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**DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS,
AND PARTY WALL AGREEMENT
FOR THE
VILLAS AT THE CROSSING TOWNHOUSE DEVELOPMENT**

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**DECLARATION OF COVENANTS, CONDITIONS, RESTRICTIONS,
AND PARTY WALL AGREEMENT
FOR THE
VILLAS AT THE CROSSING TOWNHOUSE DEVELOPMENT**

This declaration is made on the ____ day of September, 1998, by SUN VALLEY PARTNERS-1989, an Idaho partnership ("Declarant").

RECITALS

Declarant is the owner of real property located in Blaine County, Idaho, described in Exhibit "A" attached hereto and made a part hereof by this reference (the "Property"). Declarant has improved or intends to improve the real property by constructing improvements on it in two (2) phases containing six (6) townhouse dwelling units and other facilities in accordance with plans and specifications on file with the City of Ketchum, Idaho. By this declaration, Declarant intends to establish a plan of townhouse ownership and to provide for the annexation of additional real property to this declaration.

DECLARATION

Declarant declares that the Property is, and shall be, held, conveyed, hypothecated, encumbered, leased, rented, used and occupied subject to the following limitations, restrictions, easements, covenants, conditions, liens and charges, all of which are declared and agreed to be in furtherance of a plan of townhouse ownership as described in City of Ketchum Ordinance Number 316, for the subdivision, improvement, protection, maintenance, and sale of townhouses within the real property, and all of which are declared and agreed to be for the purpose of enhancing, maintaining and protecting the value and attractiveness of the Property. All of the limitations, restrictions, easements, covenants, conditions, liens and charges shall run with the land, shall be binding on and inure to the benefit of all parties having or acquiring any right, title or interest in the Property, and shall be binding on and inure to the benefit of the successors in interest of such parties.

1. **DEFINITIONS**

1.1 The "Articles" mean the Association's Articles Of Incorporation and any amendments thereto.

1.2 The "Association Rules" mean the rules and regulations regulating the use and enjoyment of the common area adopted by the board from time to time.

1.3 The "Association" means the Villas At The Crossing Townhouse Owners Association, Inc., an Idaho nonprofit corporation, and its successors and assigns.

1.4 The "Board" means the board of directors of the Association.

1.5 The "Bylaws" mean the Association's bylaws and any amendments thereto.

1.6 The "Common Area" means the entire development except all Townhouses and Lots, as defined in this declaration or as shown on the plat map. The percentage of ownership interest in the Common Area which is allocated to each Townhouse is expressed as a percentage of the entire ownership interest in the Common Area in **Exhibit "B."**

1.7 "Common Fence" shall hereinafter mean and refer to any fence erected as part of the original construction, or as a subsequent replacement therefor, other than a Private Yard Fence, which separates Lots from one another along property lines.

1.8 "Common Fence Owner" shall hereinafter mean and refer to an owner of a Townhouse appurtenant to which is a Common Fence.

1.9 "Limited Common Areas" mean those common areas and facilities designated in the declaration for use of a certain Townhouse owner or owners to the exclusion, limitation or restriction of others.

1.10 "Lot" means the separate parcels resulting from platting the development.

1.11 The "Declarant" means Sun Valley Partners-1989, an Idaho general partnership, and its successors and assigns, if such successors and assigns acquire record title to any portion of the development for development purposes.

1.12 The "Development" means the real property divided or to be divided into Lots or owned by the Association as depicted in the plan attached hereto as **Exhibit "C,"** including all structures and improvements on it, and any additional real property annexed to this Declaration under Section 16 pursuant to any recorded supplement to this Declaration.

1.13 A "Member" means every person or entity who holds a membership in the Association.

1.14 A "Mortgage" means a mortgage or deed of trust encumbering a Lot, Townhouse or other portion of the development. A "mortgagee" shall include the beneficiary under a deed of trust. An "institutional" mortgagee, is a mortgagee that is a bank or savings and loan association or mortgage company or other entity chartered or licensed under federal or state laws whose principal business is lending money on the security of real property, or any insurance company or any federal or state agency. A "first mortgage" or "first mortgagee" is one having priority as to all other mortgages or holders of mortgages encumbering the same Townhouse or other portions of the development.

1.15 An "Owner" means each person or entity holding a record ownership interest in a Lot, including Declarant, and contract purchasers under recorded contracts. "Owner" shall not include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation.

1.16 "Party Wall" shall mean the wall which is built as part of the original construction of a Townhouse and placed on the boundary line between two Lots.

1.17 A "Private Yard Fence" shall hereinafter mean and refer to any fence erected as a part of the original construction, or as a subsequent replacement therefor, which connects two Townhouses and which separates the front yard of both Townhouses from the side or backyard of either Townhouse.

1.18 A "Private Yard Fence Owner" shall hereinafter mean and refer to the Owner of a Townhouse whose side or backyard faces a Private Yard Fence.

1.19 "Townhouse" means the elements of a single family residential townhome located in the Development.

2. DESCRIPTION OF COMMON INTERESTS, PROPERTY RIGHTS OF ENJOYMENT AND EASEMENTS

2.1 Ownership Of Lot; Easements. Ownership of each Lot within the Development shall include a Townhouse, Limited Common Areas, and an undivided interest in the Common Area or portion thereof if additional real property is annexed to this Declaration (which undivided interest shall be specified in the deed from Declarant to each owner and which undivided interest cannot be altered or changed as long as the prohibition against severability of component interests in a Townhouse remains in effect as provided in this Declaration), a membership in the Association, and any exclusive or non-exclusive easement or easements appurtenant to such Lot over the Common Area as described in this Declaration or the deed to the Lot.

2.2 Owners' Non-Exclusive Easements Of Enjoyment, Etc. Every Owner of a Lot shall have a non-exclusive easement of use and enjoyment in, to and throughout the Common Area and for ingress, egress and support over and through the Common Area; however, such non-exclusive easements shall be subordinate to, and shall not interfere with, exclusive easements appurtenant to Lots over the Common Area, if any. Each Owner shall have the exclusive right to use and enjoy the Limited Common Area designated herein for exclusive use by such Owner. Each such non-exclusive easement shall be appurtenant to and pass with the title to every Lot, subject to the following rights and restrictions:

2.2.1 The right of the Association to limit the number of guests, and to adopt and to enforce the Association Rules.

2.2.2 The right of the Association to charge reasonable admission and other fees for the use of any unassigned parking and storage spaces and any recreational facility situated upon the Common Area.

2.2.3 The right of the Association to borrow money to improve, repair or maintain the Common Area.

2.2.4 The right of the Association to assign, rent, license or otherwise designate and control use of unassigned parking and storage spaces within the Common Area (other than those portions subject to exclusive easements appurtenant to Townhouse units, if any).

2.2.5 The right of the Association to suspend the right of an Owner to use any recreational or other facility upon the Common Area as provided in Section 4.3.1.2 of this Declaration.

2.2.6 The right of Declarant or its designees to enter on the Development to construct the Development and to make repairs and remedy construction defects if such entry shall not interfere with the use of any occupied Townhouse unless authorized by the Owner.

2.2.7 The right of the Association, or its agents, to enter any Townhouse to perform its obligations under this Declaration, including obligations with respect to construction, maintenance or repair for the benefit of the Common Area, or the Owners in common, or to make necessary repairs that the Owner has failed to perform. The right shall be immediate in case of an emergency originating in or threatening such Townhouse, whether or not the Owner is present.

2.2.8 The right of any Owner, or his representatives, to enter the Townhouse of any other Owner to perform permissible installations, alterations or repairs to mechanical or electrical services, including installation of television antennae and related cables, if requests for entry are made in advance and such entry is at a time convenient to the Owner whose Townhouse is being entered except that in case of emergency such right of entry shall be immediate.

2.3 Delegation Of Use; Contract Purchasers; Tenants. Any Owner may delegate his rights of use and enjoyment in the Development, including any recreational facilities to the members of his family, his guests, and invitees, and to such other persons as may be permitted by the Bylaws and the Association Rules, subject, however, to this Declaration, to the Bylaws and to the Association Rules. However, if an Owner of a Lot has sold his Lot to a contract purchaser or rented it, the Owner, members of his family, his guests and invitees shall not be entitled to use and enjoy the recreational facilities of the Development while the Owner's Townhouse is occupied by such contract purchaser or tenant. Instead, the contract purchaser, while occupying such Townhouse, shall be entitled to use and enjoy the recreational facilities of the Development and can delegate the rights of use and enjoyment in the same manner as if such contract purchaser or tenant were an Owner during the period of his occupancy. Each Owner

shall notify the secretary of the Association of the names of any contract purchasers or tenants of such Owner's Townhouse. Each Owner, contract purchaser or tenant also shall notify the secretary of the Association of the names of all persons to whom such Owner, contract purchaser, or tenant has delegated any rights of use and enjoyment in the Development and the relationship that each such person bears to the Owner, contract purchaser, or tenant. Any delegated rights of use and enjoyment are subject to suspension to the same extent as are the rights of Owners.

2.4 Easements Granted By Association. The Association shall have the power to grant and convey to any third party easements and rights-of-way in, on, over or under the Common Area for the purpose of constructing, erecting, operating or maintaining lines, cables, wires, conduits, the driveway radiant heat system or other devices for electricity, cable television, power, telephone and other purposes, public sewers, storm water drains and pipes, water systems, sprinkling systems, radiant heat systems, water, heating and gas lines or pipes, and any similar public or quasi-public improvements or facilities, and each purchaser, in accepting a deed to a Lot expressly consents to such easement. However, no such easement can be granted if it would interfere with the use, occupancy or enjoyment by any Owner of his Lot, any exclusive easements over the Common Area appurtenant to a Lot or the recreational facilities of the Development unless approved by the vote or written consent of the holders of not less than seventy-five percent (75%) of the voting rights of each class of Members and their first mortgagees.

2.5 Easements In Favor Of Association. Declarant conveys and grants to the Association easements and rights of way in, on, over or under the Common Area for the purpose of constructing, operating or maintaining lines, cables, wires, conduits or other devices for electricity, cable television, power, telephone and other similar public or quasi-public improvements or facilities.

3. USE RESTRICTION

3.1 Residential Use. Townhouses shall be used for residential purposes only. However, Townhouses owned by Declarant may be used by Declarant or its designees as models, sales offices and construction offices for the purpose of developing, improving and selling Townhouses in the Development. Nothing in this Declaration shall prevent an Owner from leasing or renting his Townhouse. However, any lease or rental agreement shall be in writing and any tenant shall abide by and be subject to all provisions of this Declaration, the Articles, the Bylaws, and the Association Rules and any lease or rental agreement must specify that failure to abide by such provisions shall be a default under the lease or rental agreement.

3.2 Commercial Use. Except as otherwise provided in this Declaration, including Section 3.1, no part of the Development shall be used or caused, allowed, or authorized to be used in any way, directly or indirectly, for any business, commercial, manufacturing, mercantile, storing, vending, or other such non-residential purpose. Declarant may use one or more Townhouses as a model in connection with the sale of Townhouses.

