

## OCCUPANCY DEED RESTRICTION AND AGREEMENT FOR AN EMPLOYEE DWELLING UNIT

**THIS AGREEMENT** is made and entered into this 30<sup>th</sup> day of June 1999, by Gary Nichols and Lucinda Nichols (hereinafter referred to as "Owner"), whose address is 936 King Street, located in the County of Pitkin, and the Aspen/Pitkin County Housing Authority (hereinafter APCA), a multi-jurisdictional housing authority established pursuant to the AMENDED AND RESTATED INTER-GOVERNMENTAL AGREEMENT recorded in Book 605 at Page 751 of the records of the Pitkin County Clerk and Recorder's Office (hereinafter referred to as "Authority").

### WITNESSETH

**WHEREAS**, Owner owns real property more specifically described as stated Parcel A, and Part of Lots 19, 20, 21 and 22, Block 14, Hughes Addition, Tract 40, East Aspen Addition (hereinafter referred to as "Real Property"), which Real Property shall contain one "Free-Market" unit and one affordable dwelling unit to contain one bedroom, approximately 543 net livable square feet. For purposes of this Agreement, the Employee Dwelling Unit, the Real Property, and all appurtenances, improvements and fixtures associated therewith shall hereinafter be referred to as the "Property"; and

**WHEREAS**, this Agreement imposes certain covenants upon the Property which restrict the use and occupancy of the Employee Dwelling Unit to employees and their families who are employed in Pitkin County and meet the qualification guidelines established and indexed by the Authority on an annual basis.

**NOW, THEREFORE**, in consideration of the mutual promises and obligations contained herein, the Owner hereby covenants and agrees as follows:

1. Owner hereby covenants that the Employee Dwelling Unit described above shall at all times remain a rental unit and shall not be condominiumized.
2. The use and occupancy of the Employee Dwelling Unit shall henceforth be limited exclusively to housing for employees and their families who are employed in Pitkin County and who meet the definition of "qualified Category 3 employee" as that term is defined by the qualification guidelines established and indexed by the Authority on an annual basis. The Owner shall have the right to lease the Employee Dwelling Unit to a "qualified Category 3 employee" of his own selection. Such individual may be an employee of the Owner, provided such person(s) fulfills the requirements of a qualified employee. The unit must meet occupancy requirements as established by the APCA and reviewed from time to time.
3. The Employee Dwelling Unit shall not be occupied by the Owner or members of the immediate family ("Immediate Family" shall mean a person related by blood or marriage who is a first cousin [or closer relative] and his or her children) nor shall the Employee Dwelling Unit be used a guest house or guest facility.

4. Written verification of employment of employee(s) proposed to reside in the Employee Dwelling Unit shall be completed and filed with the Authority by the Owner of the Employee Dwelling Unit prior to occupancy thereof, and such verification must be acceptable to the Authority.
5. The Employee Dwelling Unit shall be required to be rented for periods of no less than six (6) consecutive months. Upon vacancy of the Employee Dwelling Unit, the Owner is granted forty-five (45) days in which to locate a qualified employee. If no employee is placed by the Owner, the Authority may rent the Employee Dwelling Unit to a qualified employee.
6. The maximum rental rate shall not exceed the Category 3 rental rate as set forth in the Rental Guidelines established by the Authority and may be adjusted annually as set forth by the Guidelines. The maximum permitted rent for the unit on the date of execution of this deed restriction is \$1,014 per month. Rent shall be verified and approved by the Authority upon submission and approval of the lease. Employees shall be qualified by the Authority as to employment only, and not maximum income or asset limitations.
7. Lease agreements executed for occupancy of the Employee Dwelling Unit shall provide for a rental term of not less than six (6) consecutive months. A signed and executed copy of the lease shall be provided to the Authority by the Owner within ten (10) days of approval of employee(s) for the Employee Dwelling Unit.
8. This Agreement may be removed by the Owner with the approval of the Pitkin County Board of County Commissioners, subject to the requirement that the Employee Dwelling Unit is removed or modified. If modified, the remaining improvements must no longer be capable of occupancy as a "dwelling unit" as defined in the Pitkin County Land Use Code and must meet otherwise applicable code requirements.
9. Unless modified as stated above, this Agreement shall constitute covenants running with the Real Property as a burden thereon for the benefit of, and shall be specifically enforceable by, the Authority, the Board of County Commissioners of the County of Pitkin, Colorado, and their respective successors, as applicable, by any appropriate legal action including, but not limited to, injunction, abatement, or eviction of non-qualified tenants.

