

III

CONSENT:

The parties in this agreement do hereby consent to the amendment and restatement of the covenants as described in Exhibit A.

IV

NOT FURTHER AMENDMENTS:

The parties agree that, except as contained in Exhibit A, the original covenants described in Article IA through E of Exhibit A shall remain in full force and effect.

Dated this 15th day of April, 1986.



PROPERTY RENTALS, INC.

By Robert D. Buckingham
Robert D. Buckingham, President

Karen R. Morris
KAREN R. MORRIS

James E. Morris
JAMES E. MORRIS

James E. Burke
JAMES E. BURKE

Mary Jo Burke
MARY JO BURKE

Gary K. Maple
GARY K. MAPLE

Sharon L. Dauley
SHARON L. DAULEY

David C. Sharp
DAVID C. SHARP

Linda C. Sharp
LINDA C. SHARP

Robert D. Buckthorn
ROBERT D. BUCKTHORN

Judy A. Buckthorn
JUDY A. BUCKTHORN

Thomas E. Simmons
THOMAS E. SIMMONS

Marilyn R. Simmons
MARILENE R. SIMMONS

William J. Mc Cleahan
WILLIAM J. MCCLEAHAN

Mary Mc Cleahan
MARY MCCLEAHAN

Yvonne P. Craft
YVONNE P. CRAFT

Julie M. Craft
JULIE M. CRAFT

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STATE OF SOUTH DAKOTA:
SS
COUNTY OF PENNINGTON :

On this the 28th day of April, 1986, before me, the undersigned officer, personally appeared Robert D. Buckingham, who acknowledged himself to be the President of Property Rentals, Inc., a corporation, and that he as such President, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as President.

In witness whereof I hereunto set my hand and official seal.



[Signature]
NOTARY PUBLIC

My Commission Expires: March 25 1994

STATE OF SOUTH DAKOTA:
SS
COUNTY OF PENNINGTON :

On this the 8 day of September, 1986, before me, the undersigned officer, personally appeared Gary L. Morris and Karen R. Morris, husband and wife, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.



[Signature]
NOTARY PUBLIC

My Commission Expires: March 25 1994

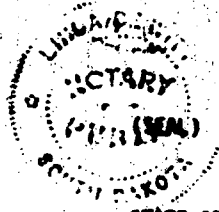
BOOK 28 PAGE 5063

10CA021, 10RZ043, 10PD057, 10PD058

STATE OF SOUTH DAKOTA:
SS
COUNTY OF PENNINGTON :

On this the 1 day of October, 1986, before me, the undersigned officer, personally appeared James E. Burke and Mary Jo Burke, husband and wife, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.



Linda Sharp
NOTARY PUBLIC

My Commission Expires: March 25 1994

STATE OF SOUTH DAKOTA:
SS
COUNTY OF PENNINGTON :

On this the 3 day of September, 1986, before me, the undersigned officer, personally appeared Gary K. Darley and Sharon L. Darley, husband and wife, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.



Linda Sharp
NOTARY PUBLIC

My Commission Expires: March 25 1994

STATE OF SOUTH DAKOTA:
SS
COUNTY OF PENNINGTON :

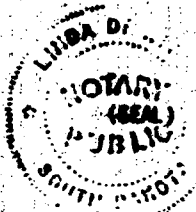
On this the 20 day of October, 1986, before me, the undersigned officer, personally appeared David C. Sharp and Linda Sharp, husband and

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wife, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.



Linda D. [unreadable]
NOTARY PUBLIC

My Commission Expires: March 25 1994

STATE OF SOUTH DAKOTA:
SS
COUNTY OF PENNINGTON :

On this the 29 day of August, 1986, before me, the undersigned officer, personally appeared Robert D. Buckingham and Judy A. Buckingham, husband and wife, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.



Linda D. [unreadable]
NOTARY PUBLIC

My Commission Expires: March 25 1994

STATE OF SOUTH DAKOTA:
SS
COUNTY OF PENNINGTON :

On this the 3 day of September, 1986, before me, the undersigned officer, personally appeared Thomas E. Simons and Marilyn R. Simons, husband and wife, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

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10CA021, 10RZ043, 10PD057, 10PD058

In witness whereof I hereunto set my hand and official seal.



Linda De Fries
NOTARY PUBLIC

My Commission Expires: March 25, 1994

STATE OF SOUTH DAKOTA:
SS
COUNTY OF PENNINGTON :

On this the 15 day of September 1986, before me, the undersigned officer, personally appeared William J. McClenahan and Mary McClenahan, husband and wife, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.



Linda De Fries
NOTARY PUBLIC

My Commission Expires: March 25, 1994

STATE OF SOUTH DAKOTA:
SS
COUNTY OF PENNINGTON :

On this the 15 day of September 1986, before me, the undersigned officer, personally appeared Terry D. Craft and Julie W. Craft, husband and wife, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.



Linda De Fries
NOTARY PUBLIC

My Commission Expires: March 25, 1994

AMENDED AND RESTATED DECLARATION OF RESTRICTIONS AND COVENANTS TO
RUN WITH THE LAND AND EXTENSION TO ADDITIONAL LAND OF RESTRICTIONS AND
COVENANTS TO RUN WITH THE LAND

KNOW ALL MEN BY THESE PRESENTS: That Property Rentals, Inc., a
South Dakota corporation having its principal place of business in Rapid
City, South Dakota, (hereinafter called "Declarant") does hereby declare as
follows:

1

HISTORY:

A. On November 6, 1979 there was recorded in Book 13 of the
Miscellaneous Records of the Register of Deeds of Pennington County, South
Dakota, Page 2774 a Declaration of Restrictions and Covenants to Run With the
Land. That Declaration covered the following described real estate:

Single Family Residential Lots:

Lots Four (4) through Twenty-Five (25), inclusive, and
Lots Twenty-Seven (27) and Twenty-Eight (28), of Fairway
Hills PRD (which includes portions of Tracts E and F of
the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4))
and includes portions of Tracts G, H and I of Arrowhead
View Addition to the City of Rapid City, Pennington
County, South Dakota, and Lot Twenty-Six R (26R) (formerly
Lot Twenty-Six (26) and a portion of Tract F of the
Southeast Quarter of the Northwest Quarter (SE1/4NW1/4) and a
portion of Tract I of said Arrowhead View Addition), all
located in the Southeast Quarter of the Northwest Quarter
(SE1/4NW1/4) of Section Fifteen (15), Township One (1) North,
Range Seven (7) East of the Black Hills Meridian, Rapid
City, Pennington County, South Dakota. Lot 13 is now
described as 13A. Lots 22 through 24 inclusive are now
described as Lots 22R through 24R inclusive.

Tennis Court Lot:

Lot Three (3) of Fairway Hills PRD located in the
Northwest Quarter of the Southwest Quarter (NW1/4SW1/4) of
Section Fifteen (15), Township One (1) North, Range Seven
(7) East of the Black Hills Meridian, Rapid City,
Pennington County, South Dakota.