3.3 Maintenance. Subject to the provisions of Section 3.15, each Owner of a Townhouse shall be responsible for maintaining his Limited Common Area, his Townhouse, including the equipment and fixtures in the Townhouse and its exterior and interior walls, roofs, ceilings, windows and doors in a clean, sanitary, workable and attractive condition. Owners may not deposit snow in the heated driveway area. However, each Owner has complete discretion as to the choice of furniture, furnishings and interior decorating; but windows can be covered only by shutters, drapes or shades and cannot be painted, except in accordance with the provisions of Article 9, or covered by foil, cardboard, or other similar materials. Each Owner also shall be responsible for repair, replacement and cleaning of the windows, screens, shutters and glass of his Townhouse, both exterior and interior. Unless otherwise provided in this Declaration, each Owner shall clean and maintain any exclusive easement appurtenant to his Townhouse.

3.4 Planting. Except in any individual rear fenced yard or patio areas appurtenant to the Townhouses, no planting or gardening shall be done, and no fences, hedges, or walls shall be erected, planted, or maintained upon the Common Area, the Private Yard Fences, the Common Fences or upon the Lots, except such as are erected, planted, or installed in accordance with the initial construction of the Townhouses or in the Development of the Property or as otherwise may be approved by the Board or Architectural Review Committee.

3.5 Offensive Conduct; Nuisances. No noxious or offensive activities, including but not limited to, repair of automobiles or other motorized vehicles, shall be conducted within the Development. Except as otherwise provided in Section 3.19, nothing shall be done on or within the Development that may be or may become an annoyance or nuisance to the residents of the Development, or that in any way interferes with the quiet enjoyment of occupants of Townhouses. Unless otherwise permitted by the Association Rules, no Owner shall serve food or beverages, cook, barbecue, or engage in similar activities, except within such Owner's Townhouse, Limited Common Area and except within those portions of the Common Area subject to exclusive easements appurtenant to such Owner's Townhouse, if any.

3.6 Parking Restrictions; Use Of Garage. Unless otherwise permitted by the Board, no automobile shall be parked or left within the Development other than within a garage, or assigned or appurtenant parking stall or space. The four (4) parking spaces located in Parcel "E" shall be used exclusively as guest parking and may not be used by any Owner, or tenant of any Owner. Parking by commercial vehicles for the purpose of making deliveries shall be permitted in accordance with the Association Rules. Garages shall be used for parking automobiles only and shall not be converted for living or recreational activities. Garage doors shall remain closed at all times except when being used to enter or exit.

3.7 Signs. No sign of any kind shall be displayed to the public view on or from any Townhouse or within the Common Area without the approval of the Board, except such signs as may be used by the Declarant or its designees for a period of three (3) years from the date of recordation of this Declaration or the date of recordation of any Supplement to this Declaration pursuant to Section 16 hereof, whichever is later, for the purpose of developing, selling and improving Townhouses within the Development. However, one sign of customary

and reasonable dimensions advertising a Townhouse for sale or for rent may be placed within each Townhouse or within the Common Area immediately adjacent to it by the Owner, the location and design of it to be subject to approval by the Board.

3.8 Antennae, External Fixtures, Etc. No television or radio poles, antennae, flag poles, clotheslines, or other external fixtures other than those originally installed by Declarants or approved by the Board and any replacements shall be constructed, erected or maintained on or within the Common Area or any structures on it, however, each Townhouse shall be permitted to install a satellite dish which does not have a diameter greater than eighteen (18) inches. No wiring, insulation, air conditioning, or other machinery or equipment other than that originally installed by Declarant or approved by the Board, and their replacements shall be constructed, erected or maintained on or within the Common Area, including any structures on it.

3.9 Fences, Etc. No fences, awnings, ornamental screens, screen doors, sunshades or walls of any nature shall be erected or maintained on or around any portion of any structure or elsewhere within the Development except those that are installed in accordance with the original construction of the Development, or those as are authorized and approved by the Board.

3.10 Animals. No animals, reptiles, rodents, birds, fish, livestock or poultry shall be kept on a Lot or elsewhere within the Development, except that domestic dogs, cats, fish and birds inside bird cages may be kept as household pets, if they are not kept, bred or raised for commercial purposes. The Board can prohibit maintenance of any animal that constitutes a nuisance to any other Owner in the sole and exclusive opinion of the Board. Each person bringing or keeping a pet upon the Development shall be absolutely liable to other Owners, their family Members, guests, invitees, tenants and contract purchasers, and their respective family Members, guests, and invitees for any damage to persons or property caused by any pet brought upon or kept upon the Development by such person or by Members of his family, his guests or invitees. Each person bringing or keeping a pet upon the Development shall be responsible for keeping the pet on a leash and for removing any animal waste of feces from the grounds of the Development.

3.11 Restricted Use Of Recreation Vehicles, Etc. No boat, truck, trailer, camper, recreational vehicle or tent shall be used as a living area on the Development. However, trailers or temporary structures for use incidental to the initial construction of the Development or the initial sales of Townhouses may be maintained within the Development but shall be promptly removed on completion of all initial construction and all initial sales.

3.12 Trash Disposal. Trash, garbage or other waste shall be kept only in sanitary containers with covers. No Owner shall permit or cause any trash or refuse to be kept on any portion of the Development other than in the receptacles customarily used for it, which shall be located only in places specifically designated for such purpose except on the scheduled day for

trash pickup. Trash disposal shall occur once a week in front of each Townhouse as scheduled and provided by the garbage removal service.

3.13 Outside Drying And Laundering. No exterior clothesline shall be erected or maintained and there shall be no exterior drying or laundering of clothes on balconies, patios, porches or other areas.

3.14 Structural Alterations. No structural alterations to the exterior of or Common Area surrounding any Townhouse shall be made and no mechanical, plumbing or electrical work within any bearing or common walls shall be performed by any Owner without the prior written consent of the Board.

3.15 Exterior Alterations. No Owner shall make any repairs, alterations or modifications to the exterior of the buildings, fences, railings or walls situated within the Development without the prior written consent of the Board and any institutional first mortgagee whose interest may be affected. Owners are only permitted to make exterior alterations which are in compliance with the architectural guidelines established by the Association.

3.16 Compliance With Laws, Etc. Nothing shall be done or kept on any Lot or in the Common Area that might increase the rate of, or cause the cancellation of, insurance for the Development, or any portion of the Development, without the prior written consent of the Board. No Owner shall permit anything to be done or kept in his Townhouse that violates any law, ordinance, statute, rule or regulation of any local, county, state or federal body. No Owner shall allow furniture, furnishings or other personalty belonging to such Owner to remain within any portion of the Common Area except portions subject to exclusive easements over Common Area appurtenant to such Owner's Townhouse and except as may otherwise be permitted by the Board. The exterior storage of bikes, toys, recreational equipment excluding lawn furniture and barbecues, any item creating a fire hazard, or trash shall not be permitted by any Owner.

3.17 Indemnification. Each Owner shall be liable to the remaining Owners for any damage to the Common Area that may be sustained by reason of the negligence of that Owner, Member of his family, his contract purchasers, tenants, guests or invitees, but only to the extent that any such damage is not covered by insurance. Each Owner, by acceptance of his deed, agrees for himself and for the members of his family, his contract purchasers, tenants, guests or invitees, to indemnify each and every other Owner, and to hold him harmless from, and to defend him against, any claim of any person for personal injury or property damage occurring within the Lot of that particular Owner and within any exclusive easements over the Common Area appurtenant to the Owner's Townhouse, unless the injury or damage occurred by reason of the negligence of any other Owner or person temporarily visiting in said Townhouse or portion of the Common Area subject to an exclusive easement appurtenant to the Townhouse or is fully covered by insurance.

3.18 Owner's Obligation For Taxes. To the extent allowed by law, all Townhouses, including their pro rata undivided interest in the Common Area and the Membership

of an Owner in the Association, shall be separately assessed and taxed so that all taxes, assessments and charges which may become liens prior to first mortgages under local law shall relate only to the individual Townhouses and not to the Development as a whole. Each Owner shall be obligated to pay any taxes or assessments assessed by the county assessor of the county in which the Development is located against his Townhouse and against his personal property.

3.19 Future Construction. Declarant intends to complete the Development in two (2) or more phases. Nothing in this Declaration shall limit the right of Declarant, or its successors and assigns, to complete construction of improvements in or to the Common Area, or of Townhouses owned by Declarant, or to alter them or to construct additional improvements as Declarant deems advisable before completion and sale of the entire Development. Specifically, by accepting a deed to a Townhouse, each Owner agrees Declarant may construct additional Townhouses within the Development and may eliminate guest parking as contemplated in Section 14.2. The rights of Declarant in this Declaration may be assigned by Declarant to any successor to all or any part of any Declarant's interest in the Development, as developer, by an express assignment incorporated in a recorded deed that transfers any such interest to a successor.

3.20 Enforcement. The failure of any Owner to comply with any provision of this Declaration or the Articles or Bylaws shall give rise to a cause of action in the Association and any aggrieved Owner for the recovery of damages or for injunctive relief, or both.

4. THE ASSOCIATION

4.1 Formation. The Association is a nonprofit corporation formed under the laws of Idaho. On the close and recording of the first Lot sale to an Owner, the Association shall be charged with the duties and invested with the powers set forth in the Articles, the Bylaws and this Declaration, including, but not limited to, control and maintenance of the Common Area and Ownership of any facilities on the Common Area.

4.2 Association Action; Board Of Directors And Officers; Members' Approval. Except as to matters requiring the approval of Members as set forth in this Declaration, the Articles, or the Bylaws, the affairs of the Association shall be conducted by the Board and such officers as the Board may elect or appoint. Such election or appointment shall be in accordance with this Declaration or the Bylaws, and their amendments. Except as otherwise provided in this Declaration, the Articles or the Bylaws, all matters requiring the approval of Members shall be deemed approved if Members holding a majority of the total voting rights assent to them by written consent as provided in the Bylaws or if approved by a majority vote of a quorum of Members at any regular or special meeting held in accordance with the Bylaws.

4.3 Powers And Duties Of Association.

4.3.1 Powers. The Association shall have all the powers of a nonprofit corporation organized under the Idaho Nonprofit Corporation Act subject only to such limitations on the exercise of such powers as are set forth in the Articles, the Bylaws, and this Declaration.

Copies of the Articles and Bylaws are attached hereto as **Exhibit "D."** The Association shall have the power to do any lawful thing that may be authorized, required or permitted to be done by the Association under this Declaration, the Articles and the Bylaws, and to do and perform any act that may be necessary or proper for or incidental to, the exercise of any of the express powers of the Association, including, without limitation, the following:

4.3.1.1 Assessments. The Association shall have the power to establish, fix and levy assessments against the Owners and to enforce payment of such assessments, in accordance with the provisions of this Declaration. However, the approval of Members shall be required as to the amounts of all regular and special assessments except as otherwise provided in this Declaration.

