



**NOTICE TO CLOSING AGENTS: THIS IS A FEE-ASSESSED SUBDIVISION.
CHECK WITH THE HOMEOWNERS ASSOCIATION FOR FEE SCHEDULE.**

**DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS
FOR
WELLINGTON POINTE TOWNHOMES
(a Common Interest Community)**

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR WELLINGTON POINTE TOWNHOMES is made and entered into this 14th day of May, 2001, by ANDERSON CONSTRUCTION COMPANY INCORPORATED, a Colorado corporation ("the Declarant").

RECITALS

A. The Declarant is the owner of that certain real property located in the County of Larimer, State of Colorado legally described as follows ("the Real Estate"):

Lots 1-6, inclusive, Block 2; and Lots 1 and 2, Block 5, Wellington Pointe, surveyors affidavit of correction recorded September 1, 2000 at Reception No. 2000060141, Town of Wellington, County of Larimer, Colorado.

B. The Declarant desires to create a Common Interest Community on the Real Estate, pursuant to the Colorado Common Interest Ownership Act, Section 38-33.3-101, et seq., Colorado Revised Statutes, as it may be amended from time to time ("the Act").

C. WELLINGTON POINTE TOWNHOMES ASSOCIATION (a Colorado nonprofit corporation) has been incorporated under the laws of the State of Colorado for the purpose of exercising the functions herein set forth.

ARTICLE I. SUBMISSION OF REAL ESTATE

The Declarant hereby publishes and declares that the Real Estate shall be held, sold, conveyed, transferred, leased, subleased, and occupied subject to the following easements, covenants, conditions, and restrictions which shall run with the Real Estate and shall be binding upon and inure to the benefit of all parties having any right, title, or interest in the Real Estate or any portion thereof, their heirs, personal representatives, successors, and assigns. Additionally, the Declarant hereby submits the Real Estate to the provisions of the Act. In the event

the Act is repealed, the Act on the date this Declaration is recorded in the office of the Clerk and Recorder of Larimer County, Colorado, shall remain applicable.

ARTICLE II. DEFINITIONS

Section 1: "Allocated Interests" shall mean and refer to the Common Expense Liability and votes in the Association.

Section 2: "Approval" or "Consent" shall mean securing the prior written approval or consent as required herein before doing, making, or suffering that for which such approval or consent is required.

Section 3: "Association" or "Lot Owners' Association" shall mean and refer to WELLINGTON POINTE TOWNHOMES (a Colorado nonprofit corporation), its successors and assigns, organized and existing under the laws of the State of Colorado and specifically Section 38-33.3-301 of the Act.

Section 4: "Bylaws" shall mean and refer to any instruments, however denominated, which are adopted by the Association for the regulation and management of the Association, including amendments to those instruments.

Section 5: "Buildings" shall mean and refer to all of the Buildings constructed on the real estate. Each Building shall consist of four single family residential units.

Section 6: "Common Expense Liability" shall mean and refer to the liability for Common Expenses allocated to each Lot for which a certificate of occupancy has been issued for a Townhome Unit on such Lot pursuant to this Declaration.

Section 7: "Common Expenses" shall mean and refer to expenditures made or liabilities incurred by or on behalf of the Association, together with any allocations to reserves. These expenses for the operation of the Common Interest Community include, but are not limited to:

- (a) Expenses of maintaining the exterior of the Buildings.
- (b) Expenses of maintaining, repairing, improving, and replacing the Landscaping.
- (c) Expenses incurred for snow removal from the sidewalk and driveways on the Lots.

- (d) Expenses of maintaining, repairing, improving and replacing common driveways on the Lots.
- (e) Expenses incurred for trash removal.
- (f) Expenses incurred for payment of water and sewer services provided to the Lots.
- (g) Expenses declared to be Common Expenses by the Declaration.
- (h) Expenses agreed upon as Common Expenses by the Association.
- (i) Assessments made by the Master Association.
- (j) Such reasonable reserves as may be established by the Association, whether held in trust or by the Association, for repair, replacement, or addition to the Landscaping or any other real or personal property acquired or held by the Association.

Section 8: "Common Interest Community" shall mean and refer to the Real Estate.

Section 9: "Declarant" shall mean and refer to Anderson Construction Company Incorporated, a Colorado corporation, or any other Person or group of Persons acting in concert who, as a part of a common promotional plan, offer to dispose of to a Purchaser such Declarant's interest in a Lot not previously disposed of to a Purchaser.

Section 10: "Declaration" shall mean and refer to this Declaration, including any amendments.

Section 11: "Dispose" or "Disposition" shall mean and refer to a voluntary transfer of any legal or equitable interest in a Lot, but the term does not include the transfer or release of a security interest.

Section 12: "Documents" shall mean and refer to this Declaration, and the Articles of Incorporation, Bylaws, and Rules and Regulations of the Association, as supplemented or amended from time to time.

Section 13: "Townhome Unit" shall mean and refer to each of the four living units within each of the Buildings designated for separate ownership and occupancy.

Section 14: "Board" shall mean and refer to the Board of Directors of the Association. The term "Board" as used in this Declaration shall have the same meaning as the term "Executive Board" as used in the Act.

Section 15: "Identifying Number" shall mean and refer to an address that identifies only one (1) Lot in the Common Interest Community.

Section 16 "Insurer" shall mean and refer to any governmental agency or authority that insures or guarantees a Mortgage and that has provided actual written notice of such interest to the Association. Recording of a mortgage, deed of trust, or other security interest in the office of the Clerk and Recorder of Larimer County, Colorado, shall not be considered actual written notice to the Association of a security interest.

Section 17: "Landscaping" shall mean and refer to all trees, shrubs, grasses, flowers, and other plants and plant materials on the Lots.

Section 18: "Lot" shall mean and refer to each parcel of the Real Estate separately described and conveyed by the Declarant to a Purchaser.

Section 19: "Master Association" shall mean and refer to WELLINGTON POINTE COMMUNITY ASSOCIATION, INC., a Colorado nonprofit corporation.