AMENDED AND RESTATED DECLARATION OF RESTRICTIONS AND COVENANTS TO RUN WITH THE LAND AND EXTENSION TO ADDITIONAL LAND OF RESTRICTIONS AND COVENANTS TO RUN WITH THE LAND

KNOW ALL MEN BY THESE PRESENTS: That Property Rentals, Inc., a South Dakota corporation having its principal place of business in Rapid City, South Dakota, (hereinafter called "Declarant") does hereby declare as follows:

HISTORY:

A. On November 6, 1979 there was recorded in Book 13 of the Miscellaneous Records of the Register of Deeds of Pennington County, South Dakota, Page 2774 a Declaration of Restrictions and Covenants to Run With the Land. That Declaration covered the following described real estate:

Single Family Residential Lots:

Lots Four (4), through Twenty-Five (25), inclusive, and Lots Twenty-Seven (27) and Twenty-Eight (28), of Fairway Hills PRD (which includes portions of Tracts F and E of the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4) and includes portions of Tracts G, H and I of Arrowhead View Addition to the City of Rapid City, Pennington County, South Dakota, and Lot Twenty-Six R (26R) (formerly Lot Twenty-Six (26) and a portion of Tract F of the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4) and a portion of Tract I of said Arrowhead View Addition), all located in the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4) of Section Fifteen (15), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Rapid City, Pennington County, South Dakota. Lot 13 is now described as 13R. Lots 22 through 24 inclusive are now described as Lots 22R through 24R inclusive.

Tennis Court Lot:

Lot Three (3) of Fairway Hills PRD located in the Northwest Quarter of the Southwest Quarter (NW1/4SW1/4) of Section Fifteen (15), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Rapid City, Pennington County, South Dakota.

Pennington County, South Dakota
 THIS IS TO CERTIFY THAT THE MICROFILM REPRODUCTION OF THIS DECLARATION OF RESTRICTIONS AND COVENANTS TO RUN WITH THE LAND IS AN ACCURATE REPRODUCTION OF THE ORIGINAL RECORD AND WAS MICROFILMED IN THE REGULAR COURSE OF BUSINESS ACCORDING TO THE PROVISIONS OF SOUTH DAKOTA COMPILLED LAW 1-7-1. IT IS FURTHER CERTIFIED THAT THE MICROFILM RECORDS USED FOR MICROFILMING OF THE ABOVE RECORDS WAS IN A PROPER AND ON MICROFILM WHICH MEET THE RECOMMENDED STANDARDS OF THE NATIONAL ARCHIVES FOR PERMANENT MICROFILMING REPRODUCTIONS.
 25-1
 FULL NO. 100
 THE N. D. OFF. OF REG. OF DEEDS
 PENNINGTON COUNTY, S. D.
 [Signature]
 COUNTY CLERK

10CA021, 10RZ043, 10PD057, 10PD058

Recreational Lot:

As of the execution of the original covenants, the owner was engaged in the process of platting a recreational lot which, when platted, will be known as Lot Three A (3A) of Fairway Hills PRD, the notes and bounds description of which is as follows:

A portion of Fairway Hills PRD located in the Southwest Quarter of the Northwest Quarter (SW1/4NW1/4) and in the North Half of the Southwest Quarter (N1/2SW1/4) of Section Fifteen (15), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Pennington County, South Dakota, more particularly described as follows:

Commencing at the westermost point of Lot Two (2) of Fairway Hills PRD which is also on the east right-of-way line of Sheridan Lake Road and is described as the POINT OF BEGINNING; thence S 22°27'27" E a distance of 187.15 feet; thence S 40°51'48" E a distance of 133.00 feet; thence S 77°01'48" E a distance of 221.50 feet; thence S 06°14'09" E a distance of 273.63 feet; thence S 29°04'54" N a distance of 231.38 feet; thence N 76°00'45" W a distance of 80.48 feet; thence S 30°49'16" W a distance of 211.45 feet; thence N 70°23'00" W a distance of 88.00 feet to the Southeast Corner of Lot 3 of Fairway Hills PRD; thence North 19°37'00" E a distance of 130.00 feet; thence N 70°23'00" W a distance of 113.00 feet; thence S 19°37'00" W a distance of 131.00 feet; thence N 70°23'00" W a distance of 216.02 feet to a point on the east right-of-way line of Sheridan Lake Road; thence N 17°26'00" E along said right-of-way line a distance of 143.35 feet; thence N 87°13'00" E a distance of 258.71 feet; thence N 17°47'00" E a distance of 191.21 feet; thence N 20°13'00" W a distance of 373.15 feet to a point on the east right-of-way line of Sheridan Lake Road; thence along said right-of-way line in a northeasterly direction along a curve of 800.11 feet radius to a Point of Tangency; thence N 33°23'00" E a distance of 32.54 feet to the POINT OF BEGINNING. Said parcel contains 5.401 acres, more or less.

At such time the Declarant's predecessor reserve the right to extend such covenants, in whole or in part, to the following described real estate:

Apartment (Multi-Family) Residential Lots:

Lot One (1) of Fairway Hills PRD (formerly portions of Tracts G and H of Arrowhead View Addition), located in the South Half of the Northwest Quarter (S1/2NW1/4) of Section Fifteen (15), and Lot Two (2) of Fairway Hills PRD (formerly portions of Tracts G and H of Arrowhead View

10CA021, 10RZ043, 10PD057, 10PD058

Recreational Lot:

As of the execution of the original covenants, the owner was engaged in the process of platting a recreational lot which, when platted, will be known as Lot Three A (3A) of Fairway Hills PRD, the notes and bounds description of which is as follows:

A portion of Fairway Hills PRD located in the Southwest Quarter of the Northwest Quarter (SWNW) and in the North Half of the Southwest Quarter (NWSW) of Section Fifteen (15), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Pennington County, South Dakota, more particularly described as follows:

Commencing at the westernmost point of Lot Two (2) of Fairway Hills PRD which is also on the east right-of-way line of Sheridan Lake Road and is described as the POINT OF BEGINNING: thence S 22°27'27" E a distance of 187.15 feet; thence S 40°51'48" E a distance of 133.00 feet; thence S 77°01'48" E a distance of 221.50 feet; thence S 05°14'09" E a distance of 273.63 feet; thence S 29°04'54" W a distance of 231.38 feet; thence N 76°00'45" W a distance of 50.48 feet; thence S 38°49'16" W a distance of 211.45 feet; thence N 70°23'00" W a distance of 88.00 feet to the Southeast Corner of Lot 3 of Fairway Hills PRD; thence North 19°37'00" E a distance of 130.00 feet; thence N 70°23'00" W a distance of 113.00 feet; thence S 19°37'00" W a distance of 131.00 feet; thence N 70°23'00" W a distance of 216.02 feet to a point on the east right-of-way line of Sheridan Lake Road; thence N 17° 26'00" E along said right-of-way line a distance of 143.35 feet; thence N 87°13'00" E a distance of 258.71 feet; thence N 17°47'00" E a distance of 191.21 feet; thence N 20°13'00" W a distance of 373.15 feet to a point on the east right-of-way line of Sheridan Lake Road; thence along said right-of-way line in a northeasterly direction along a curve of 800.11 feet radius to a Point of Tangency; thence N 33°23'00" E a distance of 32.54 feet to the POINT OF BEGINNING. Said parcel contains 5.401 acres, more or less.

At such time the Declarant's predecessor reserved the right to extend such covenants, in whole or in part, to the following described real estate:

Apartment (Multi-Family) Residential Lots:

Lot One (1) of Fairway Hills PRD (formerly portions of Tracts G and H of Arrowhead View Addition), located in the South Half of the Northwest Quarter (SNW) of Section Fifteen (15), and Lot Two (2) of Fairway Hills PRD (formerly portions of Tracts G and H of Arrowhead View

Addition), all located in the South Half of the Northwest Quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$) and in the North Half of the Southwest Quarter (N $\frac{1}{2}$ SW $\frac{1}{4}$) of Section Fifteen (15), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Rapid City, Pennington County, South Dakota.

