

**AMENDED AND RESTATED**  
**EAGLE RANCH LOCALS HOUSING PROGRAM**  
**RESTRICTIVE COVENANT**

**IN EVENT OF DEFAULT OR INITIATION OF FORECLOSURE, NOTICE MUST BE PROVIDED TO EAGLE RANCH HOUSING CORPORATION AND THE TOWN OF EAGLE PURSUANT TO THE TERMS OF THIS COVENANT, THE REFERENCED OPTION TO BUY SET FORTH HEREIN, AND C.R.S. 38-38-101 *ET. SEQ.***

THIS AMENDED AND RESTATED COVENANT OF THE EAGLE RANCH LOCALS HOUSING PROGRAM (the "Covenant") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_, (together with their successors and assigns hereinafter "Declarant") and is enforceable by EAGLE RANCH HOUSING CORPORATION AND/OR THE TOWN OF EAGLE, COLORADO, or their successors or designees (collectively, hereinafter "ERHC") as and to the extent set forth herein.

**THIS COVENANT HEREBY VACATES AND SUPERSEDES ALL PRIOR-RECORDED VERSIONS OF THE EAGLE RANCH LOCALS HOUSING PROGRAM RESTRICTIVE COVENANT AND RELATED RIGHT OF FIRST REFUSAL AGREEMENT, IF ANY.**

**RECITALS**

This Covenant is made with reference to the following facts:

- A. Declarant owns the real property legally described in "Exhibit A" attached hereto and incorporated herein by this reference (hereinafter the "Unit"). For the purposes of this Covenant, the Unit includes all appurtenances, improvements, and fixtures associated therewith.
- B. Declarant and ERHC desire to enter into this Covenant, which provides for the designation of the Unit as a Workforce Housing Unit, as defined herein.
- C. This Covenant restricts the acquisition and transfer of the Unit to Qualified Buyers.
- D. Declarant desires to enter into this Covenant restricting the acquisition or transfer of the Unit to Qualified Buyers as set forth herein below. This Covenant shall constitute the terms and provisions controlling the resale of the Unit as a Workforce Housing Unit. Through this Covenant, Declarant restricts the Unit against use and occupancy inconsistent with this Covenant and in accordance with the terms of the Guidelines, as herein defined, except as expressly provided for herein.

NOW, THEREFORE, in consideration of the foregoing, Declarant hereby represents, covenants, and agrees as follows:

1. Definitions:

(a) “Agent” means the entity or individual appointed by ERHC to resell WHUs and to administer restrictions on them.

(b) “Guidelines” means any supplemental rules, restrictions, and guidelines that Eagle Ranch Housing Corporation may, from time to time at its discretion, promulgate regarding WHUs. To the extent inconsistent, this Covenant shall control over all other documents and guidelines.

(c) “Owner” is the Qualified Buyer(s) acquiring an ownership interest in a WHU in compliance with the terms and provisions of this Covenant. Such person, persons, or entity shall be obligated hereunder for the full and complete performance and observance of all restrictions encumbering such WHU as set forth herein. The term “Owner” as used in this Covenant shall mean and refer only to natural persons and entities formed for estate planning purposes, and not partnerships, corporations, limited liability companies or other entities.

(d) “Qualified Buyers” are persons who can prove that they are (i) then currently permanent residents of Eagle County, Colorado, or (ii) then currently employed and working in Eagle County, Colorado, or (iii) have been hired by an employer in Eagle County, Colorado, all as evidenced by (1) an affidavit of the person, (2) verification by employer, (3) two most recent paystubs, or (4) other documents that the Agent deems necessary to make a determination.

(e) “WHU” or “Workforce Housing Unit” is affordable, for-sale housing offered only to Qualified Buyers, the occupancy, sale, assignment, or transfer of which is limited by the terms of this Covenant.

2. Restrictions on Owner’s Use, Occupancy, and Re-Sale of the Unit:

(a) The Unit is hereby designated a WHU. Its use and occupancy shall be limited to housing for Qualified Buyers as set forth in this Covenant, with the following exceptions:

(i) ERHC may acquire title to the Unit in the event of foreclosure or as permitted by this Covenant.

(ii) Certain district, governmental, or political entities may acquire title to the Unit from time to time, as permitted under a separate agreement with ERHC.

