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Cheri Brunvand - Summit County Recorder

DECLARATION
OF
COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS
FOR
THE TOWERS AT LAKEPOINT
CONDOMINIUMS

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January 21, 1998

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
OF
THE TOWERS AT LAKEPOINT CONDOMINIUMS**

THIS DECLARATION is made by Lakepoint Towers, L.L.C. a Colorado limited liability company, P.O. Box 1320, Frisco, Colorado 80443 ("Declarant").

RECITALS

A. Declarant is the owner of real estate in Frisco, Colorado, which is referred to below as the "Property" and is more particularly described as:

Lot 1, Block 3, Lakepoint at Frisco, County of Summit, State of Colorado

B. Declarant desires to create a planned community on the Property described above, in which portions of the Property described above will be designated for separate ownership and the remainder of which will be designated for common use and ownership by the Association.

C. Declarant also desires to protect and maintain the project as a prime mountain residential area of the highest quality and value to enhance and protect its desirability and attractiveness.

D. Declarant further desires to provide for the operation and maintenance of the Common Elements and Limited Common Elements and other related facilities serving the project.

E. Declarant has deemed it necessary and desirable, for the welfare of the residents of the project and the preservation of the Property, to subject the Property to the covenants, restrictions, easements, charges, assessments and liens set forth below, which shall be burdens and benefits to the Declarant and the other Owners and their respective successors, heirs, executors, administrators, devisees, grantees or assigns.

F. Declarant has created an association named "The Towers at Lakepoint Association" and delegates and assigns to the association the power and duties of maintaining and administering the Common Elements, Limited Common Elements, and administering and enforcing the covenants and restrictions, and collecting and disbursing the assessments and charges created under this Declaration.

G. The provisions of this Declaration are intended to be in conformity with the Town of Frisco Development Code which contains additional requirements pertaining to the Property and provisions of the Town of Frisco Development Code shall control over any contrary provisions in this Declaration.

H. Declarant hereby submits the real estate to the provisions of the Colorado Common Interest Ownership Act, Sections 38-33.3-101, et seq., Colorado Revised Statutes, as it may be amended from time to time (the "Act"). In the event the Act is repealed, the Act, on the effective date of this Declaration, shall remain applicable.

ARTICLE I - DECLARATION

Declarant declares that the Property shall be held, sold, and conveyed subject to the following covenants, restrictions and easements which are for the purpose of protecting the value and desirability of the Property, and which shall run with the land and be binding on all parties and heirs, successors, and assigns of parties having any right, title, or interest in all or any part of the Property.

ARTICLE II - NAME, DIVISION INTO UNITS

Section 2.1. **Name.** The name of the project is The Towers at Lakepoint Condominiums.

Section 2.2. **Association.** The name of the association is The Towers at Lakepoint Association. Declarant has caused to be incorporated under the laws of the State of Colorado the Association as a nonprofit corporation with the purpose of exercising the functions as set forth in the Articles of Incorporation, this Declaration and the Bylaws of the Corporation. In consideration for the exercise of such functions, Declarant sells and conveys the Common Elements to the Association.

Section 2.3. **Number of Units.** The initial number of Units in the project is fifty-six (56). The Declarant reserves the right to create and must build six (6) additional Local Housing Units on the Expansion Property located west of the Towers over the existing parking garage pursuant to that Article named Expansion and Development Rights below.

Section 2.4. **Identification of Units.** The identification number of each Unit is shown on the Map depicting the Property recorded in the real property records of Summit County, Colorado and such amended, additional or supplemental maps as may be filed for the Property.

ARTICLE III - DEFINITIONS

Section 3.1. **Definitions.** The following words when used in this Declaration, unless inconsistent with the context of this Declaration, shall have the following meanings:

A. **"Allocated Interests"** means the pro rata share of Assessments to be borne by each unit as provided in Exhibit A.

B. **"Act"** means the Colorado Common Interest Ownership Act, Sections 38-33.3-101, et seq., Colorado Revised Statutes, as it may be amended from time to time.

C. **"Articles"** mean the Articles of Incorporation for The Towers at Lakepoint Association on file with the Colorado Secretary of State, and any amendments which may be made to those Articles from time to time.

D. **"Assessments"** means the Periodic, Supplementary, Special, and Default Assessments levied pursuant to the Article named Assessments below.

E. **"Association"** refers to The Towers at Lakepoint Association ("Association"), a Colorado nonprofit corporation, and its successors and assigns.

F. **"Association Documents"** means this Declaration, the Articles of Incorporation, and the Bylaws of the Association, and any procedures, rules, regulations, or policies adopted under such documents by the Association.

G. **"Bylaws"** means the Bylaws adopted by the Association, as amended from time to time.

H. **"Common Elements"** means all the Property other than the Units. The Common Elements predominantly include the unimproved land surrounding the Units, structural walls and plumbing facilities which are located within a Unit but serve other Units, water and sewer lines and facilities serving the project which are not owned by the Frisco Water Department or the Frisco Sanitation District, and the parking areas and driveways depicted on the Plat. The term Common Elements shall also include the Limited Common Elements, which are exclusively reserved for use by an Owner or as otherwise provided in this Declaration.

I. **"Common Expenses"** means (i) all expenses expressly declared to be common expenses by the Association Documents; (ii) all expenses of administering, servicing, conserving, managing, maintaining, repairing, or replacing the Common Elements; (iii) the cost of supplying trash services for all Owners, landscaping and snow removal for the Common Elements; (iv) all expenses of maintaining, repairing or replacing any part of the driveways, parking areas and water or sewer utility lines and facilities serving more than one Owner or located on the Common Elements; (v) insurance premiums for the insurance carried by the Association under this Declaration; and (vi) expenses of maintaining and repairing any part of the exterior surfaces of all improvements as determined by the Executive Board; (vii) all expenses lawfully determined to be common expenses by the Executive Board of the Association.

J. **"Declarant"** means Lakepoint Towers, L.L.C., a Colorado limited liability company and its successors and assigns.

K. **"Declaration"** means and refers to this Declaration of Covenants, Conditions and Restrictions of The Towers at Lakepoint Condominiums, a Planned Community in Frisco, Colorado, including all amendments and supplements to the Declaration.

L. **"Executive Board"** means the governing body of the Association elected to perform the obligations of the Association relative to the operation, maintenance, and management of the Property and all improvements on the Property.

M. **"Expansion Property"** means the portion of the Property as Declarant may convert from Common Elements into Units and Limited Common Elements as provided in that Article named Expansion and Development Rights below. The Expansion Property will be used primarily to construct six (6) Local Housing Units to be located above the west parking garage and labeled as Expansion Property on the Condominium Map. The Expansion Property also includes one (1) garage which may be converted to a Limited Common Element allocated to any Unit and two (2) sections of the roof on the sixth level adjacent to the end penthouse Units in both the north and south towers which may be converted to Limited Common Element decks for such Units following issuance of a building permit by the Town of Frisco.

