

DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS

WILLOW PARK TOWNHOUSES

This Declaration of Covenants, Conditions and Restrictions, hereinafter called "Declaration", is made and executed in Teton County, Wyoming, this 13<sup>th</sup> day of March, 1979, by Robert C. Rudd and Sharon K. Rudd, husband and wife, hereinafter collectively referred to as DECLARANT", pursuant to law.

W I T N E S S E T H

WHEREAS, DECLARANT is the owner of certain real property located in Teton County, Wyoming, and more particularly described as Exhibit A, attached hereto and made a part hereof, and

WHEREAS, DECLARANT is the owner of certain townhouse buildings and certain other improvements heretofore constructed or hereafter to be constructed upon the aforesaid premises, which property constitutes a townhouse project, and it is the desire and the intention of the DECLARANT to divide the project into townhouses and to sell and to convey the same to various purchasers subject to the covenants, conditions and restrictions herein reserved, to be kept and observed, and

WHEREAS, DECLARANT desires and intends by filing this Declaration to submit the above-described property and the townhouse buildings and other improvements constructed thereon, together with all appurtenances thereto, to the provisions of this Declaration and to impose upon said property mutually beneficial restrictions under a general plan of improvements for the benefit of all of said townhouses and the owners thereof;

NOW, THEREFORE, the DECLARANT does hereby publish and declare that all of the property described above is held and shall be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied and improved subject to the following

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ABSTRACTED	✓

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<i>V. J. [Signature]</i>						County Clerk

covenants, conditions, restrictions, uses, limitations and obligations, all of which are declared and agreed to be in furtherance of a plan for the improvement of said property and the division thereof into townhouses, and shall be deemed to run with the land and shall be a burden and a benefit to the DECLARANT, its successors and assigns, and any person acquiring now owning any interest in the real property and improvements, their grantees, successors, heirs, executors, administrators, devisees and assigns.

1. DEFINITIONS. Certain terms as used in this Declaration shall be defined as follows, unless the context clearly indicates a different meaning therefore;

(a) "DECLARANT" shall mean Robert C. Rudd and Sharon K. Rudd, husband and wife, collectively doing business as Willow Park Townhouses.

(b) "Déclaration" shall mean this instrument by which the Willow Park Townhouse Project is established, as herein provided.

(c) "Project" shall mean the entire parcel of real property referred to in this Declaration to be divided into townhouses and common areas, including all structures thereon.

(d) "Map" shall mean the record of survey Map of Willow Park Townhouses filed for record herewith by DECLARANT.

(e) "Unit" shall mean the elements of a townhouse which are not owned in common with the Owners of other townhouses in the project as shown on the map, and shall include the front and rear yards pertaining thereto which shall be deeded to the owners of each unit.

(f) "Common Area" shall mean all land and all portions of the property not located within any Unit

excluding the front and rear yards which are deeded along with each unit; and also includes, but not by way of limitation, storage areas, recreational facilities, offices, all installations of power, light, gas, hot and cold water existing for common use and all other parts of the property necessary and convenient to its existence, maintenance and safety or normally in common use.

(g) "Townhouse" shall mean the entire estate in the real property owned by any owner, consisting of ownership of a separate interest in a Unit.

(h) "Owner" shall mean any person with an ownership interest in a Townhouse in the Project.

(i) "Corporation" shall mean the non-profit corporation formed under the laws of the State of Wyoming which shall own all of the common areas of the Project.

(j) "Board of Directors" shall mean the Board of Directors of the Corporation.

(k) "Manager" shall mean the person or firm designated by the Corporation to manage the affairs of the Project.

(l) "Mortgage" shall mean a mortgage.

(m) "Mortgagee" shall mean a beneficiary under or a holder of a mortgage.

(n) "Record" shall mean to file of record with the Office of the County Clerk of Teton County, Wyoming.

(o) "Building" shall mean a single building containing units as shown on the Map.

(p) "Common Expenses" shall mean and include expenses for maintenance, repair, operation, management,

and administration; expenses declared common expenses by the provisions of this Declaration; and all sums lawfully assessed against the general common elements by the Board of Directors.

(q) "Townhouse Unit" means the fee simple interest and title in and to a unit together with the shares of stock in the Corporation appurtenant to that unit.

(r) "General Common Elements" means and includes the land designated as such in EXHIBIT A, the parking spaces, and all other parts of such land and the improvements thereon necessary or convenient to its existence, maintenance and safety which are normally and reasonably in common use, including the air above such land, all of which shall be owned by the Corporation.

(s) "Limited Common Elements" means those parts of the general common elements which are either limited to and reserved for the exclusive use of an owner of a Townhouse Unit or are limited to and reserved for the common use of more than one but fewer than all of the townhouse unit owners.

2. MAP. The Map may be filed for record in whole or in parts or sections, from time to time, as the stages of construction of the units and other improvements are substantially completed. Each section of the Map filed subsequent to the first or initially filed Map shall be termed a Supplement to such Map and the numerical sequence of such supplements shall be shown thereon. The Map or any part or section thereof depicting units shall not be filed for record until the building in which the units are located has been substantially completed in order to permit the location thereof. Each such Map shall depict and show at least the following: the legal description of the land and a survey thereof; the location of buildings;

the location of units within a building, and the unit designations and the building symbol. The Map shall contain the certificate of a registered professional engineer or licensed architect, or surveyor, certifying the Map substantially depicts the location of the buildings, the units, the unit designations, the building symbols, and that such Map was prepared subsequent to substantial completion of the improvements. Each supplemental and/or any amendment shall set forth a like certificate when appropriate. In interpreting the Map, the existing physical boundaries of each separate unit as construed shall be conclusively presumed to be its boundaries. DECLARANT reserves the right to amend the Map from time to time, to conform the same according to the actual location of any of the constructed improvements, and to establish, vacate, and relocate easements, access road easements, and onsite parking areas.