Section 20: "Master Declaration" shall mean and refer to the Declaration of Covenants, Conditions, and Restrictions for WELLINGTON POINTE P.U.D. SUBDIVISION dated January 2, 2001, recorded January 22, 2001, at Reception No. 2001004525 of the Larimer County, Colorado, records.

Section 21: "Mortgagee" shall mean and refer to any Person who has a security interest in a Lot and who has provided actual written notice of such interest to the Association. Recording of a mortgage, deed of trust, or other security interest in the office of the Clerk and Recorder of Larimer County, Colorado, shall not be considered actual written notice to the Association of a security interest.

Section 22: "Notice" shall mean and refer to any notice required or desired to be given pursuant to the Documents. Unless otherwise provided in the Documents, all notices shall be in writing and may be personally delivered; mailed, certified mail, return receipt requested, sent by telephone facsimile with a hard copy sent by regular mail; sent by a nationally recognized, receipted overnight delivery service, including, by example and not limitation,

United Parcel Service, Federal Express, or Airborne Express; or sent by electronic mail. Any such notice shall be deemed given when personally delivered; if mailed, three (3) delivery days after deposit in the United States mail, postage prepaid; if sent by telephone facsimile or electronic mail, on the day sent if sent on a business day during normal business hours of the recipient or on the next business day if sent at any other time; or if sent by overnight delivery service, one (1) business day after deposit in the custody of the delivery service. The addresses and telephone numbers for the mailing, transmitting, or delivering of notices shall be as set forth in the books and records of the Association. Notices of a change of address shall be given in the same manner as all other notices as hereinabove provided.

Section 23: "Owner" shall mean and refer to any Person who owns a Lot but does not include a Person having an interest in a Lot solely as security for an obligation. The term "Owner" as used in this Declaration shall have the same meaning as the term "Unit Owner" as used in the Act.

Section 24: "Person" shall mean and refer to a natural person, a corporation, a limited liability company, a partnership, an association, a trust, or any other entity or combination thereof.

Section 25: "Purchaser" shall mean and refer to a Person, other than the Declarant, who, by means of a transfer, acquires a legal or equitable interest in a Lot, other than:

- (a) A leasehold interest in a Lot of less than forty (40) years, including renewal options, with the period of the leasehold interest, including renewal options, being measured from the date the initial term commences; or
- (b) A Security Interest.

Section 26: "Real Estate" shall mean and refer to the Real Estate described in Recital A hereinabove.

Section 27: "Rules and Regulations" shall mean and refer to any instruments, however denominated, which are adopted by the Association for the regulation and management of the Common Interest Community, including any amendment to those instruments.

Section 28: "Security Interest" shall mean and refer to an interest in real property created by contract or conveyance which secures payment or

performance of an obligation if the Association is given actual written notice of such interest. The term includes a lien created by a mortgage, deed of trust, trust deed, security deed, contract for deed, land sales contract, lease intended as security, assignment of lease or rents intended as security, pledge of an ownership interest in an association, and any other consensual lien or title retention contract intended as security for an obligation of which the Association has been given actual written notice. "First Security Interest" shall mean and refer to a Security Interest in a Lot of which the Association has been given actual written notice prior to all other Security Interests except the Security Interest for real property taxes and assessments made by Larimer County, Colorado, or other governmental authority having jurisdiction over the Common Interest Community. For purposes of this Declaration, the recording of any document or instrument in the office of the Clerk and Recorder of Larimer County, Colorado, shall not be considered actual written notice to the Association of any Security Interest created by the recording of such document or instrument.

Section 29: Unless the context clearly indicates otherwise, other terms defined in the Act shall have the meanings attributable to such terms in the Act.

Section 30: Other terms in this Declaration may be defined in specified provisions contained herein and shall have the meaning assigned by such definition.

ARTICLE III. COMMON INTEREST COMMUNITY

Section 1: Name. The name of the Common Interest Community is WELLINGTON POINTE TOWNHOMES.

Section 2: Association. The name of the Association is WELLINGTON POINTE TOWNHOME ASSOCIATION.

Section 3: Planned Community. The Common Interest Community is a planned community.

Section 4: County. The name of every county in which any part of the Common Interest Community is situated is Larimer County, Colorado.

Section 5: Legal Description. A legal description of the Real Estate included in the Common Interest Community is set forth in Recital A hereinabove.

Section 6: Maximum Number of Lots. The maximum number of Lots that the Declarant reserves the right to create within the Common Interest Community is thirty-two (32).

Section 7: Boundaries of Lots. The boundaries of each Lot are set forth in the deed from the Declarant to each Purchaser. The deed sets forth the Lot's Identifying Number.

Section 8: Allocated Interests. The Common Expense Liability and votes in the Association shall be allocated among the Owners as follows:

- (a) Each Owner's share of the Common Expenses shall be a fraction, the numerator of which shall be one (1) and the denominator of which shall be the total number of Lots within the Common Interest Community for which a certificate of occupancy has been issued for a Townhome Unit on such Lot.
- (b) Each Owner shall be entitled to one (1) vote for each Lot owned.

Section 9: Recording Data. All easements and licenses to which the Common Interest Community is presently subject are shown on Exhibit "A" attached hereto and incorporated herein by reference.

ARTICLE IV. ASSOCIATION

Section 1: Membership. Every Owner of a Lot shall be a Member of the Association. The foregoing is not intended to include Persons who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot. Ownership of a Lot shall be the sole qualification for membership. The Association does not contemplate pecuniary gain or profit to the Members thereof, and the specific purposes for which it is formed are as follows: (a) to operate the Common Interest Community known as WELLINGTON POINTE TOWNHOMES located in Larimer County, Colorado, in accordance with the Act, as amended, and the Colorado Nonprofit Corporation Act, as amended; (b) to promote the health, safety, welfare, and common benefit of the residents of the Common Interest Community; (c) to maintain the exterior of the Buildings; (d) to maintain, replace, and improve the Landscaping; (e) to maintain, repair, and replace common driveways; (f) to obtain snow and trash removal services; and (g) to do any and all permitted acts, and to have and exercise any and all powers, rights, and privileges which are granted to a

common interest community association under the laws of the State of Colorado, this Declaration, and the Bylaws, Rules and Regulations, and other governing documents of the Association.

