RIGHT OF FIRST REFUSAL
AND
UNIT HOUSING COVENANT
with Power of Sale

This RIGHT OF FIRST REFUSAL AND UNIT HOUSING COVENANT with Power of Sale (this “Covenant”) is entered into as of __________ by and between City First Homes, Inc., a District of Columbia nonprofit corporation (“CFHomes”) and __________ of the city of Washington, DC (the “Homeowner”) for valuable consideration, including the Retained CFHomes Subsidy for Continued Affordability (defined below) and Homeowner, CFHomes, and Lender, as defined below, are collectively referred to as the “Parties.”

RECITALS

A. CFHomes is a nonprofit corporation organized under the laws of the District of Columbia for the purpose of creating and preserving long term affordable housing in the District of Columbia. CFHomes is an organization of the type described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended, as an organization exempt under section 501(a) of the Code, which has: (i) two years’ experience as a provider of low- or moderate-income housing; (ii) a voluntary board; and (iii) no part of its net earnings inuring to the benefit of any member, founder, contributor or individual. All references herein to "CFHomes" shall mean and include CFHomes and each and every successor and/or assign with respect to the CFHomes Unit, by regulation or otherwise.

B. Homeowner has purchased certain real and personal property located in the District of Columbia and collectively known and described as

See Attached Legal Description
(collectively, together with such improvements and personalty as may be located thereon from time to time, the “CFHomes Unit”).

C. Homeowner hereby agrees to be subject to certain covenants and restrictions which shall run with the CFHomes Unit (defined below), and shall be perpetual, binding upon subsequent owners, unless sooner terminated by reason of the terms and conditions hereof. All references herein to “Homeowner” shall mean and include Homeowner named above and each and every heir and/or successor and/or assign with respect to the CFHomes Unit, including but not limited to all owners and occupants of the CFHomes Unit from time to time.

D. Homeowner's lender, ______________________ (hereinafter "Lender"), joins in this Right of First Refusal & Unit Housing Covenant with Power of Sale solely for the purpose of acknowledging its rights and obligations provided for herein, for itself and for each and every successor and/or assign with respect to the CFHomes Unit.

NOW, THEREFORE, in consideration of the foregoing, which is incorporated herein by reference as if fully restated, and of the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Homeowner’s Duties and Obligations, and CFHomes’ Right of First Refusal.

(a) Homeowner shall establish and occupy the CFHomes Unit as Homeowner’s primary residence, and thereafter shall continue to occupy the CFHomes Unit for at least six (6) months of each year. If Homeowner desires to lease or vacate his or her Unit for a period exceeding six (6) months in one year, he or she must seek prior written approval from CFHomes. CFHomes may verify Homeowner’s compliance with the primary-residency requirement periodically via commercially reasonable means, including but not limited to onsite inspections from time to time.

(b) Homeowner shall not cause or suffer waste upon the CFHomes Unit. Whenever Homeowner shall desire to sell the CFHomes Unit described herein, Homeowner shall transfer the CFHomes Unit in safe and habitable condition with no major failed systems or egregious deferred maintenance present and in compliance with the District of Columbia Housing Code (DCMR tit. 14, ch. 1-15). If, at transfer, the CFHomes Unit does not meet these criteria as determined by CFHomes, then CFHomes may deduct the cost of bringing the CFHomes Unit into compliance from the selling Homeowner’s net sales proceeds as set forth in Section 2 below. In addition, CFHomes may, but shall not be required to, among other things, (i) pay any sums secured by a lien which has priority over this Covenant; (b) appear in court; and (c) pay reasonable attorneys’ fees to protect its interest in the CFHomes Unit and/or rights under this Covenant, including in a bankruptcy proceeding. Securing the CFHomes Unit includes, but is not limited to, entering the CFHomes Unit to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Any and all amounts disbursed by CFHomes as aforesaid shall bear interest at the legal rate as in effect in the District of Columbia (see DC Code § 28-3302(a)) from the date of disbursement and shall be payable, with such interest, upon notice from CFHomes to Homeowner requesting payment.

(c) Homeowner shall not refinance the CFHomes Unit without CFHomes’ prior written approval, such approval not to be unreasonably withheld.
(d) (1) Homeowner **MAY NOT AND SHALL NOT** pledge, mortgage, convey or assign any of its rights to or interests in the CFHomes Unit without prior written consent by CFHomes. The foregoing is not meant to prohibit succession to the CFHomes Unit through testamentary disposition or intestacy, provided the conditions hereinafter set forth are complied with.