3. DIVISION OF PROPERTY INTO TOWNHOUSE UNITS. The real property described in EXHIBIT A and the improvements thereon are hereby divided into the following fee simple estates, each such estate consisting of the separately designated units as is set forth on the Map filed herewith. DECLARANT reserves the right to (i) physically combine the space within one unit with the space within one or more adjoining units; (ii) to combine a part of or combination of parts of the space within one or more adjoining units, and (iii) to divide into separate units the space of one unit. The resulting interest in the stock in the Corporation resulting therefrom shall be reflected by an amendment to the Map.

4. LIMITED COMMON ELEMENTS. Any portion of the general common elements reserved for the exclusive use of the individual owners of the respective units are referred to as "Limited Common Elements". The Limited Common Elements so reserved shall be identified on the Map. Any such Limited Common Element so designated shall be used in connection with such unit or units to the exclusion of the use thereof by the owners of other units, except by invitation.

5. PARKING SPACES. On-site parking areas and facilities shall be under the control of the DECLARANT until the townhouse project has been completed. Thereafter, the parking areas shall be under the control of the Board of Directors.

6. INSEPARABILITY OF A TOWNHOUSE UNIT. Each Unit, the appurtenant shares of stock in the Corporation, and the appurtenant limited common elements, if any, shall be inseparable, and may be conveyed, leased, devised or encumbered only as a townhouse unit.

7. DESCRIPTION OF TOWNHOUSE UNIT. Every contract for the sale of a townhouse unit written prior to the filing for record of the Map may legally describe a townhouse unit by its identifying unit designation with further reference to the Map thereof and the Declaration to be filed for record. Subsequent to the filing of the Map and the recording of the Declaration, every deed, lease, mortgage, trust deed, will or other instrument may legally described a townhouse unit by its identifying unit designation, followed by the name of this Townhouse Project, with further reference to the Map thereof filed for record and the recorded Declaration. Every such description shall be good and sufficient for all purposes, to sell, convey, transfer, encumber or otherwise affect not only the unit but also the shares of stock in the Corporation and the limited common elements, if any, appurtenant to such unit. Each such description shall be construed to include a nonexclusive easement for ingress and egress to an owner's unit and use of all of the general common elements. The initial deeds conveying each townhouse unit may contain reservations, exceptions and exclusions which the DECLARANT deems to be consistent with and in the best interest of all townhouse owners.

8. SEPARATE ASSESSMENT AND TAXATION-NOTICE TO ASSESSOR. DECLARANT shall give written notice to the Assessor of the County referred to in Exhibit A of the creation of the town-

house ownership in this property, as is provided by law, so that each unit, the interest in the limited common elements appurtenant thereto, and the shares of stock in the Corporation shall be deemed a parcel and subject to separate assessment and taxation.

9. OWNERSHIP - TITLE. A townhouse unit may be held and owned in any real property tenancy relationship recognized under the laws of the State of Wyoming.

10. NON-PARTITIONABILITY OF GENERAL COMMON ELEMENTS. The general common elements shall be owned by the Corporation and shall remain undivided, and no shareholder of the stock in the Corporation shall bring any action for partition or division of the general common elements. Nothing contained herein shall be construed as a limitation of the rights of partition of a townhouse unit between the owners thereof, but such partition shall not affect any other townhouse unit.

11. USE OF GENERAL AND LIMITED COMMON ELEMENTS. Each owner shall be entitled to exclusive ownership and possession of his unit. Each owner may use the general and limited common elements in accordance with the purpose for which they are intended, without hindering or encroaching upon the lawful rights of the other owners, except as otherwise provided herein.

12. USE AND OCCUPANCY. The units may be used and occupied by the owner, his family and their guests, his business invitees and his tenants and their guests.

13. EASEMENTS FOR ENCROACHMENT. If any portion of the general common elements encroaches upon a unit or units, a valid easement for the encroachment and for the maintenance of the same, so long as it stands, shall and does exist. If any portion of a unit encroaches upon the general common elements, or upon an adjoining unit or units, a valid easement for the encroachment and for the maintenance of same, so long as it stands, shall and does exist. Such encroachments and

easements shall not be considered or determined to be encumbrances either of the general common elements or on the units for purposes of marketability of title.

14. TERMINATION OF MECHANICS' LIEN RIGHTS AND INDEMNIFICATION. Subsequent to the completion of the improvements described on the Map, no labor performed or materials furnished and incorporated in a unit with the consent or at the request of the unit owner, his agent, his contractor, or subcontractor shall be the basis for filing of a lien against the unit of any other unit owner not expressly consenting to or requesting the same, or against the general common elements. Each owner shall indemnify and hold harmless each of the other owners from and against the unit of any other owner or against the general common elements for construction performed or for labor, materials, services or other project incorporated in the owner's unit at such owner's request. The provisions herein contained are subject to the rights of the Board of Directors or the Manager of the townhouse property as set forth in Paragraph

15. VOTING. At any meeting of the shareholders of the Corporation, each owner, including DECLARANT, shall be entitled to cast one vote for each share of stock in the Corporation held by each said owner. Any shareholder may attend and vote at such meeting in person, or by a proxy duly appointed by an instrument in writing signed by the shareholder and filed with the Secretary of the Corporation. Any designation of a proxy to act for a shareholder may be revoked at any time by written notice to the Secretary of the Corporation, and shall be deemed revoked when the Secretary of the Corporation shall receive actual notice of the death or judicially declared incompetence of such shareholder or of the conveyance by such shareholder of his townhouse and his shares of stock in the Corporation. Where there is more than one record owner of a townhouse unit and the appurtenant shares of stock in the Corporation, any or all such persons may attend any meeting of shareholders, but it



shall be necessary for those present to act unanimously in order to cast the votes to which they are entitled. Any designation of a proxy to act for such persons must be signed by all such persons. DECLARANT shall be entitled to vote with respect to any shares owned by DECLARANT. In the event that a notice of default is recorded by any Mortgagee who holds a Mortgage which is a first lien on a townhouse, against the owner of a townhouse covered by the mortgage, then and in that event and until the default is cured, the right of the owner of such townhouse to vote his appurtenant shares of stock in the Corporation shall be transferred to the Mortgagee recording the notice of default. Further rights and procedures with respect to voting and shareholders shall be in accordance with the ByLaws of the Corporation, as the same may be amended from time to time in accordance with the laws of the State of Wyoming.

