

**MASTER DEED RESTRICTION AGREEMENT
FOR THE OCCUPANCY AND RESALE
OF WOODY CREEK SUBDIVISION**

THIS MASTER DEED RESTRICTION AGREEMENT FOR THE OCCUPANCY AND RESALE OF WOODY CREEK SUBDIVISION (this "Agreement") is made and entered into this 28 day of ~~August~~ Sept, 2005, by the ASPEN/PITKIN COUNTY HOUSING AUTHORITY (hereinafter referred to as the "APCHA"), a duly constituted multi-jurisdictional Housing Authority established pursuant to the **THIRD AMENDED AND RESTATED INTERGOVERNMENTAL AGREEMENT** by and between the City of Aspen, Colorado (the "City") and Pitkin County, Colorado (the "County"), dated October 28, 2002 and recorded at Reception No. 477066 of the records of the Pitkin County Clerk and Recorder's Office.

WITNESSETH:

WHEREAS, the APCHA owns the real property (with the exception of the residential units and their associated structures) described in Exhibit "A" attached hereto and incorporated herein (the "Real Property"; the Real Property and all dwellings, appurtenances, improvements and fixtures located thereon or associated therewith shall hereinafter be referred to as the "Property");

WHEREAS, this document replaces the *Master Deed Restriction Agreement for the Occupancy and Resale of Woody Creek Mobile Home Park* recorded on February 23, 2004 at Reception No. 494759 and the *Master Deed Restriction Agreement for the Occupancy and Resale of Woody Creek Mobile Home Park* recorded on May 20, 2005 at Reception No. 510361;

WHEREAS, the Real Property is divided into mobile home pad sites that are leased to owners of mobile homes located thereon (each a "Rental Site");

WHEREAS, the APCHA is currently in the process of seeking subdivision of the Real Property into lots that may be sold to natural persons (each a "Lot", which includes land and improvements including the home unless context requires otherwise.);

WHEREAS, pending subdivision of the Property, the APCHA desires to impose a rental deed restriction on the Property restricting the use and occupancy of the Rental Sites to qualified tenants, and in the event the Property is subdivided, the APCHA desires that the Property be subject to a deed restriction as provided herein that will restrict the use, occupancy and resale of the Lots to qualified tenants or buyers, as defined in the Aspen/Pitkin County Housing Authority Employee Housing Guidelines, as they are amended from time to time (the "Employee Housing Guidelines"), and set forth the maximum monthly rental price, the Maximum Resale Price (as hereinafter defined), amount of appreciation, and terms and provisions for the rental or sale of the Rental Sites and Lots;

WHEREAS, an "Initial Qualified Buyer" is a Qualified Buyer who acquires a Sale Lot in an Initial Sale.



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WHEREAS, an "Owner" is a natural person who is a Qualified Buyer (as defined below) who acquires an ownership interest in a Lot in compliance with the terms and provisions of this Agreement, or any other person or legal entity owning an interest in a Lot; it being understood that such person, persons or entity shall be deemed an "Owner" hereunder only during the period of his, her, their or its ownership interest in a Lot and shall be obligated hereunder for the full and complete performance and observance of all covenants, conditions and restrictions contained herein during such period;

WHEREAS, "Qualified Buyer" is a natural person meeting the income, residency and all other qualifications set forth in the Employee Housing Guidelines in effect at the time of the closing of the sale of a Lot to the Qualified Buyer, and who must represent and agree pursuant to this Agreement to occupy the Lot as his or her sole place of residence, not to engage in any business activity on the Lot, other than that permitted in that zone district or by applicable ordinance, and not to sell or otherwise transfer the Lot for use in a trade or business;

WHEREAS, a "Rental Lot" means each Lot (without the home) created after subdivision of the Real Property prior to such Lot's first sale (with the home) to a natural person; and

WHEREAS, a "Sale Lot" means each Lot created after subdivision of the Property immediately following such Lot's first sale (with a home) to a natural person.

WHEREAS, an "Initial Sale" is a sale of a Sale Lot to a Qualified Buyer who is a tenant pursuant to a lease with APCHA (or the Association in the event of a bulk sale by APCHA to the Association) and owner of a home located on the Real Property on the date of the sale of a Rental Lot. This will also include a sale to Dan Soderberg.

WHEREAS, a "Resale" is the sale of a Sale Lot to a Qualified Buyer, other than an Initial Sale.

WHEREAS, "Association" is the Woody Creek Subdivision Homeowners' Association, a Colorado corporation, or its successor.

NOW, THEREFORE, as owner of the Real Property, APCHA declares as follows:

**ARTICLE I
LEASE TO QUALIFIED EMPLOYEES**

- 1.1. Prior to subdivision of the Real Property, the Property and the Rental Sites, and following subdivision of the Real Property, each Rental Lot, shall at all times be used for rental purposes and shall not be condominiumized. In no event may any person lease more than one (1) Rental Site or Rental Lot.
- 1.2. The use and occupancy of the Rental Sites and the Rental Lots shall henceforth be limited exclusively to housing for employees and their families who are employed in Pitkin County as required by the Employee Housing Guidelines established and



indexed by the APCHA on an annual basis; provided that those tenants on the Rental Sites as of the date hereof who were tenants on or before August 16, 2000 and those persons or entities with written agreements with the APCHA that were in effect on the date hereof and that would exempt them from certain restrictions contained herein ("Exempt Tenants") shall be exempt from the foregoing qualification requirement. A list of all Exempt Tenants is attached hereto as Exhibit "C".