4.3.1.2 Right Of Enforcement. The Association in its own name and on its own behalf, or on behalf of any Owner who consents, can commence and maintain actions for damages or to restrain and enjoin any actual or threatened breach of any provision of this Declaration or of the Articles or Bylaws, or of the Association Rules or any resolutions of the Board, and to enforce by mandatory injunction, or otherwise, all of these provisions. In addition, the Association can suspend the voting rights, or can assess monetary penalties against any Owner or other person entitled to exercise such rights or privileges for any violation of this Declaration or the Articles, Bylaws, Association Rules, or Board resolutions. However, any monetary penalty cannot exceed Fifty Dollars (\$50.00) for any one violation. Each suspended or fined Owner or other person can appeal such action by filing written notice of his intention to appeal with the Board. The action imposing the fine or suspension shall then become ineffective until the fine or suspension is unanimously approved by all Board Members at a regular or special meeting of the Board at which all Board Members are present. The Owner or other person to be fined or suspended can appear, be represented by counsel and be heard at the meeting. Except as provided in this section, the Association does not have the power or authority to cause a forfeiture or abridgement of an Owner's right to the full use and enjoyment of such Owner's Townhouse if the Owner does not comply with provisions of this Declaration or of the Articles or Bylaws or the Association Rules, except when the loss or forfeiture is the result of a court judgment or arbitration decision or a foreclosure or sale under a power of sale based on failure of the Owner to pay assessments levied by the Association.

4.3.1.3 Delegation Of Powers; Professional Management. The Association acting by and through the Board can delegate its powers, duties, and responsibilities to committees or employees, including a professional managing agent ("Manager"). Any agreement for professional management of the Development shall be terminable by either party with or without cause and without payment of a termination fee on thirty (30) days' written notice. The term of any such agreement shall not exceed one (1) year, although such agreement may be renewed from year to year by the Board.

4.3.1.4 Association Rules. The Board shall have the power to adopt, amend and repeal the Association Rules as it deems reasonable. The Association Rules shall govern the use of the Common Area by all Owners or their families, guests, invitees or by any

contract purchaser, or tenant, or their respective family Members, guests or invitees. However, the Association Rules shall not be inconsistent with or materially alter any provisions of this Declaration, the Articles or the Bylaws. A copy of the Association Rules as adopted, amended or repealed, shall be mailed or otherwise delivered to each Owner and a copy shall be posted in a conspicuous place within the Development. In case of any conflict between any of the Association Rules and any other provisions of this Declaration, the Articles, or Bylaws, the conflicting Association Rules shall be deemed to be superseded by the provisions of this Declaration, the Articles or Bylaws.

4.3.2 Duties Of The Association. In addition to the powers delegated to it by its Articles or the Bylaws, and without limiting their generality, the Association, acting by and through the Board, or persons or entities described in Section 4.3.1.3, has the obligation to conduct all business affairs of common interest to all Owners and to perform each of the following duties:

4.3.2.1 Operation And Maintenance Of Common Area. To operate, maintain, and otherwise manage or provide for the operation, maintenance and management of the Common Area, and all its facilities, improvements, and landscaping including any private driveways and private streets, and any other property acquired by the Association, including personal property, in a first-class condition and in a good state of repair. In this connection, the Association may enter into contracts for services or materials for the benefit of the Association or the Common Area, including contracts with Declarant. The term of any such service contract shall not exceed one (1) year and shall be terminable by either party with or without cause and without payment of a termination fee upon thirty (30) days' written notice.

4.3.2.2 Taxes And Assessments. To pay all real and personal property taxes and assessments and all other taxes levied against the Common Area, personal property owned by the Association or against the Association. Such taxes and assessments may be contested or compromised by the Association, provided that they are paid or that a bond insuring payment is posted before the sale or the disposition of any property to satisfy the payment of such taxes.

4.3.2.3 Insurance. To obtain, from reputable insurance companies, and maintain the insurance described in Section 8.

4.3.2.4 Enforcement Of Restrictions And Rules. To perform such other acts, whether or not expressly authorized by this Declaration, that may be reasonably necessary to enforce any of the provisions of this Declaration, the Articles and Bylaws, and the Association's Rules and Board resolutions.

4.3.3 Limitations On Authority Of Board. Except with the vote or written assent of Members of the Association holding fifty-one percent (51%) of the voting rights of each class of Members, the Board shall not take any of the following actions:

4.3.3.1 Incur aggregate expenditures for capital improvements to the Common Area in any fiscal year in excess of five percent (5%) of the budgeted gross expenses of the Association for that fiscal year; or

4.3.3.2 Sell during any fiscal year property of the Association having an aggregate fair market value greater than five percent (5%) of the budgeted gross expenses of the Association for that fiscal year; or

4.3.3.3 Pay compensation to Members of the Board or to officers of the Association for services performed in the conduct of the Association's business. However, the Board may cause a Member of the Board or an officer to be reimbursed for expenses incurred in carrying on the business of the Association.

4.4 Personal Liability. No Member of the Board, or of any committee of the Association, or any officer of the Association, or any manager, or Declarant, or any agent of Declarant, shall be personally liable to any Owner, or to any other party, including the Association, for any damage, loss or prejudice suffered or claimed on account of any act, omission, error or negligence of any such person or entity if such person or entity has, on the basis of such information as may be possessed by him or it, acted in good faith without willful or intentional misconduct.

4.5 Organizational Meeting Of Members. An organizational meeting shall be held as soon as practicable after incorporation of the Association, and the directors elected then shall hold office until the first annual meeting. All offices of the Board of directors shall be filled at the organizational meeting.

4.6 Regular Meetings Of Members And Notice. The first annual meeting of Members of the Association shall be held within forty-five (45) days after the closing of the sale of the Townhouse that represents the fifty-first (51st) percentile interest of Townhouses approved for sale in the final subdivision plat for the Development, but in no case later than six (6) months after the closing and recording of the sale of the first Townhouse within the Development. Thereafter, regular meetings of Members of the Association shall be held at least once in each year at a time and place within the Development as prescribed in the Bylaws or as selected by the Board. Special meetings may be called as provided for in the Bylaws. Notice of all Members' meetings, regular or special, shall be given by regular mail, personal delivery or telegram to all Owners and to any mortgagee who has requested in writing that such notice be sent to it and shall be given not less than ten (10) days nor more than thirty (30) days before the time of the meeting and shall set forth the place, date and hour of the meeting, and the nature of the business to be undertaken.

4.7 Financial Statements Of The Association. The Board shall prepare, or cause to be prepared, a balance sheet and an operating statement for the Association as of the accounting dates set forth in this Section, and copies of each shall be distributed to each Owner

within sixty (60) days after the accounting dates. For those purposes the accounting dates for the preparation of the balance sheet and operating statement are as follows:

4.7.1 The first accounting date shall be the last day of the month closest in time to six (6) months from the date of closing of the first sale of a Townhouse within the Development. The balance sheet shall be rendered as of that date, and the operating statement shall be rendered for the period commencing with the date of closing of the first sale of a Townhouse within the Development and ending as of the first accounting date. The operating statement for the first six (6) months accounting period shall include a schedule of assessments received or receivable, itemized by Townhouse number and by the name of the person or entity assessed.

4.7.2 The second and subsequent accounting date shall be the last day of the Association's fiscal year (which fiscal year shall be a calendar year unless a different fiscal year is adopted). The balance sheet shall be rendered as of that date, and the operating statement shall be rendered for the fiscal year it covers, and both shall be distributed to the Owners within sixty (60) days after the close of the fiscal year.

4.7.3 Copies of each such balance sheet, operating statement and pro forma operating statement for the Association shall be mailed to any mortgagee who has requested in writing that such copies be sent to it.

4.8 Inspection Of Association Books And Records.

4.8.1 Any membership register, books of account and minutes of meetings of the Members, the Board and committees of the Board of the Association, shall be made available for inspection and copying by any Member of the Association, or his duly-appointed representative, or any mortgagee, at any reasonable time and for a purpose reasonably related to his interest as a Member, at the office of the Association or at such other place within the Development as the Board prescribes.

4.8.2 Every director of the Association shall have the absolute right at any reasonable time to inspect all books, records and documents of the Association and the physical properties owned or controlled by the Association. The right of inspection by a director includes the right to make extracts and copies of documents.

5. MEMBERSHIP AND VOTING RIGHTS

5.1 Membership.

5.1.1 Qualifications. Each Owner of a Townhouse, including Declarant, shall be a Member of the Association. No Owner shall hold more than one membership in the Association even though such Owner may own, or own an interest in, more than one Townhouse. Ownership of a Townhouse or interest in it shall be the sole qualification for membership in the Association. Each Owner shall remain a Member of the Association until his Ownership or

Ownership interest in all Townhouses in the Development ceases at which time his membership in the Association shall automatically cease. Persons or entities who hold an interest in a Townhouse merely as security for performance of an obligation are not to be regarded as Members.

5.1.2 Members' Rights And Duties. Each Member shall have the rights, duties and obligations set forth in this Declaration, the Articles, the Bylaws and the Association's Rules, as the same may from time to time be amended.

5.1.3 Transfer Of Membership. The Association membership of each person or entity who owns, or owns an interest in, one or more Townhouses shall be appurtenant to each such Townhouse, and shall not be assigned, transferred, pledged, hypothecated, conveyed or alienated in any way except on a transfer of title to each such Townhouse or interest in it and then only to the transferee. Any attempt to make a prohibited transfer shall be void. Any transfer of title to a Townhouse or interest in it shall operate automatically to transfer the appurtenant Membership rights in the Association to the new Owner.

5.2 Voting.

5.2.1 Number Of Votes. The Association shall have two (2) classes of voting Membership:

Class A: Class A Members are all Owners, with the exception of Declarant. Each Class A Member shall be entitled to one (1) vote for each Townhouse in which such class Member owns an interest. However, when more than one Class A Member owns an interest in a Townhouse, the vote for such Townhouse shall be exercised as they themselves determine, but in no case shall more than one (1) vote be cast with respect to any one Townhouse.

Class B: The Class B Members shall be the Declarant who shall be entitled to three (3) votes for each Townhouse owned by Declarant in any phase of the Development with respect to which assessments are then being levied by the Association. The Class B Membership shall cease and be converted to Class A Membership on the happening of one of the following events, whichever occurs earlier:

5.2.1.1 When the total votes outstanding in the Class A Membership equal the total votes outstanding in the Class B Membership; or

5.2.1.2 On the 31st day of December, 2000.

As long as two classes of Members in the Association exist, no action by the Association that must have the prior approval of the Association Members shall be deemed approved by the

Members unless approved by the appropriate percentage of both classes of Members, except as provided in Section 4.3.2.6 of this Declaration.

