



**RESIDENTIAL HOUSING RESTRICTION AND NOTICE OF LIEN
FOR “BLUE 52 TOWNHOMES”
TOWN OF BRECKENRIDGE, SUMMIT COUNTY, COLORADO**

This Residential Housing Restriction and Notice of Lien for Blue 52 Townhomes, located in the Town of Breckenridge, Summit County, Colorado (this “**Restriction**”), is made this 13th day of December, 2017, by the Town of Breckenridge Housing Authority, hereinafter referred to as the “**Housing Authority**.”

RECITALS

WHEREAS, the Housing Authority is the owner of that certain real estate located in the Town of Breckenridge, Summit County, Colorado, and legally described in Exhibit A to this Restriction (“**Property**”); and

WHEREAS, the Housing Authority, acting as the declarant, intends to create a valid and enforceable covenant running with the land that assures that all of the units to be developed on the Property will be used solely by individuals who are both Residents and Eligible Households (as such terms are hereinafter defined), subject to limited exceptions provided for herein; and

WHEREAS, under this Restriction the Housing Authority intends, declares, and covenants that the regulatory and restrictive covenants set forth herein governing the use of the units described and provided for herein shall be and are hereby made covenants running with the land and are intended to be and shall be binding upon the Housing Authority, and all subsequent owners of such units for the stated term of this Restriction, unless and until this Restriction is released and terminated in the manner hereafter described.

NOW, THEREFORE, in consideration of the foregoing Recitals, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Housing Authority hereby declares that the Property shall hereafter be held, sold, and conveyed subject to the following covenants, restrictions, and conditions, all of which shall be covenants running with the land, and which are for the purposes of ensuring that the Property remains available for purchase and occupation by persons working in the County (as defined in ARTICLE 1) as affordably priced housing for low to moderate income persons, and protecting the value and desirability of the Property, and which covenants, restrictions, and conditions shall be binding on all parties having any right, title, or interest in the Property, or any part thereof, their heirs, successors, and assigns, and shall inure to the benefit of each Owner (as defined in ARTICLE 1) of a Unit (as defined in ARTICLE 1) within the Property, and the Housing Authority.

ARTICLE 1

DEFINITIONS

1.1 **Definitions.** In addition to the words defined above, the following words, when used in this Restriction, shall have the following meanings and the use of capitalization or lower case letters in references to the following terms shall have no bearing on the meanings of the terms:

A. **“Appreciation Limiting Promissory Note”** means the promissory note to be executed by the purchaser of a Unit and delivered to the Housing Authority as described in Section 5.4.

B. **“Appreciation Limiting Deed of Trust”** means the deed of trust to be executed by the purchaser of a Unit and delivered to the Housing Authority for recording with the Clerk and Recorder of Summit County, Colorado as described in Section 5.4.

C. **“Area Median Income”** or **“AMI”** means the median annual income for the County (or such next larger statistical area calculated by HUD that includes the County, if HUD does not calculate the area median income for the County on a distinct basis from other areas), as adjusted for household size, that is calculated and published annually by HUD (or any successor index thereto acceptable to the Housing Authority, in its reasonable discretion).

D. **“Assets”** means the sum of all real and personal property, money, and other things of value owned or controlled by a person at the time of his or her purchase or lease of a Unit as defined in the Housing Authority’s Guidelines then in effect.

E. **“Authorized Lessee”** means any tenant approved by the Housing Authority, who shall meet the definitions of both Resident and Eligible Household, and who shall lease a Unit at such rental rates as shall be established by the Housing Authority.

F. **“County”** means Summit County, Colorado.

G. **“Dependent”** means a person, including a spouse of a child of, a step-child of, a child in the permanent legal custody of or a parent of, a Resident, in each case whose sole place of residence is in the same household as such Resident, and who is financially dependent upon the support of the Resident. Dependent shall also include any person included within the definition of **“Familial Status”** as defined in 42 U.S.C. § 3602(k), as that act shall from time to time be amended.

H. **“Director”** means the Director of the Department of Community Development of the Town of Breckenridge, Colorado, or such person’s designee.

I. **“Eligible Household”** means a Household approved by the Housing Authority or its designee so as to allow for the execution by the Housing Authority of the form of Notice of Lien and Memorandum of Acceptance of Residential Housing Restriction and Notice of Lien for the Blue 52 Townhomes, Town of Breckenridge, Summit County, Colorado set forth in **Exhibit B** of this Restriction, and shall include: (i) the eight (8) Units identified on **Exhibit C** of this

Restriction, which shall be Households earning not more than one hundred ten percent (110%) of the Area Median Income (a “110% AMI Unit”); (ii) the thirteen (13) Units identified on **Exhibit D** of this Restriction, which shall be Households earning not more than one hundred twenty percent (120%) of the Area Median Income (a “120% AMI Unit”); (iii) the twelve (12) Units identified on **Exhibit E** of this Restriction, which shall be Households earning not more than one hundred forty percent (140%) of the Area Median Income (a “140%AMI Unit”); and (iv) the nineteen (19) Units identified on **Exhibit F** of this Restriction, which shall be sold to Households without an income cap (a “Unit without an income cap”). Once a Unit is designated as either a 110% AMI Unit, a 120% AMI Unit, a 140% AMI Unit, or a Unit without an income cap, it shall remain so designated throughout the term of this Restriction, unless otherwise approved by the Housing Authority. A Household’s income for purpose of determining whether such household meets this definition of eligibility shall be determined in accordance with the Housing Authority’s Guidelines in effect at the time of purchase or, as the case may be, commencement of leasehold occupancy. Income testing shall be done only at the time a person purchases or leases a Unit. Additional income obtained by persons in an Eligible Household after purchasing or leasing the Unit shall not have any effect on the household’s qualifications or income classification under this Restriction.

In order to attempt to assure a pool of qualified buyers while also matching household income to appropriately priced Units, the Housing Authority has established the following initial price affordability standards for the Units that are subject to this Restriction:

Unit Category	Price to Be Affordable
110% AMI Unit	80% AMI Household
120% AMI Unit	90% AMI Household
140% AMI Unit	110% AMI Household
Non-Income Capped Units	120% & 130% AMI Households

At the time of the purchase of a Unit a Qualified Owner shall not have more Assets than are allowed under the Housing Authority’s Guidelines then in effect. Asset testing shall be done only at the time a person purchases a Unit. Assets acquired by a Qualified Owner after purchasing the Unit shall not have any effect on the ability of the Qualified Owner to continue to own the Unit.