- 1.3. Written verification of employment of any employee proposed to reside on each Rental Site and Rental Lot shall be completed and filed with the APCHA prior to occupancy thereof, and such verification must be acceptable to the APCHA. The APCHA may require that a tenant or potential tenant supply any information that the APCHA deems reasonably necessary for verification of compliance with this Agreement.
- 1.4. The maximum rental rate for each Rental Site and Rental Lot shall not exceed the Category 6 rental rate as set forth in the Employee Housing Guidelines and may be adjusted annually as set forth therein. Rent shall be verified and approved by the APCHA upon submission and approval of the lease. Tenants shall be qualified by the APCHA as to employment, maximum income and asset limitations; provided that Exempt Tenants shall be exempt from the employment, maximum income and asset limitations.
- 1.5. Lease agreements executed for occupancy of the Rental Sites and the Rental Lots shall provide for a rental term of not less than six (6) consecutive months. A signed and executed copy of the lease shall be provided to the APCHA within ten (10) days of approval of a tenant for a Rental Site or a Rental Restricted Lot; provided that tenants on the Rental Sites on the date hereof shall sign a lease within the time period specified by the APCHA.

**ARTICLE II
OWNERSHIP RESTRICTIONS; MORTGAGE DEFAULTS;
LISTING REQUIREMENTS**

- 2.1. The use and occupancy of each Sale Lot shall be limited exclusively to housing for natural persons who meet the definition of Qualified Buyers and their families; provided that Exempt Tenants shall be required to occupy the Sale Lot as his or her residence for at least six months in each calendar year. Except for the Woody Creek Subdivision Homeowners' Association, a Colorado corporation, or its successor (the "Association"), in no event may any Owner own more than one (1) Lot. If any such Owner acquires an interest in more than one (1) Lot, such Owner shall immediately list a Lot for sale with the APCHA in accordance with Section 2.4 hereof.
- 2.2. An Owner, in connection with the purchase, ownership and occupancy of a Sale Lot, must: (a) occupy such Sale Lot as his or her sole place of residence during the time that such Sale Lot is owned by him or her, provided that Exempt Tenants shall

be required to occupy the Sale Lot as his or her residence for at least six months in each calendar year; (b) not engage in any business activity on or in such Sale Lot, other than permitted in that zone district or by applicable ordinance; (c) sell or otherwise transfer such Sale Lot only in accordance with this Agreement and the Employee Housing Guidelines; (d) not sell or otherwise transfer such Sale Lot for use in a trade or business; (e) not permit any use or occupancy of such Sale Lot except in compliance with this Agreement; and (f) except for Exempt Tenants, continue to be employed as required by the applicable Employee Housing Guidelines.

2.3. Breach of Agreement:

- (a) It shall be a breach of this Agreement for an Owner to default in payments or other obligations due or to be performed under a promissory note secured by a first deed of trust encumbering such Owner's Lot or to breach any of such Owner's duties or obligations under said deed of trust. An Owner must notify the APCHA, in writing, of any notification received from a lender, or its assigns, of past due payments or default in payment or other obligations due or to be performed under a promissory note secured by a first deed of trust, as described herein, or of any breach of any of such Owner's duties or obligations under said deed of trust, within five calendar days of such Owner's notification from lender, or its assigns, of said default or past due payments or breach.
- (b) Upon notification from an Owner, as provided above, or other notice of such default, the APCHA may offer loan counseling or distressed loan services to the Owner, if any of these services are available, and is entitled to require the Owner to sell the Lot and all improvements thereon ("Improvements") to avoid the commencement of any foreclosure proceeding against the Lot. In the event that the APCHA determines that sale of the Lot and Improvements is necessary, the Owner shall immediately execute a standard Listing Contract on forms approved by the Colorado Real Estate Commission with the APCHA, providing for a 30-day listing period. If a sales contract has not been executed within the initial 30-day period, the Owner shall extend the listing period for an additional 180 days, provided such extension does not conflict with the statutory rights of any secured creditors. The APCHA shall promptly advertise the Lot and Improvements for sale by competitive bid to Qualified Buyers. In the event of a listing of the Lot and Improvements pursuant to this Section 2.3, the APCHA is entitled to require the Owner to accept the highest of any qualified bids that is equal to the lesser of (i) an amount that at least satisfies the Owner's financial or other obligations due under the promissory note secured by a first deed of trust and any deed of trust in favor of the APCHA, as described herein, or (ii) the Maximum Resale Price (as hereinafter defined), and to sell the Lot and Improvements to such qualified bidder. The listing and sale of the Lot and Improvements shall be subject to such listing, sales and other fees and expenses as may be imposed by the APCHA from time to time as set forth in the Employee Housing Guidelines.



- (c) Upon receipt of notice as provided in Paragraphs 2.3(a) and 2.3(b), the APCHA shall have the right, in its sole discretion, to cure the default or any portion thereof. In such event, the Owner shall be personally liable to the APCHA for past due payments made by the APCHA together with interest thereon at the rate specified in the promissory note secured by the first deed of trust, plus one percent (1%), and all actual expenses of the APCHA incurred in curing the default. The Owner shall be required by the APCHA to execute a promissory note secured by deed of trust encumbering the Lot and Improvements in favor of the APCHA for the amounts expended by the APCHA as specified herein, including future advances made for such purposes. The Owner may cure the default and satisfy its obligation to the APCHA under this Paragraph at any time prior to execution of a contract for sale, upon such reasonable terms as specified by the APCHA. Otherwise, the Owner's indebtedness to the APCHA shall be satisfied from the Owner's proceeds at closing.
- (d) In addition, upon receipt of notice as provided in Paragraphs 2.3(a) and 2.3(b), the APCHA shall have the option, exercisable in the APCHA's sole discretion, to purchase the Owner's Lot and Improvements for ninety-five percent (95%) of the Maximum Resale Price. If the APCHA desires to exercise said option, it shall give written notice thereof to the Owner within sixty (60) days following the APCHA's receipt of the notice as provided in Paragraphs 2.3(a) and 2.3(b). In the event the APCHA timely exercises said option, the closing of the purchase of the Lot and Improvements shall occur within sixty (60) days following the date of the APCHA's notice to the Owner of the exercise of said option.

