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DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS  
OF FAIRWAY ONE TOWNHOMES SUBDIVISION

MARY GREEN, CLERK

FEES \$ 45.00

THIS DECLARATION, made on the date hereunder set forth by Patrick Lockhart and Rosemary Lockhart, Husband and Wife, hereinafter collectively referred to as "Declarant".

RECITALS:

This Declaration is made in contemplation and furtherance of the following facts and purposes:

A. Declarant is the owner of certain real property located in the City of Sun Valley, Blaine County, State of Idaho, more particularly described as follows: Fairway One Townhomes Phase I Subdivision, according to the official plat thereof recorded as Instrument No. 403698, records of Blaine County, Idaho (hereinafter sometimes referred to as "Subdivision").

B. The Subdivision is part of a larger parcel of real property owned by the Declarant and described more particularly in Exhibit "A" hereto, for which parcel a preliminary townhouse subdivision plat has been approved by the City of Sun Valley (Fairway One Townhouse Subdivision Preliminary Plat).

C. The Subdivision, and all improvements and structures to be erected and maintained thereon, is a townhouse subdivision project developed pursuant to applicable zoning, subdivision and land use ordinances of the City of Sun Valley, Idaho.

D. It is the intent of the Declarant to create a quality residential townhouse project in harmony with the surrounding environment for the enjoyment and convenience of persons living within said project, and to secure said objectives through the covenants, conditions and restrictions hereinafter set forth.

E. It is the further intent of the Declarant to herein allow said Declarant or its successors to adopt this Declaration by reference in an instrument making the same applicable to any other townhouse subdivisions which the Declarant may hereafter develop on the real property contained within the Fairway One Townhouse Subdivision preliminary plat as described in Exhibit "A" attached hereto, thereby annexing and placing said subdivisions under and within the purview of this Declaration and imposing and extending to all such subdivisions and all Townhouses, Lots, and Common Area situated therein, and to the Owners thereof, the obligations and benefits of this Declaration.

DECLARATION:

Declarant hereby declares that the Subdivision, and all Townhouses, Lots and Common Area situated therein, shall be held, conveyed, encumbered, leased and used subject to the following covenants, conditions, restrictions and equitable servitudes hereinafter set forth or provided for, all of which are for the purpose of enhancing and protecting the value, desirability

and attractiveness of a residential townhouse project to be constructed and maintained on said subdivision, and which shall run with said land and be binding upon, and benefit, all parties now or hereafter having or acquiring any right, title or interest therein, or to any part thereof.

## ARTICLE I

### DEFINITIONS

Unless the context otherwise specifies or requires, the following words and phrases when used herein shall have the following meaning:

"Annexation" shall mean and refer to the act of the Declarant to place additional townhouse subdivisions under or within the purview of this Declaration of Covenants, Conditions and Restrictions, in the manner herein provided for in Article VIII.

"Articles" shall mean the Articles of Incorporation of the Fairway One Townhome Owners Association, Inc.

"Assessments" shall mean assessments described in Article VI.

"Association" shall mean and refer to Fairway One Townhome Owners Association, Inc., a non-profit corporation organized under the laws of the State of Idaho, its successors and assigns.

"Board of Directors" shall mean and refer to the board of directors of the Association.

"Common Area" shall mean all real property now or hereafter owned or leased by the Association, including all property indicated as common area on the official plat of the Subdivision, or on the official plat of any other townhouse subdivision hereafter placed under or within the purview of this Declaration in the manner hereinafter provided for.

"Lot" shall mean and refer to any parcel, lot or townhouse sub-lot shown on the official plat of Fairway One Townhomes Phase I Subdivision, or on the official plat of any other subdivision or subdivisions which may be placed under or within the purview of this Declaration by the Declarant, in the manner provided for hereinafter, which has been improved with a residential townhouse unit in conformance with the ordinances of the City of Sun Valley, Idaho.

"Member" shall mean a member of the Association, who shall be an Owner and shall qualify for membership in the Association in the manner hereinafter set forth.

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot within Fairway One Townhomes Phase I Subdivision, or any other subdivision hereafter placed within the purview of this Declaration by the Declarant, in the manner provided for hereinafter; provided, however, that the term "Owner" shall not include those having only a security interest in any Lot through a lien, encumbrance, deed of trust or mortgage, or other similar security instrument.

