

After recording, return to:
Silverton Housing Authority
P.O. Box 250
Silverton, CO 81433

**DECLARATION OF AFFORDABILITY COVENANTS
ANVIL TOWNHOMES**

THIS Declaration of Affordability Covenants (“Declaration”) is made by and between ANVIL TOWNHOMES LLC (together with their heirs, successors and assigns, “Owner”), the SILVERTON HOUSING AUTHORITY, a body corporate and politic (together with its successors and assigns (“Program Manager”), and SAN JUAN COUNTY, COLORADO (“the County”) as of this [____], 202[____] (“Effective Date”).

RECITALS

WHEREAS, the Program Manager is a body corporate and politic of the State of Colorado organized for a particular purpose, including providing ownership opportunities for low- and moderate-income people; and

WHEREAS, the Program Manager operates a program to preserve affordable ownership opportunities through the stewardship of homes whose owners, at the time of purchase, have agreed to accept title subject to certain covenants, conditions, and restrictions in exchange for a reduced or subsidized purchase price (“Program”); and

WHEREAS, the purpose of this Declaration is to include the real property and improvements located at [ADDRESS] and legally described on Exhibit A (“Home”) in the Program. Consistent with the Program, the Declaration includes terms that affect the use and resale price of the Home and are designed to ensure the Home continues to be affordable to low- and moderate-income households over an extended period and through a succession of owners and that limit the proceeds the Owner may receive from a sale of the Home; and

WHEREAS, on or about May 24, 2017, San Juan County executed the Restrictive Covenants Anvil Mountain Subdivision Silverton, San Juan County, Colorado (the “2017 Restrictive Covenants”) which placed restrictions on the properties in the Anvil Mountain Subdivision; and

WHEREAS, the 2017 Restrictive Covenants shall remain in full force and effect, but to the extent this Declaration conflicts with any previously recorded restrictions of the 2017 Restrictive Covenants, this Declaration shall prevail; and

WHEREAS, on or about August 13, 2020, San Juan County executed the San Juan County Use Covenant and Regulatory Agreement, Anvil Mountain Subdivision, San Juan County, Colorado (the “2020 Deed Restriction”) which placed further restrictions on the properties in Anvil Mountain Subdivision. The 2020 Deed Restriction was recorded in the San Juan County Clerk and Recording office as Reception No. 152950; and

WHEREAS, the Housing Authority of the Town of Silverton and San Juan County intend for this Declaration to replace and supersede, in its entirety, the 2020 Deed Restriction.

NOW, THEREFORE, in consideration of the foregoing recitals and the covenants set forth herein, the Owner, Program Manager, and County agree to create, declare, represent, restrict and covenant as follows:

ARTICLE 1
SUBMISSION OF REAL ESTATE; DEFINED TERMS

1.1. Submission of Real Estate. By signing this Declaration, the Owner submits the Home to the covenants, conditions, and restrictions of this Declaration for the benefit of the Program Manager. The Program Manager may enforce this Declaration.

1.2. Excess Proceeds.

a. The Owner recognizes that it would be contrary to the purposes of this Declaration if the Owner could receive more than the Maximum Resale Price as the result of an eminent domain proceeding, foreclosure, or other transfer of the Home. It would also be contrary to the purposes of this Declaration if the Owner could receive financial benefit by violating Section 2.3. Therefore, the Owner irrevocably assigns to Program Manager all net proceeds of any sale, eminent domain proceeding, foreclosure, lease, refinancing, or other transfer of the Home that would otherwise have been payable to the Owner after satisfaction of all Permitted Mortgages and that exceed the amount of proceeds that the Owner would have received if the property had been sold only for the Maximum Resale Price, [leased only in accordance with Section 8.2,] refinanced only in accordance with ARTICLE 7, or used only in accordance with Section 2.3 (“Excess Proceeds”). The Program Mortgage will secure the payment of any Excess Proceeds. Any party conducting any sale or eminent domain proceeding, foreclosure, refinancing, or other transfer, shall pay Excess Proceeds directly to Program Manager. If Excess Proceeds are paid to Owner, Owner shall promptly pay such amount to Program Manager.

b. In addition to the lien of the Program Mortgage, the Program Manager shall have, and the Owner hereby grants and consents to, a lien upon the Home for any Excess Proceeds. Such lien shall be prior to all other liens and encumbrances on the Home except (i) liens and encumbrances recorded before the recording of this Declaration, (ii) Permitted Mortgages; and (iii) liens for real property taxes and other governmental assessments or charges against the Home. For the avoidance of doubt, Owner’s assignment to Program Manager of Excess Proceeds in Section 1.3(a), and the Program Manager’s right to enforce collection of Excess Proceeds through foreclosure of its lien under the Program Mortgage and this Section 1.3(b), is subordinate in all respects to the lien of any Permitted Mortgage.

1.3. Term. This Declaration shall remain in effect in perpetuity after the Effective Date (“Term”), unless terminated earlier by any of the following:

a. foreclosure of a Permitted Mortgage and expiration of the Program Manager’s Purchase Option.

1.4. Covenants Run with the Land. The Owner intends, declares, and covenants: (a) that this Declaration, including all restrictions, rights, and covenants contained in this Declaration, are covenants running with the land, encumbering the Home for the Term, and bind the Owner and the Owner's successors in title and assigns; (b) are not merely personal covenants of the Owner; and (c) inure to the benefit of and be enforceable by the Program Manager and its successors and assigns for the Term. Because the Declaration runs with the land, it will encumber the Home for the Term and bind the Owner's successors in title and assigns regardless of whether successors in title and assigns agree in writing to be bound by the Declaration or execute a new Declaration at the time of sale.

1.5. State and Local Laws. The Home is subject to the Code and the Program Guidelines, including any amendments thereto if the amendments do not have a materially adverse effect on the interests of the Owner.