Unplatted Land:

The unplatted portion of the following described property:

Plot One (1) of Tract D, Fairway Hills PRD of the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$), Northeast Quarter of the Northwest Quarter (NE $\frac{1}{4}$ NW $\frac{1}{4}$) and Northwest Quarter of the Northwest Quarter (NW $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Fifteen (15), Township One (1) North, Range Seven (7) East and Tract E of the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Fifteen (15), Township One (1) North, Range Seven (7) East and Tract F of the Southeast Quarter of the Northwest Quarter (SE $\frac{1}{4}$ NW $\frac{1}{4}$) of Section Fifteen (15), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Pennington County, South Dakota.

Tracts G, H and I of Arrowhead View Addition located in the South Half of the Northwest Quarter (S $\frac{1}{2}$ NW $\frac{1}{4}$) of Section Fifteen (15), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Pennington County, South Dakota, containing 25.187 acres more or less.

All that portion of the Northwest Quarter of the Southwest Quarter (NW $\frac{1}{4}$ SW $\frac{1}{4}$) lying east of Highway 40, also known as Rapid City Sheridan Lake Road, in Section Fifteen (15), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Pennington County, South Dakota, containing 15.200 acres, more or less.

The West Half of the Northeast Quarter of the Southwest Quarter (W $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$) containing 20.112 acres more or less, in Section Fifteen (15), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Pennington County, South Dakota.

Land Owned by Others:

The following land was not then owned by the Declarant's predecessor, but for the same reasons, the Declarant's predecessor reserved the right to extend all or part of the restrictions and covenants therein contained to said land (with the consent of the then owners of said land):

1. Tract SC, a portion of Springbrook Acres Addition, located in the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$) and the Northwest Quarter of the

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Southeast Quarter (NWSE $\frac{1}{4}$) of Section Fifteen (15), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Pennington County, South Dakota.

c. Tract 5B, a portion of Springbrook Acres Addition, located in the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$), the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$) and the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) all in Section Fifteen (15), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Pennington County, South Dakota.

B. Thereafter on July 18, 1980, there was recorded in Book 14 of the Miscellaneous Records of the Register of Deeds of Pennington County, South Dakota, Page 6357, a new Declaration of Restrictions and Covenants to Run With the Land Covering Lot 3B of Fairway Hills P.R.D. which was entered into to control the use of a lot purchased by the Westside Baptist Church, Inc. Lot 3B had not previously been covered by the covenants filed on November 6, 1979.

C. Thereafter, on April 20, 1983, there was recorded in Book 19 of the Miscellaneous Records of the Register of Deeds of Pennington County, South Dakota, Page 6644, "Acknowledgement and Amendment to Declaration of Restrictions and Covenants to Run With the Land," which amended the covenants filed on November 6, 1979.

D. Thereafter on November 9, 1983, in Book 21 of the Miscellaneous Records of the Register of Deeds of Pennington County, South Dakota, Page 2683, said Restrictive Covenants filed November 6, 1979, were extended to Lot 29 of Fairway Hills P.R.D.

E. Thereafter January 15, 1984, in Book 21 of the Miscellaneous Records of the Register of Deeds of Pennington County, South Dakota, at Page 6655 said Restrictive Covenants filed November 6, 1979, were extended to Lots One and Two of Fairway Hills P.R.D.

II

PURPOSE OF THIS DOCUMENT

It is now the desire of the Declarant to amend said covenants, to restate them in their entirety so that all covenants affecting Fairway Hills P.R.D. will be in one integrated document, and to extend the covenants to additional land described as Lots One through Five inclusive of Block One of Fairway Hills P.R.D., Pennington County, South Dakota, which the Declarant intends to develop as townhouses. Therefore this document shall constitute the amended and restated declaration of restrictions and covenants to run with the land. This document shall be effective when it has been adopted by the Owners of a majority of the Lots covered by the original Declaration of Restrictions and Covenants to Run With the Land as amended and extended, all as described in Article I hereof.

III

DEFINITIONS:

Section 1: "Fairway Hills Association" shall mean and refer to Fairway Hills Park and Recreational Association, Inc., its successors and assigns, formed under the requirements of the covenants described in Article I hereof.

Section 2: "Townhouse Association" shall mean and refer to Fairway Hills Townhouse Association, Inc., its successors and assigns, which is formed under the requirements of these covenants.

Section 3: "Properties" shall mean and refer to that certain real property previously described in this document and to such additional property as may hereafter be brought within these covenants in the manner provided herein.

AND ON RECORD WITH THE RECORDS DEPARTMENT OF THE STATE OF SOUTH DAKOTA, PENNINGTON COUNTY, SOUTH DAKOTA, THIS 29th DAY OF MAY, 1950. *W. H. [Signature]*
RECORDS DEPARTMENT
STATE OF SOUTH DAKOTA
PENNINGTON COUNTY
FILE NO. 5010
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Section 4: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 5: "Common Area" shall mean all real property (including the improvements thereon) owned or to be owned by the Fairway Hills Association, presently described as Lots 3 and 3A, Fairway Hills P.R.D., Rapid City, Pennington County, South Dakota, together with the tennis courts, swimming pool and walking paths shown on the plat of the Properties. It shall also include all real property (together with the improvements thereon) owned or to be owned by the Townhouse Association, together with the private streets shown on the plat of the property described in Article II hereof.

Section 6: "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

Section 7: "Declarant" shall mean and refer to Property Rentals, Inc., its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

FAIRWAY HILLS PARK AND RECREATIONAL ASSOCIATION, INC.:

Section 1. Every Owner of a residential unit, including but not limited to townhouse Lot owners, which units or lots are subject to assessment under these covenants shall be a member of the Fairway Hills Association. Membership shall be appurtenant to and may not be separated from ownership of any residential unit or lot which is subject to assessment.

Section 2. The Fairway Hills Association shall have two classes of voting membership:

AND ON RECORD/IN WHICH THE RECOVERED REMAINDERS OF THE 1/2 OF SHARES IN PROPERTY RECOVERED
REPRODUCTION. REDUCTION OF 1/2 ROLL NO. 1116
APR 3 1966
DAN K. O'NEILL

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Section 4: "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of a fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 5: "Common Area" shall mean all real property (including the improvements thereon) owned or to be owned by the Fairway Hills Association, presently described as Lots 3 and 3A, Fairway Hills P.R.O., Rapid City, Pennington County, South Dakota, together with the tennis courts, swimming pool and walking paths shown on the plat of the Properties. It shall also include all real property (together with the improvements thereon) owned or to be owned by the Townhouse Association, together with the private streets shown on the plat of the property described in Article II hereof.

Section 6: "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties.

Section 7: "Declarant" shall mean and refer to Property Rentals, Inc., its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

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FAIRWAY HILLS PARK AND RECREATIONAL ASSOCIATION, INC.:

Section 1. Every Owner of a residential unit, including but not limited to townhouse Lot owners, which units or Lots are subject to assessment under these covenants shall be a member of the Fairway Hills Association. Membership shall be appurtenant to and may not be separated from ownership of any residential unit or Lot which is subject to assessment.

