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Schickedanz Montana, LLC
PO BOX 226
Eureka, MT 59917

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AMENDED AND RESTATED DECLARATION TO THE DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR INDIAN SPRINGS RANCH

This Amended and Restated Declaration to the Declaration of Covenants, Conditions and Restrictions for Indian Springs Ranch (“Declaration”) is made as of the ____ day of _____, 2014, by Schickedanz Montana, LLC., a Montana limited liability company (“Declarant”).

RECITALS

- A. WHEREAS, on 08-29-2007, the Declaration of Covenants, Conditions and Restrictions for Indian Springs Ranch was recorded with the Clerk and Recorder of Lincoln County, Montana, under Document/Reception # 205683 (hereinafter the “ Original Declaration”).
- B. WHEREAS, pursuant to Article 10, Section 5 of the Original Declaration Schickedanz Montana LLC is the successor in interest to the Declarant's rights set forth in the Original Declaration and thus is referred to herein as the Declarant.
- C. WHEREAS, Article 16, Section 1 of the Original Declaration provides that the Declarant, until termination of the Class "B" Control Period, may unilaterally amend it.
- D. WHEREAS, the Class "B" Control Period, as defined in Article 6, Section 3 of the Original Declaration has not been terminated.
- E. WHEREAS, Declarant intends to further develop, sell and convey platted lots within Indian Springs Ranch.
- F. The Declarant desires to create and maintain stable values, character, uses and development of the property subjected hereto.
- G. The Declarant desires to subject that real property described below, including real property that may be annexed thereto, to the amended and restated terms and provisions set forth below.
- H. The covenants set forth in this Declaration shall be appurtenant to that property particularly described below , and shall inure to and pass with title to all property included therein and annexed thereto.

NOW, THEREFORE,

The undersigned, as Declarant, being within the Control Period as stated above, hereby declares that the real property commonly known as ***Indian Springs Subdivision (and each and every parcel and phase thereof)***, according to the plats thereof on file and of record in the ***Office of the Clerk and Recorder of Lincoln County, Montana***, and legally described as is

found on Exhibit A, attached hereto and incorporated herein, is and shall be held, transferred, sold and conveyed, subject to the conditions, covenants, and restrictions hereinafter set forth; which shall supersede and replace, in its entirety, the Original Declaration.

1) **DEFINITIONS.**

- a) Association. "Association" shall mean and refer to Indian Springs Residential HOA, Inc., a Montana not-for-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.
- b) Common Area. "Common Area" shall mean those areas labeled as "Open or Common Area", as shown on the plats for Indian Springs Subdivision, and the future plats for the subdivisions within any additional property or on any other property coming within the jurisdiction of this Declaration.
- c) Declarant. "Declarant" shall mean and refer to Schickedanz Montana, LLC, a Montana limited liability company, and its successors and assigns if such successors or assigns should expressly acquire its rights as Declarant.
- d) Expansion Property. "Expansion Property" means such additional real property now owned or owned in the future by Declarant (including any Successor Declarant) that Declarant may make subject to the provisions of this Declaration by a duly recorded Declaration of Annexation.
- e) Lot. "Lot" shall mean any parcel of land shown upon the recorded plat of the Real Property subject to this Declaration with the exception of the Common Area and streets. Notwithstanding the foregoing, Declarant may designate one or more areas, other than platted Lots, for construction of certain facilities for use by the Association, the public or local governmental agencies and such areas will not be considered a Lot.
- f) Member. "Member" shall mean and refer to every person or entity that is a Member of the Association as described in Article 2 of this Declaration.
- g) Owner. "Owner" shall mean and refer to the record Owner, whether one or more persons or entities, of any Lot, including buyers under a contract for deed, but such term does not include those having an interest in a Lot merely as security for the performance of an obligation.
- h) Real Property. "Real Property" shall mean and refer to that subdivision known as Indian Springs Subdivision, and such other real property that may hereafter be brought within the jurisdiction of this Declaration and the Association, including all Common Areas relating thereto.

2) **HOMEOWNERS ASSOCIATION.**

- a) Incorporation. Declarant has the authority to incorporate the Association (filing Articles and

adopting bylaws) as a Montana not-for-profit corporation to act as the homeowners association in conjunction with the administration of this Declaration. The Association shall administer the terms and provisions of this Declaration, its Articles of Incorporation and Bylaws and take such action as may be reasonable or necessary to carry out the functions of a homeowners association.

- b) Membership and Voting Rights. Every person or entity who is an Owner of any Lot, which includes Declarant, shall be a Member of the Association and be bound by the Bylaws therefor, as adopted by Declarant. The foregoing is not intended to include persons or entities that hold an interest merely as security for the performance of an obligation. Acceptance of title to any Lot, whether by deed or other form of conveyance, shall be deemed consent to membership in the Association. Membership shall be appurtenant to and may not be separated from ownership of a Lot. Ownership of a Lot shall be the sole qualification for membership in the Association. 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. As to this Declaration, Members shall be entitled to one vote for each Lot in which they hold an ownership interest. 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.