(b) An Owner, in connection with the purchase and ownership of the WHU, must occupy the WHU as his or her primary residence during the time that the WHU is owned by such Owner. In determining what is a permanent residence, the following circumstances relating to the Owner may be taken into account: business pursuits, employment, income sources, residence for income or other tax purposes, residence of parents, spouse and children, if any, location of personal and real property, voter registration, motor vehicle registration, or any other information the Agent determines to be relevant for the purpose of determining the permanent place of residence of the Owner. An Owner shall be deemed to have ceased using the Unit as his or her sole, exclusive and permanent place of residence if the Owner resides at the Unit for fewer than nine (9) months per calendar year without the express written approval of ERHC. In the event

that the WHU is owned by more than one Owner, at least one Qualified Buyer of the WHU must utilize it as his or her primary residence.

(c) In the event that title to the WHU vests by descent or otherwise to an individual or entity who does not utilize the WHU as his, her or its sole, exclusive and permanent place of residence, then the new Owner shall, as soon as practical but in no event later than one (1) year after vesting of title, offer the WHU for sale pursuant to the provisions of this Covenant.

(d) No Rental of the Unit:

An Owner may not rent the WHU for any period of time, except that this Section shall not preclude:

(i) an Owner from sharing occupancy of the WHU with non-owners on a rental basis provided Owner continues to reside in the Unit and to meet the obligations contained in this Covenant; or

(ii) a personal representative of the Owner from renting the WHU after the death of the Owner, so long as the Owner or personal representative is pursuing sale of the WHU pursuant to the provisions of this Covenant; or

(iii) an Owner from taking a "leave of absence" which is hereby defined as an Owner renting the WHU for more than one (1) month and less than nine (9) months when the Owner, at the time the lease is signed, has the bona fide good faith intent to re-occupy the WHU as his or her permanent residence upon termination of the lease and has received the prior written consent of ERHC. The Owner shall use its best good faith efforts to lease the WHU under this subsection 2(d)(iii) to a person to whom the WHU could be sold pursuant to the provisions of this Covenant; or

(iv) a foreclosing lien-holder from renting the WHU, so long as the lien-holder is actively pursuing such foreclosure; or

(v) ERHC from renting any WHU to which it obtains title.

(e) Re-Sale of Unit:

(i) In the event that an Owner desires to sell the Unit, the Owner shall sell only to a Qualified Buyer for no more than the Maximum Resale Price determined by the Agent pursuant to this Covenant.

(ii) The Owner shall use a licensed Colorado real estate broker who is a member of the Vail Board of Realtors as the sales broker for the Unit. The sales broker must list the Unit in the Multiple Listing Service with a co-op commission payable, and must actively market the Unit within Eagle County during the term of the listing.

(iii) The Owner shall notify the Agent immediately upon listing the Unit for sale, and provide Agent with a copy of the listing agreement. The Owner shall also

notify the Agent when the Unit is under contract for sale, and provide Agent with a copy of the purchase and sale agreement.

3. Maximum Resale Price:

No Owner of the WHU shall sell the WHU for an amount greater than the Maximum Resale Price for the WHU, which Maximum Resale Price shall be calculated as follows:

(a) Start with the purchase price paid for the WHU by the Owner upon such Owner's acquisition of the WHU (the "Prior Purchase Price"), which Prior Purchase Price may include all reasonable and customary expenses of the purchase incurred at the time of purchase by the Owner as evidenced by a title company settlement sheet (including, but not limited to, closing costs and recording fees, but specifically excluding any costs of financing);

(b) For each year from the date that the Owner acquired the WHU until the date of the listing of the WHU, multiply the Prior Purchase Price and any increases thereto as a result of the application of this subsection b. for prior years (in order to effect a compounding of the increase in the Prior Purchase Price) by the lesser of three percent (3%) or the percentage increase in the most recent CPI-U (hereinafter defined) for such year. Any such increase shall be prorated by day for any partial years. "CPI-U" shall mean the United States Department of Labor (Bureau of Labor Statistics) Consumer Price Index for All Urban Consumers - All Items Index for the consolidated metropolitan statistical area which includes the City and County of Denver, Colorado, which are published on a monthly basis. In the event that the CPI-U is substantially changed, re-named, or abandoned by the United States Government, then in its place shall be substituted the index established by the United States Government that most closely resembles the CPI-U;

(c) For each such year add the product of the multiplication described in b. to the Prior Purchase Price;

(d) Add the cost of any Permitted Capital Improvements (hereinafter defined) made by the Owner during the time that the Owner held title to the WHU;

(e) Add an amount equal to two percent (2%) of the total sum calculated above, which amount is intended to defray some of the expenses of selling the WHU.