16. MEETINGS. All corporate meetings, including shareholders and Board of Directors, shall be in accordance with the ByLaws of the Corporation, as the same may be amended from time to time in accordance with the laws of the State of Wyoming.

17. NOTICE. Any notice permitted or required to be delivered as provided herein or by the ByLaws of the Corporation may be delivered either personally or by mail. If delivery is made by mail, it shall be deemed to have been delivered twenty-four (24) hours after a copy of the same has been deposited in the United States Mail, postage prepaid, addressed to each such person at the address given by such person to the Board of Directors, Secretary of the Corporation, or Manager for the purpose of service of such notice or to the Unit of such person if no address has been given to the said Board of Directors, Secretary of the Corporation or Manager.

18. MEMBERSHIP, ELECTION AND PROCEEDINGS OF THE BOARD OF DIRECTORS. All provisions for the membership, election and proceedings for the Board of Directors shall be contained in the ByLaws of the Corporation, provided, however, that the

Board of Directors shall consist of five (5) members, three of whom shall be elected by the shareholders. The DECLARANT shall have the option at any time after a date of two years from the date of execution of this Declaration to turn over to the shareholders the responsibility of electing all of the members of the Board of Directors.

19. ENDORSEMENT ON SHARE CERTIFICATES. All certificates representing shares of stock in the Corporation which are issued to shareholders shall contain an endorsement to the effect that such shares are subject to the provisions of this Declaration.

20. AUTHORITY OF THE BOARD OF DIRECTORS. The Corporation acting through its Board of Directors and/or through a Manager duly appointed by the Board of Directors, for the benefit of the townhouses and the owners, shall enforce the provisions hereof and shall acquire and shall pay for out of the common expense fund hereinafter provided for, the following:

(a) Water, Sewer, Garbage Collection, Snow Removal, Electrical, Telephone and Gas and all other necessary utility service for the Common Area (and to the extent not separately metered or charged, for the Units);

(b) A policy or policies of fire insurance as the same are more fully set forth in Paragraph 35 of this Declaration, with extended coverage endorsement, for the full insurable replacement value of the Units and Common Area, payable as provided in Paragraph 37, or such other fire and casualty insurance as the Corporation shall determine is substantially equal or greater protection to the Owners, and their Mortgagees, as their respective interest may appear, which said policy or policies shall provide for a separate loss payable endorsement in favor of the Mortgagee or Mortgagees or each townhouse, if any;

(c) A policy or policies as the same are more fully set forth in Paragraph 35 of this Declaration, insuring the Corporation, the Owners and the Manager against any liability to the public or to the Owners (of Units and their invitees or tenants), incident to the ownership and/or use of the Project, and including the personal liability exposure of the Owners. Limits of liability under such insurance shall not be less than \$300,000 for any one person injured, or any one accident, and shall not be less than \$100,000 for property damage for each occurrence (such limits and coverage to be reviewed at least annually by the Board of Directors and increased at its discretion). Said policy or policies shall be issued on a comprehensive liability basis and shall provide cross liability endorsement wherein the right of the named insured under the policy or policies shall not be

prejudiced as respects his, her or their action against another named insured;

(d) Workmens Compensation insurance to the extent necessary to comply with any applicable laws;

(e) The services of a person or firm to manage its affairs (herein called the "Manager") to the extent deemed advisable by the Board of Directors as well as such other personnel as the Board of Directors shall determine necessary or proper for the operation of the Common Area, whether such personnel are employed directly by the Corporation or are furnished by the Manager;

(f) Legal and accounting services necessary or proper in the operation of the Common Area or the enforcement of this Declaration;

(g) A fidelity bond naming the Manager, and such other persons as may be designated by the Board of Directors as principals and the Owners as obligees, for the first year in an amount at least equal to fifty percent (50%) of the estimated cash requirement for that year as determined under Paragraph hereof, and for each year thereafter in an amount at least equal to fifty percent (50%) of the total sum collected through the common expense fund during the preceding year;

(h) Painting, maintenance, repair and all landscaping of the Common Area, and such furnishing and equipment for the Common Area as the Board of Directors shall determine are necessary and proper, and the Corporation shall have the exclusive right and duty to acquire the same for the Common Area; provided, however, that the interior surfaces of each Unit shall be painted, maintained and repaired by the Owners thereof, all such maintenance to be at the sole cost and expense of the particular owner.

(i) Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments which the Corporation is required to procure or pay for pursuant to the terms of this Declaration or by law for which in its opinion shall be necessary or proper for the operation of the Common Area or for the enforcement of this Declaration, provided that if any such materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments are provided for particular Units, the cost thereof shall be specially assessed to the Owners of such Units;

(j) Maintenance and repair of any Unit, if such maintenance or repair is reasonably necessary in the discretion of the Board of Directors to protect the Common Area or preserve the appearance and value of the Project, and the Owner or Owners of said Unit has failed or refused to perform such maintenance or repair within a reasonable time after written notice of the necessity of such maintenance or repair delivered by the Corporation to said Owner or Owners, provided that the Corporation shall levy a special assessment against the townhouse of such Owner or Owners for the cost of such maintenance or repair.