Notwithstanding any provision to the contrary herein, from date of formation of the Association until the termination of Declarant's control as provided below ("Control Period"), Declarant shall have the right to appoint and remove members of the Board of Directors and officers of the Association. The Declarant's Control Period shall terminate upon the date which is sixty (60) days after conveyance of 80% of the Lots in all platted and planned phases of the Real Property to Owners other than Declarant, or December 31, 2025, whichever is earlier. Declarant may voluntarily surrender the right to appoint and remove officers of the Association and members of the Board of Directors before termination of its Control Period, but in that event Declarant may require, for the duration of the Control Period, that specified actions of the Association or its Board of Directors, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective.

- c) Right to Expand. The Declarant also now owns or may in the future own additional real estate in Lincoln County, Montana, which it may desire to incorporate into the Real Property (the "Expansion Property"), and the Declarant has reserved the right, but will not be obligated, to incorporate the Expansion Property, in whole or in part, in the regime established under this Declaration, all as provided in Article 8 below, so that the Expansion Property, if and when developed, will be treated as an integral part of the Real Property .

3) **PROPERTY RIGHTS.**

- a) Easements.

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

- (1) The right of the Association to provide reasonable restrictions on use of the Common Area;
 - (2) The right of the Association to charge reasonable fees for improvement, maintenance, repair, replacement and use of the Common Area. The Common Area shall not be maintained or altered by Members;
 - (3) The right of the Association, in accordance with its Articles and Bylaws, to borrow money for purposes related to the Common Area;
 - (4) The right of the Association or Declarant to run utility service lines that serve any portion of the Real Property under or through any Common Area; and
 - (5) No Lot shall be developed or landscaped in such a manner as to interfere with restrictions shown on the plat of the Real Property or imposed by a governing authority as a condition of plat approval.
- ii) Improvements on Easements and Rights of Way. The Declarant or the Association may, in its reasonable discretion, locate and maintain improvements that are located within or on easements or public rights-of-way in accordance with applicable ordinances, if any, of state or local governing authorities.
 - iii) Construction of Improvements. The Declarant hereby reserves an easement over and upon all of the Common Area for the purpose of making, constructing, installing, modifying, expanding, replacing, and removing any improvements to the same during its Control Period.
 - iv) Declarant's Rights to maintain use of Common Area. Declarant, during its Control Period, may maintain and carry on upon portions of the Common Area such facilities and activities as, in the their sole opinion, may be required, convenient, or incidental to the construction or sale of Lots, including, but not limited to, business offices, signs, model homes, and sales offices. The Declarant and its designees shall have easements for access to and use of such facilities.
 - v) Declarant's Rights to use of Common Area. The Declarant and its designees, during the course of construction on property adjacent to any Common Area, may use such Common Area for temporary storage and for facilitating construction on adjacent property. The user of such Common Area must return the Common Area to the condition it was in prior to its use. If the Declarant's use under this Section results in additional costs to the Association, the Declarant shall reimburse the Association for such costs, but the Declarant shall not be obligated to pay any use fees, rent or similar charges for its use of Common Area pursuant to this Section.
 - vi) Easement for Maintenance. Declarant reserves unto itself, and grants to Association, an easement for the purpose of access to, across, over and under all of the Lots, to

the extent reasonably necessary, to install, replace, repair, and maintain utilities, drainages systems or other watercourses. The Declarant and/or the Association may assign these rights to any local utility supplier, or other entity providing a service or utility to the Real Property.

