

**FIRST SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR BLUE RIVER RUN**

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This First Supplement to Declaration of Covenants, Conditions, Restrictions and Easements for Blue River Run ("First Supplemental Declaration") is made this 30th day of July, 1998 by Estates at Blue River, LLC, a Colorado limited liability company (hereinafter referred to as "Declarant").

RECITALS

A. There has heretofore been recorded a Declaration of Covenants, Conditions, Restrictions and Easements for Blue River Run, a planned community, which was recorded on December 22, 1997 at Reception No. 554672, of the records of the Clerk and Recorder of the County of Summit, State of Colorado (the "Declaration"). Terms which are capitalized herein are defined in the Declaration and have the same meaning herein, unless otherwise defined.

B. Pursuant to Article XV of the Declaration, the Declarant has the right to make certain property described in the Declaration as the Expansion Property (or portions thereof) subject to the Declaration, by filing of record a Supplemental Declaration with respect to such Expansion Property (or portions thereof), the effect of which shall be to extend the coverage of the Declaration to such Expansion Property (or portions thereof) and make the property described in such Supplemental Declaration subject to the terms and conditions thereof.

C. Article XV of the Declaration further requires that if the Expansion Property (or portions thereof) subjected to the Declaration has not been platted, then a Supplemental Plat depicting such Expansion Property (or portions thereof) must be recorded along with the Supplemental Declaration. Declarant has heretofore recorded "A Resubdivision of Block 2 Blue River Run" on July 24, 1998 at Reception No. 570864 of the records of the Clerk and Recorder of the County of Summit, State of Colorado (the "First Supplement Plat").

D. The First Supplement Plat encompasses that portion of the Expansion Property which is more particularly described in Exhibit A attached hereto (the "First Supplement Expansion Property") which is comprised of 36 Townhome Lots and Common Areas lying outside of said designated Lots.

E. Declarant desires to subject the First Supplement Expansion Property as depicted on the First Supplement Plat to the terms and conditions of the Declaration.

NOW, THEREFORE, the Declarant declares that portion of the Expansion Property described herein as the First Supplement Expansion Property is and shall be held, transferred, sold, conveyed, leased, and occupied subject to the covenants, conditions, restrictions and easements set forth in the Declaration and in this First Supplemental Declaration, all of which shall run with the land.

1. **Applicability of the Declaration.** That portion of the Expansion Property described herein as the First Supplement Expansion Property, upon recording of this First Supplemental Declaration in the office of the Clerk and Recorder of Summit County, Colorado, shall be subject to: (i) all the provisions of the Declaration including, without limitation, those



provisions regarding obligations to pay assessments to the Association and the right to cast votes as members of the Association; (ii) all the terms, conditions and provisions of the First Supplement Plat.

2. **Sharing Ratios.** Exhibit B to the Declaration is hereby amended and superceded by the provisions contained in Exhibit B which is attached hereto and incorporated herein by this reference, and which shall now be determinative with respect to each Owner's and Lot's Sharing Ratio.

3. **Additional Covenants, Conditions, Restrictions and Easements Relating to the Property.**

A. Party Walls

1. General

1.1 That wall which is constructed as a common part of any townhome unit situated on the Townhome Lots and which is located between any such townhomes, dividing them into two separate units, constitutes a party wall, and, to the extent not inconsistent with the provisions herein, the general rules of law regarding party walls and liability for property damage due to the negligence or willful acts or omissions of a given owner shall apply. It is the intent of Declarant that the owner of each Townhome Lot ("Townhome Owner") shall own its own townhome unit to the center of the party wall separating its unit from the adjoining unit.

1.2 The cost of repair and maintenance of the finished surface of the party wall which is located within a townhome unit shall be borne solely by the Townhome Owner of that townhome unit.