J. “**First Mortgage**” means a deed of trust or mortgage that is recorded senior to any other deeds of trust or liens against the Property to secure a loan used to purchase the Property made by a Mortgagee.

K. “**Guidelines**” means the administrative rules, regulations, policies, and standards adopted by the Housing Authority pursuant to Section 11.1 of this Restriction, as amended from time to time.

L. “**Household**” means one or more persons who intend to live together in a Unit as a single housekeeping unit.

M. **“Housing Authority Lien”** means the lien that is granted to the Housing Authority in Section 9.2 of this Restriction to secure payment of any amounts due and owing to the Housing Authority pursuant to this Restriction.

N. **“HUD”** means the U.S. Department of Housing and Urban Development.

O. **“Maximum Resale Price”** means the maximum Purchase Price that shall be paid by any purchaser of the Property, other than the initial purchaser who acquires the Property from the Housing Authority, that is determined in accordance with the provisions of Section 8.3 of this Restriction. The Maximum Resale Price is not a guaranteed price, but merely the highest price an Owner may obtain for the sale of the Property.

P. **“Mortgagee”** means any bank, savings and loan association, or any other institutional lender that is licensed to engage in the business of providing purchase money mortgage financing for residential real property and that is the beneficiary of a deed of trust or mortgage encumbering any Unit.

Q. **“Non-Qualified Owner” or “Non-Qualified Transferee”** means an Owner that is not a Qualified Owner.

R. **“Owner”** means the record owner at any time taking and holding fee simple title to a Unit.

S. **“Purchase Money Mortgage”** means a First Mortgage given by an Owner to the extent that it is: (a) taken or retained by the seller of the Property to secure all or part of the payment of the Purchase Price; or (b) taken by a person who by making advances, by making a loan, or by incurring an obligation gives value to enable the Owner to acquire the Property if such value is in fact so used.

T. **“Purchase Price”** shall mean all consideration paid by the purchaser to the seller for a Unit as defined in the Guidelines.

U. **“Rent”** means to lease or rent a Unit.

V. **“Qualified Owner”** means a natural person(s) that meet(s) the definitions of both a Resident and an Eligible Household, or Non-Qualified Owner under Section 5.1B, qualified and approved by the Housing Authority, in such a manner as will allow the Housing Authority to execute the Notice of Lien and Memorandum of Acceptance of Residential Housing Restriction and Notice of Lien for the Blue 52 Townhomes, Town of Breckenridge, Summit County, Colorado set forth in **Exhibit B** of this Restriction.

W. **“Resident”** means a person and his or her Dependents, if any, who at all times during ownership or occupancy of the Unit: (i) earns his or her living from a business operating in and serving the County, and (ii) works in the County at such business an average of at least thirty (30) hours per week on an annual basis, or is a person who is approved in writing by the Housing Authority, which approval shall be based upon criteria including, but not limited to, total income, percent of income earned within the County, place of voter registration, place of automobile registration, and driver’s license address and other qualifications established by the

Housing Authority from time to time (compliance with each of these criteria is not necessary; in certifying Residents, the Housing Authority shall consider the criteria cumulatively as they relate to the intent and purpose of this Restriction). A person over 65 years of age shall remain a Resident regardless of his or her working status, so long as he or she has owned and occupied a Unit for a time period of not less than seven (7) years. A Resident or Authorized Lessee who becomes disabled after commencing ownership or occupancy of a Unit such that he or she cannot work the required number of hours each week required by this Restriction shall remain a Resident or Authorized Lessee; provided that such person is permitted to occupy the Unit only for a maximum period of one (1) year following the commencement of said person's disability, unless a longer period of occupancy is authorized by the Housing Authority. Unless otherwise indicated, the term "business" as used in this Restriction shall mean an enterprise or organization providing goods and/or services, whether or not for profit, and shall include, but not be limited to, educational, religious, governmental, and other similar institutions.

X. "Town" means the Town of Breckenridge, a Colorado municipal corporation.

Y. "Town Clerk" means the Town Clerk of the Town of Breckenridge, Colorado, or such person's designee.

Z. "Town Council" means the Town Council of the Town of Breckenridge, Colorado.

AA. "Transfer" or "transferred" means any sale, assignment, or transfer that is voluntary, involuntary, or by operation of law (whether by deed, contract of sale, gift, devise, trustee's sale, deed in lieu of foreclosure, or otherwise) of any interest in a Unit, including, but not limited to, a fee simple interest, a joint tenancy interest, a tenancy in common, a life estate, or any interest evidenced by a land contract by which possession of a Unit is transferred and the Owner obtains title.

BB. "Unit" means a physical portion of the Property to be constructed for purposes of residential use only and to be created as a separate transferable real property interest by the filing of subdivision or similar plat(s) or map(s) for some or all of the Property. There will initially be a total of fifty-two (52) Units built within the Property, but the number of Units may be increased by the Housing Authority as provided in the Declaration of Covenant, Conditions, and Restrictions of the Blue 52 Townhomes.

ARTICLE 2 PURPOSE

2.1 Purpose of Restriction. The purpose of this Restriction is to restrict ownership, occupancy, and sale of each Unit in such a fashion as to provide, on a permanent basis, affordably priced housing for low to moderate income persons to be occupied by Qualified Owners or Authorized Lessees, which Qualified Owners or Authorized Lessees, because of their income, may not otherwise be in a position to afford to purchase, own, occupy, or lease other similar properties, and to help establish and preserve a supply of affordably priced housing to help meet the needs of the locally employed residents of the County.