5.2.2 Joint Owner Votes. The voting rights for each Townhouse may not be cast on a fractional basis. If the joint Owners of a Townhouse are unable to agree among themselves as to how their voting rights shall be cast, they shall forfeit the vote on the matter in question. If any Owner exercises the voting rights of a particular Townhouse, it will be conclusively presumed for all purposes that he was acting with the authority and consent of all other Owners of the same Townhouse. If more than one (1) person or entity exercises the voting rights for a particular Townhouse, their votes shall not be counted and shall be deemed void.

6. ASSESSMENTS

6.1 Agreement To Pay. The Declarant, for each Townhouse owned by it in the Development that is expressly made subject to assessment as set forth in this Declaration, and each Owner covenants and agrees to pay to the Association regular assessments and special assessments, such assessments to be established, made and collected as provided in this Declaration.

6.2 Personal Obligations. Each assessment or installment, together with any late charge, interest, collection costs and reasonable attorneys' fees, shall be the personal obligation of the person or entity who was an Owner at the time such assessment, or installment became due and payable. If more than one person or entity was the Owner of a Townhouse, the personal obligation to pay such assessment, or installment respecting such Townhouse shall be both joint and several. The personal obligation for delinquent assessments, or delinquent installments and other such sums, shall not pass to an Owner's successors in interest unless expressly assumed by them. No Owner may exempt himself from payment of assessments, or installments, by waiver of the use or enjoyment of all or any portion of the Common Area or by waiver of the use or enjoyment of, or by abandonment of, his Townhouse.

6.3 Purpose Of Assessments. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the Members of the association, the improvement, replacement, repair, operation and maintenance of the Common Area and the performance of the duties of the Association as set forth in this Declaration.

6.4 Assessments.

6.4.1 Regular Assessments.

6.4.1.1 Not more than sixty (60) days nor less than thirty (30) days before the beginning of each fiscal year of the Association, the Board shall meet for the purpose of establishing the regular annual assessment for the forthcoming fiscal year. At such meeting the Board shall review written comments received and any other information available to it and, after making any adjustments that the Board deems appropriate, without a vote of the Members

of the Association, shall establish the regular assessment for the forthcoming fiscal year; provided, however, that the Board may not establish a regular assessment for any fiscal year of the Association which is more than one hundred twenty percent (120%) of the regular assessment of the prior fiscal year of the Association (except the first such fiscal year of the Association if it should be less than twelve (12) months) without the approval by vote or written consent of Members holding fifty-one percent (51%) of the voting rights of each class of Members.

6.4.1.2 Unless the Association or its assessment income shall be exempt from federal or state income taxes, to the extent possible, all reserves shall be accounted for and handled as contributions to the capital of the Association and as trust funds segregated from the regular income of the Association or in such other manner authorized by law or regulations of the Internal Revenue Service as will prevent such funds from being taxed as income of the Association.

6.4.2 Special Assessments. If the Board determines that the estimated total amount of funds necessary to defray the common expenses of the Association for a given fiscal year is or will become inadequate to meet expenses for any reason, including, but not limited to, unanticipated delinquencies, costs of construction, unexpected repairs or replacements of capital improvements on the Common Area, the Board shall determine the approximate amount necessary to defray such expenses, and if the amount is approved by a majority vote of the Board, it shall become a special assessment. The Board may, in its discretion, pro rate such special assessment over the remaining months of the fiscal year or levy the assessment immediately against each Townhouse. Unless exempt from federal or state income taxation, all proceeds from any special assessment shall be segregated and deposited into a special account and shall be used solely for the purpose or purposes for which it was levied or it shall be otherwise handled and used in a manner authorized by law or regulations of the Internal Revenue Service to avoid, if possible, its taxation as income of the Association.

6.4.3 Limitation Respecting Special Assessments. Any special assessment in excess of five percent (5%) of the budgeted gross expense of the Association for the fiscal year in which a special assessment is levied shall require approval by vote or written consent of fifty-one percent (51%) of the holders of voting rights of each class of Members, except in case of a special assessment against an Owner as a remedy utilized by the Board to reimburse the Association for costs incurred in bringing the Member or his Townhouse into compliance with the provisions of this Declaration.

6.5 Uniform Rate Of Assessment. Except as otherwise specifically provided in this Declaration, regular and special assessments must be fixed at a uniform rate for all Townhouses and regular and special assessments shall be determined by dividing the amount by the total number of Townhouses then within the Development and subject to assessment.

6.6 Assessment Period. The regular assessment period shall commence on January 1 of each year and shall terminate on December 31 of such year, and regular assessments shall be payable in equal monthly installments unless the Board adopts some other basis for

collection. However, the initial regular assessment period shall commence on the first day of the calendar month following the date on which the sale of the first Townhouse to a purchaser is closed and recorded (the "initiation date") and shall terminate on December 31 of the year in which the initial sale is closed and recorded. The first regular assessment and all special assessments shall be adjusted according to the number of months remaining in the fiscal year and shall be payable in equal monthly installments unless the Board adopts some other basis for collection. The Association shall not change the pro rata interest or obligation of any Townhouse for purposes of levying assessments unless all Owners and all institutional first mortgagees have given their prior written consent.

6.7 Notice And Assessment* Installment Due Dates. A single ten (10) day prior written notice of each annual regular assessment and each special assessment shall be given to any Owner of every Townhouse subject to assessment in which the due dates for the payments of installments shall be specified. The due dates for the payment of installments normally shall be established by the Board. Each installment of regular assessments and special assessments shall become delinquent if not paid within fifteen (15) days after its due date. There shall accrue with each delinquent installment a late charge of Fifteen Dollars (\$15.00) together with interest at the rate of twelve percent (12%) per annum calculated from the due date to and including the date full payment is received by the Association.

6.8 Estoppel Certificate. The Board or manager, on not less than twenty (20) days' prior written request, shall execute, acknowledge and deliver to the party making such request a statement in writing stating whether or not to the knowledge of the Association, a particular Owner is in default as to his Townhouse under the provisions of this Declaration and further stating the dates to which installments of assessments, regular or special, have been paid as to such Townhouse. Any such certificate may be relied on by any prospective purchaser or mortgagee of the Townhouse, but reliance on such certificate may not extend to any default not involving the payment of assessments of which the signer had no actual knowledge.

7. COLLECTION OF ASSESSMENTS: LIENS

7.1 Right To Enforce. The right to collect and enforce assessments is vested in the Board acting for and on behalf of the Association. The Board or its authorized representative, including any manager, can enforce the obligations of the Owners to pay assessments provided for in this Declaration by commencement and maintenance of a suit at law or in equity, or the Board may foreclose by judicial proceedings or through the exercise of the power of sale pursuant to Section 7.2 to enforce the lien rights created. Suit to recover a money judgment for unpaid assessments together with all other amounts described in Section 6.2 shall be maintainable without foreclosing or waiving the lien rights.

7.2 Creation Of Lien. If there is a delinquency in the payment of any assessment, or installment on a Townhouse, as described in Section 6.7, any amounts that are delinquent, together with the late charge described in that section, interest at the rate of twelve percent (12%) per annum, and all costs that are incurred by the Board or its authorized

representative in the collection of the amounts, including reasonable attorneys' fees, shall be a lien against such Townhouse upon the recordation in the office of the county recorder in which the Development is located of a notice of assessment as provided in Idaho Code § 55-1508. The notice of assessment shall not be recorded unless and until the Board or its authorized representative has delivered to the delinquent Owner or Owners, not less than fifteen (15) days before the recordation of the notice of assessment, a written notice of default and a demand for payment, and unless such delinquency has not been cured within said fifteen (15) day period. The lien shall expire and be void unless, within one (1) year after recordation of the notice of assessment, the Board or its authorized representative records a notice of default as provided hereinafter or institutes judicial foreclosure proceedings with respect to such lien.

7.3 Notice Of Default; Foreclosure. Not more than one (1) year nor less than fifteen (15) days after the recording of the notice of assessment, the Board or its authorized representative can record a notice of default and can cause the Townhouse with respect to which a notice of default has been recorded to be sold in the same manner as a sale is conducted under a power of sale in a deed of trust, or in any other manner permitted by law, or through judicial foreclosure. However, as a condition precedent to the holding of any such sale appropriate publication shall be made. In connection with any sale, the Board is authorized to appoint its attorney, any officer or director, or any title insurance company authorized to do business in Idaho as trustee for purposes of conducting the sale. If a delinquency is cured before sale, or before completing a judicial foreclosure, the Board or its authorized representative shall cause to be recorded in the office of the county recorder of the county in which the Development is located a certificate setting forth the satisfaction of such claim and release of such lien upon payment of actual expenses incurred, including reasonable attorney's fees by any delinquent Owner. During the pendency of any foreclosure proceeding, whether judicial or by power of sale, the Owner shall be required to pay to the Association reasonable rent for the Townhouse and the Association shall be entitled to the appointment of a receiver to collect the rent. On becoming delinquent in the payment of any assessments, or installments each delinquent Owner shall be deemed to have absolutely assigned all rent, issues and profits of his Townhouse to the Association and shall further be deemed to have consented to the appointment of a receiver (which appointment may, at the election of the Association, be enforced by the Association through specific performance). The Association, acting on behalf of the Owners, shall have the power to bid upon the Townhouse at foreclosure sale and to acquire, hold, lease, mortgage and convey the Townhouse.

7.4 Waiver Of Exemptions. Each Owner, to the extent permitted by law, waives, to the extent of any liens created pursuant to this Section 7, the benefit of any homestead or exemption laws of Idaho in effect at the time any assessment, or installment, becomes delinquent or any lien is imposed.

8. INSURANCE

8.1 Public Liability And Additional Insurance Coverage.

8.1.1 Each Owner shall obtain in his own name and keep in force at all times during his ownership of a Townhouse public liability insurance in minimum amounts prescribed from time to time by the Association.

8.1.2 Any Owner may, if he so desires and at the Owner's sole expense, carry any and all other insurance coverage the Owner deems advisable.

8.2 Association's Duty To Obtain And Maintain Insurance. The Association shall obtain and maintain in force at all times a broad form public liability insurance policy, or similar substitute, covering the Common Area, private roads, and the acts of the Association and its agents. Such insurance may include coverage against vandalism and the Association may maintain any and all other insurance coverage as the Board may deem advisable, including but not limited to liability insurance for officers and directors. Such insurance coverage may be written in the name of the Association as trustee for all Owners.

8.3 Damage Or Losses From Association's Insured Hazards. In the event of loss, damage, or destruction by fire or other casualty to any property covered by insurance written in the name of the Association or for which the Association is named as co-insured, whether in its own name or as trustee, the Board shall, upon receipt of the insurance proceeds, contract to repair, reconstruct or rebuild any damaged or destroyed portions of the Common Area to as good condition as formerly existed. All insurance proceeds received by the Association shall be deposited in a bank, savings and loan association, or other financial institution with the proviso agreed to by said bank, or association, or institution that such funds may be withdrawn only by signature of at least one-third (1/3rd) of the Members of the Board. The Board or, if it shall be agreed to by the Board, the insurance company or companies providing insurance proceeds, shall advertise for sealed bids from any licensed contractor, and then may negotiate with any contractor, who shall be required to provide a full performance and payment bond for the repair, reconstruction, or rebuilding of such destroyed Common Area.

