

NON-ASSIGNABLE EMPLOYEE HOUSING UNIT CREDIT PURCHASE AGREEMENT
(Employee Housing Unit Credit Program)

THIS EMPLOYEE HOUSING UNIT CREDIT PURCHASE AGREEMENT (the "Agreement") is entered into this ____ day of _____, 20__ (the "Effective Date"), by and between the Town of Vail, a Colorado home rule municipality with an address of 75 South Frontage Road, Vail, CO 81657 (the "Town"), and _____ with an address of _____ (Buyer") (each a "Party" and collectively the "Parties").

WHEREAS, Buyer is under contract to purchase the real property more particularly described as _____ of LOT 1, Timber Ridge Subdivision (the "Property");

WHEREAS, Sections 12-23-7 and 12-24-7 of the Vail Town Code (the "Code") establish a mitigation bank where applicants may purchase a credit for Employee Housing Units ("EHU") to fulfill their current or future EHU requirements;

WHEREAS, on January 21, 2025, Town Council approved Resolution No. 4, Series of 2025, creating the Employee Housing Unit Credit Program at the new Timber Ridge Village (the "Program");

WHEREAS, the Program encourages the purchase of Timber Ridge Village EHU credits instead of providing EHUs on site;

WHEREAS, the Program details the costs of the EHU credits and eligibility requirements;

WHEREAS, the Town has determined that the Property is eligible for the Program; and

WHEREAS, Buyer desires to purchase EHU credits in accordance with the Program, Sections 12-23-7 and 12-24-7 of the Code and this Agreement.

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

1. Program and Code Compliance. Buyer shall at all times comply with the Program and Sections 12-23-7 and 12-24-7 of the Code.
2. Purchase of EHU Credit. Buyer hereby purchases **EHU credit number** _____, **which equates to** _____ **square feet or** _____ **Bedrooms of non-assignable EHU credit** (the "Credit") for a total cost of \$_____ (the "Purchase Price"). An amount equal to 20% of the Purchase Price shall be paid to the Town on the Effective Date, and the remaining amount shall be paid to the Town at the closing of the purchase of the Property. Buyer shall

tender such amounts by certified funds, a cashier's check, wire transfer or any other immediately available funds. All payments shall be nonrefundable.

3. Accounting. The Town shall track the Credit in accordance with the Town's internal accounting system established in the Program.

4. Redemption. The Credit shall be redeemed in accordance with the Program and upon prior approval by the Town. Credit redemption shall result in a deed restricted EHU in accordance with the Code and the Program. The whole Credit amount shall be redeemed through a single redemption and may not be divided into fractions or multiple redemptions. Any Credit balance after redemption shall be forfeited and Buyer shall not be entitled to any payment therefor.

5. Expiration. The Credit shall expire on December 31, 2035. If the Credit is not redeemed prior to expiration, then the Credit shall be null and void and this Agreement shall automatically terminate. Buyer shall not be entitled to any payment upon expiration of the Credit, and all funds received under this Agreement and any interest thereon shall be retained by the Town.

6. Default.

a. It is a breach of this Agreement for Buyer to violate any provision of this Agreement, the Program, or the Code.

b. Upon a breach of this Agreement, the Town shall provide Buyer with written notice of such breach and Buyer shall have 10 days from the date of such notice to cure the breach. If Buyer fails to cure within such 10-day period, Buyer shall be in default of this Agreement and the Town's sole remedy will be to terminate this Agreement and retain all funds received hereunder and any interest earned thereon as liquidated damages and the Credit shall automatically expire. The Parties agree that if Buyer is in default, it will be difficult to determine the Town's damages, which include lost opportunities to develop employee housing units. Consequently, the liquidated damages provided for herein are a fair and reasonable estimate of the Town's damages and are not a penalty.

7. Miscellaneous.

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

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

c. *Binding Effect.* This Agreement shall be binding upon and inure to the benefit of the Parties and their respective heirs, successors and assigns.

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

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

f. *Assignment.* There shall be no transfer or assignment of any of the rights or obligations of Buyer under this Agreement. Any purported assignment shall be void.

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

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

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

j. *Governmental Immunity.* The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers or employees.

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

TOWN OF VAIL, COLORADO

Russell Forrest, Town Manager

ATTEST:

Stephanie Kauffman, Town Clerk

The foregoing instrument was subscribed, sworn to and acknowledged before me this ____ day of _____, 20__, by _____.

Notary Public

My commission expires: