

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
FOR WEST KETCHUM RESIDENCES**

THIS DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS is made this 4th day of August, 2021, by West Ketchum Residences, LLC, an Idaho limited liability company ("Declarant").

RECITALS

THIS DECLARATION IS MADE in contemplation and furtherance of the following:

A. Declarant is the owner of certain real property in the City of Ketchum, Blaine County, Idaho, known as **WEST KETCHUM RESIDENCES** according to the official plat thereof, recorded in the records of Blaine County, Idaho.

B. Consistent with all applicable ordinances of the City of Ketchum, and the Covenants, Conditions and Restrictions herein provided for, Declarant intends to develop and construct ten (10) Townhome Sublots, Townhome Units, and related Common Areas on the property contained within West Ketchum Residences, in such phases and at such times as Declarant determines.

DECLARATION

Declarant hereby declares that all of the property within West Ketchum Residences, including all Townhome Sublots, Townhome Units, and Common Areas now or hereafter situated therein, and all improvements constructed and installed thereon, shall be held, conveyed, encumbered, leased, and used subject to the covenants, conditions, restrictions and equitable servitudes hereinafter set forth, all of which shall run with title to said real property and be binding upon, and benefit, all parties presently owning, or hereafter acquiring any right, title or interest therein, or to any part thereof.

**ARTICLE I
DEFINITIONS**

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

Section 1.1 "Articles" shall mean and refer to the Articles of Incorporation of the Association, as the same may be amended from time to time.

Section 1.2 "Assessments" shall mean all annual and special assessments described in Article VI.

Section 1.3 "Association" shall mean and refer to West Ketchum Residences Owners' Association, Inc., a non-profit corporation organized under the laws of the State of Idaho, its successors and assigns.

Section 1.4 "Board of Directors" shall mean and refer to the Board of Directors of the Association, as provided for and governed by the Articles and Bylaws.

Section 1.5 "Bylaws" shall mean and refer to the Bylaws duly adopted for the Association, as the same may be amended from time to time.

Section 1.6 "Common Area" shall mean all property so designated on the official subdivision plat for the townhome subdivision under the purview of this Declaration, and all other real property hereafter owned or leased by the Association for such common purposes, or in which the Association acquires a license or an easement.

Section 1.7 "Design Review Committee" shall mean the committee which may, at the discretion of the Board, be created pursuant to Article VII hereof, and may be hereinafter referred to as the "DRC."

Section 1.8 "Improvement" shall mean and refer to all Townhome Units, other structures and landscaping proposed for, or constructed or installed on, any Sublot or Common Area, and all subsequent additions and exterior alterations thereto.

Section 1.9 "Member" shall mean a member of the Association, who shall be an Owner of a Sublot and shall qualify for membership in the Association in the manner set forth in the Articles, Bylaws and Article V hereof. There shall be only one (1) membership in the Association for each Sublot.

Section 1.10 "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Sublot; provided, however, that the term "Owner" shall not include those having only a security interest in an Sublot through a lien, encumbrance, deed of trust, mortgage, or other similar security instrument.

Section 1.11 "Party Wall" shall mean and refer to any structural bearing wall, including the footings on which it is situated, or any portion of said wall, which separates, and is shared by, two Townhome Units within the Subdivision, and which wall is used in common by, and is incorporated into, said two Townhome Units.

Section 1.12 "Plat" shall mean and refer to the official recorded final plat of West Ketchum Residences.

Section 1.13 "Subdivision" or "Townhome Subdivision" shall mean and refer to West Ketchum Residences.

Section 1.14 "Sublots," "Townhome Sublots" or "Townhouse Sublots" shall interchangeably mean and refer to Sublots shown on the official plat the Subdivision, expressly including all ten (10) sublots shown on the Plat of West Ketchum Residences.

Section 1.15 "Townhome" or "Townhome Unit" shall interchangeably mean and refer to a single-family townhome or townhouse residential unit, as defined in the subdivision ordinance and zoning ordinance of the City of Ketchum, which is constructed and maintained on a Sublot, and is subject to this Declaration.

ARTICLE II PROJECT DEVELOPMENT

Section 2.1 Declarant Construction Activities. The covenants, conditions and restrictions contained herein shall not apply to normal construction activities during the completion of Common Area improvements, or to the construction of Townhomes and related Improvements by the Declarant, its assignees and successors, employees or contractors, upon any Sublot or Common Area, provided that such Townhomes and other Improvements have, prior to the commencement of construction, received the approval of the City of Ketchum. Further, no such construction activity shall be deemed to constitute a nuisance or violation of this Declaration by reason of noise, dust, presence of vehicles or construction machinery, erection of temporary construction structures, posting of signs or similar activities, provided that such construction is pursued to completion with reasonable diligence; conforms to usual construction practices in the area; and complies with all provisions of the Ketchum City Code regulating construction activities.

Section 2.2 Project Development. Declarant, or its successor or assigns, shall construct, or cause to be constructed a Townhome on each Sublot, and all Common Area Improvements, pursuant to plans and specifications approved by the City of Ketchum, Idaho. Such construction may be completed in such phases and at such times as Declarant, its assignees or successors, determines.

ARTICLE III
GENERAL RESTRICTIONS AND PROVISIONS

Section 3.1 Residential Purposes. Each Sublot shall be restricted exclusively to a single-family Townhome residence, landscaping, accessory uses and Improvements. No modular home, manufactured home, trailer, mobile home, camper, motorhome, recreational vehicle, tent, shack, carport, garage or other similar vehicle, structure or improvement shall be used as a residence, either temporarily or permanently, on any Sublot. Each Townhome shall include garaged parking for two (2) automobiles. All Sublots, and the Townhomes, landscaping and Improvements thereon, shall be kept and maintained in good condition and repair at all times.

Section 3.2 DRC Approval. All Townhomes and other Improvements and landscape constructed, erected or installed on any Sublot or Common Area, and all subsequent modifications, removals, extensions and expansions thereof, and all exterior alterations, attachments, accessories and appurtenances thereto, shall be consistent with the provisions of this Declaration, and shall not be undertaken, commenced, constructed or installed without the prior written approval of the DRC, unless expressly exempted from such approval by the terms of this Declaration.

Section 3.3 Party Walls. To the extent that any two Townhomes are connected by, or share, a common bearing wall ("Party Wall"), the following provisions shall govern the use, maintenance, repair and restoration thereof:

- A. Each Townhome sharing a Party Wall shall be encumbered by an easement hereby granted and created over, under and across said Townhome, and the Sublot on which it is situated, for the purpose of providing such access as may be reasonably necessary to permit the Association and the Owner of the other Townhome sharing said Party Wall, and their respective agents and contractors, to maintain the integrity of the Party Wall, and to repair and restore it as necessary.
- B. Should any Party Wall be damaged or destroyed by the negligence or other act or omission of the Owner of one of the Townhomes sharing the same, or said Owner's agents, employees or guests, said Owner shall be liable, at its sole cost and expense, for all necessary repairs or restoration of said Party Wall, and related damage to any Townhome; provided, however, that any insurance proceeds received in connection with such damage or destruction from policies of insurance owned by the Owners of either Townhome sharing said Party wall, or by the Association, shall first be applied toward the costs of repairing or restoring the Party Wall

and related damages. All repairs or restorations to be completed pursuant to this subparagraph shall be promptly completed to the reasonable satisfaction of the Association and its Design Review Committee.

- C. Should any Party Wall be damaged or destroyed by any cause other than the negligence, act or omission of the Owner of either Townhome sharing said Party wall, or said Owner's agents, employees or guests, the Owners of the two Townhomes sharing said Party Wall shall jointly be liable for all necessary repairs or restoration of said Party Wall, and related Townhome damage; provided, however, that any insurance proceeds received in connection with such damage or destruction from policies of insurance owned by the Owners of either Townhome sharing said Party Wall, or by the Association, shall first be applied toward the costs of repairing or restoring the Party Wall and related damages. All repairs or restorations to be completed pursuant to this subparagraph shall be completed to the reasonable satisfaction of the Association and its Design Review Committee.
- D. The Owners shall maintain customary and usual casualty and liability insurance. Such policies may be joint or separate as may be available from reputable insurance carriers. If and to the extent the premiums for such contents insurance can be separately determined, each Owner shall pay the separate premium for his or her contents coverage. If the premiums cannot be separately determined, the Owners shall share the insurance expense equally. Casualty and liability insurance premiums shall be shared equally.
- E. Should any party fail or refuse to complete the Party Wall repairs or restorations imposed upon it by this section, the Association, after giving written notice to said party of its intention to do so, may undertake said repairs or restorations, and be entitled to reimbursement for all costs incurred in connection therewith from said party. Such reimbursement shall be made within thirty (30) days after the Association has completed the work and presented said party with a statement and demand for payment setting forth all costs incurred.
- F. In the event of a dispute or controversy between the Owners of Townhomes sharing a Party Wall, as to any matter within or arising out of the provisions of this Section 3.3, or the respective use, maintenance, repair, or replacement of said Party Wall, such dispute or controversy shall be submitted to binding arbitration under the Uniform Arbitration Act, as enacted in the State of Idaho, Idaho Code § 7-901 et seq.

Section 3.4 Construction Site. Anything contained herein to the contrary notwithstanding, it shall be permissible for the Declarant, during any period of construction of a Townhome on any Sublot, to maintain upon said Sublot such facilities as may be reasonably required, convenient or incidental to construction or sales activities, including, without limitation, construction equipment, materials storage area, temporary construction shed or trailer, or Townhome sales office.

Section 3.5 Routine Exterior Townhome Maintenance. In accordance with, and subject to the provisions of Section 5.7 and Article VII, the Association shall keep the exterior of the Townhome, and the landscaping and Improvements on the Sublot on which the Townhome is situated, in good condition and repair. Without limiting the foregoing, Association shall, as necessary, repair, replace, repaint and otherwise keep in excellent condition all landscaping and exterior Townhome surfaces, including siding and trim; roofing element and materials; patios and decks; and exterior windows. It is the intent of this provision that each Townhome and Sublot be at all times maintained at a level which is consistent with the condition of other Townhomes within the Subdivision. Notwithstanding the foregoing, in the event that the need for maintenance or repair of a Townhome is caused through or by the negligent or willful act or omission of a Townhome Unit Owner or Occupant, then the expenses incurred by the Association for such maintenance or repair shall be a personal obligation of such Townhome Unit Owner; and, if the Townhome Unit Owner fails to repay the expenses incurred by the Association within fifteen (15) days after notice to the Townhome Unit Owner of the amount owed, then the failure to so repay shall be a default by the Townhome Unit Owner, and such expenses shall automatically become a default Assessment determined and levied against such Townhome Unit, enforceable by the Association in accordance with this Declaration.

Section 3.6 Animals and Pets. No animals of any kind shall be raised, bred or kept in or on any Townhome or Sublot, except dogs, cats, or similar household pets which are not kept, bred or maintained for any commercial purpose, do not endanger the health of other residents, are not allowed off the Sublot of the pet's owner except when leashed or under someone's direct control, and do not, in the sole determination of the Association, unreasonably disturb the occupants of any other Townhome, or otherwise constitute a nuisance.

Section 3.7 Signs and Business Activities. No advertising signs, billboards, commercial equipment, materials or supplies shall be erected, placed or permitted to remain on any Sublot or Common Area; provided, however, that this provision shall not prohibit the Declarant from erecting and maintaining temporary "for sale" signage while the Declarant still has Sublots and Townhomes for sale, nor shall it preclude the erection and maintenance of any directional or monument signs within the signage easements shown on the Plat

or referenced in the Plat notes. All non-Declarant owned Townhomes are prohibited from placing any signage on the Property.

Section 3.8 Service Facilities. Storage of all garbage cans, recycling bins, lawn or landscape maintenance equipment and similar items shall be enclosed within garages to conceal them from the view of neighboring Sublots and streets.