Example. The following is a hypothetical calculation of the Maximum Resale Price associated with a WHU acquired by the Owner on December 31, 2001 and listed for sale on June 30, 2004. The housing component of the CPI-U is assumed to increase 2% in 2002, and 4% in 2003 and 1.5% for the first six months of 2004:

\$ 225,000.00	Prior Purchase Price (including customary expenses of purchase) on December 31, 2001
+ \$ 4,500.00	2% increase for year 2002 ( $\$225,000 \times .02$ )
+ \$ 6,885.00	3% increase for year 2003 ( $[\$225,000 + \$4,500] \times .03$ ) (Note:

	limited to 3% per this Covenant even though CPI increase was 4%)
+ \$ <u>3,545.78</u>	3% increase for 6 months in year 2004 (([\$225,000 + \$4,500 + \$6,885] x .015)) listed for sale June 30, 2004
= \$ 239,930.78	First Subtotal
+ \$ <u>9,500.00</u>	Permitted Capital Improvements
= \$ 249,430.78	Second Subtotal
+ \$ <u>4,988.62</u>	2% of second Subtotal (intended to defray some of the expenses of selling)
= \$ 254,419.40	Maximum Resale Price as of June 30, 2004.

4. Permitted Capital Improvements:

“Permitted Capital Improvements” shall only include those items of improvement to the Property that are defined hereinbelow, or as modified from time to time in the Guidelines.

- (a) Owners of a WHU are allowed a maximum of 10 percent of the initial purchase price (the price paid for the unit by the owner making the Permitted Capital Improvement) over each five-year period for Permitted Capital Improvements from the date of the initial purchase by such owner. Unused amounts shall not accumulate from five-year period to five-year period—unused amounts do not roll over from one period to the next.
- (b) In order to verify the cost of a Permitted Capital Improvement, an Owner shall provide to ERHC original or legible duplicate receipts evidencing the actual costs thereof and a copy of any building permit or certificate of occupancy required for the improvements, if any, along with the Owner’s affidavit verifying that the receipts are valid and correct receipts tendered at the time of payment. Only the Owner’s actual out-of-pocket costs and expenses shall be eligible for inclusion. Such amount shall not include an amount attributable to owner’s labor, or that of his employees or business, or to any appreciation in the value of the improvements.
- (c) Value will be given to the following improvements:
  1. The addition of a habitable room or storage space;
  2. The finishing of uninhabitable space if it is converted into a habitable room;
  3. The conversion of a carport into a completely enclosed garage;
  4. The conversion of surface parking into a carport or garage (if allowed under the development/subdivision agreement);
  5. Kitchen and bathroom renovations;
  6. Replacement or repair of existing fixtures (*e.g.*, flooring or painting);

7. Installation of permanent landscaping or air conditioning;
8. Window treatments;
9. Improvements that reduce the consumption of energy, including but not limited to roof replacement, furnace replacement;
10. Modifications or improvements to accommodate a person with a disability as defined in the Americans with Disabilities Act of 1990;
11. Other improvements necessary for the maintenance of the Unit.

- (d) No other categories or types of expenditures may qualify as Permitted Capital Improvements unless pre-approved in writing by the Agent.
- (e) Permitted Capital Improvements may be depreciated for wear and tear and obsolescence pursuant to the depreciation schedule set forth in the Marshall & Swift Cost Handbook, or some similar depreciation schedule in use by the Agent.

5. Closing Costs:

Owner shall not permit any prospective buyer to assume any of the seller's customary closing costs, including the fees set forth herein, nor accept any other consideration that would increase the purchase price for the WHU above the Maximum Resale Price so as to induce the Owner to sell to such prospective buyer. Sale contingencies based on upon execution of side contracts are prohibited, including but not limited to contracts that have the effect of increasing the Maximum Resale Price.