"Party Wall" shall mean any structural bearing wall, including the footings on which it is situated, or any portion of said wall, which separates two Townhouse units within Fairway One Townhomes Subdivision, and which is used in common by, and is incorporated into, both of said Townhouse units.

"Property" shall mean and refer to Fairway One Townhomes Phase I Subdivision and any other subdivision which is subsequently placed under or within the purview of this Declaration in the manner provided hereinafter.

"Townhouse" shall mean and refer to a townhouse residential unit under or within the purview of this Declaration, as that term is defined in the applicable ordinances of the City of Sun Valley, Idaho.

## ARTICLE II

### PROJECT DEVELOPMENT

Section 1. Development of Lots. Declarant or its successor shall construct, or cause to be constructed, for sale or for lease, a Townhouse on each Lot pursuant to plans and specifications approved by the City of Sun Valley, Idaho.

Section 2. Common Area. The Common Area shall be deeded by the Declarant to the Association in the manner hereinafter provided for, to be held, improved, maintained, managed and used by the Association exclusively for the common benefit, use and enjoyment of the Owners and their respective family members, guests and invitees. Prior to being deeded to the Association, the Declarant, at its sole cost and expense, shall improve or make appropriate provisions for the improvement of the Common Area in a manner consistent with the official plat for the subdivision in which it is located and all related development plans and specifications approved by the City of Sun Valley, Idaho.

Section 3. Subsequent Development Phases. It is the intent, but not the obligation, of the Declarant or its successor to hereafter develop one or more additional townhouse on the real property described in Exhibit "A" hereto, and nothing contained herein shall be construed or applied in any manner to preclude or unreasonably hinder such development. Further, notwithstanding anything to the contrary herein contained, the Declarant reserves the right at all times, for itself and its successors, employees, agents and contractors, to access and traverse, with vehicles and equipment, all driveways and roads within Fairway One Townhomes Subdivision, and, to the extent reasonably necessary, all Common Area, for the purpose of facilitating the development, construction or installation of roads, utilities, landscaping, townhouse units or other necessary improvements within the Fairway One Townhomes Subdivision and any other subdivisions which may hereafter be developed on the Real Property described on Exhibit A; provided that any damage occasioned thereby shall be promptly repaired by the Declarant or its successor to the satisfaction of the Association.

## ARTICLE III

### TOWNHOUSE RESTRICTIONS

Section 1. Residential Purposes. Lots, and all Townhouses and other improvements now or hereafter situated thereon, shall be, and the same hereby are, restricted exclusively to residential use. No structures of a temporary character, trailer, tent, shack, carport, garage or other similar improvement shall be used as a residence, either temporarily or permanently, on any Lot.

Section 2. Exterior Changes and Alterations. No changes or alterations to the exterior of any Townhouse nor any other improvement on any Lot may be made or undertaken without the prior approval of the Board of Directors.

Section 3. Construction and Sale. Anything contained herein to the contrary notwithstanding, it shall be permissible for the Declarant, during the period of construction and sale of Townhouses and Lots, to maintain upon such portions of the Property as the Declarant may deem necessary, such facilities as in the sole opinion of the Declarant may be reasonably required, convenient or incidental to the construction or sale of said Townhouses and Lots, including, without limitation, a business office, storage area, construction yard, signs, model units and sales offices.

Section 4. Animals and Pets. No animals, livestock or poultry of any kind shall be raised, bred or kept on any part of the Property, except that dogs, cats, or other household pets may be kept by Owners, provided they are not kept, bred or maintained for any commercial purpose, do not endanger the health of other residents, are not allowed outside the Townhouse except when leashed or otherwise under someone's direct control, and, in the sole discretion of the Board of Directors, do not unreasonably disturb the occupants of any other Townhouse.

Section 5. Signs and Business Activities. No advertising signs, billboards, or commercial equipment or supplies shall be erected, placed or permitted to remain on any Lot or Common Area, nor shall any Lot or Common Area be used in any way or for any purpose which may endanger the health of, or unreasonably disturb, the Owner or occupant of any Townhouse; provided, however, that this provision shall not prohibit Declarant from erecting and maintaining signage in connection with the promotion of Lots and Townhouses, nor shall it prohibit the erection of temporary "for sale" signs of the type and size customarily used by realtors in the area and which conform to applicable ordinance provisions of the City of Sun Valley.

