



1250598

Kathleen Neel - Summit County Recorder

**THIRD AMENDMENT TO RESTRICTIVE HOUSING COVENANT AND AGREEMENT
(Sail Lofts at Lake Dillon Condominiums - Workforce Housing)**

This **THIRD AMENDMENT TO RESTRICTIVE HOUSING COVENANT AND AGREEMENT** (“Third Amendment”) is made and entered into on February 2, 2021, 2020 by and among the TOWN OF DILLON, a Colorado home rule municipal corporation (“Town”), SAIL LOFTS, LLC, a Colorado limited liability company, SAIL LOFTS 2, LLC, a Colorado limited liability company (collectively, “Sail Lofts”), and each Restricted Unit Owner who has duly executed a separate form consenting to the rights, conditions, duties and responsibilities imposed upon Restricted Unit Owners as specified in this Third Amendment (collectively with the Town and Sail Lofts, the “Parties”).

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 16-R 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

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. 1181611 (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, the Restrictive Covenant, as amended, was thereafter amended again by the Town and Sail Lofts by that certain Second Amendment to Restrictive Housing Covenant and Agreement, recorded with the Summit County Recorder on November 15, 2019 at Reception No. 1213269 (the “Second Amendment”); and

WHEREAS, thereafter, Sail Lofts, LLC and Town executed a Final Plat and Condominium Map of Sail Lofts at Lake Dillon Condominiums to identify the legal description of the units developed on Lot 17-R of the Property recorded June 4, 2019 with the Summit

County Clerk and Recorder under reception number 1199489 (“Lot 17-R Condominium Map”); and

WHEREAS, the Town, Sail Lofts, LLC, and Sail Lofts 2, LLC, then executed a Correction to Second Amendment to Restrictive Housing Covenant and Agreement, recorded with the Summit County Recorder on November 4, 2020 at Reception No. 124016 (“Correction to Second Amendment”), to correct the Restricted Unit identification numbers in the Restricted Covenant so that they would match the unit numbers identified in the Condominium Map; and

WHEREAS, thereafter, Sail Lofts 2, LLC and Town executed a Condominium Map of Sail Lofts at Lake Dillon Condominiums Building 2 to identify the legal description of the units developed on Lot 16-R of the Property recorded November 4, 2020 with the Summit County Clerk and Recorder under reception number 1238670 (“Lot 16-R Condominium Map”); and

WHEREAS, Sail Lofts, LLC and Sail Lofts 2, LLC are authorized by Section 14.2 B of the Declaration For Sail Lofts At Lake Dillon Condominiums Property, recorded June 13, 2019, under reception number 1200329, with the Summit County Recorder (the “Declaration”), to record technical amendments to the Declaration and Condominium Map; 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; except that after Transfer of each Restricted Unit, amendment or termination of the Restrictive Covenant shall be by written amendment between the Town and the Owner of any Restricted Unit directly affected by the proposed amendment or termination; and

WHEREAS, the Parties, including each Restricted Unit Owner who has duly executed a separate form consenting to the rights, conditions, duties and responsibilities imposed upon Restricted Unit Owners as specified in this Third Amendment, now desire to amend the Restrictive Covenant, as amended, (i) to clarify various provisions as has been recommended by the Summit County Housing Authority; (ii) to allow foreclosure by a First Mortgagee to terminate the Restrictive Covenant as to the Restricted Unit that is the subject of the foreclosure proceeding, unless the Town exercises its right of redemption, so as to permit conventional lending (e.g., FNMA, FHLMC, USDA); and (iii) to clarify the definitions of the buildings on Lots 16-R and 17-R to properly reference the corresponding Condominium Map.

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 4.5 of the Restrictive Covenant, as amended, is hereby amended to read as follows (words to be added shown in double underline; words to be deleted ~~stricken~~):

4.5. “First Mortgage” means a deed of trust or mortgage which is recorded senior to any other deeds of trust or liens against a Restricted Unit to secure a loan used to purchase the Restricted Unit, or to replenish cash payments made to purchase a Restricted Unit, made by a Mortgagee.

