

# DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS FOR FIVE-TWO-FIVE HALL TOWNHOME ADDITION TO THE TOWN OF JACKSON

THIS DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (the "Covenants") is made this 12<sup>th</sup> day of April, 2012, by the TETON COUNTY HOUSING AUTHORITY, a duly constituted Housing Authority established by Teton County, Wyoming pursuant to W.S. §15-10-116, as amended ("TCHA").

## ARTICLE 1 – DECLARATION, PURPOSE AND INTENT

**1.1 Purpose and Intent.** TCHA is the fee simple owner of certain real property located in Teton County, Wyoming, and more particularly described as follows (the "Property"):

Lots 1 through 13 of the Five-Two-Five Hall Townhome Addition to the Town of Jackson, according to that Final Plat, as defined hereafter, such lots being identical with Lots 43 and 44 of the John D. Hall Sixth Addition to the Town of Jackson, Teton County, Wyoming, according to that plat recorded March 6, 2002, as Plat No. 1042, in the office of the Teton County Clerk, Teton County, Wyoming, and Lots 46 and 47 of the John D. Hall Eighth Addition to the Town of Jackson, Teton County, Wyoming, according to that plat recorded October 6, 2003, as Plat No. 1102, in the office of the Teton County Clerk, Teton County, Wyoming.

RELEASED	<input type="checkbox"/>
INDEXED	<input checked="" type="checkbox"/>
ABSTRACTED	<input checked="" type="checkbox"/>
SCANNED	<input checked="" type="checkbox"/>

TCHA intends by the recording of these Covenants to create a general plan of development and use for the neighborhood to be known as "Five-Two-Five Hall." These Covenants provide for the overall development, use, administration, maintenance and preservation of the real property now or hereafter comprising the Property. An integral part of the development plan is the creation of the Five-Two-Five Hall Homeowners' Association to administer and enforce these Covenants and the other Governing Documents, as defined hereafter. TCHA shall retain ownership of the Property and shall convey leasehold interests in Lots (i) to Homeowners, separate and apart from the conveyance by TCHA of the Unit to such Homeowner, and (ii) to Habitat, for administration as a part of Habitat's affordable housing program.

**1.2 Declaration and Adoption of Covenants.** TCHA hereby declares that the Property shall be owned, sold, conveyed, encumbered, used, occupied and developed subject to these Covenants. The Covenants shall run with the title to the Property and any Lot thereof, and shall be binding upon all parties having or acquiring any legal or equitable interest in the Property or any part thereof, and shall insure to the benefit of every owner of any part of the Property, and shall also be enforceable as equitable servitudes.

GRANTOR: TETON COUNTY HOUSING AUTHORITY  
GRANTEE: THE PUBLIC

Doc 0812268 bk 806 pg 149-177 Filed At 15:56 ON 04/17/12

Sherry L. Daigle Teton County Clerk fees: 92.00

By Kassie Hansen Deputy

The Covenants shall be enforceable in perpetuity by TCHA, the Association, any owner or lessee of a Lot, any Homeowner, and the respective legal representatives, heirs, successors, and assigns of such persons.

**1.3 Governing Documents.** The Governing Documents create a general plan of development and use for the Property which may be supplemented as set forth herein. Nothing in this Section shall preclude the adoption of any Supplemental Covenants or other recorded covenants applicable to any portion of the Property from containing additional restrictions or provisions that are more restrictive than the provisions of these Covenants. The Association shall enforce these Covenants and any Supplemental Covenants.

All provisions of the Governing Documents shall apply to all Lot owners and Homeowners as well as their respective family members, guests and invitees.

If any provision of these Covenants is determined by judgment or court order to be invalid, or invalid as applied in a particular instance, such determination shall not affect the validity of the remaining provisions of these Covenants, which shall remain in full force and effect.

## **ARTICLE 2 – DEFINITIONS**

The terms used in the Governing Documents shall generally be given their natural, commonly accepted definitions unless otherwise specified. Capitalized terms shall be defined as set forth below:

**2.1 "Association".** The Five-Two-Five Hall Homeowners' Association, a Wyoming nonprofit corporation, its successors or assigns.

**2.2 "Base Assessment".** Assessments levied on all Units subject to assessment under Article 8 to fund Common Expenses.

**2.3 "Board of Directors" or "Board".** The Board of Directors of the Association, responsible for the administration and enforcement of the terms and conditions of the Covenants and any Supplemental Covenants.

**2.4 "Certificate of Standards".** That certain *"Affidavit and Agreement between the Town of Jackson, Teton County, Wyoming and the Teton County Housing Authority Relating to a Planned Unit Development Pursuant to Ordinance No. 536, Section 2170 of the Town of Jackson Land Development Regulations,"* recorded in the Office of the Teton County Clerk, Teton County, Wyoming, on October 4, 2011, Doc 0802222, Book 790, Pages 937 – 976.

**2.5 "Common Elements".** The General Common Elements and the Limited Common Elements.

**2.6 "Common Expenses"**. The actual and estimated expenses incurred, or anticipated to be incurred, by the Association for the general benefit of all Units and the Property including any reasonable reserve, as the Board may find necessary and appropriate pursuant to the Governing Documents.

**2.7 "TCHA"**. The Teton County Housing Authority, a duly constituted Housing Authority established by Teton County, Wyoming pursuant to W.S. §15-10-116, as amended, and its successors or assigns.

**2.8 "Final Plat" or "Plat"**. The final subdivision plat of Five-Two-Five Hall Townhome Addition to the Town of Jackson as approved by the Town of Jackson, Wyoming and as recorded in the applicable real property records of Teton County, Wyoming.

**2.9 "General Common Element"**. A collective term referring to General Common Element – Access and Utility, General Common Element – Bike, General Common Element – Trash/Recycling, General Common Element – Garden, and including easements, which the Association owns, leases or in which it otherwise holds possessory or use rights for the common use and enjoyment of the Homeowners. General Common Element may be referred to herein or on the Plat as "GCE".

**2.10 "General Common Element – Access and Utility"**. All real and personal property located within Lot 13 as designated on the Plat or in these Covenants or in any amendment or supplement thereto, for use as bike storage. General Common Element – Access and Utility may be referred to herein or on the Plat as "GCE – AU".

**2.11 "General Common Element – Bike"**. Those portions of the General Common Element as designated on the Plat or in these Covenants or in any amendment or supplement thereto, for use as bike storage. General Common Element - Bike may be referred to herein or on the Plat as "GCE - Bike".

**2.12 "General Common Element – Garden"**. Those portions of the General Common Elements as designated on the Plat or in these Covenants or in any amendment or supplement thereto, for garden or other functional open space uses. General Common Element - Garden may be referred to herein or on the Plat as "GCE – Garden".

**2.13 "General Common Element – Trash / Recycling"**. Those portions of the General Common Elements as designated on the Plat or in these Covenants or in any amendment or supplement thereto, for trash and recycling uses. General Common Element – Trash/Recycling may be referred to herein or on the Plat as "GCE – T/R".

**2.14 "Governing Documents".** A collective term referring to these Covenants and any applicable Supplemental Covenants, the By-Laws, the Articles, any Rules and Regulations adopted by TCHA or the Board pursuant to Section 3.2 hereof.

**2.15 "Ground Lease".** The ground lease whereupon a Homeowner is entitled to the occupancy of such Lot, where the lessor of such ground lease is TCHA, as owner of the Lots, or Habitat for Humanity of the Greater Teton Area, Inc., a Wyoming nonprofit corporation ("Habitat"), as sub-lessor from TCHA. The term "Lessor" as used herein shall mean the lessor named in the Ground Lease with respect to a Lot being leased to a Homeowner.