Section 6. Service Facilities. No outside clotheslines shall be permitted, and all garbage cans, maintenance tools, and similar items shall be kept screened or enclosed to conceal them from the view of neighboring Townhouses.

Section 7. Exterior Antennas. No exterior television or radio antennas or similar communication installations shall be placed on any Lot without prior written approval from the Board of Directors.

Section 8. Nuisances. No rubbish, waste or debris of any kind shall be placed or permitted to accumulate upon any Lot, and no odor shall be permitted to arise therefrom so as to render any such property or any portion thereof unsanitary, unsightly, offensive or detrimental to any other Lot or Townhouse. No noise, including but not limited to, noise created by people, animals, equipment and/or machinery, shall be permitted to exist or operate upon any Lot, Townhouse or Common Area so as to be offensive or detrimental to any other Lot or Townhouse, or its occupants.

Section 9. Hazardous Activities. No activities shall be conducted, and no improvements shall be constructed on any Lot, Townhouse or Common Area which are or might be unsafe or hazardous to any person or property. Without limiting the foregoing, no firearms shall be discharged upon any Lot or Common Area and no open fires shall be lighted or permitted except in a contained barbecue unit while attended and in use for cooking purposes, or within a safe and well designed interior fireplace or stove.

Section 10. Unsightly Articles. No recreational vehicles, equipment or unsightly articles shall be permitted to remain on any Lot or Common Area so as to be visible from adjoining Lots or Townhouses, including, without limitation, trailers, campers, motorhomes, boats, tractors, inoperable vehicles, snowmobiles, trash, debris, and snow removal, garden or maintenance equipment.

Section 11. Exterior Maintenance. The Association, subject to this Declaration, shall at all times keep the exterior of each Townhouse and appurtenant exterior decks, sidewalks, porches and patios in good condition and repair, and shall not let the condition thereof deteriorate to the point where it has a negative impact on the safety or on the value, use or enjoyment of other Townhouses or the Common Area. For the common good of all Owners, it is the intent of this provision to keep all Townhouses and related improvements in a first class manner, consistent with the condition and character of typical residential developments within the City of Sun Valley, Idaho. Every Owner, by accepting a deed to a Lot, is deemed to grant unto the Association the necessary permission and access to said Lot and Townhouse to permit the Association, or its designated agents, to complete the necessary exterior repairs and maintenance, and to consent to assessment by the Association to recover any costs reasonably incurred therefor in the manner hereinafter provided.

Section 12. Insurance of Townhouses. The Association shall insure, on behalf of each owner thereof, and for the common benefit and protection of all Owners, all Townhouses within the purview of this Declaration against fire and other casualties normally insured against in the Sun Valley, Idaho, area. The amount of insurance coverage for each Townhouse shall be its full insurable value which, for purposes of this provision shall be exclusively determined by the Board of Directors, as shall the insurance company with which said insurance coverage is placed. In addition to insurance coverage against loss or damage due to fire, the Board of Directors shall determine the extent and nature of other casualty risks, damages and losses against which insurance shall be provided, consistent with this Section 12; provided, however, that such insurance shall not include coverage for loss or damage to furniture, contents or personal property situated within any Townhouse. The Owner of each Townhouse shall be named as an insured on any such policy of insurance providing coverage for that Townhouse. Upon the occasion of any damage or loss covered by insurance provided by the Association, the proceeds derived from the

applicable insurance policy or policies shall be used, to the extent necessary, to restore or replace the lost or damaged Townhouses consistent with their condition prior to the loss or damage, subject to the provisions of Article III, Section 2.

Each Owner shall be solely responsible to determine, obtain and pay for any desired fire and casualty insurance coverage on furniture, contents and personal property in any Townhouse or on any Lot, and liability insurance coverage for said Owners, Lot and Townhouse.