**THE MAXIMUM RESALE PRICE REPRESENTS ONLY THE HIGHEST PRICE THAT AN OWNER MAY OBTAIN UPON SALE OF THE PROPERTY SUBJECT TO THIS COVENANT, AND NOTHING HEREIN SHALL BE CONSTRUED TO CONSTITUTE A REPRESENTATION, WARRANTY OR GUARANTEE THAT UPON TRANSFER OF THE PROPERTY THE OWNER SHALL OBTAIN THE MAXIMUM RESALE PRICE.**

**IN ADDITION, NOTHING CONTAINED IN THIS COVENANT SHALL BE DEEMED TO PREVENT AN OWNER AND ANY PURCHASER, INCLUDING, WITHOUT LIMITATION, THE ERHC, FROM ENTERING INTO AN AGREEMENT TO PURCHASE AND SELL THE PROPERTY AT ANY PRICE, NOT IN EXCESS OF THE MAXIMUM RESALE PRICE, TO WHICH SUCH PARTIES AGREE.**

6. Breach of Covenant for Violation of Use, Occupancy or Transfer Restrictions:

(a) Any remedy for a breach of this Covenant by an Owner or a Qualified Buyer is specifically enforceable by ERHC, and its successors and assigns, as applicable.

(b) Sale or Transfer to a Non-Qualified Buyer or Violation of Resale Restrictions:  
If the Unit is sold or conveyed in violation of this Covenant, such sale or conveyance shall be void *ab initio* and shall confer no title whatsoever upon the purported buyer. Each and every conveyance of the Unit, for all purposes, shall be deemed to include, incorporate, and be made

subject to the covenants herein contained, even without reference in the deed or other document of conveyance to this Covenant.

(c) Violation of Use or Occupancy Restrictions:

If a violation of this Covenant is discovered, ERHC shall follow the procedures set forth below and any additional consistent procedures provided for in the Guidelines:

(i) ERHC may issue a written finding that there has been a violation of this Covenant, and that the Owner of the Unit has breached this Covenant. If the Owner does not cure the breach within 30 days, ERHC may elect to assess penalties against the Owner. Penalties which ERHC may assess against the Owner include, but shall not be limited to, filing a complaint seeking specific performance of this Covenant, eliminating appreciation from the Maximum Resale Price otherwise allowed in Section 3.b., *supra*, a mandatory injunction requiring sale of a WHU, and/or seeking the other remedies set forth herein. The proceeds of the sale shall first be used to pay all costs of such sale with the balance being paid to the Owner.

(ii) In addition to any of the elective remedies enumerated above, in the event of a violation of this Covenant by an Owner, his or her heirs, successors, or assigns, the Maximum Resale Price of a WHU as defined herein shall, upon the date of such breach as determined by ERHC, cease to increase and shall remain fixed until the date of cure of said violation.

7. Seniority of Covenant:

With the exception set forth in 9.f, *infra*, which automatically releases and waives this Covenant under circumstances set forth therein, any interest in or lien upon the Unit acquired by any person or entity shall be subject and subordinate to the covenants and restrictions set forth in this Covenant.

8. Violation of Covenant in the Case of Default Under a Promissory Note or Foreclosure:

(a) Owner shall not default in payment or other obligations due or to be performed under a promissory note secured by a first deed of trust encumbering the Unit. The Owner of the Unit must notify ERHC, 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, within five calendar days of Owner's notification from lender, or its assigns, of said default or past due payments.

(b) Upon default by the Owner under the terms and provisions of any deed of trust or mortgage on the Unit, ERHC or Agent may, in its sole discretion, offer loan counseling or distressed loan services to the Owner, if any of these services are available. Any time after default, ERHC is entitled to require the Owner to sell the Unit to avoid the commencement or continuance of any foreclosure proceeding against the Unit. If ERHC determines that sale of the Unit is necessary to avoid the foreclosure process, ERHC may require, and the Owner shall immediately execute, a standard listing contract on forms approved by the Colorado Real Estate Commission with a licensed Colorado real estate broker who is a member of the Vail Board of Realtors. ERHC is entitled to require the Owner to accept the highest of any qualified offers

which satisfies the Owner's financial or other obligations due under the promissory note secured by a first deed of trust and deed of trust in favor of ERHC and/or Eagle County as described herein, and to sell the Unit to such Qualified Buyer. ERHC may in its sole discretion elect to purchase the Unit under this Paragraph 8.b for rental or for sale to a Qualified Buyer.

