

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

MISSION BAY PRESERVE SUBDIVISION

This Declaration is made this 31ST day of October, 2001, by Northwest Holdings, LLC, of P.O. Box 129 Polson, Montana 59860, hereinafter referred to as the "Declarant."

WITNESSETH:

WHEREAS, Northwest Holdings, LLC is currently the owner of property located in the West ½ of Section 1, and the East ½ of Section 2, all in Township 22 North, Range 20 West, P.M.M., Lake County, Montana. Northwest Holdings, LLC has submitted for recording a proposed plat of properties within the aforescribed area, which subdivision is to be known as Mission Bay Preserve Subdivision. Northwest Holdings, LLC further wishes to provide for the orderly development of properties within the subdivision and for the ongoing maintenance of those properties and the improvements that may be located thereon.

WHEREAS, the Declarant wishes to place restrictions, covenants and conditions upon the real property for the use and benefit of the property, the Declarant and future owners thereof.

NOW THEREFORE, the Declarant hereby declares that all the property identified in the Mission Bay Preserve Subdivision shall be held, sold, and conveyed subject to the following restrictions, covenants, conditions, and easements, all of which are for the purpose of enhancing and protecting the value, desirability, and attractiveness of the real property as a desirable residential development. These restrictions, covenants, conditions and easements shall run with the real property and shall be binding upon all parties having or acquiring any right, title or interest in the described property, or any part thereof, and shall inure to the benefit of and be binding upon each successor in interest to the Owner thereof.

ARTICLE I: DEFINITIONS

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

Section 2. Beach Area. "Beach Area" shall mean and refer to that portion of the Common Area as set forth on the plat of Mission Bay Preserve Subdivision which is immediately adjacent to and along the shoreline of Flathead Lake.

Section 3. Common Area. "Common Area" shall mean all that area shown on the final plat of Mission Bay Preserve Subdivision including the Beach Area, walking trails, creek channel and wetlands and the various phases thereof, or as may be shown on any other plat of any subdivision or property coming within the jurisdiction of these Covenants.

Section 4. Declarant. "Declarant" shall mean and refer to Northwest Holdings, LLC, a Delaware limited liability company, its successors and assigns if such successors or assigns should acquire more than one undeveloped Lot from the Declarant for the purpose of development.

Section 5. Lot. "Lot" shall mean and refer to any plot of land shown upon the recorded plat map of the Property subject to this declaration with the exception of the Common Area and dedicated streets and all roads dedicated or private. In the event other than a Lot as shown on the recorded plat map is utilized as a building site, as hereinafter authorized, such building site shall be considered as a Lot.

Section 6. Member. "Member" shall mean and refer to every person or entity who is a Member of the Association as described in Article II.

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Section 7. Owner. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of any Lot which is a part of the Properties, including buyers under a contract for deed, but excluding those having such interest merely as security for the performance of an obligation.

Section 8. Properties. "Properties" shall mean and refer to that certain real property described as Mission Bay Preserve Subdivision, a platted subdivision of Lake County, Montana, and such other real property as is now or may hereafter be brought within the jurisdiction of these Covenants and the Association.

ARTICLE II: MEMBERSHIP & VOTING RIGHTS

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

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

ARTICLE III: HOMEOWNERS ASSOCIATION

The Declarant has created a Montana non-profit corporation to act as the Homeowners Association in conjunction with the administration of these Covenants. The Association shall administer the terms and provisions of these Covenants and take such action as may be reasonable or necessary to carry out the functions of the Homeowners Association.

ARTICLE IV: PROPERTY RIGHTS

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

- a. The lake access, wetlands, creek channel and all Common Areas shown on the final plat of Mission Bay Preserve or any other subdivision plat coming within the jurisdiction of these Covenants, shall remain in private ownership for the exclusive use of the Members of the Homeowners Association and their guests subject to the restrictions set forth hereafter and such subsequent restrictions as may from time to time be implemented by applicable Governmental Regulation or determination of the Homeowners Association. Access to the wetlands and creek channel may be limited by Government Regulation or by action of the Homeowners Association;
- b. The right of the Association to provide reasonable restrictions on use of the Common Areas for the overall benefit of its members;
- c. The right of the Association to charge reasonable fees for maintenance and snow removal and other fees for the use of the Common Areas. The Common Areas shall not be maintained nor any alteration made to the Common Areas by the Owners of any Lot;

