffer or landscaping buffer and/or for outbuildings.

9.3 RESERVE AND ANNUAL ASSESSMENTS. Subject to the terms of this Article IX, each Unit shall be subject to Reserve Assessments and Annual Assessment, for the purpose of creating a fund to be designated and known as the "Maintenance Fund" for matters described under Section 9.5, the "Reserve Fund" for matters described under Section 9.6, as well as any other funds contemplated under this Declaration, or any other fund called for by this Declaration or a Declaration of Annexation. Assessments will be paid by the Owner or Owners of each Unit in advance in monthly, quarterly or annual installments. The Reserve and Annual Assessments shall commence on the date of the conveyance of the Unit to the Owner and future Assessments shall be due and payable on January 1 of each year thereafter, or such other date the Board establishes. The rate at which each Unit will be assessed, and whether such Assessment shall be payable monthly, quarterly or annually, will be determined by the Board at least thirty (30) days in advance of each Assessment period, in its sole discretion. Said rate may be adjusted

within the limit permitted by the Bylaws from time to time by the Board as the needs of the Association may, in the judgment of the Board, require. The Assessments for each similar type of Unit shall be uniform; provided, however, the Assessment for different types of Units may differ based on type. The Association shall, upon written demand and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether or not the Assessments for a particular Unit have been paid for a particular Assessment period.

9.4 SUCCESSOR DECLARANT RESPONSIBILITY. Until such time that fifty percent (50%) of the Homesites platted on the Property are sold or otherwise conveyed to third parties, Successor Declarant hereby covenants and agrees that in the event that the Annual and Reserve Assessments are insufficient to pay the operating expenses of the Association, it shall provide the funds necessary to make up the deficit, within thirty (30) days of receipt of request for payment thereof from the Association, provided that if the deficit is the result of the failure or refusal of an Owner or Owners to pay their Assessments, the Association shall diligently pursue all available remedies against such defaulting Owners, including the immediate institution of litigation to recover the unpaid assessments; and shall reimburse the Successor Declarant the amounts, if any, so collected. Once fifty percent (50%) of the Homesites are sold or otherwise conveyed to third parties, Successor Declarant shall have no obligation to fund any Assessment deficiencies of the Association.

9.5 MAINTENANCE FUND. The Association shall establish a Maintenance Fund and shall use the proceeds of such fund in providing for normal, recurring maintenance charges for the Common Areas and for the Utilities and Services. Such uses and benefits to be provided by the Association may include, by way of clarification and not limitation, any and all of the following: (i) normal, recurring maintenance of the Common Areas (including, but not limited to, mowing, edging, watering, clipping, sweeping, pruning, raking, and otherwise caring for landscaping) and the Improvements located on such Common Areas, provided that the Association shall have no obligation (except as expressly provided hereinafter) to make capital improvements to the Common Areas from the Maintenance Fund; (ii) perpetual maintenance, repair, and enhancement for any fences, columns, walls, grounds, landscaping, lights, irrigation systems, and entry monuments; (iii) perpetual maintenance of storm water quality/quantity pond facilities within or which serve the Community; (iv) payment of all legal and other expenses incurred in connection with the enforcement of all recorded covenants, restrictions and conditions affecting the property to which the Maintenance Fund applies; (v) payment of all reasonable and necessary expenses in connection with the collection and administration of Assessments; and (vi) all other activities necessary or desirable in the opinion of the Board to keep the Community neat and in good order, or which is considered of general benefit to the Owners or occupants of the Community, it being understood that the judgment of the Board in the expenditure of said funds and the determination of what constitutes normal, recurring maintenance shall be final and conclusive so long as such judgment is exercised in good faith.

9.6 RESERVE FUND. Declarant established and Successor Declarant continues to manage a reserve fund (the "Reserve Fund") for replacement, in whole or in part, of the Common Area and any Improvements located in, on, or under the Common Area or elsewhere for which the Association is responsible pursuant to this Declaration, that will normally require replacement in more than three (3) and fewer than thirty (30) years. The Reserve Fund need not include those items that could reasonably be funded from the Maintenance Fund. For purposes

of funding the Reserve Fund the Association shall impose an assessment to be called the "Reserve Assessment" against each Unit, which Assessment shall be equitably allocated among the various Units. The initial Reserve Assessments for the Reserve Fund under this Section shall be assessed on the date of the conveyance of the Unit to the original purchaser and future Reserve Assessments shall be due and payable on January 1 of each year thereafter, or on such other date the Board establishes. The Reserve Fund shall be kept separate from other funds and may be used only for the purposes for which reserves have been established as specified in this Section.

**9.7 NON-PAYMENT OF ASSESSMENTS/REMEDIES OF THE ASSOCIATION.**

Any Assessment not paid within ten (10) days after the due date shall bear interest from the due date at the highest rate of interest allowed by Montana law at the time of the non-payment. The Association shall have the authority to impose such Additional Charges as reasonably required to compensate for the administrative and processing costs of late payments on such terms as it may establish by duly adopted resolutions and the Association may bring an action at law against the Owner personally obligated to pay the same. No Owner may waive or otherwise escape liability for the Assessments provided for herein by non-use of the Common Area or abandonment of Owner's Unit.

**9.8 LIEN TO SECURE PAYMENT.** To secure the payment of the Assessments established in this Article IX, there is hereby reserved a lien for the benefit of the Association on each Unit, said lien to be enforceable through appropriate proceedings at law or in equity by such beneficiary; provided that as a condition precedent to any proceeding to enforce such lien upon any Unit upon which there is an outstanding valid First Mortgage, the Association shall give the First Mortgagee sixty (60) days written notice of such proposed action. Such notice, which shall be sent to the First Mortgagee by prepaid U.S. registered mail, is to contain the statement of the delinquent Assessments upon which the proposed action is based. Upon the request of any such First Mortgagee, the Association shall acknowledge in writing its obligation to give the foregoing notice with respect to the particular Unit covered by such First Mortgage to the holder thereof. Transfer of a Unit shall not affect the Assessment lien. However, the Transfer of any Unit pursuant to mortgage foreclosure shall extinguish the lien of such assessment as to payments that became due before such Transfer. No foreclosure or Transfer shall relieve such Unit from liability for any Assessments thereafter becoming due or from the lien thereof. The Association shall have the right to file liens in favor of such Association in the real property records of the County.