8.4 Fidelity Bonds. The Association shall maintain adequate fidelity coverage to protect against dishonest acts on the part of officers, directors, trustees and employees of the Association and all other persons responsible for the handling of the funds of the Association. Such fidelity bonds shall meet the following requirements:

- (a) all such fidelity bonds shall name the Association as an obligee;
- (b) such fidelity bonds shall be written in an amount equal to at least one hundred fifty percent (150%) of the estimated annual operating expenses of the Association, including reserves; and
- (c) such fidelity bonds shall contain waivers of any defense based upon the exclusion of persons who served without compensation from any definition of "employee" or similar expression.

9. ARCHITECTURAL AESTHETICS

9.1 Architectural Controls. In order to maintain the architectural aesthetics of the Development, no improvements, building or other structures, and no fences (including Private Yard Fences and Common Fences), gates, walls, patios, planters, or other similar items shall be commenced, constructed, erected, altered (specifically including the altering of the exterior of any Townhouse), remodeled, or maintained upon a Lot, nor shall any exterior addition, change, or alteration thereon be made until the plans and specifications accurately showing the nature, kind, shape, dimensions, materials, color, and location of the same shall have been submitted to, and approved in writing as to harmony of external design and location in relation to surrounding structures and topography, by the Board or by an Architectural Review Committee composed of three or more representatives appointed by the Board. In the event the Board, or the Architectural Review Committee, if one then exists, fails to approve or disapprove such plans and specifications within sixty (60) days after the same have been submitted, then such plans and specifications shall be deemed to have been approved as submitted.

9.2 Standards For Approval. Approval shall be based, among other things, on: conformity and harmony of exterior design, colors and materials with neighboring structures; relation of the proposed improvements to the natural topography, grade and finished ground elevation; relation of the structure to that of neighboring structures and natural features of the Development; and conformity of the plans and specifications to the purpose and general plan and intent of these restrictions. The Board or the Architectural Review Committee shall have the right to require and approve landscaping plans, said landscaping plans shall be submitted within 120 days after purchase, and landscaping improvements shall be installed within 180 days therefrom, unless inclement weather makes performance impossible. Should such weather conditions exist, the Architectural Review Committee may extend the date for completion. The Board or the Architectural Review Committee shall not arbitrarily or unreasonably withhold its approval of such plans and specifications.

9.3 Development By Declarant. The provisions of Section 9.1 shall not apply to Declarant, nor to Declarant's development of the Common Area, Lots, Townhouses, Private Yard Fences and Common Fences.

9.4 Right To Maintain And Repair Exteriors Of Townhouses. In the event that the Owner of any Townhouse shall fail to maintain his Lot, his Townhouse and the other improvements situated thereon in a manner satisfactory to the Board or the Architectural Review Committee, the Association shall have the right, through its agents and employees, to enter upon said Lot and to repair, maintain and restore the same and the exterior of the Townhouse and any other improvements erected thereon in such manner as is deemed necessary and appropriate by either of said entities. The cost of such exterior maintenance shall thereupon be an assessment determined and levied against the Lot on which such Townhouse is located and the Association may proceed in accordance with the applicable provisions of Section 7.

9.5 Non-Liability For Actions. Neither Declarant, the Board, nor the Architectural Review Committee, nor their respective successors or assigns, shall be liable in damages to anyone submitting plans to the Board or the Architectural Review Committee for approval, or to any Owner affected by this Declaration, by reason of mistake in judgment, negligence or non-feasance arising out of or in connection with the approval or disapproval or failure to approve any such plans and specifications. Every Owner or other person who submits plans to the Board or the Architectural Review Committee for approval agrees, by submission of such plans and specifications, that he will not bring any action or suit against the Board or the Architectural Review Committee or the Declarant to recover any such damages. Approval by the Board or the architectural Review Committee shall not be deemed to constitute compliance with the requirements of any local building codes. and it shall be the responsibility of the Owner or other person submitting plans to the Board or the Architectural Review Committee to comply therewith.

10. PARTITION

10.1 Suspension. The right of partition is suspended pursuant to Idaho law as to the Development. Nothing in this Declaration shall prevent partition or division of interest between joint or common Owners of any Lot or Townhouse.

10.2 Distribution Of Proceeds. Proceeds or property resulting from a partition shall be distributed to and among the respective Owners and their mortgagees as their interests appear in proportion to each Owner's respective percentage undivided interest in the Common Area.

10.3 Power Of Attorney. Each of the Owners hereby grants the Association an irrevocable power of attorney to sell the Development for the benefit of the Owners when partition can be had. Exercise of said power is subject to the approval of Members and their institutional first mortgagees.

11. NON-SEVERABILITY OF COMPONENT INTERESTS IN A TOWNHOUSE

An Owner shall not be entitled to sever his Townhouse from his membership in the Association, and shall not be entitled to sever his Townhouse and his membership from his undivided interest in the Common Area for any purpose. None of the component interests in a Townhouse can be severally sold, conveyed, encumbered, hypothecated or otherwise dealt with, and any violation or attempted violation of this provision shall be void.

12. TERM OF DECLARATION

This Declaration shall run with the land and shall continue in full force and effect for a period of fifty (50) years from the date on which this Declaration is executed. After that time, this Declaration and all covenants, conditions, restrictions and other provisions shall be automatically extended for successive ten (10) year periods unless this Declaration is revoked by

an instrument executed by Owners and their respective institutional first mortgagees of not less than three-fourths (3/4) of the Townhouses in the Development and recorded in the office of the county recorder of the county in which the Development is located.

13. FENCES AND PARTY WALLS

13.1 Private Yard Fences - Repair And Maintenance. Each Private Yard Fence Owner shall be responsible for maintaining and repairing his Private Yard Fence, including gates, in a manner which is acceptable to the Board or the Architectural Review Committee and shall pay all costs in connection therewith. In the event that any Private Yard Fence Owner fails to meet such duties and obligations, the Association, upon its own initiative or upon the request of the Architectural Review Committee, shall have the right after giving thirty (30) days' prior written notice to such Private Yard Fence Owner to proceed in accordance with the applicable provisions of Sections 7 and 9 of this Declaration.

13.2 Common Fences - Repair And Maintenance. The costs of repairing, maintaining and rebuilding Common Fences, including gates, shall be the responsibility of the Common Fence Owners who make use of such fences in proportion to each such Owner's use thereof; provided, however, that if the Common Fence Owners cannot agree upon the repair, maintenance, or rebuilding of their Common Fences, then upon ten (10) days' prior written notice to all such Common Fence Owners, any one or more of such Common Fence Owners may take such action as is reasonably deemed necessary to repair, maintain or rebuild a Common Fence and the acting Common Fence Owner may make demand upon the non-acting Common Fence Owner or Owners for their contribution to the reasonable costs of such repair, maintenance or rebuilding. This Section 13.2 shall not be interpreted so as to preclude or prejudice any such acting or non-acting Common Fence Owner from demanding a higher percentage contribution from any other acting or non-acting Common Fence Owner under the rule of law regarding liability for negligent or willful acts or omissions. Furthermore, if any Common Fence Owner shall fail to maintain his Common Fence in a condition which is acceptable to the Board or the Architectural Review Committee, the Association, upon its own initiative or upon the request of the Architectural Review Committee, shall have the right, after giving thirty (30) days' prior written notice to such Common Fence Owner or Owners of such failure, to take such action as is reasonably deemed necessary to repair, maintain or rebuild any such Common Fence. The costs of such action by the Association shall automatically become a default assessment determined and levied against the responsible Common Fence Owner or Owners or their Lot or Lots, as the case may be, and the Association may proceed in accordance with the applicable provisions of Sections 7 and 9 of this Declaration.

13.3 Negligent Or Willful Acts. Notwithstanding any other provision of this Section 13, any Owner, who by his negligent or willful acts causes a Side Yard Fence or Common Fence to be damaged shall bear the whole cost of repair, maintenance or rebuilding of any such fence.

13.4 Party Walls. To the extent not inconsistent with the provisions of this Declaration, the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply to the Party Walls. The cost of reasonable repair and maintenance of a Party Wall shall be shared equally by the two Owners who make use of that wall. If a Party Wall is destroyed or damaged by fire or other casualty, any Owner who has the use of the wall may restore it, and the other Owner who makes use of the wall shall contribute one-half of the cost of restoration thereof, without prejudice, however, to the right of any such Owner(s) to call for a larger contribution from the other Owner(s) under any rule of law regarding liability for negligent or willful acts or omissions. Notwithstanding any other provision of this Declaration, an Owner who by his negligent or willful acts causes the Party Wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

13.5 Arbitration. In the event of any dispute concerning any Party Wall, Common Fence or any provision of this Section 13 related thereto, other than the rights granted to the Board, the Architectural Review Committee and the Association, each Owner shall choose one arbitrator, such arbitrators shall choose one additional arbitrator, and a decision with respect thereto shall be made by a majority of all the arbitrators, which decision shall be binding and may be enforced in any court having jurisdiction in the State of Idaho. The costs of such arbitration shall be paid as directed by such arbitrators.

14. EFFECT OF DEVELOPMENT PLAN, PLATS AND OTHER DOCUMENTS FILED WITH THE COUNTY OF BLAINE AND AMENDMENTS THEREOF

14.1 General Information Regarding Development Plan. The preliminary or final plat and other related documents which are on record in the office of the Clerk of the County Of Blaine (the "County"), the City Of Ketchum (the "City"), or other applicable governmental agency (hereinafter referred to as the "Plan") has the effect and only the effect described by the statutes of the State of Idaho, and the rules, regulations, and ordinances of the County and the City. The Plan and related documents constitute part of the public controls imposed by the County and the City upon developers, Owners, residents and users of the Development and do not create, and are not intended to create, any private property or contract rights in the Owners and residents of the Development, except as such rights may be created expressly by separate contracts, deeds and other documents, including this Declaration. The Plan on file in the office of the said Clerk or other applicable governmental agency describes a plan of Development which Declarant believes will provide maximum benefit to the residents, Owners and the public. During an extended Development program, however, various factors can intervene which may hinder the effectiveness of the Plan and may threaten the benefits to be derived by the residents, Owners and the public unless the Plan can be modified as prescribed by applicable law. Accordingly, this Declaration is not intended to nor does it grant or create any private property or contract rights in the said Plan and such plans continue to remain subject to modification by the proper governmental authorities in accordance with the procedures set forth in the statutes, rules, regulations, and ordinances of the County and the City.

14.2 Rights Reserved. Declarant expressly reserves to itself, its successors and assigns the right to amend any Plan for the Property, so long as:

(a) Such amendment does not alter the lot lines of any Lot which has been conveyed to any Owner; and

(b) Such amendment does not materially reduce the amount of Common Area within the Property available to an Owner for such Owner's use and enjoyment.

Declarant specifically reserves the right to amend any Plan to eliminate guest parking to permit the annexation and development of the real property referred to in section 16.