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- d. The right of the Association, in accordance with its Articles and Bylaws, to borrow **4200'72** money for the purpose of improving the property, and the rights of such mortgagees in said Properties shall be subordinate to the rights of the Homeowners hereunder;
- e. To the extent permitted or authorized by the City of Polson, the right of the Association or Declarant to dedicate or transfer all or any part of the Common Areas to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed upon under the Bylaws of the Association;
- f. The right of the Association and Declarant to grant easements under any Common Area to any public agency, authority, or utility without charge;
- g. The right of the Association or Declarant to run utility service lines or connections including a water or sewer system that serves any portion of the Properties under or through any Common Areas;
- h. Certain Lots are subject to drainage swale easements as depicted on the plats. No Lot shall be developed or landscaped in such a manner as to interfere with the purpose of the drainage swale easement; and
- i. All water rights will remain with the Declarant until the last Lot is sold, at which time they will be assigned to the Association.

Section 2. Assignment of Use. Any Member may assign, in accordance with the covenants, his right of enjoyment to the Common Areas and facilities to the members of his family, or others who reside on the property.

ARTICLE V: SERVICES PROVIDED BY ASSOCIATION

Section 1. Common Areas. The Association shall mow, water or otherwise maintain the Common Areas (as identified in the final plat of Mission Bay Preserve subdivision) as is reasonably necessary. The Association shall be responsible for the maintenance of all private roads within the subdivision subject to the jurisdiction of these Covenants along with Tundra Swan Way not within the subdivision. Neither the City of Polson nor other public agencies are responsible for maintenance of the private roads.

Section 2. Additional Services. The Association may provide additional services as it sees fit. The Association may provide such services for all or a portion of the property within its jurisdiction or with which it may contract and levy assessments on such portion of its Members or others as derive benefits from services concerned.

Section 3. Fees. The Association shall establish a fee schedule for providing these services, which fees shall be considered as assessments, as set forth above. Such schedule may include the assessment of:

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

ARTICLE VI: RULES AND REGULATIONS

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

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Section 2. Rules for Maintenance and Repairs. The Association may also promulgate reasonable rules and regulations for the maintenance, repair or improvement of the Properties. Such rules must be uniformly and evenly applied. However, rules may vary to the extent that they address issues of terrain, elevation, Lot views, or other differing natural or artificial circumstances of individual Lots.

ARTICLE VII: ASSESSMENTS

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

Section 2. Rate of Assessments. Where applicable, assessments for services may be based on usage i.e., charges for RV storage facilities, equestrian facilities, irrigation water, or similar items shall be assessed to those Property Owners who benefit directly from those services. All other assessments including charges for private roads, Common Area maintenance and capital improvement on systems utilized to provide services shall be fixed at uniform rates per Lot. Undeveloped Lots owned by Declarant shall be subject to assessment at one-fourth (that is, 25%) of the amount of assessments fixed for other Lots.

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

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

Section 5. Certificate of Payment. The Secretary of the Association shall upon demand furnish a written statement signed by an officer of the Association setting forth the status of any assessments relative to a specific Lot. The statement shall, as applicable, identify any delinquent assessments, the amount owed, the amount of any current assessments or accruing assessments or indicate that all assessments are current and paid. A reasonable charge may be made by the Association for the issuance of the statement. Such statement shall be conclusive evidence of payment of any assessment therein stated to have been paid. In addition, the Secretary of the Association shall maintain a roster of the individual Lots and the assessments due thereon.

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

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

Section 8. Creation of Lien. All assessments both current and delinquent, together with interest and cost of collection as herein provided for, shall be a charge upon the land and shall constitute a lien upon the Lot

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

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

ARTICLE VIII: PROTECTIVE COVENANTS

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

Section 1. Design Review Committee. The Association shall maintain a design review committee, Mission Bay Preserve Design Review Committee (MBPDRC) to serve the functions as described in this Article and shall establish criteria specifically for the Properties subject to the jurisdiction of these Covenants. Members of the MBDRRC shall be appointed and serve as set forth in the Bylaws of the Association.