N. **"First Mortgage"** means any Deed of Trust or Mortgage which is not subject to any lien or encumbrance except liens for taxes or other liens which are given priority by statute.

O. **"First Mortgagee"** means any person named as a mortgagee or beneficiary in any First Mortgage, or any successor to the interest of any such person under such First Mortgage.

P. **"Limited Common Elements"** means a portion of the Common Elements allocated by the Declaration or Map for the exclusive use of one or more Owners but fewer than all the Owners.

Q. **"Manager"** shall mean a person or entity engaged by the Association to perform certain duties, powers, or functions of the Association, as the Executive Board may authorize from time to time.

R. **"Map" or "Condominium Map"** means that part of a Declaration that depicts all or any portion of the Project is executed by the Declarant and is recorded in the real estate records of the Summit County Clerk and Recorder. A map, showing three dimensions, and a plat, showing two dimensions, may be combined in one instrument.

S. **"Mortgage"** means any mortgage, deed of trust, or other document pledging any Unit or interest therein as security for payment of a debt or obligation.

T. **"Mortgagee"** means any person named as a mortgagee or beneficiary in any Mortgage, or any successor to the interest of any such person under such Mortgage.

U. **"Owner"** means the owner of record, whether one or more persons or entities, of fee simple title to any Unit, and "Owner" also includes the purchaser under a contract for deed covering a Unit, but excludes those having such interest in a Unit merely as security for the performance of an obligation, including a Mortgagee, unless and until such person has acquired fee simple title to the Unit pursuant to foreclosure or other proceedings.

V. **"Project or the Towers at Lakepoint Condominiums"** shall mean the planned community created by this Declaration, consisting of the Property, the Units and the Common Elements as shown on the Map.

W. **"Property"** refers to Lot 1, Block 3, Lakepoint at Frisco, Town of Frisco, County of Summit, State of Colorado

X. **"Successor Declarant"** means any party or entity to whom Declarant assigns any or all of its rights, obligations, or interest as Declarant, as evidenced by an assignment or deed of record in the office of the Clerk and Recorder of Summit County, Colorado, designating such party as a Successor Declarant. Upon such recording, Declarant's rights and obligations under this Declaration shall cease and terminate to the extent provided in such document.

Y. **"Unit or Condominium Unit"** means the fee simple interest in and to the physical portion of the Property depicted on the Map. The boundaries of the unit shall be the walls, floors and ceilings as specifically depicted in the Map. Each Unit shall include the heating and hot water apparatus exclusively serving the Unit, whether or not located within the boundaries of the Unit. The Towers Units are those 56 Units located in the north and south tower. Local Housing Units are those six Units to be built in the Expansion Property above the west garage building. The Local Housing Units will be added to the Project by a Supplemental Declaration and Map and will be subject to the sale and occupancy covenants to be recorded in the Summit County Records.

ARTICLE IV - MEMBERSHIP & VOTING RIGHTS; ASSOCIATION OPERATIONS

Section 4.1. **The Association.** Every Owner of a Unit shall be a Member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any Unit.

Section 4.2. **Transfer of Membership.** An Owner shall not transfer, pledge, or alienate his membership in the Association in any way, except upon the sale or encumbrance of his Unit and then only to the purchaser or Mortgagee of his Unit.

Section 4.3. **Class of Membership.** The Association shall have one (1) class of voting membership. Members shall be all Owners, who except as otherwise provided for in this Declaration, shall be entitled to vote in Association matters pursuant to this Declaration on the basis of one vote for each Unit owned. When more than one person holds an interest in any Unit, all such persons shall be members. The vote for such Unit shall be exercised by one person or alternative

persons (who may be a tenant of the Owners) appointed by proxy in accordance with the Bylaws. In the absence of a proxy, the vote allocated to the Unit shall be suspended in the event more than one person or entity seeks to exercise the right to vote on any one matter. Any Owner of a Unit which is leased may assign his voting right to the tenant, provided that a copy of a proxy appointing the tenant is furnished to the Secretary of the Association prior to any meeting in which the tenant exercises the voting right. In no event shall more than one vote be cast with respect to any one Unit. In the event an amended or supplemental Plat is filed and the total number of the Units on the Property is increased or decreased, the number of votes in the Association shall change accordingly so that the Owner of each Unit will have one vote.

Section 4.4. Period of Declarant's Control. Declarant and any successor of Declarant who takes title to all or part of the Property for the purpose of development and sale of the Property and who is designated as Successor Declarant in a recorded instrument executed by Declarant shall have exclusive power to appoint and remove members of the Executive Board and officers of the Association as provided in the Bylaws. This period of Declarant's control shall terminate no later than sixty (60) days after conveyance of 75% of the Units to Owners other than Declarant. Declarant may voluntarily surrender the right to appoint and remove officers and members of the Executive Board before termination of the period of Declarant's control, but, in that event, the Declarant may require for the duration of the period of Declarant's control, those specified actions of the Association or the Executive Board, as described in a recorded instrument by the Declarant, be approved by the Declarant before they become effective.

Section 4.5. Compliance with Association Documents. Each Owner shall abide by and benefit from each provision, covenant, condition, restriction and easement contained in the Association Documents. The obligations, burdens, and benefits of membership in the Association concern the land and shall be covenants running with each Unit for the benefit of all other Units.

Section 4.6. Books and Records. The Association shall make available for inspection, upon request, during normal business hours or under other reasonable circumstances, to Owners and to Mortgagees, current copies of the Association Documents and the books, records, and financial statements of the Association prepared pursuant to the Bylaws. The Association may charge a reasonable fee for copying such materials.

Section 4.7. Manager. The Association may employ or contract for the services of a Manager to whom the Executive Board may delegate certain powers, functions, or duties of the Association, as provided in the Bylaws of the Association. The Manager shall not have the authority to make expenditures except upon prior approval and direction by the Executive Board. The Executive Board shall not be liable for any omission or improper exercise by a Manager of any duty, power, or function so delegated by written instrument executed by or on behalf of the Executive Board.

Section 4.8. Implied Rights and Obligations. The Association may exercise any right or privilege expressly granted to the Association in the Association Documents, and every other right

or privilege reasonably implied from the existence of any right or privilege given to the Association under the Association Documents or reasonably necessary to effect any such right or privilege. The Association shall perform all of the duties and obligations expressly imposed upon it by the Association Documents, and every other duty or obligation implied by the express provisions of the Association Documents or necessary to reasonably satisfy any such duty or obligation.

ARTICLE V - PROPERTY RIGHTS OF OWNERS & RESERVATIONS BY DECLARANT

Section 5.1. **Owner's Easement of Enjoyment.** Every Owner has 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 Unit, subject to the provisions contained herein.

