

After recording return to:
Dan Novinski
Timbrshor Secretary
2321 StageCoach Road
Grand Island, Ne 68801

WASTEWATER TREATMENT SYSTEM USE AGREEMENT AND RECIPROCAL EASEMENTS

THIS AGREEMENT is made by and among Timbrshor Association, Inc., a Montana Mutual Benefit Nonprofit Corporation (hereinafter referred to as the "Association") and the undersigned owners of units within the condominium development known as Timbrshor (which owners are hereinafter referred to as a "Unit Owner" or the "Unit Owners").

WHEREAS, the Unit Owners own individual residential sites within the condominium development known as Timbrshor, which is located northeast of the town of Polson, Montana, at the north end of Finley Point on the east side of Flathead Lake. Timbrshor, and the property that is subject to this agreement, is legally described as:

Lot 3, Section 7, Township 23 North, Range 19 West, P.M.M., Lake County, Montana.

The condominium development known as Timbrshor, and the real property that makes up the condominium development described above, is hereinafter referred to as "Timbrshor."

WHEREAS, Timbrshor and the property contained therein is subject to the Amended Declaration Under the Unit Ownership Act and Restrictive Covenants dated December 6, 1979, recorded as instrument number 254077, records of Lake County, Montana (hereinafter referred to as the "Amended Declaration"); and the Association is the homeowners' association described in the Amended Declaration.

WHEREAS, pursuant the requirements of Lake County, the Association is in the process of installing a series of common wastewater treatment systems and all necessary and reasonable attachments and connections thereto, as depicted in Exhibit A hereto (collectively referred to as the "Wastewater Treatment Systems"), which will be located within Timbrshor.

WHEREAS, pursuant to the requirements of Lake County, the Association requires that the Unit Owners connect to and use the common Wastewater Treatment Systems and share the operating costs equally, including installation, operation, repairs, maintenance, and improvements, all as further set forth herein.

WHEREAS, the parties desire to have a formal agreement running with the land concerning the right of use by the Unit Owners of the Wastewater Treatment Systems, concerning the responsibility for maintenance, operation and the collection of operating costs of the Wastewater Treatment Systems, and conveying reciprocal easements for the Wastewater Treatment Systems, and allowing for the conveyance of utility and related easements for the Wastewater Treatment Systems, all as further set forth herein.

WHEREAS, all units located within Timbrshor at the location described above, and all present and future owners of the units located within Timbrshor, are required to be parties to and bound by this agreement before connecting to the Wastewater Treatment Systems.

NOW THEREFORE, for valuable consideration including the mutual promises and covenants provided for herein, the Association and the Unit Owners covenant and agree as follows:

1. The unit locations, water lines, sewer line, and Wastewater Treatment Systems are shown in Exhibit A hereto.
2. Subject to the terms of this agreement, the Unit Owners shall have the right to connect to and use the Wastewater Treatment Systems depicted on Exhibit A, which consists of: Drainfield A, a replacement drainfield system for the existing system consisting of a new standard gravel trench drainfield, sewage effluent collection line, a recirculation tank, pressure effluent lines, and an AdvanTex secondary treatment system; Drainfield B, a replacement drainfield consisting of an elevated sand mound drainfield, effluent collection and distribution tank; modifications to Drainfield C to obtain adequate separation distance from an existing well; Drainfield D, completion of the final laterals; Drainfield E, a new elevated sand mound drainfield, sewage effluent collection line, effluent collection and distribution tank, and pressure effluent lines; and Drainfield F, an elevated sand mound drainfield, effluent collection and distribution, and an AdvanTex secondary treatment system.
3. The Unit Owners hereby acknowledge that they have been involved with and been kept apprised on the design of the Wastewater Treatment Systems and understand and are aware of the Wastewater Treatment Systems and related components that will be constructed and installed for their respective units and at Timbrshor.
4. The Unit Owners hereby mutually grant and convey to one another, and one another's successors and assigns, non-exclusive easements and rights of way under, over and across the Timbrshor common areas to construct or place thereon the

Wastewater Treatment Systems and related components, which easements shall include the right of access whenever necessary in connection with the operation, repair, maintenance and replacement of all such Wastewater Treatment System and related components, including without limitation all pertinent elements of the Wastewater Treatment System shown on Exhibit A and the one-time modifications to existing septic tanks and the addition of new septic tanks that have been agreed to by Unit Owners in a separate legal agreement and which must be completed as part of the new Wastewater Treatment System in order to secure state and County certification of the new comprehensive system. In addition, each Unit Owner, as principal, hereby grants the Association, as agent, the authority to act on Unit Owner's behalf for the limited purpose of granting and conveying utility, right of way, and access easements to utility companies over and across the common areas, including executing and delivering any documents necessary to complete a grant of such an easement on behalf of the Unit Owner.