(2) Parties acquiring an ownership interest in the CFHomes Unit through the testamentary dispositions or intestacy shall be bound by all terms and conditions of the Covenant. Furthermore, said parties succeeding to Homeowner’s interest shall acknowledge in writing their obligations to be bound by the terms and conditions of the Covenant within **ninety (90) days** of a written request by CFHomes for such acknowledgment. Failure to sign such acknowledgment shall constitute a substantial violation of the Covenant and grounds for default hereunder.

(e) **Right of First Refusal.**

(1) Whenever Homeowner shall desire to sell the CFHomes Unit, Homeowner shall provide CFHomes written notice of said intent to sell. Upon receipt of said written notice, a market valuation of the CFHomes Unit shall be performed by a mutually acceptable, licensed property appraiser. The appraisal shall consist of an analysis and comparisons of comparable properties, disregarding any affordability restrictions, including but not limited to the resale restrictions contained in this Covenant. The cost of the appraisal shall be shared equally between Homeowner and CFHomes.

(2) Upon completion of said appraisal, CFHomes shall have a period (the "First Refusal Period") of **ninety (90) days** to either

(i) purchase the CFHomes Unit for the CFHomes Purchase Price (defined in **Section 2** below); or

(ii) locate and approve an Eligible Household willing to purchase the CFHomes Unit subject to this Covenant, at the then-applicable New Homeowner Purchase Price (defined in **Section 2** below), and upon other terms (which may include payments to CFHomes in addition to any payments to Homeowner) which are satisfactory to CFHomes and said approved Eligible Household.

(3) "Eligible Household" means a household having an income at or below **one hundred twenty percent (120%)** of the area median income ("AMI") for households residing in the Washington, DC Metropolitan Statistical Area, as determined from time to time by the United States Department of Housing and Urban Development ("HUD") and adjusted for household size in accordance with applicable HUD and DC government procedures.

(4) Eligible Households must agree to purchase the CFHomes Unit subject to the terms and conditions of this Covenant or another covenant the terms and conditions of which shall be determined by CFHomes.

(5) CFHomes and Homeowner may extend the time in which CFHomes must exercise its option to purchase or provide an approved Eligible Household to purchase the CFHomes Unit, provided said extension is made by mutual consent as evidenced by a signed agreement. This provision shall not be construed to mean that CFHomes or Homeowner must agree to an extension of time in which CFHomes must exercise its option.
(6) After the expiration of the ninety (90) day option period, or agreed upon extension, if CFHomes has not purchased the CFHomes Unit or located and approved an Eligible Household to purchase the CFHomes Unit as aforesaid, then Homeowner shall be free to sell the CFHomes Unit at any agreed price to any purchaser, regardless of income, provided that Homeowner repay the Retained CFHomes Subsidy for Continued Affordability, defined and described in Section 2(b)(2) below, and provided also that the full balance of any CFHomes Mortgage (see Section 12 below), if applicable, is due and payable to CFHomes upon conveyance or transfer of the CFHomes Unit (regardless of whether appreciation is sufficient to pay said balance in full). Upon said conveyance in accordance with the foregoing, CFHomes shall release and discharge the CFHomes Unit from this Covenant.

2. Calculation of Market Value Appreciation; Calculation of CFHomes Purchase Price; Calculation of Selling Homeowner’s Net Sales Proceeds; Calculation of New Homeowner Purchase Price; Other.

(a) Calculation of Market Value Appreciation. The total amount of appreciation in the value of the CFHomes Unit during the time the CFHomes Unit was owned by the selling Homeowner (the “Market Value Appreciation”) shall be calculated as follows for the purpose hereof:

(1) The appraised value, disregarding any affordability restrictions, including but not limited to the resale restrictions contained in this Covenant (the “Market Value”), of Homeowner’s CFHomes Unit on or as of the date of Homeowner’s notification of desire to sell, as described in Section 1(e) above,

(2) Minus the approved amount of the Capital Improvement Credit as defined in Section 3 below (this deduction is intended to give the selling Homeowner the benefit, in cash, of approved capital improvements when the selling Homeowner sells the CFHomes Unit),

(3) Minus the Market Value of said Unit as determined by an appraisal conducted on or as of the date of the applicable Homeowner’s acquisition of the CFHomes Unit,

(4) Equals the Market Value Appreciation of the CFHomes Unit.