Section 3.9 Nuisances. No nuisances, as determined by the Association or as defined in the ordinances of the City of Ketchum, shall be allowed to occur or exist on any Sublot. Without limiting the foregoing, no rubbish, waste or debris shall be stored or accumulated on any Sublot, nor shall any noise, odor or conduct be permitted to emanate from or occur on any Sublot which is unreasonably offensive or detrimental to any other Sublots, or its occupants; including but not limited to barking, loud music and power tools.

Section 3.10 Hazardous Activities. No activities shall be conducted, and no improvements shall be constructed, on any Townhome, Sublot or Common Area which are illegal or might be unsafe or hazardous to any person or property. Without limiting the foregoing, no fireworks or firearms shall be discharged upon any Townhome, Sublot or Common Area and no open fires shall be permitted; provided, however, that fires are allowed within individual outdoor gas fire pits.

Section 3.11 Vehicle and Equipment Parking & Storage. Unless contained within a permitted and conforming to the provision of this Declaration garage, structure or screened area, no unsightly vehicles or equipment or equipment shall be stored, parked or otherwise permitted to remain on any Sublot for any period exceeding 24 hours, including, without limitation, trailers, campers, motorhomes, boats, jet skis, all-terrain vehicles, golf carts, snowmobiles, tractors, inoperable vehicles or equipment.

Section 3.12 Utilities. All utility service lines shall be underground, and shall conform to applicable code requirements. Approval of the DRC prior to installation shall not be required. Television satellite dishes are not considered Utilities and require approval from DRC.

Section 3.13 Subdivision. Except as expressly provided for in Section 5.7 of this Declaration, platted Sublots and Common Area shall not be further subdivided, and no portion of any Sublot may be sold separately from the rest of that Sublot.

Section 3.14 Drainage. There shall be no interference with established drainage patterns or platted drainage easements over any Sublot unless adequate provision is made for alternative drainage and is approved by the beneficiary of such easement and by the DRC. No structure, fence, planting, fill

or other materials shall be placed or permitted to remain which may obstruct or retard the flow of water through established drainage channels.

Section 3.15. Plat. All development proposed for a Sublot and/or Common Area shall be in compliance with the official, recorded Plat for the Subdivision, including all Plat notes.

Section 3.16 Snow Storage Easements. Every Owner, by accepting a deed to the Sublot, is deemed to grant unto the Association an easement over all portions of said Sublot not improved with a building, structure or driveway, exclusively for the purpose of permitting the temporary deposit thereon of snow removed from Common Areas and Sublots by the Association or its contractors and employees.

Section 3.17 Landscape Preservation. Without approval of the Board of Directors, no trees shall be removed or replaced within any Sublot or Common Areas; provided, however, that should any Owner petition the Board of Directors for the removal of any trees or shrubs in the Common Area which unreasonably impair significant view corridors from the petitioner's Unit, the Board shall consider the petition and cause removal of the subject trees and shrubs if necessary.

ARTICLE IV COMMON AREA

Section 4.1 Conveyance to the Association. For this subdivision, the Declarant, its successors or assigns, at their sole cost and expense, shall landscape, improve, or make appropriate provision for such landscaping improvement of, the Common Area situated therein in a manner consistent with the Plat and development plans therefore which have been approved by the City of Ketchum, and shall thereafter deed the same to the Association, and the Association shall accept title to the same, at no cost to it, subject only to encumbrances of record. Common Area improvements, and its conveyance to the Association, may be completed by the Declarant in phases, consistent with development of the Townhomes.

Section 4.2 Enjoyment of Common Area. Subject to the exclusive rights and obligations of the Association to manage it, as set forth in Article V, each Owner shall have a non-exclusive right to use and enjoy, in common with all other Owners, any Common Area owned by the Association, and such right shall be appurtenant to and pass with the title to each Sublot.

ARTICLE V
THE ASSOCIATION

Section 5.1 Establishment. The Association shall be incorporated under the laws of the State of Idaho as a non-profit membership corporation as West Ketchum Residences Owners Association, Inc. All references herein to the Association shall be to said corporation.

Section 5.2 Articles and Bylaws. Declarant shall adopt initial Articles of Incorporation for the Association, and will propose initial Bylaws for adoption by the Board of Directors of the Association to provide for the administration and governance of the Association, and for other purposes not inconsistent with this Declaration. In the event of conflict between this Declaration and Articles and Bylaws of the Association, the provisions of this Declaration shall prevail.

Section 5.3 Board of Directors. The Association shall be managed by a Board of Directors all of whom shall be Members of the Association. Their number, and the manner by which they are to be elected and function, shall be set forth in the Bylaws of the Association.

Section 5.4 Membership. Every Owner shall be entitled and required to be a Member of the Association. If title to a Sublot is held by more than one person or entity, the membership related to that Sublot shall be shared by all such persons or entities in the same proportionate interest and by the same type of tenancy in which title to the Sublot is held. An Owner shall be entitled to one membership for each Sublot owned by that Owner. No person or entity other than an Owner may be a member of the Association.

Section 5.5 Voting Rights. The Association shall have two (2) classes of membership, as follows:

- A. Class A Members shall be all Owners except the Declarant, and each Class A Member shall be entitled to one (1) vote for each Sublot owned. When more than one person holds an interest in any Sublot, all such persons shall be Members, but the vote appurtenant to the Sublot owned by them shall be exercised as the joint Owners may decide among themselves, but in no event shall more than one (1) vote be cast with respect to any Sublot.
- B. Class B Member shall be limited to the Declarant and its assignees, if any designated as provided for herein, who shall be entitled to five (5) votes for each Sublot owned by them from the date each such Sublot was initially created by recordation of the Subdivision until sold to another Owner, after which the membership appurtenant to that Sublot shall become a Class A membership in the name of the Buyer.

- C. Unless otherwise provided herein, or in the Articles of Incorporation or Bylaws of the Association, decisions of the Association to be made by a vote of the Members shall be determined by a simple majority of the votes cast by Members voting, in person or by proxy, at a duly constituted meeting of the Members at which a quorum of Members representing at least fifty percent (50%) of the total authorized votes of all Members is present.