**Section 13. Party Wall Agreement.** The following provisions and agreements shall pertain to, and govern the use, maintenance and repair of, each Party Wall now existing or hereinafter constructed in Fairway One Townhomes Subdivision:

A. Every Owner of a Townhouse unit which includes one or more Party Walls (the "Grantor"), by accepting a deed therefor, shall grant unto the Owner of any Townhouse unit sharing in common any such Party Wall (the "Grantee") an easement over, under and across the Grantor's Townhouse unit and Townhouse subplot as may be reasonably necessary to access said Party Wall for the purpose of maintaining, repairing or replacing the same. Any such easement herein granted shall be exercised only upon the prior approval of the Grantor, which approval shall not be unreasonably withheld. Further, any such easement may be exercised by the Grantee, and its representatives, agents, contractors or employees.

B. All easements herein granted shall be appurtenant to, and run with ownership of, the Townhouse units benefitted thereby.

C. Should a Party Wall be damaged or destroyed by the negligence or act or omission of the Owner of a Townhouse unit utilizing said Party Wall, or by said Owner's agents, employees, guests or invitees, said Owner shall promptly rebuild and repair the same, and shall compensate the Owner of the Townhouse unit sharing said Party Wall for any damages incurred as a result of such damage or destruction. Should any Party Wall be damaged or destroyed by any cause other than the negligence, or other act or omission of the Owner of a Townhouse unit sharing said Party Wall, or by said Owner's agents, employees, guests or invitees, the Party Wall shall be promptly repaired or replaced at the joint expense of the Owners of both Townhouse units sharing said Party Wall, provided that any sum received from insurance against such damage or destruction shall first be applied to such repair or replacement.

D. In the event of a dispute or controversy as to any matter within or arising out of this Agreement, or the respective use, maintenance, repair or replacement of any Party Wall, such dispute or controversy shall be submitted by the Owners or the Townhouse units sharing said Party Wall to the arbitration of three (3) disinterested and competent persons, one of whom shall be appointed by each of said Owners, and the third of whom shall be selected by the other two persons so appointed. Arbitration of the dispute or controversy shall not be binding on the parties involved, but the opinion, rendered by a majority of the three arbitrators, shall be a condition precedent to the commencement of any legal action over the dispute or controversy.

## ARTICLE IV

### COMMON AREA

Section 1. Conveyance to the Association. Prior to the sale of any Lot within any subdivision under the purview of this Declaration, the Declarant or its successor, at its sole cost and expense, shall improve or make appropriate provision for the improvement of the Common Area in a manner consistent with the plat of said subdivision and development plans approved by the City of Sun Valley, and deed to the Association, and the Association shall accept, at no cost to it, free and clear of all liens and encumbrances other than easements of record, fee simple title to all Common Area within said subdivision; provided, however, that the Association may refuse to accept title to any property which it reasonably believes may expose the Association or its Members to undue hazards or liabilities, including, but not limited to, liabilities under state or federal laws relating to environmental protection, hazardous waste and toxic materials.

Section 2. Access Easements. Prior to the sale of any Lot, the Declarant shall assign, transfer and convey unto the Association, for the benefit of all Lot Owners, any and all easements or rights-of-way which may be necessary to access said Lot.

Section 3. Enjoyment of Common Area. Subject to the following provisions and limitations, each Owner shall have a non-exclusive right and easement of enjoyment, in common with all other Owners, in and to the Common Area, and such right and easement shall be appurtenant to and pass with the title to each Lot:

A. The right of Association to charge or assess reasonable maintenance and other fees for the use and maintenance of any road, landscaping or other improvement situated or constructed within or upon the Common Area or other property owned by the Association.

B. The right of the Association to suspend the voting rights and right to use the Common Area by an Owner for any period during which said Owner remains delinquent in the payment of any assessment duly levied against any Lot owned by said Owner.

C. The right of the Association to promulgate reasonable rules and regulations governing the use and enjoyment of the Common Area by Owners, their family members, and guests, consistent with the provisions of Article V, Section 8 hereinbelow.

D. The right of the Association, in accordance with its Articles and Bylaws, to borrow money for the purpose of further improving the Common Area and related facilities; and in aid thereof to place a mortgage, deed of trust or other security instrument upon the Common Area.