1.6. Defined Terms. The following terms are defined as follows:

a. "Appraisal": A fair market valuation of the Home performed by a licensed appraiser, conducted by analysis and comparison of comparable properties, disregarding all the restrictions of this Declaration.

b. "Capital Improvements": Any improvements that change the number of bedrooms or the footprint, square-footage, or height of the house, or increase or decrease the number of structures on the Property, or any other improvement the cost of which would exceed \$5,000.

c. "Capital Improvements Credit": A monetary credit for the value added by Capital Improvements.

d. "Default": Any violation of the terms of this Declaration or the Program Mortgage unless the violation has been cured.

e. "Election Period": 90 days after the Program Manager receives the Notice of Offer.

f. "Eligible Buyer": A person or household:

i. (i) whose household gross income does not exceed [80/100/140%] % of the median household income for San Juan County as calculated and adjusted for household size from time to time by the U.S. Department of Housing and Urban Development ("HUD") or any successor ("AMI Eligibility Threshold");

ii. who has completed a homeownership counseling program certified by HUD approved by Program Manager.

g. "Foreclosure Action": A foreclosure sale, a deed in lieu of foreclosure, or any other right or remedy exercised by a Mortgagee that results in the Owner no longer having title to the Home.

h. "Increase in Market Value of the Home": The fair market value of the Home as

determined by the Appraisal minus the Initial Market Value.

i. “Ineligible Buyer”: A person or household, or a person and his or her spouse, not meeting the requirements of an Eligible Buyer.

j. “Intent-to-Sell Notice”: The Owner’s notification to the Program Manager that the Owner wishes to sell the Home.

k. “Maximum Resale Price”: The maximum price for which the Owner can sell the Home.

l. “Mortgagee”: The holder of any mortgage, deed of trust, or other encumbrance on the Home.

m. “Notice of Exercise of Option”: A notice from the Program Manager to the Owner and any Permitted Mortgagee informing the Owner and Permitted Mortgagee that the Program Manager intends to exercise its Purchase Option.

n. “Notice of Intent to Purchase”: A notice from the Program Manager to the Owner informing the Owner of the Program Manager’s intent to exercise the Program Manager’s right of first refusal to purchase the Home.

o. “Option Trigger Event”: Any of the following events:

- i. the Program Manager’s receipt of an Intent-to-Sell Notice;
- ii. the Program Manager’s receipt of notice of a Foreclosure Action;
- iii. any sale or transfer resulting from a Foreclosure Action; or
- iv. a Default by the Owner.

p. “Original Purchase Price”: The total price paid for the Home by the Owner.

q. “Permitted Mortgage”: A loan secured by a security interest in the Home, for which the Owner has obtained the written permission of the Program Manager, together with any later modifications.

r. “Permitted Mortgagee”: The lender shown on the security instrument securing a Permitted Mortgage, its assignees, and the owner of such Permitted Mortgage.

s. “Program Mortgage”: The deed of trust executed by the Owner in favor of the Program Manager, dated and recorded the same date as this Declaration, to secure the Owner’s monetary and non-monetary obligations under this Declaration.

t. “Purchase Option”: The Program Manager’s option to purchase the Home at the Maximum Resale Price.

u. “Resale Fee”: The fee that the Owner pays to the Program Manager upon resale

of the Home to compensate the Program Manager for performing certain of its obligations under this Declaration.

v. “Unpaid Amounts”: Any amounts, including any interest, due under this Declaration to Program Manager that remain unpaid when the Home is sold.

ARTICLE 2 USE OF HOME

2.1. Primary Residence. The Owner shall use the Home as Owner’s principal place of residence and occupy the Home for at least eight months of each year. The Owner may use the Home, and allow others to use the Home, only for residential purposes and any activities related to residential use that are permitted by local zoning laws.

2.2. Use. The Owner must use the Home in a way that will not cause harm to others or create any public nuisance and must maintain the Home in good working order, in a safe, sound, and habitable condition, and in full compliance with all laws and regulations. The Owner shall comply, and cause the Home and all occupants to comply, with all declarations, easements, Permitted Mortgages, and other documentation recorded against the Home. If the requirements of any recorded documents are inconsistent with the requirements of this Declaration, the Owner shall comply, and shall cause the Home and all occupants to comply, with the stricter requirement.

2.3. Lease, Sale, Transfer, Encumbrance. The Owner shall not grant, sell, assign, convey, or transfer any interest in the Home, including a fee simple interest, tenancy in common, joint tenancy, community property, tenancy by the entireties, life estate, limited estate, leasehold estate, tenancy, easement, mortgage, deed, lien, security interest, or other encumbrance except in accordance with this Declaration.

2.4. Short Term Rentals. Any rental of a residential dwelling unit or any room therein for lease for a term of less than six (6) consecutive months is strictly prohibited and shall result in a default pursuant to Section 9.2 herein.

ARTICLE 3 ROLE OF PROGRAM MANAGER

3.1. Annual Meetings. The Program Manager may conduct annual meetings with the Owner in the offices of the Program Manager or in the Home or some other mutually convenient location (or via mutually convenient electronic means) to obtain occupancy certifications, confirm insurance renewals, collect proof that taxes and assessments have been paid, and address any other Program requirements. The Owner shall cooperate with the Program Manager in scheduling and attending these meetings and provide Program Manager with the requested information. The Program Manager may opt to request such information from the Owner by phone, mail, email, or some other method instead of conducting an in-person (or electronically facilitated) meeting.

3.2. Inspections. The Program Manager or its agent may inspect any exterior part of the Home at any reasonable time after notifying the Owner at least 5 days before the inspection. In

addition, if the Program Manager has received an Intent-to-Sell Notice, then the Program Manager or its agent may inspect the interior and exterior of the Home to determine its condition prior to the sale. The Owner shall cooperate with the Program Manager's efforts to schedule and conduct the inspection, and if negative property conditions are identified, the Program Manager or its agent has the right to re-inspect the Home until they are resolved.

3.3. Escrow. If a Permitted Mortgagee declines to escrow funds from the Owner for taxes, assessments, and insurance, the Program Manager may escrow these funds, and the Owner shall cooperate with the Program Manager in setting up the escrow.