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

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

Section 2. Design Review Committee Approval. Approval or disapproval by the MBPDRC shall be in writing. In the event the Committee fails to act within twenty-one (21) calendar days after the proposed plans and specifications of any structure are submitted, approval shall be deemed to have been denied. In the event on non-action, the applicant may request formal notification of the status of the approval. Failure by the MBPDRC to act within fourteen (14) calendar days of this request shall constitute approval for such structure and the pertinent provisions of this Declaration shall be deemed to have been fully complied with.

Section 3. Land Use and Building Type. Lots are intended for residential use and no business, trade or manufacturing shall be conducted thereon except as may hereafter be provided for. (a) New dwellings. No building shall be erected, altered, placed, or permitted to remain on any Lot other than those conforming to the criteria established by the MBDRRC. These include single-family dwellings, private attached or detached garages for no less than two (2) cars, and accessory buildings. No structure such as the residential dwelling, accessory buildings, fences, kennels, garages, antennas, signs, mailboxes and newspaper holders or any other structure may be located upon any Lot unless the plans and specifications for such structures have been reviewed and approved by the MBPDRC. The MBDRRC shall also have jurisdiction to determine and approve proposed grades of lawn, landscaping plans including seeding and planting and all other and similar items relating to the development and

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improvement of any Lot. All structures shall be constructed of new materials. However, suitable used materials such as used brick or beams may be utilized provided that advance approval has been obtained from the MBPDRC as herein provided. No old structures, whether intended for use in whole or in part as the main dwelling house or as a garage or other structure shall be moved upon any Lot. No mobile homes, either double or single wide, or other pre-manufactured homes constructed primarily away from the Lot on which they would be situated shall be permitted. The MBPDRC of the Association is authorized in its discretion to approve exceptions to this section so that structures intended to serve the residents of the adjoining dwelling house may be constructed. No such additional structures, beyond those permitted in the Mission Bay Preserve Design Guidelines, shall be utilized as an additional dwelling house or for purposes other than to serve the residents of the dwelling house.

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

Section 4. Commercial Usage Prohibited. In home occupations are permitted so long as they (a) do not require a business license from any state, federal or local authority; (b) meet all applicable zoning or use restrictions as may be imposed by the City of Polson or the State of Montana; (c) are approved by a majority of the Board of Directors of the Homeowners Association. No in home occupation shall be undertaken or commenced until the criteria of items (a-c) of this section have been met. However, for a period of fifteen (15) years from the date of this Declaration, the Declarant shall be permitted to maintain a sales office in either a model home or a specially constructed building, to be utilized to promote the development of the Mission Bay Preserve area. Home occupations are allowed subject to all applicable zoning and other applicable restrictions imposed by the City of Polson.

Section 5. Setback Requirements. The building setbacks from all Lot lines shall comply, at a minimum, with the City of Polson restrictions. See the site specifics for individual lot setbacks. No building, residence or other structure shall be located within the building setbacks.

Section 6. Exterior Maintenance. The Owner of each Lot upon which a single family residential structure may be or is located shall provide exterior maintenance upon such Lot and structures, if any, to include painting and repairing the structures; maintaining the lawn and grounds to preclude weeds, underbrush, and other unsightly growths; and not permitting refuse piles or other unsightly objects to accumulate or remain on the grounds. In providing such exterior maintenance, the Owner shall utilize color and landscaping schemes that are harmonious with the surrounding area, consistent with generally accepted concepts for desirable residential developments and in conformance with criteria established by the MBPDRC. In the event any Owner shall fail or neglect to provide such exterior maintenance, the Association shall notify such Owner in writing specifying the failure and demanding that it be remedied within thirty (30) days. If the Owner shall fail or refuse to provide such exterior maintenance within the thirty (30) day period, the Association may then enter such Lot and provide required maintenance at the expense of the Owner. The full amount shall be due and payable within thirty (30) days after the Owner is billed therefor and shall become a special assessment upon that Lot. The Association may exercise all rights to collect that assessment. Such entry on the Lot by the Association shall not be deemed a trespass.

