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Kathleen Neel - Summit County Recorder

6 Pages

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**SECOND AMENDMENT TO RESTRICTIVE HOUSING COVENANT AND AGREEMENT**

**(Sail Lofts at Lake Dillon Condominiums - Workforce Housing)**

This **SECOND AMENDMENT TO RESTRICTIVE HOUSING COVENANT AND AGREEMENT** ("Second Amendment") is made and entered into as of ~~November 1, 2019~~ 2019 by and between the TOWN OF DILLON, a Colorado home rule municipal corporation ("Town"), and SAIL LOFTS, LLC, a Colorado limited liability company, and SAIL LOFTS 2, LLC, a Colorado limited liability company (collectively, "Sail Lofts").

**WHEREAS**, by that certain Restrictive Housing Covenant and Agreement (the "Restrictive Covenant") executed by the Town of Dillon and the Dillon Urban Renewal Authority ("DURA") and recorded with the Summit County Recorder on November 28, 2017 at Reception No. 1157818, the Town and DURA established certain restrictive covenants running with the land pertaining to workforce housing for the following property:

Lots 16R and 17-R, inclusive,  
Block A,  
New Town of Dillon,  
Town of Dillon, County of Summit, State of Colorado,

hereinafter referred to as the "Property"; and

**WHEREAS**, thereafter, Sail Lofts, LLC became DURA's successor in interest to the Property and is now the "Owner" as that term is defined in the Restrictive Covenant; and

**WHEREAS**, the Restrictive Covenant was thereafter amended as between the Town and Sail Lofts, LLC by that certain First Amendment to Restrictive Housing Covenant and Agreement, recorded with the Summit County Recorder on ~~October 4, 2018~~ at Reception No. 11811611 (the "First Amendment"); and

**WHEREAS**, title to a portion of the Property was thereafter conveyed by Sail Lofts, LLC to Sail Lofts 2, LLC; and

**WHEREAS**, Section 27.0 of the Restrictive Covenant, as amended, provides the Restrictive Covenant may be amended only by an instrument recorded in the records of Summit County and executed by the Town and the Owner of the Property; and

**WHEREAS**, the Town and Sail Lofts desire to make further amendments to the Restrictive Covenant as set forth herein.

**NOW, THEREFORE**, and in order to further the intent and effectuate the purposes of the Restrictive Covenant, the parties hereto agree to amend the Restrictive Covenant as follows:

**Section 1.** Section 4.4 of the Restrictive Covenant is hereby amended to read as follows (words to be added shown in double underline; words to be deleted ~~stricken~~):

4.4. “Developer” means ~~Dillon Ridge Investments, LLC~~ Sail Lofts, LLC and Sail Lofts 2, LLC and any successor(s) in interest, including any Owner of the Property.

**Section 2.** Section 7 (Sections 7.0 through 7.6) of the Restrictive Covenant is hereby amended to read as follows (words to be added shown in double underline; words to be deleted ~~stricken~~):

7.0 SALE AND OCCUPANCY RESTRICTION. Except as expressly provided in Section 12.0 of this Restrictive Covenant, the Restricted Units shall be Transferred to, used and occupied only by a Qualified Occupant meeting the following requirements and having a maximum household size as set forth in the SCHA AMI table for the year the Owner purchases the Restricted Unit, which maximum household size shall be determined and applied only at the time of purchase of the Restricted Unit; except that, after any Transfer subject to this Restrictive Covenant, the term Qualified Occupant shall be determined by application of the most current calculation of AMI as defined in this Restrictive Covenant. In addition, notwithstanding any language herein to the contrary, Qualified Occupants shall be eligible to purchase Restricted Units for a Maximum Resale Price established in accordance with the provisions of Section 7.6, and, in the case of sale by the Developer, in accordance with Section 8.3.

7.1 90% of AMI. Unit ~~1103~~ 102-Building 16 and Unit ~~1103~~ 103-Building 17 shall be sold to and occupied by a buyer or buyers who alone or in combination constitute a Qualified Occupant earning no greater than 90% of AMI for the then current Maximum Resale Price established for such Qualified Occupant at the time of such sale.

7.2 100% of AMI. Unit ~~1102~~ 103-Building 16 and Unit ~~1102~~ 102-Building 17 shall be sold to and occupied by a buyer or buyers who alone or in combination constitute a Qualified Occupant earning no greater than 100% of AMI for the then current Maximum Resale Price established for such Qualified Occupant at the time of such sale.