3.4. Capital Improvements. If the Owner wishes to make Capital Improvements, the Program Manager will work with the Owner as provided in ARTICLE 5.

3.5. Financings or Transfers. If the Owner wishes to finance or otherwise transfer the Home, the Program Manager will work with the Owner as provided in ARTICLE 7 or ARTICLE 8.

3.6. Successors and Assigns. The Program Manager may designate a successor or assign to its rights and obligations under this Declaration if such successor or assign is a governmental body, governmental agency, or non-profit entity with a charitable purpose consistent with the Program. For clarity, the Program Manager may contract with a for-profit person or entity to assist Program Manager in running the Program, but the Program Manager itself cannot be a for-profit person or entity.

3.7. Nonliability of Program Manager. The relationship between Owner and Program Manager is solely that of an Owner and a program administrator. The Program Manager has no responsibility or duty to the Owner to select, review, inspect, supervise, pass judgment on, or inform the Owner of the quality, adequacy, or suitability of the Home or any other matter. The Program Manager does not owe a duty of care to protect the Owner against negligent, faulty, inadequate, or defective building or construction or any condition of the Home. Instead, the Owner has made his or her own investigation of these matters and hired home inspectors and other professionals to assist this investigation to the extent the Owner deemed necessary. Neither Owner nor Owner's heirs, successors, or assigns may ever claim, have, or assert any right or action against the Program Manager for any loss, damage, or other matter arising out of or resulting from any condition of the Home and will hold the Program Manager harmless from any liability, loss, or damage for these things.

ARTICLE 4

DECLARATION FEES; TAXES AND ASSESSMENTS

4.1. Resale Fee. To compensate the Program Manager for performing its obligations under this Declaration, the Owner shall pay to the Program Manager upon a resale of the Home a Resale Fee of 1.5% of the gross sale price of the Home. The Owner's obligation to pay Program Manager any amounts under this Declaration is subordinate in all respects to any Permitted Mortgagee's right to receive payment of all amounts secured by a Permitted Mortgage. The Owner and the Program Manager shall execute other documents for a Permitted Mortgagee to prioritize payment of the amounts owed to it, and they will not execute any document that contradicts such priority.

4.2. Taxes and Assessments. The Owner shall pay when due all taxes and governmental and Owner association assessments unless taxes and assessments are escrowed and paid by a Permitted Mortgagee, in which case the Permitted Mortgagee will direct payment.

4.3. Program Manager May Pay Taxes. If the Owner or its Permitted Mortgagee fails to pay the taxes or assessments, the Program Manager may pay such taxes or assessments on the Owner's behalf at the sole and absolute discretion of the Program Manager. The Owner shall reimburse the Program Manager for any amounts paid by the Program Manager to cover taxes or assessments promptly upon demand by the Program Manager.

4.4. Interest. If the Program Manager has not received any amounts due under this Declaration on or before the due date, the Program Manager may require the Owner to pay interest on the unpaid amount from the due date through and including the date when payment is received at a rate not to exceed 10% per annum. Such interest is an additional Program Fee, and the Owner shall pay it to the Program Manager upon demand and shall be in addition to any other remedies the Program Manager is entitled to hereunder or at law.

ARTICLE 5 IMPROVEMENTS TO THE HOME

5.1. Home Improvements. The Owner shall not make any Capital Improvements to the Home without the prior written consent of the Program Manager, which the Program Manager may withhold in its discretion. The Owner may make other improvements to the Home without the consent of the Program Manager if such improvements are constructed in a professional manner and all applicable laws and regulations. This Section 5.1 does not apply if the Home is damaged or destroyed following a casualty.

5.2. Consent from Program Manager. For any proposed Capital Improvements, the Owner shall submit a written request to the Program Manager. The Program Manager may request information from the Owner, including drawings, a list of materials, and the name of the proposed contractors. If the Owner would like to receive Capital Improvements Credit, the Owner must include a statement requesting the Program Manager to permit such a credit. The Program Manager shall inform the Owner of its decision to grant or withhold consent to the proposed Capital Improvements, as well as its decision to grant or withhold consent to any requested Capital Improvements Credit. If the Program Manager consents to a requested Capital Improvements Credit, the Program Manager shall also inform the Owner of the value attributed to the Capital Improvements or the method to determine their value at resale, including application of depreciation rates, which may result in a Capital Improvements Credit less than the actual cost of the Capital Improvements.

5.3. Building Permits and Inspections. Before commencing construction of any Capital Improvements, the Owner shall provide the Program Manager with copies of all necessary building permits. The Program Manager may inspect the Capital Improvements while under construction and after completion to confirm consistency with the information presented in Section 5.2, and may adjust the Capital Improvements Credit to account for any inconsistency. Any inspection and identification of inconsistencies by the Program Manager are only for the Program Manager's benefit.

5.4. Liens. The Owner shall not permit any statutory or similar lien to be filed against the Home which remains more than thirty days. The Owner shall take action to discharge a lien, whether by payment, deposit, bond, court order, or other means permitted by law. If the Owner fails to discharge the lien within the thirty-day period, then the Owner shall immediately notify the Program Manager. The Program Manager shall have the right to discharge the lien. The Owner may, at Owner's expense, contest the validity of the lien if the Owner has furnished a bond or other acceptable surety in an amount sufficient to release the Home from the lien. The Owner shall reimburse the Program Manager for any amounts paid by the Program Manager upon the Program Manager's written demand.

ARTICLE 6

INSURANCE, DAMAGE OR DESTRUCTION, TAKING FOR PUBLIC USE

6.1. Insurance. The Owner shall, at the Owner's expense, keep the Home continuously insured against physical loss with a coverage limit equal to the estimated full replacement cost of the Home. The insurance policy must satisfy all requirements of the Program Mortgage and any Permitted Mortgage. The Owner shall deliver certificates of insurance to Program Manager prior to the purchase of the Home and upon the Program Manager's request thereafter. Whenever the Permitted Mortgagee has the capability of escrowing funds from the Owner for the payment of insurance premiums, the Owner shall establish such an escrow.