Section 5.6 Cumulative Voting. In any election of the members of the Board of Directors, each Member entitled to vote at such election shall have the right to cumulative voting for each director to be elected, and to thereby give one candidate, or divide among any number of the candidates, the number of votes equal to the total number of votes to which that Member is entitled to vote for all Directors to be elected. The candidates receiving the highest number of votes, up to the number of Directors to be elected, shall be deemed elected.

Section 5.7 Management of the Sublots and Common Area. The Association shall be responsible for exclusive management of the Common Area owned by it, consistent with the rights of the Owners to use and enjoy said Common Area set forth in Article IV and may assert exclusive management of the exterior of Improvements on Sublots. Without limitation, the Association's management of Common Area and of the exterior of Improvements on Sublots shall include the following rights and obligations:

- A. The Common Area, and all Improvements situated thereon, shall be kept by the Association in good condition and repair, reasonably free from debris and obstructions.
- B. The Paver and Hydronic Heating System as identified on the Plat as the Paver and Hydronic Heating Maintenance Easement shall be kept by the Association in good condition, operation and repair.
- C. Once the initial landscaping for the Common Area and each Sublot, including an appropriate irrigation system, has been completed by the Declarant, the Association shall, without further approval from the DRC, maintain, repair or replace, as necessary, plantings, landscape elements and the irrigation systems, unless such work changes the essential character or scope of the landscaping, and includes additional impacts on any other Sublots, including impacts on view corridors, in which case such work shall first be required to receive DRC approval prior to commencement. All landscaping shall at all times be properly maintained and irrigated.
- D. The Association shall be responsible for the removal of accumulated snow, in a timely manner as necessary following

snowfall events, from all access roads, driveways, parking areas, Townhome accesses, sidewalks and improved pathways within the Subdivision, including Common Areas and Sublots.

- E. Unless otherwise agreed to in writing by the Board of Directors of the Association, all landscaping in the Common Area and on Sublots, including the planting, watering, replacement and maintenance of lawns, shrubs, trees, flowers and other vegetation and landscaping features and facilities, shall be within the sole responsibility and jurisdiction of the Association, the costs and expense of which shall be included by the Association in the calculation of its annual and/or special assessments.
- F. Unless otherwise agreed to in writing by the Board of Directors or otherwise provided in this Declaration, the Association may from time to time assert exclusive control over and responsibility for the exterior maintenance and repair of Improvements within Sublots, including painting, the cost and expense of which shall be included by the Association in the calculation of its annual and/or special assessments.
- G. The Association shall keep the Common Area and its Improvements fully insured as provided for in Article VIII.
- H. The Association shall pay, when due, and not permit to become delinquent, all real property taxes and assessments levied against the Common Area for the period commencing on the date title to the Common Area is conveyed to the Association, and continuing thereafter for so long as it remains in the ownership of the Association.
- I. The Association may, from time to time, further modify, improve or equip the Common Area for the benefit of the Owners, and make such assessments or borrow such funds therefore as it deems necessary or appropriate, subject to the provisions and limitations set forth herein.
- J. The Association shall have the right to charge or assess reasonable user fees or assessments which may become necessary to defray costs incurred or to be incurred by the Association for improvement, operation or maintenance of any Common Area owned or hereafter acquired by the Association.
- K. The Association shall have the right to dedicate or transfer all or any part of the Common Area, or any interest therein, to any person, entity, public agency, authority or utility for such purposes

and subject to such conditions as the Board of Directors of the Association may deem appropriate. Notwithstanding the foregoing, no conveyance of any portion of the Common Area in excess of 3,000 square feet shall be authorized or completed by the Association without the prior affirmative vote of not less than two-thirds of the total authorized votes of all Members, nor shall the Association be entitled to re-subdivide any portion of the Common Area for the purpose of establishing any additional Sublots or development parcels without the prior written consent of all members.

Section 5.8 Service Contracts and Personnel. To properly manage its business affairs the Association may enter into service contracts and/or employ personnel as it deems necessary and appropriate. Without limitation, the Association may retain necessary general management services, legal and accounting services, Common Area maintenance and repair services, and professional services as necessary for the DRC to adequately review plans and specifications presented to it for approval, and to assure that all development complies with approved plans, including architectural and engineering reviews and compliance monitoring. The Association may also contract with others to furnish required services for the Common Area, including utilities, snow removal, trash collection, landscaping, public liability insurance and casualty insurance.

Section 5.9 Rules and Regulations. The Association may make reasonable rules and regulations governing the use of the Common Area, which rules and regulations shall be consistent with the rights and duties established in this Declaration. The Association may also take judicial action against any Owner to enforce compliance with the provisions of this Declaration, the Design Criteria, and any rule, regulation, assessment or fee duly promulgated or levied by it.

Section 5.10 Implied Rights. The Association may exercise any other right or privilege given to the Association expressly by this Declaration or by law, and every other right or privilege reasonably to be implied from the existence of any right or privilege given to the Association herein or reasonably necessary to effectuate any such right and privilege.

Section 5.11 Transfer of Membership. The membership in the Association of each Owner, including Declarant, shall be appurtenant to the Sublot giving rise to such membership, and shall not be transferred in any way except upon the transfer of title to the Sublot, and then only to the transferee of title to the Sublot. Any attempt to make a prohibited transfer shall be void and any transfer of title to a Sublot shall operate automatically to transfer the membership in the Association to the new Owner thereof.

Section 5.12 Books and Records. The Board shall cause to be kept complete, detailed and accurate books and records of the receipts and expenditures of the Association, in a form which complies with generally accepted accounting principles. The Board or a majority of the Owners may at any time require an audit prepared by an independent, certified public accountant, which shall be paid for by the Association.

Section 5.13 Inspection of Association Documents, Books and Records. Upon request, the Association shall make available to the Owners, mortgagees, prospective purchasers and their prospective mortgagees, and the agents or attorneys of any of them, current copies of this Declaration, the Articles, Bylaws and other rules, books, records and financial statements of the Association, including the most recent annual financial statement, if one has been prepared. The term "available," as used herein, shall mean available for inspection upon request, during normal business hours or under other reasonable circumstances to be determined by the Board of Directors. The Association may require the requesting party to pay a reasonable charge for the reproduction of any document, book or records desired.