Section 2: Voting Rights and Assignment of Votes. The effective date for assigning votes to Lots created pursuant to this Declaration shall be the date on which this Declaration is recorded in the records of the Clerk and Recorder of Larimer County, Colorado.

Section 3: Allocated Interests. The Common Expense Liability and votes in the Association allocated to each Lot are set forth as follows:

- (a) The percentage of liability for Common Expenses shall be allocated on the basis of equal liability for each Lot upon which a Townhome Unit has been constructed and for which a certificate of occupancy has been issued; and
- (b) The number of votes in the Association shall be allocated on the basis of one (1) vote for each Lot.

Section 4: Authority. The business and affairs of the Common Interest Community shall be managed by the Association. The Association shall be governed by this Declaration and the Articles of Incorporation, Bylaws, and Rules and Regulations of the Association, as amended from time to time.

Section 5: Powers. The Association shall have all of the powers and authority permitted pursuant to the Act necessary and proper to manage the business and affairs of the Common Interest Community.

Section 6: Declarant Control. The Declarant, or persons designated by the Declarant, may appoint and remove the officers and members of the Board of the Association for a period of five (5) years after this Declaration is recorded in the office of the Clerk and Recorder of Larimer County, Colorado. The period of Declarant control as herein set forth is subject to the limitations of Section 38-33.3-303(5) of the Act.

Section 7: Board Powers and Duties. The Board may act in all instances on behalf of the Association. The Board shall have, subject to the limitations contained in this Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Common Interest Community, which shall include, but not be limited to, the following:

- (a) Adopt and amend Bylaws.
- (b) Adopt and amend Rules and Regulations.
- (c) Adopt and amend budgets for revenues, expenditures, and reserves.
- (d) Collect Common Expense assessments from Owners.
- (e) Hire and discharge Managers.
- (f) Hire and discharge independent contractors, employees, and agents, other than Managers.
- (g) Institute, defend, or intervene in litigation or administrative proceedings or seek injunctive relief for violation of the Documents in the Association's name, on behalf of the Association, or two (2) or more Lot Owners on any matters affecting the Common Interest Community.
- (h) Make contracts and incur liabilities.
- (i) Provide, or cause to be provided, snow and trash removal.
- (j) Maintain, repair, replace, and improve the Landscaping within the Common Interest Community.
- (k) Maintain the exterior of the Buildings.
- (l) Maintain, repair and replace common driveways on the Lots.
- (m) Acquire, hold, encumber and convey in the Association's name, any right, title, or interest to real estate or personal property.
- (n) Impose a reasonable charge for late payment of assessments and levy a reasonable fine for violation of the Documents.
- (o) Impose a reasonable charge for the preparation and recordation of supplements or amendments to this Declaration and for statements of unpaid assessments.

- (p) Provide for the indemnification of the Association's officers and the Board and maintain directors' and officers' liability insurance.
- (q) Assign the Association's right to future income, including the right to receive Common Expense assessments, but only upon the affirmative vote of the Owners of Lots to which at least fifty-one percent (51%) of the votes in the Association are allocated, at a meeting called for that purpose.
- (r) Collect from the Owners and pay to the Master Association assessments made by the Master Association.
- (s) Exercise any other powers conferred by the Documents.
- (t) Exercise any other power that may be exercised in the State of Colorado by a legal entity of the same type as the Association.
- (u) Exercise any other power necessary and proper for the governance and operation of the Association.
- (v) By resolution, establish permanent and standing committees of Board members to perform any of the above functions under specifically delegated administrative standards as designated in the resolution establishing the committee. All committees established by the Board must maintain and publish notice of their actions to Lot Owners and the Board. Actions taken by any committee established by the Board may be appealed to the Board by any Lot Owner within forty-five (45) days of publication of a notice. If an appeal is made, the committee's action must be ratified, modified, or rejected by the Board at its next regular meeting.

Section 8: Professional Management and Contract Termination Provisions.
The Association may utilize professional management in performing its duties hereunder. Any agreement for professional management of the Association's business shall have a maximum term of three (3) years and shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, upon sixty (60) days' prior written notice. Any contracts, licenses, or leases entered into by the Association while there is Declarant control of the Association shall provide for termination by either party thereto, with or without cause and without payment of a termination fee, at any time after termination of Declarant control of the Association, upon sixty (60) days' prior

written notice; provided, however, that any contract entered into at any time by the Association providing for services of the Declarant shall provide for termination at any time by either party thereto, without cause and without payment of a termination fee, upon sixty (60) day's prior written notice.

Section 9: Board Limitations. The Board may not act on behalf of the Association to amend this Declaration, to terminate the Common Interest Community, or to elect members of the Board or determine their qualifications, powers, and duties or terms of office of Board members, but the Board may fill vacancies in its membership for the unexpired portion of any term.

Section 10: Indemnification. To the full extent permitted by law, each officer and member of the Board of the Association shall be indemnified by the Association against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed upon them in any proceeding to which they may be a party or in which they may become involved by reason of their being or having been an officer or member of the Board of the Association, or any settlement thereof, whether or not they are an officer or a member of the Board of the Association at the time such expenses are incurred, except in such cases where such officer or member of the Board is adjudged guilty of willful misfeasance or malfeasance in the performance of his or her duties; provided that in the event of a settlement, the indemnification shall apply only when the Board approves such settlement and reimbursement as being in the best interests of the Association.