6.2. Damage or Destruction. If a fire or other damage occurs to the Home, the Owner shall take all steps necessary to repair the damage and restore the Home to its condition prior to the damage. The Owner shall complete all repairs and restoration as promptly as possible. The Owner shall also promptly take all steps necessary to assure that the damaged Home does not constitute a danger to persons or property. The Owner's obligations to repair and restore the Home are the same in a case of insufficient insurance proceeds as in a case of excess insurance proceeds. In either case, the Owner must still repair and restore the Home, obtain additional funds (in the case of insufficient insurance proceeds) or, if permitted by the terms of the policy and the terms of any Permitted Mortgage, retain excess funds (in the case of excess insurance proceeds). If repair and restoration are not feasible, the Owner shall provide reasonably acceptable documentation to the Program Manager, and in such case the Owner will be excused from repairing and restoring the Home. However, the Owner shall use available insurance proceeds to pay off any Permitted Mortgage and any other lien on the Home. In any event, if the terms of a Permitted Mortgage conflict with this Section 6.2, the terms of the Permitted Mortgage will control.

6.3. Condemnation.

a. If all of the Home is taken by eminent domain or otherwise for public purposes, or if so much of the Home is taken that the Home is lost or damaged beyond repair, this Declaration shall terminate as of the date when Owner is required to give up possession of the Home. However, the Owner shall pay any Excess Proceeds arising from eminent domain or other public use proceedings to the Program Manager.

b. If a taking of a portion of the Home results in damage to the Home that can reasonably be restored to a residential use, then this Declaration will remain in full force and

effect, and the damage shall be treated as damage is treated in Section 6.2.

ARTICLE 7 FINANCING

7.1. Mortgages.

a. The Owner may only grant a lien or security interest, including a deed of trust on the Home (either at the time of purchase of the Home or after purchasing the Home to refinance an existing Permitted Mortgage or to finance home repairs) or encumber the Home in any other way after obtaining the written permission of the Program Manager. Any Permitted Mortgage or other lien, security interest, or other encumbrance will be subject to this Declaration.

b. The Program Manager will not permit a loan if the loan increases the Owner's total mortgage debt to an amount greater than 95% of the then-current Maximum Resale Price, or if any Permitted Mortgagee has not provided written consent to the loan, or if the terms of the transaction otherwise adversely affect the interests of either the Owner, Permitted Mortgagee, or Program Manager.

c. The Program Manager may require the Owner to submit, in writing, certain information about the proposed terms and conditions of the loan at least thirty days prior to the expected closing of the loan.

7.2. Property Assessed Clean Energy. Property Assessed Clean Energy ("PACE") financing in connection with the Home is prohibited.

7.3. Remedies by Mortgagees.

a. If any Mortgagee conducts a Foreclosure Action, this Declaration will continue to encumber the Home as follows:

i. With respect to any Mortgagee who is also a Permitted Mortgagee, this Declaration shall survive until expiration of the Purchase Option. If the Program Manager exercises the Purchase Option, completes purchase of the Home, and satisfies the amounts owed under the Permitted Mortgage, this Declaration will continue in full force and effect. If the Program Manager fails to exercise the Purchase Option, or exercises the Purchase Option but fails to complete the purchase within the ninety-day period, or fails to satisfy the amounts owed under the Permitted Mortgage, then this Declaration will terminate and be of no further force and effect, and the Program Manager shall cooperate with the Permitted Mortgagee or transferee at the Foreclosure Action to record a termination and release.

ii. With respect to any Mortgagee who is not a Permitted Mortgagee, this Declaration will apply to the transfer of the Home resulting from the Foreclosure Action, and all other provisions of this Declaration will continue to encumber the Home and will bind the grantee receiving the Home by virtue of the Foreclosure Action.

b. The Owner authorizes any Mortgagee to provide the Program Manager with any information requested by the Program Manager with respect to the obligations secured by a

Mortgage, including the original or maximum principal amount of the loan, the interest rate and other terms governing repayment, payment history, including any history of delinquent payments, current payments of principal, interest, and late fees due or delinquent, and the amount of total obligations currently secured by the Mortgage.

c. Nothing in this Declaration constitutes a promise or guarantee by the Program Manager that the Mortgagee will actually receive the amount to satisfy its Mortgage, the Maximum Resale Price, or any other price for the Home, or impairs the rights and remedies of the Mortgagee in the event of a deficiency.

ARTICLE 8 TRANSFERS

8.1. Transfers Generally. The Owner may transfer the Home only as permitted by this ARTICLE 8 (and, in the event of a Foreclosure Action, Section 7.4). Any purported transfer that does not follow the procedures below (or in the event of a Foreclosure Action, the procedures of Section 7.4) will be null and void.

8.2. Leasing. The Owner shall not lease or rent any portion of the Home except as allowed under the terms of any Permitted Mortgage and with the written permission of Program Manager. The Program Manager may withhold such consent to further the purposes of this Declaration. For any lease proposed by the Owner:

a. the lease must be in writing with a proposed form approved by the Program Manager in advance;

b. the lease term cannot be shorter than six months;

c. the lease must subject to the terms of this Declaration;

d. the tenant must satisfy current income requirements for Eligible Buyers;

e. the rent may not exceed the amount necessary to cover Owner's obligations to any Permitted Mortgagee, along with payment of taxes, assessments, and insurance, or the maximum permitted rent as determined by the Program Manager, whichever is less.

f. the Owner shall provide a fully executed copy of the lease to Program Manager promptly after execution.