The powers of the Corporation and Board of Directors hereinabove enumerated shall be limited in that the Corporation shall have no authority to acquire and pay for out of the common expense fund capital additions

and improvements (other than for purposes of replacing portions of the Common Area, subject to all provisions of this Declaration) having a cost in excess of \$3,000.00 except as expressly provided herein.

21. CORPORATION'S POWERS EXCLUSIVE. The Corporation shall have the exclusive right to contract for all goods, services and insurance, payment for which is to be made from the common expense fund.

22. ALTERATIONS, ADDITIONS AND IMPROVEMENTS OF COMMON AREA. There shall be no structural alterations, capital additions to, or capital improvements of the Common Area requiring an expenditure in excess of \$3,000 without the prior approval of the shareholders holding a majority of the outstanding shares of stock of the Corporation.

23. COMMON EXPENSES: ASSESSMENTS:

(a) Within thirty (30) days prior to the beginning of each calendar year the Board of Directors shall estimate the net charges to be paid during such year (including a reasonable provision for contingencies and replacements less expected income and any surplus from the prior year's fund). Said "estimated cash requirements" shall be assessed on a pro rata basis to each shareholder. DECLARANT will be liable for the amount of any assessment against shares owned by DECLARANT. If said sum estimated proves inadequate for any reason, including non-payment of any shareholder's assessment, the Board of Directors may at any time levy a further assessment, which shall be assessed to the shareholders on a pro rata basis, unless otherwise provided herein. Each shareholder shall be obligated to pay assessments made pursuant to this paragraph to the Board of Directors in equal monthly installments on or before the first day of each month during such year, or in such other reasonable manner as the Board of Directors may designate;

(b) The rights, duties and functions of the Board of Directors set forth in this paragraph shall be exercised by DECLARANT for the period ending thirty (30) days after the election of the first Board of Directors of the Corporation (the initial Board of Directors of the Corporation appointed as such);

(c) All funds collected hereunder shall be expended for the purposes designated herein;

(d) The omission by the Board of Directors, before the expiration of any year, to fix the assessments hereunder for that or the next year, shall not be deemed a waiver or modification in any respect of the provisions of this Declaration, or a release of the shareholders from the obligation to pay the assessment, or any installment thereof for that or any subsequent year, but the assessment

affixed for the preceding year shall continue until a new assessment is fixed. Amendments to this paragraph shall be effective only upon unanimous written consent of the shareholders and the mortgagees of their respective units. No shareholder may exempt himself from liability for his contribution toward the common expenses by a waiver of the use or enjoyment of any of the Common Area or by abandonment of his unit.

(e) The Manager of the Board of Directors shall keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the Common Area, specifying and itemizing the maintenance and repair expenses of the Common Area and any other expenses incurred. Records and vouchers authorizing the payments involved shall be available for examination by the shareholders at convenient hours of week days.

24. DEFAULT IN PAYMENT OF ASSESSMENTS. Each monthly assessment and each special assessment shall be separate, distinct and personal debts and obligations of the owner/shareholder against whom the same are assessed at the time the assessment is made and shall be collectable as such. Suits recovering money judgment for unpaid common expenses shall be maintained without foreclosing or waiving the lien securing the same. The amount of any assessment, whether regular or special, assessed to the Owner of any townhouse (and the appurtenant shares of stock in the Corporation), plus interest at seven percent (7%) and costs, including reasonable attorney's fees, shall become a lien upon such townhouse and the shares of stock of such Owner upon recordation of notice of assessment. The said lien for non-payment of common expenses shall have priority over all other liens and encumbrances, recorded or unrecorded, except only taxes and encumbrances on the Owner's townhouse recorded prior to the date such notice is recorded which by law would be a lien prior to subsequently recorded encumbrances.

A certificate executed and acknowledged by a majority of the Board of Directors stating the indebtedness secured by the lien upon any townhouse created hereunder, shall be conclusive upon the Board of Directors and the owners/shareholders as to the amount of such indebtedness on the date of the certificate, in favor of all persons who rely thereon in good faith, and such certificate shall be furnished to any owner/shareholder

or any encumbrancer or prospective encumbrancer of a townhouse upon request at a reasonable fee, not to exceed ten dollars. Unless the request for a certificate of indebtedness shall be complied with within ten days, all unpaid common expenses which become due prior to the date of the making of such request shall be subordinate to the lien held by the person making the request. Any encumbrancer holding a lien on a townhouse may pay any unpaid common expenses payable with respect to such townhouse and upon such payment such encumbrancer shall have a lien on such townhouse for the amounts paid of the same rank as the lien of his encumbrance.

Upon payment of a delinquent assessment concerning which such a certificate has been so recorded, or other satisfaction thereon, the Board of Directors shall cause to be recorded in the same manner as the certificate of indebtedness in a further certificate stating the satisfaction and release of the lien thereof. Such lien for non-payment of assessment may be enforced by sale by the Board of Directors or their assignee and such sale is to be conducted in accordance with the provisions of law applicable to the exercise of powers of sale or foreclosure in mortgages or in any manner permitted by law. In any foreclosure or sale, the owner/shareholder shall be required to pay the costs and expenses of such proceedings and reasonable attorney's fees.

In case of foreclosure, the owner/shareholder shall be required to pay a reasonable rental for the townhouse and the plaintiff in the foreclosure proceedings shall be entitled to the appointment of a receiver to collect the rental without regard to the value of the mortgage security. The Board of Directors or Manager shall have the power to bid on the townhouse at foreclosure or other sale and hold, lease, mortgage and convey the townhouse and appurtenant shares of stock in the Corporation.