**2.16 "Homeowner".** One or more Persons who hold the following two real property interests with respect to the same Lot: (i) a recorded leasehold interest to the Lot; and (ii) a recorded fee title interest to the Unit affixed to and situated upon such Lot. The definition of "Homeowner" specifically excludes any party holding an interest merely as security for the performance of an obligation.

**2.17 "Limited Common Elements".** A collective term referring to Limited Common Element – Deck, Limited Common Element – Garage, Limited Common Element – Parking, and Limited Common Element – Yard, as designated on the Plat or in these Covenants or in any amendment or supplement thereto, for the exclusive use of one of the Units. Limited Common Elements may be referred to herein or on the Plat as "Limited Common Element" or "LCE".

**2.18 "Limited Common Elements – Deck"** Those Limited Common Elements for the exclusive use of one Unit as a deck as designated on the Plat or in these Covenants or in any amendment or supplement thereto. Limited Common Elements – Deck may also be referred to herein and on the Plat as "LCE – Deck" or "LCE – D".

**2.19 "Limited Common Elements – Garage".** Those Limited Common Elements for the exclusive use of one Unit as garage as designated on the Plat or in these Covenants or in any amendment or supplement thereto. Limited Common Elements – Garage may also be referred to herein and on the Plat as "LCE – Garage" or "LCE – G".

**2.20 "Limited Common Elements – Parking".** Those Limited Common Elements for the exclusive use of one Unit as parking as designated on the Plat or in these Covenants or in any amendment or supplement thereto. Limited Common Elements – Parking may also be referred to herein and on the Plat as "LCE – Parking" or "LCE – P".

**2.21 "Limited Common Elements – Yard".** Those Limited Common Elements for the exclusive use of one Unit as yard as designated on the Plat or in these Covenants or in any amendment or supplement thereto. Limited Common Elements – Yard may also be referred to herein and on the Plat as "LCE – Yard" or "LCE – Y".

**2.22 "Lot".** A portion of the Property designated on the Final Plat as a "Lot", which shall: (i) be owned by TCHA, and (ii) be leased by TCHA or Habitat to a Homeowner pursuant to a Ground Lease. The definition of "Lot" specifically excludes the following: (i) the Unit situated upon and affixed to a Lot; and (ii) the General Common Element, Lot 13, as designated on the Final Plat.

**2.23 "Landscape Plan".** The Landscape Plan shall be that landscaping plan approval by the Town of Jackson as part of the Town's approval of Five-Two-Five Hall Townhome Addition to the Town of Jackson.

**2.24 "Member".** The Members of the Association shall be the Homeowners.

**2.25 "Person".** A natural person, a corporation, a partnership, a trustee, or any other legal entity.

**2.26 "Public Records".** The official records of the County Clerk of Teton County, Wyoming.

**2.27 "Qualified Mortgage".** A mortgage, a deed of trust to secure debt, or any other form of security instrument affecting title to any Unit or all or any portion of the Property. "Mortgagee" shall refer to a beneficiary of a deed of trust or holder of a Mortgage.

**2.28 "Rules and Regulations".** The Rules and Regulations are the Rules and Regulations adopted by TCHA and/or the Board pursuant to Section 3.2 hereof.

**2.29 "Special Assessment".** Assessments levied in accordance with Section 8.3.

**2.30 "Specific Assessment".** Assessments levied in accordance with Section 8.4.

**2.31 "Supplemental Covenants".** An instrument filed in the Public Records pursuant to Article 9 which subjects additional property to these Covenants, designates neighborhoods, and/or imposes, expressly or by reference, additional restrictions and obligations on the additional property described in such instrument.

**2.32 "Unit".** The building improvements affixed to and situated upon a Lot within the Five-Two-Five Hall Addition to the Town of Jackson which shall be sold separately from the Lot and shall be owned in fee by a Homeowner. Each Unit's vertical perimeter boundary on the party wall located between two Units extends to the middle of the party wall through the foundation and roof. The foundation and basement of each Unit are included within the parameters of the Unit and are part of the Homeownership of the Unit. Each Unit shall be subject to the rights and obligations of the Ground Lease and these Covenants.

**ARTICLE 3**  
**RULES AND REGULATIONS / PERMITTED AND PROHIBITED USES**

**3.1 Framework for Regulation.** The Governing Documents establish, as part of the general plan of development and use for the Property, a framework of covenants, easements and restrictions which govern the Property and the Units. However, within that framework, the Board and the Members must have the ability to respond to unforeseen problems and changes in circumstances, conditions, needs, desires, trends and technology which inevitably will affect the Five-Two-Five Hall Townhome Addition to the Town of Jackson, owners of Lots and Homeowners. To that end, the Board has the authority to adopt Rules and Regulations for the use of the Property and any Unit thereon.

**3.2 Rule Making Authority.**

(a) Subject to the terms of this Article, and the Board's duty to exercise business judgment and reasonableness on behalf of the Association and its Members, the Board may adopt, modify, cancel, limit, create exceptions to, or expand any Rules and Regulations, subject to this Section 3.2(a). The Board shall give notice to all Homeowners and TCHA concerning any such proposed action at least five (5) business days prior to the meeting at which such action is to be considered. Members and TCHA shall have a reasonable opportunity to be heard at such meeting prior to such action being taken. Such action shall become effective after compliance with Section 3.2(c) below if: (i) approved at a meeting of the Members by more than fifty percent (50%) of the total votes entitled to vote on the matter; and (ii) approved by TCHA.

(b) At least thirty (30) days prior to the effective date of any action taken under subsection (a) of this Section, the Board shall send a copy of the new rule or explanation of any changes to the Rules and Regulations to TCHA specifying the effective date.

(c) At least thirty (30) days prior to the effective date of any action taken under subsection (a) of this Section, the Board shall send a copy of the new rule or explanation of any changes to the Rules and Regulations to each Homeowner specifying the effective date. The Association shall provide, without cost, a copy of the Rules and Regulations then in effect to any requesting Homeowner or Mortgagee, or TCHA.

**3.3 Homeowners' Acknowledgement and Notice to Purchasers.** All Homeowners are given notice that their ownership in the Unit is subject to a Ground Lease that contains limitations and restrictions on the occupancy, use and transfer of the Unit, it being the express intent of TCHA that the Property remain a permanently affordable residential neighborhood for income-qualified individuals into the future. All Homeowners are given further notice that occupancy and use of their Unit, Lot and the Common Elements are limited by the Rules and Regulations as they may be adopted, amended, expanded and otherwise modified hereunder. Each Homeowner, by acceptance of a deed of conveyance for their Unit, acknowledges and

agrees that the use and enjoyment and marketability of his or her Unit can be affected by the Governing Documents and the Ground Lease, and that the Rules and Regulations may change from time to time. All purchasers of Units are on notice that that the Rules and Regulations are not recorded in the Public Records. Copies of the Rules and Regulations may be obtained from the Association.

**3.4 Limitation of Rule Making Authority / Protection of Homeowners and Others.** No rule shall be adopted in violation of the following provisions, some of which define permitted and prohibited uses, except as may be specifically set forth in these Covenants (either initially or by amendment) or in the Rules and Regulations.

(a) Equal Treatment. Similarly situated Homeowners shall be treated similarly by the Board and the Association.

(b) Displays. The rights of Homeowners to display religious and holiday signs, symbols, and decorations inside their Unit(s) of the kinds normally displayed in dwellings located in single-family residential neighborhoods shall not be abridged, except that the Association may adopt reasonable time, place, and manner restrictions with respect to displays visible from outside the dwelling. No rules shall regulate the content of political signs; however, rules may regulate the time, place and manner of posting such signs (including design criteria).

(c) Household Composition. No rule shall interfere with the freedom of Owners to determine the composition of their households, provided, however, that the occupancy of each Unit shall be in accordance with the Ground Lease and all applicable laws, codes, ordinances, rules and regulations applicable to the Property.