Section 5.14 Banking. The Association shall designate an FDIC insured commercial bank with offices in Blaine County, Idaho, as the depository for all funds collected by the Association, and for the transaction of the Association's banking activities.

ARTICLE VI ASSESSMENTS

Section 6.1 Agreement to Pay Assessments. Declarant, for each Sublot owned by the Declarant, hereby covenants, and each subsequent Owner of any Sublot, by the acceptance of a deed therefore, whether or not it be so expressed in said deed, shall be deemed to covenant and agree with each other and with the Association, to be bound by the provisions of this Declaration and to pay to the Association the assessments herein provided for. In the case of joint or co-ownerships, this liability shall be joint and several. Such assessments shall be levied against Sublots and collected from time to time in the manner provided for in this Article VI.

Section 6.2 Annual Assessments. Annual assessments against all Sublots are hereby authorized which shall be based upon advance annual estimates of cash requirements by the Association to provide for the payment of all estimated expenses to be incurred in the ensuing twelve-month period in the conduct of the management; taxes; insurance; legal and accounting services; Common Area landscaping installation, irrigation and maintenance; Common Area utilities; repair and replacement of Common Area Improvements and equipment; a reasonable contingency reserve, surplus and/or sinking fund for Common Area capital improvements, replacements and repairs; and any costs

incurred by the DRC which are not otherwise defrayed by its design review fee schedule ("Annual Assessments").

Section 6.3 Special Assessments. In addition to the annual assessments authorized hereinabove, the Association may levy at any time a special assessment payable over such a period as the Association may determine for the purpose of defraying in whole or in part the unanticipated cost of any construction, reconstruction, repair or replacement of Common Area improvements; other similarly unanticipated or emergency expenses duly incurred or to be incurred by the Association for purposes provided in this Declaration; and all other duly incurred expenses of the Association which were not or could not be adequately provided for by the annual assessment ("Special Assessments").

Section 6.4 Apportionment of Assessments. Annual and Special Assessments shall be levied and assessed among the Owners of Sublots, according to the total number of square feet of each Sublot as shown on any Plat which is encumbered by and subject to, this Declaration. Each Owner shall be assessed for each of its Sublots a fraction of the total assessments, the numerator of which fraction shall be the total square footage of said Owner's Sublot(s), and the denominator of which shall be the total square footage of all Sublots in the Subdivision subject to, and within the purview of, this Declaration.

Section 6.5 Individual Assessments. In addition to Annual and Special Assessments, should any reimbursement owed to the Association solely by an Owner pursuant to Sections 3.3 or 3.5 hereof not be paid in the manner and terms set forth in said sections, the Association is hereby authorized to levy and assess against the Sublot for which reimbursement is owed, and Owner thereof, as assessment for the amount owed ("Individual Assessment").

Section 6.6 Notice of Periodic Assessments and Time for Payment. The Board of Directors of the Association shall establish an Annual Assessment for each calendar year, the exact date to be determined by its Board of Directors, and shall further establish Special Assessments and Individual Assessments whenever circumstances in the opinion of the Board of Directors require it. Such assessments shall be payable in the manner and on the dates determined by the Board. The Board shall provide each Owner with notice specifying the amount of the assessment and the date or dates of payment of the same. No payment shall be due and payable less than thirty (30) days after said written notice has been given, and each delinquent assessment shall bear interest at the rate of Fifteen Percent (15%) per annum until paid, commencing thirty (30) days after the date it becomes due and payable. Failure of the Association to give notice of the assessment shall not affect the liability of the Owner for such assessment, but the date when payment shall become due and payable in such a case shall be deferred to a date 30 days after such notice has been given.

Section 6.7 Lien of Assessment. All sums duly assessed against any Sublot shall be secured by lien on said Sublot in favor of the Association upon recordation of a notice of assessment as herein provided. Such lien shall be superior to all other liens and encumbrances on said Sublot, with exception of: (a) valid tax and assessment liens imposed by governmental entities; (b) the lien of prior mortgages deeds of trust or other security instruments perfected and recorded in Blaine County, Idaho; and (c) valid prior labor and materialman's liens duly perfected and recorded in Blaine County, Idaho.

To create a lien for sums assessed pursuant to this Declaration, the Association shall prepare a written notice of said assessments, setting forth the amount thereof, the date due, the unpaid balance, the name of the record Owner of the Sublot and the legal description of said Sublot. Such notice shall be signed by an officer of the Association and may be recorded until there is at least a sixty (60) day delinquency in the payment of the assessment to which it relates. The priority date of the lien shall be the date of its recordation, and it may be foreclosed and enforced in the manner permitted for consensual liens by the laws of the State of Idaho. In addition to all other sums which may be due and owing for which a lien is recorded, the Owner shall be obligated to pay all costs and expenses incurred by the Association in preparing, filing, foreclosing said lien, or otherwise collecting the assessment to which it is related, including all attorney's fees. All such costs and expenses shall be deemed to be secured by the lien being foreclosed.

Section 6.8 Personal Obligation of Owner. The amount of any assessment against any Sublot shall be the personal obligation of the Owner thereof to the Association. A suit to recover a money judgment for such obligation may be maintained by the Association without foreclosure or waiver of the lien securing the same, and no Owner may avoid or diminish such personal obligation by waiving use and enjoyment of any of the Common Area, or by the sale or abandonment of the Sublot. In any action or effort to collect assessments, the Association shall be entitled to recover costs and attorney fees reasonable incurred in pursuing or prosecuting the same, in addition to all delinquent assessments and accrued interest thereon.

Section 6.9 Personal Liability of Purchasers. Subject to the provisions of Section 6.8, the purchaser of a Sublot shall be jointly and severally liable with the seller for all unpaid assessments appurtenant thereto including any such assessments due and owing prior to said purchaser's acquisition of said Sublot, together with accrued interest thereon and, should legal action or other collection effort be instituted by the Association to collect the same, all costs and attorney fees reasonably incurred in the pursuit or prosecution of said efforts or actions.