25. MORTGAGE PROTECTION. Notwithstanding the other provisions hereof:

(a) The liens created hereunder upon any townhouse shall be subject and subordinate to and shall not effect the rights of the holder of the indebtedness secured by any recorded first mortgage (meaning a mortgage with first priority over other mortgages) upon such interest made in good faith and for value, provided that after the foreclosure of any such mortgage there may be a lien created pursuant to paragraph 24 hereof on the interest of the purchaser at such foreclosure sale to secure all assessments, whether regular or special, assessed hereunder to such purchaser as an owner after the date of such foreclosure sale which said lien shall have the same effect and be enforced in the same manner as provided herein;

(b) No amendment to this paragraph shall effect the rights of the holder of any such mortgage recorded prior to recordation of such amendment who does not join in the execution thereof;

(c) By subordination agreement executed by a majority of the Board of Directors, the benefits of (a) and (b) above may be extended to mortgages not otherwise entitled thereto.

26. DELEGATION TO MANAGER. The Board of Directors may delegate any of its duties, power or functions with regard to the management and maintenance of the Project, including but not limited to the authority to give the certificate provided for in Paragraph 24 hereof and the authority to give the subordination agreements provided for in Paragraph 25 hereof, to any person or firm, to act as manager of the Project, provided that any such delegation shall be revokable upon notice by the Board of Directors. The members of the Board of Directors shall not be liable for any omission or improper exercise by the Manager of any such duty, power or function so delegated by a written instrument executed by a majority of the Board of Directors. In the absence of any appointment, the chairman of the Board of Directors shall act as Manager.

27. EXCLUSIVE OWNERSHIP AND POSSESSION BY OWNER. Each Owner shall be entitled to exclusive ownership and possession of his unit. Each owner shall be entitled to own shares of stock in the Corporation in the amounts set forth in EXHIBIT B of this Declaration. The number of shares of stock issued to each Owner as expressed in EXHIBIT B shall have a permanent character and shall not be altered without the consent of all

Owners expressed in an amendment to this Declaration duly recorded. The shares of each Owner in the Corporation shall not be separate from the Unit to which it appertains and shall be deemed to be conveyed or encumbered or released from liens with the Unit even though such interest is not expressly mentioned or described in the conveyance or other instrument. Each Owner may use the Common Area in accordance with the purpose for which it is intended, without hindering or encroaching upon the lawful rights of the other Owners.

An Owner shall not be deemed to own the utilities running through his Unit which are utilized for, or serve more than one Unit, except as a tenant in common with the other Owners.

28. OWNER'S OBLIGATION TO REPAIR. Except for those portions which the Board of Directors is required to maintain and repair hereunder, if any, each Owner shall, at the Owner's expense, keep the interior and exterior of his Unit and its equipment and appurtenances in good order, condition and repair and in a clean and sanitary condition, and shall do all redecorating, painting and varnishing which may at the time be necessary to maintain the good appearance and condition of his Unit. In addition to decorating and keeping the interior and exterior of the Unit in good repair, the Owner shall be responsible for the maintenance, repair or replacement of any plumbing fixtures, water heaters, heating equipment, lighting fixtures, refrigerators, dishwashers, disposals or ranges that may be in or connected with the Unit. Types of materials, colors of stains and types of paint shall, in all possible ways, match and coincide with type and quality of materials originally used in construction. (See No. 29)

The Owner shall also, at Owner's own expense, keep any storage area and/or garage stall which may have been assigned to his Unit in a clean and sanitary condition. The Board of Directors and Manager shall not be responsible to the Owner for loss or damage by theft or otherwise of articles which may be stored by the Owner in the storage area or garage stall.

The Owner shall promptly discharge any lien which may be filed against his townhouse.



29. PROHIBITION AGAINST STRUCTURAL CHANGES BY OWNER. The Owner shall not, without first obtaining written consent of the Board of Directors, make or permit to be made any structural alteration, improvement or addition in or to his Unit or in or to the exterior of the buildings or other Common Area. The Owner shall do no act nor any work that will impair the structural soundness or integrity of the buildings or safety of the property or impair any easement or hereditament without the written consent of all Owners. The Owner shall not paint or redecorate any portion of the exterior of the buildings or the Common Area or any portion of any storage area or garage without first obtaining written consent of the Board of Directors.

30. LIMITATION ON USE OF UNITS AND COMMON AREA. The units and Common Area shall be occupied and used as follows:

(a) Notwithstanding the provisions of Paragraph 12 of this Declaration, no Owner shall occupy or use his Unit or permit the same or any part thereof to be occupied or used for any purpose other than as a private residence for the Owner and the Owner's family or the Owner's lessee or guests.

(b) There shall be no obstruction of the Common Area. Except in the case of designated storage areas, nothing shall be stored in the Common Area without the prior consent of the Board of Directors.

(c) Nothing shall be done or kept in any Unit or in the Common Area which will increase the rate of insurance on the Common Area, without the prior written consent of the Board of Directors. No Owner shall permit anything to be done or kept in his Unit or in the Common Area which will result in the cancellation of insurance on any Unit or any part of the Common Area, or which would be in violation of any law. No waste will be permitted in the Common Area, except in designated trash pickup locations as designated by the Board of Directors.

(d) No sign of any kind shall be displayed to the public view on or from any Unit or the Common Area, without the prior consent of the Board of Directors.

(e) No animals, livestock or poultry of any kind shall be raised, bred or kept in any Unit or in the Common Area, except that dogs, cats or other household pets may be kept in Units, subject to rules and regulations adopted by the Board of Directors.

(f) No noxious or offensive activity shall be carried on in any Unit or in the Common Area, nor shall anything be done therein which may be or become an annoyance or nuisance to the other Owners.

(g) Nothing shall be altered or constructed in or removed from the Common Area, except upon the written consent of the Board of Directors.

(h) There shall be no violation of the rules for the use of the Common Area adopted by the Board of Directors and furnished in writing to the Owners, and the Board of Directors is authorized to adopt such rules and to amend them from time to time upon the vote of a majority of the Board of Directors.