ARTICLE V. SPECIAL DECLARANT RIGHTS

Declarant hereby reserves the right for a period of five (5) years after this Declaration is recorded in the office of the Clerk and Recorder of Larimer County, Colorado, to perform the acts and exercise the rights hereinafter specified ("the Special Declarant Rights"). Declarant's Special Declarant Rights include the following:

- (a) Completion of Improvements. The right to complete improvements on the Lots.
- (b) Sales Management and Marketing. The right to maintain one (1) sales office, one (1) management office, signs advertising the Common Interest Community, and model Townhome Units. The Declarant shall have the right to determine the number of model Townhome Units and the size and location of the sales office, management office, and model Townhome Units. The Declarant

shall also have the right to relocate the sales office, management office, and model Townhome Units from time to time, at the Declarant's discretion. After the Declarant ceases to be the Owner of any portion of the Real Estate, the Declarant shall have the right to remove any sales office or management office from the Common Interest Community.

- (c) Control of Association and Board. The right to appoint or remove any officer of the Association or any Board member.

ARTICLE VI. EASEMENTS

Section 1: Encroachments. A valid easement shall exist for the following encroachments and for the maintenance of the same: (a) in the event that any portion of a Townhome Unit encroaches upon any other Lot; or (b) in the event any encroachment shall occur in the future as a result of settling of a Building or repair or restoration of a Building after damage by fire or other casualty or condemnation or eminent domain proceedings. In the event that any one or more of the Buildings are partially or totally destroyed and are then rebuilt or reconstructed in substantially the same location, and as a result of such rebuilding, any portion thereof shall encroach as provided in the preceding sentence, a valid easement for such encroachment shall exist. Such encroachments and easements shall not be considered or determined to be encumbrances on the Lots for purposes of marketability of title or other purposes.

Section 2: Blanket Easement. There is hereby created a blanket easement upon, across, over, and under the Real Estate for ingress and egress to and from each Townhome Unit and a blanket easement upon, across, over, and under all Lots for improving, replacing, repairing, and maintaining exterior of the Buildings, the Driveways, and the Landscaping.

Section 3: Emergency Easement. An easement for ingress and egress is hereby granted to all police, sheriff, fire protection, ambulance, and other similar emergency agencies or persons to enter upon the Real Estate in the performance of their duties.

ARTICLE VII. RESERVATION FOR ACCESS, MAINTENANCE, REPAIR, AND EMERGENCIES

The Association shall have the irrevocable right to be exercised by the Association's Board of Directors, officers, custodian, or managing agent to have access to each Lot from time to time during reasonable hours as may be necessary

for the maintenance, repair, or replacement of the exterior of the Buildings, the Driveways, and the Landscaping and for snow and trash removal; or at any hour for making emergency repairs, maintenance, or inspection necessary to prevent damage.

ARTICLE VIII. MAINTENANCE AND SERVICE RESPONSIBILITY

Section 1: Owner. For maintenance purposes, an Owner shall be responsible for maintenance of the interior of such, Owner's Townhome Unit, including, but not limited to, the windows and doors; the interior nonsupporting walls, floors, and ceilings of the Townhome Unit; the materials such as, but not limited to, plaster, gypsum drywall, paneling, wallpaper, paint, wall and floor tile and flooring, and other materials which make up the finished surfaces of the perimeter walls, ceiling, and floors within the Townhome Unit.

Section 2: Association. The Association shall have the duty of maintaining and repairing the exterior of the Buildings, the Driveways, and the Landscaping. No Owner shall perform, or cause to be performed, any work on the exterior of the Buildings, the Driveways, or the Landscaping.

ARTICLE IX. INSURANCE

Section 1: To be Obtained by the Association. The Association shall obtain and maintain at all times, to the extent obtainable at reasonable cost, policies involving standard premium rates established by the Colorado Insurance Commissioner and written with companies licensed to do business in Colorado and having a Best's Insurance Report rating of A & XV or better covering the risks set forth below. The Association shall not obtain any policy where: (i) under the terms of the insurance company's charter, bylaws, or policy, contributions or assessments may be made against a Mortgagee or Mortgagee's designee; or (ii) by the terms of the carrier's charter, bylaws, or policy, loss payments are contingent upon action by the company's board of directors, policyholders, or members; or (iii) the policy includes any limiting clauses (other than insurance conditions) which could prevent Mortgagees or Owners from collecting insurance proceeds. The types of coverage to be obtained and risks to be covered are as follows:

- (a) Fire Insurance. The Association shall maintain fire insurance with extended coverage and standard all-risk endorsements, which endorsements shall include endorsements for vandalism and malicious mischief. Such policy shall also include an agreed amount endorsement and, if available, an inflation guard endorsement. If requested by a first mortgagee or an

insurer or guarantor of a First Mortgage, such policy shall also include construction code endorsements such as demolition cost endorsement, a contingent liability from operation of building laws endorsement, and an increased cost of construction endorsement. Said casualty insurance shall insure all Buildings, including all of the Townhome Units, any fixtures, equipment, or other property within the Townhome Units which are to be financed by a First Mortgagee, together with all service equipment contained therein, in an amount equal to the full replacement value without deduction or depreciation. All policies shall contain a standard noncontributory mortgage clause in favor of each Mortgagee of a Townhome Unit which shall provide that the loss, if any, thereunder shall be payable to the Association for the use and benefit of the Owners and Mortgagees as their interests may appear. The Association shall hold any proceeds of insurance in trust for the use and benefit of the Owners and Mortgagees as their interests may appear.

(b) Liability Insurance. The Association shall maintain public liability and property damage insurance in such limits as the Board of Directors may from time to time determine but not in an amount less than One Million Dollars (\$1,000,000) per injury, per person, per occurrence, and umbrella liability limits of One Million Dollars (\$1,000,000) per occurrence covering all claims for bodily injury or property damage. Coverage shall include, without limitation, liability for personal injuries, operation of automobiles on behalf of the Association, and activities in connection with the maintenance of the Buildings and Landscaping, and snow and trash removal. Said policy shall also contain a "severability of interest" endorsement. Coverage under such policy shall include, without limitation, legal liability of the insureds for property damage, bodily injuries, and death of persons in connection with the maintenance of the Buildings and Landscaping, snow and trash removal, and legal liability arising out of lawsuits related to employment contracts of the Association.