**9.9 DEFAULT ASSESSMENTS.** In addition to the periodic Assessments described in this Article IX, the Association shall have the authority to assess an Owner for costs and expenses incurred by the Association for corrective or collection action which is required as a result of the willful or negligent actions or omissions of such Owner or such Owner's family members, tenants, guests, contractors or Invitees. Each such Assessment shall be deemed a Default Assessment, and together with interest, costs, and reasonable attorney's fees, shall be a charge on the land, a continuing lien upon the Unit, and the personal obligation of the Owner in the manner described in Section 9.8.

**9.10 REALLOCATION UPON ANNEXATION OF PROPERTY.** When additional property is annexed into the Community, the Association shall, within sixty (60) days after the

annexation, recompute the Budget based upon the additional Units and Common Area and recompute all applicable Assessments for each Unit. New Units shall be subject to Assessments from the time of annexation of such Units into the Community. The Association shall send notice of all applicable Assessments to the Owners of new Units after annexation or with the next occurring Annual Assessment. Assessments shall be due and payable on or before a date set forth in the notice which shall be not less than thirty (30) days after the date the notice is mailed or at such other time or times as the Association may specify in the notice in accordance with this Declaration or the Bylaws.

9.11 REIMBURSEMENT ASSESSMENTS. The Association shall levy a Reimbursement Assessment against any Owner and the Owner's Unit to reimburse the Association for the costs of repairing damage caused by an Owner or an Owner's Invitee or if a failure to comply with the Community Documents has (i) necessitated an expenditure of monies, including attorneys' fees, by the Association to bring the Owner or the Owner's Unit into compliance; or (ii) resulted in the imposition of a fine or penalty. A Reimbursement Assessment shall be due and payable to the Association when levied. A Reimbursement Assessment shall not be levied by the Association until Notice and Hearing has been given in accordance with the Bylaws.

9.12 BUDGET, FINANCIAL STATEMENTS, REPORTS AND STUDIES. The Association shall prepare the Budget and the required financial statements of the Association as set forth in the Bylaws.

9.13 ENFORCEMENT OF ASSESSMENTS. The Board shall annually distribute, not more than sixty (60) and not less than forty-five (45) days prior to the beginning of the fiscal year, a statement of the Association's policies and practices in enforcing its remedies against Owners for defaults in the payment of Regular, Special, Reserve, Transfer, Default and Reimbursement Assessments, including the recording and foreclosing of liens against Owners' Units. In addition to all other remedies provided by law, the Association, or its authorized representative, may enforce the obligations of the Owners to pay each Assessment provided for in this Second Restated Declaration in any manner provided by law or by either or both of the following procedures:

9.13.1 By Suit. The Association may commence and maintain a suit at law against any Owner personally obligated to pay a delinquent Assessment. The suit shall be maintained in the name of the Association. Any judgment rendered in any action shall include the amount of the delinquency, Additional Charges and any other amounts as the court may award. A proceeding to recover a judgment for unpaid Assessments may be maintained without the necessity of foreclosing or waiving the lien established herein.

9.13.2 By Lien. The Association or a trustee nominated by the Association may commence and maintain proceedings to establish and/or foreclose Assessment liens as provided in Section 9.8 above.

9.13.3 Additional Charges. In addition to any other amounts due or any other relief or remedy obtained against an Owner who is delinquent in the payment of any Assessments, each Owner agrees to pay to the Association the Additional Charges

necessitated by the Owner's delinquency. All Additional Charges shall be included in any judgment in any suit or action brought to enforce collection of delinquent Assessments. Additional Charges shall include, but not be limited to, the following:

9.13.3.1 Attorneys' Fees. Reasonable attorneys' fees and costs incurred in the event an attorney is employed to collect any Assessment or sum due, whether by suit or otherwise;

9.13.3.2 Late Charges. A late charge in an amount to be fixed by the Board in accordance with the current laws to compensate the Association for additional collection costs incurred in the event any Assessment or other sum is not paid when due or within any grace period established by law;

9.13.3.3 Costs of Suit. Costs of suit and court costs incurred as are allowed by the court;

9.13.3.4 Interest. Interest on the delinquent Assessment(s) and Additional Charges at a rate fixed by the Board in accordance with the then current laws of State of Montana; and

9.13.3.5 Other. Any such other additional costs that the Association may incur in the process of collecting delinquent Assessments.

9.13.4 Certificate of Satisfaction of Lien. Upon payment or other satisfaction of a delinquent Assessment for which a lien was recorded, the Association shall record a certificate stating the satisfaction and release of the Assessment lien.

## ARTICLE X

### MEMBERSHIP IN AND DUTIES OF THE ASSOCIATION

10.1 THE ORGANIZATION. The Association is a Montana non-profit mutual benefit corporation. Its affairs shall be governed by and it shall have the powers set forth in the Community Documents.

10.2 MEMBERSHIP. Each Owner (including Successor Declarant for so long as Successor Declarant is an Owner), by virtue of being an Owner, shall be a Member of the Association. No other person shall be accepted as a Member.

10.3 APPURTENANT TO OWNERSHIP. Association membership is appurtenant to and may not be separated from the ownership of a Unit. Membership shall terminate upon termination of Unit ownership. Ownership of a Unit shall be the sole qualification for Association membership. Membership shall not be transferred, pledged or alienated in any way except upon Transfer of title to the Owner's Unit (and then only to the Transferee of title to such Unit). Any attempt to make a prohibited Transfer is void; membership shall not be related to the use or non-use of the Common Area and may not be renounced. Upon the Annexation of a subsequent Phase, the Owners of the Units described in the Declaration of Annexation for that

Phase shall become Members. The rights, duties, privileges and obligations of all Members shall be as provided in the Community Documents.