- vii) Utility Easements. Declarant specifically grants to the local utility suppliers easements across the Properties for ingress, egress, installation, reading, replacing, repairing, and maintaining utility lines, meters and boxes. However, the exercise of this easement shall not extend to permitting entry into any structure existing on a Lot, without the Lot Owners consent.
- viii) Easements to Serve Expansion Property. The Declarant hereby reserves unto itself and its duly authorized agents, representatives, employees, successors, assigns, licensees, and Mortgagees, an easement over the Common Area for the purpose of enjoyment, use, access, and development of the real properties adjacent to the Real Property, whether or not such property is made subject to this Declaration. This easement includes, but is not limited to, a right of ingress and egress over the Common Property for construction of roads and for connecting and installing utilities on such property. Declarant further agrees that if the easement is exercised for permanent enjoyment and use of and/or access to such property, and such property or any portion thereof is not made subject to this Declaration, the Declarant shall enter into a reasonable agreement with the Association to share the cost of maintenance of any access roadway serving such property.
- ix) Easements for Cross-Drainage. Every Lot and the Common Area shall be burdened with easements for natural drainage of storm water runoff from other portions of the Real Property; provided, no Owner shall discharge any water, or alter the natural drainage on any Lot to increase materially the drainage of storm water onto adjacent Lots or the Common Area, without the consent of the Owner(s) of the affected Lot, the Board, and the Declarant during its Control Period.
- x) Right of Entry. The Association shall have the right, but not the obligation, and a perpetual easement is hereby granted and reserved, to enter all portions of a Lot, for emergency, security, and safety reasons. Such right may be exercised by the authorized agents of Association, and by all police officers, fire fighters, ambulance personnel, and similar emergency personnel in the performance of their duties. Except in emergencies, entry onto a Lot shall be only during reasonable hours and after notice to and permission from the Owner thereof. This easement includes the right to enter any dwelling on any Lot to cure any condition which increases the risk of fire or other hazard if any Owner fails or refuses to cure the conditions within a reasonable time after request by the Association, but does not authorize entry into any Home without permission of the Owner, except by emergency personnel acting in their official capacities. Public providers of emergency services shall have access to Lots in an emergency as provided by state law and, if applicable local governing authorities operating policies.

- xi) Easements for Maintenance and Enforcement. Authorized agents of the Association shall have the right, and a perpetual easement is hereby granted to the Association, to enter upon a Lot to (a) perform its maintenance responsibilities, if any, and (b) make inspections to ensure compliance with this Declaration and those rules established by the Association. Except in emergencies, entry onto a Lot shall be only during reasonable hours and after notice to and permission from the Owner. This easement shall be exercised with a minimum of interference to the quiet enjoyment of Owners', and any physical damage caused by the Association shall be repaired by it at its sole cost and expense. The Association may also enter a Lot to abate or remove, using such measures as may be reasonably necessary, any structure, thing or condition which violates the Governing Documents.
- xii) Rights to Storm Water Runoff, Effluent and Water Reclamation. Declarant hereby reserves for itself and its designees, all rights to ground water, surface water, storm water runoff, and effluent located or produced within the Properties. Such right shall include an easement over the Real Property and each Lot for access, and for installation and maintenance of facilities and equipment to capture and transport such water, runoff and effluent. This Section may not be amended without the consent of the Declarant or its successor, and the rights created in this Section shall survive termination or amendment of this Declaration.
- xiii) Overspray. Each Lot that is located adjacent to the Golf Course and other Common Areas are hereby burdened with a non-exclusive easement in favor of the Association and Owner of the Golf Course for overspray of water from any irrigation system serving the same. Under no circumstances shall the party benefited by this easement be held liable for any damage or injury resulting from such overspray or the exercise of this easement.
- xiv) Easements for Lake and Pond Maintenance and Flood Water. Declarant reserves for itself, the Association, and their successors, assigns, and designees, the non-exclusive right and easement, but not the obligation, to enter upon the arroyos, ponds, rivers, streams and wetlands located within the Real Property to, without limitation, (a) construct, maintain, and repair wells, pumps and water distribution facilities to provide water for irrigation to any of the Real Property; (b) construct, maintain, and repair any bulkhead, wall, dam, or other structure retaining or channeling water; and (c) remove trash and other debris and fulfill their maintenance responsibilities as provided in this Declaration. Declarant, the Association, and their successors, assigns and designees shall have an access easement over and across any of the Lots abutting or containing any portion of any of the arroyos, ponds, rivers, streams, or wetlands to the extent reasonably necessary to exercise their rights under this Section.

There is further reserved herein for the benefit of the Association, and their successors, assigns and designees, a perpetual, nonexclusive right and easement of access and encroachment over the Common Area and Lots (but not the dwellings thereon) adjacent to or within one hundred feet of arroyos, ponds, river, streams and

wetlands with the Real Property, in order to (a) temporarily flood and back water upon and maintain water over such portions of the Real Property; (b) fill, drain, dredge, deepen, clean, fertilize, dye, and generally maintain the arroyos, ponds, rivers, streams, and wetlands within the Real Property, subject to the approval of all appropriate regulatory bodies; (c) maintain and landscape the slopes and banks pertaining to such arroyos, ponds, rivers, streams, and wetlands; and (d) enter upon and across such portions of the Properties for the purpose of exercising their rights under this Section.

xv) Easement for Golf Balls. Every Lot and that Common Area which lies adjacent to or within One Hundred Feet (100') of that Golf Course on the Real Property is burdened with an easement permitting golf balls unintentionally to come upon the Lots and Common Areas adjacent to the Golf Course and for golfers at reasonable times and in a reasonable manner to come upon the Common Areas or the exterior portions of a Lot to retrieve errant golf balls. The existence of this easement shall not relieve golfers of liability for damage caused by errant golf balls. Under no circumstances shall the Association or the Owner of the Golf Course be held liable for any damages or injury resulting from errant golf balls or the exercise of this easement.