**IN WITNESS HEREOF**, the parties hereto have executed this instrument on this date and year above first written.

OWNERS:

  
\_\_\_\_\_  
Gary Nichols

P.O. Box 8116  
Aspen, CO 81612

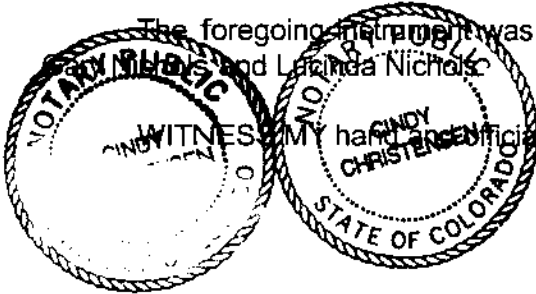
  
\_\_\_\_\_  
Lucinda Nichols

STATE OF COLORADO )  
 )  
COUNTY OF PITKIN )

ss.

433724 07/26/1999 02:16P DEED RES DAVIS SILVI  
3 of 3 R 15.00 D 0.00 N 0.00 PITKIN COUNTY CO

The foregoing instrument was acknowledged before me this 30<sup>th</sup> day of June, 1999, by Frank S. Peters and Linda Nichols



WITNESS MY hand and official seal; My Commission expires: 7-22-00

Cindy Christensen  
Notary Public

**ACCEPTANCE BY THE HOUSING AUTHORITY**

The foregoing agreement and its terms are accepted by the Aspen/Pitkin County Housing Authority.

THE ASPEN/PITKIN COUNTY HOUSING AUTHORITY

By: Frank S. Peters  
Frank S. Peters, Chairperson

Mailing Address: Aspen/Pitkin County Housing Authority  
530 East Main, Lower Level  
Aspen, CO 81611

STATE OF COLORADO )  
 )  
COUNTY OF PITKIN )

ss.

The foregoing instrument was acknowledged before me this 7<sup>th</sup> day of July, 1999, by Frank S. Peters.

WITNESS MY hand and official seal.

My Commission expires: 7-22-00



Cindy Christensen  
Notary Public

**TABLE I  
MAXIMUM INCOMES BY CATEGORY**

Maximum rental incomes are different than maximum sales incomes. Due to the nature of the working adult in Pitkin County and the wages that are required to maintain a consistent employee base, the Housing Office and Board have recognized the need for a higher allowable income adjusted by the number of adults and the bedroom mix. Maximum sales incomes are not attributed to the number of bedrooms, but will remain the same per household, with an adjustment to dependents only.

<b>Maximum Incomes for RENTAL Units Only</b> (See Income Verification, Part II, Section 2, No. 1)				
No. Of Adults	Category 1	Category 2	Category 3	Category 4
One Adult	\$33,000	\$50,000	\$82,000	\$133,000
Two Adults	47,000	75,000	123,000	198,000
Three Adults	56,000	88,000	143,000	232,000
Net Assets not in Excess of	100,000	125,000	150,000	175,000

<b>Maximum Incomes for SALES/OWNERSHIP Units Only</b> (See Income Verification, Part III, Section 2, No. 1)				
No. Of Dependents	Category 1	Category 2	Category 3	Category 4
0 Dependents	\$33,000	\$50,000	\$82,000	\$133,000
1 Dependent	40,500	57,500	89,500	140,500
2 Dependents	48,000	65,000	97,000	148,000
3 or More Dependents	55,500	72,500	104,500	155,500
Net Assets Not in Excess of	100,000	125,000	150,000	175,000

<b>Maximum Incomes for SALES/OWNERSHIP Units Only</b> (See Income Verification, Part III, Section 2, No. 1)				
No. of Dependents	Category 5	Category 6	Category 7	Category RO
0 Dependents	\$142,000	\$155,000	\$172,000	N/A
1 Dependent	149,500	162,500	179,500	N/A
2 Dependents	157,000	170,000	187,000	N/A
3 or More Dependents	164,500	177,500	194,500	N/A
Net Assets Not in Excess of	200,000	225,000	250,000	\$900,000

**NOTE:** A household can qualify to purchase a unit in a higher category.