1.3 Except as otherwise specifically provided herein, the cost of reasonable repair and maintenance of the party wall shall be a common expense of, and shared equally by, the Townhome Owners of adjoining units. If a Townhome Owner refuses to pay its proportionate share (i.e., fifty percent) of the costs of repair or maintenance, then the Townhome Owner of the adjoining townhome unit may cause the party wall to be repaired and shall be entitled to assess the nonpaying Townhome Owner's proportionate share of such costs against the nonpaying Townhome Owner and the nonpaying Townhome Owner's Townhome Lot in the manner set forth in Section 3.A.3 hereafter.

1.4 Notwithstanding any provision in this Section 3 to the contrary, if the party wall or any portion thereof is damaged or destroyed by the act, omission, negligence, or default hereunder of or by the Townhome Owner of one of the townhome units, such Townhome Owner shall repair, restore, or rebuild said wall to at least that condition existing immediately prior to the damage or destruction and shall compensate the adjoining Townhome Owner for any damage suffered by the other owner or other occupants of such adjoining Townhome Owner's townhome unit as a result of such damage or destruction. If such Townhome Owner fails to commence repair, restoration, or rebuilding within thirty days from the date on which the damage occurs, the adjoining Townhome Owner may effect such repair, restoration, or rebuilding and shall be entitled to assess the costs attributable thereto against the defaulting Townhome Owner and the defaulting Townhome Owner's Townhome Lot in the manner set forth in Section 3.A.3 hereafter.

1.5 To the extent that damage to the party wall is covered by insurance, the full insurance proceeds applicable thereto shall be used and applied to repair, restore, or replace said party wall unless the affected Townhome Owners and first mortgagees of said Townhome Lots agree otherwise. If the party wall is destroyed or damaged by fire or other casualty, either Townhome Owner may restore it, and if the Townhome Owner of the other Townhome Lot adjacent to said party wall shall thereafter make use of the wall, he shall contribute one-half of the cost of restoration thereof, without prejudice, however, to the right of either Townhome Owner to demand a larger contribution from the other Townhome Owner under any rule of law or equity regarding liability for negligent or willful acts or omissions or any default hereunder. If the Townhome Owner of one Townhome Lot causes the wall to be restored and the Townhome Owner of the other Townhome Lot adjacent to the wall uses the wall and does not contribute to the costs of the wall's restoration, the Townhome Owner who caused the wall to be restored shall be entitled to assess the nonpaying Townhome Owner's proportionate share of such costs against the nonpaying Townhome Owner and the nonpaying Townhome Owner's Townhome Lot in the manner set forth in Section 3.A.3 hereafter.

1.6 Notwithstanding any provision in this Section 3.A to the contrary, a Townhome Owner who, by its negligent or willful acts or omissions, causes the party wall or any portion thereof to be exposed to the elements shall bear the whole cost of furnishing the necessary protection against such elements.

1.7 A Townhome Owner shall have the right to maintain and repair any utility, telephone, and television installations located within the party wall, but, in so doing, such Townhome Owner shall promptly restore the party wall to that condition existing immediately prior to such maintenance or repair.

1.8 Mutual reciprocal easements for support, repair, and replacement of the party wall are hereby established, declared, and granted to the owners of the Townhome Lots.

1.9 It is assumed by Declarant that the party wall is located on the dividing line separating the Townhome Lots. However, should the party wall vary from said dividing line, the Townhome Owner whose townhome unit encroaches upon the adjoining Townhome Lot shall have an easement for the encroachment and for the maintenance of same, so long as it stands and shall and does exist. Such encroachment and easement shall not be considered or deemed to be an encumbrance upon the adjoining Townhome Lot. Declarant does not warrant that the centerline of the party wall lies precisely on the dividing line between the Townhome Lots. All future purchasers of the Townhome Lots or either of them shall be deemed to accept the party wall "as is" and shall not hold Declarant liable as to any encroachment or discrepancies in any boundary line.