E. The right of the Association to dedicate or transfer all or any part of the Common Area, or any interest therein, to any person, entity, public agency, authority or utility for such purposes and subject to such conditions as the Board of Directors of the Association may deem appropriate, consistent with the requirement that the Association

hold, manage, use, convey and hypothecate the Common Area solely for the benefit of the Owners. Notwithstanding the foregoing, no conveyance of any portion of the Common Area in excess of 10,000 square feet shall be conveyed in fee simple by the Association without the prior written consent of two-thirds of its Members, nor shall the Association be entitled to resubdivide any portion of the Common Area for the purpose of establishing any additional residential or commercial lots or development parcels without the prior written consent of all Members.

Section 4. Improvement of Common Area. The Association may, from time-to-time, further modify, improve or equip the Common Area for the benefit of the Owners, and make such Assessments or borrow such funds therefor as may be reasonably necessary, subject to the provisions and limitations set forth herein.

## ARTICLE V

### THE ASSOCIATION

Section 1. Membership. Every Owner shall be entitled and required to be a Member of the Association. If title to a Lot is held by more than one person or entity, the membership related to that Lot shall be shared by all such persons or entities in the same proportionate interest and by the same type of tenancy in which title to the Lot is held. An Owner shall be entitled to one membership for each Lot owned by that Owner. No person or entity other than an Owner may be a member of the Association.

Section 2. Voting Rights. The total number of votes which may be cast by all Members of the Association shall be the same as the total number of Lots, and each membership shall be entitled to one (1) vote; provided, however, that the membership for each Lot owned by the Declarant at the time said Lot becomes encumbered by this Declaration (including those Lots annexed pursuant to Article VII), and for so long as said Lot continues thereafter to be owned by the Declarant, shall be entitled to three (3) votes, which may be cast by the Declarant.

Section 3. Cumulative Voting. In any election of the members of the Board of Directors, each Member entitled to vote at such election shall have the right to cumulative voting for each director to be elected, and to thereby give one candidate or divide among any number of the candidates a number of votes equal to the total number of votes to which that Member is entitled to vote for all Directors to be elected. The candidates receiving the highest number of votes, up to the number of Directors to be elected, shall be deemed elected.

Section 4. Governance. The Association shall be governed by a Board of Directors and officers in accordance with its Articles of Incorporation and Bylaws.

Section 5. Management of the Common Area. The Association, subject to the rights of the Owners set forth in Article IV hereof, shall be responsible for exclusive management and control of the Common Area. All roads, landscaping and other improvements situated on or included in Common Area, shall be kept in good condition and repair and all roads belonging to the Association shall be kept reasonably free of debris, obstructions, and snow by the Association. The Association may, to the extent and in the manner the Board of Directors from time to time



deems appropriate, insure all improvements within the Common Area against loss or damage resulting from fire and other casualties. Further, the Association shall cover the Common Area with a policy or policies of comprehensive public liability insurance with combined limits of coverage for property damage and personal injury and death of not less than one million dollars per occurrence.

Section 6. Management of Exterior Lot Areas. The Association shall have the exclusive right and obligation to install, remove, replace, maintain and care for all landscaping and lawn areas on the unimproved portions of all Lots. Further, the Association shall have the right and duty to remove snow from all roads, driveways, sidewalks and walkways, or portions thereof, which may be situated on any Lots. The Declarant, for the benefit of the Owners and the Association, hereby creates and reserves such easements on every Lot which may be reasonably necessary or convenient to permit the Association to carry out the duties imposed by this section, and each Owner, by accepting a deed to a Lot, shall be deemed thereby to acquiesce in, confirm and ratify said easements.

Section 7. Miscellaneous Services. The Association may obtain and pay for the services of any person or entity to manage the Association's affairs, or any part thereof, to the extent the Association deems advisable, as well as such other personnel as the Association shall determine to be necessary or desirable for the proper operation of its purposes and obligations, whether such personnel are furnished or employed directly by the Association or any person or entity with whom the Association contracts. The Association may obtain and pay for legal and accounting services necessary or desirable in connection with the operation of the Property, or the enforcement of this Declaration. The Association may arrange with others to furnish insurance, electricity, water, sewer, snow removal, trash collection, landscaping, or other services for the Common Area or other property owned or managed by the Association pursuant to this Declaration.