Section 2. The Fairway Hills Association shall have two classes of voting membership:

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Class A: Class A members shall be Owners of a residential unit, including but not limited to townhouse Lots, and including but not limited to the Declarant. Each member shall be entitled to one vote for each residential unit or Lot owned. When more than one person holds an interest in any residential unit or Lot, all such persons shall be members. The vote for such residential unit or Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any residential unit or Lot.

Class B: The Class B member shall be the Declarant and shall be entitled to three (3) votes for each residential unit or Lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership,
- (b) On December 31, 2006, or
- (c) The Declarant shall have the option to terminate all Class B membership and convert it to Class A membership at any time.

V

FAIRMAY HILLS TOWNHOUSE ASSOCIATION, INC.:

Section 1: Every Owner of a Townhouse Lot which is subject to assessment hereunder shall be a member of the Townhouse Association. Membership shall be appurtenant to and may not be separate from ownership of any Townhouse Lot which is subject to assessment.

BOOK 29 PAGE 5013

Section 2: The Townhouse Association shall have two classes of voting membership:

Class A: Class A members shall be all Owners of Townhouse Lots, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B: The Class B member shall be the Declarant and shall be entitled to three (3) votes for each Townhouse Lot owned. The Declarant shall be entitled at any time to submit to the Board of Directors of the Townhouse Association a proposed plat of townhouse lots, even though not filed of record. Upon such submission the Declarant shall be entitled to three (3) votes for each townhouse lot contained in the proposed plat. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in Class B membership,
- (b) On December 31, 2006, or
- (c) The Declarant shall have the option to terminate all Class B membership and convert it to Class A membership at any time.

VI

PURPOSE OF COVENANTS AND RIGHT OF REVERSION:

These covenants are imposed for the purpose of establishing and maintaining the Properties as a desirable residential area, and for the pur-

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pose of establishing and maintaining high quality building sites and fair and adequate property values on the Properties. The further purpose of these covenants is to provide for the creation of the Fairway Hills Association and the Townhouse Association, South Dakota non-profit corporations (hereinafter sometimes called Associations) and to provide for the transfer to the Fairway Hills Association of the tennis court lot, the recreational lot, expansions of the recreational lot or additional recreational lots, the walking paths and other improvements owned or to be constructed by the Declarant (the Common Area). In addition it is anticipated that there will be transferred to the Townhouse Association the private streets shown on the plat of the property described in Article II hereof.

The Declarant covenants that it has constructed tennis courts on the tennis court lot, a swimming pool on the recreational lot, and walking paths throughout some of the Properties, and that it may from time to time in the future construct additional improvements of similar character, all part of the Common Area.

The further purpose of these covenants is to commit the Declarant to transfer to the respective Associations the legal title to the Common Area as described above. The Associations shall not be required to purchase said Common Area but the transfer will be made in consideration for and on condition subsequent that said Common Area will always be used for the purposes designated and intended at the time of transfer (i.e., the swimming pool will continue to be used as a swimming pool, the tennis courts will continue to be used as tennis courts, the walking paths will continue to be used as walking paths, the streets will continue to be used as streets, etc.), that all taxes, assessments or other charges or liens against any such Common Area be

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paid before delinquent, and that all of said Common Area be maintained in a state of good repair as determined in the sole judgment of the Declarant, its successors and assigns. In the event of the failure of either of the Associations, their successors or assigns, to perform the above-described conditions subsequent, or in the event the payments required above are not made, or in the event, in the sole judgment of the Declarant, its successors and assigns, the Common Area is not properly maintained, the fee to be conveyed to the respective Association shall thereupon terminate, title to the premises upon which the condition has been breached shall thereupon revert to the Declarant, its successors or assigns, and the Declarant, its successors or assigns, shall thereupon have the right to reenter and take immediate possession of the premises upon which the condition subsequent has failed without the necessity of any further legal process whatever. Nothing contained in this Article VI shall impose any liability upon the Declarant to improve any property transferred to either Association as part of the Common Area.

The time of conveyance to the respective Association shall be not later than August 31, 1986. The Declarant shall hold the respective Association harmless from any liability of any kind or character on account of any encumbrance to which any of the Common Area is subject at the time of transfer to the respective Association.

The further purpose of these covenants is to define that the property described in Article II hereof shall be held for townhouse purposes and shall be held, sold and conveyed subject to the easements, restrictions, covenants and conditions contained in this document, which are adopted for the purpose of protecting the value and desirability of, and which shall run with the

C. the right of the Fairway Hills Association and the Townhouse Association to dedicate or transfer all or any part of the Common Area owned by them respectively to any public agency, or authority for such purposes and subject to such conditions as may be agreed to by the members of the Fairway Hills Association and the Townhouse Association, respectively. No such dedication or transfer shall be effective unless an instrument agreeing to such dedication or transfer signed by two-thirds (2/3) of each class of members of the appropriate Association has been recorded.

Section 2. Delegation of Use: Any Owner may delegate, in accordance with the Bylaws of the appropriate association, his right of enjoyment to the Common Area and facilities to the members of his family, his tenants, or contract purchasers who reside on the property.

Section 3. Exception for Owners of Single Family Residential Lots: The property rights described in this Article VII shall not apply to the Owner of any single family detached residential Lot unless such Owner has elected to pay the periodic assessments established pursuant to Article XVII in the manner provided for in Section 10 of Article XVII.

VIII

EASEMENTS:

Section 1. Easements for Support: Every portion of a home which contributes to the structural support of another home shall be burdened with an easement of structural support in favor of such other home.

Section 2. Easements for Utilities: To the extent that any utility line, pipe, wire or conduit serving any home or homes on the Properties shall lie wholly or partially within the boundaries of any Lot, such Lot shall be burdened with an easement for the use, maintenance, repair, or replacement of

such utility line, pipe, wire or conduit, such easement to be in favor of the Fairway Hills Association and its successors and assigns.

Section 3: All portions of the Properties hereby submitted, shall be subject to the following easements, which easements are and shall be reserved in favor of the Declarant and its successors and assigns.

A. A perpetual, non-exclusive easement, over, on, across and through all roads, drives and streets located on the Properties, for the benefit of the additional property described in Article XIII (or other property subsequently added), and between any portion of the property described in Article XIII hereto (or other property subsequently added), and any public right-of-way or any other easement providing access to any public right-of-way.

B. A perpetual, non-exclusive easement, for the benefit of the property described in Article XIII, (or other property subsequently added), for the use, maintenance, repair and replacement of all sewer, water, gas, electric, telephone and other utility lines and pipes now or hereafter located in, on, under or through the Properties and serving all or any portion of the property described in Article XIII (or other Property subsequently added).

ARCHITECTURAL CONTROL COMMITTEES:

There shall be three Architectural Control Committees:

- A. The Declarant's Architectural Control Committee.
- B. Architectural Control Committee (Single Family and Apartments).
- C. Architectural Control Committee (Townhouses).

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The Declarant's Architectural Control Committee shall be appointed by it and serve at its pleasure. Each of the other two committees shall be composed of not less than three (3) nor more than five (5) persons appointed by the Board of Directors of the respective associations, the Fairway Hills Association to appoint the Architectural Control Committee (Single Family and Apartments) and the Townhouse Association to appoint the Architectural Control Committee (Townhouses).