Section 2. Section 4.8 of the Restrictive Covenant, as amended, is hereby amended to read as follows (words to be added shown in double underline; words to be deleted ~~stricken~~):

4.8 “Maximum Resale Price” means the highest price an Owner may obtain for the sale of the Restricted Unit, and the maximum purchase price that shall be paid by any purchaser of a Restricted Unit, after the initial sale by the Developer, and subject to Section 9.1 regarding Permitted Capital Improvements (PCI), that is determined in accordance with the provisions of Sections 7.0 through 7.6 of this Restrictive Covenant. The Maximum Resale Price is not a guaranteed price, but merely the highest price an Owner may obtain for the sale of the Restricted Unit, subject to Section 9.1 regarding Permitted Capital Improvements. The Maximum Resale Price shall be the greater of the ~~calculated~~ Calculated Maximum Resale Price (defined below) or the Maximum Sales Price applicable to the purchaser (based on the purchaser’s income and the size of the Restricted Unit) as shown on ~~from~~ the 2017 AMI table as promulgated by SCHA, a copy of which is attached hereto as ~~shown on~~ Exhibit A. The Maximum Resale Price shall be determined and applied on the date the Restricted Unit is listed for sale by the Owner. The ~~calculated~~ “Calculated Maximum Resale Price” is determined by adding to the Initial Sale Price two percent (2%) fixed (simple) appreciation for each full year ~~or portion thereof~~ since the selling Owner acquired the Restricted Unit. For partial years, the 2% allowable appreciation shall be prorated and applied based on ~~the actual period of such~~ full months of actual ownership. By way of example, for a partial year consisting of six full months, the allowable appreciation ~~for that year~~ would be one percent (1%). No appreciation shall be allowed for partial months of ownership.

Section 3. Subsection 4.12.1 of the Restrictive Covenant, as amended, is hereby amended to read as follows (words to be added shown in double underline; words to be deleted ~~stricken~~):

4.12.1 A natural person eighteen (18) years of age or older, together with such person’s Dependent (or Dependents if more than one), if any, who ~~(i)~~ at all times during such ownership or occupancy of the Restricted Unit, earns his or her living from a business operating in and serving Summit County, by working at such business an average of at least thirty (30) hours per week on an annual basis; ~~or (ii) is a person who is approved, in writing, by SCHA or the Town which approval shall be based on criteria including, place of voter registration, place of automobile registration, and driver’s license address and other qualifications established by SCHA or the Town from time to time. The Town or SCHA may request documentation to verify these residence and work hour requirements.~~

Section 4. Subsection 4.12.3 of the Restrictive Covenant, as amended, is hereby amended to read as follows (words to be added shown in double underline; words to be deleted ~~stricken~~):

4.12.3 Compliance with each of these criteria is not necessary; in certifying Qualified Occupants, SCHA or the Town shall consider the criteria cumulatively as they relate to the intent and purpose of this Restrictive Covenant. A person over 65 years of age shall remain a Qualified Occupant regardless of his or her working status, so long as he or she has occupied the Restricted Unit for not less than seven (7) years. The term “business” as used herein shall mean an enterprise or organization having a valid business license issued by the appropriate Summit County governmental entity and 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. A Qualified Occupant who becomes disabled after commencing ownership or occupancy of a Restricted Unit, or whose disability worsens or becomes more limiting, so that he or she cannot work the required number of hours each week required by this Restrictive Covenant shall remain a Qualified Occupant; provided that such person is permitted to occupy the Restricted Unit only for a maximum period of one (1) year following the commencement of such person’s inability to work the required number of hours disability, unless a longer period of occupancy is authorized in writing by SCHA or the Town or required under the Americans with Disabilities Act. For roommates sharing occupancy of a Restricted Unit with an Owner pursuant to Section 8.7.1, the term Qualified Occupant shall mean and require the roommate to work at least thirty (30) hours per week on an annual basis for a business operating in and serving Summit County, but shall not require compliance with AMI income restrictions.

