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RESIDENTIAL HOUSING DEED RESTRICTION (SALE)
FOR UNITS 9, 10, and 17, 117 SOUTH 6th AVENUE, BEARS DEN, a CONDOMINIUM
PROJECT,
TOWN OF FRISCO, COLORADO

This Residential Housing Deed Restriction, hereinafter referred to as "this Restriction," or the "Deed Restriction" is made this 5th day of July, 2007, by Bears Den, L.L.C., hereinafter referred to as "Declarant".

WITNESSETH:

WHEREAS, Declarant is the Owner of that certain real estate located in the County of Summit, State of Colorado, and legally described as follows: Bears Den Condominiums, a Resubdivision of Lots 18-24, Block 11, Frisco Townsite, according to the plat thereof now on file in the Office of the Clerk and Recorder for Summit County, Colorado, under Reception No. 844747 hereinafter referred to as the "Property"; and

WHEREAS, On or about July 15, 2004, the Planning Commission of the Town of Frisco approved a development application permitting the construction of a mixed use complex of condominium buildings (the "Project") on real property legally described as Lots 18 – 24, Block 11, Frisco Townsite; 117 South 6th Avenue, of which the Property is a part; and

WHEREAS, prior to the Planning Commission's approval of the Project, the Declarant voluntarily offered to deed restrict three (3) condominium units within the Project to be affordable housing units and requested that the execution of restrictive covenants to so restrict such units be made a condition of the Town's approval of the Project; and

WHEREAS, pursuant to the Declarant's request, the provision of three (3) deed restricted affordable housing units within the Project by the Declarant was made a condition of approval of the Project;

NOW, THEREFORE, in consideration of the Town's approval of the Project Declarant hereby declares that the Property shall hereafter be held, sold, and conveyed subject to the following covenants, restrictions, and conditions, all of which shall be a covenant running with the land, and which are for the purpose of ensuring that the Property remains available for purchase and occupation by persons residing and working in Summit County, Colorado, as moderately priced housing, and further to protect the value and desirability of the Property, and which shall run with the Property and be binding on all parties having any right, title, or interest in the Property, or any part thereof, their heirs, successors, and assigns, and shall enure for the benefit of the Owners of the Property, the Summit Combined Housing Authority, the Town of Frisco, and Declarant.

ARTICLE I
DEFINITIONS

Section 1.1. Definitions. The following words, when used in this Restriction, shall have the following meaning:

A. "Town" means the Town of Frisco, State of Colorado.

B. "SCHA" means the Summit Combined Housing Authority.

C. "Resident" means a person who (A) at the time of purchase of a Unit, earns his or her living primarily within Summit County by working there either an average of at least 30 hours per week (determined on an annual basis, or as to seasonal employees, on a seasonal basis) and earns no more than 100% of the Area Median Income (AMI) for Summit County as published by the US Department of Housing and Urban Development or (B) is a person who is approved, in writing, by SCHA or the Town based upon criteria including, but not limited to, total income, percent of income earned within Summit County, place of voter registration, place of automobile registration, and driver's license address and other qualifications established by the SCHA or the Town from time to time. (Compliance with each of these criteria is not necessary; in certifying Residents, the SCHA or the Town shall consider the criteria cumulatively as they relate to the intent and purpose of this Restriction).

D. "Owner" means the record owner of the fee simple title to any Unit contained within the Property.

E. "Unit" shall mean any of the condominium units contained within the description of the Property as set forth hereinabove.

F. "Dependent" shall mean a person, including a spouse of, a child of, a step-child of, a child in the permanent legal custody of, or a parent of, a Resident, whose principal place of residence is in the same household as such Resident, and who is financially dependent upon the support of the Resident. Dependent shall also include any person included within the definition of "Familial Status" as defined in 42 U.S.C. § 3602(k), as that act shall from time to time be amended. Nothing contained herein shall, however, prevent a spouse of a Resident, which spouse is also gainfully employed, from also being a Dependent hereunder.

G. "Purchase price" shall mean all consideration paid by the purchaser to the seller for a Unit, but shall not include any proration amounts, taxes, costs and expenses of obtaining financing, cost of furnishings or personal property, lenders fees, title insurance fees, closing costs, inspection fees, or other fees and costs related to the purchase of the property but not paid directly to Seller. Amounts paid by Seller to provide clear title or as commissions or expenses of sale shall not be deducted from the sale price in determining the Purchase price.

H. "Mortgage" means a consensual interest created by a real estate mortgage, a deed of trust on real estate, or the like.

I. "Mortgagee" means any grantee, beneficiary, or assignee of a Mortgage.

J. "Purchase Money Mortgage" means a Mortgage given by an Owner to the extent that it is: (a) taken or retained by the seller of a Unit to secure all or part of the payment of the Purchase price; or (b) taken by a person who by making advances, by making a loan, or by incurring an obligation gives value to enable the Owner to acquire the Unit if such value is in fact so used.