10.4 VOTING. Any action required by law or by the Community Documents to be approved by the Owners, the Members or each class of Members shall be approved, if at all, in accordance with the procedures set forth in the Bylaws. Upon annexation, Owners of Units within such annexed property shall have the same voting rights of all other Owners as described in Article V.

10.5 RULES. The Board shall propose, adopt, amend and repeal Rules appropriate for the management of the Community which are consistent with the Community Documents. The Rules shall also govern the use of the Common Area controlled by the Association by the Members and their Invitees. After adoption, a copy of the Rules shall be furnished to each Member. Members shall be responsible for distributing the Rules to their tenants and Invitees.

10.6 DEDICATION AND EASEMENTS. Subject to any applicable provision in the Bylaws, the Board shall have the power to (i) dedicate any of the Common Area to an appropriate public authority for public use; and (ii) grant and convey easements and licenses for use and rights of way, on, over and under any Common Area on the condition that such easements or licenses do not interfere with or impede the normal operations of Common Area.

10.7 INSURANCE. The Board shall make every reasonable effort to obtain and maintain the insurance policies as provided in this Section. If the Board is unable to purchase a policy or if the Board believes that the cost of the policy is unreasonable, the Board shall call a special meeting of Members to determine what action to take. The Board shall comply with any resolution concerning insurance coverage adopted at such a meeting.

10.7.1 General Provisions and Limitations. All insurance policies shall be subject to and, where applicable, shall contain the following provisions and limitations:

10.7.2 Underwriter. All policies shall be written with a company legally qualified to do business in the State of Montana and (i) holding no less than a financial performance index of "6" as established by Best's Insurance Reports; (ii) reinsured by a company described in (i) above; or (iii) if such a company is not available, the best rating possible or its equivalent.

10.7.3 Named Insured. Unless otherwise provided in this Section 10.7, the named insured shall be the Association or its authorized representative, as a trustee for the Members. However, all policies shall be for the benefit of Owners and their Mortgagees, as their interests may appear.

10.7.4 Authority to Negotiate. Exclusive authority to adjust losses under policies obtained by the Association shall be vested in the Board; provided, however, that no Mortgagee having an interest in such losses may be prohibited from participating in any settlement negotiations related thereto.

10.7.5 Contribution. In no event shall the insurance coverage obtained and maintained by the Association be brought into contribution with insurance purchased by Owners or their Mortgagees.

10.7.6 General Provisions. To the extent possible, the Board shall make every reasonable effort to secure insurance policies providing for the following:

10.7.6.1 a waiver of subrogation by the insurer as to any claims against the Board; the manager of Saddlehorn, if any; the Owners and their respective servants, agents and guests;

10.7.6.2 that the policy will be primary, even if an Owner has other insurance which covers the same loss;

10.7.6.3 that no policy may be canceled or substantially modified without at least ten (10) days prior written notice to the Association and to each First Mortgagee listed as a scheduled holder;

10.7.6.4 an agreed amount endorsement; and

10.7.6.5 an inflation guard endorsement.

10.7.7 Term. The period of each policy shall not exceed three (3) years. Any policy for a term greater than one (1) year must permit short rate cancellation by the insured.

10.7.8 Deductible. The policy may contain a reasonable deductible and the amount of the deductible shall be added to the face amount of the policy in determining whether the insurance equals replacement cost.

10.7.9 Types of Coverage. Unless the Association determines otherwise, the Board shall obtain at least the following insurance policies in the amounts specified:

10.7.9.1 Property Insurance. A policy or policies of all risk property insurance for all insurable Common Area Improvements, including fixtures and building service equipment, against loss or damage by fire or other casualty, in an amount equal to one hundred percent (100%) of the current full replacement cost (without respect to depreciation) of the Common Area, and exclusive of land, foundations, excavation and other items normally excluded from coverage; provided, however, that such insurance is available at reasonable cost. A replacement cost endorsement shall be part of the policy.

10.7.9.2 Liability Insurance. A combined single limit policy of public liability insurance in an amount to be determined in the sole discretion of the Board, covering the Common Area and all damage or injury caused by the negligence of the Association, the Board or any of its agents or the Members against any liability to the public or to any Member incident to the use of or resulting from any accident or intentional or unintentional act of an Owner or a



third party occurring in or about any Common Area. If available, each policy shall contain a cross liability endorsement in which the rights of the named insured shall not be prejudiced with respect to any action by one named insured against another named insured. The Board shall have the right to increase such amounts from time to time in its reasonable discretion without the approval of the Owners.

10.7.9.3 Worker's Compensation. Worker's compensation insurance to the extent necessary to comply with all applicable laws of the State of Montana or the regulations of any governmental body or authority having jurisdiction over the Community.

10.7.9.4 Fidelity Bond. A fidelity bond naming the Board, the Members, the Association and such other persons as the Board may designate as obligees, in an amount to be determined in the sole discretion of the Board. The fidelity bond shall contain a waiver of any defense based on the exclusion of persons serving without compensation.

10.7.9.5 Directors and Officers. Errors and omissions insurance covering directors and officers, if reasonably available, in types and amounts as the Board determines to be appropriate.

10.7.9.6 Other Insurance. Other types of insurance as the Board determines to be necessary to fully protect the interests of the Members.

10.7.10 Annual Review. The Board shall review the adequacy of all insurance, including the amount of liability coverage and the amount of property damage coverage, at least once every year. At least once every three (3) years, the review shall include a replacement cost appraisal of all insurable Common Area Improvements without respect to depreciation. The Board shall adjust the policies to provide the amounts and types of coverage and protection that are customarily carried by prudent owners of similar properties in the area in which the Community is situated. Such adjustment shall not require amendment of this Declaration.