Section 5. Subsections 4.22 and 4.23 of the Restrictive Covenant, as amended, are hereby deleted in their entirety and replaced to read as follows:

4.22. “Building 1” means the building and the individually subdivided units developed on Lot 17-R, and identified in that certain “A Final Plat and Condominium Map of Sail Lofts at Lake Dillon Condominiums”, recorded June 4, 2019, with the Summit County Clerk and Recorder under reception number 1199489.

4.23. “Building 2” means the building and the individually subdivided units developed on Lot 16-R, and identified in that certain “Condominium Map of Sail Lofts at Lake Dillon Condominiums Building 2”, recorded November 4, 2020, with the Summit County Clerk and Recorder under reception number 1238670.

Section 6. Section 4.0 of the Restrictive Covenant, as amended, is hereby amended by the addition of a new subsection 4.24, to read as follows:

4.24. “First Mortgagee” means a Mortgagee that holds a First Mortgage encumbering any Restricted Unit.

Section 7. Section 5.0 of the Restrictive Covenant, as amended, is hereby amended to read as follows (words to be added shown in double underline; words to be deleted ~~stricken~~):

5.0 PURPOSE OF RESTRICTIVE COVENANT. The purpose of this Restrictive Covenant is to restrict sale, occupancy and use of the Restricted Units in such a fashion as to provide, on a permanent basis, moderately priced housing to be occupied as a ~~principal residence~~ permanent primary full-time residence by a Qualified Occupant, which Qualified Occupant, because of his or her income, may not otherwise be in a position to afford to buy and occupy, other similar properties, and to help establish and preserve a supply of moderately priced housing to help meet the needs of the locally employed Qualified Occupants of Summit County, Colorado. It is the intent of the Parties that this Restrictive Covenant shall require that the Restricted Units are exclusively sold to and occupied by Qualified Occupants in accordance with this Restrictive Covenant.

Section 8. Section 7 (Sections 7.0 through 7.5) of the Restrictive Covenant, as amended, 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 7.5, and, in the case of sale by the Developer, in accordance with Section 8.3. Under no circumstances may a Restricted Unit be sold to any person who owns any interest, alone or in conjunction with others, in any other developed residential property. This prohibition concerning additional ownership shall include entities, partnerships, trusts, and the like, of which the Owner is either a party, trustee, and/or beneficiary.

7.1 90% of AMI. Unit 102-Building ~~2 46~~ and Unit 1103-Building ~~1 47~~ 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 no greater than the then current Maximum Resale Price established for ~~such a~~ Qualified Occupant earning 90% of AMI at the time of such sale.

7.2 100% of AMI. Unit 103-Building ~~2 46~~ and Unit 1102-Building ~~1 47~~ shall be sold to and occupied by a buyer of buyers who alone or in combination

constitute a Qualified Occupant earning no greater than 100% of AMI for no greater than the then current Maximum Resale Price established for ~~such a~~ Qualified Occupant earning 100% of AMI at the time of such sale.

7.3 120% of AMI. Unit 202-Building 2 46, Unit 203-Building 2 46, Unit 1106-Building 1 47, and Unit 1203-Building 1 47 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 a~~ Qualified Occupant earning 120% of AMI at the time of such sale.

7.4 130% of AMI. Unit 302-Building 2 46 and Unit 1303-Building 1 47 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 no greater than the then current Maximum Resale Price established for ~~such a~~ Qualified Occupant earning 130% of AMI at the time of such sale.

7.5 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 7.5 shall be performed by the Town, SCHA, or the Town's designee.