K. "Maximum Resale Price" means that maximum Purchase price that shall be paid by any purchaser of a Unit, other than the initial purchaser who acquires the Unit from Declarant, so long as this Restriction remains in effect. The Maximum Resale Price is not a guaranteed price, but merely the highest price a Resident Owner may obtain for the sale of a Unit.

ARTICLE II PURPOSE

Section 2.1. Purpose. The purpose of this Restriction is to restrict ownership and sale of the Units in such a fashion as to provide, on a permanent basis, moderately priced housing to be occupied by individuals and their families living and working in Summit County, Colorado, which individuals, because of their income, may not otherwise be in a position to afford to purchase, own, and occupy other similar properties, and to help establish and preserve a supply of moderately priced housing to help meet the needs of the locally employed Residents of Summit County.

ARTICLE III OWNERSHIP RESTRICTION

Section 3.1. Ownership and Rental Obligation. The Ownership and occupancy of a Unit is hereby limited exclusively to a Resident and his or her Dependants.

Section 3.2. Sale and Resale. In the event that any Unit is sold, resold, transferred and/or conveyed without compliance with this Restriction, such sale, transfer and/or conveyance shall be wholly null and void and shall confer no title whatsoever upon the purported transferee. Except as otherwise provided herein, each and every conveyance of any Unit, for any and all purposes, shall be deemed to include and incorporate the terms and conditions of this Restriction, including, but not limited to, those provisions governing the sale, transfer or conveyance of the Property.

Section 3.3. Compliance. Any sale, transfer, and/or conveyance of any Unit shall be deemed to be in compliance with this Covenant so long as the instrument of conveyance evidencing such sale, transfer, and/or conveyance, or some other instrument referencing same, bears the following language followed by the acknowledged signature of either the director or some other authorized representative of the SCHA or by the Mayor of the Town, to wit:

"The conveyance evidenced by or referenced in this instrument has been approved by the Summit Combined Housing Authority/Town of Frisco as being in compliance with the Residential Deed Restriction for Units 9, 10, and 17, Bears Den Condominiums, Town of Frisco, County of Summit, State of Colorado, recorded in the records of Summit County, Colorado, on the ____ day of _____, 2007, at Reception No. _____."

Each sales contract for a Unit shall also (a) recite that the proposed purchaser has read, understands and agrees to be bound by the terms of the Deed Restriction; and (b) require the proposed purchaser to submit such information as may be required by the Town or the SCHA under its rules and regulations.

ARTICLE IV ORIGINAL SALE OF A UNIT

Section 4.1. Initial Purchase Price. Each Unit, upon completion of construction by the Declarant, shall be sold to initial purchasers who qualify as a Resident at a Purchase price that is affordable to a person earning 100% of the Area Median Income ("AMI") for Summit County as such AMI is published by the U.S. Department of Housing and Urban Development. For purposes of this section, a Purchase price is "affordable" as described above if a financial institution is willing to loan the Purchase price to an individual earning not more than 100% of the AMI.

ARTICLE V USE RESTRICTIONS

Section 5.1. Occupancy. Except as otherwise provided in this Restriction, each Unit shall, at all times, be occupied as a principal place of residence by an Owner (along with his or her dependents) who, at the time of purchase of the Unit, qualified as a Resident. In the event that any such Owner ceases to occupy a Unit as his or her principal place of residence, the Owner of the Unit shall, within 10 days of ceasing such occupation, notify the SCHA of the same and the Unit and shall, within 30 days of the Owner having vacated the Unit, make the Unit available for purchase pursuant to the terms of this Restriction. Any Owner who fails to occupy his or her Unit for a period of 180 consecutive days shall be deemed to have ceased to occupy the Unit as his or her principal place of residence; however, an Owner who has established a Unit as his or her principal place of residence shall not be considered to have ceased occupancy of the Unit during such period of time as the Owner is serving on active duty with the United States Armed Services.

Section 5.2. Rental. Under no circumstances shall any portion of a Unit be leased or rented for any period of time without the prior written approval of the SCHA or the Town. In the event that any Unit, or any portion thereof, is leased or rented without compliance with this Restriction, such rental or lease shall be wholly null and void and shall confer no right or interest whatsoever to or upon the purported tenant or lessee. Any rental approved by the SCHA or the

Town shall be to a Resident and his or her dependents, and at such rental rates as shall be established by the SCHA and approved by the Town of Frisco or as may be established by the Town.

ARTICLE VI
RESALE OF UNITS

Section 6.1. Resale. No Unit within the Property purchased by a Resident shall be resold subsequent to the original purchase and sale except upon full compliance with the procedures set forth in this Article VI.