10.7.11 Insurance by Member. Each Member shall obtain insurance coverage which the Member considers necessary or desirable to protect himself or herself, his or her Unit and personal property at the Owner's own expense; provided, however, that no Owner shall be entitled to exercise his or her right to maintain insurance coverage in a manner so as to decrease the amount which the Association, on behalf of all Owners and their Mortgagees, may realize under any insurance policy which the Association may have in effect at any time.

## ARTICLE XI

### SPECIAL SUCCESSOR DECLARANT RIGHTS



11.1 GENERAL PROVISIONS. Until the Turnover Meeting, Successor Declarant will have the following Special Successor Declarant Rights:

11.1.1 Completion of Improvements. The right to complete Improvements as indicated on any Plat filed with respect to the Property, including Improvements on the Additional Property. The right to complete Improvements shall include the right to complete recreational sites and facilities, and amenities, at the Successor Declarant's sole discretion, and or relocate such facilities or amenities to other portions of the Property.

11.1.2 Development Rights. The right to exercise all development rights in connection with the development of the Community, including without limitation the right or combination of rights hereby reserved by Successor Declarant, as follows:

11.1.2.1 The right to annex all or part of the Additional Property or any other property now owned or hereafter acquired by the Successor Declarant to the Community.

11.1.2.2 The right to create Units and Common Area on the Property.

11.1.2.3 The right to subdivide Units and convert Units into Common Area and the right to convert Common Area into Units on any part of the Property.

11.1.2.4 The right to withdraw real estate, whether contained within the Initial Property or the Additional Property, from the Community.

11.1.2.5 The right to develop and sell fractional interests in Units and to establish Sub-Associations for such Units.

11.1.2.6 The right to establish Sub-Associations for specific Units and Phases.

11.1.2.7 The right to reallocate density allocations within the Community due to Homesite consolidation or other reasons.

11.1.2.8 The right to specify Owner's access and use rights to various portions of the open space. Access rights to the open space shall be designated either: (a) unrestricted access; (b) limited access; or (c) no access.

11.1.3 Sales Activities. The right to maintain sales and management offices, signs advertising the Community and model residences on the Common Area and on Units owned by Successor Declarant, whether contained within the Property.

11.1.4 Easements. The right to use easements through the Units and Common Area, for the purpose of making Improvements to the Property or property to be annexed.

11.1.5 Association Officers and Directors. The right to appoint any officer or Director of the Association, as provided in this Declaration or the Bylaws.

11.1.6 Order of Exercise of Successor Declarant's Rights. Successor Declarant makes no representations and gives no assurances regarding the legal description of the boundaries of any Phase of the Additional Property or the order or time in which the Phases of the Additional Property maybe developed or incorporated into the Community, or whether or to



what extent any of the Additional Property will be developed or incorporated into the Community. Further, the fact that Successor Declarant may exercise one or more of Declarant's development rights or other Special Successor Declarant Rights on one portion of the Property (including the Additional Property) will not operate to require Successor Declarant to exercise a development right or other Special Successor Declarant Right with respect to any other portion of the Property (including the Additional Property).

**11.2 SUPPLEMENTAL PROVISIONS REGARDING SUCCESSOR DECLARANT'S RIGHTS.** Without limiting the generality of the foregoing, certain of these Special Successor Declarant Rights are explained more fully in this Article below. Further, Successor Declarant reserves the right to amend this Second Restated Declaration and any Plat in connection with the exercise of any development right or any other Special Successor Declarant Right, and Successor Declarant also reserved the additional rights retained for the benefit of Successor Declarant in this Article and in other provisions of this Second Restated Declaration.

**11.3 UTILITY EASEMENTS.** There is hereby created an easement upon, across, over, in, and under the Common Area, the private roadways and the areas designated on the Plat of Saddlehorn as utility easements for the installation, replacement, repair and maintenance of all utilities, including but not limited to water, sewer, gas, telephone, electrical, television and a master communications system. By virtue of this easement, it will be expressly permissible and proper for the companies providing utility services to install and maintain necessary equipment on and under the Common Area, the private roadways and the areas designated on the Plat of Saddlehorn as utility easements and to affix and maintain utility pipes, wires, circuits, conduits and other equipment under the those areas. Any utility company using this easement will use its best efforts to install and maintain the utilities provided for without disturbing the uses of the Owners, the Association and Successor Declarant; will prosecute its installation and maintenance activities as promptly and expeditiously as reasonably possible; and will restore the surface to its original condition as soon as possible after completion of its work. Should any utility company furnishing a service covered by the easement granted above request a specific easement by separate recordable document, either Successor Declarant or the Association will have, and are hereby given, the right and authority to grant such easement upon, across, over, or under any part or all of the Common Area, the private roadways and the areas designated on the Plat or Plats of Saddlehorn as utility easements without conflicting with the terms of this Second Restated Declaration. This easement will in no way affect, avoid, extinguish, or modify any other recorded easement on the Property.

**11.4 RESERVATION FOR EXPANSION AND CONSTRUCTION.** Successor Declarant hereby reserves for itself and its successors and assigns and for Owners in all future Phases of Saddlehorn a perpetual easement and right-of-way for access over, upon, and across the Property, including the Additional Property, for construction, utilities, drainage, ingress and egress, and for use of the Common Area. The location of these easements and rights-of-way may be made certain by Successor Declarant or the Association by instruments recorded in Flathead County, Montana.

Successor Declarant further reserves the right to establish from time to time, by dedication or otherwise, utility, ingress and egress, and other easements over and across the Common Areas, and to create other reservations, exemptions, and exclusions convenient or necessary for the use and operation of any other property of Successor Declarant.

11.5 RESERVATION OF EASEMENTS, EXCEPTIONS, AND EXCLUSIONS FOR UTILITIES, INFRASTRUCTURE AND ACCESS. Successor Declarant reserves for itself and its successors and assigns and hereby grants to the Association, acting through the Board, the concurrent right to establish from time to time, by declaration or otherwise, utility and other easements, permits, or licenses over the Common Area, for purposes including but not limited to streets, paths, walkways, drainage, recreational areas and parking areas, and to create other reservations, exceptions, and exclusions in the interest of the Owners and the Community, in order to serve the Owners within the Community as initially built and expanded.

