Property, the consent of both Owners shall be required.

be issued by either of the Owners, except that, in the event of the sale or refinancing of the

agreement shall provide a twelve month termination provision. Instructions to Corporation may

fully set forth in said agreement, a copy of which is attached hereto as Exhibit “B”. Said

basis, to handle such matters as the lease, operation and maintenance of the Property as more

Management Agreement naming Corporation as manager of the Property, on a renewable annual

Management. \_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_ shall execute a

2.

of this Agreement by both parties, in writing.

on or before October 31 of any year during the pendancy of this Agreement; or (ii) termination

20\_\_, unless (i) either party terminates this Agreement by delivering written notice to the other

(1) year periods, commencing on the date of execution hereof, and terminating on December 31,

Term; Automatic Renewal. This Agreement shall be for a term of successive one

1.

3.

(a)

Operating Capital and Expenses. In the event Corporation determines,

from time to time, that additional capital from the Owners is required (whether for capital

improvements or ordinary and routine operating expenses, including insurance, taxes, snow

removal, utilities, and furniture for the Property) to operate, improve, or otherwise manage the

Property, Corporation shall so notify the Owners, in writing, of the total additional sum required,

and request that each Owners submit Fifty Percent 50% (or the amount of each Owners

proportionate share of said total, if different), within ten (10) days after receipt of said written

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This Tenants in Common Agreement is entered into this \_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_, 20\_\_

by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“\_\_\_\_\_\_\_\_\_\_\_\_\_\_” herein) and

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ “\_\_\_\_\_\_\_\_\_\_\_\_\_\_” herein); collectively referred to as “Owners”

and individually as “Owner” or “\_\_\_\_\_\_\_\_\_\_\_\_\_\_” or “\_\_\_\_\_\_\_\_\_\_\_\_\_\_” and

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, herein referred to as “Corporation.”

WITNESSTH:

WHEREAS, \_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_ have, simultaneous with the

execution hereof, each acquired a Fifty Percent (50%) undivided interest as tenants-in-common

in and to that certain real property described generally as\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (the “Property”) as

described on Exhibit “A”; and

TENANTS IN COMMON AGREEMENT

WHEREAS, the \_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_ own their respective interests in

the Property as tenants in common, subject to the terms, covenants and conditions set forth

below, which terms are necessary to ensure the proper and orderly management and operation of

the Property during the period of the Owners’ co-ownership;

WHERAS, \_\_\_\_\_\_\_\_\_\_\_\_\_\_ and \_\_\_\_\_\_\_\_\_\_\_\_\_\_ own and control Corporation which

will receive rents and pay capital for the maintenance and improvements of the Property and act

as the manager of the Property.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of

which are hereby acknowledged, the parties hereto agree as follows:

Sale of the Property. Either Owner shall have the right to sell, exchange or

(a)

the Property.

Right of First Refusal as Condition Precedent to Sale to Third Party or Partition of

4.

otherwise transfer its interest in the Property, or any part thereof, after having first offered to sell

plus three (3%) percent.

by the non-defaulting Owner together with interest thereon at the Wall Street Journal prime rate

non-defaulting Owner by paying to said non-defaulting Owner the amount of the funds advanced

have a period of sixty (60) days from the date of said payment to redeem its interest from the

Owner’s interest will be transferred to the non-defaulting Owner. The defaulting Owner shall

purchase and operation of the Property is $200,000.00, then five (5%) percent of the defaulting

defaulting Owner is $10,000.00 and the current total sums paid by the defaulting Owner for the

Owner’s interest) shall first be offered in writing to the other Owner at the stated price at which

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(30) days after receipt of such notice in which to accept or reject said offer, in writing.

the interest is proposed to be sold to a third party. The other Owner shall have a period of thirty

for the purchase or operation of the Property. For example, if the amount paid by the non-

to sell, exchange or otherwise transfer (whether such interest includes all or a portion of the

The interest in the Property which the transferring Owner intends

(i)

said interest to the other Owner in accordance with the following procedure:

condition” shall include any necessary expense or capital improvement to protect and preserve

The failure of any Owner to make such additional contribution within ten

days after making the advance.

make such an advances, he should give the other owner written notice thereof within fifteen (15)

the value of the real estate from immediate threat of significant harm. Should either owner

(10) days after receipt of notice requesting same shall constitute a material breach of this

entitled to make advances to protect and preserve the value of the real estate. An “emergency

owners, should either owner determine that an “emergency condition” exists, that owner shall be

determination by the Corporation regarding additional capital needs and requirements from the

Operating Capital and Expenses; Emergency Advances. Regardless of the

(b)

Owner and the divisor is the current amount of all sums paid, to date, by the defaulting Owner

Owner shall be the quotient wherein the dividend is the amount paid by the non-defaulting

percentage of the defaulting Owner’s interest that will be transferred to the non-defaulting

the non-defaulting Owner who has made said payment under the following formula: the

defaulting Owner’s interest. A portion of the defaulting Owner’s interest shall be transferred to

Owner so electing to pay the defaulting Owner’s share shall be entitled to a percentage of the

pay the defaulting Owner’s pro rata share of such additional contribution. The non-defaulting

The non-defaulting Owner shall have the right, but not the obligation, to

notice.

distributions due the defaulting Owner.

time to time in the Wall Street Journal plus three (3%) percent, shall be offset against any further

amount of any delinquent additional contribution plus interest at the prime rate as published from