Section 8. Rules and Regulations. The Association may make reasonable rules and regulations governing the use of the Common Area, which rules and regulations shall be consistent with the rights and duties established in this Declaration. Such rules and regulations may include, without limitation, govern the use of all roads and streets owned or controlled by the Association for the benefit of the Owners. The Association may also take judicial action against any Owner to enforce compliance with any of its rules or regulations, or the other terms or provisions of this Declaration.

Section 9. Implied Rights. The Association may exercise any other right or privilege given to the Association expressly by this Declaration or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association herein or reasonably necessary to effectuate any such right or privilege.

## ARTICLE VI

### ASSESSMENTS

Section 1. Agreement to Pay Assessments. Declarant, for each Lot owned by the Declarant, hereby covenants, and each subsequent Owner of any Lot, by the acceptance of a deed

therefor, whether or not it be so expressed in said deed, shall be deemed to covenant and agree with each other and with the Association, to pay to the Association the assessments provided for in this Declaration. In the case of joint or co-ownerships, this liability shall be joint and several. Such assessments shall be levied against Lots and collected from time-to-time in the manner provided in this Article VI.

Section 2. Annual Assessments. Annual assessments against all Lots are hereby authorized which shall be based upon advance annual estimates of cash requirements by the Association to provide for the payment of all estimated expenses to be incurred in the ensuing twelve-month period in the conduct of the Association's affairs, including the maintenance and operation of the Common Area and, to the extent herein required, the Lots. Such expenses may include, among other things, those incurred for taxes, insurance, legal and accounting services, road maintenance, snow removal, landscaping installation and maintenance, Common Area utilities, Common Area improvements and equipment, the repair, maintenance and replacement of Common Area improvements and equipment; repair, replacement and maintenance of the exterior of Townhouses, and the creation of a reasonable contingency reserve, surplus and/or sinking fund for capital improvements, replacements and repair.

Section 3. Special Assessments. In addition to the annual assessments authorized hereinabove, the Association may levy at anytime a special assessment payable over such a period as the Association may determine for the purpose of defraying in whole or in part the unanticipated cost of any construction, reconstruction, repair or replacement of Common Area improvements, or any other expenses duly incurred or to be incurred as provided in this Declaration, but not adequately provided for by the annual assessment. This section shall not be construed as independent authority for the Association to incur expenses, but shall be construed to prescribe an alternative manner of assessing for expenses authorized in other sections hereof.

Section 4. Apportionment of Assessments. Annual and special assessments shall be apportioned among the Owners and their respective Lots according to the total number of Lots, each Owner being assessed for each of his Lots a fraction of the total assessments, the numerator of which fraction shall be one, and the denominator of which shall be the total number of Lots; provided, however, that should any expenses be incurred as the result of any negligence or misconduct of any Owner, the expenses so incurred shall be assessed exclusively against said Owner and said Owner's Lot.

Section 5. Notice of Periodic Assessments and Time for Payment Thereof. The Association shall establish an annual assessment each year, the exact date to be determined by its Board of Directors, and shall further establish a special assessment whenever circumstances in the opinion of the Board of Directors require it. Such assessments shall be payable annually, quarterly or monthly, as the Association from time-to-time determines. The Association shall provide each Owner with notice specifying the amount of the assessment and the date or dates of payment of the same. No payment shall be due less than 15 days after said written notice has been given and each assessment shall bear interest at the rate of 12 percent per annum from and after the date it becomes due and payable if not paid within 30 days after such date. Failure of the Association to give notice of the assessment shall not affect the liability of the Owner for such assessment, but the date when payment shall become due in such a case shall be deferred to a date 15 days after such notice has been given.

Section 6. Lien of Assessment. All sums assessed against any Lot may be secured by a lien on said Lot in favor of the Association upon recordation of a notice of assessment as herein provided. Such lien shall be superior to all other liens and encumbrances on said Lot, with exception of: (a) valid tax and assessment liens imposed by governmental entities; (b) the lien of prior mortgages, deeds of trust or other security instruments perfected and recorded in Blaine County, Idaho; and (c) valid prior labor and materialman's liens duly perfected and recorded in Blaine County, Idaho.