ARTICLE 3
RESTRICTION AND AGREEMENT BINDS THE PROPERTY

3.1 Restriction Runs With the Land. This Restriction shall constitute covenants running with title to the Property as a burden thereon, for benefit of, and enforceable by, the Housing Authority, and its successors and assigns, and this Restriction shall bind the Housing Authority and all subsequent Owners and occupants of a Unit. Each Owner and Authorized Lessee, upon acceptance of a deed or lease to a Unit, shall be personally obligated hereunder for the full and complete performance and observance of all covenants, conditions, and restrictions contained herein during the Owner's period of ownership or Authorized Lessee's tenancy, as may be appropriate. Each and every Transfer or lease of a Unit, for all purposes, shall be deemed to include and incorporate by this reference, the covenants contained in this Restriction, even without reference to this Restriction in any document of conveyance.

ARTICLE 4
NATURAL PERSONS

4.1 Units Shall Be Occupied by Natural Persons Only. Other than by the Housing Authority, the use and occupancy of a Unit shall be limited exclusively to housing for natural persons who meet the definition of Qualified Owner or Authorized Lessee.

ARTICLE 5
OWNERSHIP RESTRICTIONS

5.1 Ownership and Occupancy Obligation.

A. Ownership of a Unit is hereby limited exclusively to a Qualified Owner, which shall include the parties described and approved as set forth in Section 5.1B. In the event that a Unit is occupied without compliance with this Restriction, the Housing Authority shall have the remedies set forth herein, including, but not limited to, the rights under Section 8.5.

B. Upon the written consent of the Housing Authority, which consent may be recorded, a non-qualifying natural person or entity that owns and/or operates a business located in and serving the County may purchase a Unit; provided, however, that by taking title to a Unit, such Owner shall be deemed to agree to the rental restrictions set forth herein, and further that any Owner who does not meet the definitions of both a Resident and an Eligible Household shall rent the Unit to a natural person(s) that does meet the definitions of both a Resident and Eligible Household, and shall not occupy or use such Unit for such Owner's own use or leave such Unit vacant except as otherwise provided herein. Any occupancy of a Unit pursuant to this Section 5.1B shall not exceed two persons per bedroom, unless the Housing Authority approves otherwise.

5.2 Sale, Resale, and Lease. In the event that a Unit is Transferred or leased without compliance with this Restriction, the Housing Authority shall have the remedies set forth herein, including but not limited to, the rights set forth in Section 8.5. Except as otherwise provided herein, each and every Transfer or lease of a Unit, for any and all purposes, shall be deemed to include and incorporate the terms and conditions of this Restriction.

5.3 Compliance. Along with the recorded instrument of conveyance evidencing a Transfer of a Unit, any such Transfer of a Unit shall include a completed copy of the "Notice of Lien and Memorandum of Acceptance of Residential Housing Restriction and Notice of Lien for the Blue 52 Townhomes, Town of Breckenridge, Summit County, Colorado" attached hereto as **Exhibit B**, which copy is executed by the transferee and acknowledged by the transferee before a notary public. The instrument of conveyance evidencing such Transfer, or some other instrument referencing the same, shall bear the following language followed by the acknowledged signature of an authorized officer or representative of the Housing Authority, or its designee, to wit:

"The conveyance evidenced by or referenced in this instrument has been approved by the Town of Breckenridge Housing Authority as being in compliance with the Residential Housing Restriction and Notice of Lien for the Blue 52 Townhomes, Town of Breckenridge, Summit County, Colorado, recorded in the records of Summit County, Colorado, on the ____ day of _____, 2017, at Reception No. _____."

Each sales contract, or lease as the case may be, for a Unit shall also: (a) recite that the proposed purchaser or lessee, as applicable, has read, understands, and agrees to be bound by the terms of this Restriction; and (b) require the proposed purchaser and/or lessee to submit such information as may be required by the Housing Authority under the Guidelines for the purpose of ensuring compliance with this Restriction.

5.4 Appreciating Limiting Promissory Note and Deed of Trust. At the time of each sale of a Unit, beginning with the first such sale by the Housing Authority to a Unit Owner, the purchaser(s) of each Unit shall execute an Appreciating Limiting Promissory Note in the form provided for in the Guidelines, together with a form of Appreciating Limiting Deed of Trust to a public trustee in the form provided for in the Guidelines encumbering the Unit to secure strict compliance with the terms of the Note. The Appreciating Limiting Deed of Trust shall contain a strict due on sale provision, and shall be in form and substance acceptable to the attorney for the Housing Authority. At the time of each subsequent closing of the transfer of title to a Unit, a new Appreciation Limiting Promissory Note shall be executed by the purchaser(s) and delivered to the Housing Authority, and a new Appreciation Limiting Deed of Trust shall be executed by the purchaser(s) and recorded in the Summit County, Colorado real estate records. At the time of closing of each transfer of title to a Unit subsequent to the first transfer by Developer, the Housing Authority shall determine whether the transfer complies with the requirements of this Restriction. If the transfer complies with the requirements of this Restriction, the Housing Authority shall mark the selling Unit Owner's Appreciation Limiting Promissory Note as paid and execute a request for release of the Appreciation Limiting Deed of Trust upon verification to the Housing Authority, by the title company or other independent agent responsible for closing on the transfer of title to a Unit, that the amount paid for the purchase of the Unit does not exceed the Maximum Resale Price or that, if the price exceeds the Maximum Resale Price, the amount of such excess will be paid to the Housing Authority. If title to a Unit is transferred without obtaining the release of an Appreciation Limiting Deed of Trust securing an Appreciation Limiting Promissory Note in favor of the Housing Authority, the Housing Authority, among other rights available to it, shall have the right to foreclose said Appreciation Limiting Deed of Trust.

5.5 Initial Finance and Refinance Restriction.

A. At the time of the purchase of a Unit the original principal amount of any indebtedness secured by a First Mortgage shall not exceed an amount equal to one hundred percent (100%) of the Purchase Price paid for the Unit by that Owner, subject to the Housing Authority's Finance Guidelines.

B. An Owner may refinance a First Mortgage that encumbers the Owner's Unit with the consent of the Housing Authority; provided, however, that the original principal amount of any refinanced indebtedness secured by a First Mortgage shall not exceed an amount equal to ninety seven percent (97%) of the then current Maximum Resale Price of the Unit.