15. AMENDMENT

15.1 Amendment Before The Close Of First Sale. Before the close of the first sale of a Townhouse in the Development to a purchaser other than Declarant, this Declaration and any amendments to it may be amended in any respect or revoked by the execution by Declarant and any mortgagee of record of an instrument amending or revoking the Declaration. The amending or revoking instrument shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the office of the county recorder of the county in which the Development is located.

15.2 Amendment After Close Of First Sale. After the close of the first sale of a Townhouse in the Development to a purchaser other than Declarant, this Declaration may be amended or revoked in any respect by the vote or written consent of the holders of not less than seventy-five percent (75%) of the voting rights of each class of Members. However, if any provision of this Declaration requires a greater or lesser percentage of the voting rights of any class of Members in order to take affirmative or negative action under such provision, the same percentage of such class or classes of Members shall be required to amend or revoke such provision. Also, if the consent or approval of any governmental authority, mortgagee or other person, firm, agency or entity is required under this Declaration with respect to any amendment or revocation of any provision of this Declaration, no such amendment or revocation shall become effective unless such consent or approval is obtained. Any amendment or revocation subsequent to the close of such first sale shall be evidenced by an instrument certified by the Secretary or other duly authorized officer of the Association and shall make appropriate reference to this Declaration and its amendments and shall be acknowledged and recorded in the office of the county recorder of the county in which the Development is located.

15.3 Reliance On Amendments. Any amendments made in accordance with the terms of this Declaration shall be presumed valid by anyone relying on them in good faith.

16. GENERAL PROVISIONS

16.1 Headings. The headings used in this Declaration are for convenience only and are not to be used to interpret the meaning of any of the provisions of this Declaration.

16.2 Severability. The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any provisions or portions of it shall not invalidate any other provisions.

16.3 Cumulative Remedies. Each remedy provided for in this Declaration shall be cumulative and not exclusive. Failure to exercise any remedy provided for in this Declaration shall not, under any circumstances, be construed as a waiver thereof.

16.4 Violations As Nuisance. Every act or omission in violation of the provisions of this Declaration shall constitute a nuisance and, in addition to all other remedies herein set forth, may be abated or enjoined by any Owner, any Member of the Board, the manager, or the Association.

16.5 No Racial Restriction. No Owner shall execute or cause to be recorded any instrument which imposes a restriction upon the sale, leasing or occupancy of his lot on the basis of race, sex, color or creed.

16.6 Access To Books. Any Owner may, at any reasonable time and upon reasonable notice to the Board or manager at his own expense, cause an audit or inspection to be made of the books and financial records of the Association.

16.7 Liberal Construction. The provisions of this Declaration shall be liberally construed to effectuate its purpose. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce said provision thereafter.

16.8 Notification Of Sale Of Townhouse. Concurrently with the consummation of the sale of any Townhouse under circumstances whereby the transferee becomes an Owner thereof, or within five (5) business days thereafter, the transferee shall notify the Board in writing of such sale. Such notification shall set forth the name of the transferee and his mortgagee and transferor, the common address of the Townhouse purchased by the transferee, the transferee's and the mortgagee's respective mailing addresses, and the date of sale. Prior to the receipt of such notification, any and all communications required or permitted to be given by the Association, the Board or the manager shall be deemed to be duly made and given to the transferee if duly and timely made and given to said transferee's transferor. Mailing addresses may be changed at any time upon written notification to the Board. Notices shall be deemed received forty-eight (48) hours after mailing if mailed to the transferee, or to his transferor if the Board has received no notice of transfer as above provided, by certified mail, return receipt requested, at the mailing address above specified. Notices shall also be deemed received twenty-

four (24) hours after being sent by telegram or upon personal delivery to any occupant of a Townhouse over the age of twelve (12) years.

16.9 Number; Gender. The singular shall include the plural and the plural the singular unless the context requires the contrary, and the masculine, feminine and neuter shall each include the masculine, feminine or neuter, as the context requires.

16.10 Exhibits. All exhibits referred to are attached to this Declaration and incorporated by reference.

16.11 Easements Reserved And Granted. Any easements referred to in this Declaration shall be deemed reserved or granted, or both reserved and granted, by reference to this Declaration in a deed to any Townhouse.

16.12 Binding Effect. This Declaration shall inure to the benefit of and be binding on the successors and assigns of the Declarant, and the heirs, personal representative, grantees, tenants, successors and assigns of the Owners.

Declarant has executed this instrument as of the 23 day of OCTOBER, 1998.

SUN VALLEY PARTNERS-1989

By: Wayne Roth
Name: Wayne Roth
Title: Partner

STATE OF IDAHO)
) ss.
County of Blaine)

On this 23rd day of October, 1998, before me, a notary public in and for said state, personally appeared Shayne Roth, known or identified to me to be the Partner of SUN VALLEY PARTNERS-1989, an Idaho partnership, and the person whose name is subscribed to the foregoing Declaration, and acknowledged to me that he was authorized to execute this Declaration on Sun Valley Partners-1989's behalf, and that he did so on its behalf.

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



Sandra Pfeiffer
Notary Public for Idaho
Residing at Harley, Id
My commission expires '99

EXHIBIT "A"

Lots 1B, 2B and 3B of THE CROSSING AMENDED: RESUBDIVISION OF LOTS 1A & 2A, according to the official plat thereof recorded as Instrument No. 390755, records of Blaine County, Idaho.

EXHIBIT "B"

COMMON AREA OWNERSHIP INTEREST

<u>Unit Number</u>	<u>Percentage of Ownership</u>
1	16.67
2	16.67
3	16.67
4	16.67
5	16.67
6	16.67

EXHIBIT "C"

DEVELOPMENT PLAN

Attached is the Development Plan referred to in the Declaration to which this exhibit is attached.

THE VILLAS AT THE CROSSING, PHASE I

WITHIN: SECTION 12, T4N, R17E, B.M., CITY OF KETCHUM, BLAINE COUNTY, IDAHO

JANUARY 1999

A Townhome Subdivision Plat of Lots 2B and 3B of THE CROSSING AMENDED:
RESUBDIVISION OF LOTS 1A & 2A (Instrument #390755) creating Sublots 1 -- 4.

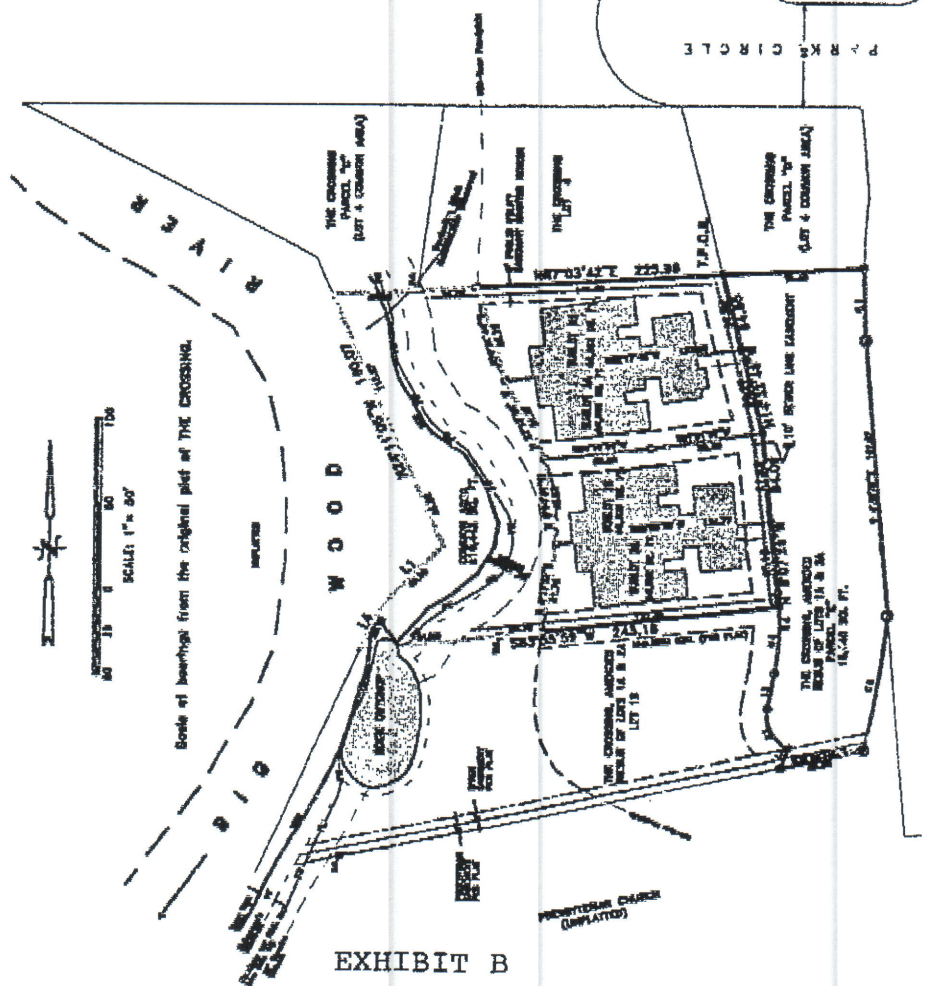


EXHIBIT B

NOTES

- 1 EXTENDING FURNISHED INFORMATION SHALL BE MAINTAINED IN ITS
2 ORIGINAL FORM FOR THE PERIOD AND RECLASSIFIED AND
3 DESTROYED. REMOVAL OF THIS OR OTHER INFORMATION FROM THE
4 RECORDS OF THE BUREAU OF REVENUE SHALL BE REPEATEDLY
5 REVIEWED BY THE BUREAU OF REVENUE TO DETERMINE
6 WHETHER THE INFORMATION IS STILL NECESSARY FOR THE
7 PROPER CONDUCT OF THE BUSINESS OF THE BUREAU OF
8 REVENUE. IF THE INFORMATION IS NO LONGER NECESSARY
9 FOR THE PROPER CONDUCT OF THE BUSINESS OF THE
10 BUREAU OF REVENUE, IT SHALL BE DESTROYED.
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LEGEND

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|--|---------------------|------------------------------------|--------|
| | PROPERTY BOUNDARY | EXISTING 1/2 RIVER LINE EASEMENT | HERSON |
| | SUBSET ROADWAY | 16' ATCH MAINTENANCE EASEMENT | |
| | BUILDING FOOTPRINT | # PUBLIC UTILITY EASEMENT GRANTEES | |
| | MEAN HIGH WATER | # POSTERIOR EASEMENT PER PAI | |
| | PRIORANT'S EASEMENT | FOUND 3/78 NEAR | |
| | ROADWAY ACCESS | DET 1/2 NEAR | |
| | 1-22 TOWN | FOUND 3/78 NEAR | |

3151

No.	Direction	Length
1	N45°00'E02°E	48.50
2	N32°23'38"E	11.00
3	N10°20'61"E	21.41
4	N64°42'36"E	10.00