Section 5.2. **Recorded Easements.** The Property shall be subject to all easements as shown on any recorded plat affecting the Property and to any other easements of record or of use as of the date of recordation of this Declaration. In addition, the Property is subject to those easements set forth in this Article.

Section 5.3. **Utility Easements.** There is hereby created a general easement upon, across, over, in, and under the Property for ingress and egress and for installation, replacement, repair, and maintenance of all utilities, including, but not limited to, gas, telephone, electrical, and cable communications systems. By virtue of this easement, it shall be expressly permissible and proper for the companies providing such services to install and maintain necessary equipment, wires, circuits, and conduits under and over the Property. Such utilities may temporarily be installed above ground during construction, if approved by Declarant.

Section 5.4. **Declarant's Rights Incident to Construction.** Declarant expressly reserves the right to perform any work, repairs and construction work, and to store materials in secure areas, on the Common Elements and the future right to control such work and repairs, and the right to access thereto, until completion of the Project. All work may be performed by Declarant without the consent or approval of any Owner or Mortgagee. Declarant has such an easement through the Common Elements as may be reasonably necessary for the purpose of discharging Declarant's obligations and exercising Declarant's reserved rights in this Declaration. Such easement includes the right to construct drainage facilities, underground utility lines, pipes, wires, ducts, conduits, and other facilities across the Property. Declarant also reserves the right to maintain models, sales and management offices and signs advertising the Project.

Section 5.5. **Reservation of Easements, Exceptions, and Exclusions.** Declarant reserves to itself and hereby grants to the Association the concurrent right to establish from time to time, by grant or otherwise, utility and other easements, permits, or licenses over the Common Elements for purposes including, but not limited to, drives, paths, walkways, drainage, parking areas, conduit

installation areas, and to create other reservations, exceptions, and exclusions for the best interests of all the Owners and the Association, in order to serve the Owners within the Property.

Section 5.6. Easement for Ingress and Egress. Declarant hereby grants as an appurtenance of each Unit a non-exclusive easement of ingress and egress across the Common Elements to each Unit to assure access from a public road, driveway or parking area to each Unit. The specific means of ingress and egress shall be subject to change as Declarant shall from time to time deem necessary so long as a reasonable means of access is always provided.

Section 5.7. General Maintenance Easement. An easement is hereby reserved to Declarant, and granted to the Association, and any member of the Executive Board or the Manager, and their respective officers, agents, employees, and assigns, upon, across, over, in, and under the Property and a right to make such use of the Property as may be necessary or appropriate to make emergency repairs or to perform the duties and functions which the Association is obligated or permitted to perform pursuant to the Association Documents, including the right to enter upon any Unit for purpose of performing maintenance to the Common Elements.

Section 5.8. Association as Attorney-in-Fact. Each Owner, by acceptance of a deed or other conveyance vesting in the Owner an interest in a Unit, does irrevocably constitute and appoint the Association and/or Declarant with full power of substitution as the Owner's name, place and stead to deal with Owner's interest in order to effectuate the rights reserved by Declarant or granted to the Association, as applicable, with full power, right and authorization to execute and deliver any instrument affecting the interest of the Owner and to take any other action which the Association or Declarant may consider necessary or advisable to give effect to the provisions of this Section and this Declaration generally. If requested to do so by the Association or Declarant, each Owner shall execute and deliver a written, acknowledged instrument confirming such appointment. No Owner shall have any rights against the Association or Declarant or any of their officers or directors with respect thereto except in the case of fraud or gross negligence.

Section 5.9. Delegation of Use. Any Owner may delegate his right of enjoyment to the Common Elements to the members of his family, his tenants, guests, licensees, and invitees, but only in accordance with and subject to the limitations of the Association Documents.

Section 5.10. Inseparability. Every gift, devise, bequest, transfer, encumbrance, conveyance, or other disposition of a Unit and improvements thereon shall be presumed to be a gift, devise, bequest, transfer, encumbrance, or conveyance respectively of the entire Unit, including each easement, license, and all other appurtenant rights created by this Declaration.

Section 5.11. Partition or Subdivision. No Owner, group of Owners or the Association shall bring any action for partition or division of the Common Elements or Limited Common Elements.

Section 5.12. **Rental.** A Unit may be rented for residential purposes and a Unit may be used for permanent or short-term occupancy by its Owner, its family, servants, agents, guests, invitees, and tenants. An Owner of a Unit other than a Local Housing Unit may rent or arrange for rental of a Unit for any length of time, unless lease term restrictions are approved by the Executive Board. Local Housing Units will be subject to rent and term restrictions as set forth in the covenants to be recorded in the Summit County records.

Section 5.13 **Association's Unit.** The Association will purchase one, one bedroom Local Housing Unit from Declarant or its assigns at a price of cost plus ten percent. The purchase price will be paid in the form of a promissory note amortized over thirty (30) years in monthly payment of principal and interest of 1.5 points over the prime rate, with all sums due in seven (7) years.

ARTICLE VI - MAINTENANCE AND LANDSCAPING

Section 6.1. Maintenance of Units.

A. Except for the maintenance obligations assumed by the Association as provided below, each Owner shall be solely responsible for all interior maintenance and repair of his Unit, including all fixtures, utility lines, glass, and equipment located in, on or upon the Unit. Each Owner is required to maintain the Unit in a clean condition of good order and free from trash, and garbage in accordance with the provisions of that Article named Protective Covenants below. No Owner shall unreasonably damage the value of other Units such as by shoddy upkeep of such Owner's Unit.

B. No owner shall construct any structure or improvement or make or suffer any structural or design change (including a color scheme change), either permanent or temporary and of any type or nature whatsoever to the Common Elements or construct any addition or improvement on his Unit without first obtaining the prior written consent thereto from the Executive Board and in regard to structural changes, the prior written consent of The Town of Frisco.

Section 6.2. **Common Elements.** The Association shall maintain and repair the Common Elements in such manner as the Association shall determine.

Section 6.3. **Owner's Failure to Maintain.** In the event that a Unit is not properly maintained by an Owner, then the Association, after ten (10) days prior written notice to the Owner and with the approval of the Executive Board, shall have the right to enter upon the Unit to perform such work as is reasonably required to restore the Unit and other improvements thereon to a condition of good order and repair. All unreimbursed costs shall be a lien upon the Unit until reimbursement is made. The lien may be enforced in the same manner as a lien for an unpaid assessment levied in accordance with that Article named Assessments below.