5.6 Records and Inspection. An Owner's records with respect to the Owner's use and occupancy of a Unit shall be subject to examination, inspection, and copying by the Housing Authority, or its authorized agent, upon reasonable advance notice. The Housing Authority, or its authorized agent, shall also have the right to enter into or upon a Unit for the purpose of determining compliance with the provisions of this Restriction; provided, however, that the Housing Authority, or its agent, shall first attempt to secure the permission of any occupants of the Unit prior to making entry. An Owner shall submit any information, documents, or certificates requested from time to time by the Housing Authority with respect to the occupancy and use of the Owner's Unit that the Housing Authority reasonably deems necessary to substantiate the Owner's continuing compliance with the provisions of this Restriction. Such information shall be submitted to the Housing Authority within such reasonable time period as the Housing Authority may establish. All lessees of a Unit shall be bound by the terms of this Section 5.6, and shall cooperate with all requirements herein.

5.7 Relief In Extraordinary Circumstances. The Director may grant a variance, exception, or waiver from the requirements of this ARTICLE 5 based upon the written request of the Owner, a prospective Owner of a Unit, or a prospective Authorized Lessee of a Unit. Such variance, exception, or waiver may be granted by the Director only upon a finding that: (i) the circumstances justifying the granting of the variance, exception, or wavier are unique; (ii) a strict application of this ARTICLE 5 would result in an extraordinary hardship; and (iii) the variance, exception, or waiver is consistent with the intent and purpose of this Restriction. No variance, exception, or wavier shall be granted by the Director if its effect would be to nullify the intent and purpose of this Restriction. In granting a variance, exception, or wavier of the provisions of this ARTICLE 5 the Director may impose specific conditions of approval, and shall fix the duration of the term of such variance, exception or waiver. Any Owner or prospective Owner of a Unit who is dissatisfied with the decision of the Director with respect to a request for a variance, exception or waiver from the requirements of this ARTICLE 5 may appeal the Director's decision to the Housing Authority by submitting a written letter of appeal to the Town Clerk within ten (10) days of the date of the Director's decision. The Housing Authority shall make a final determination of such appeal within forty five (45) days after the Town Clerk's receipt of the letter of appeal.

**ARTICLE 6
ORIGINAL SALE OF A UNIT**

6.1 Initial Purchase Price. Upon completion of construction of each Unit, the Unit shall be sold to a Qualified Owner at an affordable Purchase Price as determined by the Housing Authority.

**ARTICLE 7
USE RESTRICTIONS**

7.1 Occupancy. Except as otherwise provided in this Restriction, each Unit shall, at all times, be occupied as by a Qualified Owner (along with Dependents) as their sole place of residence, or, as the case may be, an Authorized Lessee (along with Dependents) who, at the time of purchase, or in the case of an Authorized Lessee at the time of occupancy, of a Unit, is qualified as a Resident and an Eligible Household.

7.2 Rental. Under no circumstances shall any Unit be leased or rented for any period of time without the prior written approval of the Housing Authority. In the event that any Unit, or any portion thereof, is leased or rented without compliance with this Restriction, the Housing Authority shall have the remedies set forth herein, including, but not limited to, the rights set forth in Section 8.5. Any tenancy approved by the Housing Authority shall be to an Authorized Lessee.

7.3 Vacancy. In the event that a Qualified Owner ceases to occupy a Unit as his or her sole place of residence for a period of thirty (30) consecutive days (as reasonably determined by the Housing Authority), or any Non-Qualified Owner permitted to purchase a Unit as set forth in Section 5.1B leaves a Unit unoccupied by an Authorized Lessee for a period of thirty (30) consecutive days (as reasonably determined by the Housing Authority), the Housing Authority may, in its sole and absolute discretion, and in addition to any other remedies the Housing Authority may have hereunder, require that the Unit shall be offered for sale pursuant to the provisions of Section 8.5, or require the Qualified Owner or Non-Qualified Owner to rent the Unit to an Authorized Lessee.

7.4 Ownership Interest in Other Residential Property. Except with respect to a Non-Qualified Owner permitted to purchase a Unit as set forth in Section 5.1B, if at any time the Owner also owns any interest alone or in conjunction with others in any other developed residential property in the County, the Owner shall immediately list such other property interest for sale and sell his or her interest in such property. In the event said other property has not been sold by the Owner within one hundred twenty (120) days of its listing required hereunder, then the Owner shall immediately list his or her Unit for sale pursuant to Section 8.5 of this Restriction. In the case of an Owner whose business is the construction and sale of residential properties or the purchase and resale of such properties, the properties that constitute inventory in such Owner's business shall not constitute "other developed residential property" as that term is used in this Section 7.4.

ARTICLE 8
RESALE OF A UNIT

8.1 Resale. No Unit shall be Transferred subsequent to the original purchase from the Housing Authority, except upon full compliance with the procedures set forth in this ARTICLE 8.

8.2 Notice. In the event that an Owner shall desire to Transfer a Unit, or in the event that an Owner shall be required to Transfer such Unit pursuant to the terms of this Restriction, the Owner shall notify the Housing Authority, or such other person or entity as may be designated by the Housing Authority, in writing of Owner's intention to Transfer such Unit. The Unit shall not, however, be Transferred to: (i) any person, entity, or entities other than a Qualified Owner, and (ii) for consideration to be paid by such Qualified Owner that exceeds the Maximum Resale Price as such is determined pursuant to the provisions of this Article 8.

8.3 Maximum Resale Price.

A. The Maximum Resale Price of a Unit may not exceed the sum of: (i) the Purchase Price paid by the Owner for the Unit, plus: (ii) an increase of two percent (2%) of such Purchase Price per year (prorated at the rate of 1/12 for each whole month, but not compounded annually) from the date of the Owner's purchase of the Unit to the date of the Owner's sale of the Unit; (iii) capital improvements made to the Unit by the Owner (if and only if such improvements are allowed by the Housing Authority pursuant to the Guidelines adopted pursuant to Section 11.1 of this Restriction); and (iv) a maximum of one percent (1.00%) of the sum of items (i), (ii), and (iii) of this Section A to provide the selling Owner with assistance in paying any sales commissions to a licensed real estate broker, attorneys' fees, and closing costs incurred by the Owner in connection with the sale of the Unit. Provided, however, that until such time as an Owner has owned the Unit for three (3) full years, the maximum amount that shall be allowed to provide the Owner with assistance in paying any sales commissions to a licensed real estate broker, attorneys' fees, and closing costs incurred by the Owner in connection with the sale of the Unit shall be a maximum of one-half percent (1/2 %) of the sum of items (i), (ii), and (iii) of this Section A.