Market Value Appreciation shall be calculated on the basis of Market Value as defined in this Covenant immediately above, not on the basis of purchase or sale price, as of the applicable date(s). For the purpose of clause (a)(3) above, the date of each transfer in accordance with this Covenant to a purchaser who will occupy the CFHomes Unit in accordance with this Covenant (each, a “New Homeowner”) (including but not limited to a purchaser under Section 1(e) above) shall be treated as the date of the applicable Homeowner’s acquisition of the CFHomes Unit. If the Market Value Appreciation, as calculated in accordance with the foregoing, is zero or lower, then, for the purpose of the calculations in this Subsection (a), Market Value Appreciation shall be zero.

(b) Calculation of CFHomes Purchase Price. If CFHomes purchases the CFHomes Unit as provided in Section 1(e) above, then the price to be paid by CFHomes in such instance (the “CFHomes Purchase Price”) shall be calculated as follows:

(1) The Market Value of Homeowner’s CFHomes Unit on or as of the date of Homeowner’s notification of desire to sell, as described in Section 1(e) above (this Market Value is the same as the Market Value described in clause (a)(1) above);
(2) **Minus** the "Retained CFHomes Subsidy for Continued Affordability", which shall equal the sum of

(A) Seventy-five percent (75%) of the Market Value Appreciation as calculated in Section 2(a) above (the amount subtracted pursuant to this clause (b)(2)(A), as same may be increased or decreased by CFHomes in its discretion on a case-by-case basis, for subsequent New Homeowners, is referred to as the "Share of Appreciation for Continued Affordability"); and

(B) the "City First Purchase Subsidy Recoverable Grant", which is the subsidy provided by CFHomes at Homeowner's purchase of the CFHomes Unit, and which is defined as the difference between –

(i) the Market Value of the CFHomes Unit at the time the CFHomes Unit was first sold to any Homeowner subject to affordable restrictions in this Covenant or in any other Occupancy Agreement with like restrictions; and

(ii) the net effective purchase price (generally, down payment [see also Subsection (f) below] plus first mortgage loan, without reflecting closing costs) at which the selling Homeowner purchased the CFHomes Unit

– as said City First Purchase Subsidy Recoverable Grant may be increased or decreased by CFHomes in its discretion on a case-by-case basis, for subsequent New Homeowners;

(3) **Equals** the CFHomes Purchase Price.

For the purpose of clause (b)(1) above, the date of each transfer to a New Homeowner (defined in Section 1(a) above) (including but not limited to a purchaser under Section 1(e) above) shall be treated as the date of the applicable Homeowner's purchase of the CFHomes Unit.

(c) **Calculation of Selling Homeowner's Net Sale Proceeds.** Regardless of whether CFHomes purchases the CFHomes Unit or a New Homeowner purchases the CFHomes Unit, the net proceeds which the selling Homeowner is entitled to receive from the sale of the CFHomes Unit (the "Selling Homeowner's Net Sale Proceeds") shall be calculated as follows:

(1) The Market Value of Homeowner's CFHomes Unit on or as of the date of Homeowner's notification of desire to sell, as described in Section 1(e) above (this Market Value is the same as the Market Value described in clause (a)(1) and in clause (b)(1) above);

(2) **Minus** the cost of bringing the CFHomes Unit up to a safe and habitable condition with no major failed systems or egregious deferred maintenance present (see Section 1(b) above);

(3) **Minus** the balance of principal, interest, fees, costs and other amounts then due on Homeowner's first mortgage loan;

(4) **Minus**, if applicable, all interest, fees, costs and other amounts (other than principal) then due on any CFHomes Mortgage (see Section 12 below), together with the balance, if any, of principal then due on any CFHomes Mortgage, to the extent said principal is not assumed by New Homeowner as provided in Subsection (f) below;
(5) Minus the Retained CFHomes Subsidy for Continued Affordability (defined in Section 2(b)(2) above);

(6) Minus closing costs chargeable to the selling Homeowner;

(7) Equals the Selling Homeowner's Net Sales Proceeds.

(d) **Calculation of New Homeowner Purchase Price.** If a New Homeowner purchases the CFHomes Unit as provided in Subsection (a) above, then the price to be paid by the New Homeowner in such instance (the "New Homeowner Purchase Price") shall be calculated as follows:

(1) The Market Value of Homeowner's CFHomes Unit on or as of the date of Homeowner's notification of desire to sell, as described in Section 1(e) above (this Market Value is the same as the Market Value described in clause (a)(1), clause (b)(1) and clause (c)(1) above);

(2) Minus the Retained CFHomes Subsidy for Continued Affordability (defined in Section 2(b)(2) above). When New Homeowner sells the CFHomes Unit, the amount deducted pursuant to this clause (d)(2), as same may be increased or decreased by CFHomes in its discretion on a case-by-case basis, for subsequent New Homeowners, will constitute the City First Purchase Subsidy Recoverable Grant (i.e., said amount, as may be so adjusted, will be one of the two components constituting the then-applicable Retained CFHomes Subsidy for Continued Affordability), for the purpose of calculating the CFHomes Purchase Price or the New Homeowner Purchase Price, as applicable.