Successor Declarant also reserved for itself and its successors and assigns and grants to the Association the concurrent right to establish from time to time by an instrument recorded in the County, such easements, permits or licenses over the Common Area for access by certain persons (other than Owners and Owners' families and guests) who may be permitted to use designated portions of the Common Area as contemplated under this Second Restated Declaration.

11.6 MAINTENANCE EASEMENT. An easement is hereby reserved to Successor Declarant for itself and its successors and assigns and granted to the Association, and any member of the Board or any manager, and their respective officers, agents, employees, and assigns, upon, across, over, in and under the Property and a right to make such use of the Property as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the Association is obligated or permitted to perform pursuant to the Community Documents, including the right to enter upon any Unit for the purpose of performing maintenance to the landscaping or the exterior of Improvements to such Unit, as required by the Community Documents.

11.7 DRAINAGE EASEMENT. An easement is hereby reserved to Successor Declarant for itself and its successors and assigns and granted to the Association, its officers, agents, employees, successors and assigns to enter upon, across, over, in, and under any portion of the Property for the purpose of changing, correcting, or otherwise modifying the grade or drainage channels of the Property so as to improve the drainage of water. Reasonable efforts will be made to use this easement so as not to disturb the uses of the Owners, the Association and Successor Declarant, as applicable, to the extent possible; to prosecute such drainage work promptly and expeditiously; and to restore any areas affected by such work to a sightly and usable condition as soon as reasonably possible following such work. Successor Declarant, or its officers, agents, employees, successors and assigns must inform and obtain the approval of the Board prior to undertaking such drainage work, which approval will not be unreasonably withheld.

11.8 SUCCESSOR DECLARANT'S RIGHTS INCIDENT TO CONSTRUCTION. Successor Declarant, for itself and its successors and assigns, hereby retains a right and easement of ingress and egress over, in, upon, under and across the Common Area and the right to store materials thereon and to make such other use thereof as may be reasonably necessary or incident to the construction of the Improvements on the Property or other real property owned by Successor Declarant; provided, however, that no such rights will be exercised by Successor Declarant in such a way as to unreasonably interfere with the occupancy, use, enjoyment or access to an Owner's Unit by that Owner or his family, tenants, employees, guests, or Invitees.

11.9 EASEMENTS DEEMED CREATED. All conveyances of Units hereafter made, whether by Successor Declarant or otherwise, will be construed to grant and reserve the easements contained in this Article, even though no specific reference to such easements or to this Article appears in the instrument for such conveyance

## ARTICLE XII

### MORTGAGEE PROTECTION

#### 12.1 FIRST MORTGAGEES' RIGHTS.

12.1.1 Payment of Taxes and Insurance. Mortgagees, jointly or singly, may pay taxes or other charges which are in default and which may or have become a charge against any of the Common Area or Improvements thereon, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy.

12.1.2 Cure of Delinquent Assessments. A Mortgagee will be entitled to cure any delinquency of the Owner of the Unit encumbered by the Mortgage in the payment of Assessments. In that event, the Mortgagee will be entitled to obtain a release from the lien imposed or perfected by reason of such delinquency.

12.2 TITLE TAKEN BY FIRST MORTGAGEE. Any Mortgagee who obtains title to a Unit pursuant to the remedies provided in the First Mortgage, including foreclosure of the First Mortgage, will be liable for all Assessments due and payable as of the date title to the Unit vests in the First Mortgagee under the statutes of Montana governing foreclosures. Except as provided by Montana law, such First Mortgagee will not be liable for any unpaid dues and charges attributable to the Unit which were due and payable prior to the date such title vests in the First Mortgagee.

12.3 CONFLICT. Notwithstanding any contrary provision contained elsewhere in, the Community Documents, the provisions of this Article shall control with respect to the rights and obligations of Mortgagees specified herein.

## ARTICLE XIII

### AMENDMENT AND ENFORCEMENT

13.1 AMENDMENT. This Second Restated Declaration, or any provision of it, may be terminated, extended, modified or amended, or revoked as to the whole or any portion of the Property as follows:

13.1.1 Before the Turnover Meeting. Before the Turnover Meeting, Successor Declarant may terminate, extend, modify, amend or revoke this Second Restated Declaration as to the whole or any portion of the Property. A copy of the document stating the action intended to be taken by the Successor Declarant and a notice of the Owners' rights under this Section shall be provided to the addresses of the Owners in the records of the Association. Unless written objection is received by the Successor Declarant from the Owners holding 90% or more of the votes within 30 days of the mailing of the notice to the Owners, the action proposed to be taken by the Successor Declarant shall be considered approved and shall become final. The Successor



Declarant shall then record in the records of the County, a document stating the action taken, together with a certificate certifying that notice was given to the Owners as required herein and that fewer than 90% of the Owners objected to the action.

13.1.2 After the Turnover Meeting. After the Turnover Meeting, this Second Restated Declaration, or any provision of it, may be terminated, extended, modified or amended, or revoked as to the whole or any portion of the Property upon the written consent of Owners holding 67% or more of the votes in the Association. Any document will be immediately effective upon recording in the records of the County, a copy of such executed and acknowledged by the necessary number of Owners, or alternatively, upon the recording in the records of the County, of a copy of the document together with a certificate signed by an officer of the Association stating that the required number of consents of Owners were obtained.

13.1.3 Effect of Amendments. Amendments made pursuant to this Section will inure to the benefit of and be binding upon all Owners, their families, guests, Invitees and employees, and their respective heirs, successors, and assigns. Joinder of First Mortgagees shall not be required in order to effect an amendment.