(d) Activities within Dwellings. No rule shall interfere with the activities carried on within the confines of dwellings, except that the Association may prohibit activities not normally associated with property restricted to residential use, and it may restrict or prohibit any activities that create monetary costs for the Association or other Homeowners, that create a danger to the health or safety of occupants of other Units, that generate excessive noise or traffic or parking, that create unsightly conditions visible outside the dwelling, or that create an unreasonable source of annoyance or regular foot-traffic through the Property. This provision is specifically intended to prohibit any home office use that has regular comings and goings by customers of the Homeowner. Home daycare operations are specifically prohibited in any Unit.

(e) Insurance Rates. Nothing shall be done or kept on the Property which would increase the rate of insurance or cause the cancellation of insurance on any Lot or any of the improvements located upon any Lot or the Common Elements without prior written approval of the Board.

(f) Allocation of Burdens and Benefits. No rule shall alter the allocation of financial burdens among the various Units to the detriment of any Homeowner over that

Homeowner's objection expressed in writing to the Association. This provision does not affect the right to increase the amount of assessments or to levy Specific Assessments as provided by Article 8.

(g) Alienations. Except with the prior written approval of Lessor in accordance with the Ground Lease, no Unit may be rented or leased in whole or in part. The transfer of any Unit is subject to the terms of the Ground Lease.

(h) Abridging Existing Rights. If any rule would otherwise require Homeowners to dispose of personal property which they maintained in or on the Unit prior to the effective date of such rule, or to vacate a Unit in which they resided prior to the effective date of such rule, and such property was maintained or such occupancy was in compliance with these Covenants and all rules previously in force, such rule shall not apply to any such Homeowners without their written consent.

The limitations in subsections (a) through (h) of this Section shall only limit rulemaking authority exercised under Section 3.2; they shall not apply to amendments to these Covenants adopted in accordance with other provisions of these Covenants.

**3.5 Single family Residential Use.** The Units shall be used only for single-family, Homeowner occupied, residential use as set forth in these Covenants, the Ground Lease, the Certificate of Standards, along with incidental activities related to residential use as are similarly permitted.

**3.6 Permitted and Prohibited Uses.**

(a) Non residential uses, except for home occupation uses permitted by the Ground Lease, and applicable zoning and land use regulations.

(b) The construction or location of any buildings, decks, patios, structures or accessory structures except for the Units and those structures constructed in accordance with the Certificate of Standards.

(c) Dredging, mining, excavation, or the exploration for, extraction or processing of oil and gas or minerals, or the removal or processing of rock, sand and gravel.

(d) Off-road use of vehicles and off-trail use of any form of motorized transportation, except for the use of vehicles to respond to emergencies.

(e) The construction of any roads, driveways, and parking areas or places not depicted on the Final Plat, except as may be reserved by TCHA herein or on the Final Plat.



(f) The storage of recreational vehicles or equipment (including, but not limited to boats, campers, and motor homes), furniture, and any other items or structures, and the dumping or storing of ashes, trash, garbage, junk, or other unsightly or offensive materials.

(g) Clearing, grading or other movement of the natural topography of the land except such clearing for safety purposes (e.g. deadfall along roads, or next to other structures), or clearing for the fire safety based on an improved fire management plan.

(h) The storage of garbage except in designated spaces within the General Common Element – Trash/Recycling as designated on the Final Plat. No garbage or other materials shall be set out in such a manner to allow persons, vehicles, animals, or weather to scatter such garbage or other materials on the Property

(i) No refrigerators, freezers, space heaters or other appliances or equipment are permitted within the LCE – Garage.

(j) No fencing shall be erected or maintained on the Property.

(k) No hot tubs are permitted.

(l) LCE – Bike area as designated on the Plat shall only be used for storage of bicycles, and each Homeowner shall maintain such storage area in a neat and clean manner. Notwithstanding the foregoing, bicycles may also be stored in LCE – Garage.

(m) Use of all other services and amenities on the Property, shall be managed by the Association and be subject to the Rules and Regulations.

(n) No hunting or discharge of firearms shall be permitted on any portion of the Property. No discharge of firecrackers or other fireworks shall be permitted on any portion of the Property; provided, however, the Board shall have no obligation to take action to prevent or stop such discharge.

(o) No exterior radio, television, microwave or other antenna or antenna dish or signal capture and distribution device shall be installed or erected by or at the direction of a Homeowner. Notwithstanding the foregoing, the Association may install one or more exterior radio, television, microwave or other antenna or antenna dish or signal capture and distribution device for each building.

(p) The following items are prohibited from being attached, stored and/or erected in any manner by a Homeowner on or within the Common Elements: sunshades, trash containers, or any similar items, and paint, highly flammable materials, food products and any item that attracts vermin or produces an odor.

(q) The Common Elements, including parking spaces, garage spaces, hallways, stairs, decking, walkways, sidewalks and patios, shall be kept in a neat and orderly fashion at all times. No exterior area may be used for the storage of recreational equipment, toys or other equipment (including without limitation, bicycles, kayaks, ski equipment, playground equipment, etc.), except as may be permitted in the Rules and Regulations.

### **3.7 Vehicle Parking, Storage, Operation and Repair.**

(a) No boats, trailers, buses, motor homes, campers (on or off supporting vehicles), trucks, snowmobiles, recreational vehicles, golf carts (collectively "Recreational Vehicles and Trailers"), abandoned or inoperable vehicles (as defined below), or any other similar vehicles (excepting operating passenger automobiles and one ton or smaller trucks) shall be stored in or upon the Common Elements, and no vehicle of any kind shall be maintained, repaired, repainted, serviced or rebuilt on any Lot or on the Common Elements. This restriction shall not prevent the non-commercial washing and polishing of vehicles, trailers and boats, together with activities normally incidental thereto in the LCE – Parking or LCE - Garage. Notwithstanding the foregoing, Recreational Vehicles and Trailers, so long as operable and not abandoned, and operating passenger automobiles and one ton or smaller trucks, may be stored in or on designated Limited Common Element – Parking and Limited Common Element – Garage, as specified on the Final Plat

(b) An "abandoned or inoperable vehicle" shall mean any motorized vehicle which does not display a current valid motor vehicle license and registration tag or which has not been driven under its own propulsion for a period of two (2) weeks or longer (excepting otherwise permitted vehicles parked by Unit Homeowners or occupants on their Unit Limited Common Element - Parking while on vacation or during a period of illness), or which does not have an operable propulsion system within the vehicle.

(c) In the event that the Board shall determine that a vehicle is abandoned or inoperable, or is otherwise in violation of the provisions of these Covenants, a written notice of violation describing said vehicle shall be personally delivered to the vehicle Homeowner (if such Homeowner can be reasonably ascertained) or shall be conspicuously placed upon the vehicle (if the Homeowner cannot be reasonably ascertained), and if the offending vehicle is not removed within seventy-two (72) hours thereafter, the Board shall have the right to have the offending vehicle removed and stored, at the sole expense of the Homeowner of the Unit number associated with the Limited Common Element on which the vehicle is located and to enter upon such LCE for such purpose, all without liability on the part of the Board.

**3.8 Domestic Animals.** Except as specifically permitted below or by the Rules and Regulations, no animals, reptiles, primates, fish, fowl or insects of any kind shall be kept, raised, bred, maintained or boarded within or upon any part of the Property or a Unit.