2.4 In the event that an Owner desires to sell such Owner's Lot, the Owner shall execute a standard Listing Contract on forms approved by the Colorado Real Estate Commission with the APCHA providing for a 180-day listing period, or such other time period as required by the Employee Housing Guidelines in effect at time of listing. The APCHA shall promptly advertise the Lot and Improvements for sale by competitive bid to Qualified Buyers. The listing and sale of the Lot and Improvements shall be subject to such listing, sales and other fees and expenses as may be imposed by the APCHA from time to time as set forth in the Employee Housing Guidelines. If FNMA type financing is used, there may be a fee charged by the APCHA based on the amount financed. The amount of this fee, which is to be paid by the subsequent Owner, shall be as set forth in the current Employee Housing Guidelines and will be distributed to the APCHA Mortgage Fund Account.

2.5 The APCHA may require that a tenant, Owner or potential Owner supply any information that the APCHA deems reasonably necessary for verification of compliance with this Agreement.

2.6 Notwithstanding any provision herein to the contrary, the APCHA shall have the right, in its sole discretion, (i) to acquire any Lot and Improvements for the purpose of resale thereof to a Qualified Buyer, and (ii) following its acquisition of any Lot



or Improvements, to repair, replace, redevelop, remove and maintain such Lot or Improvements prior to resale to a Qualified Buyer.

**ARTICLE III
PROVISIONS APPLICABLE TO ALL SALES**

- 3.1 All Lots shall be sold through the APCHA, including initial sales and resales.
- 3.2 Each Lot with Improvements thereon shall be deemed Single Family Detached (SF Detached) for purposes of the Employee Housing Guidelines. A separate Memorandum of Acceptance will be signed by each Initial Qualified Buyer, Qualified Buyer, and the APCHA, and recorded upon the initial sale and each resale of each Lot and Improvements. The Memorandum of Acceptance will stipulate the sales price for the Lot and Improvements, the date of the sale, and the name and address of the Qualified Buyer, and shall require the Qualified Buyer to agree to the requirements of this Master Deed Restriction Agreement and the Employee Housing Guidelines.
- 3.3 APCHA may "bulk sell" all of the Lots to the Association in which event, a Memorandum of Acceptance shall be signed by the Association and the APCHA setting forth the purchase price for each Lot, which price shall not, in the aggregate, exceed the total price paid by the Association for the Lots and which prices shall establish the purchase price for each Lot paid by the Association for purposes of the resale provision of Article IV hereof and the provisions in this article regarding the initial sale to a Qualified Buyer. If the Association purchases the Lots and if at the time of such sale or anytime thereafter, and prior to the Initial Sale, the Exempt Tenant leasing a Lot on the date hereof ceases to lease said Lot, the Association shall list said Lot with the APCHA for sale in accordance with this article as a resale. In addition, if the Association purchases the Lots, (i) if the sale is an initial sale, the APCHA shall collect a fee from the Association at the closing of such purchase of not more than one percent (1%) of the sales price of the Lot; and (ii) with respect to all other sales by the Association, the APCHA shall be entitled to collect such listing, sales and other fees and expenses as set forth in the Employee Housing Guidelines from time to time.
- 3.4 All disputes between the Owner and the administrative staff of the APCHA shall be heard in accordance with the grievance procedures set forth in the Employee Housing Guidelines.
- 3.5 The Owner shall not permit any prospective buyer to assume any or all of the Owner's customary closing costs nor accept any other consideration which would cause an increase in the purchase price above the bid price so as to induce the Owner to sell to such prospective buyer.



3.6

In the event that one qualified bid is received equal to the Maximum Resale Price herein established, the Lot and Improvements shall be sold to such bidder at the Maximum Resale Price; and in the event Owner receives two or more such bids equal to the Maximum Resale Price, the Qualified Buyer shall be selected according to the priority for Sale Units set forth in the Employee Housing Guidelines; and, in the event that more than one such qualified bidder is of equal priority pursuant to the Employee Housing Guidelines, the Qualified Buyer shall be selected by lottery among the qualified bidders of the highest priority, whereupon the Lot and Improvements shall be sold to the winner of such lottery at the Maximum Resale Price. If the terms of the proposed purchase contract, other than price, as initially presented to the Owner, are unacceptable to the Owner, there shall be a mandatory negotiation period of three (3) business days to allow the Owner and potential buyer to reach an agreement regarding said terms, including but not limited to, the closing date and financing contingencies. If, after the negotiation period is over, the Owner and buyer have not reached an agreement, the next bidder's offer will then be presented to the Owner for consideration and a three (3) business day negotiating period will begin again. The Owner may reject any and all bids; however, the Owner is subject to the provisions in the Employee Housing Guidelines pertaining to the listing fee. Bids in excess of the Maximum Resale Price shall be rejected. If all bids are below the Maximum Resale Price, the Owner may accept the highest qualified bid. If all bids are below the Maximum Resale Price and two or more bids are for the same price, the Qualified Buyer shall be selected by lottery from among the highest qualified bidders.

3.7

In the event that title to any Lot vests by descent in, or is otherwise acquired by, any individual and/or entity who is not a Qualified Buyer as that term is defined herein (hereinafter a "Non-Qualified Transferee"), the Lot and Improvements shall immediately be listed for sale as provided in Section 2.4 above (including the payment of the specified fee to the APCHA), and the highest bid by a Qualified Buyer, for not less than ninety-five percent (95%) of the Maximum Resale Price or the appraised market value, whichever is less, shall be accepted; if all bids are below ninety-five percent (95%) of the Maximum Resale Price or the appraised market value, the Lot and Improvements shall continue to be listed for sale until a bid in accordance with this Section is made, which bid must be accepted. The cost of the appraisal shall be paid by the Non-Qualified Transferee.