B. Pursuant to the Guidelines, each Owner shall be responsible for ensuring that at the Transfer of his or her Unit, the same is clean, the appliances are in working order, and that there are no health or safety violations regarding such Unit. Prior to the sale of the Unit the Housing Authority is authorized to take necessary actions and incur necessary expenses for bringing the relevant Unit into saleable condition. Such actions and expenses include, but are not limited to, cleaning the Unit and making necessary repairs to or replacements of appliances and/or Unit fixtures, such as windows, doors, cabinets, countertops, carpets, flooring and lighting fixtures, and/or correcting any health or safety violations on such Unit. Expenses incurred by the Housing Authority to bring a Unit into a saleable condition shall be itemized and documented by the Housing Authority and deducted from Owner's proceeds at closing of the Transfer of such Unit.

C. No Owner shall permit any prospective buyer to assume any or all of the Owner's customary closing costs.

D. Nothing in this Restriction represents or guarantees that a Unit will be re-sold at an amount equal to the Maximum Resale Price. Depending upon conditions affecting the real estate market, the Unit may be re-sold for less than the Maximum Resale Price.

8.4 Non-Qualified Transferees. In the event that title to a Unit vests in a Non-Qualified Transferee by descent, by foreclosure and/or redemption by any lien or mortgage holder (except any holder of a HUD-insured First Mortgage), or by operation of law or any other event, the Housing Authority may elect to notify the Non-Qualified Transferee that it must sell the Unit in accordance with Section 8.5. The Non-Qualified Transferee(s) shall not: (i) occupy a Unit; (ii) rent all or any part of a Unit, except in strict compliance with this Restriction; (iii) engage in any business activity on or in a Unit; (iv) sell or otherwise Transfer a Unit except in accordance with this Restriction; or (v) sell or otherwise Transfer a Unit for use in trade or business.

8.5 Sales to Preserve Unit as Affordable Housing.

A. In the event a Unit is occupied, used, transferred, leased, or rented in violation of this Restriction, or whenever the provisions of this Section 8.5 are expressly made applicable by any section or provision of this Restriction, the Housing Authority may, in its sole and absolute discretion, notify an Owner that the Owner must immediately list the Unit for sale. The highest offer by a Qualified Owner for not less than ninety-five percent (95%) and not more than one hundred (100%) of the Maximum Sale Price shall be accepted by the Owner; provided, however, if the Unit is listed or offered for sale by the Owner for a period of at least ninety (90) days and all offers are below ninety-five percent (95%) of the Maximum Sale Price, the Unit shall be sold to a Qualified Owner that has made the highest offer for at least the appraised market value of the Unit, as determined by the Housing Authority in its reasonable good faith judgment, after such ninety (90) day period.

B. If required by the Housing Authority, the Owner shall: (i) consent to any sale, conveyance, or transfer of such Unit to a Qualified Owner; (ii) execute any and all documents necessary to do so; and (iii) otherwise reasonably cooperate with the Housing Authority to take actions needed to accomplish such sale, conveyance, or transfer of such Unit. For this purpose Owner constitutes and appoints the Housing Authority its true and lawful attorney-in-fact with full power of substitution to complete or undertake any and all actions required under this Section 8.5. It is further understood and agreed that this power of attorney, which shall be deemed to be a power coupled with an interest, cannot be revoked. Owner specifically agrees that all power granted to the Housing Authority under this Restriction may be assigned by it to its successors or assigns.

C. In order to preserve the affordability of the Units for persons of low to moderate income, the Housing Authority, or its successor or assigns, as applicable, shall also have and is hereby granted the right and option to purchase a Unit, exercisable within a period of fifteen (15) calendar days after notice is sent by the Housing Authority to the Owner that requires the Owner to sell the Unit pursuant to this Section 8.5. The Housing Authority shall complete the purchase of such Unit within thirty (30) calendar days after exercising its option hereunder for a price equal to the lesser of the appraised market value of the Unit, as determined by the Housing Authority in its reasonable good faith judgment, or the Maximum Sale Price. The Housing

Authority may assign its option to purchase hereunder to an eligible purchaser that, for the purpose of this Section 8.5C, shall be a Qualified Owner.

D. In all situations in which the provisions of this Section 8.5 apply, the Housing Authority may alternatively require the Owner to lease or rent a Unit to an Authorized Lessee in accordance with the requirements of this Restriction.

ARTICLE 9 FORECLOSURE

9.1 Release. Notwithstanding anything herein to the contrary, this Restriction shall be deemed released as to a Unit in the event of: (i) the issuance of a public trustee's confirmation deed, sheriff's confirmation deed, or similar conveyance of the Unit in connection with a foreclosure by the holder of a HUD-insured First Mortgage; or (ii) the acceptance of a deed in lieu of foreclosure by the holder of a HUD-insured First Mortgage. This Restriction shall also automatically terminate and be released as to a Unit upon the assignment to HUD of an HUD-insured mortgage encumbering a Unit. The Housing Authority, in its sole and absolute discretion, may elect to release a Unit from this Restriction in the event of: (1) the issuance of a public trustee's confirmation deed, sheriff's confirmation deed, or similar conveyance of the Unit in connection with a foreclosure of the Housing Authority's Lien, as defined in Section 9.2, or (2) the acceptance of a deed in lieu of foreclosure by the Housing Authority in connection with the Housing Authority's Lien. If the Housing Authority chooses to terminate this Restriction with respect to a particular Unit, the Housing Authority shall record a document referencing such termination in the real property records of the County. Any and all claims of the Housing Authority available hereunder against the Owner personally shall survive any release or termination of this Restriction.