8.3. Relatives.

a. Subject to the requirements of subsection (b) below, and if the Owner has obtained the written permission of any Permitted Mortgagee, the Owner may transfer the Home, or an interest in the Home, without monetary consideration, as follows:

i. to the spouse of the Owner who, by virtue of the transfer, becomes a co-owner of the Home with the Owner;

ii. to the child or children of the Owner if such child or children qualify as Eligible Buyers;

iii. between spouses as part of a marriage dissolution proceeding; or

iv. by the Owner into an inter vivos trust in which the Owner is the beneficiary.

b. Before proceeding with a transfer under this Section 8.3, the Owner shall give the Program Manager at least thirty-days' prior written notice, promptly provide the Program Manager with documentation requested by the Program Manager, and obtain the Program Manager's written confirmation that the transfer qualifies as a permitted transfer under subsection (a).

c. Any transferee permitted under this Section 8.3 will take title subject to this Declaration and shall execute and record such documents as the Program Manager may require.

8.4. Heirs.

a. If the Owner dies (or if the last surviving co-owner of the Home dies), the executor or personal representative of the Owner's estate shall notify the Program Manager within ninety days after the date of the death. Upon receiving notice, the Program Manager shall consent to a transfer of the Home to one or more of:

i. the Owner's spouse;

ii. the Owner's child or children; or

iii. members of the Owner's household who have resided in the Home for at least one year immediately prior to Owner's death.

b. Any other heirs, legatees, or devisees of the Owner must demonstrate to Program Manager's satisfaction that they are an Eligible Buyer. If they cannot, they shall not be entitled to possession of the Home but must transfer the Home according to Section 8.5.

c. Any transferee permitted under this Section 8.4 will take title subject to this Declaration and shall execute and record such documents as the Program Manager may require.

8.5. Buyers. If the Owner wishes to sell the Home, the Owner shall deliver an Intent-to-Sell Notice to the Program Manager. Upon delivery of the Intent-to-Sell Notice, the Program Manager shall have one-hundred-and-twenty (120) days to either (i) sell the Home to an Eligible Buyer identified according to the Program Guidelines; or (ii) exercise its Purchase Option.

a. If the Purchase Option has expired, or if the Program Manager or its assignee has failed to complete the purchase within the one-hundred-and-twenty-day (120) period, the Owner may sell the Home to any Eligible Buyer for not more than the then-applicable Maximum Resale Price.

b. Resale Fee. The Owner shall pay a Resale Fee to compensate Program Manager for carrying out its responsibilities for the transaction. The amount of the Resale Fee will be 1.5% of the gross sale price.

c. Ineligible Buyers. If the Owner has made diligent efforts to sell the Home for at least six months after the expiration of the Purchase Option, and the Home still has not been sold, the Owner may then sell the Home for the Maximum Resale Price to an Ineligible Buyer. However, any sale to an Ineligible Buyer is subject to all rights and restrictions contained in this Declaration, and if more than one Ineligible Buyer is ready, willing, and able to purchase the Home, the Owner will give preference to any person or groups of persons identified by the Program Manager as an appropriate household size for the Home earning less than [80/100]% of the AMI Eligibility Threshold.

d. Program Manager's Power of Attorney. If the Owner (a) is not then residing in the Home, and (b) has made diligent efforts to sell the Home for at least twelve months after the expiration of the Purchase Option and the Home still has not sold, the Owner hereby appoints the Program Manager as its attorney in fact to seek a buyer, negotiate a reasonable price that furthers the purposes of this Declaration, sell the Home, use the sale proceeds first to satisfy Permitted Mortgages in order of priority, second to pay the Program Manager's costs of sale and any other sums owed the Program Manager by the Owner, and third to pay Owner the remaining proceeds of sale, minus amounts owed to any other secured lien holders.

8.6. Program Manager's Purchase Option.

a. Upon an Option Trigger Event, the Program Manager may purchase the Home at the Maximum Resale Price. When a Foreclosure Action constitutes an Option Trigger Event, the amount of total obligations owed to the Permitted Mortgagee will be calculated as of the date the sale to the Program Manager closes, and no Option Trigger Event occurring after a sale or transfer resulting from a Foreclosure Action will trigger an additional Purchase Option. In the case of a Foreclosure Action where the total obligations secured by the Permitted Mortgage exceed the Maximum Resale Price, the purchase price will be the amount of total obligations under the Permitted Mortgage.

b. If the Program Manager purchases the Home, the Program Manager shall exercise the Purchase Option by delivering a Notice of Exercise of Option within sixty days after the Option Trigger Event, or the Purchase Option will expire with respect to such Option Trigger Event. After giving the Notice of Exercise of Option, the Program Manager may either purchase the Home or may assign the Purchase Option to an Eligible Buyer.

c. The purchase must be completed within ninety days after the Notice of Exercise of Option, or the Purchase Option will expire with respect to such Option Trigger Event. Except as provided in Section 7.4 and except in the case of a Foreclosure Action, the Purchase Option will remain in effect with respect to Option Trigger Events occurring after the subject Option Trigger Event. The time permitted for the completion of the purchase may be extended by mutual agreement of the Program Manager or its assignee and the Owner and, if applicable, the Mortgagee undertaking the Foreclosure Action.

8.7. Right of First Refusal. The Program Manager may give notice to the Owner and any Permitted Mortgagee that the Program Manager has decided to replace the Purchase Option with this Section 8.7, in which case the Program Manager will have a right of first refusal to purchase the Home at the highest documented bona fide third-party offer as follows:

a. If the Owner receives a bona fide third-party offer to purchase the Home that the Owner is willing to accept, the Owner shall give a Notice of Offer to the Program Manager that includes: (i) the name and address of the prospective purchaser; (ii) the purchase price offered; and (iii) all other terms and conditions of sale. The Program Manager may share such information with the County, and the Program Manager must exercise its right of first refusal within the Election Period by giving the Owner a Notice of Intent to Purchase for the same price and on the same terms as the Notice Offer. However, the purchase price may not exceed the Maximum Resale Price.

b. If the Program Manager exercises the right to purchase the Home, the purchase must be completed within sixty days after the Program Manager gives the Notice of Intent to Purchase.

c. If the Program Manager fails to exercise the right of first refusal within the Election Period, and subject to all other restrictions in the Declaration, the Owner may sell the Home with the transaction described in the Notice of Offer within six months after the Election Period expires but only on terms that are not materially more favorable to the purchaser than those terms described in the Notice of Offer. If the sale is not consummated the six-month period, the Owner's right sell will expire, and this Section 8.7 will apply to any future offer.

d. Any sale or transfer that violates this Section 8.7 will be null and void.