b) Association's Right of First Refusal. The Association, once the golf course on the Real Property is particularly described and designated as such on a plat on file and of record with the Clerk and Recorder of Lincoln County, Montana, shall have a right of first refusal ("ROFR") to purchase such golf course when offered for sale by Declarant, and/or its assigns, subject to the terms and provisions below:

- i) The Declarant, intending to make a sale of such golf course Lot, shall, except as provided herein, deliver written notice of such intention to the Association with the material terms and provisions of the proposed sale. The giving of such notice will constitute a warranty and representation by the Declarant to the Association that the Declarant believes the proposed sale to be bona fide in all respects.
- ii) Within thirty (30) days after receipt of such notice of intention to sell, the Association shall either waive its right to purchase the Lot by written notice delivered to the Declarant, or execute and deliver to Declarant a contract of sale upon terms as favorable to the Declarant as the terms furnished with the notice. Failure of the Association to respond to Declarant within the time frame provided above, shall be the Associations waiver of its ROFR as granted herein. The Association will have not less than sixty (60) day period to complete the transaction.
- iii) Upon waiver of the Association's ROFR the Declarant may then sell the golf course Lot to the proposed purchaser provided that the sale is on the terms and conditions and for the price set forth in the notice of intention to sell delivered to the Declarant. In the event a sale is consummated between the Declarant and any proposed purchaser upon any basis other than as disclosed to the Association, the Declarant will then have the same right of first refusal as expressed above, which right shall

expire thirty (30) days after the Declarant receives knowledge of the actual terms of the transaction, or one (1) year after consummation of the original transaction, whichever occurs first.

The provisions of this section b) apply only to Declarant's sale of the Golf Course and do not apply to: i) a public or private sale held pursuant to foreclosure statutes, ii) a transfer to any one of the Declarant's members or any organized business entity, including corporations, partnerships and sole proprietorships, and individuals, which is an investor, member, partner or owner of the Declarant, iv) transfers to a business entity substantial owned and/controlled by Declarant.

- c) Golf Privileges. Within reason, Lot Owners, by virtue of their ownership of a Lot within the Real Property, shall be given preference over the general public when making tee time reservations with the golf course Lot owner.
- d) Assignment of Use. Any Member may assign, in accordance with this Declaration, his right of enjoyment to the Common Area to the Member's family, or others who reside on the Lot under the Member's ownership. The guest and members of the family of a Member, as well as a lessee or occupant of a Lot are entitled to use the Common Area. The Association shall have the right to limit the number of guests who may use the Common Area at any one time and may restrict the use of the Common Area by guests to certain specified times. The Member shall be liable for any violation of this Declaration by any lessees or other persons residing at the Lot and their guests or invitees and, in the event of any such violation, the Member, upon demand of the Association, shall immediately take all necessary actions to correct any such violations. Each Member shall be responsible for compliance by the Member's agents, tenants, guests, invitees, licensees and their respective servants, agents and employees with the provisions of this Declaration. A Member's failure to insure compliance by such persons shall be grounds for the same action available to the Association or any other Member by reason of such Member's noncompliance.

4) **SERVICES PROVIDED BY ASSOCIATION**

- a) Common Area. The Association, at such time that the Declarant finds it appropriate, will own the Common Area subject to the conditions set forth on the plat of Indian Springs Subdivision and this Declaration. The Association may convey ownership of portions of the Common Area to adjacent homeowners associations. At time of any conveyance of Common Area to such adjacent homeowners associations, the Association and any adjacent homeowners association must agree in writing as to those responsibilities of the Association described in this Declaration that are being assumed by such adjacent association, if any.
- b) Services Provided. The Association may provide services related to the Common Area and streets as it sees fit, including without limitation their improvement, maintenance, repair, replacement, reconstruction and / or regulation. The Association may contract all or any portion of these services to a third party, provided that party is bonded.

- c) Fees. The Association may establish a fee schedule for use of the Common Area, which fees shall be considered assessments under this Declaration and bylaws for the Association. The fee schedule may include, but is not limited to the following:
 - i) Charges for availability and use of a service;
 - ii) Charges for use based on a flat rate;
 - iii) Additional charges for excess use; and
 - iv) Such other charges as may be appropriate to provide additional services approved by the Association.