## 13.2 ENFORCEMENT

13.2.1 Rights to Enforce. The Association, Successor Declarant, and/or any Owner shall have the power to enforce the provisions of the Community Documents in any manner provided by law or in equity and in any manner provided in this Second Restated Declaration. The Association may institute appropriate legal action, temporarily suspend an Owner's voting rights and/or levy a fine against an Owner in a standard amount to be determined by the Board from time to time. No determination of whether a violation has occurred shall be made until Notice and Hearing has been provided to the Owner pursuant to the Bylaws. If legal action is instituted by the Association, any judgment rendered shall include all appropriate Additional Charges. Notwithstanding anything to the contrary contained in this Second Restated Declaration, the Association shall not have the power to cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of the owner's individually owned Unit, including access thereto over and across the Common Area, due to the Owner's failure to comply with the provisions of the Community Documents, unless the loss or forfeiture is the result of the judgment of a court, an arbitration decision, a foreclosure proceeding or a sale conducted pursuant to this Second Restated Declaration.

13.2.2 Violation of Law. The Association may treat any Owner's violation of any state, municipal or local law, ordinance or regulation, which creates a nuisance to the other Owners in the Community or to the Association, in the same manner as a violation of the Community Documents by making such violation subject to any or all of the enforcement procedures set forth in this Second Restated Declaration, as long as the Association complies with the Notice and Hearing requirements.

13.2.3 Remedies Cumulative. Each remedy provided by this Second Restated Declaration is cumulative and not exclusive.

13.2.4 Nonwaiver. The failure to enforce the provisions of any covenant, condition or restriction contained in this Second Restated Declaration shall not constitute

a waiver of any right to enforce any such provisions or any other provisions of this Second Restated Declaration.

13.3 LIMITATION OF CLAIMS. The Association, whether on its own behalf or on behalf of any Owner or Owners, shall not file any claim or bring any action against Successor Declarant, its managers, members, directors, officers, agents, affiliates, partners, employees, contractors, subcontractors, material suppliers, architects, engineers, attorneys or consultants, including but not limited to claims or actions relating to the Community or any Unit, Residence or Improvements in the Community, whether pursuant to this Second Restated Declaration or any purchase and sale agreement between Successor Declarant and any Owner, or otherwise, or for any alleged breach of fiduciary duty or any defect, structural, in material, in workmanship, or otherwise, whether patent or latent, unless such claim is filed or such action is brought within three (3) years of the date on which Successor Declarant ceases to be a Class "B" Member of the Association.

13.4 OWNERSHIP IN SADDLEHORN. By acceptance of a deed to a Unit, each Owner acknowledges and agrees that owning property in the Community has benefits as well as detriments and that the detriments include certain noises and nuisances of a mountain community including, without limitation: (i) early morning snow removal; (ii) trail maintenance; (iii) parties and other events; (iv) equestrian activities; (v) recreational activities; (vi) children's activities; and (vii) wildlife related issues, and (viii) ongoing construction and development activity. Owners shall not file any claim or bring any action against the Successor Declarant or the Association due to any of the activities or reasons listed above.

#### ARTICLE XIV

#### ARCHITECTURAL CONTROL

14.1 APPLICABILITY. Except as otherwise provided in this Second Restated Declaration, proposals to construct Improvements and or make Alterations shall be subject to the provisions of this Article and may not be made until approved by the Architectural Review Committee in accordance with the provisions of this Article. The provisions of this Second Restated Declaration requiring architectural approval shall not apply: (i) to modifications of Common Area Improvements; (ii) to the original construction of any Improvements of a Residence by Successor Declarant, its agents, contractors or employees; or (iii) prior to the first conveyance of a Unit to an Owner.

14.2 ARCHITECTURAL REVIEW RESPONSIBILITY. The administration of the Design Guidelines and the review of all applications for approval, construction and modification of Improvements and Alterations under this Article and the Design Guidelines shall be the responsibility of the Architectural Review Committee (the "Committee"). The Committee may establish and charge fees for review of applications hereunder, and may require such fees to be paid in full prior to review. Additionally, the Committee may provide for the employment of such professional consultants as it may deem appropriate to advise and assist the Committee. The Committee may also establish fines and other penalties for failure to comply with the provisions of this Article and the Design Guidelines.

14.3 ARCHITECTURAL REVIEW COMMITTEE. The Committee shall consist of at least three (3) persons and no more than five (5) persons. Until the Turnover Meeting, or such earlier date as Successor Declarant may opt in writing to relinquish such power, Successor Declarant shall appoint all members of the Committee, and may remove and replace any such members as it deems appropriate. After the Turnover Meeting, the Committee shall consist of five (5) members and the Successor Declarant, or the Successor Declarant's successors and assigns, shall appoint three (3) of the five (5) members of the Committee. The other two (2) members of the Committee shall be comprised of Owners without regard to special qualifications, and such members of the Committee shall be appointed by the Board. From and after the Turnover Meeting, the terms of the members of the Committee shall be staggered, and shall terminate at different dates, so as to provide reasonable continuity to the architectural review process.

14.4 DESIGN GUIDELINES. Declarant prepared the initial Design Guidelines. Successor Declarant has or will prepare updated Design Guidelines and thereafter shall have the right to amend them. The most current version of the Design Guidelines shall be applicable at any given time. Each version of the Design Guideline shall be labeled with a version number and the date of adoption. Any amendments to the Design Guidelines shall apply to construction and modifications commenced after the date of such amendment only and shall not apply to require modifications to or removal of structures previously approved once the approved construction or modification has commenced. The Design Guidelines may contain general provisions applicable to all of the Property, as well as specific provisions which vary from one portion of the Property to another depending upon location, unique characteristics, and intended use. The Design Guidelines may also include the procedures, materials to be submitted and additional factors which will be taken into consideration in connection with the approval of any proposed Improvement. The Design Guidelines may specify circumstances under which the strict application of limitations or restrictions under this Second Restated Declaration will be waived or deemed waived in whole or in part, and may waive the requirement or exempt Alterations from the requirement for approval if such approval is not reasonably required to carry out the purposes of this Second Restated Declaration. The Design Guidelines, as the same shall be amended from time to time, need not be recorded, but shall be considered incorporated herein by reference and shall be enforceable as though set forth in full. Additionally, the construction of improvements within the Property shall be subject to and governed by all County standards, if any. Each Owner, by accepting to deed for any Unit, shall be deemed to have agreed to comply with the requirements of said Design Guidelines, as the same may be interpreted and enforced by the Committee.