To create a lien for sums assessed pursuant to this Declaration, the Association may prepare a written notice of said assessments, setting forth the amount thereof, the date due, the unpaid balance, the name of the record Owner of the Lot against which the assessment has been levied, and the legal description of said Lot. Such notice shall be signed by an officer of the Association and may be recorded in the office of the County Recorder of Blaine County, Idaho. No such notice of assessment shall be recorded until there is a delinquency in the payment of the assessment to which it relates. The priority date of the lien shall be the date of its recordation, and it may be foreclosed and enforced in the manner permitted for consensual liens by the laws of the State of Idaho. In addition to all other sums which may be due and owing for which a lien is recorded, the Owner shall be obligated to pay all costs and expenses incurred by the Association in preparing, filing, foreclosing said lien, or otherwise collecting the assessment to which it is related, including all attorney's fees. All such costs and expenses shall be deemed to be secured by the lien being foreclosed.

Unless sooner satisfied and released, or the enforcement initiated as provided earlier in this section, any lien created pursuant to this section shall expire and be of no further force or effect one year from the date of recordation of said notice of assessment; provided, however, said one year period may be extended by the Association for an additional period not to exceed one year by a written extension signed by an officer of the Association and recorded in the office of County Recorder of Blaine County, Idaho, prior to the expiration of the initial one year period.

Section 7. Personal Obligation of Owner. The amount of any assessment against any Lot shall be the personal obligation of the Owner thereof to the Association. A suit to recover a money judgment for such obligation can be maintained by the Association without foreclosure or waiver of the lien securing the same, and no owner may avoid or diminish such personal obligation by waiver of the use and enjoyment of any of the common area, or by the sale or abandonment of the Lot.

Section 8. Personal Liability of Purchasers. Subject to the provisions of Section 8 immediately hereinabove, the purchaser of a Lot shall be jointly and severally liable with the seller for all unpaid assessments appurtenant thereto including any such assessments due and owing prior to said purchaser's acquisition of said Lot.

## ARTICLE VII

### ANNEXATION OF ADDITIONAL PROPERTY

Section 1. Annexation. The Declarant or its successor may, at any time hereafter, by the execution and recordation of an effective Declaration of Covenants, Conditions and

Restrictions encumbering any townhouse subdivision on the real property described on Exhibit A hereto, which is owned by the Declarant or its successor, place said subdivision under and within the purview of this Declaration, and all of its covenants, conditions and restrictions. Upon the recordation of such a Declaration, all Townhouses and Lots in said townhouse subdivision shall be deemed to be Lots and Townhouses hereunder and all Owners thereof shall thereafter be Owners and Members of the Association for all purposes hereunder, in the same manner, and subject to the same benefits and obligations, as though said Townhouses and Lots were included in Fairway One Townhomes Phase I Subdivision.

Section 2. Common Area. Upon annexation of any townhouse subdivision pursuant to this Article VII, Declarant or its successor shall deed and convey all Common Area within said subdivision to the Association in the manner provided for in Article IV hereinabove.

Section 3. Notice. In the event the Declarant or its successor shall intend to annex property as provided in Article VII, Section 1, written notice of such intent shall be given to the Association at least thirty (30) days prior to the recordation of the Declaration purporting to effectuate the annexation.

## ARTICLE VIII

### REVOCATION OR AMENDMENT

Section 1. Method of Revocation or Amendment. This Declaration may be amended or revoked, in part in whole, by an instrument duly executed by the record Owners of more than 75% of the Lots subject to the provisions of this Declaration on the effective date of the amendment or revocation, and by all mortgagees and deed of trust beneficiaries under any mortgage or deed of trust encumbering any of said Lots appearing of record at the time of revocation or amendment. Any such revocation or amendment duly adopted shall be binding upon every Owner and Lot, whether the burdens thereon are increased or decreased by any such amendment or revocation, and whether or not the Owner consents thereto.

## ARTICLE IX

### MISCELLANEOUS

Section 1. Compliance. Each Owner shall comply with the provisions of this Declaration, the Articles of Incorporation and Bylaws of the Association, and all rules and regulations duly enacted by the Association. Failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by the Association or any Owner.

Section 2. Mailing Address. Each Owner shall provide the Association with such Owner's mailing address, which address shall be used for the mailing or other service of any and all notices, assessments or communications from the Association. Any notice referred to in this section shall be deemed given by the Association when it has been deposited in the United States mail, postage prepaid, addressed to the Owner at the given address.