Neither of the Architectural Control Committees described in B and C above shall have any authority over any of the Properties owned by the Declarant or any person, firm or corporation succeeding to the interest of the Declarant as developer. Those Properties shall be controlled by the Declarant's Architectural Control Committee. No improvements of any kind or character shall be constructed or otherwise placed upon any of the Properties without the express written approval of the Declarant's Architectural Control Committee. Before commencing construction of any improvements, or placing any improvements on the Property, any Owner of said Properties shall submit to the Declarant's Architectural Control Committee all plans showing such improvements, the location of such improvements and the quality of construction.

After any structure has been completed, ready for occupancy and sold by the Declarant to another party, no building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specifications showing the nature, kind, shape, height, materials and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to

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surrounding structure, and topography by the Architectural Control Committee (Townhouses), as to the townhouse lots or any property to which the townhouse restrictions are extended as provided in Article XIII hereof, and by the Architectural Control Committee (Single Family and Apartments) as to the remainder of the Properties.

In the event the relevant Architectural Control Committee fails to approve or disapproves such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and it will be deemed that there has been compliance with this article.

I

SINGLE FAMILY AND APARTMENT (MULTI-FAMILY) RESIDENTIAL ART. COVENANTS AND RESTRICTIONS:

The following covenants shall apply only to single family residential lots and the apartment (multi-family) residential lots described in Article I of these covenants, and to any future single family or apartment (multi-family) residential lots platted within the property described in Article XIII.

A. Each residential lot shall be used for residential purposes only and not for any business, trade, commercial or industrial purposes whatsoever, except that individual owners or tenants may conduct non-nuisance, unoffensive businesses from their homes. Unless otherwise approved by the Architectural Control Committee (Single Family and Apartments), campers, buses, travel trailers, boats, motor homes, trucks (other than pickup trucks), trailers, snowmobiles, and other recreational vehicles and equipment, other equipment, machinery and materials may not be kept or stored on

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any Lot except inside an enclosed garage or other building, so as to be at all times out of sight. That portion of the above provision relating to storage of equipment and materials shall not apply during the period of construction of a dwelling or of other improvement on any Lot.

B. After the initial construction, no improvements of any kind or character will be constructed upon or otherwise placed upon any single family or apartment (multi-family) residential lot without the express written approval of the Architectural Control Committee (Single Family and Apartments). Before commencing construction of any changes to any such improvements, or remodeling the exterior appearance of any existing improvements, the Owner shall submit to said Architectural Control Committee all plans showing such improvements, the location of such improvements and the quality of construction. In the event said committee fails to approve or disapprove any plans or other requests presented to it within thirty (30) days after such request or in the event no suit to enjoin the construction has been commenced prior to the completion of the construction, approval of said committee will not be required.

C. Unless otherwise approved in writing by the Declarant's Architectural Control Committee (or the Architectural Control Committee (Single Family and Apartments) as to activity after initial construction), siding on the exterior of any improvements located on any Lot described in this article, and all material used for any fence or walls, will be either natural stone, brick, wood or synthetic material that appears to be natural stone, brick or wood. All such materials shall be natural or earth tone in color, and cedar shake shingles shall be used as roofing materials on all roofs unless the Declarant's Architectural Control Committee or the

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Architectural Control Committee (Single Family and Apartments) as to construction after initial construction) has specifically approved in writing an alternate material.

D. All construction shall be original, in that no previously constructed dwelling, trailer house or mobile home shall be permitted to be placed on any lot, in basement, trailer, vehicle or structure of any kind, except a completed dwelling house, shall be occupied or used for residential purposes at any time.

E. All dwellings shall be constructed utilizing new materials, using a board by board method of building, or the erection of a "pre-cut building" provided said "pre-cut building" is erected upon the lot using a board by board method of construction and constructed upon a permanent foundation. A "pre-cut building" is hereby defined to be a package of building materials, pre-shaped and cut at a location other than a lot within Fairway Hills, which materials when assembled shall form a dwelling. For the purpose of this covenant, board by board construction shall mean the cutting, shaping, assembly and finishing of the building materials on the lot to form a dwelling house. However, the use of such materials as trussed rafters and pre-assembled wall studding panels shall be permissible if such are still in the rough construction stage and are not used in the construction in a manner so as to violate the basic intent of this covenant.

F. Any building commenced upon any lot shall be prosecuted diligently to completion and shall be completed within twelve (12) months from the commencement of the construction unless such construction is prohibited by reasons beyond the control of the person constructing and unless an extension of time is obtained from the Architectural Control Committee (Single Family and Apartments).

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G. Unless waived in writing by the Plaintiff's Architectural Control Committee, an enclosed garage large enough to house at least two cars must be constructed contemporaneously with the construction of the house on each single family residential lot.

H. All improvements on each Lot must be maintained by the Lot Owner so as to remain in a state of good repair, neat and well kept in appearance. It is the responsibility of each Lot Owner to see that any lawns, landscaping or gardens are maintained in a neat and orderly condition. Firewood must be stacked neatly against the rear of the house or garage, or in such other places as are not visible from neighboring residences or from the street.

I. No animals, livestock, or poultry of any kind shall be raised, fed or kept upon any lot except dogs, cats or other household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose.

J. No noxious or offensive activity shall be carried on upon any Lot nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.

K. No residential lot shall be used or maintained as a dumping ground for old cans, rubbish or trash and all garbage or similar waste shall be kept in sanitary containers. All incinerators and other equipment for the disposal of garbage shall be kept in a clean, sanitary and fireproof condition.

L. No sign of any kind shall be displayed to the public view on any lot except a sign advertising the property for sale or rent or signs used by a builder or Owner to advertise the property during the construction and sales period.

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M. There shall be no antennas located on any Lot reaching a height of more than ten feet from the base, unless specifically approved by the Architectural Control Committee (Single Family and Apartments). There shall be no television "dish" antennas of any size located on any Lot unless specifically approved by the Architectural Control Committee (Single Family and Apartments.)

IX

TOWNHOUSE RESIDENTIAL AREA COVENANTS AND RESTRICTIONS:

In order to provide for the maximum enjoyment of the Properties by all of the residents thereof and to provide for the protection of the value of the Properties, the use of the property described in Article II hereof is dedicated to townhouses, and all of the townhouses located thereon shall be restricted to, and shall be only in accordance with the following provisions:

Section 1. Single Family Use: Each Lot shall be used for residential purposes only and not for any business, trade, commercial or industrial purposes whatsoever, except that individual owners or tenants may conduct non-nuisance, inoffensive businesses from their homes. Unless otherwise approved by the Architectural Control Committee (Townhouses), campers, buses, travel trailers, boats, motor homes, trucks (other than pickup trucks), trailers, snowmobiles, and other recreational vehicles and equipment, other equipment, machinery and materials may not be kept or stored on any Lot except inside an enclosed garage.

Section 2. Prohibited Activities: No noxious or offensive activity shall be carried on in any house, or upon any Lot. Each Lot Owner, his family, tenants, guests and invitees, shall refrain from any act or use of his Lot which could reasonably cause embarrassment, discomfort, annoyance, or nuisance to any other resident or residents of the property.

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Section 3. Nuisance: No rubbish or debris of any kind shall be dumped, placed or permitted to accumulate upon any portion of the Properties so as to render the same unsanitary, unsightly, or offensive. No nuisance shall be permitted to exist upon any portion of the Properties. Without limiting the generality of any of the foregoing, no exterior speakers, horns, whistles, bells, or other sound devices, except security devices used exclusively for security purposes, shall be located, used or placed on the Properties, or any portion thereof. All firewood must be stored in the garage or in the rear yard, neatly stacked, to a height not in excess of the top of the fence.