5) **RULES AND REGULATIONS**

- a) Association to Establish Rules. The Association may promulgate rules and regulations it deems reasonable and appropriate for the Common Area. Rules and regulations promulgated by the Association shall only be effective upon the Association's receipt of Declarant's approval during the period of Declarant's control. The Common Area shall be available to the public and members of the Indian Springs RV HOA, Inc., on the same terms and conditions as the Members, provided that use of the Common Area shall be subject to all applicable rules and regulations.
- b) Rules for Maintenance and Repairs. The Association may also promulgate reasonable rules and regulations for the use, maintenance, repair, or improvement of the Real Property and each Lot therein, provided such rules must be uniformly and evenly applied, but may differ between different phases of development of the Real Property and uses thereof.

6) **ASSESSMENTS**

- a) Assessments. General assessments may be levied by the Association for those purposes it deems appropriate, including but not limited to expenditures for (a) construction, reconstruction, repair or replacement of capital improvements; (b) maintenance, upkeep, real property taxes, hazard and liability insurance, and expenses related to any Common Area, improvements on the Common Area, and streets; (c) administrative costs of the Association incurred in its day to day activities; and (d) any costs or expenses, including attorneys fees, incurred in enforcing this Declaration. Lots are also subject to assessments levied by the Association.
- b) Rate of Assessments. Assessments shall be levied equitably. They may be levied as a flat rate, may be based on usage, may be charged to the Owners who benefit directly from the services that are the basis of the assessment, or may be levied in some other equitable manner.
- c) Special Assessments. The Association may levy assessments for special or particular purposes. Such assessments may include related administration costs and such other costs

or charges as are reasonable. The assessments shall be fixed, established, and collected in the amount and manner as the Association determines. Funds utilized for special assessments shall be accounted for separately.

- d) Commencement of Assessments. The Association may commence levying assessments at such time as it determines appropriate. Written notice of assessments shall be sent to every Owner. The Association shall establish the dates when assessments are due. If Assessments are not paid by such due date, interest shall begin to accrue on the due date at a rate determined by the Association.
- e) Certificate of Payment. The Secretary of the Association shall, upon request, furnish a written statement signed by an officer of the Association setting forth the status of any assessments relative to a specific Owner. The statement shall, as applicable, identify any delinquent assessments, the amount owed, and the amount of any current or accruing assessments or indicate that all assessments are current and paid. The Association may make a reasonable charge for issuing the statement.
- f) Nonpayment of Assessments. Any assessments that are not paid when due shall be delinquent. The Association may bring legal action against an Owner to collect the amount of any delinquent assessment together with all interest, costs, and reasonable attorney's fees incurred in such action, or may file a lien and thereafter foreclose the lien as provided below.
- g) Obligation of Payment. All Lots are subject to the assessments levied pursuant to this Declaration. As a condition to accepting record title to a Lot, each Owner covenants and agrees to pay to the Association the full amount of all assessments. The Association shall bill the Owner for the amount of any assessment levied pursuant to this Declaration and that Owner shall be responsible for any accruing assessments until and unless such 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.
- h) Creation of Liens. All assessments levied pursuant to this Declaration, both current and delinquent, together with interest and cost of collection as herein provided for, shall be a charge upon the land, and shall constitute a lien upon the Lot against which assessments are made. Such lien shall be deemed perfected upon filing with the Clerk and Recorder of Lincoln County an account of the assessments due together with a correct description of the Lot(s) to be charged with such lien and shall continue until all unpaid assessments, interest and costs of collection have been fully paid. A copy of the recorded lien shall be mailed by the Association to the Owner. The priority of a 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 security 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 procedures for collecting assessments and other obligations owed to it, and for recording liens.
- i) Property Subject to Assessment. All Lots, except those owned by Declarant or the Association, shall be subject to assessments.

7) **PROTECTIVE COVENANTS.** The following protective covenants are designed to provide a uniform plan for development of the Real Property. They shall constitute a covenant running with the Real Property. Before improvements can be constructed on any Lot, or existing improvements can be modified, plans must be submitted to and approved by the Association, or its nominee. Approval by the Association must be obtained by an Owner before work begins on a Lot. The Association may create a committee and assign thereto the responsibility of reviewing planned improvements on the Real Property according to its guidelines.

a) **Architectural Review.** The Association, or a committee under its control, shall administer criteria governing improvements on the Real Property pursuant to those community standards, design standards & construction regulations (collectively referred to herein as the "Design Guidelines") developed and promulgated by the Association. Each Owner must obtain written approval from the Association, or its committee, that all improvements on a Lot comply with their criteria. The Declarant may modify its criteria at any time, and may adopt separate criteria for different phases of development of the Real Property.

The criteria by which the Association, or its designated committee, will review any proposed plans for the construction of improvements on any Lot shall be made available to each Owner. It is the obligation of the Owner to obtain current versions of the Design Guidelines prior to preparing plans the Owner intends to submit for approval. The Owner's proposed plans will be reviewed based upon the most recent Design Guidelines in effect at the time the plans are submitted for review.