Section 6.2. Notice. In the event that an Owner shall desire to sell his Unit, or in the event that an Owner shall be required to sell his Unit pursuant to the terms of this Restriction, he shall notify the SCHA, or such other person or entity as may be designated by the Town of Frisco, in writing of his intention to sell his Unit. The Unit may be offered, advertised, or listed for sale by such Owner at such Owner's cost and expense, in any manner which such Owner may choose. The Unit shall not, however, be sold, transferred and/or conveyed to any person, entity, or entities, other than a Resident qualified and approved by the SCHA or the Town and the consideration to be paid by such qualified Resident shall not exceed the Maximum Resale Price as such is determined pursuant to the provisions of this Article VI.

Section 6.3. Maximum Resale Price.

1. The Maximum Resale Price of a Unit may not exceed the greater of:
 - a. the Purchase price paid by the Owner for the Unit, plus an increase of five percent (5%) of such Purchase price per year from the date of the Owner's purchase of the Unit to the date of the Owner's execution of the listing contract, compounded annual (prorated at the rate of 1/12 for each whole month); or
 - b. the Purchase price paid by the Owner for the Unit, plus a percentage increase equal to the percentage increase in the Summit County Area Median Income (AMI), as published by the U. S. Department of Housing and Urban Development (or any successor index thereto acceptable by the Town) from the date of the Owner's purchase of the Unit to the date of the Owner's execution of the listing contract. If AMI data pertaining to the date of the listing contract is yet not available as of the date the resale price is calculated, then the most recent data published by the U. S. Department of Housing and Urban Development shall be used in its place.

ARTICLE VII
FORECLOSURE PROCEEDINGS

Section 7.1. Lien. Declarant, each and every Owner, and each and every holder of any Mortgage or other lien upon or interest in the property, hereby grants and conveys to the SCHA, the Town of Frisco, and for a period of twenty years from the date of the recording of this Restriction, the Declarant, a lien upon and against each and every Unit described in this Restriction, which lien shall be for the purpose of securing for such SCHA, the Town of Frisco, and Declarant cure and redemption rights in the event of a foreclosure of a Purchase Money Mortgage, or any lien right which is superior thereto, so as to allow the Property to remain and continue as affordable housing as more particularly described in Article II of this Restriction. The lien granted and conveyed by this Section 6.1. shall be superior to all other liens against the property except for the lien for general taxes and the lien arising from any Purchase Money Mortgage granted by a Residential Owner of any Unit.

Section 7.2. Notice. In the event that any holder of a mortgage, deed of trust, or other lien against a Unit shall initiate foreclosure, collection, or any other enforcement proceedings against such Unit, such party shall give notice of such foreclosure, collection or enforcement action to SCHA, the Town of Frisco, and, for a period of 20 years from the date of the recording of this Covenant, Declarant, which notice shall be given in writing via first class mail, postage prepaid, within five days of the date such action is commenced.

Section 7.3. Cure. So long as this Restriction shall remain in effect, upon the initiation of foreclosure, collection, or enforcement proceedings against any Unit or Owner by a holder of a Purchase Money Mortgage, or any lien right which is superior thereto, the SCHA, the Town of Frisco, and for a period of twenty years from the date of the recording of this Restriction, the Declarant, shall have the right to cure the default of an Owner under any Purchase Money Mortgage, or any lien right which is superior thereto, the same as Owner is entitled to cure such default, and any and all sums paid by the SCHA, the Town of Frisco, or Declarant in order to cure the default of the Owner under any such Purchase Money Mortgage, or other lien, together with any costs or expenses incurred in conjunction therewith, and including any costs and expenses incurred with regard to maintaining the Unit, and the cure parties' interest therein, including reasonable attorney's fees and costs, together with interest thereon at the rate being applied to such obligation immediately prior to such cure, or at the rate of twelve percent (12%) per annum, whichever is greater, shall be a lien against the Unit of such Owner superior to all other liens against the property, except for the lien for general taxes and the lien arising from any Purchase Money Mortgage which was in default, and such party which cured such default by Owner shall thereafter be entitled to foreclose such lien against the interest of Owner of the Unit, and all persons having any interest therein, in the same manner, and with all rights attendant thereto, as mortgages may be foreclosed in the State of Colorado.

Section 7.4. Redemption. So long as this Restriction shall remain in effect, the following shall have redemption rights, as otherwise provided under Colorado law, immediately following the redemption rights of the Owner of the Unit, and prior to the redemption rights of any holder

of a lien against the Unit which lien is not a Purchase Money Mortgage, in any foreclosure, collection, or enforcement proceeding, in the following order:

- a. Town of Frisco; and only if the Town does not redeem,
- b. SCHA; and only if the SCHA does not redeem,
- c. For a period of 20 years from the date of the recording of this Restriction, Declarant, or Declarant's successors or assigns.