(3) Minus the CFHomes Share of Appreciation for Continued Affordability (as same may be increased or decreased by CFHomes in its discretion on a case-by-case basis, for subsequent New Homeowners)

(4) Plus a payment toward CFHomes' overhead and its costs and expenses for establishing and maintaining the Workforce Housing Land Trust program in the District of Columbia, which amount is currently expected to be approximately five percent (5%) of the Market Value described in clause (d)(1) above but which amount is subject to adjustment at any time and from time to time in CFHomes' discretion;

(5) Plus estimated brokerage commissions and closing costs, which combined amount is currently expected to be approximately four percent (4%) of the Market Value described in clause (d)(1) above but which amount is subject to adjustment at any time and from time to time in CFHomes' discretion; any buyer's broker's commission payable to a New Homeowner's buyer's broker must be approved by CFHomes and shall be paid from the amount specified in this clause (4);

(6) Equals the New Homeowner Purchase Price.

(e) **Subordination of Listing and Brokerage Agreement.** This Covenant is superior to and supersedes any inconsistent provision in any listing or brokerage agreement which may be entered into by Homeowner with respect to the CFHomes Unit. Homeowner shall not agree to pay any commission, fee or other thing of value, to any broker or finder or other marketing or sales consultant with respect to the CFHomes Unit, without, in each instance, the prior written
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consent of CFHomes. Homeowner, as owner, agrees to cooperate with CFHomes with respect to permanent affordability provisions in this Covenant including but not limited to Homeowner's obligation to convey the CFHomes Unit to CFHomes and/or New Homeowner, as applicable, in accordance with this Covenant; and permitting reasonable access to the CFHomes Unit by CFHomes, New Homeowner and their designees prior to sale for the purpose of showing, inspection and preparation for sale.

(f) **CFHomes Mortgage.** If there is then in effect a CFHomes Mortgage (see Section 12 below), the full balance (principal, interest, fees, penalties and costs) due on or in connection with the CFHomes Mortgage is due and payable in full upon conveyance or transfer of the CFHomes Unit. CFHomes, in its sole discretion, may, but shall not be required to, accept a partial payment of principal due on the CFHomes Mortgage, or accept a payment of zero principal on the CFHomes Mortgage, each on a case-by-case or other basis. If CFHomes accepts a partial payment or payment of zero principal on the CFHomes Mortgage, then (A) the remaining principal balance shall be assumed by the New Homeowner, (B) the terms of the CFHomes Mortgage may be modified to the extent mutually agreed by CFHomes and the New Homeowner, (C) CFHomes will release the selling Homeowner from its obligations under the CFHomes Mortgage, and (D) when the New Homeowner sells the CFHomes Unit in accordance herewith, the principal of the CFHomes Mortgage assumed at purchase will be considered part of the selling New Homeowner's downpayment for the purpose of Section 2(b)(2)(B)(ii) above.

(g) **Additional Provisions.**

1. The foregoing calculation may not fully reflect settlement and closing costs which the seller and purchaser may be required to pay in connection with the transaction.

2. Any and all limitations on Homeowner's ability to choose a purchaser for the CFHomes Unit are only to the extent necessary to ensure that the CFHomes Unit is preserved as low- or moderate-income housing.

3. **Credit for Capital Improvements.** The Capital Improvement Credit described in Section 2(a)(2) above shall equal the lesser of

   (1) the value which each Capital Improvement (defined in Section 3(b)(1) below) adds to Homeowner's property as defined in Section 3(a) below; or

   (2) the Maximum Capital Improvement Credit as computed in Section 3(b) below.

(a) **Procedure.** When undertaking any major improvements of the CFHomes Unit for which Homeowner desires to receive a Capital Improvement Credit, and at Homeowner's expense, Homeowner shall collect and maintain documentation of said improvements. Documentation shall include the price of materials (if known or reasonably ascertainable), price of labor, before and after pictures, and any contract or scope of work agreements with vendors. Copies of this documentation shall be provided to CFHomes. The appraisal provided for in Section 1(e) above shall include an estimate of present value added to the CFHomes Unit by major improvement. This value shall equal the Capital Improvement Credit. All improvements which can be documented by the procedure described above to add value to the CFHomes Unit are eligible for Capital Improvement Credit. Notwithstanding the foregoing or any other provision to the contrary in this Covenant or in any other document or agreement, Homeowner shall not proceed with any Capital Improvement without CFHomes' prior written approval.
(b) **Definitions.**

(1) "Capital Improvements" are defined as major improvements above and beyond regular routine maintenance and repair.