7.3 120% of AMI. Unit ~~1203~~ 202-Building 16, ~~and Unit 203-Building 16, Unit 106-Building 17, and Unit~~ ~~1203~~ 203-Building 17 shall be sold to and occupied by a buyer or buyers who alone or in combination constitute a Qualified Occupant earning no greater than 120% of AMI for the then current Maximum Resale Price established for such Qualified Occupant at the time of such sale.

7.4 130% of AMI. Unit ~~1303~~ 302-Building 16 and Unit ~~1303~~ 303-Building 17 each shall be sold to and occupied by buyers who alone or in combination constitute a Qualified Occupant earning no greater than 130% of

AMI for the then current Maximum Resale Price established for such Qualified Occupant at the time of such sale.

~~7.5 Four Units for Sale to Qualified Occupant or AMI. Unit 1202 Building 16, Unit 1302 Building 16, Unit 1106 Building 17 and Unit 1202 Building 17, each shall be sold to a person or person who alone or in combination constitute a Qualified Occupant at the time of such sale.~~

7.6 Twenty Percent Additional Income Allowance for Qualified Occupants. For all units contemplated in this section 7 that carry forward some AMI sale price restriction, and an accordant AMI income level restriction for the purchaser of such a unit, any Qualified Occupant so purchasing the unit in question may exceed the AMI income level designated for any such Restricted Unit by up to 20% of that AMI level. Thus, by means of example, but not limitation, any Qualified Occupant earning up to but no greater than 120% of AMI shall be eligible to purchase a Restricted Unit designated for purchase at a sales price of 100% AMI as set forth in this section 7, in section 8.3 below, and in accordance with Exhibit A. All calculations required to determine eligibility of a Qualified Occupant to purchase a Restricted Unit under this Section 7.6 shall be performed by the Town or the Town's designee.

**Section 3.** The Restrictive Covenant, as amended by the First Amendment and this Second Amendment, is hereby ratified and confirmed and shall remain in full force and effect and binding upon the Owner and the Town in accordance with its terms. This Second Amendment shall be recorded by the Town with the Summit County Recorder at Owner's expense.

**IN WITNESS WHEREOF** the Parties have executed this Second Amendment to Restrictive Covenant.

*[SIGNATURE PAGES FOLLOW]*

OWNER:  
SAIL LOFTS, LLC, a  
Colorado limited liability company

By: *[Signature]*

Title: *Manager*

ACKNOWLEDGMENT

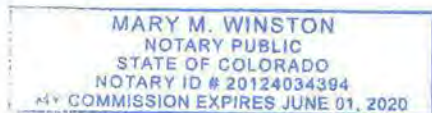
STATE OF COLORADO    )  
                                  ) ss.  
COUNTY OF SUMMIT    )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of November, 2019 by Blake Shuttler as Manager of Sail Lofts, LLC.

Witness my hand and official seal.

My commission expires: June 1, 2020

(SEAL)



*Mary M. Winston*  
Notary Public

OWNER:  
SAIL LOFTS 2, LLC, a  
Colorado limited liability company

By: Mark Richmond

Title: Attorney

ACKNOWLEDGMENT

STATE OF COLORADO    )  
                                          ) ss.  
COUNTY OF SUMMIT    )

The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of November, 2019 by Mark Richmond as Attorney of Sail Lofts 2, LLC.

Witness my hand and official seal.

My commission expires: June 1, 2020

(SEAL)

MARY M. WINSTON  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID # 20124034394  
MY COMMISSION EXPIRES JUNE 01, 2020

Mary M. Winston  
Notary Public

TOWN:  
TOWN OF DILLON, a  
Colorado home rule municipal corporation

By: *Cy Long*  
Mayor

ATTEST:

*Diene Stoy*  
Town Clerk



ACKNOWLEDGMENT

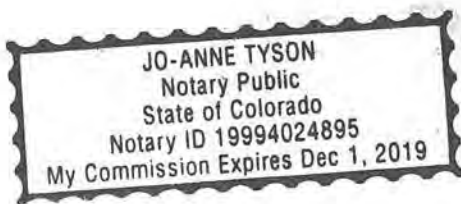
STATE OF COLORADO    )  
                                          ) ss.  
COUNTY OF SUMMIT    )

The foregoing instrument was acknowledged before me this *14th* day of *November*, 20*19* by *Caryn Stoy* as Mayor of the Town of Dillon.

Witness my hand and official seal.

My commission expires: *December 1, 2019*

(SEAL)



*Jo-Anne Tyson*  
Notary Public