14.5 SUBMISSION OF APPLICATION. Prior to commencement of work to accomplish any proposed Improvement or Alteration, the Owner proposing to make such Improvement or Alteration (the "Applicant") shall submit to the Committee such information, descriptions, surveys, elevations, plans, specifications and samples showing and describing the proposed Improvement or Alteration (the "Application") as may be required by the Design Guidelines. The Committee may require submission of additional plans, specifications or other information prior to approving or disapproving the proposed Improvement or Alteration. Until receipt by the Committee of all required materials in connection with the proposed Improvement or Alteration, the Application shall be deemed incomplete, and the Committee may postpone review of any materials submitted for approval by the Applicant. At its request, the Applicant

shall be entitled to receive a receipt from the Committee or its authorized agent showing the date the complete Application was received.

14.6 CRITERIA FOR APPROVAL. The Committee will approve any proposed Improvement or Alteration only if it determines that the Improvement or Alteration in the location indicated will not be detrimental to the appearance of the surrounding areas of the Property as a whole; that the appearance of the proposed Improvement or Alteration will be in harmony with the surrounding areas of the Property; that the Improvement or Alteration will not detract from the beauty, wholesomeness and attractiveness of the Property or the enjoyment thereof by the Owners; and that the upkeep and maintenance of the proposed Improvement or Alteration will not impose any undue burden on the Association. The Committee may condition its approval of any proposed Improvement or Alteration upon the making of such changes as the Architectural Review Committee may require.

14.7 DECISION OF COMMITTEE. The decision of the Committee shall be made within sixty (60) days after the date that it receives the complete Application and any additional materials required by it, unless such period of time is extended by mutual agreement of the Committee and the Applicant. The decision shall be in writing and, if the decision is to disapprove the Application, the reasons shall be stated. The decision of the Committee shall be promptly transmitted to the Applicant at the address furnished by the Applicant to the Committee.

14.8 FAILURE TO ACT. Any request for approval of a proposed Improvement or Alteration shall be deemed approved unless disapproval or a request for additional information or materials is transmitted to the Applicant by the Committee within sixty (60) days after the date that the Committee receives the complete Application and any additional materials required by it.

14.9 NO WAIVER OF FUTURE APPROVALS. Approval of proposals, plans and specifications, or drawings for any work done or proposed, or in connection with any other matter requiring approval, shall not be deemed to constitute a waiver of the right to withhold approval as to any similar proposals, plans and specifications, drawings, or other matters subsequently or additionally submitted for approval.

14.10 PROSECUTION OF WORK. After approval of any Application, the proposed Improvement or Alteration shall be constructed with reasonable promptness and diligence in conformity with the Application and any conditions imposed by the Committee in its approval.

14.11 NOTICE OF COMPLETION. Upon completion of the Improvement or Alteration, the Applicant shall give written notice of completion to the Committee. Until the date of its receipt of such notice, the Committee shall not be deemed to have received notice that the Improvement or Alteration has been completed.

14.12 INSPECTION. The Committee or its representative shall have the right to inspect any Improvement or Alteration prior to or after completion. If as a result of its inspections or otherwise the Committee determines that any Improvement or Alteration has been commenced without obtaining the approval of the Committee, or if it determines that the Improvement or Alteration is not being completed or has not been completed in conformity with the Application

and any conditions of approval, the Committee shall notify the Applicant in writing of such determination. The notice shall specify the particulars of the noncompliance, and shall require the Applicant to take such action as may be necessary to remedy the noncompliance and may, at the election of the Board, be recorded in the real property records of the County. If for any reason other than the Applicant's act or omission the Committee fails to notify the Applicant of any noncompliance within ninety (90) days after the Committee's receipt of a written notice of completion from the Applicant, the Improvement or Alteration shall be deemed to be in compliance if the Improvement Alteration, in fact, was complete as of the date the notice of completion was received by the Committee.

14.13 ENFORCEMENT. Any Improvement or Alteration placed, installed or constructed, in violation of this Article shall be deemed to be nonconforming. Upon written request from the Committee, the Owner in violation shall, at his or her own cost and expense, remove the non-conforming Improvement or Alteration and restore the Unit in question to substantially the same condition as existed prior to the non-conforming work. Should an Owner fail to remove and restore as requested, Successor Declarant and the Association, and their respective designees, shall have the right to remove the violation and restore the Unit to substantially the same condition as previously existed, or to pursue all legal and equitable remedies available to enforce the provisions of this Article. All costs and attorneys' fees, together with interest on all sums expended by the Association at such rate as may be charged by it, may be assessed against such Unit and collected as a Default Assessment. Additionally, any contractor, subcontractor, agent, employee, or other invitee of an Owner who fails to comply with the terms and provisions of this Article and the Design Guidelines may be excluded by the Association from the Property.

14.14 NONLIABILITY OF THE ARCHITECTURAL REVIEW COMMITTEE AND BOARD MEMBERS. Neither the Committee, the Board nor any member thereof nor Successor Declarant shall be liable to the Association or to any Owner or any other person for any loss, damage or injury arising out of or in any way connected with the performance of the Committee's duties under this Second Restated Declaration or the other Community Documents unless arising as a result of an act or omission which is committed in subjective bad faith or which involves intentional misconduct or a knowing violation of law by the Committee or Board or individual members thereof. The Committee shall not be responsible for reviewing, nor shall its approval of any plans and specifications be deemed approval of, structural safety, engineering soundness, or conformance with building codes or any other laws, requirements or standards.

14.15 VARIANCES. The Committee may authorize variances from compliance with any of the provisions or Design Guidelines when circumstances so warrant. Such variances must be evidenced in writing and must be signed by at least a majority of the members of the Committee. If such a variance is granted, no violation of this Second Restated Declaration or the other Community Documents shall be deemed to have occurred with respect to the matter for which the variance was granted, provided the Applicant complies with the terms of the variance. The granting of such a variance shall not operate to waive any of the terms and provisions of this Second Restated Declaration or the Design Guidelines for any purpose except as to the particular property and particular provision in the instance covered by the variance.