Section 4. Animals:

A. Except as otherwise provided hereinbelow, no animals shall be permitted upon the Properties; provided, however, each Lot Owner shall have the right to keep a reasonable number of animals of a type generally recognized as household pets.

B. All animals which shall be kept upon the Properties shall be kept and maintained as household pets (and not for any commercial purpose), and may not be kept and maintained upon the Properties if they shall create an unreasonable amount of noise, or create a nuisance to any residents of the Properties. No structure for the housing or confinement of any such household pet shall be constructed or maintained upon any portion of the Lot except in the home structure or enclosed fenced area. No pet shall be permitted to leave its droppings on any portion of the Lot outside the home and fenced area, and if such happens, the owner of such pet shall promptly remove the same.

C. Upon the written request of any Lot Owner, the Board of Directors of the Townhouse Association shall determine whether a particular

animal and its keeping is in conformity to the foregoing requirements. Any such determination by the Board of Directors of the Townhouse Association shall be conclusive. If it shall be determined that such animal is not of a type generally recognized as a household pet, or is being kept in a manner which does not conform to the foregoing requirements, or is creating an unreasonable amount of noise or constituting a nuisance to any residents of the Properties, then the Owner of the Lot in which such animal is being kept shall remove such animal from the Properties promptly upon being ordered to do so by the Board of Directors of the Townhouse Association. Likewise, if the Board of Directors of the Townhouse Association shall determine that any Lot Owner is keeping an unreasonably large number of animals upon the Properties (even if all such animals are of a type generally recognized as household pets), the Owner of the Lot in which such animals are being kept shall promptly remove from the Properties the number of animals which the Board of Directors of the Townhouse Association orders to be removed; provided, however, that so long as all such animals are of a type and demeanor otherwise permitted to be kept on the Properties, the Lot Owner to whom the Townhouse Association's Board of Directors' order is directed shall determine which of said animals are to be removed from the Properties.

Section 5. Signs: Except in connection with the sales activities of the Declarant, no sign of any kind or character shall be mounted, erected or displayed upon any portion of the Properties without the express written permission of the Board of Directors of the Townhouse Association. The restriction herein stated shall include the prohibition of the placement of any sign on any Lot or easement, the placement of any sign within a townhouse in a location from which the same shall be visible from the outside, and the

placement of any sign in or upon any motor vehicle while the same is in the Properties.

Section 6. Leasing:

A. All lease for any Lot shall be in writing, and shall cause the lessee to comply with and abide by all of the terms, provisions and restrictions of this Declaration, the Articles of Incorporation, the Bylaws and all rules and regulations adopted by the Board of Directors of the Townhouse Association in regard to the use and occupancy of the Properties. Any failure by a lessee to comply with and abide by all of such terms, provisions, restrictions, rules or regulations shall be a default by such lessee under such lease agreement.

B. No townhouse shall be leased for transient or hotel purposes, nor shall any townhouse Owner lease less than an entire townhouse, except, any first mortgagee who is in possession of any townhouse following a default in a first mortgage on such townhouse Lot, or following acquisition of title to such townhouse Lot by foreclosure or deed in lieu of foreclosure shall have the unqualified right to lease such townhouse Lot; or the Declarant shall have the unqualified right to use any townhouse for the temporary or permanent housing of any of its employees.

Section 7. Gardening: Except within individual townhouse structures or within the backyard fence of a townhouse Lot, no planting, transplanting, or gardening shall be done and no fences, hedges or walls shall be erected or maintained upon the Property, except as approved by the Board of Directors of the Townhouse Association.

Section 8. Antennas: No exterior antennas or aerials shall be constructed or installed on any building located on the Property. There shall be no

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television "dish" antennas of any size located on any lot, unless specifically approved by the Architectural Control Committee (Townhouses).

Section 9. Clotheslines: Outside clotheslines shall be permitted only within the backyard fenced area of each lot.

XII

MAINTENANCE OF COMMON AREA:

The Declarant intends to transfer to Fairway Hills Association the legal title to the Common Area, except the private streets, the legal title to which shall be conveyed to the Townhouse Association. The respective association which owns each Common Area shall be charged with the responsibility of maintaining that area for the benefit of those entitled to use it. Such maintenance shall be financed through assessments as described in Article XVII.

XIII

STAGED DEVELOPMENT:

Section 1, Option to Expand: The Declarant has heretofore developed apartment houses on those of the Properties designated below in this article as "apartment (multi-family) residential lots." In addition the Declarant does hereby explicitly reserve to itself an option or options as may be necessary to permit the Declarant to add additional property to this Declaration. The additional property may come from the property described below in this section and may also come from other property. The Declarant may exercise its option to expand as provided herein for the purpose of developing the property itself, or selling the property to others for development. The development or sale (if accomplished) may be for the construction of various forms of low density, medium density and high density

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owner occupied and rental dwelling units such as condominiums, townhouses, zero lot line homes, cluster homes, apartments, etc.

The additional land to which reference is made in this section is described as follows:

Apartment (Multi-Family) Residential Lots:

Unplatted Land:

The unplatted portion of the following described property: Plot One (1) of Tract D, Fairway Hills PRD of the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4), Northwest Quarter of the Northwest Quarter (NE1/4NW1/4) and Northwest Quarter of the Northeast Quarter (NW1/4NE1/4) of Section Fifteen (15), Township One (1) North, Range Seven (7) East and Tract E of the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4) of Section Fifteen (15), Township One (1) North, Range Seven (7) East and Tract F of the Southeast Quarter of the Northwest Quarter (SE1/4NW1/4) of Section Fifteen (15), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Pennington County, South Dakota.

Tracts G, H and I of Arrowhead View Addition located in the South Half of the Northwest Quarter (S1/2NW1/4) of Section Fifteen (15), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Pennington County, South Dakota, containing 25.187 acres more or less.

All that portion of the Northwest Quarter of the Southwest Quarter (NW1/4SW1/4) lying east of Highway 40, also known as Rapid City Sheridan Lake Road, in Section Fifteen (15), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Pennington County, South Dakota, containing 15.289 acres, more or less.

The West Half of the Northeast Quarter of the Southwest Quarter (W1/2NE1/4SW1/4) containing 20.112 acres more or less, in Section Fifteen (15), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Pennington County, South Dakota.

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Land Owned by Others:

The following land is not now owned by the Declarant, but for the same reasons, the Declarant does hereby reserve the right to extend all or part of the restrictions and covenants herein contained to said land (with the consent of the then owners of said land):

1. Tract SC, a portion of Springbrook Acres Addition, located in the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$) and the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) of Section Fifteen (15), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Pennington County, South Dakota.

2. Tract SB, a portion Springbrook Acres Addition, located in the Northeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SW $\frac{1}{4}$), the Southwest Quarter of the Northeast Quarter (SW $\frac{1}{4}$ NE $\frac{1}{4}$), and the Northwest Quarter of the Southeast Quarter (NW $\frac{1}{4}$ SE $\frac{1}{4}$) all in Section Fifteen (15), Township One (1) North, Range Seven (7) East of the Black Hills Meridian, Pennington County, South Dakota.

Section 2. Expiration of Option: The option herein reserved unto the Declarant shall be exercisable at any time, and from time to time, on or before the twenty-fifth (25th) anniversary of the date on which this Declaration is recorded in the Office of the Register of Deeds of Pennington County, South Dakota (Option Expiration Date). Unless all of the additional Properties shall have been added to the Properties by the Option Expiration Date, the option herein reserved unto the Declarant shall expire on the Option Expiration Date. Notwithstanding the foregoing, however, the option herein reserved unto the Declarant may be extended if (i) the Lot Owners of the Properties to which at least two-thirds (2/3) of the votes in both Associations appertain, exclusive of any vote or votes appurtenant to any Lot or Lots then owned by the Declarant, together with (ii) the first mortgagees holding the first mortgages on at least two-thirds of the Properties, shall

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consent to such extension of such option within one year prior to the date upon which such option should otherwise have expired.

Section 3. Exercise of Option: The option herein reserved unto the Declarant may be exercised so as to add all or any portion or portions of the additional property to Fairway Hills at different times, and in any order or sequence. There shall be no limitations on the boundaries of the portion or portions of the additional Property which may be added to the Properties by the exercise of the said option, or the order in which portions of the additional property may be added to the Properties. The exercise of said option as to any portion of the additional property shall not bar the further exercise of the said option as to any other portion or portions of the additional property.

Section 4. No Obligation: The Declarant shall be under no obligation to exercise the option herein reserved unto it so as to add all or any portion of the additional property to the Properties. Prior to being added to the Properties pursuant to the exercise of the option herein reserved unto the Declarant, no portion of the additional property shall be subject to any of the terms, provisions and restrictions of this Declaration, and all portions of the additional property may be conveyed, pledged, leased and encumbered totally free of the terms, provisions and restrictions of this Declaration.

Section 5. Compatibility of Structures: No assurances are made by the Declarant with respect to the compatibility of any structures which have been or may be erected on any portion of the additional property added to the Properties, with structures located on the other parts of the Properties, in terms of quality of construction, the principal materials to be used, and architectural style, or in any such respect. No assurances are made

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by the Declarant with respect to the location of any or all other improvements that may be made on any portion of the additional property.

Section 6. Additional Developments: By the purchase of any lot sold to any owner, mortgagee or any other person or entity having an interest in any lot sold within the Properties, it is acknowledged by these parties that Fairway Hills is a Planned Residential Development (P.R.D.) under the ordinances of the City of Rapid City, Pennington County, South Dakota. Within said P.R.D. there have been general plans to construct single family detached housing, attached single family housing, apartment buildings not to exceed a basement plus three stories, townhouses, shopping center, office buildings, common areas, and other developments within the P.R.D.

As of the date of recording of this Declaration, many of these improvements are in place with many other parts of Fairway Hills yet to be developed. Therefore any person or other entity acquiring any interest in any part of the Properties acquires such interest subject to the right of the Declarant, in its sole discretion, to continue with the development of Fairway Hills according to the P.R.D. even though said future development may be detrimental to the interests of a particular Owner of any of the Properties, such as infringing upon views, increasing density of residences with attendant increase in pedestrian and vehicular traffic, etc. For example, the Declarant's present intention is to construct apartment houses having a basement and three stories above ground across the street immediately west from the Townhouse Properties described in Article II.

The areas designated by the P.R.D. as future common areas are general in scope. The Declarant, in its sole discretion, may transfer these areas or portions of those areas to the Fairway Hills Association, without

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charge, as future development is added to the Properties. Nothing herein or in the P.R.D. constitutes a requirement that the Declarant will develop such areas as indicated on the P.R.D., but does not prevent the Declarant from developing such areas in its sole discretion and transferring such developments, without charge, to the Fairway Hills Association, which will be required to accept the same.

XIV

EXTERIOR MAINTENANCE OF TOWNHOUSES:

The Townhouse Association shall provide exterior maintenance upon each Lot which is subject to assessment, as follows: paint, repair, replacement and care of roofs, gutters, downspouts, exterior building surfaces, trees, shrubs, grass, walks, exterior improvements, and snow removal. Such exterior maintenance shall not include glass surfaces, or areas inside the fenced portions of any lot.

In the event that the need for maintenance or repair of a Lot or the improvements thereon is caused through the willful or negligent acts of its Owner, or through the willful or negligent acts of the family, guests or invitees of the Owner of the Lot needing such maintenance or repair, the cost of such exterior maintenance shall be added to and become part of the assessment to which such Lot is subject.

XV

PARTY WALLS:

Section 1: General Rules of Law to Apply: Each wall which is built as a part of the original construction of the townhouse upon the Properties and placed on the dividing line between the Lots shall constitute a party wall, and, to the extent not inconsistent with the provisions of this Article,

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the general rules of law regarding party walls and liability for property damage due to negligence or willful acts or omissions shall apply thereto.

Section 2. Sharing of Repair and Maintenance: The cost of reasonable repair and maintenance of a party wall shall be shared by the Owners who make use of the wall in proportion to such use.

Section 3. Destruction by Fire or Other Casualty: If a party wall is destroyed or damaged by fire or other casualty, any Owner who has used the wall may restore it, and if the other Owners thereafter make use of the wall, they shall contribute to the cost of restoration thereof in proportion to such use without prejudice, however, to the right of any such Owners to call for a larger contribution from the others under any rule of law regarding liability for negligent or willful acts or omissions.

Section 4. Weatherproofing: Notwithstanding any other provisions of this Article, an Owner who by his negligent or willful act causes the party wall to be exposed to the elements shall bear the whole cost of furnishing the necessary protections against such elements.

Section 5. Right to Contribution Runs With Land: The right of any Owner to contribution from any other Owner under this Article shall be appurtenant to the land and shall pass to such Owner's successors in title.

Section 6. Arbitration: In the event of any dispute arising concerning a party wall, or under the provisions of this Article, each party shall choose one arbitrator and arbitration shall proceed as provided in the Uniform Arbitration Act as enacted in South Dakota at such time.

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XVIINSURANCE ON TOWNHOUSES:

Section 1. Casualty insurance: The Townhouse Association, through its Board of Directors, may elect to obtain and continue in effect, on behalf of all Owners of Lots described in Article II hereof, adequate blanket casualty and fire insurance in such form as the Board of Directors of the Townhouse Association deems appropriate in an amount equal to the full replacement value, without deduction for depreciation or coinsurance, of all of the townhouses, including the structural portions and fixtures thereof, owned by such Owners. Insurance premiums from any such blanket insurance coverage, and any other insurance premiums paid by the Townhouse Association shall be a common expense of the Townhouse Association to be included in the regular common assessments of the Owners, as levied by the Townhouse Association. Premiums thus collected from the Owners should consider the respective values of each dwelling. The insurance coverage with respect to the townhouses shall be written in the name of, and the proceeds thereof shall be payable to the Townhouse Association as trustee for the homeowners. In the event that the Townhouse Association is maintaining blanket casualty and fire insurance on the townhouses, the Townhouse Association shall repair or replace the same from the insurance proceeds available.

Section 2. Annual Review of Policies: All insurance policies shall be reviewed at least annually by the Board of Directors of the Townhouse Association in order to ascertain whether the coverage contained in the policies is sufficient to make any necessary repairs or replacement of the Property which may have been damaged or destroyed.

COVENANT FOR ASSESSMENTS:

Section 1. Creation of the Lien and Personal Obligation of Assessments: The Declarant, for each Lot owned within the Properties (except detached single family residential Lots other than townhouse Lots), hereby covenants, and each Owner of any Lot (except detached single family residential Lots other than townhouse Lots) by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Townhouse Association and Fairway Hills Association: (1) annual assessments or charges, and (2) annual assessments to create a reserve for capital improvements, and (3) special assessments for capital improvements, such assessments to be established and collected as hereinafter provided.

Any assessments, together with interest, costs, and reasonable attorney's fees, shall be a charge on the land and shall be a continuing lien upon the Properties against which each assessment is made.

Each such assessment, together with interest, costs and reasonable attorney's fees, shall also be the personal obligation of the person who was the Owner of such Properties at the time when the assessment fell due. The personal obligation for delinquent assessments shall not pass to his successors unless expressly assumed by them.

The single family residential Lots excepted from this covenant for assessments are presently described as Lots 4 through 12 inclusive, Lot 13R, Lots 14 through 21 inclusive, Lots 22R, 23R, 24R, 25, 26R, 27 and 28. Any lots subsequently platted as single family residential lots shall similarly be excluded from assessment, unless the owner or owners of such Lots elect to be included in such assessment as provided in Section 10 of this Article

XVII. Townhouse Lots shall never be considered single family residential Lots for the purpose of this Article XVII.

Section 2. Purpose of Assessment: The assessments levied by the Townhouse Association and Fairway Hills Association shall be used exclusively to promote the recreation, health, safety and welfare of the residents in the Properties and for the improvement and maintenance of the Common Area and of the homes situated upon the Properties.

Section 3. Amount of Annual Assessment. The amount of the annual assessment and/or the amount of the annual assessment for capital improvements imposed by both the Fairway Hills Association and the Townhouse Association shall be determined by the Board of Directors of each respective association. The determination shall be made by each Board of Directors on an annual basis at the meetings called in accordance with the requirements of Section 5 of this Article XVII. The members of each respective association may override the determination of the amount of any annual assessment by a two-thirds (2/3) vote of each class of members who are voting in person or by proxy at a meeting duly called for that purpose within fifteen (15) days of the determination by the Board of Directors of the amount of the assessment. In the event any such annual assessment is overridden by a membership vote (as hereinbefore provided) the membership meeting voting to override the amount of the assessment shall fix the amount of the assessment to take the place of the assessment determined by the Board of Directors.

Section 4. Special Assessments for Capital Improvement: In addition to the annual assessments authorized above, either the Townhouse Association or Fairway Hills Association, or both, may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying in

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whole or in part, the cost of any construction, reconstruction, repair or replacement of a capital improvement upon the Common Area, including fixtures and personal property related thereto, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members of the Association proposing the assessments, who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5. Notice and Quorum for Any Action Authorized Under Section 3 and 4:

Written notice of any meeting called for the purpose of taking any action authorized under Section 3 or 4 of this Article shall be sent to all members of the Association proposing the assessment not less than 30 days nor more than 60 days in advance of the meeting.

At the first such meeting called, the presence of members or of proxies entitled to cast sixty percent (60%) of all the votes of each class of membership shall constitute a quorum. If the required quorum is not present, another meeting may be called subject to the same notice requirement, and the required quorum at the subsequent meeting shall be one-half (1/2) of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting.

Section 6. Uniform Rate of Assessment and Collection (Means of Collection):

Except as required under Article XVI, both annual and special assessments must be fixed at a uniform rate for all lots and may be collected on a monthly basis. The Fairway Hills Association shall collect the assessments made by the Townhouse Association, separately state such assessments on the monthly bills, and remit the Townhouse Association portion of the assessments to the Townhouse Association.

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Section 7. Date of Commencement of Annual Assessments: Due Date: The annual assessments provided for herein shall commence as to all Lots on the first day of the month following the conveyance of the Common Area to the Fairway Hills Association or the Townhouse Association, as the case may be. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Directors of each Association shall fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Directors of each Association, each Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of that Association setting forth whether the assessments on a specified Lot have been paid. A properly executed certificate of the Association as to the status of assessments on a Lot is binding upon the Association as of the date of its issuance.

Section 8. Effect of Nonpayment of Assessments: Remedies of the Association: Any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of six percent (6%) per annum. The Association levying the assessment may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against the Properties. No Owner may waive or otherwise escape liability for the assessments provided for herein by non use of the Common Area or abandonment of his Lot.

Section 9. Subordination of the Lien to Mortgage: The lien of the assessments provided for herein shall be subordinate to the lien of any first

mortgage. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot pursuant to mortgage foreclosure or any proceeding in lieu thereof, shall extinguish the lien of such assessments as to payments which become due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessments thereafter becoming due or from the lien thereof.

Section 10. Option by Owner of Single Family Residential Lot: The Owner of any single family detached residential Lot in Fairway Hills shall have the right to elect to pay the periodic assessments established pursuant to this Article XVII by written notification to the Board of Directors of the Fairway Hills Association. Any owner making such election shall thereupon be entitled to the use (for himself and the members of his immediate family) of the Common Area during the period that such election is in force and during which such assessments are timely paid as provided in this Article XVII; provided, however, that such election shall not be extended to any corporate, partnership or joint venture owner, or any owner other than an individual. Any election so made shall be in force for twelve (12) consecutive months after it is made.

XVIII

GENERAL PROVISIONS:

Section 1. Enforcement: The Townhouse Association, or any Owner, shall have the right to enforce, by any proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of this document. Failure by the Townhouse Association or by any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

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Section 2. Severability: Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions which shall remain in full force and effect.

Section 3. Amendment: The covenants and restrictions of this document shall run with and bind the land, for a term of twenty-five (25) years from the date this Declaration is recorded, after which time they shall be automatically extended for successive periods of ten (10) years each. This Declaration may be amended at any time by an instrument signed by not less than a majority vote of the Lot Owners; provided however that for this purpose there shall be one vote for each Lot owned and an additional vote for each residential unit (single family residence, apartment or any other form of residential dwelling unit) owned. In the event ownership of any such unit is in the name of more than one person, the owners of each such unit shall designate one of their number to vote. Owners of more than one residential unit shall be entitled to one vote for each residential unit owned. Tenants shall not have a vote. Any amendment must be recorded with the office of the Register of Deeds of Pennington County, South Dakota.

Section 4. FHA/VA Approval: As long as there is a Class B membership in the Townhouse Association, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration: Annexation of additional Property not described, dedication of Common Area not already shown on the P.R.D. as open space, and amendment of this Declaration of Easements, Restrictions and Covenants to Run With the Land.

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IN WITNESS WHEREOF, the undersigned, being the Declarant herein,
has hereunto set its hand and seal this 11 day of August, 1986.

PROPERTY RENTALS, INC.
DECLARANT

BY Robert D. Buckingham

Robert D. Buckingham, President

STATE OF SOUTH DAKOTA:

SS

COUNTY OF PENNINGTON :

On this the 11th day of August, 1986, before me, the undersigned
officer, personally appeared Robert D. Buckingham, who acknowledged
himself to be the President of Property Rentals, Inc., a cor-
poration, and that he as such President, being authorized so
to do, executed the foregoing instrument for the purposes therein contained
by signing the name of the corporation by himself as President.

In witness whereof I hereunto set my hand and official seal.

Linda DeWitt

NOTARY PUBLIC

RECORDED
INDEXED



2/23/82 My Commission Expires: March 25, 1994
STATE OF SOUTH DAKOTA, COUNTY OF PENNINGTON
August 29, 1986
Robert D. Buckingham
Notary of South Dakota