The Association may require payment of fees for reviewing proposed plans, inspections, and processing complaints or protests alleging violation of this Declaration or its Design Guidelines. The Declarant may require payment of fees in advance as a condition of making its review or determination. Failure to pay any fee shall be interpreted as though the matter was not presented for review, and no action by the Association is required.

b) **Land Use and Building Type.** A Lot shall not be subdivided and shall only be used for that purposes it was permitted by the Montana Department of Environmental Quality and Lincoln County. Declarant shall not be restricted from manufacturing or assembling components of structures on a parcel of land other than the Lot on which the building is to be located.

c) **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 in writing by Association.

d) **Commercial Usage Prohibited.** No commercial activity shall be conducted on a Lot without the approval of the Association or that violates any zoning regulation.

Notwithstanding the foregoing, Declarant or its designee shall be permitted to maintain a sales office in either a model home or a specially constructed building to be utilized to promote the Real Property and facilitate sales of Lots.

- e) Exterior Maintenance. The Owner of each Lot shall provide exterior maintenance to the Lot and each structure located thereon, including without limitation painting and repairing structures; maintaining lawns and grounds, limiting the height of grass, precluding weeds (especially the spread of noxious weeds which must be controlled and not allowed to set viable seed), underbrush, and other unsightly growths, and not permitting refuse piles or other unsightly objects to accumulate. In providing exterior maintenance, the Owner shall maintain the exterior color, design and appearance, including landscaping, as originally approved by the Association. In the event an Owner fails or neglects to provide such exterior maintenance, the Association shall notify such Owner in writing describing the failure or neglect and demanding that it be remedied within thirty (30) days following the date of the notice. If the Owner fails or refuses 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 paid by the Association for exterior maintenance and repairs plus a surcharge established by the Association, shall be due and payable within thirty (30) days after the Owner is billed by the Association, and said amount shall be a special assessment for 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.
- f) Utilities. All utility lines shall be underground. The Owner of each Lot shall pay for all utilities and utility connection costs, including but not limited to those for television cable, power, natural gas, telephone, sewer and water.
- g) Easements. Easements for installation and maintenance of utilities are reserved as shown on the recorded plat or added by the recording of specific easements on a Lot. No permanent building or improvement of any kind shall be erected, placed, or permitted to remain on such easements.
- h) Boundary Control Monuments. 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 that Owner's Lot.
- i) Vehicles. There shall be no repairing of vehicles in the street. Snowmobiles, trail bikes, chain saws and other noisy vehicles and equipment may not be used on any of the Real Property without permission of the Association. This provision is not intended to preclude the entry of construction, maintenance, delivery, moving, or other such service vehicles while they are being utilized in connection with services for the Real Property.
- j) Damaged Property. Any improvement on a Lot that is damaged beyond repair by fire or other casualty must be removed from the premises, and repairs or reconstruction must commence within one hundred twenty (120) days unless an extension of time for such

removal, repair and reconstruction is granted by the Association. Any damaged improvements not so removed, repaired or reconstructed may be removed by the Association at the Owner's expense and the Association 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. The Association may exercise all rights to collect the assessment.

- k) Access and Roadways. Except for Declarant, no Owner shall use part of any Lot to provide pedestrian or roadway access from any adjacent land not part of the Real Property. No roadway shall be used or constructed on any Lot for any purpose except one driveway for access to the dwelling.
- l) Construction Liens. No labor performed or materials furnished with the consent of or at the request of an Owner, his agent, contractor or subcontractor shall create any right to file a construction lien against any part of the Real Property other than the Owner's Lot. Each contracting or consenting Owner shall indemnify, defend and hold harmless the Association, each of the other Owners and Declarant from and against liability arising from the claim of any lien holder for labor performed or materials furnished at the request of the contracting or consenting Owner. The Association shall have the authority to enforce such indemnity by collecting from the contracting or consenting Owner the amount necessary to discharge any such lien and all costs incidental thereto, including attorney's fees and expenses. Said expenses may be added to such Owner's regular assessments.
- m) Rentals. The Association may adopt rules regulating the length and frequency of rentals of residences on any Lot, or portions thereof.
- n) Firearms. The discharge of firearms shall not be permitted within the Real Property except in an emergency situation for the preservation of life or property.
- o) Mining and Wells. No mining, quarrying, excavation (except in connection with the construction of dwelling unit(s) as required), oil or water well drilling of any kind shall be allowed on any Lot.
- p) Ingress and Egress. Declarant retains rights of ingress and egress to, upon, and from the Lots for purposes of locating, installing, erecting, constructing, maintaining, expanding, or using waterlines, drains, sewer lines, electric lines, telephone lines and other utilities.
- q) Agricultural Activity. In consideration of existing, nearby agricultural activities and farmsteads, all Owners acknowledge and covenant that said agricultural activities may be continued and maintained in perpetuity, subject only to lawfully adopted rules, regulations and ordinances of city, county and state governments.
- r) Golf Course. That portion of the Real Property being designated as a "golf course" by any plat on file and of record with the Clerk and Recorder of Lincoln County, Montana, will be

maintained as such, in some variation designated by the Declarant, and/or its successors and assigns. The golf course will remain open to the public, subject to the terms and provisions of the Declaration.