ARTICLE VII - INSURANCE

Section 7.1. **Insurance on Common Elements.** The Association will maintain insurance covering all insurable improvements located or constructed on the Common Elements. The Association will maintain the following types of insurance, to the extent that such insurance is reasonably available, as determined by the Executive Board, considering the availability, cost and risk coverage provided by such insurance, and the cost of the coverage will be paid by the Association as a Common Expense. Notwithstanding any of the specific insurance requirements specified in this Article, the Association may also consider, in determining the types and amount of insurance it needs to obtain, the then-existing requirements of any of FNMA, GNMA, FHLMC, HUD, VA, CHFA or any other governmental or quasi-governmental agency or any other public, quasi-public or private entity which performs (or may perform in the future) functions similar to those currently performed by any of such entities with respect to their insurance, guaranty, or purchase of First Mortgages.

A. A policy of property insurance covering all insurable improvements located on the Common Elements, except for land, foundation, excavation and other matters normally excluded from coverage, in an amount not less than the full insurable replacement cost of the improvements on the Common Elements.

B. If the insurance described in these subsections is not reasonably available, or if any policy of such insurance is canceled or not renewed without a replacement policy therefore having been obtained, the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners. This Declaration may require the Association to carry other insurance, and the Association in any event may carry any other insurance it considers appropriate, including insurance on Units it is not obligated to insure, to protect the Association or the Unit Owners.

C. If any Unit Owner or employee of the Association controls or disburses funds of the Project, the Association must obtain and maintain, to the extent reasonably available, fidelity insurance. Coverage shall not be less in aggregate than two months' current assessments plus reserves as calculated from the current budget of the Association.

D. Any person employed as an independent contractor by the Association for the purposes of managing the Project must obtain and maintain fidelity insurance in an amount not less than the amount specified in subsection C above, unless the Association names such person as an insured employee in a contract of fidelity insurance, pursuant to subsection C above.

E. A comprehensive policy of public liability insurance covering all of the Common Elements, insuring the Association in an amount not less than \$1,000,000.00 covering bodily injury, including death to persons, personal injury and property damage liability arising out of a single occurrence. Such coverage will include, without limitation, legal liability of the insureds for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the Common Elements, and legal liability arising out of lawsuits related to employment contracts of the Association.

F. In addition, the Association may obtain insurance against such other risks of a similar or dissimilar nature as it will deem appropriate, to the extent that such coverage is reasonably available as determined by the Executive Board, including but not limited to personal liability insurance to protect directors and officers of the Association from personal liability in relation to their duties and responsibilities in acting as directors and officers on behalf of the Association.

Section 7.2. General Provisions of Insurance Policies. All policies of insurance carried by the Association will be carried in blanket policy form naming the Association as insured, or its designee as trustee and attorney-in-fact for all Owners, and each Owner will be an insured person under such policies with respect to liability arising out of any Owner's membership in the Association. The policy or policies will contain a standard non-contributory First Mortgagee's clause in favor of each First Mortgagee and a provision that it cannot be canceled or materially altered by either the insured or the insurance company until thirty (30) days' prior written notice thereof is given to the insured and each First Mortgagee, insurer or guarantor of a First Mortgage. The Association will furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premiums payment and a certificate identifying the interest of the Owner in question, to any party in interest, including First Mortgagees, upon request. Any such Owner's policy will also contain waivers of subrogation. All policies will contain waivers of any defense based on invalidity arising from any acts or neglect of an Owner where such Owner is not acting under directions from the Association.

Section 7.3. Association Insurance as Primary Coverage. If at the time of any loss under any policy which is in the name of the Association, there is other insurance in the name of any Owner and such Owner's policy covers the same property or loss, or any portion thereof, which is covered by such Association policy, the Association insurance policy will be primary insurance not contributing with any of such other insurance. An Owner will be liable to the Association for the amount of any reduction in insurance proceeds paid to the Association caused by such Owner's policies of insurance, and the Association may collect the amount from the Owner in the same manner as any periodic assessment. Any such Owner's policy will also contain waivers of subrogation.

Section 7.4. Insurance to be Maintained by Owners. Each Owner may obtain physical damage and liability insurance for such Owner's benefit, at such Owner's expense, covering the Owner's Unit and improvements, personal property and personal liability. No Owner will obtain separate insurance policies on the Common Elements.

The Executive Board may require an Owner who purchases insurance coverage for the Owner's Unit (other than coverage for the Owner's personal property) to file copies of such policies with the Association within thirty (30) days after purchase of the coverage to eliminate potential conflicts with any master policy carried by the Association.

ARTICLE VIII - ASSESSMENTS

Section 8.1. **Obligation.** Owners, by accepting a deed for a Unit, are deemed to covenant to pay to the Association (1) the Periodic Assessments imposed by the Executive Board as necessary to meet the Common Expenses of maintenance, operation, and management of the Common Elements and to perform the functions of the Association; (2) Special Assessments for capital improvements and other purposes as stated in this Declaration, if permitted by law; and (3) Default Assessments which may be assessed against a Unit for the Owner's failure to perform an obligation under the Association Documents or because the Association has incurred an expense on behalf of the Owner under the Association Documents.

Section 8.2. **Purpose of Assessments.** The Assessments shall be used exclusively to promote the health, safety and welfare of the Owners and occupants of the Property and for the improvement and maintenance of the Common Elements all as more fully set forth in this Declaration and on the Plat.

Section 8.3. **Budget.** The Executive Board shall adopt a budget with Assessments sufficient to pay all Common Expenses and adequate reserves on an annual basis before the commencement of each calendar year. Within thirty (30) days after adoption of any proposed budget, the Executive Board shall mail, by ordinary first class mail, or otherwise deliver a summary of the budget to all the Owners and shall set a date for a meeting of the Owners to consider ratification of the budget not less than fourteen (14) nor more than sixty (60) days after mailing or other delivery of the summary. Unless at that meeting a majority of all Owners or any larger percentage specified in the Declaration reject the budget, the budget is ratified, whether or not a quorum is present. In the event that the proposed budget is rejected, the periodic budget last ratified by the Owners must be continued until such time as the Owners ratify a subsequent budget proposed by the Executive Board

Section 8.4. **Reserves.** The Association or Declarant shall require each buyer of a Unit to make a non-refundable payment to the Association in an amount equal to one-sixth the of the current cumulative Periodic Assessments for one year for the Unit, which sum shall be held, without interest, by the Association as a reserve fund. The Reserve Fund shall be collected and transferred to the Association at the time of closing of the sale of each Unit, and shall be maintained for the use and benefit of the Association. Such payment shall not relieve an Owner from making payments of Periodic Assessments as the same become due. Upon the transfer of a Unit, an Owner shall not be entitled to a credit from the transferee for any unused portion of the Reserve Fund.

Section 8.5. **Periodic Assessments.** Period Assessments for Common Expenses made shall be based upon the estimated cash requirements as the Executive Board shall from time to time determine to be paid by all of the Owners, subject to that Section named Budget above.