Section 9. Section 8.4 of the Restrictive Covenant, as amended, is hereby amended to read as follows (words to be added shown in double underline; words to be deleted ~~stricken~~):

8.4 Priority. At the time of the initial sale and any subsequent resale of any Restricted Unit, Qualified Occupants working within the corporate limits of the Town ("Town Workers") shall receive priority in the right to purchase any Restricted Unit for the initial ten (10) day period commencing with the offering of such Restricted Unit for sale ("Priority Period"), followed by a period of broader availability extended to all Qualified Occupants working in Summit County ("County Workers") until such time as each such Restricted Unit is sold. If an otherwise acceptable bid is received from a Town Worker outside of the Priority Period equal to the Initial Sale Price or Maximum Resale Price, as applicable, for the Restricted Unit, unless the Restricted Unit is under contract to be sold to another Qualified Occupant buyer, the Restricted Unit shall be sold to such Town Worker at the Maximum Resale Price. For all sales following the initial sale, the seller shall provide the Town and SCHA with at least three (3) days' written

notice of such seller's intent to sell the Restricted Unit on the form attached hereto as Exhibit B, prior to offering any Restricted Unit for sale ("Notice of Sale"). The seller shall also call the Dillon Town Manager at (970) 262-3402 to provide such notice. For purposes of this Section, a person offers such person's Restricted Unit for sale on the date the Restricted Unit is publicly listed for sale. If a lottery sales process is used, Town Workers shall receive priority in a first lottery separate from a later lottery open to all Town Workers and County Workers. Terms of any lottery offering shall be determined by SCHA or the Town and may include, without limitation, additional criteria such as a minimum length of time working and residing in Summit County.

Section 10. Section 8.7.1 of the Restrictive Covenant, as amended, is hereby amended to read as follows (words to be added shown in double underline; words to be deleted ~~stricken~~):

8.7.1 Roommates. The requirements of this Restrictive Covenant ~~Section~~ shall not preclude an Owner meeting the Qualified Occupant criteria from sharing occupancy of a Restricted Unit with other Qualified Occupants on a rental basis provided the Owner continues to meet the obligations set forth in this Restrictive Covenant. All roommates charged rent by the Owner are required to complete and submit an approved housing eligibility application for the Qualified Occupant(s) as is provided by the Town, its designee or SCHA and obtain written approval from the Town, its designee or SCHA prior to occupancy to ensure they meet the restrictions and requirements of this Restrictive Covenant. In the event that any Restricted Unit, or any portion thereof, is leased or rented without compliance with this provision of the Restrictive Covenant, all of the remedies set forth by law or in equity, including but not limited to the rights set forth in this Restrictive Covenant, shall be available to enforce the terms of this Restrictive Covenant. Nothing in this Restrictive Covenant shall prevent an Owner meeting the Qualified Occupant criteria from sharing occupancy with one or more persons not meeting the Qualified Occupant criteria (e.g., family members, spouse, or partner) if such person or persons do not (i) pay rent to the Owner, or (ii) own any interest, alone or in conjunction with others, in any other developed residential property, including ownership through an entity, partnership, a trust, or the like, of which the Owner is a party, trustee, and/or beneficiary.

Section 11. Section 9.1 of the Restrictive Covenant, as amended, is hereby amended to read as follows (words to be added shown in double underline; words to be deleted ~~stricken~~):

9.1 Restricted AMI Units. For the Restricted Units listed in Section 7.1 through ~~7.5~~ 7.4, inclusive, the sales price shall be no greater than the then-current Maximum Resale Price. ~~In addition, provided that,~~ an Owner may add to the Maximum Resale Price, the cost of permitted capital improvements ("PCI"), as set forth in the PCI schedule maintained by the Town, ~~its designee or SCHA~~ as such schedule is amended from time to time, and the cost of such other replacements and upgrades as may be approved by the Town, ~~its designee or SCHA~~ to address wear and tear ("Wear and Tear"); provided, however, that, but in no event shall the total amount of PCI and Wear and Tear, together, exceed

three percent (3%) of the Maximum Resale Price prorated over the ten (10) year period immediately prior to such sale. If the Owner selling the Restricted Unit has owned the Restricted Unit for less than 10 years, the total for PCI and Wear and Tear shall be reduced to a percentage based on the ~~actual period~~ full months of ownership. By way of example, if the ownership period is five (5) years, the total of PCI and Wear and Tear will be limited to one and one-half percent (1.5%) of the Maximum Resale Price prorated over the five (5) year period immediately prior to such sale. ~~(or Initial Sale Price) paid by the Owner paid by the Owner at the time the Restricted Unit was purchased.~~