ARTICLE VII DESIGN REVIEW

Section 7.1 Design Review and Approval. Except as expressly exempted therefrom by the provisions of this Declaration, no Townhome, Townhome expansion, exterior alteration, or other Improvement shall be constructed, installed or completed until the plans and specifications therefore have been submitted to, and approved in writing by, the Design Review Committee (hereinafter "DRC"). All plans and specifications shall be evaluated by the DRC as to (1) compliance with this Declaration and provisions of any Design Criteria which may hereafter be adopted by the DRC; (2) harmony and compatibility with the external design of other Townhomes; and (3) suitability of the location of any proposed Improvements in relation to surrounding structures, topography, view corridors and existing drainage patterns. Approval by the DRC does not obviate the necessity of receiving all applicable permits and approvals from the City of Ketchum for any such proposed expansion, exterior alteration or Improvement.

Section 7.2 Maintenance, Repairs and Alterations Without DRC Approval. All exterior maintenance, repairs and alterations must be approved by the DRC. Notwithstanding the foregoing the approval of the DRC will not be required for remodeling or renovating the interior of any Townhome, as long as such remodeling or renovation is imperceptible from the exterior, and in no way alters the configuration and architectural features of the exterior, including the size and shape of windows.

Section 7.3 Design Review Committee. The initial Design Review Committee shall consist of three (3) members, appointed by the Association's Board of Directors. Members of the DRC may, but need not be, Owners (including members of the Board), provided that, to the extent reasonably available, at least one (1) member shall be an architect licensed to practice in the State of Idaho, with experience in the design of single family townhome or condominiums in the Ketchum/Sun Valley area. Notwithstanding the foregoing, for a period of four (4) years from the date upon which the Declaration is recorded in the records of Blaine County, all members of the DRC shall be appointed by, and serve at the pleasure of, the Declarant. Thereafter, members shall be appointed, and serve at the pleasure of, the Board of Directors of the Association. A majority of the DRC shall constitute a quorum for the transaction of business at any duly called meeting thereof, and the action of a majority present at any such meeting at which a quorum is present shall constitute the action of the DRC.

Section 7.4 Powers and Duties of the DRC. The DRC shall have the following power and duties:

- A. To require submission to the DRC of complete sets of plans and specifications for any proposed Townhome expansion, replacement, exterior alteration, or for any other proposed Improvement on any Sublot or Common Area. The DRC may also require submission of samples of materials proposed for any such project and may require such additional information as is reasonably necessary to evaluate the proposed work.
- B. To approve or disapprove any such submitted plans or specifications. All decisions of the DRC shall be submitted in writing to the applicant, and signed by all members of the DRC participating in such decision. In the event that the DRC fails to approve or disapprove any plans or specifications requested within forty-five (45) days after receiving a complete application therefore, together with all required plans or specifications and other information reasonably requested by the DRC, approval of the DRC shall conclusively be deemed to have been given.
- C. To obtain the service of architects, engineers or other professional consultants which the DRC deems necessary or appropriate to assist in the review process for any proposed Improvements.
- D. To require a fee to be set and, as necessary from time to time amended, by the DRC, in an amount reasonably calculated to defray the costs incurred in reviewing proposed development plans, including the costs incurred for the services of any professional consultants retained by the DRC to assist it in the review process and in monitoring compliance of all development with DRC approved plans and specifications.
- E. To establish the amount, and require the deposit, of a refundable fee to assure that all approved Improvements are completed in compliance with DRC approvals, and secure the repair of any Common Area infrastructure which may be damaged during the construction of any such approved Improvements.
- F. To complete the processing of all design review applications consistent with the terms and conditions set forth in this Declaration.
- G. To adopt, by majority vote, design criteria or guidelines governing the DRC design review and approval process.

Section 7.5 Development by Declarant. The provisions of this Article shall not apply to Declarant's initial construction of a Townhome on any Sublot, nor to any improvement or landscaping of the Common Area, nor to the

subsequent repair, replacement or maintenance of said Common Area improvements or landscaping by the Declarant or the Association.

Section 7.6 Non-Liability for Actions. Neither the Declarant, the Board of Directors, nor the DRC, nor their respective members, successors or assigns, shall be liable in damages to anyone submitting plans to the DRC for approval, or to any Owner affected by reason of mistake in judgment, negligence of nonfeasance arising out of, or in connection with, the approval or disapproval, or failure to approve, any plans or specifications submitted to the DRC. Every Owner or other person who submits plans to the DRC for approval agrees, by submission of such plans and specifications, that he will not bring any action or suit against the Board of Directors, the DRC, or the Declarant to recover any such damages.

Section 7.7 Appeals. Any Owner may appeal a final decision of the DRC to the Board of Directors. Any such appeal must be filed in writing with the Board not more than thirty (30) days after the date of the DRC decision, and must set out with particularity the nature of the objections to the decision and the desired relief. Upon its receipt of a duly filed appeal, the Board shall consider the matter at a meeting to be held not more than forty-five (45) days thereafter. Written notice of the meeting shall be provided to the DRC and the interested Owners, granting each an opportunity to appear and be heard. At the conclusion of the appeal hearing, including any necessary continuations thereof, the Board shall adopt and provide to the interested Owners its decision to affirm the DRC decision, to affirm it with additional conditions, overturn it, or remand the matter to the DRC with specific instructions for additional consideration. If the matter is remanded, the subsequent decision of the DRC shall also be subject to appeal in the manner set forth in this section.

ARTICLE VIII INSURANCE

Section 8.1 General Requirements. Commencing not later than the time of conveyance by the Declarant of a Sublot, improved with a Townhome, to a person other than the Declarant, the Association shall obtain, and thereafter maintain, a policy or policies of insurance, as set forth in this Article VIII, and the Board shall thereafter, no less frequently than every two (2) years, review and determine the adequacy of the Association's insurance coverage. All insurance shall be obtained from companies licensed to do business in the State of Idaho, and all insurance policies shall provide that coverage cannot be cancelled or substantially modified, including cancellation for non-payment of premiums, without at least thirty (30) days prior written notice to any and all insureds names therein.

Section 8.2 Association Insurance.