5. The Unit Owners shall have the right to connect to and use the Wastewater Treatment Systems subject to the conditions of this agreement and based on and limited by the wastewater flows as shown in the wastewater flow table attached as Exhibit B. The Association shall provide a service connection from each unit's septic tank to the pressurized sewer line for the units as shown on Exhibit A. In order to make the cost of connecting drainfields equal for all Unit Owners, the Association will initially bear the cost of connecting each Unit Owner's septic tank to the septic system main assigned to the particular site. Ultimately, the cost of providing the connections, consistent with the governing resolutions, will be paid by the Unit Owners in equal shares by all 47 units at the time construction occurs.

6. The improvement, maintenance, and repair of individual septic tanks, cleanouts or check valves running from the units, owners' improvements on each unit, as well as any and all additional equipment used solely by one unit or a combination of units, including any additional line and equipment that an individual Unit Owner installs, shall be the sole responsibility of each such individual unit owner(s), except for the one-time modification costs specified in paragraph 15.

7. The common Wastewater Treatment Systems are the only wastewater treatment systems to be used by the Unit Owners and the only wastewater treatment systems to be operated and maintained by the Association.

8. To assure adequate effluent disposal for the present and future Unit Owners, the Association Board and/or affected Unit Owners, as the case may be, shall execute and file a Deed Restriction for the Advanced Wastewater Treatment Systems stating that an advanced wastewater treatment system has been installed for nutrient reduction, drainfield size reduction, and other purposes and the Association and/or Unit Owners consent to a restriction being placed on the affected properties acknowledging the responsibilities and requirements concerning the advanced treatment system serving the properties and providing for the system to have an operation and maintenance contract in perpetuity with an approved vendor. The properties requiring advanced treatment are any units or common area that will be connected to an AdvanTex secondary

treatments system (drainfields A and F) as described in Exhibit A. The required form of Deed Restriction is attached as Exhibit C to and made part of this agreement.

9. The Unit Owners agree that the Association, as part of the construction of the Wastewater Treatment Systems and other related components, may replace and/or alter existing wastewater treatment systems and any components thereof located upon common property at Timbrshor. In particular, the Association may make the improvements, alterations, improvements reflected in Exhibits A, B, and D, and all other alterations necessary to receive governmental approval of the Wastewater Treatment Systems, which includes in some instances replacements or alterations to septic tanks, drainfields, and related components that were previously purchased or installed by individual Unit Owners. The Unit Owners acknowledge that construction of the Wastewater Treatment Systems will result in the temporary disturbance of portions of common area, as well as temporary interruption of wastewater services. The Association shall replace or repair to as good or better condition all property that has been altered as a result of the construction of the Wastewater Treatment Systems.

10. The parties agree that the common Wastewater Treatment System is to be used for residential strength wastewater only and is to be maintained to treat the same as set forth above. In the event of damage or contamination to such system as a result of the improper use of such system by any Unit Owner, including the discharge of pollutants or contaminants or overloading the field due to too many inhabitants at one time, the Unit Owner responsible for the discharge shall indemnify and hold all other Unit Owners harmless from any and all damages, including without limitation, cleanup costs, fines and penalties, attorney fees and costs, and any costs for repairs or replacements which are required to be made to the wastewater treatment system. The Unit Owners agree to comply with all rules that are developed by the Association concerning the use, care and maintenance of the Water Treatment Systems.

11. The obligations and rights under this agreement pertaining to the Wastewater Treatment System shall be appurtenant to the units and all common areas, shall run with the land and shall be binding on the current unit owners, and on their respective heirs, successors and assigns. This agreement and the benefits and obligations set forth herein is intended as a mutual covenant running with the land, and any and all successor Unit Owners may enforce this agreement and shall be entitled to all benefits conferred hereunder in the same manner as the original parties to this agreement. This agreement and the benefits and obligations arising hereunder are not severable or assignable apart from the individual units described herein and may not be utilized to service any other real property except the units described herein and the common areas affected.

12. Should any unit described herein request to be further subdivided, expanded or improved, it shall be subject to the consent of the Association to assure strict adherence to the maximum daily flows as shown in Exhibit B shall be required before any subdivision of any unit shall be allowed.

13. Should any party hereto desire to use the Wastewater Treatment Systems to service a parcel or real property other than the units specifically described herein, any such use shall be subject to the consent of the Association and the consent of any governing agency with jurisdiction over the use or operation of the systems. Governing consent must be obtained before any of the Wastewater Treatment Systems may be used by or for the benefit of any other property not herein described.