Notwithstanding the foregoing, each Unit shall be entitled to a maximum of two Household Pets. The term Household Pet(s) means generally recognized Household Pets such as dogs, cats, fish, birds, rodents, and non-poisonous reptiles. Pets may not be kept for any commercial purpose, may not cause an unreasonable amount of noise or odor, and may not otherwise become a nuisance to other Unit Homeowners. All Homeowners with Household Pets shall keep the animals restrained and controlled at all times so they do not cause a nuisance to others and do not harass or endanger others. "Nuisance" means any noisy animal, any vicious animal, or any animal which chews, tears, digs in or scratches, litters or soils, destroys, or in any other manner injures clothing, garbage containers, gardens, flower beds, lawns, trees, shrubbery, or any other property within the Property. Excessive, continued, or untimely barking, molesting passersby, chasing vehicles, habitually attacking other animals, trespassing upon private property in such a manner as to damage property shall also be deemed a Nuisance. "Noisy Animal" means any animal which habitually, constantly, or frequently disturbs the sleep, or the peace and quiet of any person.

No Homeowner or keeper of any animal who is visiting or working on the Property or any Unit shall be permitted to allow such animals to run free. Also, no pet or animal shall be restrained by leash, cord, chain, rope, or other attachment fixed to any vehicle, post, tree, or other structure or object within the Property thereby allowing such animal to become a nuisance or interfere with pedestrian or vehicular traffic in and around any public area within the Property. Contractors, sub-contractors and any other person providing services to a Unit may not bring dogs onto the Property.

Food for Household Pets shall be stored in a secure area that cannot be accessed by wildlife.

The Homeowner of a Unit where a Household Pet is kept, as well as the legal owner of the Household Pet (if not such Homeowner), shall be jointly and severally liable for any and all damage and destruction caused by the Household Pet, and for all clean-up of Common Elements necessitated by such Household Pet.

The Board shall have, and is hereby given, the right and authority to determine in its sole discretion that Household Pets are being kept for commercial purposes, or are otherwise a nuisance to other Unit Homeowners, or that a Unit Homeowner is otherwise in violation of this Section, and to take such action or actions as it deems reasonably necessary to remedy the violation. Without limiting the generality of the foregoing, the Association may require the Homeowner or custodian of a dog that barks or howls excessively, or of a Household Pet with other offensive habits, to confine such animal indoors. Further, the Association may require a Homeowner, at its own expense, to remove the Household Pet determined by the Association to be a Nuisance and, upon failure of the Homeowner to do so, the Board or its designee shall have the right to enter the Unit and remove the Household Pet determined to be a Nuisance and any such action shall not be deemed a trespass. If the Board removes a Nuisance Animal,

the Nuisance Animal shall be kenneled and the cost therefore shall be levied against the offending Homeowner as a Specific Assessment.

**3.9 GCE – Garden.** The General Common Element – Garden may be used as a community Garden which benefits all of the Homeowners. The Association shall determine the use of the GCE- Garden in conformance with the Certificate of Standards. Initially the area shall be lawn.

**3.10 LCE – Garage, LCE - Parking.** Each Homeowner shall have the exclusive right to use and enjoy the Limited Common Element - Garage and Limited Common Element – Parking designated to such Lot on the Final Plat on which a Homeowner's Unit is located, subject to the Association's rule making and easement rights for maintenance, repair and replacement as described elsewhere herein, and shall be required to park vehicles solely in such designated areas.

**3.11 Homeowner's Right to the Common Elements.** Subject to the limitations contained in these Covenants, each Homeowner shall have the nonexclusive right to use and enjoy the General Common Elements shown on the Final Plat and defined herein. Each Homeowner shall have the exclusive right to use and enjoy the Limited Common Elements designated to such Lot on the Final Plat on which a Homeowner's Unit is located, subject to the Association's rule making and easement rights for maintenance, repair and replacement as described elsewhere herein.

**3.12 Homeowner's Rights with Respect to Interiors.** Except as provided in these Covenants and the Ground Lease, each Owner shall have the exclusive right to paint, repaint, tile, paper, or otherwise maintain, refinish, and decorate the interior surfaces of the walls, ceilings, floors, doors and clean the exterior and interior surfaces of the windows, all of which form the boundaries of his/her Unit and all walls, ceilings, floors, and doors within such boundaries.

**3.13 TCHA's Right Incident To Construction.** TCHA, and Persons it shall select, shall have the right to ingress and egress over, upon, and across the Common Elements, the right to store materials thereon and to make such other use thereof as may be reasonably necessary incident to the completion of the development of the Property.

**3.14. No Development.** No structure shall be placed, erected, or installed upon any Lot or the Common Elements, and, no improvements (including staking, clearing, excavation, grading and other site work, exterior alterations of existing Units, and planting or removal of landscaping materials) shall take place, except in compliance with the Ground Lease, the Certificate of Standards, and the Town of Jackson, Wyoming Land Development Regulations.

## ARTICLE 4 – [RESERVED]

## ARTICLE 5 – HOMEOWNER MAINTENANCE

Each Homeowner shall maintain his or her Lot, Unit and any and all improvements thereon, including without limitation all interiors, glass, appliances, equipment, heating systems, and utilities, and any and all landscaping situated on the Lot, in a manner consistent with the Governing Documents, the Ground Lease, all applicable covenants and in a manner that meets or exceeds the construction standard set by TCHA and Habitat in the original construction of the Units. If any Homeowner fails to maintain, repair and/or replace the items that it is obligated to maintain, repair and replace, TCHA and/or the Association shall be authorized, after providing 14 days prior notice to the Homeowner of such failure, to enter upon the Lot and/or Unit to cure such failure and to assess all costs incurred against the Unit and the Homeowner thereof as a Specific Assessment. Homeowners shall be responsible for and shall be obligated to maintain and repair structures added by such Homeowners, as well as glass surfaces and exterior doors.

## ARTICLE 6 – THE ASSOCIATION AND ITS MEMBERS

**6.1 Function of Association.** The Association shall be the entity responsible for management, maintenance, operation and control of the homeowners association created herein. The Association also shall be the primary entity responsible for enforcement of the Governing Documents, except for the Ground Lease. The Association shall perform its functions in accordance with the Governing Documents and applicable law.

**6.2 Membership.** Every Homeowner of a Unit shall be a Member of the Association. There shall be only one membership per Unit. If a Unit is owned by more than one Person, all co-owners shall share the privileges of such membership, subject to reasonable Board regulation and the restrictions on voting set forth in Section 6.3 and in the By-Laws, and all such co-owners shall be jointly and severally obligated to perform the responsibilities of Homeowners.

**6.3 Voting.** Each Member shall have one equal vote for each Unit in which they hold the interest required for membership under Section 6.2. All votes shall be cast as provided in this Section.

(a) Exercise of Voting Rights. The vote for each Unit owned by a Member shall be exercised by the Homeowner of the Unit. In any situation where there is more than one Homeowner of such Unit, the vote for such Unit shall be exercised as the co-owners determine among themselves and advise the Secretary of the Association in writing prior to the vote being taken. Absent such advice, the Unit's vote shall be suspended if more than one Person seeks to exercise it.

(b) Commencement of Voting Rights. Voting rights as to each Unit shall vest upon transfer of a Unit to a Homeowner.

## **ARTICLE 7 – ASSOCIATION POWERS AND RESPONSIBILITIES**

### **7.1 Authority of Board.**

(a) The Board shall have full power and authority to manage the business and affairs of the Association, and to enforce the provisions of the Governing Documents.

(b) The Board may acquire, hold, and dispose of tangible and intangible personal property, and the Board shall hold, manage, maintain and preserve the General Common Element and such other areas designated in these Covenants, including without limitation the Limited Common Elements.