(c) Worker's Compensation Insurance. The Association shall maintain worker's compensation and employer's liability insurance and all other similar insurance with respect to

employees of the Association in the amounts and in the forms now or hereafter required by law.

- (d) Officers' and Directors' Insurance. To the extent such insurance can be obtained at reasonable cost, the Association shall maintain blanket fidelity bonds for all officers, directors, and employees of the Association and all other persons handling or responsible for funds of or administered by the Association. If the managing agent has the responsibility for handling or administering funds of the Association, the managing agent shall be required to maintain fidelity bond coverage for its officers, employees, and agents handling or responsible for funds of or administered on behalf of the Association. Such fidelity bonds shall name the Association as an obligee and shall not be less than the estimated maximum amount of funds, including reserve funds, in the custody of the Association or the managing agent at any given time during the term of each bond. In no event shall the aggregate amount of such bonds be less than a sum equal to three (3) months' aggregate Common Expense assessments on all Lots plus reserve funds. Such bonds shall contain waivers by the issuers thereof of all defenses based upon the exclusion of persons serving without compensation from the definition of employees or similar terms or expressions. The premiums on all bonds required hereunder, except those maintained by the managing agent, shall be paid by the Association as a Common Expense.
- (e) Other Insurance. The Association may obtain insurance against such other risks of a similar or dissimilar nature as shall be deemed appropriate.

Section 2: Requirements of Insurance. All policies of insurance, to the extent obtainable, shall contain waivers of subrogation and waivers of any defense based on invalidity arising from any acts of an Owner and shall provide that such policies may not be cancelled or modified without at least ten (10) days' prior written notice to all of the insureds, including the Association and all Mortgagees. If requested, duplicate originals of all policies and renewals thereof, together with proof of payment of premiums, shall be delivered to all Mortgagees at least ten (10) days prior to expiration of the then current policies. The insurance shall be carried in blanket form naming the Association as the insured, as attorney-in-fact for all of the Owners, which policy or policies shall identify the interest of each Owner (Owner's name and Lot number designation) and first Mortgagee. Further,

the Association shall require the insurance company or companies providing the insurance coverage described herein to provide each Owner and Mortgagee a certificate of insurance in regard to such Owner's individual Townhome Unit.

3. Attorney-in-Fact. Notwithstanding any of the foregoing provisions and requirements relating to property or liability insurance, there may be named as an insured, on behalf of the Association, an authorized representative who shall have the exclusive authority to negotiate losses under any policy providing such property or liability insurance and to perform such other functions as are necessary to accomplish such purpose. All of the Owners hereby irrevocably constitute the Association as their true and lawful attorney-in-fact in their name, place, and stead for the purpose of purchasing and maintaining such insurance, including the collection and appropriate disposition of the proceeds thereof, the negotiation of losses, the execution of all documents, and the performance of all other acts necessary to accomplish such purpose.

4. To Be Obtained by Owners. Each Owner shall maintain public liability insurance in such limits as the Board may from time to time determine to be reasonably necessary but not less than Three Hundred Thousand Dollars (\$300,000) per injury per person per occurrence covering all claims for bodily injury or property damage. Each Owner shall also carry fire and hazard insurance insuring the interior of such Owner's Townhome Unit which, the Owner is obligated to maintain pursuant to Article VIII, Section 1 hereinabove. Owners may carry other insurance for their benefit and at their expense. All such policies shall contain waiver of subrogation and provide further that the liability of the carriers issuing insurance obtained by the Association shall not be affected or diminished by reason of any such additional insurance carried by any Owner. Insurance coverage on furnishings or other property belonging to an Owner shall be the sole and direct responsibility of the Owner thereof, and the Board, Association, and/or the managing agent of the Association shall have no responsibility therefor.

ARTICLE X. ASSESSMENT FOR COMMON EXPENSES

Section 1: Personal Obligation of Owners for Common Expenses. The Declarant, for each Lot owned, hereby covenants, and each Owner of any Lot by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association Common Expense assessments imposed by the Association to meet the estimated Common Expenses.

Section 2: Purpose of Assessment. The assessments levied by the Association shall be used to promote the recreation, health, safety, and welfare of the Owners; for the improvement and maintenance of the Buildings; and for the payment of the costs and expenses of maintaining the exterior of the Buildings, Driveways, and Landscaping within the Common Interest Community, for payment of the cost of snow and trash removal; and for payment of the cost of water services to the Lots; and for payment of assessments made by the Master Association.

Section 3: Amount of Assessment. The amount of the assessment for the estimated Common Expenses which shall be paid by each Owner shall be determined by dividing the aggregate sum the Association reasonably determines to be paid by all Owners by the total number of Lots within the Common Interest Community for which a certificate of occupancy has been issued for a Townhome Unit on such Lot, and the Owner of each Lot for which a certificate of occupancy has been issued for a Townhome Unit on such Lot shall pay his or her proportionate share of such aggregate sum.

Section 4: Special Assessments for Capital Improvements. In addition to the annual assessments authorized above, the Association may levy, in any assessment year, a special assessment applicable to that year only for the purpose of defraying, in whole or in part, payment of any operating deficit and/or unbudgeted cost, the cost of any construction, reconstruction, repair, or replacement of a capital improvement upon the exterior of the Buildings, including fixtures and personal property related thereto, and the cost of any construction, reconstruction, repair, or replacement of any Landscaping within the Common Interest Community. Except as provided in Article XI hereinabove, any such Special Assessment shall have the assent of two-thirds (2/3) of the votes of the Owners who are voting in person or by proxy at a meeting duly called for this purpose.

Section 5: Uniform Rate of Assessment. Both annual and special assessments must be fixed at a uniform rate for all Lots for which a certificate of occupancy has been issued for a Townhome Unit on such Lot and shall be collected on a monthly basis.