CURVE TABLE

Date	Reeling	Ave Length	Yarnwt	Chord
7-2-58	430.00	42.21	21.12	42.19
7-3-58	425.00	42.21	21.12	42.19
7-4-58	425.00	42.21	21.12	42.19
7-5-58	425.00	42.21	21.12	42.19
7-6-58	425.00	42.21	21.12	42.19
7-7-58	425.00	42.21	21.12	42.19
7-8-58	425.00	42.21	21.12	42.19
7-9-58	425.00	42.21	21.12	42.19
7-10-58	425.00	42.21	21.12	42.19
7-11-58	425.00	42.21	21.12	42.19
7-12-58	425.00	42.21	21.12	42.19
7-13-58	425.00	42.21	21.12	42.19
7-14-58	425.00	42.21	21.12	42.19
7-15-58	425.00	42.21	21.12	42.19
7-16-58	425.00	42.21	21.12	42.19
7-17-58	425.00	42.21	21.12	42.19
7-18-58	425.00	42.21	21.12	42.19
7-19-58	425.00	42.21	21.12	42.19
7-20-58	425.00	42.21	21.12	42.19
7-21-58	425.00	42.21	21.12	42.19
7-22-58	425.00	42.21	21.12	42.19
7-23-58	425.00	42.21	21.12	42.19
7-24-58	425.00	42.21	21.12	42.19
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7-29-58	425.00	42.21	21.12	42.19
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7-37-58	425.00	42.21	21.12	42.19
7-38-58	425.00	42.21	21.12	42.19
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7-44-58	425.00	42.21	21.12	42.19
7-45-58	425.00	42.21	21.12	42.19
7-46-58	425.00	42.21	21.12	42.19
7-47-58	425.00	42.21	21.12	42.19
7-48-58	425.00	42.21	21.12	42.19
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7-66-58	425.00	42.21	21.12	42.19
7-67-58	425.00	42.21	21.12	42.19
7-68-58	425.00	42.21	21.12	42.19
7-69-58	425.00	42.21	21.12	42.19
7-70-58	425.00	42.21	21.12	42.19
7-71-58	425.00	42.21	21.12	42.19
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7-75-58	425.00	42.21	21.12	42.19
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7-83-58	425.00	42.21	21.12	42.19
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7-86-58	425.00	42.21	21.12	42.19
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7-96-58	425.00	42.21	21.12	42.19
7-97-58	425.00	42.21	21.12	42.19
7-98-58	425.00	42.21	21.12	42.19
7-99-58	425.00	42.21	21.12	42.19
7-100-58	425.00	42.21	21.12	42.19

HEALTH CERTIFICATE

Sanitary restrictions as required by Idaho Code Title 50, Chapter 13, have been satisfied. Sanitary restrictions may be reimposed, in accordance with Idaho Code Title 50, Chapter 13, Section 20-1326, by the issuance of a certificate of disapproval.

PREPARED BY : BENCHMARK ASSOCIATES, P.A.
P.O. BOX 733, KETCHUM, ID 83340
(208) 728-9512 : 726-8814 (FAX)
E-MAIL: bm@micron.net

South Central District Health Dept., CHS

Determi-



**THE VILLAG AT THE
CROSSING PHASE I**

THE SECOND, MARCEL
T44, RT77, SECTION 12, B.M.,
DOCTONUM, BLAINE COUNTY, DAKOTA

PREPARED FOR: WAYNE ROTH

A FINAL PLAY	PLOT BY:NC3/CPL	PLOT FILE 98042.DWG
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PROJECT NO. 08042	DATE: 01/20/99	CO-ORD. FILE 99042.COR
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EXHIBIT "D"

ASSOCIATION ARTICLES AND BYLAWS

Attached are the Association's initial Articles and Bylaws referred to in the Declaration to which this exhibit is attached.

**ARTICLES OF INCORPORATION
OF THE
VILLAS AT THE CROSSING TOWNHOUSE
OWNERS ASSOCIATION, INC.**

The undersigned, acting as incorporator(s) of a corporation under the Idaho Nonprofit Corporation Act, adopt the following Articles Of Incorporation.

ARTICLE I

NAME

The name of the corporation is the Villas At The Crossing Townhouse Owners Association, Inc. (hereinafter called "Association").

ARTICLE II

PRINCIPAL AND REGISTERED AGENT

The location and principal office of the Association is 371 Walnut Avenue, Ketchum, Idaho, and the post office address is Post Office Box 297, Ketchum, Idaho 83340. The registered agent of the corporation is Edward A. Lawson.

ARTICLE III

INCORPORATORS

The incorporator and his address is as follows:

Wayne Roth

Post Office Box 2040, Sun Valley, Idaho, 83353

ARTICLE IV

PURPOSE AND POWERS OF THE ASSOCIATION

The purposes for which the Association is formed are:

- a. The specific and primary purposes for which the Association is formed are to be a residential real estate management association and to provide for the acquisition, construction, management, maintenance and care of real and personal property held by the Association or commonly held by the members of the Association or located in the development and owned by members of the Association and otherwise to act and be operated as a "homeowners association" as defined in Section 528 of the Internal Revenue Code of 1954, as

amended.

b. subject to the provisions of the recorded or to be recorded Declaration Of Covenants, Conditions And Restrictions applicable to the development (hereinafter referred to as the "Declaration"), the general purposes and powers of the Association are:

- (1) To promote the health, safety and welfare of the residents within the development;
- (2) To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration and any supplemental declaration, applicable to the property and recorded to be recorded in the Office of the Blaine County Recorder and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;
- (3) To fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;
- (4) To acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;
- (5) To borrow money and mortgage, pledge, deed of trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;
- (6) To dedicate, sell or transfer all or any part of the common area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members.
- (7) To participate in mergers and consolidation with other nonprofit corporations organized for the same purposes or annex additional property and common area;
- (8) To have and to exercise any and all powers, rights and privileges which a corporation organized under the Idaho Nonprofit Corporation Act may now or hereafter have or exercise.

The foregoing statement of purposes shall be construed as a statement both of purposes and of powers, and purposes and powers in each clause shall in no wise be limited or restricted by reference to or inference from the terms or provisions of any other clause, but shall be broadly construed as independent purposes and powers. Notwithstanding any of the above statements of

purposes and powers, the Association shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the primary purposes of the Association.

ARTICLE V

MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Unit which is subject by the Declaration to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to any and may not be separated from ownership of any unit which is subject to assessment by the Association.

ARTICLE VI

VOTING RIGHTS

The authorized number and qualifications of members of the Association, the different classes of members, if any, the property, voting, and other rights and privileges of members, and their liability for assessments and the method of collection thereof, shall be as set forth in the bylaws.

ARTICLE VII

BOARD OF DIRECTORS

The affairs of the Association shall be managed by a board of three (3) directors, who shall be members of the Association. The number of directors may be changed by amendment of the bylaws of the Association.

The initial directors of the Association and their addresses are as follows:

Wayne Roth

Post Office Box 2040, Sun Valley, Idaho 83353

Michael Brownfield

Post Office Box 2040, Sun Valley, Idaho 83353

ARTICLE VIII

DISSOLUTION

The Association may be dissolved as provided by law.

Upon the dissolution of the Association, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of the Association, dispose of all of the assets of the Association exclusively for the purposes of the Association in such manner as the Board Of Directors shall determine. Any such assets not so disposed of shall be disposed of by the District Court Of The Fifth Judicial District Of The State Of Idaho, in and for Blaine County as said court shall determine.

ARTICLE IX

NONPROFIT LIMITATIONS

No part of the net earnings of the Association shall inure to the benefit of, or be distributable to, its members, Directors, Officers, or other private persons, except that the Association shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article ___ hereof. No substantial part of the activities of the Association shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Association shall not participate in, or intervene in (including the publishing or distribution of statements), any political campaign on behalf of any candidate for public office. Notwithstanding any other provision of these Articles, the Association shall not carry on any other activities not permitted to be carried on by a corporation exempt from federal income tax under Section 591(c)(4) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law).

ARTICLE X

DURATION

The Association shall exist perpetually.

ARTICLE XI

AMENDMENTS

Amendments of these Articles shall require the vote of the members representing at least fifty-one percent (51%) of each class of the Association members entitled to vote.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of

the State of Idaho, the undersigned, constituting the incorporator of this corporation, has executed these Articles Of Incorporation this _____ day of September, 1998.

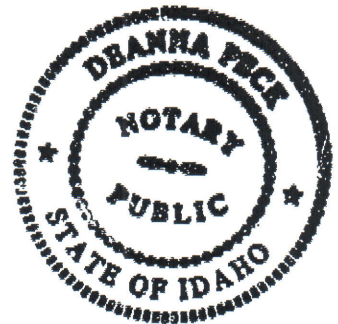
Wayne Roth
Wayne Roth

STATE OF IDAHO)
) ss.
County of Blaine)

On this _____ day of September, 1998, before me, the undersigned, a Notary Public in and for said county and state, personally appeared **WAYNE ROTH**, known to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same.

WITNESS my hand and official seal.

Deanna Peck
Notary Public for Idaho
Residing at: Jerome, ID
Commission expires 9-21-02



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**BYLAWS
OF THE
VILLAS AT THE CROSSING TOWNHOUSE OWNERS ASSOCIATION, INC.**

1. NAME AND LOCATION

The name of the association is the Villas At The Crossing Townhouse Owners Association, Inc. (the "Association"). The Association is organized under the Idaho Nonprofit Corporation Act. The principal office of the Association shall be located in the County of Blaine, State of Idaho.

2. PURPOSE OF BUSINESS

The purposes of the Association are those set forth in the Association's Articles Of Incorporation.

3. MEMBERSHIP; VOTING RIGHTS

The qualification for membership, the classes of membership and the voting rights of members shall be as set forth in Section 5 of the Declaration (as that term is defined in the Articles Of Incorporation), all of which are hereby incorporated by reference herein as if set forth in full.

4. MEETINGS OF MEMBERS

4.1 Annual Meetings. The organizational meeting and the first annual meeting of the members shall be held as described in the Declaration. Thereafter, annual meetings of members of the Association shall be held in each succeeding year within one week before or after the anniversary date of said first annual meeting on a day to be determined by the board, which day shall not be a legal holiday.

4.2 Special Meetings. Special meetings of the members may be called at any time by the president or by a majority of a quorum of the board, or upon written request of the members representing at least one-fourth (1/4) of the total votes or fifteen percent (15%) of the class A votes.

4.3 Notice Of Meetings. Notice of all members meetings, annual or special, shall be given by mail or telegram and shall be given not less than ten (10) days nor more than thirty (30) days prior to the time of said meeting and shall set forth the place, date and hour of the meeting, and the nature of the business to be undertaken. Notices shall be given by, or at the direction of, the secretary or person authorized to call the meeting, and shall be transmitted to each member entitled to vote thereat and to each mortgagee addressed to such member's or mortgagee's address last appearing on the books of the Association for the purpose of notice.