(i) None of the rights and obligations of the Owners created herein shall be altered in any way by encroachments due to settlement or shifting of structures or any other cause. There shall be valid easements for the maintenance of said encroachments so long as they shall exist; provided, however, that in no event shall a valid easement for encroachment be created in favor of an Owner or Owners if said encroachment occurred due to the wilful conduct of said Owner or Owners;

31. ENTRY FOR REPAIRS. The Board of Directors or its agents may enter any Unit when necessary in connection with any maintenance, landscaping or construction for which the Board of Directors is responsible. Such entry shall be made with as little inconvenience to the Owners as practicable, and any damage caused thereby shall be repaired by the Board of Directors out of the common expense fund.

32. FAILURE OF THE BOARD OF DIRECTORS TO INSIST ON STRICT PERFORMANCE NO WAIVER. The failure of the Board of Directors or Manager to insist in any one or more instances upon the strict performance of any of the terms, covenants, conditions or restrictions of this Declaration, or to exercise any right or option herein contained, or to serve any notice or to institute any action shall not be construed as a waiver or a relinquishment for the future, of such term, covenant, condition or restriction shall remain in full force and effect. The receipt by the Board of Directors or Manager of any assessment from an Owner, with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by the Board of Directors or Manager of any provision hereof shall be deemed to have been made unless expressed in writing and signed by the Board of Directors or Manager.

33. LIMITATION ON CORPORATION'S LIABILITY. The Corporation shall not be liable for a failure of water supply or other service to be obtained and paid for by the Corporation hereunder or for injury or damage to person or property caused by the elements or by another Owner or person in the Project, or resulting from electricity, water, rain, snow or ice which may leak or flow from outside or from any parts of the buildings, or from any of its pipes, drains, conduits, appliances or equipment, or from any other place unless caused by the gross negligence of the Corporation. No diminution or abatement of common expense assessments shall be claimed or allowed for inconvenience or discomfort arising from the making of repairs or improvements to the Common Area or from any action taken to comply with any law, ordinance, or orders of a governmental agency.

34. INDEMINIFICATION OF CORPORATION AND BOARD OF DIRECTORS. The Corporation and the Board of Directors shall be indemnified by the Owners against all expenses and liabilities, including attorneys fees, reasonably incurred by or imposed upon them in connection with any proceeding to which the Corporation and/or any member of the Board of Directors may be made a party, or in which they may become involved, by reason of the involvement of the Corporation in the Project and by reason of being a member of the Board of Directors, or any settlement thereof, (whether or not an individual was or was not a member of the Board of Directors at the time such expenses are incurred), except in such cases wherein the Corporation or the member of the Board of Directors is adjudged guilty of wilful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interests of the Corporation.

35. INSURANCE. The Corporation shall obtain and maintain at all times insurance of the type and kind and in at least the amounts provided herein above, and including insurance for such

other risk, or a similar or dissimilar nature, as to or shall hereafter customarily be covered with respect to other town-house projects similar in construction, design and use, which insurance shall be governed by the following provisions:

(a) All policies shall be written with a company licensed to do business in the State of Wyoming and holding a rating of "AA" or better by the Best Insurance Reports;

(b) Exclusive authority to adjust losses under policies hereafter in force in the project shall be vested in the Board of Directors or its authorized representative;

(c) In no event shall the insurance coverage obtained and maintained by the Corporation hereunder be brought into contribution with insurance purchased by individual owners or their mortgagees;

(d) Each owner may obtain additional insurance at his own expense; provided, however, that no owner shall be entitled to exercise his right to maintain insurance coverage in such a way as to decrease the amount which the Corporation, in behalf of all the owners, may realize under any insurance policy which the Corporation may have in force on the Project at any particular time;

(e) Each owner shall be required to notify the Corporation of all improvements made by the Owner to his Unit the value of which is in excess of One Thousand Dollars;

(f) Any owner who obtains individual insurance policies covering any portion of the Project other than personal property belonging to such Owner, shall be required to file a copy of such individual policy or policies with the Corporation within thirty days after purchase of such insurance;

(g) The Corporation shall be required to make every effort to secure insurance policies that will provide for the following:

(1) A waiver of subrogation by the insurer as to any claims against the Corporation, the Board of Directors, the Manager, the Owners and their respective Servants, Agents and guests;

(2) That the master policy on the Project cannot be cancelled, invalidated or suspended on account of the conduct of any one or more individual Owners;

(3) That the master policy on the Project cannot be cancelled, invalidated or suspended on account of the conduct of any officer or employee of the Corporation or Manager without a prior demand in writing that the Corporation or Manager cure the defect;

(4) That any (no other insurance) clause in the master policy exclude individual Owners' policies from consideration;

(h) The annual insurance review which the Board of Directors is required to conduct as provided in Paragraph 20 above shall include an appraisal of the improvements

in the Project by a representative of the insurance carrier writing the master policy.

36. NO PARTITION. There shall be no judicial partition of the Project or any part thereof, nor shall DECLARANT or any person acquiring any interest in the Project or any part thereof seek any such judicial partition, until the happening of the conditions set forth in Paragraph 37 hereof in the case of damage or destruction; provided, however, that if any townhouse shall be owned by two or more co-tenants as tenants in common or as joint tenants, nothing herein contained shall be deemed to prevent a judicial partition as between such co-tenants, but such partition shall not affect any other townhouse.

37. DAMAGE AND DESTRUCTION. In case of fire, casualty or any other disaster, the insurance proceeds, if sufficient to reconstruct the buildings, shall be applied to such reconstruction. Reconstruction of the buildings, as used in this paragraph means restoring the buildings to substantially the same condition in which they existed prior to the fire, casualty or other disaster, with each Unit and the Common Area having the same boundaries as before. Such reconstruction shall be accomplished by the Manager or the Corporation.