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

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

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

Section 10. Garbage. No Lot shall be used or maintained as a dumping ground, nor shall any rubbish, trash, garbage or other waste be allowed to accumulate except in sanitary containers which shall be emptied on at least a weekly basis by a local garbage collection firm. This provision does not prohibit temporary storage of gravel, topsoil or building materials on Lots if such items are to be used in further construction. No such receptacles shall

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be placed nearer than twelve and one-half (12 ½) feet from the front property line of any tract unless the same is constructed so as to be located underground which does not create any unsightly area or interfere with the surrounding residential development. On garbage collection days, garbage cans may be placed in a location convenient for collection. All garbage shall be stored in containers of metal, plastic, or other suitable material which have sufficiently tight-fitting covers to prevent the escape of noxious odors and to prevent entrance by pets. Garbage cans shall be stored indoors. Compost piles are prohibited.

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

Section 12. Animals and Pets. Except as may be permitted by other provisions of these Covenants, no animals or fowl, domestic or wild, except dogs and/or cats shall be permitted on any Lot. Other small domestic animals may be kept subject to approval by the Association. These animals will be kept within the Lot of their Owner unless leashed or under the immediate control of their Owner. Such animals shall not be permitted to become a nuisance or annoyance to the neighborhood. All animals kept on any Lot shall be properly fed, watered, and sheltered from the elements in such a manner as shall be consistent with their good health. Pet food should be fed indoors or within kennel areas only. This will reduce the conflicts with wild animals. Each Owner or person responsible shall treat and care for such animals in a humane and merciful fashion, so that other persons in the area shall not be required to tolerate or condone inhumane treatment of the animals. All animals kept on these Properties must be kept within a properly fenced enclosure except when accompanied by their Owner. Dogs shall be kenneled in rear yards only and shall be kept in a humane manner but not chained. Animal manure shall be removed from the premises or otherwise disposed of periodically so as not to become obnoxious, offensive, or a nuisance to surrounding residents. All carcasses of dead animals shall be removed immediately. No commercial breeding, raising or sales of any animals shall be permitted. Violations of these requirements regarding animals shall be considered a complete breach of these protective and restrictive covenants, giving rise to such remedies as are allowed by law for the breach of any other covenants contained herein.

Section 13. Vehicles. There shall be no repairing of vehicles in the street. Each Lot shall contain a sufficient area for two off-street parking spaces, excluding the garage. **There shall be no parking of vehicles on the street fronting any Lot.** Guest parking is permitted only on driveways. No travel trailers, pick-up campers, campers, boats, boat trailers, motorcycle trailers, snowmobile trailers, or motor homes shall be parked or allowed to remain on any of the Lots for more than fourteen (14) consecutive days (except for construction equipment utilized in constructing improvements within the subdivision). Upon expiration of any fourteen (14) day consecutive term, the item must be removed from the Lot for at least seven (7) consecutive calendar days. Travel trailers, pick-up campers, campers, boats, boat trailers and other recreational vehicles may be kept in any common facility designated by the Board of Directors without regard to the fourteen (14) consecutive day limitation. Further, travel trailers, pick-up campers, campers, boats, boat trailers, motorcycle trailers, snowmobile trailers, or motor homes may be maintained on individual Lots so long as they are in enclosed structures approved by the design review committee. No mobile homes, equipment trailers, trucks exceeding one ton capacity, back hoes, or any other form of equipment or machinery shall be parked or allowed to remain on any of the Lots or the adjoining streets. **Vehicle parking restrictions provided by this Declaration will be strictly enforced, including but not limited to ticketing and towing of vehicles in violation.** All cost or expense relative to the towing shall be the responsibility of the Lot Owner on whose Lot the vehicle is parked or the responsibility of the owner of the vehicle if it is located on a street. Snowmobiles, trail bikes, chainsaws and other noisy vehicles and equipment may not be used on any of the Properties within the subdivisions without permission of the Association. This provision is not intended to preclude the entry of construction, maintenance, delivery, moving, or other such service vehicles while they are being utilized in connection with services for the property.

Section 14. Emergency Accesses. No lot owners may use the emergency accesses for any purpose other than an emergency. The association shall fine anyone using the access for any use other than an emergency \$100.