Section 7.5. Resale Following Redemption. Except as provided in Section 7.6. of this Restriction, any person or entity that becomes an Owner of a Unit as the result of any foreclosure proceeding, or as the result of any tax sale, shall, unless such Owner would otherwise qualify to purchase the Unit had such Unit been offered for resale pursuant to the provisions of this Restriction, immediately offer the Unit for sale subject to the terms and conditions of Article VI set forth hereinabove.

Section 7.6. Termination of Restriction. In the event that any holder of a Purchase Money Mortgage shall, as the result of the default by an Owner of the terms of such Mortgage, initiate foreclosure proceedings, and as the result of such foreclosure proceedings such holder obtains either a Public Trustee's Deed or a Sheriff's Deed to the Unit, and only in such event, all restrictions, and conditions set forth in this Restriction shall, thereafter, only with respect to their application to the Unit described in such Public Trustee's Deed or Sheriff's Deed, be null and void and of no effect if, and only if, the said holder of said Purchase Money Mortgage, which holder has obtained title in the manner prescribed herein, has, within 90 days after having obtained such title, paid to the Bears Den Condominium Association all money due to the Bears Den Condominium Association with respect to the subject Unit pursuant to that certain Condominium Declaration of Bears Den Condominiums recorded in the records of Summit County on the _____ day of _____, 200_, at Reception No. _____.

ARTICLE VIII GENERAL PROVISIONS

Section 8.1. Equal Housing Opportunity. Pursuant to the Fair Housing Act, Declarant, the SCHA, and the Town shall not discriminate on the basis of race, creed, color, sex, national origin, familial status or disability in the lease, sale, use or occupancy of the Property.

Section 8.2. Rules, Regulations, and Standards. The SCHA shall have the authority to promulgate and adopt such rules, regulations and standards as it may deem appropriate, from time to time, for the purpose of carrying out its obligations and responsibilities described herein, all of which rules, regulations and standards, and any amendments thereof, shall be subject to approval of the Town of Frisco.

Section 8.3. Waiver of Exemptions. Every Owner, by taking title to any Unit, shall be deemed to have subordinated to this Restriction any and all right of homestead and any other

exemption in, or with respect to, such Unit under state or federal law presently existing or hereafter enacted.

Section 8.4. Enforcement. Except as otherwise provided herein, the SCHA, the Town of Frisco, the Declarant, or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, and reservations imposed by the provisions of this Restriction. Failure by any party described in this paragraph to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right by such party or any other party to do so thereafter.

Section 8.5. Severability. Invalidation of any one of these covenants or restrictions by judgment or Court order shall in no way affect any other provision which shall remain in full force and effect.

Section 8.6. Term. The restrictions contained herein shall run with the land and bind the land for a term of 99 years from the date that this covenant is recorded, after which time the terms of this Covenant shall be automatically extended for successive periods of 10 years.

Section 8.7. Amendment. This restriction may be amended only by an instrument recorded in the records of Summit County executed by the SCHA or the Town of Frisco and the Owner of the Property as a Unit.

Section 8.8. Expenses of Enforcement. In the event that any party entitled to enforce the terms of this Restriction shall be required to bring any action as the result of any breach of the terms of this Restriction by any Owner, the party bringing such action shall be entitled to recover from and against the Owner in breach of these Restrictions, in addition to any and all other remedies available at law or in equity, reasonable attorney's fees and costs incurred in the enforcement of these Restrictions and in the bringing of such action, and the party against whom such fees and costs are awarded shall be personally liable for the payment of such fees and costs, and such award and judgment shall constitute a lien against the Unit owned by the party in breach of these Restrictions which lien may be enforced by foreclosure of the defaulting Owner's Unit in the manner for foreclosing a mortgage on real property under the laws of the State of Colorado.

Section 8.9. Successor to SCHA. In the event that, at any time during the duration of this Restriction, the SCHA ceases to exist, all reference in this Restriction to SCHA shall, thereafter, mean the Town of Frisco, its successors, assigns, or any other entity designated by the Town of Frisco to administer or enforce the provisions hereof, or to perform the functions of the SCHA as described herein.

Section 8.10. Status of Restriction. This Restriction in no way supersedes any ordinance, code, rule or regulation, but is in addition to any such other government regulations and requirements.

IN WITNESS WHEREOF, the undersigned being the Declarant herein, has herein to set its hand and seal this 5th day of July, 2007

By: Thomas Tusso for Tusso D+M Inc.
Bears Den Colorado

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 5th day of July, 2007 by Thomas Tusso

Witness my hand and official seal.

My commission expires: 1-26-08

Deborah Wohlmut
Notary Public