Section 12. Section 9.4 of the Restrictive Covenant, as amended, is hereby deleted and replaced in its entirety, to read as follows:

9.4 Multiple Qualified Bids. In the event two (2) or more acceptable bids equal to the Initial Sale Price are received during the Priority Period for the initial sale of a Restricted Unit, the following process shall apply:

9.4.1 If only one (1) bid is received from a Town Worker, the Restricted Unit shall be sold to the Town Worker at the Initial Sale Price, regardless of whether Competing Bids were received from County Workers.

9.4.2 If two (2) or more bids are received from Town Workers, the winning bid shall be selected by lottery between or among the Town Workers, regardless of whether Competing Bids were received from County Workers.

9.4.3 If no bids are received from Town Workers in the Priority Period, but only one (1) bid is received from a County Worker, then the Restricted Unit shall be sold to the County Worker following the close of the Priority Period.

9.4.4 If no bids are received from Town Workers in the Priority Period, but two (2) or more bids are received from County Workers, then the winning bid shall be selected by lottery at the close of the Priority Period between or among the bids received from the County Workers.

Where any lottery is conducted pursuant to subsections 9.4.1 through 9.4.4 above, the lottery shall be administrated by the Town or its designee, and the Restricted Unit shall be sold to the winner of such lottery at the Initial Sale Price. The Owner shall not be permitted to increase the Initial Sale Price in the event two (2) or more bids are received. The lottery process set forth in this Section 9.4 shall not apply to any sales following the initial sale of a Restricted Unit.

Section 13. Section 12.0 of the Restrictive Covenant, as amended, is hereby amended to read as follows (words to be added shown in double underline; words to be deleted ~~stricken~~):

12.0 VACANCY. If a Qualified Occupant ceases to occupy a Restricted Unit as his or her ~~principal place of residence~~ permanent primary full-time residence

for a period of one hundred twenty (120) consecutive days (as reasonably determined by the Town or its designee), the Town, ~~its designee, or SCHA~~ may, in its reasonable discretion and in addition to any other remedies available hereunder, determine that the Restricted Unit shall be offered for sale pursuant to the provisions of Sections 15.0 through 15.2.

Section 14. Section 13.0 of the Restrictive Covenant, as amended, is hereby amended to read as follows (words to be added shown in double underline; words to be deleted ~~stricken~~):

13.0 NON-QUALIFIED TRANSFEREES. ~~Except for a First Mortgagee, if~~ If title to a Restricted Unit vests in a party that is not a Qualified Occupant (a “Non-Qualified Transferee”) by descent, by foreclosure and/or redemption by any lien or mortgage holder (except a First Mortgagee), or by operation of law or any other event, the Town may elect to notify the Non-Qualified Transferee that it must sell the Restricted Unit in accordance with Sections 15.0 through 15.2. The Non-Qualified Transferee(s) shall not: (i) occupy a Restricted Unit; (ii) rent all or any part of a Restricted Unit, except in strict compliance with this Restrictive Covenant; (iii) engage in any business activity on or in a Restricted Unit; (iv) sell or otherwise Transfer a Restricted Unit except in accordance with this Restrictive Covenant; or (v) sell or otherwise Transfer a Restricted Unit for use in trade or business.