Mailed notices shall be deemed received forty-eight (48) hours after same are mailed by certified mail, return receipt requested; notice by telegram shall be deemed received twenty-four (24) hours after same are sent. Notices to members may also be personally delivered, and shall be deemed received upon delivery to any occupant of the member's residence.

4.4 Quorum. The presence at any meeting in person or by proxy of members entitled to cast at least fifty percent (50%) of the total votes of all members of the Association shall constitute a quorum. If any meeting cannot be held because a quorum is not present, members representing a majority of the votes present, either in person or by proxy, may adjourn the meeting to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time the original meeting was called, at which adjourned meeting the quorum requirement shall be at least twenty-five percent (25%) of said total votes. Any meeting of members whereat a quorum is present may be adjourned for any reason to a time not less than forty-eight (48) hours nor more than thirty (30) days from the time of such meeting by members representing a majority of the votes present thereat, either in person or by proxy.

4.5 Proxies. At all meetings of members each member may be present in person or by proxy. All proxies shall be in writing and filed with the secretary. Every proxy shall be revocable and shall automatically cease when the ownership interest or interests of such member entitling him to membership in the Association ceases.

4.6 Order Of Business. The order of business of all meetings of the members shall be as follows:

- 4.6.1 roll call;
- 4.6.2 proof of notice of meeting or waiver of notice;
- 4.6.3 reading of minutes of preceding meeting;
- 4.6.4 reports of board and officers;
- 4.6.5 election of directors, if any are to be elected;
- 4.6.6 unfinished business; and
- 4.6.7 new business.

4.7 Parliamentary Procedure. All questions of parliamentary procedure shall be decided in accordance with Roberts Rules Of Order.

4.8 Majority Of Owners. Except as otherwise provided herein or in the Declaration, the majority of the total voting power present, in person or by proxy, shall prevail at all meetings.

4.9 Action Without Meeting. Any action which may be taken at a meeting of the members may be taken without a meeting if authorized by a writing signed by all of the members who would be entitled to vote at a meeting for such purpose and filed with the secretary.

5. SELECTION AND TERM OF OFFICE OF BOARD

5.1 Number. The board shall consist of three (3) directors who need not be members.

5.2 Term Of Office. At the first annual meeting the members shall elect each of the directors for a term of one (1) year. At the expiration of the initial term of office of each director, his successor shall be elected to serve for a term of one (1) year.

5.3 Election; Removal; Vacancies. Election and removal of directors shall be as provided in the Declaration. In the event of the death, resignation or removal of a director, his successor shall be selected by the remaining members of the board and shall serve for the unexpired term of his predecessor.

5.4 Compensation. No director shall receive any compensation for any service he may render to the Association; provided, however, any director may be reimbursed for actual out-of-pocket expenses incurred by him in the performance of his duties.

6. NOMINATION AND ELECTION OF DIRECTORS

6.1 Nomination. Nomination for election to the board shall be made by a nominating committee consisting of three (3) persons. Nominations may also be made from the floor at each annual meeting. The nominating committee shall consist of a chairman, who shall be a member of the board, and two (2) other persons who shall be members of the Association. Each member of the nominating committee shall be appointed by the board to serve for a period of one year, and vacancies thereon shall be filled by the board. The nominating committee shall make as many nominations for election to the board as it shall, in its discretion, determine, but not less than the number of vacancies to be filled. Such nominations may be made from among members or non-members.

6.2 Election. Election to the board shall be by secret ballot. At such election, the members, or their proxies, may cast, in respect to each vacancy, as many votes as they are entitled to cast under the provisions of the Declaration (and subject to cumulative voting as therein described). The candidates receiving the highest number of votes shall be deemed elected.

7. MEETINGS OF DIRECTORS

7.1 Regular Meetings. Regular meetings of the board shall be held without notice at such place and hour as may be fixed from time to time by resolution of the board. Should any such meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday. Notice of the time and place of any such meeting shall be posted at a prominent place or places within the common area.

7.2 Special Meetings. Special meetings of the board shall be held when called by the president of the Association, or by any two (2) directors, after not less than three (3) days prior notice to each director, which notice shall specify the time and place of the meeting and the nature of any special business to be considered. The notice shall be posted in the manner prescribed for notice of regular meetings not less than seventy-two (72) hours prior to the scheduled time of the meeting.

7.3 Quorum. A majority of the number of directors shall constitute a quorum for the transaction of business at a meeting of the board. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the board.

7.4 Conduct Of Meetings. Regular and special meetings of the board shall be open to all members of the Association; provided, however, that Association members who are not on the board may not participate in any deliberation or discussion unless expressly so authorized by the vote of a majority of a quorum of the board. The board may, with the approval of a majority of a quorum of the members of the board, adjourn a meeting and reconvene in executive session to discuss and vote upon personnel matters, litigation in which the Association is or may become involved and orders of business of a similar or otherwise sensitive nature. The nature of any and all business to be considered in executive session shall first be announced in open session.

7.5 Action Taken Without A Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the board.

8. POWER AND DUTIES OF THE BOARD

8.1 Powers. The board shall have all powers conferred upon the Association as set forth herein, in the Articles Of Incorporation, and in the Declaration, excepting only those powers expressly reserved to the members.

8.2 Duties. It shall be the duty of the board:

8.2.1 to cause to be kept a complete record of all of its acts and doings and to

present a statement thereof to the members at each annual meeting of the members, or at any special meeting when such statement is requested in writing by members representing one-fourth (1/4) of the class A members;

8.2.2 to supervise all officers, agents and employees of the Association, and to see that their duties are properly performed; and

8.2.3 to delegate its powers as provided in the Declaration.

9. OFFICERS AND THEIR DUTIES

9.1 Enumeration Of Officers. The officers of the Association shall be a president and vice president, who shall at all times be members of the board, a secretary, and a treasurer, and such other officers as the board may from time to time by resolution create.

9.2 Election Of Officers. The election of officers shall take place at the organizational meeting of the board and thereafter at each meeting of the board following each annual meeting of the members.

9.3 Term. The officers of the Association shall be elected annually by the board and each shall hold office for one year unless he shall sooner resign, or shall be removed, or shall otherwise be or become disqualified to serve.

9.4 Special Appointments. The board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the board may, from time to time, determine.

9.5 Resignation And Removal. Any officer may be removed from office with or without cause by the board. Any officer may resign at any time by giving written notice to the board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and, unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

9.6 Vacancies. A vacancy in any office may be filled by appointment by the board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

9.7 Multiple Offices. The offices of the secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 9.4 hereof.

9.8 Duties. The duties of the officers shall be as follows:

9.8.1 President. The president shall preside at all meetings of the board, shall

see that orders and resolutions of the board are carried out, shall sign all leases, mortgages, deeds and other written instruments, and shall co-sign all checks and promissory notes.

9.8.2 Vice President. The vice president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the board.

9.8.3 Secretary. The secretary shall record the votes and keep the minutes of all meetings and proceedings of the board and of the members, shall serve notices of meetings of the board and of the members, shall keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the board.

9.8.4 Treasurer. The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the board, shall co-sign all checks and promissory notes of the Association, shall keep proper books of account, shall cause an annual operating statement reflecting income and expenditures of the Association for its fiscal year to be prepared and shall cause copies of said statement to be distributed to each member within sixty (60) days after the end of such fiscal year, and shall cause an annual budget to be prepared and presented to each member.

9.9 Compensation. No officer shall receive any compensation for any service he may render to the Association; provided, however, any officer may be reimbursed for actual out-of-pocket expenses incurred by him in the performance of his duties.

10. COMMITTEES

Subject to any contrary provisions of the Declaration and these bylaws, if any, the board may appoint a nominating committee as provided in these bylaws. In addition, the board may appoint such other committees as it deems appropriate in order to carry out its purpose.

11. ASSESSMENTS

Liability For Assessments; Collection. As more fully provided in Section 6 of the Declaration, each member is obliged to pay to the Association annual and special assessments to be collected as therein set forth, all of which are hereby incorporated by reference herein as if set forth in full.

12. AMENDMENTS

12.1 These bylaws may be amended only with the vote or written consent of members entitled to cast at least fifty-one percent (51%) of the voting power of the Association.

12.2 Notwithstanding Subsection 12.1, the percentage of the voting power of the

Association necessary to amend a specific clause or provision in these bylaws shall not be less than the prescribed percentage of affirmative votes required for action to be taken under that clause or provision.

13. GENERAL PROVISIONS

13.1 Fiscal Year. The fiscal year of the Association shall be a calendar year unless and until a different fiscal year is adopted by the members at a duly constituted meeting thereof.

13.2 Absentee Ballots. The board may make such provisions as it may consider necessary or desirable for absentee ballots.

13.3 Consent To Waiver Of Notice. The transactions at any meeting of the board, however noticed, shall be as valid as though had at a meeting duly held after regular notice if a quorum be present and either before or after the meeting each director not present thereat signs a written waiver of notice or a consent to the holding of such meeting or an approval of the true and correct minutes thereof. All such waivers, consents or approvals shall be filed with the records of the board and made a part of its minutes.

13.4 Reserves. Any amounts collected by or paid to the Association in excess of operational needs shall be set aside as reserves for future financial needs in the manner set forth in the Declaration and shall be deposited into insured interest-bearing accounts.

14. INDEMNIFICATION

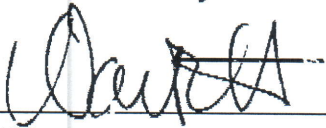
To the extent allowed by law, the Association shall indemnify any person, made a party to an action by reason of the fact that he or she is or was a director or officer of the Association, against the reasonable expenses, including attorneys' fees, actually and necessarily incurred by him or her in connection with the defense of the action, or in connection with the defense of the action, or in connection with an appeal, except in relation to matters as to which a director or officer is adjudged to have breached his or her duty to the Association. To the extent allowed by law, the Association shall also indemnify any person made, or threatened to be made, a party to an action or proceeding other than one by or in the right of the Association to procure a judgment in its favor, whether civil or criminal, including an action by or in the right of any other Association, domestic or foreign, which he or she served in any capacity at the request of the Association by reason of the fact, that he or she or his or her testator or intestate was a director or officer of the Association or served it in any capacity against judgments, fines, amounts paid in settlement, and reasonable expenses, including attorneys' fees actually and necessarily incurred as a result of that action or proceeding, or any appeal, if the director or officer acted, in good faith, for a purpose which he or she reasonably believed to be in the best interests of the Association and, in criminal actions or proceedings, in addition, had no reasonable cause to believe that his or her conduct was unlawful.

Nothing contained in this provision shall limit any right to indemnification to which any director or any officer may be entitled by contract or under any law.

CERTIFICATE OF SECRETARY

KNOW ALL MEN BY THESE PRESENTS:

The undersigned, Secretary of the Villas At The Crossing Townhouse Owners Association, Inc., an Idaho non-profit corporation, does hereby certify that the above and foregoing bylaws were duly adopted by the board of directors of said corporation on the 23 day of October 1998, and that they now constitute the bylaws of the Association.



Secretary

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