8.8. Maximum Resale Price. Except as permitted in a Foreclosure Action, the Home cannot be sold for a price that exceeds the Maximum Resale Price. The "Maximum Resale Price" equals:

a. the Original Purchase Price plus an annual increase of one percent of the Original Purchase Price compounded annually, plus the Capital Improvements Credit.

8.9. Repairs and Transfer Procedures. The following procedures shall apply to all transfers of the Home pursuant to Sections 8.5 and 8.6. The Owner shall make necessary repairs when he or she transfers the Home as follows:

a. The Owner shall provide in the sales contract with the buyer, through incorporation of Program Manager's current Purchase Agreement Addendum into the sales contract as an exhibit or otherwise, that the buyer shall hire at his or her sole expense an inspector with a current home inspector license to assess the condition of the Home and prepare a written report of the condition ("Inspection Report").

b. The Owner shall provide in the sales contract that the buyer shall provide a copy of the Inspection Report to the Owner and Program Manager within ten days after receiving the Inspection Report.

c. The Owner shall repair specific reported defects or conditions necessary, in the

reasonable discretion of the Program Manager, to bring the Home into full compliance with Sections 2.2 and 3.2 before transferring the Home.

d. The Owner shall bear the full cost of the necessary repairs and replacements. However, upon Owner's written request, the Program Manager may allow the Owner to pay all or a portion of the repair costs after transfer from the Owner's proceeds of sale if the Owner cannot afford to pay such costs prior to the transfer. If the repairs are postponed until after the transfer, either 150% of the unpaid estimated cost of repairs or 100% of the unpaid cost of completed repairs must be withheld from the Owner's proceeds of sale in an escrow account. The Program Manager shall pay documented and verified costs of repair from such account and return any remaining funds to Owner upon completion and full payment of such costs.

e. The Owner shall allow Program Manager, buyer, buyer's inspector, and lender's representative to inspect the repairs prior to closing to determine that the repairs have been satisfactorily completed.

f. Upon sale or other transfer, the Owner shall either (A) transfer the Home with all originally purchased appliances or replacements in the Home in good working order; or (B) provide the buyer with cash at closing sufficient to purchase comparable new appliances.

g. Deed, Declaration, and Program Mortgage. The Home shall be conveyed by the Owner by special warranty deed conveying marketable title to the Home free from all encumbrances except:

- i. taxes for the then current year as are not due and payable;
- ii. provisions of local building and zoning laws;
- iii. all easements, restrictions, covenants, and agreements of record;
- iv. a Declaration in the form then in use by Program Manager to administer the Program, executed by the transferee and recorded immediately after the conveyance deed, and
- v. a new Program Mortgage in the form then in use by Program Manager to administer the Program.

h. Sales Proceeds. The proceeds of any sale of the Home must be distributed in the following order:

- i. to satisfy Permitted Mortgages in order of priority;
- ii. to pay any Unpaid Amounts;
- iii. to pay taxes, Owner association assessments, and any statutory or municipal fees currently due and payable;
- iv. to pay amounts owed to any other secured lien holders; and

v. to the Owner.

i. No Guarantee. Nothing in this Declaration constitutes a promise, commitment, or guarantee by the Program Manager to sell or purchase the Home, or that upon resale, the Owner will receive the Maximum Resale Price or any other price for the Home.

ARTICLE 9 ENFORCEMENT

9.1. Monetary Default. If the Owner fails to pay any amounts when due under this Declaration or the Program Mortgage, and the Owner and Permitted Mortgagee fail to cure such default within thirty days after the Program Manager gives written notice to Owner and Permitted Mortgagee, the Owner will be in default under this Declaration.

9.2. Non-Monetary Default. If the Owner fails to abide by any other requirement in this Declaration, the Program Mortgage, or any other document of record encumbering the Home, and such failure is not cured by the Owner or a Permitted Mortgagee within sixty days after the Program Manager gives written notice to the Owner and any Permitted Mortgagee, the Owner will be in default under this Declaration. However, if the Owner or a Permitted Mortgagee begin to cure the default within sixty days and diligently continue to cure but cannot completely cure the default within sixty days, the cure period will be extended for a reasonable amount of time. However, the Owner will not be entitled to cure any violation of Section 5.4, ARTICLE 7, ARTICLE 8, Section 2.3, or Section 9.3, and the Program Manager may exercise its rights and remedies under Section 9.4 for any such violation immediately after giving written notice to the Owner and any Permitted Mortgagee.

9.3. Bankruptcy. If any of the following events occur, the Owner will be in default under this Declaration:

- a. the Home is taken on execution or by other process of law;
- b. any assignment is made by the Owner for the benefit of creditors;
- c. a receiver, trustee in bankruptcy, or other similar officer is appointed to take charge of any substantial part of the Home by a court of competent jurisdiction;
- d. a petition is filed for the reorganization of Owner under any provisions of the Bankruptcy Act; or
- e. the Owner files a petition for reorganization or for arrangements under any the Bankruptcy Act now or hereafter enacted and providing a plan for a debtor to settle, satisfy, or extend the time for payment of debts.

9.4. Rights and Remedies. If the Owner has defaulted under this Declaration and the default continues beyond any applicable cure period, in addition to all other rights and remedies provided at law or in equity, the Program Manager may take any one or more of the following actions:

- a. enforce this Declaration by appropriate legal proceedings and seek injunctive and other relief;
- b. exercise the Purchase Option;
- c. in the case of a default under Section 9.2 or 9.3, exercise all rights and remedies under the Program Mortgage, including by instituting foreclosure by judicial proceeding or through the public trustee;
- d. in the case of any sale, conveyance, financing, refinancing, or other transfer or occupancy of the Home that violates this Declaration, the Program Manager may seek:
 - i. specific performance of this Declaration;
 - ii. money damages for Excess Proceeds and Unpaid Amounts;
 - iii. if the violation is a sale or other conveyance of the Home to an Ineligible Buyer except as permitted in Section 8.5, the Program Manager may locate an Eligible Buyer to purchase or purchase the Home from the Ineligible Buyer on the terms of this Declaration, and a court may order specific performance of the requirement that an Ineligible Buyer shall sell the Home;
 - iv. to void any contract for sale or any sale, conveyance, or other transfer of the Home in violation of the provisions of this Declaration; and
 - v. money damages for the cost of creating or obtaining a comparable dwelling unit for an Eligible Buyer.
- e. In addition to these remedies, the Owner shall pay all the Program Manager's fees and expenses (including legal fees) if the Program Manager is successful in any enforcement action against the Owner or Owner's successors or assigns.
- f. The Owner for himself, herself, or themselves and his, her, or their successors and assigns, hereby grants to the Program Manager the right to take all actions with respect to the Home that the Program Manager determines to be necessary or appropriate pursuant to applicable law, court order, or with the consent of the Owner to prevent, remedy or abate any violation of this Declaration.
- g. All rights and remedies set forth in this Section 9.4 are subordinate to the rights of Permitted Mortgagees.

9.5. Program Manager Default. If the Program Managers fails to abide by any requirement or fulfill any obligation in this Declaration, and such failure is not cured by the Program Manager within sixty days after the Owner gives written notice to the Program Manager, the Program Manager will be in default under this Declaration, and the Owner may pursue legal remedies against the Program Manager.

ARTICLE 10

NOTICES AND OTHER PROVISIONS

10.1. Notices. The parties shall give all notices, consents, demands, waivers, or approvals related to this Declaration in writing delivered by: (a) personal delivery, (b) a nationally recognized, next-day courier service, (c) first-class certified mail, postage prepaid, or (d) e-mail. A notice is deemed given on the other party's receipt of it, or if mailed, on the earlier of the other party's receipt of it and the fifth business day after its mailing. The parties may change their addresses for notice by notifying the other parties in the manner provided in this Section 10.1. The parties hereby designate their addresses as follows:

If to Program Manager: Silverton Housing Authority
 P.O. Box 250
 1360 Greene Street
 Silverton, CO 81433

With a copy to: San Juan County
 P.O. Box 466
 Silverton, CO 81433
 Attn: County Administrator

If to Owner: [OWNER'S NAME]
 [UNIT ADDRESS]

10.2. Severability. The parties acknowledge that if a dispute between the parties arises out of this Declaration or the subject matter of this Declaration, they would want the court to interpret this Declaration as follows:

- a. with respect to any provision it holds to be unenforceable, by modifying that provision to the minimum extent necessary to make it enforceable or, if that modification is not permitted by law, by disregarding that provision;
- b. if an unenforceable provision is modified or disregarded in accordance with this Section 10.2, by holding that the rest of the Declaration will remain in effect as written;
- c. by holding that any unenforceable provision will remain as written in any circumstances other than those in which the provision is held to be unenforceable; and
- d. if modifying or disregarding the unenforceable provision would result in failure of an essential purpose of this Declaration, by holding the entire Declaration unenforceable.

10.3. Waiver. No waiver of satisfaction of a condition or non-performance of an obligation under this Declaration will be effective unless it is in writing and signed by the party granting the waiver.

10.4. Entire Agreement. This Declaration constitutes the entire understanding between the parties regarding its subject matter.

10.5. Amendments. Any amendment to this Declaration requires a written agreement of the parties.

10.6. Governing Law. The laws of the state of Colorado, without giving effect to its principles of conflicts of law, govern all adversarial proceedings brought by the parties arising out of this Declaration, whether their claims sound in contract, tort, or otherwise.

[Signatures appear on the following pages]

DRAFT

The parties have caused this Declaration to be executed as of the Effective Date.

OWNER

By: _____
Name: [Name]
Title: [Title]

STATE OF COLORADO

)

) ss.

COUNTY OF _____

)

This instrument was acknowledged before me this ____ day of _____, 2025, by
[_____].

Witness my hand and official seal.

My commission expires _____

Notary Public

[signatures continue on following page]

PROGRAM MANAGER

SILVERTON HOUSING AUTHORITY

By: _____
Name: Anne Chase
Title: Executive Director

STATE OF COLORADO)
) ss.
COUNTY OF _____)

This instrument was acknowledged before me this ____ day of _____, 2025, by Anne Chase, as Executive Director of the Silverton Housing Authority.

Witness my hand and official seal.

My commission expires _____

Notary Public

COUNTY

SAN JUAN COUNTY, COLORADO

By: _____
Name: _____
Title: _____

STATE OF COLORADO

)

) ss.

COUNTY OF _____

)

This instrument was acknowledged before me this _____ day of _____, 2025, by _____, as _____ of San Juan County, Colorado.

Witness my hand and official seal.

My commission expires _____

Notary Public

EXHIBIT A

Legal Description of the Home

LOT [REDACTED], ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 25, 2025,
UNDER RECEPTION NO. 1560[89/90], COUNTY OF SAN JUAN, STATE OF COLORADO.

DRAFT

OPTION TO PURCHASE AGREEMENT

This Option to Purchase Agreement (“Agreement”) is made effective this ____ day of _____, 2025, by and between ANVIL TOWNHOMES LLC, a Colorado limited liability company, its successors and assigns (“Owner”), and the SILVERTON HOUSING AUTHORITY, a body corporate and politic (“Housing Authority”). In consideration of the mutual promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties herein agree as follows:

1. **Property.** Owner is the owner of that real property located in Silverton, San Juan County, Colorado, legally described as:

LOTS 15, 16A, 16B, 16C, AND 16D, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 25, 2025, UNDER RECEPTION NO. 156090, AND LOTS 17A, 17B, 17C, AND 17D, ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 25, 2025, UNDER RECEPTION NO. 156089, COUNTY OF SAN JUAN, STATE OF COLORADO (collectively, the “Property”, and each individual unit a “Unit”).