Section 3. Transfer of Rights. Any right or interest reserved hereby to the Declarant may be transferred or assigned by the Declarant to any person or entity.

Section 4. Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

Section 5. Severability. If any of the provisions of this Declaration, or any clause, paragraph, sentence, phrase or word or the application thereof in any circumstance shall be invalidated, such invalidity shall not affect the validity of the remainder of this Declaration, and the application of any such provision, paragraph, sentence, clause, phrase or word in any other circumstance shall not be affected thereby.

Section 6. Construction by Declarant. Nothing in this Declaration or any action taken by the Association shall limit the right of the Declarant to complete construction of Townhouses and improvements to the Common Area provided they are completed in a manner consistent with the official plat for the subdivision in which the same are located and all related development plans and specifications approved by the City of Sun Valley.

Section 7. Prevailing Law. The provisions of this Declaration shall be construed and enforced pursuant to the laws of the State of Idaho, and all applicable statutes of the City of Sun Valley, Idaho.

This Declaration is executed this 7<sup>th</sup> day of July, 1997.

"DECLARANT"

  
PATRICK LOCKHART

  
ROSEMARY LOCKHART

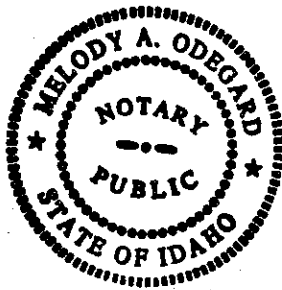
STATE OF IDAHO )

)ss.

County of Blaine )

On the 7<sup>th</sup> day of July, 1997, before me, a Notary Public, in and for said County and State, personally appeared PATRICK LOCKHART, known or identified to me to be the individual whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Melody A. Odegard  
NOTARY PUBLIC FOR IDAHO  
Residing at: Hailey, Idaho  
My commission expires: 9/24/2002

STATE OF IDAHO )

)ss.

County of Blaine )

On the 7<sup>th</sup> day of July, 1997, before me, a Notary Public, in and for said County and State, personally appeared ROSEMARY LOCKHART, known or identified to me to be the individual whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Melody A. Odegard  
NOTARY PUBLIC FOR IDAHO  
Residing at: Hailey, Idaho  
My commission expires: 9/24/2002

07039701.jer

EXHIBIT "A"

TOWNSHIP 4 NORTH, RANGE 18 EAST, BOISE MERIDIAN, BLAINE COUNTY, IDAHO

SECTION 17: A parcel of land lying within the SE1/4 of said Section, more particularly described as follows:

COMMENCING at the Southeast corner of said Section 17; thence  
N.  $46^{\circ}55'39''$  W., 2,339.72 feet to the REAL POINT OF BEGINNING;  
said point also lies S.  $43^{\circ}36'38''$  E., 5,168.92 feet from the Northwest  
corner of said Section 17; thence  
N.  $57^{\circ}52'41''$  W., 144.81 feet; thence  
N.  $46^{\circ}01'58''$  W., 146.15 feet; thence  
N.  $51^{\circ}46'25''$  W., 165.66 feet; thence  
N.  $67^{\circ}37'47''$  E., 233.00 feet; thence  
N.  $72^{\circ}57'32''$  E., 3.32 feet; thence  
S.  $63^{\circ}26'48''$  E., 49.78 feet; thence  
106.32 feet along a curve to the left with a central angle of  $26^{\circ}08'45''$ , a  
radius of 233.00 feet, a tangent of 54.10 feet and a long chord bearing  
S.  $38^{\circ}17'34''$  E., 105.40 feet; thence  
S.  $51^{\circ}21'5''$  E., 128.34 feet; thence  
S.  $37^{\circ}35'3''$  W., 53.36 feet; thence  
S.  $03^{\circ}04'39''$  W., 93.13 feet; thence  
S.  $33^{\circ}28'25''$  W., 60.21 feet to the REAL POINT OF BEGINNING.

EXHIBIT A

FOTI

403698

BLAINE CO. REQUEST  
OF: BLAINE COUNTY TITLE

'97 JUL 9 PM 4 00

MARY GREEN, CLERK *ms*

FEES \$ 12<sup>00</sup>

*Plot*

*Trinity One Townhomes*

*Phase 1 Sub B*

*In Section 17 T4N R18E*