8) **EXPANSION AND WITHDRAWAL**

- a) Reservation of Right to Expand. Declarant reserves the right, but will not be obligated, to expand the effect of this Declaration to include all or part of the Expansion Property. The consent of the existing Owners and Mortgagees will not be required for any such expansion, and Declarant may proceed with such expansion without limitation at its sole option. Declarant will have the unilateral right to transfer to any other person this right to expand by an instrument duly recorded. Declarant will pay all taxes and other governmental assessments relating to the Expansion Property as long as the Declarant is the owner of such property.
- b) Completion of Expansion. When Declarant has determined that no additional property shall be added to the Real Property, Declarant shall notify the Association in writing. Until such notice is given, Declarant retains the right to designate additional property as Expansion Property.
- c) Declaration of Annexation. Any expansion of the Property may be accomplished by recording in the Declaration of Annexation and one or more supplemental Plats in the records of the Clerk and Recorder of Lincoln County, Montana, before expiration of the Declarant's Control Period. The Declaration of Annexation will describe the real property to be expanded, submitting it to this Declaration and provide for voting rights and Assessment allocations as provided in this Declaration. A Declaration of Annexation will not require the consent of Owners, Members, or the Association's Board of Directors. Any such expansion will be effective upon filing for record of such Declaration of Annexation, unless otherwise provided therein. The expansion may be accomplished in stages by successive supplements or in one supplemental expansion.

Upon recording any Declaration of Annexation, the definitions used in this Declaration will be expanded automatically to encompass and refer to the Real Property as expanded. Such Declaration of Annexation may add supplemental covenants particular to the Expansion Property in question, or delete or modify provisions of this Declaration as it applies to the Expansion Property. However, the Declaration may not be modified with respect to the Real Property already subject to this Declaration, except as provided herein for amendment.

- d) Withdrawal of Property. Declarant reserves the right to withdraw from the jurisdiction of this Declaration all or any portion of the Expansion Property that has not been conveyed to a purchaser or the Association.

9) **GENERAL PROVISIONS**

- a) Disclosure. Lot Owners should be aware that Lincoln County Subdivisions are inherently isolated from immediate community services. This distance and adverse weather conditions can manifest itself in significant and varied response times for delivery of

emergency services, including, but not limited to, fire protection, law enforcement, and mobile emergency medical units. In addition, noxious weeds are considered a public nuisance under Montana Law and it is a violation of state law to allow them to propagate on your Lot.

- b) 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, Declarant, and the Owner of any Lot subject to this Declaration, their respective legal representatives, heirs, successors, or assigns in perpetuity.
- c) Enforcement. Any Owner, 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, including without limitation design and construction guidelines administered by the Association and/or Declarant. 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 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 Declaration. The method of enforcement may include legal action seeking an injunction or prohibit any violation, to recover damages, or both. Failure by any Owner, the Association, or by Declarant, to enforce any such provisions shall in no event be deemed a waiver of the right to do so thereafter. Should any lawsuit 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.
- d) Severability. Invalidation of any of the terms, covenants, conditions or restrictions as established by this Declaration or restrictions by judgment or court order shall in no way affect any other provisions that shall remain in full force and effect.
- e) Amendment. Declarant reserves the sole right to amend, modify, make additions to or deletions from this Declaration that it alone deems appropriate. This right of Declarant to make such amendments shall continue during the Declarant's Control Period. After cessation of Declarant's Control Period the right to amend this Declaration shall pass to the Association, to be exercised by its Board of Directors. Upon a motion duly carried by a majority of the Association's Board of Directors, the Association shall cause to be sent to its Members/Lot Owners via First Class Mail, to the last known address of said Members/Lot Owners on record with the Association, notice of the amendments so approved by the Associations Board of Directors. Unless within thirty (30) days from the date of the mailing of the written notice, written objection is received by the Association from Lot Owners/Members holding fifty percent (50%) or more of the votes of the Association, the action so proposed to be taken by the Association's Board of Directors

shall be considered approved and shall become final. The Association shall then record in the records of Lincoln County, Montana, 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 fifty percent (50%) of the Owners/Members objected to the action. Provisions of this Declaration that were required as a condition of plat approval by the County of Lincoln, Montana, or other governing agencies, shall not be amended or deleted except with the express written consent of the County of Lincoln, Montana, applicable governing agencies and their successors or assigns.