(c) The Board shall be obligated to maintain the landscaping on the General Common Element and LCE - Yard. As determined necessary by TCHA, the Association shall be obligated to replace the landscaping originally provided on the General Common Element by TCHA. This provision shall be specifically enforceable by TCHA so long as these Covenants shall remain in effect. If any Homeowner fails to maintain and/or replace the landscaping on such Homeowner's Lot, TCHA and/or the Association shall be authorized, after providing notice to the Homeowner of such failure and an opportunity to cure in accordance with procedures adopted by the Board, to enter upon the Lot to cure such failure and to assess all costs incurred against the Lot and the Homeowner thereof as a Specific Assessment.

### **7.2 Maintenance.**

(a) Common Elements. The Association shall maintain the General Common Element as it is designated on the Final Plat. The costs associated with maintenance, repair and replacement of the General Common Element shall be a Common Expense; provided, the Association may seek reimbursement from the Homeowner(s) of, or other Person responsible for, certain portions of the General Common Element pursuant to these Covenants, other recorded covenants, or agreements with the Homeowner(s) thereof. The maintenance, repair and replacement of all Limited Common Elements shall be the responsibility of the Association and the costs of such maintenance, repair and replacement shall be included in the Common Expenses. The Association may adopt rules regarding parking, garages, trash and recycling pickup, snow removal, landscaping and other matters relevant to maintaining the Property in a clean, safe and orderly manner.

(b) Units. The Association shall, for purposes of maintaining the appearance of building improvements, provide maintenance upon the exterior of each Unit located upon a Lot, including but not limited to: paint, repair, replace and care for roofs and exterior building surfaces, foundations, decks, walkways, etc.; provided however, that the Association shall not be

required to provide any maintenance to structures added by the Homeowner. Such exterior maintenance shall not include the maintenance, repair or replacement of glass surfaces or exterior doors, however, such glass surfaces and exterior doors shall be maintained, repaired and replaced by the Homeowners in accordance with the Certificate of Standards and consistent with glass and exterior doors to other Units.

(c) Utilities. Any utility services or other types of elements which are utilized in common, such as, but not limited to, sewer or water lines, shall be maintained, repaired and replaced, as needed, by the Association.

(d) Common Expense. The costs associated with maintenance, repair and replacement of the exterior improvements to be paid for by the Association as provided for in this Section shall be a Common Expense. However, in the event that the need for maintenance, repair or replacement is caused through the willful, intentional or negligent act of the Homeowner, such Homeowner's family, guests, or invitees, the cost of such maintenance or repairs shall be added to and become a part of the assessment to which such Lot is subject.

(e) Certificate of Standards. All maintenance, repair or replacement to be undertaken with respect to a Unit, Lot or the Common Elements shall be in conformance with the Certificate of Standards.

### **7.3 Insurance.**

(a) Required Coverages. The Association, acting through its Board or its duly authorized agent, shall obtain and continue in effect the following types of insurance, if reasonably available, or if not reasonably available, the most nearly equivalent coverages as are reasonably available:

(i) Blanket property insurance covering "risks of direct physical loss" on a "special form" basis (or comparable coverage by whatever name denominated) for all Units and insurable improvements within the Property. If such coverage is not generally available at reasonable cost, then "broad form" coverage may be substituted. All property insurance policies obtained by the Association shall have policy limits sufficient to cover the full replacement costs of the insured improvements (including all Units and garages) under the then current building ordinance and codes. TCHA shall be named as an additional insured on all policies of insurance covering direct physical loss to any Unit or other improvement;

(ii) Commercial general liability insurance on the Common Elements, Units and Lots, insuring the Association and its Members for damage or injury caused by the negligence of the Association or any of its Members, employees, agents, or contractors while acting on its behalf, including an endorsement for Director and Officer coverage. Such coverage (including primary and any umbrella coverage) shall be with an insurance company and have limits that are commercially reasonable and typical for residential neighborhoods of similar size

and type and as TCHA shall approve. If the policy does not contain "severability of interest" in its terms, the Association shall acquire an endorsement to preclude the insurer's denial of a Unit Homeowner's claim because of negligent acts of the Association or of other Unit Homeowners; and

(iii) Such additional insurance as the Board, in its best business judgment, determines advisable.

Premiums for all insurance on the General Common Element and the Lots shall be assessed by the Board as a Common Expense. Premiums for all insurance on the Units shall be assessed against the Homeowners as a Specific Assessment the cost of which shall be divided pro-rata among the Homeowners according to the square-footage size of each Unit.

(b) Policy Requirements. The Association shall arrange for an annual review of the sufficiency of its insurance coverage by one or more qualified Persons, at least one of whom must be familiar with insurable replacement costs in the Town of Jackson, Wyoming area. All Association policies shall provide for a certificate of insurance to be furnished to the Association and TCHA, and, upon request, to each Member insured.

The policies may contain a reasonable deductible, and the amount thereof shall not be subtracted from the face amount of the policy in determining whether the policy limits satisfy the requirements of Section 7.3(a). In the event of an insured loss, the deductible shall be treated as a Common Expense in the same manner as the premiums for the applicable insurance coverage except for the deductible attributable to the insured loss of an insured Unit the cost of which shall be a Specific Assessment as provided for in Section 7.3(a). However, if the Board reasonably determines, after notice and an opportunity to be heard in accordance with procedures adopted by the Board, that the loss is the result of the negligence or willful misconduct of one or more Homeowners, their guests, invitees, or lessees, then the Board may assess the full amount of such deductible against such Homeowner(s) and their Unit as a Specific Assessment.

All insurance coverage obtained by the Board shall:

(i) Be written with a company authorized to do business in the State of Wyoming;

(ii) Be written in the name of the Association as trustee for the benefited parties, including TCHA.

In addition, the Board shall use reasonable efforts to secure insurance policies which list the Homeowners as additional insureds and provide:



(i) That such insurance is not to be brought into contribution with insurance purchased by Homeowners, occupants, or their Mortgagees individually;

(ii) That such insurance contain an inflation guard endorsement;

(iii) An agreed amount endorsement if the policy contains a co-insurance clause;

(iv) A waiver of subrogation under the policy against any Homeowner or family member of a Homeowner;

(v) An endorsement precluding cancellation, invalidation, suspension, or non-renewal by the insurer on account of any one or more individual Homeowners, or on account of any curable defect or violation without prior written demand to the Association to cure the defect or violation and allowance of a reasonable time to cure;

(vi) An endorsement precluding cancellation, invalidation, or condition to recovery under the policy on account of any act or omission of any one or more individual Homeowners, unless such Homeowner is acting within the scope of its authority on behalf of the Association;

(vii) That the policy will be primary, even if a Homeowner has other insurance that covers the same loss.

(viii) A waiver of subrogation as to any claims against the Association's Board, officers, employees, and its manager, its attorneys, the Homeowners and their tenants, servants, agents, and guests;

(ix) A waiver of the insurer's rights to repair and reconstruct instead of paying cash;

(x) An endorsement excluding Homeowners' individual policies from consideration under any "other insurance" clause;

(xi) An endorsement requiring at least thirty (30) days prior written notice to the Association of any cancellation, substantial modification, or non-renewal;

(xii) A provision vesting in the Board exclusive authority to adjust losses; provided, however, no Mortgagee having an interest in such losses may be prohibited from participating in the settlement negotiations, if any related to the loss.

(c) Restoring Damaged Improvements. In the event of damage to or destruction of property which the Association is obligated to insure, the Board or its duly

authorized agent shall file, with assistance from any affected Homeowner, all insurance claims and obtain reliable and detailed estimates of the cost of repairing or restoring the property to substantially the condition in which it existed prior to the damage, allowing for changes or improvements necessitated by changes in applicable building codes.

Damaged improvements on the Property shall be repaired or reconstructed in accordance with the Certificate of Standards and to TCHA's reasonable satisfaction.