Section 6: Date of Commencement of Annual Assessments; Due Dates. The Board shall fix the amount of the annual assessment against each Lot for which a certificate of occupancy has been issued for a Townhome Unit on such 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. Annual assessments shall be collected in advance in twelve (12) equal monthly install-

ments or four (4) equal, quarterly installments. Omission or failure to fix an assessment or deliver or mail a statement for any period shall not be deemed a waiver, modification, or release of a Lot Owner from his or her obligation to pay the same.

Section 7: Exempt Property. The following property subject to the Declaration shall be exempted from the assessments, charges, and liens created herein:

- (a) All Lots for which no certificate of occupancy has been issued for a Townhome Unit on such Lot.
- (b) All properties to the extent of any easement or other interest therein dedicated and accepted by a municipal or quasi-municipal corporation or other local public utility or authority and devoted to public use.

Section 8: Record of Receipts and Expenditures. The Association shall keep detailed and accurate records in chronological order of all of its receipts and expenditures, specifying and itemizing the maintenance and repair of the Buildings and Landscaping within the Common Interest Community and any other expenses incurred. Such records shall be available on request for examination by the Lot Owners and others with an interest, such as prospective lenders.

Section 9: Notice to Security Interest. Upon the written request of a holder of a First Security Interest on a Lot, and upon payment of reasonable compensation therefor, the Association shall report to such party any unpaid assessment or other defaults under the terms of this Declaration which are not cured by the Lot Owner within sixty (60) days after written notice of default given by the Association to the Lot Owner.

Section 10: Certificate of Status of Assessments. The Association, upon written request to the Association, and upon payment of a reasonable fee, shall furnish to a Lot Owner or such Lot Owner's designee, to a holder of a Security Interest or its designee, or to a closing agent handling the closing of the sale or financing of the Owner's Lot a statement, in recordable form, setting out the amount of the unpaid Common Expense assessments against the Lot. The statement must be furnished within fourteen (14) business days after receipt of the request and is binding on the Association, the Board, and each Lot Owner as of the date of its issuance.

Section 11: Owner's Negligence. Notwithstanding anything to the contrary contained in this Declaration in the event that the need for maintenance or repair of the Buildings, any improvements located thereon, or any Driveway or Landscaping is caused by the willful or negligent act, omission, or misconduct of any Lot Owner or by the willful or negligent act, omission, or misconduct of any member of such Lot Owner's family or by a guest, invitee, employee, agent, contractor, or subcontractor of such Lot Owner or any tenant or member of a tenant's family, the costs of such repair and maintenance shall be the personal obligation of such Lot Owner, and any costs, expenses, and fees incurred by the Association for such maintenance, repair, or reconstruction shall be added to and become part of the assessment to which such Owner's Lot is subject and shall be a lien against such Owner's Lot as provided in this Declaration. A determination of the willful or negligent act, omission, or misconduct of any Lot Owner or any member of a Lot Owner's family or a guest, invitee, employee, agent, contractor, or subcontractor of any Lot Owner or tenant or member of a tenant's family and the amount of the Lot Owner's liability therefor shall be determined by the Board after notice to the Lot Owner and the right to be heard before the Board in connection therewith.

Section 12: Common Expenses Attributable to Fewer than All Lots. The following Common Expenses may be chargeable to fewer than all Lots:

- (a) If a Common Expense is caused by the misconduct of a Lot Owner, the members of such Owner's family, or such Owner's guests, invitees, employees, agents, contractors, subcontractors, or tenants, the Association may assess that expense against that Lot Owner and such Owner's Lot.
- (b) Fees, charges, taxes, impositions, late charges, fines, collection costs, and interest charged against a Lot Owner for nonpayment of assessments or violation of the Documents are enforceable as Common Expense assessments against such Owner's Lot.
- (c) Common Expenses assessed prior to the issuance of a certificate of occupancy for a Townhome Unit on each and every Lot.

ARTICLE XI. LIEN FOR NONPAYMENT OF COMMON EXPENSES

Any assessment, charge, or fee provided for in this Declaration or any monthly or other installment thereof which is not fully paid within ten (10) days after the date due shall bear interest at a rate determined by the Board. In addition, the Board may assess a late charge thereon. Any Owner who fails to pay

any assessment, charge, or fee of the Association shall also be obligated to pay to the Association, on demand, all costs and expenses incurred by the Association, including reasonable attorney's fees, in attempting to collect the delinquent amount. The total amount due to the Association, including unpaid assessments, fees, charges, fines, interest, late payment penalties, costs, and attorney's fees, shall constitute a lien on the defaulting Owner's Lot and the appurtenant Townhome Unit. The Association may bring an action, at law or in equity, or both, against any Owner personally obligated to pay any amount due to the Association or any monthly or other installment thereof and may also proceed to foreclose its lien against such Owner's Lot and the appurtenant Townhome Unit. An action at law or in equity by the Association against a delinquent Owner to recover a money judgment for unpaid amounts due to the Association or monthly or other installments thereof may be commenced and pursued by the Association without foreclosing or in any way waiving the Association's lien. The Association's lien shall be superior to any homestead exemption now existing or hereafter created by any state or federal law.

ARTICLE XII. MORTGAGEE PROTECTION

Section 1: Introduction. This Article establishes certain standards and covenants which are for the benefit of the holders, insurers, and guarantors of certain Security Interests. This Article is supplemental to, and not in substitution for, any other provisions of the Declaration, but in the case of conflict, this Article shall control.

Section 2: Notice of Actions. The Association shall give notice (as defined in Article II) to each Mortgagee and Insurer (as defined in Article II), and each Lot Owner hereby consents to and authorizes such notice, of the following:

- (a) Any condemnation loss or any casualty loss which affects a material portion of the Common Interest Community.
- (b) Any delinquency in the payment of Common Expense assessments owed by a Lot Owner whose Lot is subject to a First Security Interest held, insured, or guaranteed by such Mortgagee or Insurer, as applicable, which remains uncured for a period of sixty (60) days.
- (c) Any lapse, cancellation, or material modification of any insurance policy or fidelity bond maintained by the Association.