14. Any assignment, conveyance or other transfer of the use of the Wastewater Treatment Systems without the Association's consent is a violation of this agreement. Any violation may be set aside by way of an order of a court of competent jurisdiction. Nothing herein shall be construed to prevent a Unit Owner from transferring ownership of his/her/its unit subject to the terms and conditions set forth herein, and upon the transfer or conveyance of a unit all right, title, interest, and obligations of such Unit Owner in the Wastewater Treatment Systems and this agreement shall also transfer to the successor unit owner, including the restrictive language set forth in Exhibit C.

15. The Unit Owners each agree to pay their equal share of the cost of the operation, repairs, maintenance, improving or replacing the pump, pipeline, electricity or any other component of the Wastewater Treatment Systems at such times and in such manner as the Association deems necessary, including the designated one-time modification costs to existing and new septic tanks that must be completed as part of the new Wastewater Treatment system in order to secure state and County certification of the new comprehensive system; and provided, however, that the construction cost of Unit Owners on drainfields C and D shall be adjusted to take into the "value in the ground" formula approved by the Board. The Unit Owners of each unit shall pay for their one forty-seventh (1/47) share of all such operational costs (including costs related to the repair, maintenance and replacement) of the Wastewater Treatment Systems according to an Association Board of Directors decision. The Association shall have the duty to prepare annual budgets for the operation of the Association, which annual budgets may include an amount that constitutes a reserve to cover larger costs which the Association reasonably anticipates will be incurred in the future for the repair, improvement and/or replacement of any Wastewater Treatment System components. Further, the Association shall be entitled to bill each Unit Owner for their one forty-seventh (1/47) share of all such budgeted amounts, and to set levies and assessments for the same including recording liens for unpaid amounts as set forth in the Amended Declaration.

16. No Unit Owner shall incur any costs related to the repair, maintenance, or operation of the Wastewater Treatment System unless the Association first approves the same. Thereafter, Unit Owners who are authorized to incur any such costs shall deliver documentation of their share of all such costs to the Association within thirty (30) days, by either first class mail or hand delivery, together with the request for reimbursement.

17. Should any Unit Owner fail or refuse to pay their share of costs which have been or are assessed for operation of the Wastewater Treatment Systems within thirty (30) days from the date of the billing therefore, interest at the rate of 10% per annum shall accrue on the unpaid assessment. In the event that any Unit Owner fails to

pay for his/her/its share of the costs within 90 days following the mailing or hand delivery of billing, the Association may attach a lien to the unit for the unpaid balance, together with interest costs and attorney fees. All parties hereto, and on behalf of their respective heirs, successors and assigns, hereby consent to the attachment of a lien on their respective unit(s) to secure payment of any Wastewater Treatment Systems costs which have been billed or assessed and which are not so paid within 90 days of the billing date thereof, and the parties agree that any such lien shall secure payment of any and all amounts due hereunder, including interest and collection costs, including attorney's fees.

18. In the event of a breach of this agreement or legal action to enforce this agreement, the parties agree that the prevailing party in any action brought shall be entitled to an award of all costs and attorney's fees reasonably incurred, together with any other relief to which that party may be entitled.

19. This agreement can only be terminated by the mutual written consent of all of the then current Unit Owners, and should any lender hold a beneficial interest (i.e. as a beneficiary or mortgagee) its consent shall likewise be required for the termination of this agreement. This agreement can likewise only be amended or modified pursuant to a written agreement signed by all of the then current Unit Owners.

20. This agreement may be executed by each party separately and when so executed such copies taken together shall be deemed to constitute the original and one and the same instrument.

IN WITNESS WHEREOF, the parties have hereunto set their hands the day and date set forth below,

[Counterpart signature pages follow]

UNIT OWNER(S):

Printed Name(s): _____

Current owner(s) of Timbrshor unit number: _____

Legal Description: _____

Signed _____

Date: _____

Signed _____

Date: _____

Signed _____

Date: _____

Signed _____

Date: _____

STATE OF _____)

: ss.

County of _____)

On this _____ day of _____,
in the year 2017, before me _____,
Notary Public for the State of _____, the Unit Owner(s)

personally appeared and acknowledged to me that they executed the foregoing instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year above.

(NOTARIAL SEAL)

Notary Public for the State of _____

Residing at _____

My Commission expires: _____

ASSOCIATION:

TIMBRSHOR ASSOCIATION, INC.

Signed by _____ Date _____

Its: _____

STATE OF MONTANA)

: ss.

County of Lake)

On this _____ day of _____,
in the year 2017, before me, _____,
Notary Public for the State of Montana, _____,
on behalf of Timbrshor Association, Inc., personally appeared and acknowledged to me
that he or she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official
seal the day and year above.

(NOTARIAL SEAL) _____
Notary Public for the State of Montana
Residing at _____, _____
My Commission expires: _____