

**RESTRICTIVE COVENANT AGREEMENT**

pursuant to *Land Titles Act, 2015* sections 112 and 113

DATED for reference \_\_\_\_\_

BETWEEN

**NORTHERN COMMUNITY LAND TRUST SOCIETY**

(the “Grantor”)

AND

**YUKON HOUSING CORPORATION**

(the “Grantee”)

WHEREAS:

- A. The Grantor is the registered owner of:  
  
Parcel #100105276 or  
Lot 1096, Whistle Bend Subdivision,  
Whitehorse, YT, Plan 100043008  
  
(the “Land”)
- B. The Grantor received the Land from the Yukon Government on the condition that the Land be used to provide permanently affordable ownership housing as set out in the attached Appendix A (“**Appendix A**”).
- C. The Grantee is the agent for the Yukon Government pursuant to the *Housing Corporation Act*.
- D. The Grantor intends to create a condominium under the *Condominium Act* from the Land and to sell the condominium units (the “**Units**”) to Yukon residents as permanently affordable housing.
- E. The Grantor and the Grantee want the Land, all of the Units, and all future owners of the Land or the Units, to be subject to this Restrictive Covenant.

NOW THEREFORE, in consideration of the promises and covenants made herein, which serve as good and valuable consideration, the receipt and sufficiency of which are acknowledged by the Grantor, the Grantor covenants with the Grantee to observe and comply with the following restrictions, the burden of which shall run with the Land from the date that the Land is

transferred by the Commissioner of Yukon to the Grantor, expected to be \_\_\_\_\_, 202\_\_.

1. In this Restrictive Covenant, “**Owner**” means the original Grantor and any future owner of a leasehold or freehold interest in the Land or any portion of the Land, including any Unit created from the Land or any part of the Land.
2. The Land shall not be used for any purpose other than the provision of permanently affordable ownership housing as set out in the attached in Appendix A, which appendix forms a part of and is incorporated into this Agreement.
3. This Restrictive Covenant Agreement shall be attached to and form part of every contract by which an Owner contracts to sell any freehold or leasehold interest in any of the Units, or in the Land or any part of the Land.
4. This Restrictive Covenant Agreement shall survive division of the Land into Units and the parties intend that every Unit so created, including any lease of any Unit, will be subject to the Restrictive Covenant and all of its provisions.
5. Every Owner shall be bound by this Restrictive Covenant.
6. The Grantor acknowledges that:
  - (a) it received the Land, and funding for development of the Land, from the Grantee on the condition that the Land be used for permanently affordable ownership housing;
  - (b) the Grantee’s contributions of Land and funding benefit the Grantor and future Owners;
  - (c) the Grantee would not have provided the Land or funding for development of the Land without the Grantor committing to provide permanently affordable ownership housing, as recorded in this Restrictive Covenant;
  - (d) the Grantee is relying on this Restrictive Covenant to secure the Grantor's commitment to use the Land for permanently affordable ownership housing, by the Grantor and by all future Owners;
  - (e) the Grantee represents the public interest in maintaining permanently affordable ownership housing in Yukon and accordingly in enforcement of this Restrictive Covenant.
7. This Agreement shall not be surrendered or extinguished from title to the Land or any part of it without the prior written consent of the Grantee.

8. The restrictions in this Restrictive Covenant shall be binding on and enure to the benefit of:
  - a. the original Grantor and Grantee;
  - b. the successors and assigns of the original Grantor and Grantee; and
  - c. every future Owner,(collectively the “**Beneficiaries**”).
9. The Grantee and any other Beneficiary shall have standing to take legal action to enforce the terms of this Restrictive Covenant, and shall be entitled to specific performance, and not be limited to monetary damages, for any breach of this Restrictive Covenant by the Grantor, whether original or successor, by any Owner or by another Beneficiary or a third party.

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the dates indicated below.