Any insurance proceeds remaining after paying the costs of repair or reconstruction, or after such settlement as is necessary and appropriate, shall be retained by the Association for the benefit of its Members or the Homeowners of Units, as appropriate, and placed in a capital improvements account.

If insurance proceeds are insufficient to cover the costs of repair or reconstruction, the Board may, without a vote of the Members, levy Special Assessments to cover the shortfall against those Homeowners responsible for the premiums for the applicable insurance coverage under this Section 7.3.

**7.4 Compliance and Enforcement.** Every Homeowner and occupant of a Unit shall comply with the Governing Documents. The Board shall have the right to require compliance with the Governing Documents, or may impose sanctions for violation of the Governing Documents after notice to an offending Homeowner and a reasonable opportunity to cure. The Board shall have the right to require compliance with the Governing Documents by legal proceedings as provided hereafter. The Board shall also have the right to impose sanctions which may include, without limitation:

(a) Imposing reasonable monetary fines (which shall not, except in the case of nonpayment of assessments, constitute a lien upon the violator's Unit). In the event that any occupant, guest or invitee of a Unit violates the Governing Documents and a fine is imposed, the fine shall first be assessed against the violator; provided however, if the fine is not paid by the violator within the time period set by the Board, the Homeowner shall pay the fine upon notice from the Board;

(b) Suspending a Homeowner's right to vote;

(c) Exercising self-help or taking action to abate any violation of the Governing Documents in a non-emergency situation;

(d) Requiring a Homeowner, at its own expense, to remove any non-complying structure or improvements on such Homeowner's Unit and to restore the Unit to its previous condition and, upon failure of the Homeowner to do so, the Board or its designee shall have the right to enter the Unit, remove the violation and restore the Unit to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(e) Without liability to any Person, precluding any contractor, subcontractor, agent, employee or other invitee of a Homeowner who fails to comply with the terms and provisions of Article 4 from continuing or performing any further activities on the Property; and

(f) Levying Specific Assessments to cover costs incurred by the Association to bring a Unit into compliance with Governing Documents.

In addition, the Board may take the following enforcement procedures to ensure compliance with the Governing Documents.

(g) Exercising self-help in any emergency situation (specifically including, but not limited to, the towing of vehicles that are in violation of parking rules and regulations); and

(h) Bringing suit at law or in equity to enjoin any violation or to recover monetary damages to both.

In addition to any other enforcement rights, if a Homeowner fails to properly perform his or her maintenance responsibility, the Association may record a notice of violation in the Public Records or perform such maintenance responsibilities and assess all costs incurred by the Association against the Unit and the Homeowner as a Specific Assessment. Except in an emergency situation, the Association shall provide the Homeowner reasonable notice and an opportunity to cure the problem prior to taking such enforcement action.

All remedies set forth in the Governing Document shall be cumulative of any remedies available at law or in equity. In any action to enforce the Governing Documents, if the Association prevails, it shall be entitled to recover all costs, including, without limitation, attorneys fees and court costs, reasonably incurred in such action.

The Association shall not be obligated to take any action if the Board reasonably determines that the Association's position is not strong enough to justify taking such action. Such a decision shall not be construed a waiver of the right of the Association to enforce such provision at a later time under other circumstances or estop the Association from enforcing any other covenant, restriction or rule.

The Association or TCHA, by contract or other agreement, may enforce applicable city and county ordinances, if applicable, and permit Town of Jackson, Wyoming to enforce ordinances within the Property for the benefit of the Association and its Members.

**7.5 Implied Rights; Board Authority.** The Association may exercise any right or privilege given to it expressly by the Governing Documents, or reasonably implied from or reasonably necessary to effectuate any such right or privilege. Except as otherwise specifically

provided in the Governing Documents, or by law, all rights and powers of the Association may be exercised by the Board without a vote of the membership.

**7.6 Indemnification of Officers, Directors and Others.** The Association shall indemnify every officer and director against all damages and expenses, including counsel fees, reasonably incurred in connection with any action, suit, or other proceeding (including settlement or any suit or proceeding, if approved by the Board) to which he or she may be a party by reason of being or having been an officer, director, or committee member, except that such obligation to indemnify shall be limited to those actions for which liability is limited under Wyoming law.

**7.7 Provision of Services.** The Association shall be authorized but not obligated to enter into and terminate, in the Board's discretion, contracts or agreements with service providers, to provide services to and facilities for the Members of the Association and their guests, lessees and invitees and to charge use and consumption fees for such services and facilities. By way of example, some services which might be offered include property management services, snow removal, trash and recycling removal, landscape maintenance, pest control, utilities, and similar services.

## **ARTICLE 8 – ASSOCIATION FINANCES**

**8.1 Budgeting and Allocating Common Expenses.** At least sixty (60) days before the beginning of each fiscal year, the Board shall prepare a budget of the estimated Common Expenses, for the coming year, including any contributions to be made to a reserve fund pursuant to this Article 8. The budget shall also reflect the sources and estimated amounts of funds to cover such expenses, which may include any surplus to be applied from prior years, any income expected from sources other than assessments levied against the Units, and the amount to be generated through the levy of Base Assessments, Special Assessments and Specific Assessments against each.

The Association is hereby authorized to levy Base Assessments against all Units to fund the Common Expenses. In determining the Base Assessment rate per Unit, the Board may consider any assessment income expected to be generated from any additional Units reasonably anticipated becoming subject to assessment during the fiscal year.

The Board shall send a copy of the final budget, together with notice of the amount of the Base Assessment to be levied pursuant to such budget, to each Homeowner and to TCHA not less than forty-five (45) nor more than sixty (60) days prior to the effective date of such budget; provided, however, if the Base Assessment is increased from the previous year's Base Assessment, the Board shall send notice of the increase to the Homeowners not less than thirty (30) nor more than sixty (60) days prior to the increased Base Assessment becoming due. Such budget and assessment shall automatically become effective subject to the limitation on increases of assessments provided for in Section 8.5.

Failure of the members to approve a budget or failure of the Board to fix assessment amounts or rates or to send to each Homeowner an assessment notice shall not be deemed a waiver, modification, or a release of any Homeowner from the obligation to pay assessments. In such event, each Homeowner shall continue to pay assessments on the same basis as for the last year for which an assessment was made, if any, until a new assessment is made, at which time the Association may retroactively assess any shortfalls in collections.

The Board may revise the budget and adjust the Base Assessment from time to time during the year, subject to the notice requirements and the limitations on increases of assessments provided for in Section 8.5.

**8.2 Budgeting for Reserves.** The Board shall prepare and review at least annually a reserve budget for capital expenses of the Association. The budget shall take into account the number and nature of replaceable assets, the expected life of each asset, and the expected repair or replacement cost. The Board shall include in the Common Expense budget adopted pursuant to Section 8, a capital contribution to fund reserves in an amount sufficient to meet the projected need with respect both to amount and timing by annual contributions over the budget period. TCHA shall have the right to revise and approve the reserve budget to the extent TCHA determines in its reasonable discretion to adequately maintain the replaceable assets.

**8.3 Special Assessments.** In addition to other authorized assessments, the Association may, subject to the limitations of Section 8.5, levy Special Assessments to cover unbudgeted expenses or expenses in excess of those budgeted. Any such Special Assessment may be levied against the entire membership, if the Special Assessment is for Common Expenses, or against an individual Unit or Units or if such Special Assessment is for an unbudgeted expense relating to less than all of the Units. Special Assessments shall be payable in such manner and at such times as determined by the Board, and may be payable in installments extending beyond the fiscal year in which the Special Assessment is approved. The Board shall give notice to the Homeowner(s) of the Unit(s) subject to a Special Assessment not less than thirty (30) nor more than sixty (60) days prior to the Special Assessment becoming due.