- (a) The Non-Qualified Transferee shall join in any sale, conveyance or transfer of the Lot and Improvements to a Qualified Buyer and shall execute any and all documents necessary to do so; and
- (b) The Non-Qualified Transferee agrees not to: (1) occupy the Lot or Improvements; (2) rent all or any part of the Lot or Improvements except in strict compliance with Section 6.1 hereof; (3) engage in any other business activity on or in the Lot or Improvements; (4) sell or otherwise transfer the Lot or Improvements except in accordance with this Agreement and the Employee Housing Guidelines; or (5) sell or otherwise transfer the Lot or Improvements for use in a trade or business.



- (c) The APCHA, the City, the County, or their respective successors, as applicable, shall have the right and option to purchase the Lot and Improvements, which option shall be exercisable within a period of fifteen (15) calendar days after receipt of any sales offer submitted to the APCHA by a Non-Qualified Transferee, and in the event of exercising their right and option, shall purchase the Lot and Improvements from the Non-Qualified Transferee for a price of ninety-five percent (95%) of the Maximum Resale Price, or the appraised market value, whichever is less. The offer to purchase shall be made by the Non-Qualified Transferee within fifteen (15) days after acquisition of the Lot and Improvements.
- (d) Where the provisions of this Section 4.6 apply, the APCHA may require the Owner to rent the Lot and Improvements in accordance with the provisions of Section 6.1 below.

3.8 Notwithstanding any provision herein to the contrary, prior to subdivision of the Real Property, the resale restrictions herein shall not apply to a sale by a tenant on a Rental Site of such Tenant's Improvements, except that the purchaser of such Improvement's must meet the employment, maximum income and asset limitations established under Article I hereof.

**ARTICLE IV
PROVISIONS APPLICABLE TO INITIAL SALES**

- 4.1 The price of the Lot (without the home) to be paid at the time of closing in an Initial Sale shall be the contract price (\$1,787,969.00), divided by total square footage of the Lots (200,285 square feet) to give the actual lot price per square foot (\$8.927/sq. ft.). Each individual lot price is determined by price per square foot (\$8.927) multiplied by the square footage of each Lot.
- 4.2 For the purpose of the Maximum Resale Price set forth in the Memorandum of Acceptance to be executed by an Initial Qualified Buyer, the price of the Lot (without the home) in an Initial Sale shall be determined based on the formula defined below:
 - (a) If the Woody Creek HOA purchases the Real Property from the Aspen/Pitkin County Housing Authority, the contract price (\$1,787,969.00) plus amount repaid to City of Aspen from APCHA's Woody Creek Fund (\$388,363.00) for a total of \$2,176,332.00, is to be divided by total square footage of the Lots (200,285 sq. ft.) to give the actual lot price per square foot (\$10.867/sq. ft.). Each individual lot price is determined by price per square foot multiplied by the square footage of the respective lot.
 - (b) Otherwise, APCHA's actual cost into the Real Property is to be divided by total square footage of the Lots (200,285 sq. ') to give the actual lot price per square

foot. Each individual lot price is determined by price per square foot multiplied by the square footage of the respective lot.

- (c) If additional Subdivision Improvements are made by the Owner of the Real Property, the total documented Capital Improvement costs are divided by 58 total lots to give the additional price per lot for these Capital Improvements. Each individual lot price is increased by this price per lot of documented Capital Improvements.

4.3 For the purpose of the Maximum Resale Price set forth in the Memorandum of Acceptance to be executed by an Initial Qualified Buyer, the value of the existing Improvements including the home located on the Lot, in place at the time of this Agreement, shall be included in the maximum resale price. The value of such Improvements for this purpose shall be at least \$20,000.00 regardless of actual value. However, if the Initial Qualified Buyer provides the APCHA with an appraisal from a licensed appraiser of such Improvements reasonably acceptable to the APCHA that appraises such Improvements at a greater value, or if the records of the Pitkin County Assessor establish a higher value, the sales price of the Improvements shall be deemed to be the value as shown in the appraisal or the Assessor's records, whichever is higher. If the appraisal of such Improvements furnished by a Qualified Buyer is acceptable to a financial institution for purposes of a first mortgage loan on such Improvement from the financial institution, and the appraisal is dated not more than ninety days prior to the closing, the appraisal shall be deemed acceptable to the APCHA. The Qualified Buyer has up to two years from the recordation of Final Plat to obtain an approved appraisal. If the Initial Qualified Buyer was required to move the Improvements as a result of the subdivision of the Real Property, the APCHA shall discuss the valuation of the Lot and Improvements with said Qualified Buyer and may, but need not, agree to a different valuation method for purposes of the Memorandum of Acceptance and resale provisions hereof.

4.4 Notwithstanding the provisions of Section 4.2, if the Initial Qualified Buyer removes the mobile home that existed on the Lot at the time the Initial Qualified Buyer purchased the Lot (the "Initial Mobile Home") prior to a resale by the Initial Qualified Buyer and replaces it with a new mobile home, modular home or home constructed "in-place" (a "New Unit"), the Initial Qualified Buyer and APCHA shall enter into a new Memorandum of Acceptance for the purpose of establishing a new Maximum Resale Price, as follows:

- (a) The base price of the Lot (without a home) as established in accordance with Section 4.1 above shall remain the same and appreciation shall continue to run from the date of the Initial Sale, as provided in paragraph 5.1;
- (b) The resale price shall include an amount equal to the greater of \$20,000.00 or the actual value of the Initial Mobile Home on the date it was removed from the Lot, as shown by the records of the Pitkin County Assessor. However, the resale price



shall not include any appreciation on the Initial Mobile Home after the date of removal; and

- (c) The cost paid by the Initial Qualified Buyer for the New Unit, including appreciation thereon as provided in paragraph 5.1(b), based upon reasonable supporting documentation, verified by APCA, of such cost.
 - (d) In no event shall the maximum sale price exceed the maximum sale price for Category 6 housing as stated in APCA guidelines in effect at the time of listing the Lot for sale.
- 4.5 For the purposes of determining the Initial Qualified Buyer's maximum resale price, the provisions of Section 5.1 (appreciation) and 5.2 (Permitted Capital Improvements) shall apply.
- 4.6 In no event shall an Initial Qualified Buyer's resale price exceed the maximum sales price for Category 6 sale housing stated in the Employee Housing Guidelines in effect at the time of the listing of the Lot for sale, and this shall be stated in the Memorandum of Acceptance.
- 4.7 NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION OR GUARANTEE BY THE APCA, THE CITY OR THE COUNTY THAT ON RESALE, THE INITIAL QUALIFIED BUYER SHALL OBTAIN THE MAXIMUM RESALE PRICE.