(2) "Maximum Capital Improvement Credit" shall be the current **District of Columbia Housing Finance Agency** maximum home purchase price for an existing unit of the type of the CFHomes Unit, minus the Market Value of the CFHomes Unit at or about the time Homeowner purchased the CFHomes Unit. If the **District of Columbia Housing Finance Agency** no longer exists or does not have a maximum home purchase price, another comparable index chosen by CFHomes shall be used. CFHomes, in its sole discretion, may, but shall not be required to, modify or waive, in part or in full, the Maximum Capital Improvement Credit on a case-by-case basis or other basis.

(c) **Calculation of the Capital Improvement Credit.** The Capital Improvement Credit shall be the **LESSER** of the following:

(1) The present value added to the CFHomes Unit by Capital Improvement, as determined in accordance with **Section 3(a)** above; OR

(2) The Maximum Capital Improvement Credit

Homeowner agrees that the Capital Improvement Credit, as determined by the method described herein, constitutes fair compensation for Capital Improvements to his or her Unit.

(d) **Limitation.** Notwithstanding anything to the contrary in this Covenant or in any other document or agreement, Homeowner may not receive credit for capital improvements if Homeowner has not adhered to the procedures provided for in this Covenant for added improvements.

4. **Purpose.** The purpose of the above covenants, including the CFHomes Purchase Price, which limit Homeowner’s share of appreciation in the property, is to encourage the development and continued availability of affordable housing for low and moderate income persons.

5. **Duration.** Unless otherwise discharged by its terms, this Covenant shall terminate if one of the following conditions shall occur:

(1) Upon CFHomes’ execution of its option to purchase the CFHomes Unit; or

(2) Upon written agreement between Homeowner and CFHomes.

Otherwise, this Covenant shall **run with the land,** shall bind and inure to the benefit of the Parties and their respective heirs, successors and assigns, regardless of any transfer of ownership of the CFHomes Unit, and shall be enforceable according to its terms.

6. **Discretionary Release of Covenant.** At any time, CFHomes, in its sole discretion, may, but shall not be required to, release this Covenant by recording an appropriate instrument in the applicable land records. The terms and conditions of this Covenant shall terminate upon the recording thereof.
7. Lenders' Obligations and Foreclosure Rights.

(a) If Homeowner defaults in payment or performance of any obligation to Lender, then, as a condition to any right of Lender to exercise any remedies therefor,

(1) Lender shall provide to CFHomes written notice of Homeowner's default, describing the nature thereof in reasonable detail the steps necessary to cure; and

(2) CFHomes shall have ninety (90) days, following receipt of Lender's written notice, to cure Homeowner's default, which cure Lender shall accept, and upon such cure Lender shall reinstate Homeowner as Lender's borrower in good standing; and

(3) CFHomes, during the aforesaid ninety (90) day period, may give Lender and Homeowner notice that CFHomes will purchase the CFHomes Unit, in which case Lender shall cause or permit the CFHomes Unit to be sold to CFHomes at a price (the "Lender Option Price") equal to the greater of:

(i) the sum of the principal and interest due to Lender under Homeowner's mortgage/deed of trust as of the date of the aforesaid notice (the "Option Date"), together with Lender's costs of foreclosure and/or acquiring title, including, without limitation, reasonable attorney's fees, plus interest accrued on such costs as of the Option Date at the judgment rate, or at the rate of interest set forth in the promissory note secured by the mortgage/deed of trust, whichever is higher; or

(ii) the amount found due in an applicable Decree of Foreclosure, plus interest accrued on such amount as of the Option Date at the judgment rate, or at the rate of interest set forth in the promissory note secured by the mortgage/deed of trust, whichever is higher.

Closing as aforesaid on CFHomes' purchase of the CFHomes Unit shall occur not more than ninety (90) days after CFHomes so notifies Lender that CFHomes will purchase the CFHomes Unit.

(b) If CFHomes does not exercise its right to purchase and complete closing thereon as provided herein, then the terms and conditions of this Covenant shall terminate upon the recording of the deed pertaining to said foreclosure or deed in lieu of foreclosure.

(c) Notwithstanding anything to the contrary herein or in any other document or agreement, no loan affecting the CFHomes Unit shall in any event be a loan described in Section 202 of DC Code § 26-1152.02, as amended.