- A. *Fire and Casualty Insurance.* The Association shall obtain insurance for all Improvements situated on any Sublot and on Association-owned Common Areas in such amounts, to the extent available, as shall provide for full replacement thereof in the event of damage or destruction from any casualty against which such insurance applies. Such insurance shall include fire and extended coverage, including coverage for such other risks and hazards against which the Association shall deem appropriate. Said insurance coverage shall be "blanket coverage" for all Improvements, and the Association may elect such "deductible" provisions as, in the Association's opinion, are consistent with good business practices. Such fire and casualty insurance shall be carried in a form or forms naming the Association as the insured, as trustee for the respective Townhome Owners, and shall specify the interest of each Owner (Owner's name, Townhome number or address), and shall provide a standard loss-payable clause providing for payment of insurance proceeds to the Association as trustee for said Owners, and their respective mortgagees and deed of trust beneficiaries. Any such insurance proceeds obtained by the Association shall be used exclusively in accordance with this Declaration. The Association shall furnish to each Owner a true copy of all casualty insurance policies covering its Townhome, upon request, and a certificate of insurance identifying the insured interest of the Owner. No such policies of fire and casualty insurance shall preclude any other policies of fire or casualty insurance owned and maintained by any Townhome Owner, or provides that Association policies be brought into contribution with any such insurance owned and maintain by an Owner.
- B. *General Liability Insurance.* The Association shall maintain general public liability insurance insuring the Board of Directors, the Association, and Owners covering all Common Area, Sublots and Townhomes. Said insurance shall cover liability of the insureds for property damage, bodily injury and death of persons arising out of the operation, maintenance and use of the Common Area, Sublots and Townhomes, including coverage for such risks as are customarily covered with respect to multi-family residential projects of similar construction, location and use. Said insurance shall contain a combined single policy limit for property damage, personal injury and wrongful death from a single occurrence in such amount as may be deemed appropriate by the Board of Directors, but in no event less than \$2,000,000.

- C. *Workmen's Compensation Insurance.* The Association shall maintain workmen's compensation insurance to the extent necessary to comply with the applicable laws of the State of Idaho for its employees, if any.
- D. *Directors and Officers Liability Insurance.* The Association shall maintain liability insurance for all members of the Board, in an amount to be determined by the Board of Directors.
- E. *Other Insurance.* The Association shall obtain and maintain such other insurance coverage as the Board, in its sole discretion, should deem necessary or appropriate to protect insurable interests of the Association and its members.

Section 8.3 Sublot Owners' Insurance. It should be noted by each Owner, that the Association is not required by this Declaration to provide any insurance covering Improvements within a Townhome, improvements to a Townhouse Unit beyond those included in the original construction of the Unit, personal property of any type belonging to the Owner or any other person or entity which may be located on the Common Area or Sublot, or within any Townhome. Any such insurance coverage shall be the sole responsibility of each Owner, at its sole cost and expense. Further, nothing herein contained shall preclude any Owner from obtaining any other or further insurance coverage, including fire, casualty and liability insurance, covering the Owner, the Owner's Sublot and/or Townhome.

Section 8.4 Required Provisions. All insurance policies carried pursuant to the requirements of this Article VIII must provide that:

- (a) each Owner is an insured person under the policy with respect to liability arising out of such Owner's interest in the Common Area or membership in the Association;
- (b) the insurer waives its rights to subrogation under the policy against any Owner or member of his household;
- (c) no act or omission by any Owner, unless acting within the scope of such Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy;
- (d) if, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the risks covered by the policy, the Association's policy provides primary insurance;
- (e) any loss covered by the policies must be adjusted with the Association;

(f) the insurance proceeds for any loss shall be payable to an insurance trustee designated for that purpose, or otherwise to the Association and not to any holder of a security interest; and

(g) the insurer shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or holder of a security interest.

Section 8.5 Adjustment of Claims. The Association may adopt and establish written nondiscriminatory policies and procedures relating to the submission of claims, responsibility for deductibles, and any other matters of claims adjustment. To the extent the Association settles a property insurance claim, it shall have the authority to assess negligent Owners causing such loss or benefitting from such repair or restoration all deductibles paid by the Association. In the event more than one Unit is damaged by a loss, the Association in its reasonable discretion may assess each Owner a pro rata share of any deductible paid by the Association.

Section 8.6 Copies of Policies. A copy of each insurance policy obtained by the Association shall be made available for inspection by any Unit Owner or Eligible First Mortgagee at reasonable times.

ARTICLE IX FIRE OR CASUALTY DAMAGE

Section 9.1 Damage Assessment. Upon the occurrence of any damage to, or destruction of, any Townhome or other Sublot or Common Area Improvements resulting from any cause which is covered by the Association's fire and casualty insurance coverage, the Board of Directors shall promptly, and in all events within thirty (30) days after the occurrence of such damage or destruction, make the following determinations with respect thereto, employing such professional advice as the Board deems advisable, and make them available in writing to all Owners:

- A. The extent and nature of the damage, together with an inventory of the Townhomes and/or Improvements directly affected thereby.
- B. A reasonable estimate of the cost to repair the damage, which estimate shall, if practicable, be based upon estimates obtained from experienced contractors in Blaine County, Idaho.
- C. The estimated amount of proceeds, if any, available from the Association's fire and casualty insurance policies covering the loss or damage, and the amount of any other insurance proceeds which may be available to defer the costs of repair from any supplemental fire and casualty insurance maintained by the Owners of the affected Townhomes or Improvements.

- D. The amount, if any, by which the estimated cost of repair exceeds the expected insurance proceeds.

Section 9.2 Notice of Damage. The Board of Directors shall promptly, and in all events within thirty (30) days after the date of such insured damage or destruction, file a proof of loss statement with its fire and casualty insurance company(ies) if the loss is covered by insurance, and abide by all terms and conditions of said policy(ies), unless the Board reasonably determines it would not be in the best interest of the Association and the affected Owner or Owners to file a proof of loss. If the damage affects a material portion of any Townhome, the Board shall also send a notice to each mortgagee or deed of trust beneficiary of that Townhome.