Section 15. Section 14.0 of the Restrictive Covenant, as amended, is hereby amended to read as follows (words to be added shown in double underline; words to be deleted ~~stricken~~):

14.0 USE RESTRICTIONS. The restrictions and covenants enumerated herein this Restrictive Covenant include, without limitation, a strict prohibition of any short-term rental of a Restricted Unit by Owner or through another company such as VRBO, Orbitz, FlipKey or Airbnb. For purposes of this Restrictive Covenant, “short-term rental” shall mean a rental period of less than thirty (30) consecutive days. Upon violation of this provision, the Town or its designee or SCHA may, but is not required to, provide notice to the Owner of the violation and an opportunity to cease and desist or cure. In addition, the Town or its designee, in its reasonable discretion, may promulgate a notice and penalty schedule for any such violation. If such a schedule is adopted by the Town or its designee, the Town or its designee shall provide written notice of the same to all Restricted Unit Owners ~~of the notice and penalty schedule~~. Any such notice and penalty schedule shall be in addition to those remedies available to the Town, ~~its designee, or SCHA~~ pursuant to this Restrictive Covenant or the Dillon Municipal Code.

Section 16. Section 16.0 of the Restrictive Covenant, as amended, is hereby amended to read as follows (words to be added shown in double underline; words to be deleted ~~stricken~~):

16.0 LIEN. The Town shall have, and is hereby granted, a lien against each Restricted Unit (“the Town’s Lien”) to secure payment of any amounts due and

owing Town pursuant to this Restrictive Covenant including, without limitation, all sales proceeds over and above the Maximum Resale Price. The Town's Lien on each Restricted Unit shall be superior to all other liens and encumbrances except the following: (i) liens and encumbrances recorded prior to the recording of this Restrictive Covenant; (ii) real property ad valorem taxes and special assessment liens duly imposed by any Colorado governmental or political subdivision or special taxing district; (iii) liens given superior priority by operation of law; and (iv) the lien of any First Mortgage against such Restricted Unit. At closing, every purchaser of a Restricted Unit shall execute a Memorandum of Acceptance and Notice of Lien (the "MOA"), in the same form as attached hereto as Exhibit C. Recording this Restrictive Covenant and the MOA among the land records of Summit County constitutes record notice and perfection of the Town's Lien. No further recordation of any claim of lien shall be required. The Town shall have all of the rights that a mortgage holder may have against a Restricted Unit, including, without limitation, the right to judicially foreclose upon a Restricted Unit. The Town shall be entitled to file such notices and other information necessary to preserve its rights, as a lienor, to cure and redeem in foreclosure of a Restricted Unit, as provided by C.R.S. § 38-38-101, et seq., and any other applicable law.

Section 17. Section 17.4 of the Restrictive Covenant, as amended, is hereby amended to read as follows (words to be added shown in double underline; words to be deleted ~~stricken~~):

17.4 Liquidated Damages. The Owner acknowledges that the unavailability of adequate workforce housing within the Town of Dillon requires the expenditure of additional Town funds to provide required governmental services and thereby results in an economic loss to the Town. The Town and the Owner further recognize the delays, expense and unique difficulties involved in proving in a legal proceeding the actual loss suffered by the Town in such circumstance. Accordingly, instead of requiring such proof, the Town and Owner agree that the Owner shall pay to Town Liquidated Damages ~~the sum of One Hundred Fifty Dollars (\$150) per day~~ for each day in which a Restricted Unit is not used in strict compliance with the provisions of Sections 7.0 through 7.6 of this Restrictive Covenant; provided, however, that such damages may not apply in any manner unless and until the Owner has received notice, from the Town or SCHA, of a violation of this Restrictive Covenant and an opportunity to correct such violation; and further provided that any such cure of said violation is within the control of Owner to correct. For purposes of this Section, "Liquidated Damages" means One Hundred Fifty Dollars (\$150), escalated by two percent (2%) for each year this Restrictive Covenant is in effect. Commencement of a timely FED action by Owner, or other such appropriate timely legal effort to correct a violation, shall be deemed adequate efforts to cure, notwithstanding the time frame or success related to any such legal action. The cost of such amount is agreed to be a reasonable estimate of the actual damages which the Town would suffer in the event of a violation of this Restrictive Covenant. The provisions of this Section 17.4 shall not apply to any violation of this Restrictive Covenant