Upon default of Owner, as provided in Paragraphs 8.a and 8.b ERHC 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 ERHC for past due payments made by ERHC, together with interest thereon at the rate specified in the promissory note secured by the deed of trust, plus one percent (1%) in addition to the interest rate identified in the promissory note and all actual expenses of ERHC incurred in curing the default. The Owner shall be required by ERHC to execute a promissory note on commercially reasonable terms acceptable to ERHC and secured by deed of trust encumbering the Unit in favor of ERHC for the amounts expended by ERHC as specified herein, including future advances made for such purposes. ERHC shall be entitled to all rights and remedies under the deed of trust including the right of foreclosure. The Owner may cure the default and satisfy its obligation to ERHC under this subparagraph at any time prior to execution of a contract for sale, upon such reasonable terms as specified by ERHC. Otherwise, Owner's indebtedness to ERHC shall be satisfied from the Owner's proceeds at closing.

9. Option to Buy; Release and Waiver of Restrictions on Unit:

(a) In the event that a holder of a first deed of trust or mortgage on the Unit becomes the record owner of the Unit by way of a deed in lieu of foreclosure, a public trustee's confirmation deed, or a sheriff's confirmation deed, ERHC shall have an Option to Buy the Unit from such record owner. Upon becoming the record owner of the Unit, such person or entity shall provide written notice thereof sent by certified mail, return receipt requested, to ERHC as provided herein. Upon receipt of such notice, ERHC has the right to exercise its Option to Buy as provided in this Paragraph 9. The failure to provide written notice to ERHC shall constitute a breach of Covenant, and any subsequent sale or conveyance shall be void *ab initio* and shall confer no title whatsoever upon the purported buyer.

(b) ERHC or its assigns shall have sixty (60) days after receipt of notice, as provided for in paragraph 9.a above, of the public trustee's or sheriff's confirmation deed or deed in lieu of foreclosure in which to exercise this Option to Buy.

(i) In the event of foreclosure and issuance of a public trustee's or sheriff's confirmation deed, ERHC may exercise its Option to Buy by tendering to the transferee of such deed or its assigns, in cash or certified funds, the redemption price that would have been required to redeem from such transferee as if ERHC were the next redemptioner entitled to redeem under Colorado law, and any additional reasonable costs incurred by said transferee during the option period directly related to the foreclosure.

(ii) In the event of a deed in lieu of foreclosure, ERHC may exercise its Option to Buy by tendering to the transferee of the deed in lieu of foreclosure or its assigns, in cash or certified funds, an amount equal to the amount due on the note, secured by the deed of trust or mortgage, and any additional reasonable costs incurred by

said transferee during the option period. Upon receipt of the option price, the transferee shall deliver to ERHC or its assignee a special warranty deed, conveying the Unit to ERHC or its assignee. The transferee shall convey only such title to the subject Unit as the transferee obtained by way of the foreclosure or by deed in lieu of foreclosure. The transferee shall not create or participate in the creation of any additional liens or encumbrances against the Unit following the transferee's acquisition of title to the Unit. The transferee shall not be liable for any of the costs of conveyance to ERHC or its assignee. Upon notice to ERHC of a transferee's acquisition of title to the Unit, ERHC or its assigns shall have sixty (60) days in which to exercise the Option to Buy by notifying the transferee in writing of its intent to exercise the Option to Buy.

(iii) ERHC shall have the right to inspect the Unit prior to exercising its Option to Buy. To exercise its right to inspect, ERHC shall give written notice to the Owner of the Unit of the time and date of inspection at least 24 hours in advance.

(c) In the event that ERHC does not notify the transferee in writing of its intent to exercise the Option to Buy as set forth herein, ERHC's Option to Buy and this Covenant shall be released only with respect to the Unit as of the sixty-first day after notice to ERHC as provided for above.