9.2 Lien.

A. The Housing Authority lien is hereby granted to secure payment of any amounts due and owing the Housing Authority pursuant to this Restriction including, but not limited to, all sales proceeds over and above the Maximum Sales Price. The Housing Authority's Lien on the respective Unit shall be superior to all other liens and encumbrances, except the following:

- (1) liens and encumbrances recorded prior to the recording of this Restriction;
- (2) real property ad valorem taxes and special assessment liens duly imposed by Colorado governmental or political subdivision or special taxing districts;
- (3) liens given superior priority by operation of law; and
- (4) the lien of any First Mortgage against such Unit.

B. Recording of this Restriction constitutes record notice and perfection of the Housing Authority's Lien. No further recordation of any claim of lien is required. However, the Housing Authority may elect to prepare and record in the office of the County Clerk and Recorder of the County, a written notice of lien. By virtue of the Housing Authority's Lien, the Housing Authority shall have all of the rights that a mortgage holder may have against a Unit, including, but not limited to, the right to judicially foreclose upon a Unit. The Housing Authority shall be entitled to file such notices and other information necessary to preserve its rights, as a

lienor, and to cure and redeem in foreclosure of a Unit, as provided by Section 38-38-101, et seq., C.R.S. In addition, unless otherwise instructed by the Housing Authority in writing, the Owner shall sign, acknowledge, and cooperate in the Housing Authority's recording in the County Clerk and Recorder's Office immediately subsequent to the recording of the First Mortgage, a notice of the Housing Authority's Lien, substantially in the form attached hereto as **Exhibit B**, in order to assure that the Housing Authority receives notice in the event of the foreclosure of the First Mortgage pursuant to this Article. The notice shall not alter the priority date of the Housing Authority's Lien as established herein.

C. The sale or other Transfer of a Unit shall not affect the Housing Authority's Lien. No sale or deed in lieu of foreclosure shall relieve the Owner from continuing personal liability for payment of his or her obligations hereunder. The Housing Authority's Lien does not prohibit actions or suits to recover sums due pursuant to this Restriction, or to enforce the terms of this Restriction, or to prohibit the Housing Authority from taking a deed in lieu of foreclosure.

D. Upon request, the Housing Authority shall agree to subordinate the Housing Authority's Lien to a bona fide mortgage or deed of trust provided that the total principal indebtedness secured by those mortgages or deed of trust with priority over the Housing Authority's Lien shall not exceed one hundred percent (100%) of the current allowed Maximum Resale Price under this Restriction as of the date of subordination. To the extent that **Exhibit B** is inconsistent with this provision, the provisions of this Section 9.2D shall control.

9.3 The Housing Authority's Option to Redeem.

A. Notice of Default to the Housing Authority. Within ten (10) days after Owner's receipt of any notice of default from a Mortgagee or the homeowner's association governing the Owner's Unit, the Owner shall give written notice of such default to the Housing Authority.

B. Foreclosure/The Housing Authority's Option to Redeem. In the event of a foreclosure of a First Mortgage or the assessment lien of the homeowner's association governing the Units, the Housing Authority shall be entitled to receive notice of the foreclosure proceedings as is required by law to be given by the public trustee or the sheriff, as applicable, to lienors of a Unit that are junior to the First Mortgage (as provided in Section 38-38-101, et seq., C.R.S., or any succeeding statute). The Housing Authority shall have a right of redemption, and such other rights as a lienor in foreclosure, as its interest appears, in accordance with Colorado law governing foreclosure. The Housing Authority's lien is created pursuant to Section 9.2.

C. Upon Exercising Option. In the event that the Housing Authority obtains title to a Unit pursuant to this ARTICLE 9, the Housing Authority or its designee may sell such Unit to a Qualified Owner, or rent such Unit to an Authorized Lessee until such time that such Unit can be sold to a Qualified Owner. In the Housing Authority's sole and absolute discretion, the Housing Authority's subsequent sale of such Unit in these circumstances shall not be subject to the Maximum Sale Price restrictions set forth in ARTICLE 8.

9.4 Perpetuities Savings Clause. If any of the terms, covenants, conditions, restrictions, uses, limitations, obligations, or options created by this Restriction shall be unlawful or void for violation of: (i) the rule against perpetuities or some analogous statutory provision;

(ii) the rule restricting restraints on alienation; or (iii) any other statutory or common law rules imposing like or similar time limits, then such provision shall continue only for the shorter of: (x) the term of this Restriction, or (y) the period of the lives of the current duly elected and seated members of the Town Council of the Town of Breckenridge, Colorado, their now living descendants, if any, and the survivor of them, plus twenty-one (21) years.

ARTICLE 10 ENFORCEMENT

10.1 Enforcement of This Restriction. Each Owner hereby grants and assigns to the Housing Authority the right to review and enforce compliance with this Restriction. Compliance may be enforced by the Housing Authority by any lawful means, including without limitation, seeking any equitable relief (including, without limitation, specific performance and other equitable relief as set forth in Section 10.2, below), as well as a suit for damages; provided, however, in the event a Unit is financed by a HUD-insured First Mortgage and is sold in violation of Section 8.3, such enforcement shall not include:

1. acceleration of a mortgage;
2. voiding a conveyance by an Owner;
3. terminating an Owner's interest in a Unit; or
4. subjecting an Owner to contractual liability.

Notwithstanding the foregoing, in no event shall the Housing Authority have any equitable remedies (including, but not limited to, the right to sue for specific performance or seek other equitable relief as set forth in Section 10.2) or the right to sue for damages if the Owner of a Unit that was financed with a HUD-insured First Mortgage breaches or violates the terms, covenants and other provisions of Section 8.3 and if to do so would violate any existing or future requirement of HUD, it being understood, however, that in such event, the Housing Authority shall retain all other rights and remedies hereunder for enforcement of any other terms and provisions of this Restriction, including, without limitation: (i) the right to sue for damages to reimburse the Housing Authority, or its agents, for its enforcement costs and to require an Owner to repay with reasonable interest (not to exceed ten percent (10%) per annum) any financial assistance received in connection with the purchase of a Unit; (ii) the right to prohibit an Owner from retaining sales or lease/rental proceeds collected or received in violation of this Restriction; and (iii) the option to purchase granted to the Housing Authority in Section 8.5C. Venue for a suit enforcing compliance shall be proper in the County and service may be made or notice given by posting such service or notice in a conspicuous place on the applicable Unit. As part of any enforcement action on the part of the Housing Authority, the applicable Owner shall pay all court costs and reasonable legal fees incurred by the Housing Authority, or its agents, in connection with these claims, actions, liabilities, or judgments, including an amount to pay for the time, if any, of the Housing Authority's, or its agent's, attorney spent on such claims at the rates generally charged for similar services by private practitioners within the County.