2. **Grant of Option.** Owner hereby grants to the Housing Authority the exclusive option (the “Option”) to purchase the Units, on the terms and conditions set forth in this Agreement.

3. **Option to Buy in the Event of Foreclosure of Deed in Lieu of Foreclosure.** In the event of a foreclosure or acceptance of a deed in lieu of foreclosure by the holder (including assigns of the holder) of the promissory note secured by a first deed of trust (“Holder”) on any of the Units legally described above, and subject to the issuance of a public trustee’s deed to the Holder following expiration of all statutory redemption rights, or issuance of a deed in lieu of foreclosure to the Holder, the Housing Authority or its assigns shall have the option to purchase the Unit.

4. **Exercise of Option.** The Housing Authority or its assigns shall have 60 days after issuance of the public trustee’s deed or deed in lieu of foreclosure in which to exercise this Option. In the event of a deed in lieu of foreclosure, the Housing Authority may exercise the Option by tendering to the Holder or its assigns, in cash or certified funds, an amount equal to the amount due on the note and any additional reasonable costs incurred by the Holder during the option period. In the event of foreclosure and issuance of a public trustee’s deed, the Housing Authority may exercise the Option by tendering to the Holder or its assigns, in cash or certified funds, the redemption price which would have been required of the borrower or any person who might be liable upon a deficiency on the last day of the statutory redemption period(s) and any additional reasonable costs incurred by the Holder during the option period which are directly related to the foreclosure.

5. **Title.** Upon receipt of such option price, the Holder shall deliver to the Housing Authority or its assignee a special warranty deed, conveying the Unit to the Housing Authority or its assignee. The Holder shall convey only such title as it received through the public trustee’s deed or deed in lieu of foreclosure, and shall not create or participate in the creation of any additional liens or encumbrances against the Unit following issuance of the public trustees’ deed to the Holder or

receipt of the deed in lieu of foreclosure by the Holder. The Holder shall not be liable for any of the costs of conveyance to the Housing Authority or its assignee.

6. **Release.** In the event that the Housing Authority or its assigns do not exercise its Option as to any Unit within the 60 day period provided for herein, this Agreement shall be automatically released, but only with respect to the Unit which is the subject of foreclosure as of the sixty-first day after the issuance of such public trustee's deed or deed in lieu of foreclosure. The Holder shall not be required to take any affirmative action to obtain such release; however, the Housing Authority will execute a release of this Agreement upon request. It is agreed that this Section 6 shall not result in a release of this Agreement from any other Unit which is not the subject of foreclosure.

7. **Agreement Runs with the Land.** The benefits and obligations of the parties under this Agreement shall run with the land, and Owner's obligations hereunder shall be binding on any subsequent holder of any ownership interest in the Property or any Unit. The provisions of this Agreement shall inure to and be binding upon the heirs, successors and assigns of the parties hereto.

8. **Notice:** The Owner and the Holder shall give such notice to the Housing Authority of any foreclosure proceeding. Said notice shall be sent by certified mail, return receipt requested, and addressed as follows:

Silverton Housing Authority
c/o Town of Silverton
P.O. Box 250
Silverton, CO 81433

9. **Amendment.** This restriction may be amended only by an instrument recorded in the records of San Juan County, Colorado executed by the Housing Authority and the then-Owner of the Property or any Unit, as applicable.

10. **Successor to Housing Authority.** In the event that, at any time during the duration of this Agreement, the Housing Authority ceases to exist, all reference in this Agreement to the Housing Authority shall, thereafter, mean the Town of Silverton and its successors, assigns, or any other entity designated by the Town of Silverton to administer or enforce the provisions hereof, or to perform the functions of the Housing Authority as described herein.

11. **Choice of Law & Venue.** This Agreement and each and every related document shall be governed and constructed in accordance with the laws of the State of Colorado. The exclusive jurisdiction for any claim or controversy arising out of or relating to this Agreement shall be in San Juan County District Court. Each party irrevocably waives any objection it may now or hereafter have as to the venue of any such suit, action, or proceeding in such court, or that such court is an inconvenient forum.

12. **Counterparts.** For the convenience of the parties, this Agreement may be executed in one or more counterparts, and each executed counterpart will for all purposes be deemed an original and will have the same force and effect as an original, but all of such counterparts together will constitute in the aggregate but one and the same instrument.

13. **Attorneys' Fees.** If any action is commenced between the parties concerning this Agreement or for the enforcement of rights and duties of any party pursuant to this Agreement, the court shall award the substantially prevailing party in the action its reasonable attorneys' fees in addition to any other relief that may be granted.

____ day of _____, 2025.

OWNER

Anvil Townhomes LLC, a Colorado limited liability company

By: Silverton Housing Authority, a body corporate and politic, its Manager and Sole Member

By: _____
Name: Anne Chase
Title: Executive Director

STATE OF COLORADO)
) ss.
COUNTY OF SAN JUAN)

This instrument was acknowledged before me this ____ day of _____, 2025, by Anne Chase, as Executive Director of the Silverton Housing Authority, a body corporate and politic, as Manager and Sole Member of Anvil Townhomes LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires _____

Notary Public

HOUSING AUTHORITY

SILVERTON HOUSING AUTHORITY, a
body corporate and politic

By: _____
Name: Anne Chase
Title: Executive Director

STATE OF COLORADO)
) ss.
COUNTY OF SAN JUAN)

This instrument was acknowledged before me this ____ day of _____, 2025, by Anne Chase,
as Executive Director of the Silverton Housing Authority, a body corporate and politic.

Witness my hand and official seal.

My commission expires _____

Notary Public