- f) Limited Liability of Declarant. Declarant shall have no liability for any violation of this Declaration, whether arising as the result of its actions or failure to act, the actions or failure to act of the Association, or the actions or failure to act of any Owner, members of an Owner's family, or an Owner's contractors, agents, guests or invitees.
- g) Waiver. A party entitled to enforce this Declaration shall not be deemed to have made a waiver under this Declaration as to any right, privilege, obligation, condition, default, or breach unless it does so in writing. The failure of such party to take action under this Declaration shall not be considered a waiver and shall not prevent that party from enforcing any provision of this Declaration in the future.

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

DECLARANT: (SCHICKEDANZ MONTANA LLC)

X _____
Manfred Schickedanz as Manager of SCHICKEDANZ MONTANA, LLC

STATE OF _____; COUNTY OF _____

This instrument was acknowledged before me on the ___ day of _____, 2014 by Manfred Schickedanz as Manager of SCHICKEDANZ MONTANA LLC.

X _____

(SEAL)

Notary Public

EXHIBIT A
LEGAL DESCRIPTION

Those portions of the Southeast 1/4 of the Southwest 1/4, Section 25 & Section 36, Township 37 North, Range 27 West, and Government Lot 3 of Section 2, Township 36 North, Range 27 West, P.M., M., Lincoln County, Montana, described as follows:

P.M., M., Lincoln County, Montana, described as follows:

Beginning at the North 1/4 Corner, Section 36;

Thence along the North and East lines of the Northwest 1/4 of the Northeast 1/4, Section 36, South 89°35'23" East 1324.92 feet, South 00°07'48" West 655.94 feet and South 00°08'27" West 656.32 feet to the Northwest corner of the Southeast 1/4 of the Northeast 1/4, Section 36;

Thence along the North, East and South lines of the Southeast 1/4 of the Northeast 1/4, Section 36, South 89°53'11" East 1326.74 feet, South 00°01'28" West 652.82 feet, South 00°01'43" West 652.08 feet and South 89°49'28" West 1328.87 feet to the Northeast corner of the Northwest 1/4 of the Southeast 1/4, Section 36;

Thence along the East line of the West 1/2 of the Southeast 1/4, South 00°23'22" West 1396.83 feet and South 00°21'10" West 1237.37 feet to the Southeast corner of the Southwest 1/4 of the Southeast 1/4 of Section 36;

Thence along the South line of the Southwest 1/4 of the Southeast 1/4 of Section 36, South 89°49'56" West 958.63 feet to the North 1/4 corner of Section 2;

Thence along the East, South and West lines of the North 1/2 of Government Lot 3 of Section 2, South 00°02'46" West 664.92, South 89°30'30" West 1320.06 feet and North 00°06'32" East 161.01 feet;

Thence North 89°53'28" East 73.03 feet;

Thence North 43°09'09" East 160.61 feet;

Thence North 66°26'33" East 122.92 feet;

Thence North 76°44'42" East 82.87 feet;

Thence South 86°01'24" East 129.87 feet;

Thence North 73°43'54" East 119.84 feet;

Thence North 39°16'43" East 140.16 feet;

Thence North 59°07'42" East 109.52 feet;

Thence South 89°36'47" East 53.70 feet;

Thence South 65°48'41" East 69.19 feet;

Thence North 66°19'46" East 88.32 feet;

Thence North 42°07'07" East 35.54 feet;

Thence North 01°05'08" West 296.25 feet;

Thence South 89°51'14" West 880.00 feet;

Thence North 02°13'56" East 63.45 feet;

Thence North 87°20'34" West 240.10 feet;

Thence South 02°35'48" West 236.03 feet to the North line of Lindsay Lane;

Thence along the North line of the road, South 89°46'57" West 256.44 feet to the West line of the East 1/2 of the Southwest 1/4, Section 36;

Thence along the West line of the East 1/2 of the Southwest 1/4, Section 36, North 00°11'29" East 2606.04 feet to the Southwest corner of the East 1/2 of the Northwest 1/4, Section 36;

Thence along the West line of the East 1/2 of the Northwest 1/4, Section 36, North 00°11'31" East 1317.68 feet, North 00°10'15" East 659.12 feet and North 00°11'46" East 659.34 feet to the Southwest corner of the Southeast 1/4 of the Southwest 1/4, Section 25;

Thence along the West, North and East lines of the Southeast 1/4 of the Southwest 1/4, Section 25, North 00°02'24" West 1320.31 feet, North 89°52'01" East 1325.47 feet and South 00°00'11" East 1319.27 feet to the Point of Beginning, containing 408.21 acres of land.