

# METHODS OF HOLDING TITLE

|                                | TENANCY BY THE ENTIRETY  | JOINT TENANCY  | TENANCY IN COMMON  | ARTIFICIAL ENTITIES (AE) & TRUST AGREEMENTS (TA)  |
|--------------------------------|--|--|--|---|
| <b>PARTIES</b>                 | Husband and Wife; Married Couple   | Individual persons only. Cannot be artificial entity such as corporation, LLC or trustee of trust.   | Any number of individual persons or entities may hold title as tenants in common.              | <b>AE:</b> Only partners/ shareholders/members of the artificial entity. <b>TA:</b> Trustee and beneficiaries of trust may be individuals, trusts or any legally created entity.  |
| <b>DIVISION</b>                | Undivided, equal interest  | Ownership interests must be equal (can have equal interests in undivided interest).  | Ownership can be divided into any number of interests, equal or unequal.                       | <b>AE:</b> Single legal entity, partners/shareholders/ members own interest in entity, not property held. <b>TA:</b> Trustee holds legal title; Beneficial Interests in trust are held in accordance with terms of trust.   |
| <b>TITLE</b>                   | Title held jointly by married couple   | Title held in unity with other joint tenants. Each joint tenant has a separate legal title to undivided interest, subject to right of survivorship.  | Each owner has a separate legal title to undivided interest.                                   | <b>AE:</b> Title is in the artificial entity.<br><b>TA:</b> Held by the trustee(s).   |
| <b>POSSESSION</b>              | Equal, undivided right of possession.  | Equal, undivided right of possession.  | Equal, undivided right of possession.  | <b>AE:</b> Entity has sole right of possession. Entity's organizational documents determine individual partner's/ shareholder's/member's rights, if any.<br><b>TA:</b> In accordance with terms of trust.   |
| <b>VESTING</b>                 | Individual A and Individual B, husband and wife / a married couple, as tenants by the entirety.  | Individual A and Individual B, as joint Tenants with right of survivorship   | Individual/AE/TA, as to an undivided ___% tenant in common interest                            | AE - Per Tenancy, TA - Name of Trustee, Name of Trust, Trust Date   |
| <b>CONVEYANCE/ ENCUMBRANCE</b> | Neither spouse acting alone, can convey nor encumber the property.   | Each owner's interest may be conveyed or encumbered individually, but conveyance or encumbrance without joinder of other joint tenants may sever joint tenancy and result in tenant in common interest.                            | Each owner's interest may be conveyed or encumbered separately.                                | <b>AE:</b> Conveyance and encumbrance authority determined by organizational documents and applicable statutes.<br><b>TA:</b> Trustee has authority to convey and encumber in accordance with terms and limitations of trust agreement.   |
| <b>DEATH</b>                   | Right of survivorship in the surviving spouse by operation of law, outside probate proceeding. An Affidavit of Survivorship must be recorded with Death Certificate. | On co-owner's death, interest passes to surviving joint tenants by operation of law outside of probate proceedings. Interest may not be disposed of by will. An Affidavit of Survivorship must be recorded with Death Certificate. | Interest passes by will or subject to succession under intestacy statutes.                     | <b>AE:</b> Entity not capable of dying. Impact, if any, of death of partner/shareholder/member on affairs of entity determined by organizational documents and applicable statutes. <b>TA:</b> Upon death of trustee, successor trustee, if any, holds title on behalf of trust. Effect of interests in trust upon death of a beneficiary determined by terms of trust agreement. |
| <b>SUCCESSOR STATUS</b>        | Surviving spouse owns property.  | Last survivor owns property.   | Devisee or heir becomes tenant in common with other owners.                                    | <b>AE:</b> Interest, but not management authority, of partner/ shareholder/ member in the entity passes by will or, if no will, by intestate succession. <b>TA:</b> Defined by terms of trust agreement.  |
| <b>PRESUMPTIONS</b>            | Law presumes tenancy in common is formed in the absence of a clear creation of another concurrent ownership estate.  | Creation of joint tenancy must be expressly clear, in writing. Otherwise Tenancy in Common is formed/assumed.  | Joint ownership presumed to be as tenants in common, unless title acquired by married persons. | <b>AE:</b> Property must be expressly vested in entity. <b>TA:</b> Property must be expressly vested in trustee of trust. Trust is created by executed trust agreement.   |



WYOMING TITLE & ESCROW

The information provided above is intended for informational purposes only. It is important to seek professional counsel from an attorney and/or CPA to determine the legal and tax consequences of how you hold title to real property. Updated January 2022. NOTE: Wyoming is not a Community Property State.