

**SECOND MODIFICATION OF PITCHFORK OCCUPANCY AND RESALE  
DEED RESTRICTION, AGREEMENT AND COVENANT**

**WHEREAS**, Coburn Development, Inc., a Colorado corporation (“Coburn”), and the Town of Mt. Crested Butte, Colorado (“Town”) recorded the PITCHFORK OCCUPANCY AND RESALE DEED RESTRICTION, AGREEMENT, AND COVENANT on November 29, 2000 as Reception No: 507107 of the Gunnison County, Colorado records (“Deed Restriction”); and

**WHEREAS**, Exhibit A of the Deed Restriction identified the lots and units subject to sale and resale price restrictions; and

**WHEREAS**, Coburn with the approval of the Town revised the Deed Restriction by recording a MODIFICATION OF PITCHFORK OCCUPANCY AND RESALE DEED RESTRICTION, AGREEMENT AND COVENANT as Reception No. 510376 of the Gunnison County, Colorado records (“First Modification”); and

**WHEREAS**, Pitchfork LLC, a Colorado limited liability company, has succeeded to Coburn’s interest in some of the lots and units subject to the Deed Restriction; and

**WHEREAS**, Coburn, Pitchfork LLC and Town have agreed to further revise the lots and units subject to such sale and resale price restrictions;

**NOW, THEREFORE**, Coburn, Pitchfork LLC and the Town hereby revise the Deed Restriction and First Modification as follows:

1. **Definitions.** The following terms shall have the following meanings:

1.1 “Area Median Income” or “AMI” means the Area Median Income reported annually for single persons and households of various size by the United States Department of Housing and Urban Development, or by any successor United States Government department, agency, or instrumentality, for Gunnison County, Colorado.

1.2 "Institutional Lender" means any bank, savings and loan association, or any other institutional lender which is licensed to engage in the business of providing purchase money mortgage financing for residential real property.

1.3 "Primary Residence" means the residence which the owner occupies for a minimum of ten (10) full months out of every calendar year.

**2. Transfer of AMI-Restricted Property.** The Town of Mt. Crested Butte ("Town") shall certify Qualified Buyers who are certified to buy AMI-restricted property. With the exceptions listed below, title to the AMI-restricted property may only be transferred to a person who has been certified by the Town and who also has been qualified by an Institutional Lender for a mortgage to be used to buy the AMI-restricted property. In order to qualify, a buyer's projected income must be within the percentage range of AMI listed on attached Exhibit A adjusted to reflect the family size of the buyer or buyers. If the AMI-restricted property is sold jointly to more than one buyer in the same transaction, or if the AMI-restricted property is sold to a buyer who is married or who has a domestic partner, or if the AMI-restricted property is sold to one or more buyers who have the custody of children under the age of eighteen, then (a) the buyer or buyers shall be considered to be a household for the purposes of this provision; and (b) the income of all persons in the household (which will include each buyer of the AMI-restricted property, the spouse or domestic partner of the buyer, and each buyer's child who is age eighteen or older) shall be used in determining the buyer's income.

The following transfers are exceptions to the above requirement, provided that the new owners, other than an estate, shall use the AMI-restricted property as his or her Primary Residence:

- 2.1 A transfer resulting from the death of an owner where the transfer is to the spouse or domestic partner who is also an owner.
- 2.2 A transfer to the owner's estate following his or her death for the purpose of administering the estate and distributing the assets thereof during a limited period of time.
- 2.3 A transfer resulting from the death of an owner when the transfer is to one or more children of the deceased owner.

- 2.4 A transfer by an owner where the spouse or domestic partner of the owner becomes the co-owner of the property.
- 2.5 A transfer resulting from a decree of dissolution of the marriage or legal separation or from a property settlement agreement incidental to such a decree by which a spouse who is an owner becomes the sole owner of the AMI-restricted property.
- 2.6 A transfer directly resulting from a termination of a registered domestic partnership by which a domestic partner who is an owner becomes the sole owner of the AMI-restricted property.

3. **Revision of Exhibit A.** Exhibit A of the Deed Restriction as revised by the First Modification is revised to read as set forth on attached **Exhibit A**, which is incorporated herein by reference.

Except as revised hereby, the Deed Restriction is hereby reaffirmed and ratified.

**COBURN DEVELOPMENT, INC.,**  
a Colorado corporation

**PITCHFORK LLC, a Colorado**  
limited liability company

By: \_\_\_\_\_  
William E. Coburn, II, President

By: \_\_\_\_\_  
William E. Coburn, II, Managing  
Member

**TOWN OF MT. CRESTED BUTTE,**  
COLORADO

Attest:

By: \_\_\_\_\_  
Gwen Pettit, Mayor

\_\_\_\_\_  
Town Clerk

STATE OF COLORADO )  
 ) ss.  
COUNTY OF GUNNISON )

The foregoing Modification of Pitchfork Occupancy and Resale Deed Restriction, Agreement and Covenant was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_ by William E. Coburn, II as President of Coburn Development, Inc., a Colorado corporation and as Managing Member of Pitchfork LLC, a Colorado limited liability company.

Witness my hand and official seal. My commission expires:

\_\_\_\_\_  
Notary Public

STATE OF COLORADO )  
 ) ss.  
COUNTY OF GUNNISON )

The foregoing Modification of Pitchfork Occupancy and Resale Deed Restriction, Agreement and Covenant was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 200\_\_ by Gwen Pettit as Mayor and \_\_\_\_\_ as \_\_\_\_ Town Clerk of the Town of Mt. Crested Butte, Colorado.

Witness my hand and official seal. My commission expires:

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

Lot 1 (6units)	Capped or Income Restricted*
Lot 61	Uncapped
Lot 40	Capped or Income Restricted*
Lot 55	Uncapped
Lot 2 Unit B	Uncapped
Lot 2 Unit C	Uncapped
Lot 3 Unit B	Uncapped
Lot 3 Unit C	Uncapped
Lot 62	Uncapped
Lot 34, 6 units	Local long-term rental
Lot 35 Unit A	Capped
Lot 35 Unit B	Capped
Lot 44 Unit A1	Uncapped
Lot 44 Unit A2	Uncapped
Lot 57	Uncapped
Lot 58	Uncapped
Lot 63	Uncapped

Pitchfork, according to the plat thereof recorded as Reception No. 504415 in the records of the Gunnison County, Colorado.

Town of Mt. Crested Butte  
 County of Gunnison  
 State of Colorado

\* Coburn, Pitchfork, LLC or future owners shall have the option, when they convey title to Lot 1 and Lot 40, or any unit constructed thereon, to elect to encumber the Lot or Unit conveyed with price caps described in the Deed Restriction or with the following income restrictions, based on the Area Median Income ("AMI"):

Lot 1 Unit A	81% to 120% of AMI
Lot 1 Unit B	81% to 100% of AMI
Lot 1 Unit C	81% to 100% of AMI
Lot 1 Unit D	81% to 120% of AMI
Lot 1 Unit E	81% to 100% of AMI
Lot 1 Unit F	81% to 120% of AMI
Lot 40	81% to 120% of AMI