

## DEED RESTRICTION

THIS DEED RESTRICTION (the "Agreement") is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021 (the "Effective Date") by and between the Town of Vail, Colorado, a Colorado home rule municipality with an address of 75 South Frontage Road, Vail, Colorado 81657 (the "Town"), and \_\_\_\_\_, an individual with an address of \_\_\_\_\_, Vail, Colorado 81657 ("Owner") (each individually a "Party" and collectively the "Parties").

WHEREAS, in exchange for compensation as set forth in a Deed Restriction Purchase Agreement, Owner has agreed to place certain restrictions on the use of the Property for the benefit of the Town by requiring occupancy of the Property by at least one qualified resident, as defined below.

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which is mutually acknowledged, the Parties agree as follows:

1. Property. The following real property is hereby burdened with the covenants and restrictions specified in this Agreement: \_\_\_\_\_, Vail, Colorado 81657, as more specifically described in **Exhibit A**.

2. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

a. *Person* means a natural person, and excludes any type of entity.

b. *Principal Place of Residence* means the home or place in which one's habitation is fixed and to which one has a present intention of returning after a departure or absence therefrom. To determine a person's Principal Place of Residence, the criteria set forth in C.R.S. § 31-10-201(3) shall apply.

c. *Qualified Household* means one Qualified Resident or a group of persons that contains at least one Qualified Resident. A Qualified Household may have occupants that are not Qualified Residents as long as at least one occupant is a Qualified Resident.

d. *Qualified Resident* means a natural person who works an average of 30 hours or more per week at a business in Eagle County, Colorado that holds a valid and current business license, or pays sales taxes, or is otherwise generally recognized as a legitimate business, and earns at least 75% of their income from such business. A Qualified Resident also includes an individual who: is retired; was 60 years of age or older at the time of retirement; for the 5 years immediately prior to retirement, worked an average of 30 hours or more per week at a business in Eagle County that held a valid and current business license, or paid sales taxes, or was otherwise generally recognized as a legitimate business; and earned at least 75% of their income from such business during such 5-year period. To determine that a person is a Qualified Resident,

the Qualification Guidelines set forth in **Exhibit B**, attached hereto and incorporated herein by this reference, shall apply.

3. Occupancy Restrictions.

a. At least one Qualified Resident shall continuously occupy the Property as his or her principal place of residence.

b. No business activity shall occur on or in such Property, other than as permitted within the zone district applicable to the Property.

4. Annual Verification. No later than February 1<sup>st</sup> of each year, beginning in the year following the first year of occupancy of the Property, Owner shall submit a written statement to the Town including the following information and stating that such information is true and correct to the best of Owner's knowledge and belief:

a. Evidence to establish that the Property was occupied by a Qualified Household during all of the prior calendar year;

b. If applicable, a copy of the lease form currently used for the Property; and

c. If applicable, a list of tenants who occupied the Property in the prior calendar year and the evidence submitted by each tenant to establish that they were a Qualified Resident, as set forth in the Qualification Guidelines.

5. Consensual Lien; Right to Redeem. For the purpose of securing Owner's performance under the Deed Restriction and creating in favor of the Town a right to redeem in accordance with Part 3 of Article 38 of Title 38, C.R.S., as amended, Owner hereby grants to Town a consensual lien on the Property. Such lien shall not have a lien amount.

6. Rental.

a. Owner shall not rent the Property to any person or persons for a term shorter than 30 days.

b. A Qualified Resident may lease a room or rooms in the Property to one or more persons, provided that the Qualified Resident still continuously occupies the Property as his or her principal place of residence. The term of all leases shall be no less than 30 days in duration and no greater than 12 months in duration, provided that unlimited renewals to Qualified Households are permitted.

7. Breach.

a. It is a breach of this Agreement for Owner to violate any provision of this Agreement, or to default in payment or other obligations due to be performed under a promissory note secured by a first deed of trust encumbering the Property. Owner shall notify the Town, in writing, of any notification received from any lender of past due payments or defaults in payments or other obligations within 5 days of receipt.

b. If the Town has reasonable cause to believe Owner is violating this Agreement, the Town may inspect the Property between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, after providing Owner with 24 hours written notice. This Agreement shall constitute Owner's permission to enter the Property during such times upon such notice.