## ARTICLE XV

### FISH AND WILDLIFE

15.1 GENERAL. All Owners must accept the responsibility of living with wildlife and must be responsible for protecting their vegetation from damage, confining their pets, and properly storing garbage, pet food, livestock feed and other potential attractants of wildlife. The following covenants are designed to help minimize problems that Owners could have with wildlife, as well as helping Owners protect themselves, their property and the wildlife that Montanans value.

15.2 VEGETATION. Owners must be aware of the potential for vegetation damage by wildlife, particularly from deer feeding on green lawns, gardens, flowers, ornamental shrubs and trees. Owners shall take the responsibility to plant no-palatable vegetation or protect their vegetation in order to avoid problems. Also, owners must landscape with the types of vegetation that are specified in the Design Guidelines and are less likely to suffer extensive feeding damage by deer.

15.3 GARDENS. All gardens shall constitute an Improvement that must be approved by the Committee.

15.4 GARBAGE. Owners must store garbage in secure bear resistant containers or indoors to avoid attracting wildlife. If stored indoors, garbage cans may not be set out until the morning of garbage pickup, and must be taken back indoors that day after garbage pickup.

15.5 FEEDING WILDLIFE. Owners shall not feed wildlife or offer supplements (such as salt blocks), attractants, or bait for deer or other wildlife. Feeding wildlife results in unnatural concentrations of animals that could lead to overuse of vegetation and disease transmission. Such actions unnecessarily accustom wild animals to humans, which can be dangerous for both. It is against state law, Section 87-3-130, MCA, to purposely or knowingly attract bears.

15.6 PETS. Pets shall be confined to the house or in an outdoor kennel area when not under the immediate control of the Owner, and not be allowed to roam. Keeping pets confined also helps protect them from predatory wildlife. Under current state law it is illegal for dogs to chase hooved game animals and the Owners may also be held responsible under Section 87-3-124, MCA.

15.7 PET FEED. Pet food must be stored indoors, in closed sheds or in animal-resistant containers in order to avoid attracting wildlife. When feeding pets, Owners shall not leave food out overnight. Owners should consider feeding pets indoors so that wild animals do not learn to associate food with the home.

15.8 OUTDOOR BARBECUE GRILLS. Permanent outdoor barbecue grills are allowed; provided, however, that the Owner shall keep all portions of the outdoor barbecue clean at all times. Food spills and smells on and near the grill can attract wildlife.

15.9 COMPOST PILES. Compost piles can attract wildlife and shall not be allowed.

15.10 APIARIES. Apiaries (beehives) may attract bears and shall not be allowed.

## ARTICLE XVI

### MISCELLANEOUS PROVISIONS

16.1 TERM OF DECLARATION. This Second Restated Declaration shall continue for a term of thirty (30) years from its date of recordation. Thereafter, this Second Restated Declaration shall be automatically extended for successive periods of ten (10) years unless two-thirds ( $\frac{2}{3}$ ) of the Members approve a termination of this Second Restated Declaration.

16.2 CONSTRUCTION OF PROVISIONS. The provisions of this Second Restated Declaration shall be liberally construed to affect its purpose of creating a uniform plan for the development and operation of a planned community development pursuant to applicable Montana law.

16.3 BINDING. This Second Restated Declaration shall be for the benefit of and be binding upon all Owners, their respective heirs, legatees, devisees, executors, administrators, guardians, conservators, successors, purchasers, tenants, donees, grantees, mortgagees, lienors and assigns.

16.4 SEVERABILITY OF PROVISIONS. The provisions hereof shall be deemed independent and severable, and the invalidity or unenforceability of anyone provision shall not affect the validity or enforceability of any other provision hereof.

16.5 GENDER; NUMBER AND CAPTIONS. As used herein, the singular shall include the plural and masculine pronouns shall include feminine pronouns, where appropriate. The title and captions of each paragraph hereof are not a part thereof and shall not affect the construction or interpretation of any part hereof.

16.6 REQUIRED ACTIONS OF ASSOCIATION. The Association shall at all times take all reasonable actions necessary for the Association to comply with the terms of this Second Restated Declaration or to otherwise carry out the intent of this Second Restated Declaration.

16.7 SUCCESSOR STATUTES. Any reference in the Community Documents to a statute shall be deemed a reference to any amended or successor statute.

16.8 CONFLICT. In the event of a conflict, the provisions of this Second Restated Declaration shall prevail over the Bylaws, the Design Guidelines and the Rules.

16.9 APPLICABLE LAW. This Second Restated Declaration shall be governed by and construed in accordance with Montana law.

16.10 NOTICE. All notices or deliveries required under this Second Restated Declaration or the Community Documents shall be hand delivered, given by certified mail/return receipt requested, by facsimile transmission, by e-mail transmission, or by overnight courier

directed to the address of the party on file and of record at the offices of the Successor Declarant, or after the Turnover Meeting, at the offices of the Association. All notices so given shall be considered effective, if hand-delivered, when received; if delivered by facsimile transmittal, upon machine generated confirmation of receipt; if delivered by e-mail transmittal, upon printed confirmation of receipt; if delivered by courier, one (1) business day after timely deposit with the courier service, charges prepaid; or if mailed, three (3) days after deposit, first class postage prepaid, with the United States Postal Service. It is the responsibility of the Owner to keep the Successor Declarant and the Association apprised of his or her most current mailing and e-mail addresses. Rejection or other refusal to accept or the inability to deliver because of changed address of which no notice was given shall be deemed to be a receipt of the notice. In the event of a conflict between the notice provisions contained in this Second Restated Declaration and the notice provisions contained in any of the other Community Documents, the notice provisions contained in this Second Restated Declaration shall prevail.



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0015000	0504192	0504247
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