ARTICLE V PROVISIONS APPLICABLE TO REALES

5.1 Maximum Resale Price:

In no event shall a Lot and the Improvements be resold for an amount ("Maximum Resale Price") in excess of the lesser of:

- (a) The purchase price paid by the selling Owner, as set forth in the Memorandum of Acceptance executed by the Owner (which in the case of an Initial Buyer shall be the amount established in accordance with Section 4.2 (a)), or in the event of a sale by the heirs or devisees of a deceased Owner, the Memorandum of Acceptance executed by the deceased Owner, plus an increase of three percent (3%) of such price per year from the date of purchase to the date of the Owner's notice of intent to sell (prorated at the rate of .25 percent for each whole month for any part of a year); or
- (b) An amount (based upon the Consumer Price index, All Items, U.S. City Average, Urban Wage earners and Clerical Workers (revised), published by the U.S.



Department of Labor, Bureau of Labor Statistics) calculated as follows: the Owner's purchase price divided by the Consumer Price Index published at the time of Owner's purchase stated on the Memorandum of Acceptance executed by the Owner, multiplied by the Consumer Price Index current at the date of intent to sell. In no event shall the multiplier be less than one (1). For purposes of this Agreement, "date of intent to sell" shall be the date of execution of a listing contract when required by this Agreement, or if a listing contract is not otherwise necessary, the date shall be determined to be the date upon which a requirement for the Owner to sell is first applicable; or,

- (c) The maximum sales price for Category 6 sale housing stated in the Employee Housing Guidelines in effect at the time of the listing of the Lot for sale.

5.2 Determining Maximum Resale Price:

- (a) For the purpose of determining the Maximum Resale Price the Owner may add to the amount specified in Section 5.1 above, the cost of Permitted Capital Improvements, as set forth in Exhibit "B" attached hereto or otherwise allowed by the Employee Housing Guidelines from time to time, in a total amount not to exceed ten percent (10%) of the maximum sales price for a Category 6 sale housing in effect at the time of the Initial Sale to a Qualified Buyer. In calculating such amount, only those Permitted Capital Improvements identified in Exhibit "B" hereto or otherwise allowed by the Employee Housing Guidelines from time to time shall qualify for inclusion. All such Permitted Capital Improvements installed or constructed over the life of the Lot shall qualify. However, the allowance permitted by this Paragraph is a fixed amount, which shall be calculated on a cumulative basis applicable to the Owner and all subsequent purchasers, and shall not exceed the maximum dollar amount set forth in this Paragraph.
- (b) Permitted Capital Improvements shall not include any changes or additions to the Lot or Improvements made by the Owner during construction or thereafter, except in accordance with Paragraph 4(a) above. Permitted Capital Improvements shall not include the cost of any improvements otherwise reflected in the value of the existing improvements or New Unit pursuant to sections 4.2, 4.3 5.2(d), or 5.2(f) Permitted Capital Improvements shall not be included in the APCHA's listed purchase price, even if made or installed during original construction.
- (c) In order to qualify as Permitted Capital Improvements, the Owner must furnish to the APCHA the following information with respect to the improvements that the Owner seeks to include in the calculation of Maximum Resale Price.
 - (1) Original or duplicate receipts to verify the actual costs expended by the Owner for the Permitted Capital Improvements;



- (2) The Owner's affidavit verifying that the receipts are valid and correct receipts tendered at the time of purchase; and
- (3) True and Correct copies of any building permit or certificate of occupancy required to be issued by the Aspen/Pitkin County Building Department with respect to the Permitted Capital Improvements
- (d) For the purpose of determining the Maximum Resale Price in accordance with this Section, the Owner may add the cost of any permanent improvements constructed or installed as a result of any requirement imposed by any governmental agency, provided that written certification of the applicable requirement and the information required by Paragraph 5.2(c) are provided to the APCHA.
- (e) In calculating the costs under Paragraphs 5.2(a) and 5.2(d), sweat equity shall be added under the following conditions:
- (1) Information regarding the actual physical labor by the Owner based on 80% of the average amount of two (2) bids for the work approved by the APCHA.
- (2) That the work needs to be done under supervision of a qualified certified tradesperson for the work that was done by the Owner.
- (f) Notwithstanding the provisions of Section 5.1 above, if the Qualified Buyer removes the mobile home that existed on the Lot at the time of his or her purchase of the Lot prior to resale by such Qualified Buyer, and such Qualified buyer replaces it with a new mobile home, modular home or home constructed "in-place" (a "new Unit"), the Qualified Buyer and APCHA shall enter into a new Memorandum of Acceptance for the purpose of establishing a new Maximum Resale Price, as follows:
- (i) The base price of the Lot (without a home) as established in the Qualified Buyer's First Memorandum of Acceptance shall remain the same and appreciation shall continue to run from the date of purchase as provided in paragraph 5.1;
- (ii) The resale price shall include an amount equal to the amount paid by such Qualified Buyer for the Initial Mobile Home as reflected in his or her purchase price without appreciation; and
- (iii) The cost paid by the Qualified Buyer for the New Unit, including appreciation thereon as provided in paragraph 5.1 based upon reasonable supporting documentation verified by APCHA, of such cost.