(d) Homeowner shall cooperate in all respects with CFHomes' exercise of its rights under this Section 7.

8. Enforcement of Covenants.

(a) It is expressly understood and agreed that, with regard to the restrictive covenants contained herein, it shall be lawful for CFHomes to institute and prosecute any proceeding at law or in equity against the person or persons, or agencies violating or threatening to violate same and that any decree judgment or damages awarded thereon, in addition, shall include reasonable attorney fees. CFHomes has the right to specifically enforce the covenants contained herein.
(b) CFHomes may enforce this Covenant in accordance with its terms, specifically including, but not limited to, the right to obtain an order or decree of specific performance. Homeowner acknowledges that the CFHomes Unit is impressed with a Public interest and that money damages to CFHomes in the event of a violation are inadequate and insufficient to remedy a related failure or default and that money damages are difficult or impossible to calculate. In the event of legal action to enforce this Covenant, the prevailing party shall be entitled to recover costs of investigation and prosecution thereof through all levels of appeal (except that no costs may be recovered against the District).

(c) Accordingly, but without limitation, this Covenant may be enforced through an equitable decree appropriate to the case, including a decree of specific performance.

(d) Homeowner shall be in breach, violation or default under this Covenant if Homeowner, among other things, has

1. Abused the CFHomes Unit by using it or by permitting it to be used in any manner seriously detrimental to the CFHomes Unit itself or the surrounding community of people; or

2. Failed to pay any amounts due in connection with any applicable CFHomes Mortgage (see Section 12 below) within ninety (90) days of its due date; or defaulted otherwise under any applicable CFHomes Mortgage;

3. Failed to pay the applicable real estate taxes for the CFHomes Unit;

4. Failed to comply with the occupancy requirement of Section 1;

5. Failed to comply with the maintenance requirements of Section 1;

6. Failed to comply with any other material term of this Covenant.

(e) No action for enforcement may be brought unless CFHomes has first delivered to Homeowner a written notice of violation hereof, and such violation has not been remedied or a written plan for remedy reasonably satisfactory to CFHomes within sixty (60) days after the date of delivery of such notice. In addition to all other available remedies, if CFHomes is required to pursue legal action to enforce this Covenant, CFHomes shall be entitled to recover from Homeowner its reasonable attorney's fees incurred in such action.

(f) In addition to and not in limitation of any remedies of CFHomes hereunder and/or at law and/or in equity,

1. if applicable, CFHomes may declare any breach, violation or default hereunder to be a default under any CFHomes Mortgage; and

2. whether or not a CFHomes Mortgage is then in effect, CFHomes may enforce this Covenant as a deed of trust, with power of sale. Accordingly,

(A) HOMEOWNER IRREVOCABLY GRANTS AND CONVEYS to Melrose Nathan, as "Trustee", in trust, with power of sale, and grants to CFHomes a security interest in, the CFHomes Unit, together with all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part thereof, and all replacements and additions. CFHomes, at its option, may from time to time remove Trustee and
appoint a successor trustee to any Trustee appointed hereunder by recording a Deed of Appointment. Without conveyance of the CFHomes Unit, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

(B) CFHomes may accelerate all amounts then due to CFHomes hereunder and shall give notice to Homeowner in accordance with Applicable Law. The notice shall specify: (a) the default; and (b) the action required to cure the default; and (c) a date by which the default must be cured. If the default is not cured on or before the date specified in the notice, CFHomes at its option may require immediate payment in full of all sums due hereunder without further demand and may invoke the power of sale and any other remedies permitted by Applicable Law. CFHomes shall be entitled to collect all expenses incurred in pursuing the remedies provided for herein, including, but not limited to, reasonable attorneys’ fees and costs of title evidence.

(C) If CFHomes invokes the power of sale, CFHomes shall send written notice as prescribed by Applicable Law to Homeowner and to the other persons prescribed by Applicable Law of the occurrence of an event of default and of CFHomes’ election to cause the CFHomes Unit to be sold. Trustee shall give notice of sale by public advertisement as Trustee deems proper to protect the interests of Homeowner and CFHomes. After the time required by Applicable Law, Trustee, without demand on Homeowner, shall sell the CFHomes Unit at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of any portion of the CFHomes Unit by public announcement at the time and place of any previously scheduled sale. CFHomes or its designee may purchase the CFHomes Unit at any sale.

(D) Trustee shall deliver to the purchaser Trustee’s deed conveying the CFHomes Unit without any covenant or warranty, expressed or implied. The recitals in the Trustee’s deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, Trustee’s fees of five percent (5%) of the gross sale price and reasonable attorneys’ fees; (b) to all sums secured hereby; and (c) any excess to the person or persons legally entitled to it.