Periodic Assessments shall be payable monthly in advance and shall be due on the first day of each month, or such other periods as the Executive Board may determine. The omission or failure of the Association to fix the Periodic Assessments for any assessment period shall not be deemed

a waiver, modification, or release of the Owners from their obligation to pay the same. The Association shall have the right, but not the obligation, to make prorated refunds of any Periodic Assessments in excess of the actual expenses incurred in any fiscal year.

Section 8.6. Apportionment of Periodic Assessments. Each Owner shall be responsible for that Owner's share of the Common Expenses which shall be allocated among the Owners as set forth in Exhibit A, subject to the following exceptions.

A. Any Common Expense associated with the maintenance, repair or replacement of a Limited Common Element will be assessed against the Units to which that Limited Common Element is assigned, pro rata according to the Allocated Interest of such Units.

B. Any Common Expense benefiting fewer than all of the Units will be assessed exclusively against the Units benefited, prorata according to the Allocated Interest of such Units.

C. Any Common Expense pertaining to the improvements exclusively benefiting the Towers Units or Limited Common Elements appurtenant to the Towers Units will be assessed only against the Towers units. Such Limited Common Elements are more specifically depicted on the Map and generally include the Towers buildings, garages, lobbies, elevators, utilities, equipment, and recreational amenities for the exclusive use of the Towers Units.

D. Any Common Expense pertaining to the improvements exclusively benefitting the Local Housing Units or Limited Common Elements appurtenant to the Local Housing Units will be assessed only against the Local Housing Units. Such Limited Common Elements will be more specifically depicted on a Supplemental Map and generally include the Local Housing Unit building, utilities and equipment for the exclusive use of the Local Housing Unit.

E. Any extraordinary insurance costs incurred as a result of the value of a particular Owner's residence or the actions of a particular Owner (or his agents, servants, guests, tenants, or invitees) shall be borne by that Owner.

F. Any Common Expense caused by the misconduct of any Owner shall be assessed solely against such Owner's Unit.

Section 8.7. Supplementary Assessments. In the event the Board shall determine, at any time or from time to time, that the amount of the Periodic assessments is not adequate to pay for the costs and expenses of fulfilling the Association's obligations hereunder, one or more supplementary assessments may be made for the purpose of providing the additional funds required. To determine the amount required to be raised by each supplementary assessment, the Board shall revise the budget, a summary of which shall be furnished to each Owner and shall set a date for a meeting of the Unit Owners. Upon request, the Board will deliver a summary of the revised budget to any Mortgagee. Based on such revised budget, the Board may make a supplementary assessment for such fiscal year against each Unit.

Section 8.8. Special Assessments. In addition to the Periodic Assessments authorized by this Article, the Association may levy in any fiscal year one or more Special Assessments payable over such a period as the Association may determine, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of improvements within the Common Elements or for any other expense incurred or to be incurred as provided in this Declaration. This Section shall not be construed as an independent source of authority for the Association to incur expense, but shall be construed to prescribe the manner of assessing expenses authorized by other sections of this Declaration, and in acting under this Section, the Association shall make specific references to this Section. Any amounts assessed pursuant to this Section shall be assessed to Owners as provided in this Article, subject to the requirements that any extraordinary maintenance, repair or restoration work on fewer than all of the Units shall be borne by the Owners of those affected Units only; and any extraordinary insurance costs incurred as a result of the value of a particular Owner's residence or the actions of a particular Owner (or his agents, servants, guests, tenants, or invitees) shall be borne by that Owner. Notice in writing in the amount of such Special Assessments and the time for payment of the Special Assessments shall be given promptly to the Owners, and no payment shall be due less than thirty (30) days after such notice shall have been given.

Section 8.9. Default Assessments. All monetary fines assessed against an Owner pursuant to the Association Documents, or any expense of the Association which is the obligation of an Owner or which is incurred by the Association on behalf of the Owner pursuant to the Association Documents, shall be a Default Assessment and shall become a lien against such Owner's Unit which may be foreclosed or otherwise collected as provided in this Declaration. Notice of the amount and due date of such Default Assessment shall be sent to the Owner subject to such Assessment at least 30 days prior to the due date.

Section 8.10. Effect of Nonpayment; Assessment Lien. Any Assessment installment, whether pertaining to any Monthly, Special, or Default Assessment, which is not paid within thirty (30) days after its due date shall be delinquent. If an Assessment installment becomes delinquent, the Association, in its sole discretion, may take any or all of the following actions:

- A. Assess a late charge for each delinquency in such amount as the Association deems appropriate;
- B. Assess an interest charge from the date of delinquency at the yearly rate of two points above the prime rate charged by the Association's bank, or such other rate as the Executive Board may establish, not to exceed twenty-one percent (21%) per annum;
- C. Accelerate all remaining Assessment installments so that unpaid Assessments for the remainder of the fiscal year shall be due and payable at once;
- D. Disconnect any utility services to the Unit which are paid as a Common Expense;

E. Bring an action at law against any Owner personally obligated to pay the delinquent Assessments; and

F. File a statement of lien with respect to the Unit and proceed with foreclosure as set forth below.

Assessments chargeable to any Unit shall constitute a lien on such Unit, including any improvements on the Unit. To evidence the lien created under this Section, the Association may, but is not required to, prepare a written notice setting forth (i) the address of the Association, (ii) the amount of such unpaid indebtedness, (iii) the amount of accrued penalty on the indebtedness, (iv) the name of the Owner of the Unit, and (v) a description of the Unit. The notice shall be signed and acknowledged by the President or a Vice-President of the Association or by the Manager, and the Association shall serve the notice upon the Owner by mail to the address of the Unit or to such other address as the Association may have in its files for such Owner. At least ten (10) days after the Association mails the Owner such a notice, the Association may record the same in the office of the Clerk and Recorder of Summit County, Colorado. Such lien for Assessments shall attach from the due date of the Assessment. Thirty (30) days following the date the Association mails the notice, the Association may institute foreclosure proceedings against the defaulting Owner's Unit in the manner for foreclosing a mortgage on real property under Colorado law. In the event of any such foreclosure, the Owner shall be liable for the amount of unpaid Assessments, any penalties and interest thereon, the cost and expenses of such proceedings, the cost and expenses for filing the notice of the claim and lien, and all reasonable attorney's fees incurred in connection with the enforcement of the lien. The Association shall have the power to bid on a Unit at foreclosure sale and to acquire and hold, lease, mortgage, and convey the same.

Section 8.11. Personal Obligation. The amount of any Assessment chargeable against any Unit shall be a personal and individual debt of the Owner of same. No Owner may exempt himself from liability for the Assessment by abandonment of his Unit or by waiver of the use or enjoyment of all or any part of the Common Elements. Suit to recover a money judgment for unpaid Assessments, any penalties and interest, thereon, the cost and expenses of such proceedings, and all reasonable attorney's fees in connection therewith shall be maintainable without foreclosing or waiving the Assessment lien provided in this Declaration.

