

DECLARATION OF CONDITIONS, COVENANTS AND RESTRICTIONS  
FOR LOTS SERVED BY THE  
LION MOUNTAIN SEWER SYSTEM ASSOCIATION, INC.

This Declaration is made this 21<sup>st</sup> day of October, 1993, by LION MOUNTAIN, INC., a Montana corporation, of Whitefish, Montana (the "Declarant"). The Declarant hereby establishes conditions, covenants and restrictions as follows:

1. Background. Declarant is the owner of the real property described below and has caused a sewer system to be created and established to serve the property. Declarant wishes to establish conditions, covenants and restrictions which will set forth the terms upon which the sewer system shall be operated. These conditions, covenants and restrictions are for the benefit of the property described herein and for each owner and the successors in interest of each owner.

2. Declaration. The Declarant, being the owner of all the property described below, does hereby establish the conditions, covenants and restrictions set forth herein upon which and subject to which all lots and portions of lots described herein shall be sold and conveyed. The Declarant hereby declares that all of said property is and shall be held, transferred, sold and conveyed subject to the conditions, covenants and restrictions set forth herein, all of which are to run with the land and shall be binding upon all successors in interest of the Declarant.

3. Property. The real property which is subject to these conditions, covenants and restrictions is described as follows:

Lots 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 15, 17, 19, 20 and 21 of Lion Mountain Subdivision No. 6, according to the map or plat thereof on file and of record in the office of the Clerk and Recorder of Flathead County, Montana.

4. Definitions. The following terms shall have the definitions indicated:

a. "Association" shall mean the Lion Mountain Sewer System Association, Inc., its successors and assigns.

b. "Board of Directors" shall mean the board of directors of Lion Mountain Sewer System Association, Inc.

c. "Owner" shall mean the record owner of fee simple title to any of the lots which are part of the properties herein. In the event of a sale on a contract for deed, the purchaser under the contract shall be considered the owner.

d. "Property" or "Properties" shall mean that certain real property described in paragraph 3 above, and any additional property as may be hereafter subjected to this declaration and brought within the jurisdiction of the Association.

e. "Common Elements" are any part of the sewer system serving more than a single lot, including but not limited to the individual service lines from the respective property boundaries to the common gravity or pressure main, including the individual check and ball valves and valve boxes; the common gravity or pressure sewer mains; the filter tanks and filters; the siphon tanks and siphons; piping from the siphon tanks to the drainfields, and the drainfields.

f. "Individual Elements" are those elements of the sewer system which serve only one lot, including but not limited to the

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service line from the house to the septic tank; the septic tank, filter, pumping system and appurtenances; the gravity or pressure service line from the septic tank to but not including the service line check and ball valves located at the respective property lines; and the control and alarm panels, wiring and electrical connections.

5. Association Membership. Declarant has established the Lion Mountain Sewer System Association, Inc. for the purpose of owning and operating the sewer system which serves the Properties. Every Owner of a lot which is subject to this declaration shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of the lot.

6. Common Elements. Every Owner shall have a right and easement of enjoyment in and to the Common Elements, which shall be appurtenant to and shall pass with the title to every lot, subject to the terms and conditions contained herein.

7. Individual Elements. Each Owner shall be responsible for construction, operation, maintenance, repair and replacement of the Individual Elements located on that Owner's lot. Each Owner agrees to operate his Individual Elements in such a manner as to cause no injury to the Common Elements and to be in compliance with any rules and regulations adopted by the Board of Directors concerning the use of Individual Elements and Common Elements.

8. Assessments. Each Owner of a lot, by acceptance of the deed to the lot and whether or not it is so expressed in the deed, is deemed to covenant and agrees to pay to the Association assessments as provided herein. All assessments, together with any interest, costs and reasonable attorney's fees required to collect the assessments, shall be the personal obligation of the owners of the land and, in addition, shall be a charge on the land and a continuing lien upon the Property against which each such assessment is made. The assessments levied by the Association shall be used to operate the sewer system, provide for repairs, maintenance, improvements or replacement of the system, accumulate reserves for repairs, maintenance, improvements or replacement of the system, and for such other purposes as the Board of Directors may deem appropriate in furthering the purposes of the Association and in providing sewer service to the Properties. A regular annual assessment shall be fixed by the Board of Directors by majority vote. Any special assessments for capital improvements to the system shall be set by the Board of Directors by a vote of at least two-thirds (2/3rds) of the Board of Directors. The Board of Directors shall notify each Owner of the amount of any assessment and the due date of the assessment. If the assessment is not paid when due, the assessment shall bear interest at the rate of 12% per annum. No Owner may waive or otherwise escape liability for assessments provided herein by non-use of the Common Elements or by abandonment of his lot. In the event of a default in payment of assessments, the Association may pursue any one or more of the following remedies, in addition to any other remedies which may be available at law or in equity:

a. A lien may be placed against the Property for the amount owing.

b. Any other actions may be taken to collect the amounts owing, including bringing a lawsuit, with or without foreclosure of a lien.

c. Sewer service may be withdrawn from the defaulting Owner's Property after giving the defaulting Owner at least twenty (20) days' written notice of the Association's intent to terminate sewer service. The written notice shall be sufficient if given by regular U.S. mail to the defaulting Owner at his last-known

address, and the notice shall be deemed given at the time of mailing.

d. The right of an Owner to vote in the Association shall be suspended during the time in which any assessment against his lot remains unpaid.

9. Rules and Regulations. The Board of Directors may from time to time adopt rules and regulations for use and operation of the Individual Elements and Common Elements. All Owners shall abide by any such rules and regulations.

10. Dedication. The Association, acting through the Board of Directors, shall have the power to dedicate or transfer all or any part of the Common Elements to any public agency, authority or utility, subject to such conditions as may be agreed to by the Association.

10. Enforcement. The Association or any Owner shall have the right to enforce the terms and conditions of these conditions, covenants and restrictions and all rights and duties provided for herein. Failure by the Association or any Owner to enforce any covenant or restriction herein contained in one instance shall in no event be deemed a waiver of the right to do so thereafter.

11. Severability. Invalidation of any of the provisions contained herein shall in no way affect the validity of the remaining provisions, which shall remain in full force and effect.

12. Term and Amendment. The conditions, covenants and restrictions of this declaration shall run with and bind the land for a term of twenty (20) years from the date of this declaration, after which time they shall be automatically extended for successive periods of ten years, except that this declaration may be amended or terminated at any time by an instrument signed by the Owners of not less than two-thirds (2/3rds) of the lots which are subject to this declaration. These covenants and restrictions shall not be amended without the written consent of the Montana Department of Health and Environmental Sciences or its successor agency.

13. Annexation. Additional property and Common Elements may be annexed to the Property described herein by the Declarant, acting alone, or otherwise by approval of the Board of Directors. If Declarant wishes to annex property and the annexation will require capital improvements to the sewer system, the Declarant shall be responsible for making any such capital improvements. Any such capital improvements shall be made in compliance with the state and county regulations then in effect for sewer systems. This right to annex property may be assigned by Declarant in whole or in part, in which event Declarant's assignee shall be subject to the terms and conditions hereof.

IN WITNESS WHEREOF, the undersigned, being the Declarant herein, has hereunto set its hand and seal the day and year first above written.

LION MOUNTAIN, INC.,  
a Montana corporation

By: Brian J. Gault  
Its: President

93341/0390

STATE OF MONTANA )  
 : ss  
County of Flathead )

On this 21<sup>st</sup> day of October, 1993, before me, the undersigned, a Notary Public for the State aforesaid, personally appeared Brian T. Grattan, known to me to be the President of LION MOUNTAIN, INC., the corporation that executed the within instrument, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Alisa C. Richeson

Notary Public for the State of Montana  
Residing at Kalispell, Montana  
My commission expires 7/2/96



STATE OF MONTANA, )  
County of Flathead ) ss

Recorded at the request of SANDS SURV'G  
this 7 day of DEC, 19 93 at 10:39 o'clock AM and recorded in  
the records of Flathead County, State of Montana.

Fee \$ 21.- Pd.

RECEPTION NO. 93341/0390

RETURN TO LION MTN INC

GRS MTN LODGE HWY 93 - FAIRWAY DR WISA MT 59937

Susan A. Haverfield  
Flathead County Clerk and Recorder

Sherry L. Singleton  
Deputy