If the insurance proceeds are insufficient to reconstruct the building, damage to or destruction of the Building shall be promptly repaired and restored by the Manager or the Corporation, using proceeds of insurance, if any, on the buildings for that purpose, and the Unit Owners shall be liable for assessments for any deficiency. However, if three-fourths or more of the buildings are destroyed or substantially damaged and if the Owners, by a vote of at least three-fourths of the voting power, do not voluntarily, within 100 days after such destruction or damage, make provision for reconstruction, the Manager or Corporation shall record, with the County Clerk, a Notice setting forth such facts, and upon the recording of such Notice:

(a) The property shall be deemed to be owned in common by the Owners;

(b) The undivided interest in the property owned in common which shall appertain to each Owner shall be based on the percentage of stock owned by each Owner in the Corporation.

(c) Any liens affecting any of the Townhouses shall be deemed to be transferred in accordance with the existing priorities to the undivided interest of the Owner and the property;

(d) The property shall be subject to an action for partition at the suit of any Owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the Owners in a percentage equal to the percentage of the outstanding shares of stock in the Corporation owned by each Owner, after first applying out of the respective shares of the Owners, to the extent sufficient for the purposes, all liens on the undivided interest in the property owned by each Owner.

Notwithstanding all other provisions hereof, the Owners may, by an affirmative vote of at least three-fourths of the voting power, at a meeting of Unit Owners duly called for such purpose, elect to sell or otherwise dispose of the property. Such action shall be binding upon all Unit Owners and it shall thereupon become the duty of every Unit Owner to execute and deliver such instruments and to perform all acts as in manner and form may be necessary to effect the sale.

38. ENFORCEMENT. Each Owner shall comply strictly with the provisions of this Declaration and with the administrative rules and regulations drafted pursuant thereto as the same may be lawfully amended from time to time with revisions adopted pursuant to this Declaration and administrative rules and regulations, and failure to comply shall be grounds for an action to recover sums due for damages or injunctive relief or both, and for all costs of enforcement, including reasonable attorneys fees, maintainable by the Corporation or Manager on behalf of the Owners, or in a proper case, by an aggrieved Owner.

39. PERSONAL PROPERTY. The Corporation or Manager may acquire and hold, for the benefit of the Owners, tangible and intangible personal property and may dispose of the same by sale or otherwise; and the beneficial interest in such property

shall be owned by the Owners in the same proportion as their respective interest in the Corporation, and shall not be transferable except with a transfer of a Townhouse. A transfer of a Townhouse shall transfer to the transferee ownership of the transferor's beneficial interest in such personal property.

Within thirty days following the completion of construction of the Project, DECLARANT shall execute and deliver a Bill of Sale to the Corporation in behalf of all the Owners, transferring all items of personal property located on the Project and furnished by DECLARANT, which property is intended for the common use and enjoyment of the Owners.

40. AUDIT. Any Owner may at any time at his own expense cause an audit or inspection to be made of the books and records of the Manager or Corporation or both. The Corporation at the expense of the common expenses, shall obtain an audit of all books and records pertaining to the Project at no greater than annual intervals and furnish copies thereof to each Owner.

41. INTERPRETATION. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of a Townhouse project. Failure to enforce any provision hereof shall not constitute a waiver of the right to enforce that provision or any other provision hereof. This Declaration shall be interpreted under the laws of the State of Wyoming.

42. AMENDMENT. Except as otherwise provided herein, the provisions of this Declaration may be amended by an instrument in writing signed and acknowledged by record owners holding 75% of the total vote hereunder, which amendment shall be effective upon recordation in the Office of the County Clerk of Teton County, Wyoming.

43. SEVERABILITY. The provisions hereof shall be deemed independent and severable, and the invalidity of partial invalidity or unenforcibility of any one provision or portion thereof shall not effect the validity or enforcibility of any provision

hereof.

44. PERIOD OF OWNERSHIP. The separate estates created by this Declaration and the Map shall continue until this Declaration is revoked or terminated in the manner and as is provided for in this Declaration.

45. GENERAL RESERVATIONS. DECLARANT reserves the right to establish easements, reservations, exceptions and exclusions consistent with the townhouse ownership of the Project and for the best interests of the townhouse unit owners and the Corporation in order to serve the entire townhouse project.

46. EXPANSION OF PROJECT.

(a) RESERVATION. DECLARANT reserves the right to expand this Declaration to include and be applicable to additional buildings and townhouse units constructed upon the real property described in EXHIBIT C attached hereto. The total number of units to be constructed upon said real property shall not exceed twenty (20) total units.

(b) SUPPLEMENTAL DECLARATION. Such expansion shall be accomplished with the consent of at least three-fourths of the voting power excluding the voting power of the DECLARANT: or, if, within five years from the date of recording this Declaration, DECLARANT should develop additional lands within the area described in EXHIBIT C attached hereto, such additional lands and improvements thereon with common elements may be included hereunder without the consent as hereinabove provided; provided, however, that the development of the additional lands described in this section shall be in accordance with the general plan of DECLARANT existent upon the recordation hereof.

(c) DEFINITIONS. In the event of such expansion, the definitions used in this Declaration automatically shall be expanded to encompass and refer to the townhouse project as so expanded. Thus, for example, reference to this Declaration as so supplemented. All conveyances of townhouse units after such expansion shall be effective to transfer rights in the townhouse project as expanded, and the instrument of conveyance shall make reference to the supplemental declaration and the supplemental map.

(d) COMMON ELEMENTS. In the event of such expansion, the interest of all Owners in and to the Corporation which shall own all common elements appurtenant to the townhouse units shall be attached as an exhibit to the supplemental declaration and shall be effective as against all Owners upon recordation of said supplement.