**8.4 Specific Assessments.** The Association shall have the power to levy Specific Assessments against a particular Unit to cover costs incurred in bringing a nonconforming Unit into compliance with the Governing Documents, or costs incurred as a consequence of the conduct of the Homeowner or occupants of a nonconforming Unit, their agents, contractors, employees, licensees, invitees, or guests; provided, the Board shall give the nonconforming Unit Homeowner prior written notice and a reasonable opportunity to cure, before levying any Specific Assessment under this Section.

**8.5 Limitation of Increases of Assessments.** Notwithstanding any provision to the contrary, and except for assessment increases necessary for emergency situations, the Board

may not impose a Base Assessment that is more than ten percent (10%) greater than each of those assessments for the immediately preceding fiscal year, nor impose a Special Assessment which in the aggregate exceeds five percent (5%) of the budgeted Common Expenses for the current fiscal year, without a majority vote of a quorum of the Members which are subject to the applicable assessment at a meeting of the Association, or action without meeting by written ballot in lieu thereof signed by all of the Members of the Association.

For purposes of this Section, "quorum" means at least sixty-five percent (65%) of the total voting power of the Association subject to the applicable assessment. For purposes of this Section, the term "Base Assessment" shall be deemed to include the amount assessed against each Unit plus a pro rata allocation of any amounts the Association received through any subsidy or maintenance agreement, if any, in effect for the year immediately preceding the year for which the assessment is to be increased.

An emergency situation is any one of the following:

- (a) An extraordinary expense required by an order of a court;
- (b) An extraordinary expense necessary to repair or maintain the Property or any part of the Property or Unit(s) for which the Association is responsible where a threat to personal safety on the Property is discovered; or
- (c) An extraordinary expense necessary to repair or maintain the Property or any part of the Property or Unit(s) for which the Association is responsible which could not have been reasonably foreseen by the Board in preparing and distributing the pro forma budget pursuant to Section 8. However, prior to the imposition or collection of such an assessment, the Board shall pass a resolution containing written findings as to the necessity of the extraordinary expense involved and why the expense was not or could not have been reasonably foreseen in the budgeting process. Such resolution shall be sent to the Members with the notice of such assessment. In no event shall such resolution become effective against TCHA, if TCHA owns any Unit(s) within the Property.

**8.6 Authority to Assess Homeowners; Date of Commencement of Assessments; Time of Payment.** TCHA hereby establishes and the Association is authorized to levy and collect assessments as provided for in this Article and elsewhere in the Governing Documents. The obligation to pay the assessments provided for herein shall commence upon transfer of a Unit to a Homeowner.

Assessments shall be paid in such manner and on such dates as the Board may establish. The Board may require advance payment of assessments at closing of the transfer of title to a Unit and impose special requirements for Homeowners with a history of delinquent payment. If the Board so elects, assessments may be paid in two or more installments. If any Homeowner is

delinquent in paying any assessments or other charges levied on his or her Unit, the Board may require the outstanding balance on all assessments to be paid in full immediately.

**8.7 Personal Obligation.** Each Homeowner, by accepting a deed of conveyance or entering into a recorded contract of sale for Unit, is deemed to covenant and agree to pay all assessments authorized in the Governing Documents. All assessments, together with interest (computed from its due date at a rate of eighteen percent (18%) per annum or such other rate as the Board may establish, subject to the limitations of Wyoming law), late charges as determined by Board resolution, costs, and reasonable attorneys' fees, shall be the personal obligation of each Homeowner and a lien upon each Unit until paid in full.

Failure of the Board to fix assessment amounts or rates or to send each Homeowner an assessment notice shall not be deemed a waiver, modification, or a release of any Homeowner from the obligation to pay assessments. In such event, each Homeowner shall continue to pay Base Assessments on the same basis as during the last year for which an assessment was made, if any, until a new assessment is levied, at which time the Association may retroactively assess any shortfalls in collections.

No Homeowner may exempt himself from liability for assessments by non-use of the General Common Element by abandonment of his Unit, or any other means. The obligation to pay assessments is a separate and independent covenant on the part of each Homeowner. No diminution or abatement of assessments or set-off shall be claimed or allowed for any alleged failure of the Association or Board to take some action or perform some function required of it, or for inconvenience or discomfort arising from the making of repairs or improvements, or from any other action it takes.

The Association shall, upon request, furnish to any Homeowner liable for any type of assessment a certificate in writing signed by an Association officer setting forth whether such assessment has been paid. Such certificate shall be conclusive evidence of payment. The Association may require the advance payment of a reasonable processing fee for the issuance of such certificate.

## ARTICLE 9 - ADDITIONAL COVENANTS AND OBLIGATIONS

**9.1 Additional Covenants, Easements and Obligations.** TCHA may subject any portion of the Property to additional covenants and easements, including covenants obligating the Association to maintain and insure such property and authorizing the Association to recover its costs through the various Assessments as provided for herein. Such additional covenants and easements may be set forth either in Supplemental Covenants subjecting such property to these Covenants or in separate Supplemental Covenants referencing property previously subjected to these Covenants. If the property is owned by someone other than TCHA, then the consent of the Homeowner(s) shall be necessary and shall be evidenced by their execution of the Supplemental Covenants. Any such Supplemental Covenants may supplement, create exceptions to, or otherwise modify the terms of these Covenants as it applies to the subject property in order to reflect the different character and intended use of such property, including without limitation, subject to Section 8.5, the right to increase assessments for operating costs and the reserve budget.

**9.2 Effect of Filing Supplemental Covenants.** Any Supplemental Covenants filed pursuant to this Article shall be effective upon recording in the Public Records unless otherwise specified in such Supplemental Covenants.

## ARTICLE 10 – ADDITIONAL RIGHTS RESERVED TO TCHA

**10.1 TCHA Right to Amend.** Prior to the sale of seventy-five percent (75%) of the Units to persons not affiliated with TCHA, TCHA reserves the right to amend these Covenants, without prior notice and without the consent of any Person.

**10.2 Right to Approve Additional Covenants.** No Person shall record any declaration of covenants, conditions and restrictions, or declaration of condominium or similar instrument affecting any portion of the Property without TCHA's review and written consent. Any attempted recordation without such consent shall result in such instrument being void and of no force and effect unless subsequently approved by written consent signed by TCHA and recorded in the Public Records.

**10.3 Right to Approve Changes to Rules and Regulations.** No adoption of or amendment to or modification of any Rules and Regulations shall be effective without prior notice to and the written approval of TCHA.

**10.4 Right to Transfer or Assign TCHA Rights.** Any or all of the special rights and obligations of TCHA set forth in these Covenants may be transferred in whole or in part to other Persons; provided, the transfer shall not reduce an obligation or enlarge a right beyond that which TCHA has under these Covenants. No such transfer or assignment shall be effective unless it is in a written instrument signed by TCHA and duly recorded in the Public Records.



## ARTICLE 11 - EASEMENTS

**11.1 Easements in Common.** TCHA grants to each Homeowner a non-exclusive right and easement of use, access, and enjoyment in and to the Common Elements, subject to:

- (a) The Governing Documents and any other applicable covenants;
- (b) the rights of other Homeowners, Members and the Association; and
- (c) The right of the Board to adopt rules regulating the use and enjoyment of the area of the General Common Element.

### **11.2 Easements for Drainage, Utilities.**

(a) All dedications, limitations, restrictions and reservations of easements, including those for drainage, shown on any Final Plat and set forth in the Certificate of Standards are incorporated herein by reference and made a part of these Covenants for all purposes as if fully set forth in these Covenants.