Agreement and the non-contributing Owner shall be considered in default hereunder. The

premiums and reasonable closing costs associated with said transfer. The parties acknowledge

days after the acceptance of said offer. The selling Owner shall pay any and all title insurance

interest of the other Owner at the price set forth in said notice within one hundred twenty (120)

the non-partitioning Owner accepts the offer, then the non-partitioning Owner shall purchase the

partitioning Owner shall be free to initiate a partition action in the appropriate court. In the event

(ii) In the event the non-partitioning Owner rejects the offer, then the

and agree that, in the event of default under the terms of this Agreement by either Owner, the

defense to any partition action brought by any Owner.

in writing. Failure to follow the procedures set forth in this section shall constitute a complete

period of thirty (30) days after receipt of such written offer in which to accept or reject said offer,

by the parties for the initial phase of ownership of the Property). The other Owner shall have a

31, 2010, such shall multiplier shall be .70, to reflect a Thirty Percent (30%) Discount negotiated

the Property, times (iii) 1.0; (provided, however, for a period from November 1, 2005 to October

Property’s appraised value, times (ii) the partitioning Owner’s percentage ownership interest in

and that neither this Agreement nor any provision of this Agreement shall be interpreted to

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shall have any liability for the debt or obligation of any other Owner.

impose a partnership relationship at either law or equity on the parties. Accordingly, no Owner

Property to the non-partitioning Owner, in writing, at a discounted price equal to (I) the

the Property as tenants in common and that they have expressly elected not to become partners

Status of Relationship. The parties acknowledge that it is their intention to hold

5.

Agreement by the defaulting Owner and money damages.

non-defaulting Owner shall have the right to seek specific performance of the terms of the

forth in said notice within sixty (60) days after the acceptance of said offer. The selling Owner

Property, after having first offered to sell his interest therein to the other Owner in accordance

Partition of the Property. Either Owner shall have the right to partition the

(b)

transfer.

shall pay any and all title insurance premiums and reasonable closing costs associated with said

with the following procedure:

non-transferring Owner shall purchase the interest of the transferring Owner on the terms set

notice and on no other terms. In the event the non-transferring Owner accepts the offer, then the

transferring Owner shall be free to sell its interest in the Property on the terms set forth in the

In the event the non-transferring Owner rejects the offer, then the

(ii)

appraiser active in the appraisal of recreational property in Gallatin or Madison County,

initiation of any partition action, the partitioning Owner shall offer to sell his interest in the

or agreed appraiser. Within five days after receipt of the appraisal report, and prior to the

partitioning Owner shall pay the cost of an appraisal of the Property conducted by the designated

identified appraisers shall promptly designate a third appraiser to appraise the Property. The

initial named appraiser. If the non-partitioning Owner identifies a second appraiser, then the two

an alternative appraiser’s name within the twenty (20) day period constitutes consent to the

or identify another appraiser active in Gallatin or Madison County, Montana. Failure to submit

Montana. The non-partitioning Owner shall have twenty (20) days to consent to such appraiser,

Owner, in writing, of such desire. In such notice, the Owner seeking partition shall name an

The Owner desiring to partition the Property shall notify the other

(i)

instrument.

within ten (10) days of meeting to appoint an arbitrator, the American Arbitration Association

shall select the arbitrator. The Owners shall confer with the arbitrator and together shall decide

upon a time and place for the arbitration hearing. If the Owners and the arbitrator are unable to

agree upon a time and place for the arbitration hearing, the arbitrator shall determine the time

and place for the arbitration hearing. In the event any Owner or Owners have asserted an

unreasonable business position during the arbitration, in the sole determination of the arbitrator,

the arbitrator shall have the discretion to assess against the Owner or Owners who asserted the

unreasonable business position payment for part or all of the arbitrator’s fees and costs, as well

as the Owner or Owners’ attorneys fees.

8.

Counterparts. This Agreement may be executed in counterparts, each of which

will be deemed to be an original and all of which together will constitute one and the same

select the arbitrator. In the event the Owners are unable to unanimously select an arbitrator

9.

Governing Law. This Agreement is entered into in the State of Montana and shall

be governed in all respects by the laws of such State.

Dated \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

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6.

Notice. Any notice required or desired to be given under this Agreement shall be

deemed given, if in writing and hand delivered or sent by United States certified mail, to the

other party at the address shown for said party below:

To \_\_\_\_\_\_\_\_\_\_\_\_\_\_:

[INSERT]

With Copy to:

[INSERT]

To \_\_\_\_\_\_\_\_\_\_\_\_\_\_:

[INSERT]

With Copy to:

[INSERT]

7.

Dispute Resolution/Attorneys’ and Arbitrator’s Fees. In the event of any deadlock

of the Owners and or the Corporation lasting greater than ten (10) days time, or in the event of

any controversy or dispute arising out of or relating to this Agreement, such deadlock or

controversy or dispute shall be settled or made by binding arbitration in Lewis and Clark County,

Montana, pursuant to the Montana Uniform Arbitration Act or other applicable Montana law,

and where not inconsistent, in accordance with the Commercial Arbitration Rules of the

American Arbitration Association now or hereafter in effect. The Owners shall unanimously

Manager

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Manager

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

date and year first above written.

IN WITNESS WHEREOF, the undersigned have set their hands and seals on the