- (iv) In no event shall the maximum sales price exceed the maximum sales price for Category 6 housing as stated in APCHA guidelines in effect at the time of listing the Lot for sale.
- (g) In order to obtain maximum resale price, Owner must ensure that the Lot meets APCHA's generally applicable minimum standards for a seller of deed restricted housing to receive full value. This shall include requirements to clean the home, ensure that all fixtures are in working condition, and to repair damage to the unit beyond normal wear and tear. If the Seller does not meet this requirement, APCHA may require that Seller escrow at closing a reasonable amount to achieve compliance by APCHA, taking in account any intention of the Buyer to replace the existing improvements.

5.3 Nothing herein shall be construed to constitute a representation or guarantee by the APCHA, the City or the County that on resale, the Qualified Buyer shall obtain the Maximum Resale Price.

ARTICLE VI OWNER RESIDENCE AND EMPLOYMENT

- 6.1 Each Rental Site, Lot and Improvements shall be utilized only as the sole and exclusive place of residence of the tenant or Owner, as applicable, except that Exempt Tenants shall be required to occupy the Rental Site, Lot and Improvements as his or her residence for at least six months in each calendar year.
- 6.2 Except for Exempt Tenants, in the event a tenant or Owner changes domicile or ceases to utilize the Rental Site or Lot, as applicable, as his or her sole and exclusive place of residence, or ceases to be a full-time employee in accordance with the applicable APCHA Guidelines, and with respect to Exempt Tenants, in the event an Exempt Tenant does not occupy the Rental Site or Lot, as applicable, as his or her residence for six months in any calendar year, (i) with respect to tenants, such event shall be deemed a breach of the tenant's lease, the tenant's lease shall terminate and the tenant may be evicted; and (ii) with respect to Owners, the Lot and Improvements will be offered for sale pursuant to the provisions of Section 2.4 of this Agreement. An Owner shall be deemed to have changed his or her domicile by becoming a resident elsewhere or accepting permanent employment outside Pitkin County, or residing on the Rental Site or Lot, as applicable, for fewer than nine (9) months per calendar year without the express written approval of the APCHA, or by ceasing to be a full-time employee. Where the provisions of this Section 5.2 apply, the APCHA may require the Owner to rent the Lot and Improvements in accordance with the provisions of Section 6.1 below.
- 6.3 If at any time the Owner of a Sale Lot also owns any interest alone or in conjunction with others in any developed residential property or dwelling unit(s)



located in Eagle, Garfield, Gunnison or Pitkin Counties, except for such property or dwelling unit(s) owned by an Exempt Tenant as of August 16, 2000, the Owner agrees to immediately list said other property or unit for sale and to sell his or her interest in such property at a sales price comparable to like units or properties in the area in which the property or dwelling unit(s) are located. In the event said other property or unit has not been sold by the Owner within one hundred twenty (120) days after its listing, then the Owner hereby agrees to immediately list the Sale Lot for sale pursuant to the provisions of Section 2.4 of this Agreement. In the case of an Owner whose business is the construction and sale of residential properties or the purchase and resale of such properties, the properties that constitute inventory in such Owner's business shall not constitute "other developed residential property" or "dwelling unit(s)" as those terms are used in this Section 5.3.

ARTICLE VII RENTAL

- 7.1 An Owner may not, except with prior written approval of the APCHA, and subject to APCHA's conditions of approval, rent the Sale Lot for any period of time. In addition, if the Association owns any Lot, the Association may not rent such Lot other than to an Exempt Tenant without the prior written consent of the APCHA, which consent shall be in the absolute discretion of the APCHA. Except for Exempt Tenants, prior to occupancy, each tenant must be approved by the Association, if applicable, and the APCHA in accordance with the income, occupancy and all other qualifications for Category 6 rental housing established by the APCHA in its Employee Housing Guidelines. The APCHA shall not approve any rental if such rental is being made by the Owner to utilize the Sale Lot as an income producing asset, except as provided below, and shall not approve a lease with a rental term in excess of twelve (12) months. A signed copy of the lease must be provided to the APCHA prior to occupancy by each tenant. Any such lease approved by the APCHA shall show the length of the lease and the monthly rent. The monthly rent cannot exceed the Owner's costs, which include the monthly expenses for the cost of principal and interest payments, taxes, property insurance, condominium or homeowners assessments, utilities remaining in the Owner's name, plus an additional fifty dollars (\$50) and a reasonable (refundable) security deposit. The requirements of this Section shall not preclude the Owner from sharing occupancy of the Sale Lot with non-Owners on a rental basis provided the Owner continues to meet the obligations contained in this Agreement, including Section 5.1.
- 7.2 IN NO EVENT SHALL THE OWNER CREATE AN ADDITIONAL DWELLING UNIT, AS DEFINED IN THE PITKIN COUNTY OR CITY OF ASPEN LAND USE CODES, IN OR ON THE SALE LOT.
- 7.3 NOTHING HEREIN SHALL BE CONSTRUED TO REQUIRE THE APCHA TO PROTECT OR INDEMNIFY THE OWNER AGAINST ANY LOSSES ATTRIBUTABLE TO THE RENTAL, INCLUDING (NOT BY WAY OF LIMITATION) NON-PAYMENT OF RENT OR DAMAGE TO THE



PREMISES; NOR TO REQUIRE THE APCHA TO OBTAIN A QUALIFIED TENANT FOR THE OWNER IN THE EVENT THAT NONE IS FOUND BY THE OWNER.