Section 15. Signs. No advertising signs, billboards, or unsightly objects shall be erected, placed, or permitted to remain on any Lot with the following exceptions:

- a. One sign up to 10 square feet in size identifying the contractor of a building under construction;
- b. One sign up to 10 square feet in size identifying the architect of a building under construction;

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- c. Signs erected within the subdivisions by the Declarant promoting the development of the properties and subdivisions;
- d. A sign not to exceed 2 square feet in surface area identifying the owner or occupant of the residential structure located on a Lot so long as the sign is permanently affixed to the structure; and
- e. Such other signs as may be permitted or approved by the MBPDRC.

Section 16. Damaged Property. Any dwelling damaged by fire or other casualty must be removed from the premises and repairs commenced within one hundred twenty (120) days unless an extension of time for such removal and repair is granted by the MBPDRC. Any damaged dwelling not so removed and repaired may be removed at the Owner's expense and the MBPDRC may pursue any and all legal and equitable remedies to enforce compliance and to recover any expenses incurred in connection herewith. Any cost incurred by the Association under this section shall become a special assessment upon the Lot of the Owner. The Association may exercise all rights to collect that assessment.

Section 17. Access and Roadways. Except for Declarant, no Owner shall use part of any Lot to provide access to any adjacent land. No roadway shall be used or constructed on any Lot for any purpose except one driveway for access to the dwelling facilities.

Section 18. Sanitary Restrictions. The Owners of every Lot shall comply with all governing laws and regulations relating to water supply, sanitation, sewage disposal, and air pollution.

Section 19. Accessory Buildings. Free standing or detached storage or accessory buildings may be constructed. Only one accessory building per Lot will be allowed. Accessory buildings shall meet all required setback standards and must maintain a one-story profile. Storage facilities shall be constructed of new materials and colored in schemes that are harmonious with the surrounding dwellings.

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

Section 21. Duty to Repair Defects. In the event a defect may affect the dwelling located on the Lot of any other Owner, the Owner whose dwelling or Lot has the defect shall repair the same in a workmanlike fashion within a reasonable time following its discovery. Upon the failure of such Owner to so repair defects that are such Owner's responsibility, the Association shall have the duty to enter into and upon the Owner's Lot, including the dwelling, and effect such repair, the cost of which shall be paid by such Owner by assessment or otherwise.

Section 22. Rentals. No residence, nor any portion thereof may be rented for less than a single thirty (30) day period. This restriction is intended to prohibit short term or weekend rentals.

ARTICLE IX: ADDITIONAL RESTRICTIONS FOR LOTS 12 through 17 OF
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All other provisions set forth in these Covenants shall be applicable to Lots 12 through 17 and the following additional provisions shall be specifically applicable to Lots 12 through 17:

- (a) No buildings shall be constructed on any of Lots 12 through 17 that exceeds twenty-six feet (26') in height. Height shall be determined from the center point of a Lot's natural elevation to the tallest point of the structure.

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- (b) No "shelter belt" trees shall be utilized in the landscaping of Lots 12 through 17. For purposes of this restriction, "shelter belt" trees are those trees which are planted in rows in close proximity to one another in order to create a wall effect to reduce or limit wind or view. No trees shall be planted nor maintained within fifty feet (50') of the north or south boundaries of any of Lots 12 through 17. No trees shall be planted nor maintained in the area between thirty-five feet (35') from any home constructed on a Lot and fifty feet (50') from such home which exceeds twenty feet (20') in height.
- (c) Additional restrictions or limitations applicable to Lots 12 through 17 may be promulgated from time to time or imposed by the MBPDRC and set forth in design guidelines. The purchasers of Lots within the subdivision specifically Lots 12 through 17 are urged to contact the MBPDRC and obtain a copy of the current provisions applicable to such Lots before purchasing a Lot in the subdivision. Further, purchasers of Lots 12 through 17 are again reminded that the provisions and restrictions set forth by the MBPDRC may change from time to time and those restrictions or provisions which are applicable at the time building plans and specifications are submitted to the MBPDRC will be deemed controlling and applicable.
- (d) If at any future date zoning and any other applicable governmental rule or regulation pertaining to Lots 12 through 17 permit horses to be maintained on those Lots, the Owners of the Lots may keep or maintain no more than 2 horses on their Lot. The Association may, from time to time, develop and impose additional reasonable rules for the maintenance of horses on Lots 12 through 17.