- (d) Any proposed action which would require the consent of a specified percentage of Mortgagees as specified in Section 4 of this Article.
- (e) Any judgment rendered against the Association.

Section 3: Consent and Notice Required.

- (a) Document Changes. Notwithstanding any requirement permitted by this Declaration or the Act, no amendment of any provision of this Declaration pertaining to the matters hereinafter listed by the Association or Lot Owners shall be effective without notice to Mortgagees and Insurers, and the vote of at least sixty-seven percent (67%) of the Lot Owners (or any greater Lot Owner vote required in this Declaration or the Act) and until approved by at least fifty-one percent (51%) of the Mortgagees as defined in Article II (or any greater Mortgagee approval required by this Declaration):
 - (1) Voting rights.
 - (2) Assessments, assessment liens, or priority of assessment liens.
 - (3) Reserves for maintenance, repair, and replacement of Buildings, Driveways, or Landscaping.
 - (4) Responsibility for maintenance and repairs.
 - (5) Redefinitions of boundaries of Lots, except that when boundaries of only adjoining Lots are involved or a Lot is being subdivided, then only those Lot Owners and the Mortgagees holding Security Interests in such Lot or Lots must approve such action.
 - (6) Expansion or contraction of the Common Interest Community or the addition, annexation, or withdrawal of property to or from the Common Interest Community.
 - (7) Insurance or fidelity bonds.
 - (8) Leasing of Lots.

- (9) Imposition of any restrictions on a Lot Owner's right to sell or transfer his Lot.
 - (10) A decision by the Association to establish self-management when professional management had been required previously by any Mortgagee.
 - (11) A decision by the Association not to restore or repair the Building after a hazard damage or partial condemnation.
 - (12) Termination of the Common Interest Community after occurrence of substantial destruction or condemnation of the Buildings.
 - (13) Any provision that expressly benefits mortgage holders, insurers, or guarantors.
- (b) Actions. Notwithstanding any lower requirement permitted by this Declaration or the Act, the Association may not take any of the following actions, other than rights reserved to the Declarant as Special Declarant set forth in Article V of this Declaration, without the notice to Mortgagees and Insurers (as defined in Article II) and approval of at least fifty-one percent (51%) (or the indicated percentage) of the Mortgagees:
- (1) The termination of the Common Interest Community for reasons other than substantial destruction or condemnation of the Buildings without approval by sixty-seven percent (67%) of the votes of Mortgagees.
 - (2) The establishment of self-management when professional management had been required previously by a Mortgagee.
 - (3) A decision by the Association not to restore or repair the Buildings after a hazard damage or partial condemnation.
 - (4) The merger of the Common Interest Community with any other common interest community.

- (5) The assignment of the future income of the Association, including its right to receive Common Expense assessments.
- (c) The Association may not change the period for collection of regularly budgeted Common Expense assessments to other than monthly without the consent of all Mortgagees.
- (d) The failure of a Mortgagee or Insurer to object in writing to any proposed addition or amendment within thirty (30) days after notice (as defined in Article II) is given by the Association requesting approval of an addition or amendment to the Declaration shall conclusively constitute approval by the Mortgagee or Insurer of the addition or amendment.

Section 4: Inspection of Books. The Association shall maintain current copies of the Declaration, Bylaws, Rules and Regulations, books and records, and financial statements. The Association shall permit any Mortgagee or Insurer to inspect the books and records of the Association during normal business hours.

Section 5: Financial Statements. The Association shall provide any Mortgagee or Insurer who submits a written request a copy of an annual financial statement within ninety (90) days following the end of each fiscal year of the Association.

Section 6: Enforcement. The provisions of this Article are for the benefit of Mortgagees and Insurers and their successors and may be enforced by any of them by any available means at law or in equity.

Section 7: Attendance at Meetings. Any representative of a Mortgagee or Insurer may attend and address any meeting which an Owner may attend.

Section 8: Appointment of Trustee. In the event of damage, destruction, or condemnation of all or a portion of the Buildings, any Mortgagee may require that such proceeds be payable to a trustee. Such trustee may be required to be a corporate trustee licensed by the State of Colorado. Proceeds will thereafter be distributed pursuant to the Act or pursuant to a condemnation award. Unless otherwise required, the members of the Board, acting by majority vote through the president, may act as trustee.

Section 9: Payment of Delinquent Fees. Mortgagees may, jointly or singly, pay taxes or other charges which are in default and which may or have become a charge against the Lots and may pay overdue premiums on insurance policies to

be maintained by the Association, and Mortgagees making such payments shall be owed immediate reimbursement therefor from the Association.

ARTICLE XIII. DESTRUCTION OR DAMAGE

Section 1: Association as Attorney-in-Fact. This Declaration does hereby make mandatory the irrevocable appointment of an attorney-in-fact in the event of the destruction or damage, including the repair, replacement, and improvement of any Building which has been so destroyed or damaged. Title to any Lot is declared and expressly made subject to the terms and conditions hereof, and acceptance by any grantee of a deed or other Instrument of conveyance from the Declarant or from any Owner or grantor shall constitute appointment of the attorney-in-fact herein provided. All of the Owners irrevocably constitute and appoint the Association as their true and lawful attorney-in-fact in their name, place, and stead, for the purposes herein provided. As attorney-in-fact, the Association, by its president and secretary or other duly authorized officers and agents, shall have full and complete authorization, right, and power to make, execute, and deliver any contract or other instrument with respect to the interest of an Owner which is necessary and appropriate to exercise the powers herein granted. In the event that the Association is dissolved or becomes defunct, a meeting of the Owners shall be held within thirty (30) days of either such event. At such meeting, a new attorney-in-fact shall be appointed to deal with the destruction or damage of any Building. Said appointment must be approved by the Owners representing more than fifty percent (50%) of the votes in the Association. Repair and reconstruction of the improvements as used in the succeeding paragraphs means restoring the improvements to substantially the same condition in which they existed prior to the damage and all improvements being reconstructed or repaired in conformance with the Common Interest Community's original architectural plan and scheme. The proceeds of any insurance collected shall be available to the Association for the purposes of repair, restoration, reconstruction, or replacement unless the Owners of all Townhome Units included within the Building and First Mortgagees of such Units agree not to rebuild.