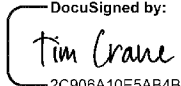
other than a violation of Sections 7.0 through 7.6. The ~~liquidated damages~~ Liquidated Damages provided herein shall commence as of the date on which the Owner first receives notice that the Restricted Unit is being used or occupied in violation of this Restrictive Covenant. Further, the total amount of ~~liquidated damages~~ Liquidated Damages payable to the Town shall in no event exceed the then-current value of the applicable restriction on sale, occupancy, or use of the Restricted Unit under this Restrictive Covenant, as calculated based on the difference between the fair market value of units not subject to this Restrictive Covenant and the applicable Maximum Resale Price established for the Restricted Unit, as calculated at the time of violation of the Restrictive Covenant. The ~~liquidated damages~~ Liquidated Damages provided for in this Section 17.4 may be collected personally from the Owner by the Town, either singly or in combination with an action for equitable enforcement of this Restrictive Covenant. ~~The Town may, in its sole discretion, waive the liquidated damages as provided herein and recover any actual damages suffered by Town as a result of a breach of this Restrictive Covenant.~~

Section 18. The attached Exhibits B and C are hereby ratified, confirmed, and incorporated by this reference into the Restrictive Covenant, as amended.

Section 19. The Restrictive Covenant, as amended by the First Amendment, Second Amendment, Correction to Second Amendment, and this Third Amendment, is hereby ratified and confirmed and shall remain in full force and effect and binding upon the Parties in accordance with its terms. This Third Amendment shall be recorded by the Town with the Summit County Recorder.

IN WITNESS WHEREOF the Parties have executed this Third Amendment to Restrictive Covenant on the date first above written.

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

By:  _____
2C908A10E5AB4B4...
manager
Title: _____

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ___ day of _____, 20___ by _____ as _____ of Sail Lofts, LLC.

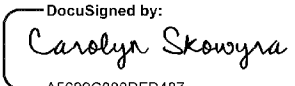
Witness my hand and official seal.

My commission expires: _____

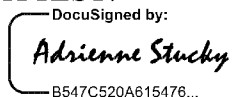
(SEAL)

Notary Public

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

By: 
A5699C080DFD487...

Mayor

ATTEST:

B547C520A615476...

Town Clerk

ACKNOWLEDGMENT

STATE OF COLORADO)
) ss.
COUNTY OF SUMMIT)

The foregoing instrument was acknowledged before me this ___ day of _____, 20___ by _____ as Mayor of the Town of Dillon.

Witness my hand and official seal.

My commission expires: _____

(SEAL)

Notary Public

EXHIBIT B

**TOWN OF DILLON
NOTICE OF INTENT TO SELL A RESTRICTED UNIT**

Property Owner(s) Name: _____

Restricted Unit Address: _____
Dillon, Colorado

Legal Description:

1. The Owner understands that neither the Town of Dillon (the “Town”) nor the Summit County Housing Authority (“SCHA”) is acting as a Real Estate Broker in the purchase and sale of the subject Restricted Unit. The Town and SCHA represents neither the Owner nor the Purchaser and is acting solely in furtherance of the goal of providing affordable and workforce housing in the Town and in accordance with the Restrictive Covenant and Agreement (“restrictive Covenant”) and deed restriction (“Deed Restriction”) associated with the subject Restricted Unit. The Owner is encouraged to seek the advice of competent professionals to represent the Owner’s interests in the proposed purchase and sale transaction.

2. The Owner hereby notifies the Town and SCHA that the Owner intends to sell the referenced Restricted Unit, and hereby authorizes the Town and SCHA to begin the process of qualifying and selecting potential purchasers in accordance with the Restrictive Covenant and Deed Restriction. Owner agrees to follow the procedures set forth in the Restrictive Covenant and Deed Restriction with regard to negotiation with potential purchasers. Owner further agrees to keep the Town and SCHA fully informed as to the progress of those negotiations and to provide Town and SCHA with copies of all legal documentation within one business day of the execution of any such documentation.