ARTICLE X: RESTRICTIONS ON USE OF WETLANDS, CREEK AND BEACH AREA

Section 1. Wetlands. The wetlands bordering Flathead Lake on the north end of the Properties shall be delineated and posted. No access will be allowed into or through the wetlands by any person, except on designated walkways or trails.

Section 2. Creek Channel. The creek channel, including setbacks, running from south to north through the Properties shall be delineated and posted. No access will be allowed into or through the creek channel by any person, except on designated walkways or trails.

Section 3. Beach Area. The Beach Area, designated as "Private Beach and Dock" on the final plat, shall be for the private use and enjoyment of Mission Bay Preserve homeowners and their guests. The dock and boathouse are intended for non-motorized craft such as canoes, kayaks and small sailboats. Neither the Owners of any Lot nor their guests or invitees shall:

- a. Construct boat docks or ramps other than those provided by the Declarant
- b. Use any motorized watercraft from the beach.

ARTICLE XI: GENERAL PROVISIONS

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

Section 2. Enforcement. Any Owner of a Lot, the Declarant or the Association shall have the option and right to enforce by any proceeding at law or in equity all restrictions, conditions, covenants, reservations, and charges now or hereafter imposed by the provisions of this Declaration. Each Owner may submit to the Association any complaint regarding alleged violation of this Declaration by any other Owner. Upon receipt of such complaint, the Association shall conduct a reasonable investigation of the alleged violation. If the Association, in its sole discretion, deems that the complaint has merit it may elect to seek enforcement of this Declaration pursuant to this

DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR MISSION BAY PRESERVE SUBDIVISION

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section. In any event the decision of the Association as to the merit of the complaint or its decision to pursue or not pursue enforcement of this Declaration, shall not limit or restrict in any way any individual Owner's pursuit of enforcement of this section. The method of enforcement may include legal action seeking an injunction or prohibiting any violation, to recover damages, or both. Failure by any Owner, or by the Declarant, to enforce any such provisions shall in no event be deemed a waiver of the right to do so thereafter. Should any law suit or other legal proceeding be instituted against an Owner who is alleged to have violated one or more of the provisions of this Declaration, the prevailing party in such proceeding shall be entitled to reimbursement for the costs of such proceeding, including reasonable attorney's fees.

Section 3. Severability. Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

Section 4. Amendment. The Declarant reserves the sole right to amend, modify, make additions to or deletions from this Declaration it alone deems appropriate. This right of the Declarant to make such amendments shall continue for so long as Declarant is a Member in the Association. After that time the right to amend shall pass to the Association to be exercised only upon a concurrence of seventy-five (75) percent of the Lot Owners of property in Mission Bay Preserve (See Article II: Membership and Voting Rights). In no event may those provisions of this Declaration required by a preliminary plat approval letter from the City of Polson to Declarant dated September 20, 2000, or be amended or deleted except with the express written consent of the City of Polson, its successors or assigns.

Section 5. Liability of Declarant. The Declarant shall have no liability for any of its actions or failures to act, or for any action or failure to act of any Owner of any Lot.

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

Northwest Holdings, LLC,
a limited liability company

ATTEST:

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

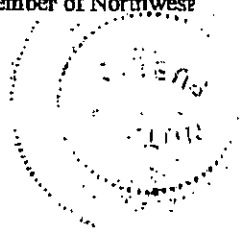
By: [Signature]
Tim Hinderman, Secretary

By: [Signature]
Dennis R. Duty, President

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

This instrument was acknowledged before on the 31st day of October 2000, by Dennis R. Duty, as President and Tim Hinderman, as Secretary, of Mulligan, Inc., a Montana corporation and member of Northwest Holdings, LLC, a limited liability company.

Debbie D. Benson
Notary Public for the State of Montana
Residing at Polson, Montana
(Notarial Seal)



My Commission expires: Jan 31, 2004