(d) It is the intent of ERHC that this Option to Buy terminate upon the failure of ERHC to provide written notice of its intent to exercise its Option to Buy to the transferee, whether such failure is intentional or unintentional, and that such termination will be effected without the necessity of any affirmative action on the part of the transferee. A release of this Covenant will be effected only by a document which ERHC shall cause to be recorded in the Office of the Clerk and Recorder of Eagle County, Colorado within fourteen (14) days after demand therefore by the holder following expiration of the Option.

(e) Nothing contained herein shall result in a release of this Covenant from the Units that are not the subject of foreclosure or deed in lieu of foreclosure and nothing contained herein shall require ERHC to release and waive its ability to enforce this Covenant in the event of foreclosure of a lien in second or subsequent position or in the event of a deed in lieu of foreclosure of a lien in second or subsequent position.

(f) This Covenant shall be released and waived, in favor of the holder of a first deed of trust or mortgage pertaining to a foreclosure of the Unit, if and only (i) said holder (including assigns of the holder) of a first deed of trust or mortgage becomes the record owner of the Unit by way of deed in lieu of foreclosure, public trustee's confirmation deed or sheriff's confirmation deed; (ii) said holder provides written notice thereof to ERHC pursuant to Paragraph 9.a; and (iii) ERHC fails to exercise its Option to Buy the WHU as set forth in this Paragraph 9.

(g) If ERHC exercises the Option to Buy and acquires title to the Unit, ERHC may thereafter sell the Unit to a Qualified Buyer in accordance with the terms of this Covenant.

10. Covenant Runs with the Land:

Declarant and all subsequent Owners of the WHU, and all other parties with an interest in title to the WHU hereby acknowledge or are deemed to acknowledge by virtue of recordation of the deed by which such Owner takes title to the WHU that this Covenant shall constitute a covenant running with the WHU, as a burden thereon, and shall be specifically enforceable by ERHC by any appropriate legal action, including but not limited to specific performance, injunction, reversion, or eviction. Notwithstanding the foregoing, ERHC reserves the right to require a new Owner, at the time of purchase of the WHU, to vacate this Covenant and record a new Covenant in the ERHC's then-current form, and the new Owner shall execute and record such documents as the ERHC shall reasonably require at the closing of new Owner's acquisition of the WHU.

11. Housing Corporation Assignment:

ERHC may assign its rights to any other governmental, quasi-governmental, or private party formed for purposes of promoting affordable housing, including, without limitation, any housing department of the Town of Eagle or Eagle County, Colorado. Any such assignment shall be evidenced by a document signed by the assignee and recorded in the real property records of Eagle County, Colorado. If ERHC shall cease to exist as a legal entity in the State of Colorado, after notice to ERHC from the Town of Eagle and a period of thirty (30) days for ERHC to cure same, then all rights and obligations of ERHC arising hereunder shall thereafter be assigned to and assumed by the Town of Eagle, and ERHC shall have no further rights and obligations under this Covenant. The Town of Eagle shall place a notice of such assignment of record in the office of the Clerk and Recorder of Eagle County, Colorado.

12. Dispute Resolution:

There is hereby reserved to ERHC any and all remedies provided by law for breach of this Covenant or any of its terms. In any dispute, each party shall bear its own costs and fees. The exclusive venue for any dispute arising from or relating to the Covenant shall be Eagle County, Colorado.

13. Alternative Dispute Resolution:

(a) Agreement to Avoid Litigation:

(i) All persons subject to this Covenant, including, without limitation, the Housing Corporation and the Town of Eagle, Colorado (collectively, "Bound Parties") agree to encourage the amicable resolution of disputes involving this Covenant, without the emotional and financial costs of litigation. Accordingly, each Bound Party covenants and agrees that those claims, grievances or disputes described herein ("Claims") shall be resolved using the procedures set forth below prior to filing suit in any court.

(ii) Claims. Unless specifically exempted below, all claims, grievances or disputes arising out of or relating to the interpretation, application or enforcement of this Covenant, or the rights, obligations and duties of any Bound Party under this Covenant shall be subject to the provisions of this Section.

(b) Mandatory Procedures:

(i) Notice. Any Bound Party having a Claim (“Claimant”) against any other Bound Party (“Respondent”) (collectively, the “Parties”) shall notify each Respondent in writing (the “Notice”), stating plainly and concisely:

1. The nature of the Claim, including the persons involved and Respondent's role in the Claim;
2. The legal basis of the Claim (i.e., the specific authority out of which the Claim arises);
3. Claimant's proposed remedy; and
4. That Claimant will meet with Respondent to discuss in good faith ways to resolve the Claim.