47. MUNICIPAL ACCESS. Notwithstanding the foregoing provisions in this Declaration, it is expressly understood that in the event it becomes necessary to repair any water, sewer or



utility lines on the property which is the subject of this Declaration as it is presently constituted, or as may be described in any supplemental declaration hereto, said water, sewer and utility lines shall be accessible to any person or firm acting on behalf of the Corporation, including but not limited to, the Town of Jackson.

47. FURTHER LIMITATIONS ON USE OF UNITS AND COMMON AREA.

(a) No recreational vehicles shall be used, parked or stored on any part of the property described in Exhibit A. Recreational vehicles shall be deemed to include, but not be limited to, mobile homes, self-propelled camping vehicles, camping trailers, tent trailers, boats, boat trailers, snowmobiles, snowmobile trailers, and over-the-snow vehicles.

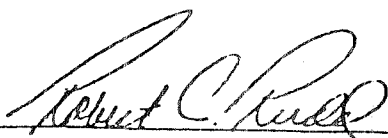
(b) No owner of any townhouse unit or any person, firm or corporation shall add or subtract backfill material to any part of the property described in Exhibit A, or in any manner change the topographical profile of the property on the North side of Flat Creek, unless such action is required by an appropriate municipal, county or federal agency having jurisdiction of the matter, for safety purposes. It is the intent of this restriction to prevent encroachment or restrictions on the flow of Flat Creek through the property.

(c) That all property described in Exhibit A which lies on the South side of the thread of the channel of Flat Creek is hereby dedicated to the use for recreational purposes only for the benefit of all of the owners of Townhouse units in the project.

48. CONSTRUCTION. That whenever used herein, unless the context shall otherwise indicate, the singular number shall include the plural, the plural the singular, and the use of any gender shall include all genders.

49. EFFECTIVE DATE. This Declaration shall take effect upon recording.

IN WITNESS WHEREOF, the parties have executed this Declaration as indicated below.

  
\_\_\_\_\_

  
\_\_\_\_\_

EXHIBIT A  
Description of  
WILLOW PARK TOWNHOUSES  
FIRST FILING

To-wit:--

That part of a tract of record in the Office of the Clerk of Teton County in Book 79 of Photo on pages 66 and 67 located in the NW $\frac{1}{4}$ SW $\frac{1}{4}$  of Section 33, T41N, R116W, 6th P.M., Teton County, Wyoming described as follows:

COMMENCING at the southeast corner of said NW $\frac{1}{4}$ SW $\frac{1}{4}$  marked by a 2 inch galvanized steel pipe with brass cap inscribed "PAUL N. SCHERBEL, RLS 164, Big Piney, Wyoming, T41N, R116W, SW1/16, S33, 1961";

thence N00°-13.5'E, the base bearing, 508.99 feet along the east line of said NW $\frac{1}{4}$ SW $\frac{1}{4}$  to the southeast corner of said tract;

thence S70°-33.6'W, 268.41 feet along the south line of said tract to a corner of said tract and the CORNER OF BEGINNING;

thence N08°-08.2'W, 180.46 feet to a point;

thence N22°-41.6'W, 105.68 feet to a point on the north line of said tract, identical with the south line of Tract 7 as shown on that map filed in said Office as Map T-39 in T41N, R116W;

thence N89°-06.4'W, 125.39 feet along said north line to a corner of said tract, identical with southwest corner of said Tract 7 marked by a steel T-shaped stake with chromed cap inscribed "SURVEY POINT DO NOT DISTURB RLS 164";

thence S00°-09.8'W, 49.92 feet along the boundary of said tract of record in Book 79 to a corner of said tract marked by a steel T-shaped stake with chromed cap inscribed "SURVEY POINT DO NOT DISTURB RLS 164";

thence N89°-04.0'W, 49.81 feet along said boundary to a corner of said tract, identical with the northeast corner of Tract 20 as shown on said Map T-39;

thence S00°-44.0'E, 234.82 feet along the west line of said tract of record in Book 79, identical with the east line of said Tract 20 to a monument witnessing the southwest corner of said tract of record in Book 79;

thence continuing S00°-44.0'E, 36.11 feet, more or less, along said west line to an intersection with the thread of Flat Creek for the southwest

corner of said tract;

thence along the thread of Flat Creek, S69°-34.3'E, 154.61 feet to an intersection with said thread witnessed by a monument, N26°-55.8'W, 35.50 feet from said intersection;

thence continuing along the thread of Flat Creek, N15°-59.7'E, 101.19 feet to an intersection with said thread witnessed by a monument N88°-46.5'W, 25.00 feet from said intersection;

thence leaving the thread of Flat Creek, S88°-46.5'E, 65.41 feet to the corner of beginning;

ENCOMPASSING an area of 1.58 acres, more or less;

each corner, unless otherwise described, is marked by a 5/8 inch steel reinforcing bar with aluminum surv-kap inscribed "NELSON ENGR PE & LS 578";

each point marked by a steel T-shaped stake at least 18 inches long with chromed cap inscribed "SURVEY POINT DO NOT DISTURB PE & LS 2612" to be set by June 1, 1979;

SUBJECT TO that easement of record in said Office in Book 81 of Photo on pages 484 to 489;

RESERVING unto the grantor and his assigns the right to ingress and egress said land to each unit.

Peter M. Jorgensen  
Professional Engineer & Land Surveyor  
Wyoming Registration No. 2612

March 12, 1979

EXHIBIT B  
TO DECLARATION OF COVENANTS,  
CONDITIONS AND RESTRICTIONS  
WILLOW PARK TOWNHOUSES

OWNERSHIP OF SHARES

<u>Unit</u>	<u>Number of Shares</u>
1	1
2	1
3	1
4	1
5	1
6	1
7	1
8	1
9	1
10	1

The Owner of each additional Townhouse unit which may be added to the project by amendment of this Declaration shall be entitled to own one (1) share in the Corporation.