9. CFHomes Release & Acknowledgement. With respect to any transfer of the CFHomes Unit subsequent to the date of recording of this Covenant, CFHomes, upon request, if all applicable requirements of this Covenant have been satisfied, will in writing (i) release its Right of First Refusal as provided for in Section 1(e) and other applicable provisions of this Covenant; and (ii) acknowledge that Homeowner has complied with the applicable provisions of this Covenant to the satisfaction of CFHomes. Any such release and acknowledgement will apply only to the CFHomes Unit, and only to the transfer in question, and not to any other transfer or to any other property.

10. Mediation and Arbitration.

The Parties acknowledge the necessity of resolving disputes in an expeditious, organized, and fair manner. The mediation and arbitration procedures set forth below reflect the Parties’ understanding that speedy dispute resolution is essential to the occupancy and use of the CFHomes Unit.

Should any grievance or dispute arise between Homeowner and CFHomes concerning their respective rights and duties under the terms of this Covenant, which cannot be resolved in normal interaction, the following mediation and arbitration procedures shall be used; provided,
however, that any dispute which involves the legal validity of this Covenant or any portion thereof is specifically excluded from this arbitration agreement. Any such dispute shall be subject to judicial resolution rather than arbitration.

A. Mediation

Homeowner or CFHomes may notify the other by written notice of its/their desire to enter into non-binding mediation. Within fifteen (15) days of receipt of this written notice, Homeowner and CFHomes will mutually agree upon a disinterested person to mediate their dispute. The mediator shall be a person who has prior experience in mediation. Efforts to achieve a resolution through mediation shall end as soon as Homeowner or CFHomes announces that, despite good faith efforts, the parties are unable to resolve their dispute. In any event, either Homeowner or CFHomes shall be free to resort to arbitration if the dispute has not been resolved within thirty (30) days of the selection of a mediator or if the parties are unable to agree upon a mediator within fifteen (15) days of the receipt of the written notice of a request to mediate. Neither Homeowner nor CFHomes may seek arbitration without first utilizing the mediation process in accordance with this Section 10(A).

B. Arbitration

Homeowner or CFHomes shall notify the other by written notice of its/their selection of a disinterested arbitrator. Within fifteen (15) days of receipt of this written notice, the other party may by written notice to the initiator of the arbitration process appoint a disinterested arbitrator of its/their choice. These two arbitrators shall select a third arbitrator. If the other party fails to timely name an arbitrator in response to receiving the written notice from the initiator of the arbitration process, the arbitrator selected by the initiator shall be the sole arbitrator.

The arbitrator or arbitrators shall hold a hearing within forty-five (45) days after the initial written notice by the initiator of the arbitration process. At the hearing, Homeowner and CFHomes shall have an opportunity to present evidence and question witnesses in the presence of each other.

Within thirty (30) days after the hearing, the arbitration panel shall be binding and final between Homeowner and CFHomes. The prevailing party shall be entitled to attorneys fees in any arbitration proceedings and in any judicial proceeding connected with the arbitration (except that no costs may be recovered against the District).

11. Notice.

All notices, demands, or other writings required to be given by the Parties hereto pursuant to this Covenant shall be sufficient if mailed certified mail, return receipt requested, and addressed as follows:

(i) If to CFHomes: City First Homes, Inc.
1436 U Street NW, Suite 404
Washington, DC 20009
Attn: Housing Director
e-mail jim@cfhomes.org
tel 202-745-4484
Each party hereby agrees to notify the other of any changes in their address. CFHomes and Lender hereby agree that notice to their respective agents, as recorded in the land records of the District of Columbia, will satisfy the notice requirements herein, as long as copies of said notices are also sent to their respective addresses as provided for herein.

12. **CFHomes Mortgage**

As part of the consideration for this Covenant, CFHomes provided a loan in the amount of $_________ to enhance affordability of the CFHomes Unit. Said financing is evidenced, governed and secured by a $_________ Note and a Deed of Trust recorded in the District of Columbia land records with respect to the CFHomes Unit (said loan and documents are referred to herein, collectively, as the "**CFHomes Mortgage**"). The CFHomes Mortgage may be assumed by a New Homeowner in accordance with the CFHomes Mortgage and the applicable provisions of this Unit Housing Covenant, as provided in Section 2(f) above. The CFHomes Mortgage may be subordinate to the Lender's security interest in the CFHomes Unit. However, this **Unit Housing Covenant** is **NOT** subordinate to any security instrument and may be terminated only as provided herein.