(c) Negotiation and Mediation:

(i) The Parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the Claim by good faith negotiation.

(ii) If the Parties do not resolve the Claim within thirty (30) days of the date of the Notice (or within such other period as may be agreed upon by the Parties) (“Termination of Negotiations”), Claimant shall have thirty (30) additional days to submit the Claim to mediation under the auspices of a reputable and knowledgeable mediation group providing such services in Eagle County, or, if the Parties otherwise agree, to an independent agency providing dispute resolution services in the Eagle County, Colorado, area.

(iii) If Claimant does not submit a claim to mediation within thirty (30) days after Termination of Negotiations, or does not appear for the mediation, Claimant shall be deemed to have waived the Claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such Claim; provided, nothing herein shall release or discharge Respondent from any liability to any person other than the Claimant.

(iv) Any settlement of the Claim through mediation shall be documented in writing by the mediator. If the Parties do not settle the Claim within thirty (30) days after submission of the matter to the mediation process, or within such time as determined by the mediator, the mediator shall issue a notice of termination of the mediation proceedings (“Termination of Mediation”). The Termination of Mediation notice shall set forth that the Parties are at an impasse. Only after the issuance of a Termination of Mediation notice may the provisions of this Covenant be enforced by legal action.

14. Notices:

Any notice, consent, or approval that 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 parties indicated below as long as prior written notice of the change of address has been given to the all parties as indicated.

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

To Declarant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To ERHC: Eagle Ranch Housing Corporation  
Post Office Box 5905  
Eagle, CO 81631

With copy to:

Town of Eagle  
Post Office Box 609  
Eagle, CO 81631

To Owner: To the address set forth in the records of the Eagle County Tax Assessor for purposes of mailing tax bills.

15. Severability:

Whenever possible, each provision of this Covenant 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 documents.

16. Choice of Law:

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

17. Successors:

Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the respective heirs, successors and assigns of the Declarant, any Owner of the Unit, and ERHC.

18. Section Headings:

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

19. Waiver:

No claim of waiver, consent or acquiescence with respect to any provision of this Covenant shall be valid against the Declarant and ERHC except on the basis of a written instrument executed by both the Declarant and ERHC. However, the party for whose benefit a condition is inserted herein shall have the unilateral right to waive such condition.

20. Gender and Number:

Whenever the context so required 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.

21. Personal Liability:

By taking title to the Unit, an Owner agrees that he or she shall be personally liable for compliance with the applicable terms and conditions of this Covenant.

22. Further Actions:

The Declarant for so long as Declarant owns the Unit, the Owner of the Unit, and ERHC 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 Covenant or any Covenant or document relating hereto or entered into in connection herewith.

23. Modifications:

Any modifications of this Covenant shall be effective only when made by writings signed by the then-current Owner of the Unit and ERHC and recorded with the Clerk and Recorder of Eagle County, Colorado. ERHC reserves the right to amend this Covenant unilaterally where deemed necessary to effectuate the purpose and intent of this Covenant, and where such unilateral action does not materially impair an Owner's rights or any lender's rights under this Covenant. The then-current Owner of the Unit and ERHC agree to modify this covenant as necessary to comply with lending requirements imposed by Fannie Mae, Federal Housing Administration, and other similar lending entities.

24. Perpetuities Savings Clause:

If any of the terms, covenants, conditions, restrictions, uses, limitations, obligations or options created by this Covenant or any of its Exhibits shall be unlawful or void for violation of: (a) the rule against perpetuities or some similar statutory provision, (b) the rule restricting restraints on alienation, or (c) any other statutory or common law rules imposing like or similar time limits, then such provision shall continue only for the period of the lives of the then-current duly elected and seated Eagle County Commissioners, their now living descendants, if any, and the survivor of them, plus twenty-one (21) years.

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

**EAGLE RANCH HOUSING CORPORATION**

**DECLARANT**

By: \_\_\_\_\_  
President

\_\_\_\_\_

Exhibit A:  
Legal Description of the Unit