10.2 Injunctive and other Equitable Relief. Each Owner agrees that in the event of his or her default under or non-compliance with the terms of this Restriction, the Housing Authority shall have the right to seek such equitable relief as it may deem necessary or proper, including, without limitation, the right to: (a) seek specific performance of this Restriction; (b) obtain a judgment from any court of competent jurisdiction granting a temporary restraining order, preliminary injunction and/or permanent injunction; and (c) set aside or rescind any sale of a Unit made in violation of this Restriction. Any equitable relief provided for in this Section 10.2 may be sought singly or in combination with such legal remedies as the Housing Authority may be entitled to, either pursuant to this Restriction, under the laws of the State of Colorado or otherwise.

ARTICLE 11 PERIODIC REVIEW AND AMENDMENT BY HOUSING AUTHORITY

11.1 Housing Authority's Right to Periodic Review and Amend Certain Provisions of this Restriction. In recognition of the changing nature of the housing market in the County, and the Housing Authority's desire to keep this Restriction current for the benefit of all interested parties, the following provisions of this Restriction are subject to periodic review by the Housing Authority, and may be amended from time to time in the Guidelines in the manner provided in this Section 11.1 without invalidating or affecting the enforceability of this Restriction:

- A. ARTICLE 1;
- B. ARTICLE 5;
- C. ARTICLE 7; and
- D. ARTICLE 8.

Amendments made to this Restriction by the Housing Authority pursuant to this Section 11.1 shall be effective upon the effective date of the amendment to the Guidelines. No amendment made by the Housing Authority pursuant to this Section 11.1 shall become effective unless it has been reviewed by the Housing Authority at a regular or special meeting notice of which meeting has been given to the public as required by Section 24-6-402, C.R.S., which is part of the Colorado Open Meeting Act, or any successor statute.

ARTICLE 12 GENERAL PROVISIONS

12.1 Equal Housing Opportunity. Pursuant to the Fair Housing Act and the Housing Authority's public policy, the Housing Authority shall not discriminate on the basis of race, creed, color, sex, national origin, familial status, disability or sexual orientation in the lease, sale, use or occupancy of a Unit.

12.2 Waiver of Exemptions. Every Owner, by taking title to a Unit, shall be deemed to have subordinated to this Restriction any and all right of homestead and any other exemption in,

or with respect to, such Property under state or federal law presently existing or hereafter enacted.

12.3 Severability. Invalidation of any one of the covenants or restrictions contained herein by judgment or Court order shall in no way affect any other provisions, it being the intent of the Housing Authority that such invalidated provision be severable.

12.4 Term. Subject to Section 9.4, and the other termination or release provisions contained herein, the restrictions contained herein shall run with the land and bind the land in perpetuity.

12.5 Amendment. This Restriction may be amended as follows:

- A. In the Guidelines as provided in Section 11.1;
- B. By an instrument recorded in the records of the County executed by the Housing Authority and the then-Owner of a Unit; and
- C. Unilaterally by the Housing Authority without the approval or consent of any Owner, Mortgagee, or any other person or entity for the purpose of either: (a) making non-material changes (such as for correction of technical, typographical, or clerical errors), or for clarification of a statement; or (b) without regard to (a), if such amendment lessens the ownership, use, or resale and lease restrictions placed upon the Owners as provided herein. The Housing Authority may unilaterally execute and record such amendments at any time.

If any one or more amendment made by the Housing Authority pursuant to this Section 12.5 shall be finally declared by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, then: (a) such provision shall be stricken from this Restriction; (b) this Restriction shall continue in full force and effect as if the stricken portion of this Restriction had not been executed; and (c) the validity, legality, and enforceability of the remaining provisions of this Restriction shall not in any way be affected or impaired thereby.

12.6 Housing Authority Right to Delegate. In its sole and absolute discretion the Housing Authority may delegate any of its rights and authority under this Restriction to another person. The Housing Authority may delegate some but not all of its rights and authority to a delegatee. Upon such delegation, the references in this Restriction to the Housing Authority shall also apply to the Housing Authority's delegatee. The Housing Authority shall also have the right to terminate any such delegation of authority in its sole and absolute discretion.

12.7 No Third Party Beneficiaries. This Restriction is made and entered into for the sole protection and benefit of the Housing Authority and the Owner. Except as otherwise specifically provided for herein, no other person, persons, entity, or entities, including without limitation, prospective buyers or Authorized Lessees of a Unit, shall have any right of action with respect to this Restriction, or right to claim any right or benefit pursuant to this Restriction, nor shall any such persons or entities be deemed a third party beneficiary of this Restriction.

12.8 Non-Liability. The Housing Authority and its members, officers, employees, and agents shall not be liable to any Owner or third party by virtue of the exercise of their rights or the performance of their obligations under this Restriction. The parties understand and agree that they are relying on, and do not waive or intend to waive by any provision of this Restriction, the monetary limitations or any other rights, immunities or protections afforded by the Governmental Immunity Act, Section 24-10-101, et seq., C.R.S., as they may be amended, or any other limitation, right, immunity, or protection otherwise available to the parties.

12.9 Exhibits. All exhibits attached to this Restriction are incorporated herein and by this reference made part of this Restriction.

12.10 Gender and Number. Whenever the context so requires herein, the neuter gender shall include any or all genders and vice versa and use of the singular shall include the plural and vice versa.

12.11 Personal Liability. Each Owner of a Unit shall be personally liable, jointly and severally with all other Owners of the Unit, for any of the obligations required of such Owner pursuant to this Restriction.

12.12 Further Actions. The Owner and Owner's successors and assigns agree to execute such further documents and take such further actions as may be reasonably required to carry out the provisions and intent of this Restriction or any agreement or document relating hereto or entered into in connection herewith.