3. Owner and the Town agree that the Restrictive Covenant and Deed Restriction limit the sale price of the subject Restricted Unit. Owner hereby represents to the Town that Owner will sell the subject Restricted Unit at a price not to exceed \$_____, in accordance with the Restrictive Covenant.

4. Owner acknowledges that the price in paragraph 3 is the maximum price at which the Restricted Unit may be offered for sale and sold.

5. If Owner has chosen to utilize the services of a licensed real estate broker, Owner shall within three (3) business days of execution of this Notice, provide the Town and SCHA with a copy of the executed listing agreement (on forms approved by the Colorado Real Estate Commission) and a letter from said broker acknowledging that broker has reviewed and understands the restrictions (including those related to capped commissions) placed on the resale of the Restricted Unit by the Restrictive Covenant and Deed Restriction.

6. Owner, by Owner's signature below, represents and warrants to the Town and SCHA that Owner will in good faith do and perform all actions and execute all agreements necessary to consummate a sale of the subject Restrictive Unit, at or below the price noted in paragraph 3 above, to a Qualified Occupant in accordance with the Restrictive Covenant.

7. If Owner has chosen not to utilize the services of a licensed real estate broker, the Owner and the Town acknowledge and agree that this Notice will take the place of the "listing agreement on forms approved by the Colorado Real Estate Commission" if such form is referenced by the Deed Restriction on the subject property.

Name of Owner's Real Estate Brokerage and Agent:

-OR- Owner's initials below indicate that Owner has chosen not to utilize the services of a Real Estate Broker in this transaction and will market the property directly to potential Qualified Occupant-Purchasers selected in accordance with the Restrictive Covenant.

Owner's Initials

Owner's Initials

8. Name of Owner's Attorney (if any): _____.

9. This Notice shall expire upon the earlier of 180 days from execution or the closing date of a purchase and sale transaction for the subject Restrictive Unit.

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. THE OWNER IS ADVISED TO SEEK THE ADVICE OF AN ATTORNEY BEFORE EXECUTING THIS AGREEMENT.

Owner Signature

TOWN OF DILLON

Printed Name

By: _____
Town Manager

Date

Date

Owner Signature

Printed Name

Date

EXHIBIT C

**MEMORANDUM OF ACCEPTANCE
OF
RESIDENTIAL HOUSING COVENANT AND NOTICE OF LIEN
FOR THE SAIL LOFTS DEVELOPMENT
SUMMIT COUNTY, COLORADO**

WHEREAS, _____, the "Buyer" is purchasing from
_____, the "Seller", at a price of
\$ _____, real property described as
_____,
according to the plat/condominium map recorded under Reception No. _____,
in the real property records of the County of Summit, Colorado (the "Unit"); and

WHEREAS, as a prerequisite to the sale transaction, the Buyer must acknowledge and agree to the terms, conditions, and restrictions found in that certain instrument entitled "Restrictive Housing Covenant and Agreement (Workforce Housing)," recorded on November 28, 2017, under Reception No. 1157818, in the real property records of the County of Summit, Colorado, along with any subsequent amendments to this instrument (the "Covenant").

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

1. Acknowledges that Buyer has carefully read the entire Covenant, including but not limited to Section 16 regarding the Town's Lien; has had the opportunity to consult with legal and financial counsel concerning the Covenant prior to signing it; and fully understands the terms, conditions, provisions, and restrictions contained in the Covenant.

2. Agrees to be bound by and to comply with the terms, conditions, and requirements of the Covenant, including but not limited to the terms, conditions, and requirements set forth Section 16 regarding the Town's Lien.

3. States that the Notice to Buyer should be sent to:

4. 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 Dillon.

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

BUYER(S):

By: _____

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: _____