13. **Enforcement by District of Columbia**

The District of Columbia (the "**District**") is a third party beneficiary of this Covenant. The District provided grant funds to CFHomes pursuant to a grant agreement ("**Grant Agreement**"), dated September 11, 2007, between the District and CFHomes. The Grant Agreement was entered into pursuant to the Workforce Housing Production Program Approval Act of 2006, effective March 14, 2007 (D.C. Law 16-278; D.C. Official Code §§ 6-1061.01 et seq.), as amended and Chapter 35 of Title 14 of the District of Columbia Municipal Regulations promulgated August 31, 2007, as amended (the statutes and regulations are collectively referred to herein as the "**Land Trust Legislation**"). A portion of CFHomes' investment in the Property has come from the funds received by CFHomes from the District pursuant to the Grant Agreement. This Covenant shall be subject to the Land Trust Legislation. The District shall have the right to independently enforce this Covenant, and, notwithstanding anything to the contrary herein.
or in any other document or agreement, no costs may be recovered against the District under Section 8(b) or Section 10.B or otherwise.


The obligations under this Covenant are obligations running with the land. This Covenant shall be recorded in the land records of the District of Columbia. Any amendment to or termination of this instrument shall be executed and acknowledged by all parties hereto, or their heirs, successors and assigns, and recorded in the land records of the District of Columbia. CFHomes has sole authority to discharge this Covenant. This instrument shall inure to the benefit of, and shall be binding upon, each of the parties hereto and their respective heirs, executors, administrators, successors and assigns.

[END OF PAGE.]
IN WITNESS WHEREOF, Homeowner, CFHomes and Lender have caused this Right of First Refusal & Unit Housing Covenant with Power of Sale to be executed by their duly authorized officers for proper recording in the public records in the District of Columbia.

CFHomes:

City First Homes, Inc.

WITNESS/ATTEST:

By: ____________________________
Print: __________________________
Title: __________________________

Lender:

WITNESS/ATTEST:

By: ____________________________ [SEAL]
Print: __________________________
Title: __________________________

Homeowner:

WITNESS:

By: ____________________________ x __________________________ [SEAL]
Print: __________________________

Witness

WITNESS:

By: ____________________________ x __________________________ [SEAL]
Print: __________________________

Witness
I, the undersigned, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that James P. Steck who is known by me (or satisfactorily proven) to be the person named as Housing Director for City First Homes, Inc., a party to the foregoing instrument bearing date as of the 23rd day of January, 2013, appeared personally before me in my jurisdiction aforesaid, and acknowledged to me that he/she executed, sealed and delivered the same as the true and lawful act and deed of said parties for the purposes therein contained.

WITNESS my hand and notarial seal this _____ day of ____________, 20__.

Commission expires:

Notary Public

[SEAL]

City/County of ______________

I, the undersigned, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that ________________________, who is known by me (or satisfactorily proven) to be the person named as ________________________(Lender), a party to the foregoing instrument bearing date as of the _____ day of ____________, 20__ , appeared personally before me in my jurisdiction aforesaid, and acknowledged to me that he/she executed, sealed and delivered the same as the true and lawful act and deed of said parties for the purposes therein contained.

WITNESS my hand and notarial seal this _____ day of ____________, 20__.

Commission expires:

Notary Public

[SEAL]

City/County of ______________

I, the undersigned, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that ________________________ (Homeowner), who is known by me (or satisfactorily proven) to be the person named as a party to the foregoing instrument bearing date as of the _____ day of ____________, 20__, appeared personally before me in my jurisdiction aforesaid, and acknowledged to me that he/she executed, sealed and delivered the same as his/her true and lawful act and deed the purposes therein contained.

WITNESS my hand and notarial seal this _____ day of ____________, 20__.

Commission expires:

Notary Public

[SEAL]

City/County of ______________

Right of First Refusal & Unit
Housing Covenant with Power of Sale
May 31, 2012

___________ of ______________ )
City/County of ______________ )

I, the undersigned, a Notary Public in and for the jurisdiction aforesaid, do hereby certify that _________________ (Homeowner), who is known by me (or satisfactorily proven) to be the person named as a party to the foregoing instrument bearing date as of the _____ day of ______________, 20___, appeared personally before me in my jurisdiction aforesaid, and acknowledged to me that he/she executed, sealed and delivered the same as his/her true and lawful act and deed the purposes therein contained.

WITNESS my hand and notarial seal this _____ day of ______________, 20___.

Commission expires:

____________________________
Notary Public

[SEAL]

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