12.13 Notices. Any notice, consent, or approval that is required or permitted to be given hereunder shall be given by mailing the same, certified mail, return receipt requested, properly addressed and with postage fully prepaid, to any address provided herein or to any subsequent mailing address of the party as long as prior written notice of the change of address has been given to the other parties to this Restriction. Said notices, consents and approvals shall be sent to the parties hereto at the following addresses unless otherwise notified in writing:

To Housing Authority:

Town of Breckenridge Housing Authority
P.O. Box 168
Breckenridge, CO 80424
Attention: Chair

To an Owner:

The address for an Owner shall be determined pursuant to the Notice of Lien and Memorandum of Acceptance (as shown on Exhibit B) recorded with respect to each transfer of a Unit.

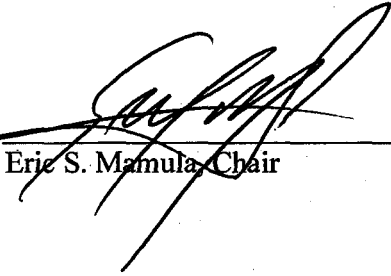
12.14 Choice of Law. This Restriction and each and every related document shall be governed and constructed in accordance with the laws of the State of Colorado, exclusive of its conflict of law rules.

12.15 Successors. Except as otherwise provided herein, the provisions and covenants contained herein shall inure to and be binding upon the heirs, successors, and permitted assigns of the parties.

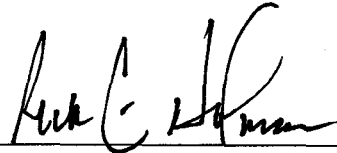
12.16 Headings. Article and Section headings within this Restriction are inserted solely for convenience or reference, and are not intended to, and shall not govern, limit or aid in the construction of any terms or provisions contained herein.

12.17 Signatures. Signatures to this Restriction may be in counterparts and by facsimile or scanned emailed document. All parties waive any claim or defense that a facsimile or scanned signature is not valid, or is not the best evidence of signature.

TOWN OF BRECKENRIDGE HOUSING
AUTHORITY

By: 
Eric S. Mamula, Chair

ATTEST:



Secretary

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this 12th day of December, 2017, by Eric S. Mamula, as Chair, and Rick G. Holman, as Secretary, of the Town of Breckenridge Housing Authority.

WITNESS my hand and official seal.

My commission expires: May 17, 2021


Notary Public

HELEN JOY COSPOLICH
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20134030916
MY COMMISSION EXPIRES MAY 17, 2021

EXHIBIT A

Property

Lot 3 and Lot 5, FINAL PLAT OF DENISON PLACER SUBDIVISION, according to the plat thereof recorded September 29, 2017 at Reception No. 1152112 of the records of the Clerk and Recorder of Summit County, Colorado

also known by street and number as: vacant land

EXHIBIT B

**NOTICE OF LIEN AND MEMORANDUM OF ACCEPTANCE
OF
RESIDENTIAL HOUSING RESTRICTION AND NOTICE OF LIEN
FOR THE BLUE 52 TOWNHOMES
TOWN OF BRECKENRIDGE, SUMMIT COUNTY, COLORADO**

WHEREAS, _____ [Buyer Name] _____, the "Buyer"
is purchasing from _____ [Seller Name] _____, the "Seller,"
at a price of \$ _____ [purchase price amount] _____, real property described as
_____ [Legal Description] _____
according to the plat recorded under Reception No. _____, in the real property records
of the Town of Breckenridge, County of Summit, Colorado (the "Unit"); and

WHEREAS, the Seller of the Unit is requiring, as a prerequisite to the sale transaction,
that the Buyer acknowledge and agree to the terms, conditions, and restrictions found in that
certain instrument entitled "Residential Housing Restriction and Notice of Lien for the Blue 52
Townhomes, Summit County, Colorado," recorded on _____, 2017, under Reception No.
_____, in the real property records of the County of Summit, Colorado (the
"Restriction").

NOW, THEREFORE, as an inducement to the Seller to sell the Unit, the Buyer:

1. Acknowledges that Buyer has carefully read the entire Restriction; has had the opportunity to consult with legal and financial counsel concerning the Restriction prior to signing it; and fully understands the terms, conditions, provisions, and restrictions contained in the Restriction.
2. Agrees to be bound by and to comply with the terms, conditions, and requirements of the Restriction.
3. Acknowledges that the Restriction creates a lien on the Unit in favor of the Town of Breckenridge Housing Authority which may be foreclosed upon the occurrence of certain events as more particularly described in the Restriction.
4. States that the Notice to Buyer should be sent to:

5. Directs that this memorandum be placed of record in the real estate records of the County of Summit, Colorado, and a copy provided to the Town of Breckenridge Housing Authority.

IN WITNESS WHEREOF, the parties hereto have executed this instrument on the ____ day of _____, 20 ____.

BUYER(S):

By: _____
Printed Name:

Printed Name:

STATE OF)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____.

Witness my hand and official seal.

Notary Public

My commission expires: _____

TOWN OF BRECKENRIDGE HOUSING
AUTHORITY

By: _____
Eric S. Mamula, Chair

ATTEST:

Secretary

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by Eric S. Mamula, as Chair, and Rick G. Holman, as Secretary, of the Town of Breckenridge Housing Authority.

WITNESS my hand and official seal.

My commission expires: _____.

Notary Public

EXHIBIT C

List of 110% AMI Units

TO BE INSERTED BY AMENDMENT TO THIS RESTRICTION AFTER ALL UNITS IN
THE PROJECT HAVE BEEN SOLD

EXHIBIT D

List of 120% AMI Units

TO BE INSERTED BY AMENDMENT TO THIS RESTRICTION AFTER ALL UNITS IN
THE PROJECT HAVE BEEN SOLD

EXHIBIT E

List of 140% AMI Units

TO BE INSERTED BY AMENDMENT TO THIS RESTRICTION AFTER ALL UNITS IN
THE PROJECT HAVE BEEN SOLD

EXHIBIT F

List of Units Without An Income Cap

TO BE INSERTED BY AMENDMENT TO THIS RESTRICTION AFTER ALL UNITS IN
THE PROJECT HAVE BEEN SOLD