**ARTICLE VIII
BREACH**

- 8.1 All existing and potential tenants and Owners shall promptly provide to the APCHA such information as the APCHA reasonably deems necessary to verify compliance with this Agreement. The APCHA shall maintain the confidentiality of any financial data provided by any existing or potential tenant or Owner except for such disclosures as are necessary with respect to any litigation, enforcement or other legal proceedings. In the event that APCHA has reasonable cause to believe a tenant or Owner is violating the provisions of this Agreement, the APCHA, by its authorized representative, may inspect the Rental Site or Lot between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, after providing the tenant or Owner with no less than 24 hours' written notice.
- 8.2 The APCHA, in the event a violation or alleged violation of this Agreement is discovered, shall send a notice of violation to the tenant or Owner detailing the nature of the violation and allowing the tenant or Owner fifteen (15) days to cure. Said notice shall state that the tenant or Owner may request a hearing before the APCHA Board of Directors (the "Board") within fifteen (15) days to determine the merits of the allegations. If no hearing is requested and the violation is not cured within the fifteen (15) day period, the tenant or Owner shall be considered in violation of this Agreement. If a hearing is held before the APCHA, the decision of the APCHA based on the record of such hearing shall be final for the purpose of determining if a violation has occurred. If a hearing is held, the Board shall have absolute discretion to determine whether a right to cure is appropriate in the circumstances.

**ARTICLE IX
REMEDIES**

- 9.1 There is hereby reserved to the parties hereto any and all remedies provided by law for breach of this Agreement or any of its terms. In the event the parties resort to litigation with respect to any or all provisions of this Agreement, the prevailing party shall be awarded damages and costs, including reasonable attorneys' fees.
- 9.2 In the event a Lot is sold and/or conveyed without compliance herewith, such sale and/or conveyance shall be wholly null and void and shall confer no title whatsoever upon the purported buyer. Each and every conveyance of a Lot, for all purposes, shall be deemed to include and incorporate by this reference, the covenants herein contained, even without reference therein to this Agreement.



- 9.3 In the event that a tenant or Owner fails to cure any breach, the APCHA may resort to any and all available legal action, including, but not limited to, specific performance of this Agreement, eviction of the tenant, or a mandatory injunction requiring sale of the Lot and Improvements by the Owner as specified in Sections 2.3, 2.4, 3.6, 3.7, 5.1, 5.2, and 5.3. The costs of any such sale shall be taxed against the proceeds of the sale with the balance being paid to the Owner.
- 9.4 In the event of a breach of any of the terms or conditions contained herein by an Owner, his or her heirs, successors or assigns, the Maximum Resale Price shall, upon the date of such breach as determined by the APCHA, automatically cease to increase as set out in Section 5.1 of this Agreement, and shall remain fixed until the date of cure of said breach.

ARTICLE X FORECLOSURE

- 10.1 If any Lot is sold at a foreclosure sale or otherwise acquired by any person or entity in lieu of foreclosure, the APCHA and the Board, as the designee of the APCHA, shall have the option to acquire the Lot within thirty (30) days after (i) the issuance of a public trustee's deed to the purchaser, or (ii) receipt by the APCHA of written notice from such person or entity of the acquisition of such Lot in lieu of foreclosure, as applicable, for an option price not to exceed (a) in the event of a foreclosure, the redemption price on the last day of all statutory redemption periods and any additional reasonable costs incurred by the holder during the option period which are directly related to the foreclosure or (b) in the event of a transfer in lieu of foreclosure, the amount paid, or the amount of debt forgiven, by the transferee plus the reasonable costs incurred by the transferee with respect to its acquisition of the Lot. Notwithstanding any provision herein to the contrary, except for persons or entities having a valid lien on a Lot, only Qualified Buyers may acquire an interest in a Lot at a foreclosure sale or in lieu of foreclosure. If any person or entity having a lien on a Lot is not a Qualified Buyer and acquires an interest in such Lot in a foreclosure sale or in lieu of foreclosure, the provisions of Section 3.7 shall apply. It is the APCHA's intent that the terms and provisions of this Agreement shall remain in full force and effect with respect to all Lots and Rental Sites until modified, amended or terminated in accordance with Section 10.11 hereof.
- 10.2 In the event that APCHA or the Board, as the designee of the APCHA, exercise the option described in Section 10.1 the APCHA and/or its designee, may sell the Lot to Qualified Buyers as that term is defined herein, or rent the Lot to qualified tenants who meet the income, occupancy and all other qualifications, established by the APCHA in its Employee Housing Guidelines until a sale to a Qualified Buyer is effected.
- 10.3 Notwithstanding the foregoing, in the event of foreclosure by the holder of the first deed of trust on any individual Lot, or multiple lots owned by the Association, if the holder of such deed of trust is the grantee under the public trustee's deed and



APCHA does not exercise its option purchase as provided in paragraph 10.1, then APCHA agrees to release the Lot(s) from the requirements of the Master Deed Restriction Agreement.

**ARTICLE XI
GENERAL PROVISIONS**

11.1 Notices. Any notice, consent or approval which is required to be given hereunder shall be given by mailing the same, certified mail, return receipt requested, properly addressed and with postage fully prepaid, to any address provided herein or to any subsequent mailing address of the party as long as prior written notice of the change of address has been given to the other parties to this Agreement.

Said notices, consents and approvals shall be sent to the parties hereto at the following addresses unless otherwise notified in writing:

To APCHA: Aspen/Pitkin County Housing Authority
 530 East Main, Lower Level
 Aspen, Colorado 81611
 Attention: Executive Director

To an Owner: To the address set forth in the applicable Memorandum of Acceptance.

To a Tenant: To the address set forth in the Tenant's lease.

11.2 Exhibits. All exhibits attached hereto (Exhibits "A", "B" and "C") are incorporated herein and by this reference made a part hereof.

11.3 Severability. Whenever possible, each provision of this Agreement and any other related document shall be interpreted in such a manner as to be valid under applicable law; but if any provision of any of the foregoing shall be invalid or prohibited under said applicable law, such provisions shall be ineffective to the extent of such invalidity or prohibition without invalidating the remaining provisions of such document.