NORTHERN COMMUNITY LAND TRUST SOCIETY as Grantor

Per: \_\_\_\_\_  
Signature of Authorized signatory

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

NORTHERN COMMUNITY LAND TRUST SOCIETY as Grantee

Per: \_\_\_\_\_  
Signature of Authorized signatory

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## APPENDIX A

### 1. Definition

- a. **“Permanently affordable ownership housing”** as it pertains to the Land and the Units means housing which is:
    - i. owner-occupied;
    - ii. priced below average in its community; and
    - iii. price-sheltered from market forces through se-sale price restrictions
  - b. **“Resident”** means an Owner who acquired a Unit for occupation as their primary residence, if applicable with members of their household, or a person who acquired the Unit pursuant to section 4(b).
  - c. **“Eligible Purchaser”** means:
    - i. an individual who has a household income less than or equal to 80% of the median household income for Whitehorse, adjusted for household size, and who will occupy the property, if applicable with members of their household, as their primary residence; or
    - ii. an Affordable Housing Provider.
  - d. **“Affordable Housing Provider”** means a not-for-profit organization, including a government entity, purchasing or owning a Unit or Units to provide affordable rental housing to individuals who are not in a position to purchase homes for themselves.
2. Transfer by Non-Resident – The Grantor, the Grantee, or any other Owner who is not a Resident or the mortgagee of a Resident, may sell or lease the Land or any part of it, including a Unit, only to an Eligible Purchaser.
3. Transfer by Resident – A Resident may transfer title to the Unit, including by Will, only to:
- a. an individual or individuals acquiring the Unit to occupy it, if applicable with members of their household, as their primary residence, including a nominee of the Grantor or the Grantee;
  - b. the Resident’s spouse, including a common law spouse, or the Resident’s child(ren) or grandchild(ren);

- c. if there is more than one owner of a Unit, the other owner or any of the other owners of that Unit; or
  - d. the original Grantor or its successor; or
  - e. the original Grantee or its successor.
4. Re-Sale Price Restriction - After the first sale of any Unit by the original Grantor, an Owner may sell the Unit for an amount no higher than:
- a. the purchase price for which the Unit was purchased by the current owner of the Unit (or by the previous owner if the current owner obtained the Unit pursuant to section 3(b)), increased by 110% of the aggregate annual percentage increase in the Consumer Price Index for Whitehorse, compounded annually, for the time period that the current owner (and the previous owner if the Grantor obtained title to the Unit pursuant to section 3(b)), owned the Unit;
  - b. plus if applicable the current value of any improvements made to the Unit since the date of the purchase of the Unit by the current owner (or the previous owner if the current owner obtained title to the Unit pursuant to section 3(b));
  - c. plus a fee of not more than 2.5% of the sale price payable by the new Resident;
- or
- d. in the circumstances of a mortgage foreclosure, the total of the indebtedness under such mortgage, plus costs which Canada Mortgage and Housing Corporation or other insurer of the mortgage would recognize as eligible expenses, plus all reasonable costs of sale, if such total is higher than the total of the amounts under paragraphs (a), (b) and (c).
5. Restrictions on Rental of Unit – Except in exceptional and temporary circumstances, an Owner other than the original Grantor or Grantee or an Affordable Housing Provider, shall not rent out their Unit, except for a period or periods totalling no more than three months in any calendar year and no more than four months in any two consecutive calendar years.
6. If Residence Ends –
- a. An Owner other than the original Grantor or Grantee or an Affordable Housing Provider, who does not occupy or who ceases to occupy their Unit as their primary residence, shall make their Unit available for purchase.

- b. The Owner shall first offer the Unit for sale, for the price calculated under section 4, to:
    - i. the original Grantor, its successor or its nominee; and
    - ii. the original Grantee, its successor or its nominee.
  - c. If the Unit is not purchased by the original Grantor or Grantee within 120 days of their receiving notice that the Unit is available for purchase, the Owner may sell their Unit, for the price calculated under section 4, to an individual or individuals acquiring the Unit to occupy it, if applicable with members of their household, as their primary residence.
7. The original Grantor, and the Original Grantee if the Original Grantee is the Owner of any Unit, or their successors, shall make best efforts to sell the Units to Eligible Purchasers as soon as reasonably possible.

**AFFIDAVIT OF CORPORATE AUTHORITY  
(BODY CORPORATE SIGNING WITHOUT SEAL)**

(s. 46(1)(b))

TO THE REGISTRAR:

I AFFIRM THAT:

1. I am an officer, director or authorized representative of the body corporate who executed the annexed instrument.
2. I am the person [one of the persons] who signed the annexed instrument on behalf of the body corporate, and I have authority to do so without a corporate seal.

AFFIRMED BEFORE ME )  
at \_\_\_\_\_ in \_\_\_\_\_ )  
on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ )  
\_\_\_\_\_) \_\_\_\_\_ )  
(Signature of Notary or Commissioner) ) (Signature)  
\_\_\_\_\_) \_\_\_\_\_ )  
(print full name) ) (PRINT NAME)  
)  
)  
Notary Public in and for Yukon; )  
or Notary Public or Commissioner for Oaths )  
in and for \_\_\_\_\_ )  
(My commission expires: \_\_\_\_\_) )  
)

**\* All Notaries and Commissioners outside of Yukon must affix seal**