8. Remedies.

a. The Town shall have any and all remedies provided by law and in equity for a violation of this Deed Restriction, including without limitation: (i) damages; (ii) specific performance; and (iii) injunctions, including without limitation an injunction requiring eviction of the occupant(s) and an injunction to prohibit the occupancy of the Property in violation of this Deed Restriction. All remedies shall be cumulative.

b. The cost to the Town of any activity taken in response to any violation of this Deed Restriction, including reasonable attorney fees, shall be paid promptly by Owner.

9. Foreclosure.

a. In the event of a foreclosure, acceptance of a deed-in-lieu of foreclosure, or assignment, this Agreement shall remain in full force and effect.

b. Owner shall give immediate notice to the Town: of any notice of foreclosure under the first deed of trust or any other subordinate security interest in the Property; or when any payment on any indebtedness encumbering the Property is required to avoid foreclosure of the first deed of trust or other subordinate security interest in the Property.

c. Within 60 days after receipt of any notice described herein, the Town may (but shall not be obligated to) proceed to make any payment required to avoid foreclosure. Upon making any such payment, the Town may place a lien on the Property in the amount paid to cure the default and avoid foreclosure, including all fees and costs resulting from such foreclosure.

10. Miscellaneous.

a. Modification. This Agreement may only be modified by subsequent written agreement of the Parties.

b. Integration. This Agreement and any attached exhibits constitute the entire agreement between Buyer and the Town, superseding all prior oral or written communications.

c. 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 an ownership interest in the Property.

d. Severability. If any provision of this Agreement is determined to be void by a court of competent jurisdiction, such determination shall not affect any other provision hereof, and all of the other provisions shall remain in full force and effect.

e. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Eagle County, Colorado.

f. Assignment. There shall be no transfer or assignment of any of the rights or obligations of Buyer under this Agreement without the prior written approval of the Town.

g. Third Parties. There are no intended third-party beneficiaries to this Agreement.

h. No Joint Venture. Notwithstanding any provision hereof, the Town shall never be a joint venture in any private entity or activity which participates in this Agreement, and the Town shall never be liable or responsible for any debt or obligation of any participant in this Agreement.

i. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the Party at the address set forth on the first page of this Agreement.

j. Recording. This Agreement shall be recorded with the Eagle County Clerk and Recorder.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

**TOWN OF VAIL, COLORADO**

\_\_\_\_\_  
Dave Chapin, Mayor

ATTEST:

\_\_\_\_\_  
Tammy Nagel, Town Clerk



**EXHIBIT A  
LEGAL DESCRIPTION**

**EXHIBIT B**  
**QUALIFICATION GUIDELINES**

1. Purpose. The purpose of these Qualification Guidelines is to set forth the occupancy requirements for the Property pursuant to the Deed Restriction.
2. Definitions. All capitalized terms herein shall have the meanings set forth in the Deed Restriction.
3. Application. To become a Qualified Resident, a person must provide the following information:
  - a. Verification (e.g., wage stubs, employer name, address, telephone number and other appropriate documentation) of the person's current employment with a business in Eagle County that holds a valid and current business license, or pays sales taxes, or is otherwise generally recognized as a legitimate business;
  - b. Evidence that the applicant has worked, or will work, an average of 30 hours per week or more per year and earns at least 75% of their income from such a business;
  - c. Evidence that the applicant is an individual who is retired, was 60 years of age or older at the time of retirement, and for the 5 years immediately prior to retirement, worked an average of 30 hours or more per week at such a business and earned at least 75% of their income from such a business;
  - d. A valid form of identification, such as a driver's license, state-issued identification, passport or military identification; and
  - e. A signed statement certifying and acknowledging that all information submitted in such application is true to applicant's best knowledge and authorizing verification of all information submitted.