(b) TCHA reserves for itself, so long as TCHA owns any of the Property, and grants to the Association and all utility providers, perpetual non-exclusive easements throughout all of the Property (but not through a Unit) to the extent reasonably necessary for the purpose of:

(i) Installing utilities and infrastructure, including without limitation, cable and other systems for sending and receiving data and/or other electronic signals; security and similar systems; walkways, pathways and trails; drainage systems and signage; to serve the Property;

(ii) Inspecting, maintaining, repairing and replacing such utilities and infrastructure to serve the Property;

(iii) Access to read utility meters;

(iv) Operating and maintaining the irrigation for landscaping or other Common Element needs.

(c) TCHA also reserves for itself the non-exclusive right and power to grant and record in the Public Records such specific easements as may be necessary, in the sole discretion of TCHA, in connection with the orderly development and use of the Property.

(d) All work associated with the exercise of the easements described in subsections (b) and (c) of this Section shall be performed in such a manner as to minimize

interference with the use and enjoyment of the property burdened by the easement. Upon completion of the work, the Person exercising the easement shall restore the property, to the extent reasonably possible, to its condition prior to the commencement of the work. The exercise of these easements shall not extend to permitting entry into any Unit, nor shall it unreasonably interfere with the use of any Unit and, except in an emergency, entry into any Unit shall be made only after reasonable notice to the Homeowner or occupant.

**11.3 Easements for Maintenance, Emergency and Enforcement.** TCHA grants to the Association easements over the Common Element, the Lots and Units as necessary to enable the Association to fulfill its maintenance responsibilities hereunder. The Association shall also have the right upon reasonable notice or in the event of emergency, without notice, but not the obligation, to enter upon any Unit, for emergency, security, and safety reasons and to inspect for the purpose of ensuring compliance with and to enforce the Governing Documents. Such right may be exercised by any member of the Board and its duly authorized agents and assignees, and all emergency personnel in the performance of their duties. Except in an emergency situation, entry shall only be during reasonable hours and after notice to the Homeowner.

**11.4 Easements for Cross-Drainage.** Every Lot shall be burdened with easements for natural drainage of storm water runoff from other portions of the Property; provided, no Person shall alter the natural drainage so as to materially increase the drainage of storm water onto adjacent portions of the Property.

**11.5 Easement for Emergency Vehicles.** The Property is hereby burdened with an easement allowing all policemen, firemen, ambulance personnel, and similar emergency personnel entry to perform their duties, including the enforcement of traffic regulations.

**11.6 Easement for Encroachments.** Every Lot shall be burdened with an easement for roof and eave overhangs, foundation, footer and wall encroachments and any and all other structural encroachments created by the platting of the Property as a townhouse subdivision.

## ARTICLE 12 – ENFORCEMENT

**12.1 Enforcement by Board and Homeowners.** The limitations and requirements set forth in these Covenants shall be specifically enforceable by the Board and by any Homeowner. Every Homeowner hereby consents to the entry of an injunction against him, her or them to terminate and restrain any violation of these Covenants. Every Homeowner who uses or allows such Homeowner's Unit to be used in violation of these Covenants further agrees to pay all costs incurred by the Board or other enforcing Homeowner in enforcing these Covenants, including reasonable attorneys fees, whether suit is brought or not.

**12.2 Enforcement by TCHA and Habitat.** TCHA and Habitat shall have the right to enforce the limitations and requirements set forth in these Covenants, including but not limited to the right to specifically enforce these Covenants by legal proceedings. Every Homeowner

hereby consents to enforcement by TCHA and Habitat, including the entry of an injunction against him, her or them to terminate and restrain any violation of these Covenants. Every Homeowner who uses or allows such Homeowner's Unit to be used in violation of these Covenants further agrees to pay all costs incurred by TCHA and Habitat in enforcing these Covenants, including reasonable attorneys fees, whether suit is brought or not.

### **ARTICLE 13 – AMENDMENT OF DECLARATION**

**13.1 By TCHA.** In addition to specific amendment rights granted elsewhere in these Covenants, until conveyance of the first Unit to a Homeowner unaffiliated with TCHA, TCHA may unilaterally amend or repeal these Covenants for any purpose. Thereafter, TCHA may unilaterally amend these Covenants if such amendment is necessary to (i) bring any provision into compliance with any applicable governmental statute, rule, regulation, or judicial determination; (ii) enable any reputable title insurance company to issue title insurance coverage on the Units; (iii) enable any institutional or Federal National Mortgage Association or Federal Home Loan Mortgage Corporation, to make purchase, insure or guarantee mortgage loans on the Units; or (iv) to satisfy the requirements of any local, state or federal governmental agency. However, any such amendment shall not materially adversely affect the title to any Unit unless the Homeowner thereof shall consent in writing.

**13.2 By Members.** Except as otherwise specifically provided above and elsewhere in these Covenants, these Covenants may be amended only by the affirmative vote or written consent, or any combination thereof, of at least seventy-five percent (75%) of the Members and the written consent of TCHA.

**13.3 Validity and Effective Date.** No amendment may remove, revoke, or modify any right or privilege of TCHA without the written consent of TCHA.

If a Homeowner consents to any amendment to these Covenants or the By-Laws, it will be conclusively presumed that such Homeowner has the authority to consent, and no contrary provision in any Mortgage or contract between the Homeowner and a third party will affect the validity of such amendment.

Any amendment shall become effective upon recording in the Public Records, unless a later effective date is specified in the amendment. Any procedural challenge to an amendment must be made within thirty (30) days of its recordation, or such amendment shall be presumed to have been validly adopted. In no event shall a change of conditions or circumstances operate to amend any provisions of these Covenants.

### **ARTICLE 14 – MISCELLANEOUS**

**14.1 Duration of Declaration.** All of the Covenants, Conditions and Restrictions set forth in these Covenants, as amended as provided herein, shall continue and remain in full force

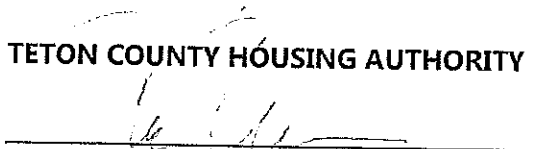
and effect at all times against the Property. If required by law these Covenants shall automatically renew every twenty (20) years unless TCHA and Seventy Five Percent (75%) or more of the Homeowners agree otherwise in a written instrument recorded in the Public Records.

**14.2 Acceptance of Declaration.** Every Homeowner shall be bound by and subject to all of the provisions of these Covenants, and every purchaser of a Unit expressly accepts and consent to the operation and enforcement of all of the provisions of these Covenants.

**14.3 Notices.** Any notice, consent or approval which is required to be given hereunder to a Homeowner shall be in writing and shall be deemed given by mailing the same, certified mail, return receipt requested, properly addressed and with postage fully prepaid to the Homeowner's mailing address on such homeowner's Ground Lease. Any notice which is required to be given hereunder to TCHA shall be given by mailing the same, certified mail, return receipt requested, properly addressed and with postage fully prepaid to TCHA, P.O. Box 714, Jackson, WY 83001. Alternatively, notice may be hand delivered, but any such hand delivery shall require a signed receipt evidencing the same. Failure of either party to pick up and/or sign for a certified mailing does not constitute failure to provide notice provided it was properly addressed and evidence of that mailing is retained. In the event of mailing, notice shall be deemed given when deposited in the U.S. Mail.

IN WITNESS WHEREOF, the undersigned TCHA has executed and adopted these Covenants effective the date and year first written above.

**TETON COUNTY HOUSING AUTHORITY**

  
Christine V. Walker, Executive Director

STATE OF WYOMING            )  
  ) ss.  
COUNTY OF TETON            )

On the 13<sup>th</sup> day of April, 2012, the foregoing Declaration of Covenants, Conditions, and Restrictions was acknowledged before me by Christine V. Walker, as the Executive Director of the Teton County Housing Authority.

Witness my hand and official seal.

  
Notary Public

(Seal)