2. Insurance Proceeds Sufficient for Restoration. In the event of damage or destruction due to fire or other disaster, the insurance proceeds, if sufficient to reconstruct the improvements, shall be applied by the Association as attorney-in-fact to such reconstruction, and the improvements shall be promptly repaired and reconstructed. The Association shall have full authority, right, and power as attorney-in-fact to cause the repair and restoration of the improvements. Assessments for Common Expenses shall not be abated during the period of insurance adjustments and repair and reconstruction.

3. Insurance Proceeds Insufficient for Restoration. If the insurance proceeds are insufficient to repair and reconstruct the improvements, such damage or destruction shall be promptly repaired and reconstructed by the Association as attorney-in-fact using the proceeds of insurance and the proceeds of a special assessment to be made against the Owners of Townhomes included within the Building, such special assessment shall be a Common Expense and made equally against the Townhomes included within the Building and shall be due and payable within thirty (30) days after written notice thereof. The Association shall have full authority, right, and power as attorney-in-fact to cause the repair, replacement, or restoration of the improvements using all of the insurance proceeds for I such purpose, notwithstanding the failure of an Owner to pay the assessment. The assessment provided for herein shall be a debt of each Owner and a lien on his or her Lot. Assessments for Common Expenses shall not be abated during the period of insurance adjustment and repair and reconstruction. The delinquent Owner shall be required to pay to the Association the costs and expenses incurred in filing the notice, interest at the rate of eighteen percent (18%) per annum on the amount of the assessment, and all reasonable attorney's fees.

ARTICLE XIV. FENCES

No fence shall be constructed on any Lot unless approved in advance in writing by the Declarant so long as the Declarant is the owner of any interest in any one or more of the Lots and thereafter by the Board. All fences shall be design and material. The Association shall install or cause to be installed, all fences requested by Owners and approved by the Declarant or Board. The Owner shall reimburse the Association for all costs incurred in installing the fence within 30 days of completion of the fence. If the Declarant or the Board approves of the construction of a fence on any Lot, the Owner of the property within the boundaries of the fence shall be solely responsible for maintaining the landscaping within the fenced area. No fence shall be installed which would interfere with drainage or irrigation within the Common Interest Community. If a fence is constructed on a common boundary between two separate Lots, the fence shall be treated as a common wall and the general rules of law applicable to common walls shall apply to the fence.

ARTICLE XV. GENERAL PROVISIONS

Section 1: Enforcement. Enforcement of this Declaration shall be by appropriate proceedings at law or in equity against those persons or entities violating or attempting to violate any covenant, condition, or restriction herein contained. Such judicial proceeding shall be for the purpose of removing a

violation, restraining a future violation, for recovery of damages for any violation, or for such other and further relief as may be available. Such judicial proceedings may be prosecuted by an Owner or by the Association. In the event it becomes necessary to commence an action to enforce this Declaration, the court shall award to the prevailing party in such litigation, in addition to such damages as the Court may deem just and proper, an amount equal to the costs and reasonable attorney's fees incurred by the prevailing party in connection with such litigation. The failure to enforce or to cause the abatement of any violation of this Declaration shall not preclude or prevent the enforcement thereof or of a further or continued violation, whether such violation shall be of the same or of a different provision of this Declaration.

Section 2: Duration. This Declaration shall run with the land, shall be binding upon all persons owning Lots and any persons hereafter acquiring said Lots, and shall be in effect in perpetuity unless amended or terminated as provided in the Act.

Section 3: Amendment. Except as otherwise provided in this Declaration, this Declaration may be altered or amended at any time Owners of sixty-seven percent (67%) or more of the votes in the Association.

Section 4: Captions. The captions contained in the Documents are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of the Documents or the intent of any provision thereof.

Section 5: Gender. The use of the masculine gender refers to the feminine gender, and vice versa, and the use of the singular includes the plural, and vice versa, whenever the context of the Documents so require.

Section 6: Waiver. No provision contained in the Documents is abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 7: Invalidity. The invalidity of any provision of the Documents does not impair or affect in any manner the validity, enforceability, or effect of the remainder, and if a provision is declared invalid by judgment or court order, all of the other provisions of the Documents shall continue in full force and effect.

Section 8: Conflict. The Documents are intended to comply with the requirements of the Act. If there is any conflict between the Documents and the provisions of the Act, the provisions of the Act shall control. In the event of any conflict between this Declaration and any other Document, this Declaration shall control.

Section 9: Satellite Dishes. No satellite dishes shall be permitted within the Common Interest Community except in the area specifically designated by the Declarant.

Section 10: Signs. No signs shall be placed on the exterior of a Townhome Unit, or on the interior if visible from the exterior, or on any Lot except one standard for sale sign. The Declarant may, but shall not be obligated to, place a sign within the Common Interest Community identifying the Common Interest Community by name.

IN WITNESS WHEREOF, the Declarant has caused this Declaration to be executed as of the day and year first above written.

ANDERSON CONSTRUCTION
COMPANY INCORPORATED,
a Colorado corporation

BY: [Signature]
President

STATE OF COLORADO)
) ss.
COUNTY OF LARIMER)

The foregoing instrument was acknowledged before me this 14th day of May, 2001, by DOUGLAS A. MEANS as President of ANDERSON CONSTRUCTION COMPANY INCORPORATED, a Colorado corporation.

Witness my hand and official seal.

My commission expires: March 19, 2005.

[Signature]
Notary Public



My Commission Expires 03/19/2005