11.4 Choice of Law. This Agreement and each and every related document are to be governed and construed in accordance with the laws of the State of Colorado.

11.5 Successors. Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors and assigns of the parties.

11.6 Section Headings. Paragraph or section headings within this Agreement are inserted solely for convenience of reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.



- 11.7 Waiver. No claim of waiver, consent or acquiescence with respect to any provision of this Agreement shall be valid against any party hereto except on the basis of a written instrument executed by the parties to this Agreement. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition, provided that such waiver is in writing.
- 11.8 Gender and Number. Whenever the context so requires herein, the neuter gender shall include any or all genders and vice versa and the use of the singular shall include the plural and vice versa.
- 11.9 Personal Liability. The Owner agrees that he or she shall be personally liable for any of the transactions contemplated herein.
- 11.10 Further Actions. The parties to this Agreement agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Agreement or any agreement or document relating hereto or entered into in connection herewith.
- 11.11 Modifications. This Agreement may only be modified or amended by a written instrument executed by the APCHA or its successors and recorded in the Pitkin County Clerk & Recorder's Office, provided that if any such modification or amendment will materially impair the rights of an Owner pursuant to this Agreement, such modification or amendment must be executed by said Owner.
- 11.12 Covenant Running With Land; Enforcement. This Agreement shall constitute covenants running with the Real Property, as a burden thereon, for the benefit of, and shall be specifically enforceable by the APCHA and its successors by any appropriate legal action including but not limited to specific performance, injunction, reversion, or eviction of non-complying Owners, tenants and/or occupants.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the day and year above first written.

ASPEN/PITKIN COUNTY HOUSING AUTHORITY

By: Maureen Dobson, APCHA Director
Maureen Dobson, Executive Director

(Notary on following page)



SILVIA DAVIS PITKIN COUNTY CO

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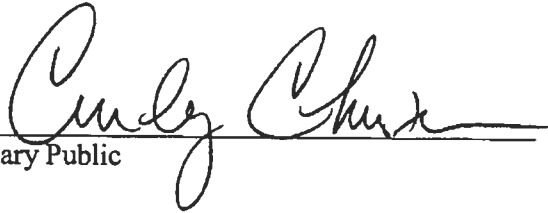
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STATE OF COLORADO)
) ss.
COUNTY OF PITKIN)

The foregoing instrument was acknowledged before me this 28 day of ~~August~~^{Sept.}, 2005, by Maureen Dobson, as Executive Director of the Aspen/Pitkin County Housing Authority.

Witness my hand and official seal;

My commission expires: 7/22/08



Notary Public



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EXHIBIT "A"

Legal Description

Lots 1 through 58, respectively, WOODY CREEK SUBDIVISION P.U.D., together with Common Tracts 1, 2 and 3, and Open Space A, B, C and D according to the Final Plat recorded September 29, 2005, in Plat Book 75, Page 2124, Reception No. 515410, and pursuant to the Declaration of Protective Covenants, Conditions and Restrictions for the Woody Creek Subdivision, recorded on September 29, 2005 at Reception Number 515413 of the real property records of Pitkin County, Colorado.



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EXHIBIT "B"

Permitted Capital Improvements

1. The term "Permitted Capital Improvement" as used in the Agreement shall only include the following:
 - a. Improvements or fixtures erected, installed or attached as permanent, functional, non-decorative improvements to real property, excluding repair, replacement and/or maintenance improvements;
 - b. Improvements for energy and water conservation;
 - c. Improvements for the benefit of seniors and/or handicapped persons;
 - d. Improvements for health and safety protection devices;
 - e. Improvements to add and/or finish permanent/finished storage space; and/or
 - f. Improvements to finish unfinished space.

2. Permitted Capital Improvements as used in this Agreement shall **NOT** include the following:
 - a. Landscaping;
 - b. Upgrades/replacements of appliances, plumbing and mechanical fixtures, carpets and other similar items included as part of the original construction of the Improvement;
 - c. The cost of adding decks and balconies, and any extension thereto;
 - d. Jacuzzis, saunas, steam showers and other similar items;
 - e. Improvements required to repair, replace and maintain existing fixtures, appliances, plumbing and mechanical fixtures, painting, carpeting and other similar items; and/or
 - f. Upgrades or addition of decorative items, including lights, window coverings and other similar items.

3. All Permitted Capital Improvement items and costs shall be approved by the APCA staff.

4. The Permitted Capital Improvements shown hereon shall be subject to such additions, deletions and modifications as may be set forth in the Employee Housing Guidelines from time to time; provided that if any improvement is made at a time when it would be deemed a Permitted Capital Improvement hereunder or under the Employee Housing Guidelines, such improvement shall be deemed a Permitted Capital Improvement at all times notwithstanding any modification of the Employee Housing Guidelines.



EXHIBIT "C"

List of Exempt Tenants

Aldrich, Shane	McAllister, Don
Becker, Alan	McNeilly, Allan
Brown, Colleen	Mieszala, Vic
Carmins, Melissa	Mooney, Maureen
Chong, Foong Lian	Mullen, Dougald
Colaneri, Judy	Palazzi, Neil
Curtis, Lanny	Penny, Julis
Denton, Claude	Pinker, A./Adams, G.
DeYoung, Mark	Prince, Clifton
Doyle, Kevin	Roland, Anne
Eckardt, Dave	Ruiz, Hector
Edwards, John	Schiller, Drew
Ellerbrook, Carl	Schlein, Richard
Fliss, Michael	Scully, Fred
Haas, Mike	Siwerka, Stella
Haines, Cynthia	Soderberg, Dan
Hall, Andrew	Thompson, Mark
Hamilton, Patty	Thullier, Robert
Henley, Steve	Treibick, Eli
Jacobson, Craig	Volz, Tom
Kinney, Dan	Weaver, Demian, Tex
Krill, Gary	



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