Section 8.12. Successor's Liability for Assessment. In addition to the personal obligation of each Owner to pay all Assessments and the Association's perpetual lien for such Assessments, all successors to the fee simple title of a Unit, except as provided in the Section named Subordination of Lien below, shall be jointly and severally liable with the prior Owner or Owners thereof for any and all unpaid Assessments, interest, late charges, costs, expenses, and attorney's fees against such Unit without prejudice to such successor's right to recover from any prior Owner any amounts paid by such successor. This liability of a successor shall not be personal and shall terminate upon termination of such successor's fee simple interest in the Unit. In addition, such successor shall be entitled to rely on the statement of status of Assessments by or on behalf of the Association as set forth below.

Section 8.13. **Subordination of Lien.** The lien of the Assessments provided for in this Declaration shall be subordinate to (a) the lien of real estate taxes and special governmental assessments, (b) liens and encumbrances recorded prior to the recordation of the Declaration, and (c) liens for all sums unpaid for a first mortgage of record, recorded before the date on which the assessment sought to be enforced became delinquent, except that the Association claims the priority for 6 months' assessment lien as granted in the Act. The lien of the Assessments shall be superior to and prior to any homestead exemption provided now or in the future by the laws of the State of Colorado. Seller's transfer of any Unit shall not affect the Association's lien except that sale or transfer of any Unit pursuant to foreclosure of any first mortgage, or any proceeding in lieu thereof, or cancellation or forfeiture shall only extinguish the Association's liens as provided in the Act. The amount of such extinguished lien may be reallocated and assessed to all Units as a Common Expense at the direction of the Executive Board. No sale or transfer shall relieve the purchaser or transferee of a Unit from liability for, or the Unit from the lien of, any Assessments made after the sale or transfer.

Section 8.14. **Notice to Mortgagee.** The Association may report to any Mortgagee any unpaid Assessments remaining unpaid for longer than sixty (60) days after the same shall have become due, if such Mortgagee first shall have furnished to the Association written notice of the Mortgage and a request for notice of unpaid Assessments. Any Mortgagee holding a lien on a Unit may pay any unpaid Assessment payable with respect to such Unit, together with any and all costs and expenses incurred with respect to the lien, and upon such payment that Mortgagee shall have a lien on the Unit for the amounts paid with the same priority as the lien of the Mortgage.

Section 8.15. **Statement of Status of Assessment Payment.** The Association shall furnish to an Owner or such Owner's designee or to a holder of a security interest or its designee upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt, to the Association's registered agent, a statement setting forth the amount of unpaid assessments currently levied against such Owner's Unit. If no statement is furnished to the Owner or holder of a security interest or their designee, delivered personally or by certified mail, first-class postage prepaid, return receipt requested, to the inquiring party, the Association shall have no right to assert a priority lien upon the Unit for unpaid assessments which were due as of the date of the request.

ARTICLE IX - DAMAGE OR DESTRUCTION

Section 9.1. **Damage to Common Elements.** In the event of damage or destruction to all or a portion of the Common Elements due to fire or other adversity or disaster, the insurance proceeds, if sufficient to reconstruct or repair the damage, will be applied by the Association to such reconstruction and repair. If the insurance proceeds with respect to such Common Elements damage or destruction are insufficient to repair and reconstruct the damaged or destroyed Common Elements, the Association will levy a special assessment in the aggregate amount of such insufficiency pursuant to that Article named Assessments and will proceed to make such repairs or reconstruction, unless the Owners and First Mortgagees agree not to repair and reconstruct such damage. No

distributions of insurance proceeds will be made unless made jointly payable to the Owners and the First Mortgagees, if any, of their respective Units. The special assessment provided for herein will be a debt of each Owner and a lien on his Unit and may be enforced and collected in the same manner as any assessment lien provided for in the Declaration.

Section 9.2. **Repair and Replacement.** Any portion of the Project for which insurance is required which is damaged or destroyed must be repaired or replaced promptly by the Association unless:

- A. The Project is terminated;
- B. Repair or replacement would be illegal under any state or local statute or ordinance governing health or safety;
- C. Eighty percent of the Unit Owners, including every Owner of a Unit or assigned limited Common Elements that will not be rebuilt, vote not to rebuild; or
- D. Prior to the conveyance of any Unit to a person other than Declarant, the holder of a deed of trust or Mortgage on the damaged portion of the Project rightfully demands all or a substantial party of the insurance proceeds.

ARTICLE X - CONDEMNATION

Section 10.1. **Rights of Owners.** Whenever all or any part of the Common Elements shall be taken by any authority having power of condemnation or eminent domain or whenever all or any part of the Common Elements is conveyed in lieu of a taking under threat of condemnation by the Executive Board acting as attorney-in-fact for all Owners under instructions from any authority having the power of condemnation or eminent domain, each Owner shall be entitled to notice of the taking or conveying. The Association shall act as attorney-in-fact for all Owners in the proceedings incident to the condemnation proceeding, unless otherwise prohibited by law.

Section 10.2. **Partial Condemnation, Distribution of Award; Reconstruction.** The award made for such taking shall be payable to the Association as trustee for those Owners for whom use of the Common Elements was conveyed, and the award shall be disbursed as follows:

If the taking involves a portion of the Common Elements on which improvements have been constructed, then, unless within sixty (60) days after such taking Declarant and Owners who represent at least two-thirds (2/3) of the votes of all of the Owners shall otherwise agree, the Association shall restore or replace such improvements so taken on the remaining land included in the Common Elements to the extent lands are available for such restoration or replacement in accordance with plans approved by the Executive Board and the Architectural Review Committee. If such improvements are to be repaired or restored, the provisions in that Article named Damage or Destruction above regarding the disbursement of funds in respect to casualty damage or

destruction which is to be repaired shall apply. If the taking does not involve any improvements on the Common Elements, or if there is a decision made not to repair or restore, or if there are net funds remaining after any such restoration or replacement is completed, then such award or net funds shall be distributed in equal shares per Unit among the Owners, first to the Mortgagees, if any, and then to the Owners, as their interests appear.

Section 10.3. **Complete Condemnation.** If all of the Property is taken, condemned, sold, or otherwise disposed of in lieu of or in avoidance of condemnation, then the regime created by this Declaration shall terminate, and the portion of the condemnation award attributable to the Common Elements shall be distributed as provided in that Section named Disbursement of Funds for Repair and Reconstruction above.

ARTICLE XI - MORTGAGEE'S RIGHTS

The following provisions are for the benefit of holders, insurers, or guarantors of First Mortgagee on Units. To the extent applicable, necessary, or proper, the provisions of this Article apply to this Declaration and also to the Articles and Bylaws of the Association.