Section 9.3 Decision to Repair. Subject to the following terms and conditions, the Board shall, without undue delay, proceed to repair or replace Townhomes or other Improvements damaged or destroyed by fire or casualties covered by the Association's insurance policies:

- A. The Board shall, as soon as possible after the damage has occurred, undertake any emergency work that it deems reasonably necessary to avoid further damage to any Townhome or Improvements within the Subdivision.
- B. The Board, not less than thirty (30) days after damages insured by the Association's fire and casualty policy have occurred with respect to any Townhome or other Sublot Improvements, promptly commence the repair thereof, applying, to the extent available and necessary, all insurance proceeds available from the Association's insurance policies and/or those policies of insurance, if any maintained by the Owner of said Townhome or Improvements. The Board shall have the authority to employ architects and engineers, advertise for bids, select contracts, and take such other action as is reasonably necessary to undertake and complete the repairs. Contracts for the repair work shall be commenced only when the Board, by means of insurance proceeds and the availability of sufficient Special Assessments, has provided for all costs to be incurred.
- C. The cost of repairing or replacing any Townhome or Improvement from insurance policies owned by the Association and/or the Owner of said Townhome or Improvement so damaged by fire or casualty, in excess of available insurance proceeds, shall be a common expense of the Association, and be subject to Special Assessments in the manner set forth in Article VI. In the event the insurance proceeds received from the Association's fire and casualty

insurance policy(ies) exceed the cost of the repairs and replacements, the excess shall be distributed to the Owners in proportion to their respective obligations to pay Annual and Special Assessments.

D. The nature and extend of said repairs or replacements shall be limited to restoring any damaged or destroyed Townhome or Improvement to substantially the same size and configuration as existed prior to the damage or destruction, in accordance with the original plans and specifications; provided, however, that modifications from those plans and specifications may, upon the request of the affected Owner, be approved by the Board of Directors subject to the following:

- (i) Any modification must be approved by the DRC; and
- (ii) Owner, at its sole cost and expense, agrees to be responsible for any additional costs incurred as a result of said modification.

Section 9.4 Decision Not to Repair. Notwithstanding the foregoing provisions of this Article IX, the Owner of any Townhome damaged or destroyed by fire or other casualty covered by the Association's insurance, may elect not to have the Townhome repaired or restored by presenting to the Board of Directors, within thirty (30) days after the damage or destruction has occurred, written notice of such election duly signed by the Owners of not less than eighty percent (80%) of all Sublots, including the Sublot containing any Townhome which is attached by a Party Wall shared with the damaged or destroyed Townhome. In the event the damaged Townhome is not repaired or restored, any insurance proceeds which the Association receives or is entitled to receive for such damage from the policies of fire and casualty insurance, less any expenses reasonable incurred by the Association in assessing or investigating the extent of the damage or in preparing for its repair, shall be distributed, as co-payees, to the Owner of said Townhome and all mortgagees, deed of trust beneficiaries, and other lien holders filed of record against said Townhome.

ARTICLE X REVOCATION OR AMENDMENT

Section 10.1 Method of Revocation or Amendment. This Declaration may be amended or revoked, in part or in whole, by an instrument duly approved and adopted by not less than two-thirds of the Owners entitled to vote. The amendment or revocation shall be effective as of the date a copy of the instrument adopted, together with a certification of the vote or other action of the Owners by a duly authorized officer of the Association, is recorded in the official records of Blaine County, Idaho. Any such revocation or amendment duly adopted and recorded shall be binding upon every Owner and Sublot, whether

the burdens of this Declaration are increased or decreased by any such amendment or revocation, and whether or not the Owner consents thereto. Notwithstanding the foregoing, the consent of the Declarant and any assignees of Declarant established pursuant to Section 12.3 shall be required for any proposed amendment to Sections 2.1, 3.4, 3.7, 5.5, 7.5 and 12.3 if, and to the extent that, at the time of any such proposed amendment the Declarant and/or such assignees own one or more Townhome Sublots which are subject to this Declaration.

ARTICLE XI MISCELLANEOUS

Section 11.1 Compliance. Each Owner shall comply with the provisions of this Declaration, Design Criteria, Articles of Incorporation and Bylaws of the Association, and all rules and regulations duly enacted by the Association. Failure to comply shall be grounds for an action to recover sums due for damage or injunctive relief, or both, maintainable by the Association or any Owner.

Section 11.2 Mailing Address. Each Owner shall provide the Association with such Owner's mailing address and/or email address, which address shall be used for the mailing or other service of any and all notices, assessments or communications from the Association. Any notice referred to in this section shall be deemed given by the Association when it has been deposited in the United States mail, postage prepaid, or when the email has been sent, addressed to the Owner at the given address.

Section 11.3 Transfer of Rights. Any right or interest reserved hereby to the Declarant may be transferred or assigned by the Declarant to any person or entity.

Section 11.4 Number and Gender. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

Section 11.5 Severability. In any of the provisions of this Declaration, or any clause, paragraph, sentence, phrase or word or the application thereof in any circumstance shall be invalidated, such invalidity shall not affect the validity of the remainder of the Declaration, and the application of any such provision, paragraph, sentence, phrase or word in any other circumstance shall not be affected thereby.

Section 11.6 Prevailing Law. The provisions of this Declaration shall be construed and enforced pursuant to the laws of the State of Idaho.

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

WEST KETCHUM RESIDENCES, LLC
an Idaho Limited Liability Company

By: _____

Robert Parker, Manager

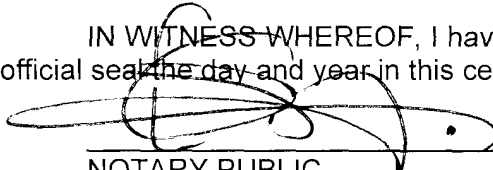
STATE OF IDAHO)

)ss.

County of Blaine)

On this 4th day of August, 2021 before me, a Notary Public, in and for said County and State, personally appeared Robert Parker, known or identified to me to be the Manager of West Ketchum Residences, LLC, the limited liability company that executed the foregoing instrument and acknowledged to me that such entity executed the same.

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



NOTARY PUBLIC

Residing at: Ketchum, Id.

My commission expires: 7.26.2023