Section 11.1. **Approval Requirements.** Unless at least two-thirds (2/3) of the Mortgagees holding First Mortgages against any portion of the Property (based on one vote for each Mortgage owned), and at least two-thirds (2/3) of the Owners (other than Declarant) have given their prior written approval, the Association shall not be entitled to:

A. By act or omission seek to abandon, partition, subdivide, sell, or transfer all or part of the Common Elements (provided, however that the granting of easements for public utilities or for other public purposes consistent with the intended use of such Common Elements shall not be deemed a transfer within the meaning of this clause);

B. Change the method of determining the obligations, Assessments, dues, or other charges which may be levied against an Owner.

Section 11.2. **Right to Pay Taxes and Charges.** Mortgagees who hold First Mortgages against Units may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against any Common Elements, and may pay overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy for such Common Elements, and Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

ARTICLE XII - DURATION OF COVENANTS AND AMENDMENT

Section 12.1. **Term.** The covenants and restrictions of this Declaration shall run with and bind the land until twenty (20) years after the date hereof, after which time they shall be

automatically extended for successive periods of time of ten (10) years each, subject to the following provisions.

Section 12.2. Amendment. This Declaration, or any provision of it, may be amended at any time by an instrument signed by Owners holding not less than two-thirds (2/3) of the votes possible to be cast under this Declaration and signed by Declarant (during the period of Declarant's control as further described in that Section named Period of Declarant's Control above) and at least two-thirds (2/3) of the Mortgagees holding First Mortgages against any portion of the Property (based on one vote for each Mortgage owned). Any amendment must be executed by the President of the Association and recorded, and approval of such amendment may be shown by attaching a certificate of the Secretary of the Association to the recorded instrument certifying that signatures of a sufficient number of Owners approving the amendment are on file in the office of the Association.

Section 12.3. When Modifications Permitted. Notwithstanding the provisions of that Section named Amendment above or that Section named Revocation below, no termination, extension, modification, or amendment of this Declaration made prior to the termination of Declarant's control shall be effective unless the prior written approval of Declarant is first obtained.

Section 12.4. Revocation. This Declaration shall not be revoked, except as provided in that Article named Condemnation regarding total condemnation, without the consent of all of the Owners evidenced by a written instrument duly recorded.

ARTICLE XIII - EXPANSION AND DEVELOPMENT RIGHTS

Section 13.1. Expansion Rights. Declarant expressly reserves the right to convert all or any part of the Expansion Property as depicted on the Map, into six (6) additional Local Housing Units, Common Elements and Limited Common Elements (the "Expansion Property"). Declarant may exercise such rights for expansion on all or any portion of the Expansion Property in whatever order of development Declarant, in its sole discretion, determines. The consent of the existing Owners or Mortgagees shall not be required for any such conversion, and Declarant may proceed with such conversion without limitation at its sole option. Owners and Mortgagees hereby agree not to oppose any proposed rezoning and/or replatting to allow up to six (6) Local Housing Units on the Expansion Property.

Section 13.2. Development and Withdrawal Rights. Declarant expressly reserves the right to withdraw all or any portion of the Expansion Property by recording a document evidencing such withdrawal in the office of the Clerk and Recorder of Summit County; provided, however, that no portion of the Expansion Property may be withdrawn after a Unit in that portion of the Property has been conveyed to a Purchaser. The property withdrawn from the Property shall be subject to whatever easements, if any, are reasonably necessary for access to or operation of the project. Declarant shall prepare and record in the office of the Clerk and Recorder of Summit County whatever documents are necessary to evidence such easements.

Section 13.3. Amendment of the Declaration. If Declarant elects to convert the Expansion Property, or any part thereof, or submit additional improvements to this Declaration, or to subdivide Units, at such time as construction of the improvements on the Expansion Property or the additional improvements are substantially complete, Declarant shall record an Amendment to the Declaration reallocating the Allocated Interests so that the Allocated Interests appurtenant to each Unit will be apportioned according to the total number of Units submitted to the Declaration. The Allocated Interests appurtenant to each Unit in the Project, as expanded, shall be based on the relative Allocated Interest as provided in Exhibit A for all of the Units in the Project, as expanded, and/or on such other information as Declarant shall reasonably determine is relevant to the reallocation.

Section 13.4. Amendment of the Plat. Declarant shall, contemporaneously with the Amendment of the Declaration, file an Amendment of the Plat showing the location of the additional Local Housing Units and Common Elements. The Amendment to the Plat shall substantially conform to the requirements contained in this Declaration.

Section 13.5. Interpretation. Recording of amendments to the Declaration and Plat in the office of the Clerk and Recorder of Summit County shall automatically:

- (i) Vest in each existing Unit Owner any additional rights or interest appurtenant to his/her Unit; and
- (ii) Vest in each existing Mortgagee a perfected security interest in the additional rights or interest appurtenant to the encumbered Unit.

Upon the recording of an Amendment to the Declaration, the definitions used in this Declaration shall automatically be extended to encompass and to refer to the Property, as expanded. All conveyances of Units after such expansion shall be effective to transfer rights in the Common Elements as expanded, whether or not reference is made to any Amendment to the Declaration or Plat. Reference to the Declaration and Plat in any instrument shall be deemed to include all Amendments to the Declaration and Plat without specific reference thereto.

Section 13.6. Maximum Number of Units. The maximum number of Units in the project shall not exceed sixty-two (62) Units or the maximum number of lots allowed by any governmental entity having jurisdiction over the Property, pursuant to any development plan for the Property and the Expansion Property. Declarant is obligated to expand the project to include six (6) Local Housing Units. The maximum number of Units permitted in the first filing of the Project shall be fifty-six (56) and the maximum number of Units permitted on Expansion Property shall be six (6) unless approval for additional units is obtained pursuant to the Town Code of Frisco.

Section 13.7. Reciprocal Easements. If property is withdrawn from the Property ("Withdrawn Property"):

(i) the Unit Owner(s) of the Property and/or Withdrawn Property shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the Property; and

(ii) the Unit owner(s) in the Expansion Property shall have whatever easements are necessary or desirable, if any, for access, utility service, repair, maintenance and emergencies over and across the Property and Withdrawn Property.

Declarant shall prepare and record in the office of the Clerk and Recorder of Summit County whatever documents are necessary to evidence such easements and shall amend the Condominium Map to include reference to the recorded easement(s). Preparation and recordation by Declarant of an easement pursuant to this Section shall conclusively determine the existence, location and extent of the reciprocal easements that are necessary or desirable as contemplated by this Section.

Section 13.8. Termination of Expansion and Development Rights. The rights reserved to the Declarant for itself, its successors and assigns for the expansion and development of the Expansion Property ("Expansion and Development Rights"), shall expire seven (7) years from the date of recording this Declaration, unless the Expansion and Development rights are (i) extended as allowed by law or (ii) reinstated or extended by the Association, subject to whatever terms, conditions, and limitations the Executive Board may impose on the subsequent exercise of the Expansion and Development rights by Declarant.

Section 13.9. Transfer of Expansion and Development Rights. The Expansion and Development Rights created or reserved under this Article for the benefit of Declarant may be transferred to any person by instrument describing the rights transferred and recorded in every county in which any portion of the Project is located. Such instrument shall be executed by the transferor Declarant and the transferee.

ARTICLE XIV - PROTECTIVE COVENANTS

Section 14.1. Improvements Prohibited. No used or second-hand structure, no building of a temporary character, no mobile home, house trailer, tent, shack, or outbuilding shall be placed or used on the Common Elements, either temporarily or permanently; except those items which are necessary for construction may be used during the period extending no later than (i) eighteen (18) months after commencement of construction or (ii) the date of substantial completion of said improvement, whichever is earlier. The placement, appearance and maintenance of such temporary structures may be subject to reasonable rules of the Executive Board governing such matters.

Section 14.2. Trash. No trash, ashes or other refuse or debris may be thrown or dumped on the Property. The burning of refuse out-of-doors shall not be permitted. No incinerators or other device for the burning of refuse indoors shall be constructed, installed or used. Waste materials,

garbage and trash shall be kept in sanitary containers, enclosed and screened from public view, protected from disturbance, and disposed of with reasonable promptness.

Section 14.3. Noxious or Offensive Activity. No noxious or offensive activity shall be conducted on any Unit, nor shall anything be done or placed on any Unit or the Property which is or may become a nuisance or cause embarrassment, disturbance or annoyance to others. No lights shall be emitted from any Unit which are unreasonably bright or cause unreasonable glare; no sound shall be emitted from any Unit which is unreasonably loud or annoying; and no odor shall be emitted from any Unit which is noxious or unreasonably offensive to other Owners.

Section 14.5. Restriction on Timesharing. No Owner of any Unit shall offer or sell any interest in such Unit under a "timesharing" or "interval ownership" plan, or any similar plan without the specific prior written approval of the Association and Declarant (during the period of Declarant's control as further described in that Section named Period of Declarant's Control).

Section 14.6. Unit Number. Each dwelling shall have a Unit number with a design and at a location established by the Executive Board.

Section 14.7. Vehicles and Miscellaneous Equipment. Vehicles, maintenance equipment campers or motor homes may be parked on the Common Elements according to rules determined by the Executive Board.

Section 14.8. Signs. No signs, billboards, poster boards, or advertising structure of any kind, including, but not limited to "For Sale", "For Rent", or similar real estate signs, shall be erected or maintained for any purpose whatsoever except such signs as have been approved by the Executive Board pursuant to its regulations.

Section 14.9. Pets. Dogs, cats or customary household birds may be kept on the Property, not to exceed a total of one (1) household pets per Unit without the written approval of the Executive Board. Such pets shall not be kept outside the Unit unless the pet is under direct supervision and control of the Owner. No pets owned by persons other than Owners, nor any wild animal, reptile, or bird may be trapped, transported, kept or maintained anywhere upon the Property. Breeding of any animals on the Property is specifically prohibited.

Section 14.10. Trade Names. No word, name, symbol or combination thereof shall be used to identify for commercial purposes any structure, business, or service located on or conducted in connection with a Unit or the Property, unless the same shall have been first approved in writing by the Executive Board.

Section 14.11. No Mining, Drilling or Quarrying. Mining, quarrying, tunneling, excavating or drilling for any substances within the earth, including oil, gas, minerals, gravel, sand, rock and earth, shall not be permitted.

Section 14.12. **Barbeque Grills.** No natural gas, propane, charcoal or other grills may be used on any deck until such time as Declarant no longer appoints directors to the Executive Board, and then only upon the affirmative vote of the Executive Board.

Section 14.13. **Local Housing Units Occupancy Restrictions.** The following occupancy restrictions shall apply to Local Housing Units: occupancy in one bedroom Local Housing Units will not exceed two adults and one child and occupancy in two bedroom Local Housing Units will not exceed a total of four persons.

ARTICLE XV - GENERAL PROVISIONS

Section 15.1. **Enforcement.** Except as otherwise provided in this Declaration, the Executive Board, Declarant, or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens, and charges now or hereafter imposed by the provisions of this Declaration. Failure by the Executive Board of the Association, Declarant, or by any Owner to enforce any covenant or restriction contained in this Declaration shall in no event be deemed a waiver of the right to do so thereafter.

Additionally, any such violation shall give the Declarant or the Executive Board the right, in addition to any other rights set forth therein, (a) to enter the Unit or improvement thereon in which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist therein in violation of the Declaration or rules adopted by the Executive Board or Manager without being deemed guilty in any manner of trespass or any other civil or legal violation; and (b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach, with each Owner or other person constructing improvements upon the Property hereby waiving the posting of a bond upon entry of such injunction. All reasonable attorneys fees and costs incurred by the Declarant or the Association in a suit to enforce the terms hereof shall, if said Declarant or the Association prevails in such action, be recoverable from the losing party.

Section 15.2. **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 15.3. **Rule Against Perpetuities.** Notwithstanding anything in this Declaration to the contrary, the creation of any interest under this Declaration shall vest, if at all, within the period of time measured by the life of the survivor of the now living children of Declarant's Manager, Robert R. Fulton, plus 21 years.

Section 15.4. **Conflicts Between Documents.** In case of conflict between this Declaration and the Articles and the Bylaws of the Association, this Declaration shall control. In case of conflict between the Articles and the Bylaws, the Articles shall control.

Section 15.5. **References to Town of Frisco Standards.** Wherever in this Declaration there is a reference to land use regulations, zoning, other Town of Frisco standards, any plats approved

THE TOWERS AT LAKEPOINT CONDOMINIUMS

EXHIBIT A

ALLOCATION OF COMMON EXPENSES

Unit Nos.	Apportionment of Assessment
201	.0174
202	.0164
203	.0164
204	.0164
205	.0164
206	.0164
207	.0164
208	.0164
209	.0164
210	.0174
301	.0174
302	.0164
303	.0164
304	.0164
305	.0164
306	.0164
307	.0164
308	.0164
309	.0164
310	.0174
401	.0174
402	.0174
403	.0164
404	.0164
405	.0164
406	.0164
407	.0164
408	.0164
409	.0164
410	.0174
501	.0187
502	.0172
503	.0172

504	.0172
505	.0172
506	.0172
507	.0172
508	.0172
509	.0172
510	.0187
601	.0187
602	.0233
603	.0172
604	.0172
605	.0172
606	.0172
607	.0172
608	.0172
609	.0233
610	.0187
703	.0233
704	.0233
705	.0233
706	.0233
707	.0233
708	.0233
Total	1.00