2. Cross Easement for Utilities

2.1 There is hereby created a blanket easement upon, across, over, and under the Townhome Lots and the improvements situated thereon, including the party walls, for ingress, egress, installation, replacing, repairing, and maintaining all utilities, including, but not limited to, water, sewer, gas, electricity, telephone, and television, and for lateral and subjacent support of each Townhome Lot and the improvements thereon. Said blanket easement includes future utility services not presently available to the Townhome Lots which may reasonably be

required in the future. By virtue of this easement, it shall be permissible for the Association or entity providing utility service to erect and maintain the necessary equipment on any of the Townhome Lots and to affix and maintain pipes, wires, circuits, and conduits on, above, across and under the roofs and exterior walls of the townhomes to serve any Townhome Lot. Any damage to the other Townhome Owner or occupants pursuant to the exercise of this easement shall be repaired or remedied by the party exercising the rights pursuant to the easement provided for herein.

3. Remedy for Nonpayment of Joint Expenses

3.1 In the event any joint or other expense applicable to the Townhome Owner of any Townhome Lot provided for herein is not paid by a Townhome Owner within twenty days after notice of such debt, such amount may be paid by the adjoining Townhome Owner on behalf of the defaulting Townhome Owner and upon recordation with the Clerk and Recorder of the County of Summit, State of Colorado, of a written notice of lien assessment signed and acknowledged by the non-defaulting Townhome Owner and setting forth the amount of such unpaid indebtedness, the amount of accrued interest thereon, the name of the Townhome Owner of the Townhome Lot to be encumbered by the lien, and a description of the Townhome Lot, the amount advanced on behalf of the defaulting Townhome Owner, with interest thereon at the rate of twelve percent (12%) per annum from the date advanced until paid in full, shall become a lien upon the defaulting Townhome Owner's Townhome Lot in favor of the other Townhome Owner and shall continue to be a lien until fully paid. Such lien shall be superior to all other liens, encumbrances homestead exemptions, and other exemptions under or by virtue of any act of the State of Colorado or of the United States of America now existing or which may hereafter be passed, except only for real estate taxes and special assessment liens on the Townhome Lot in favor of any public or quasi-public assessing entity and the lien of any first mortgage or first deed of trust encumbering the defaulting Townhome Owner's Townhome Lot. The lien shall be enforceable in an action at law for the collection of a debt with respect to the defaulting Townhome Owner and/or by all methods available for the enforcement of such lien, including foreclosure in the manner prescribed by the laws of the State of Colorado for foreclosure of a mortgage. The defaulting Townhome Owner shall be required to pay the costs, expenses, and attorneys' fees incurred by the non-defaulting Townhome Owner with regard to any default, including the cost of preparation and filing of the lien. The defaulting Townhome Owner shall be required to pay any common expenses for the Townhome Lot and the other expenses described herein during the period of foreclosure. The non-defaulting Townhome Owner shall have the right and authority to bid for the Townhome Lot at any foreclosure or other legal sale and to acquire and hold, lease, mortgage, convey, or otherwise deal with the same during such proceeding and the ownership thereof. Any recorded lien for nonpayment of the common or other expenses may be released by recording a release of lien, executed and acknowledged by the Townhome Owner filing same, or said Townhome Owner's successors in interest. Nothing contained herein shall be construed so as to require one Townhome Owner to pay the expenses of another.

3.2 No Townhome Owner may exempt itself from liability for its contribution toward the common, joint expenses by waiver of the right to use and enjoy its Townhome Lot, abandonment of its Townhome Lot, or otherwise.

B. Property Use Restrictions

1. Heating

Units located upon the Townhome Lots shall be heated by each Townhome Owner thereof and maintained at internal temperatures prescribed by the Association to prevent common water lines servicing other Townhome Lots and located within party walls or elsewhere in the units from freezing. At any time that a Townhome Lot is unoccupied during the winter months, the Townhome Owner thereof shall furnish a passkey to the Association for purposes of monitoring this requirement and an easement for ingress/egress and maintenance is hereby created in favor of the Association for this purpose. By virtue of this easement, it is permissible for the Association to enter upon the Townhome Lot and the unit located thereon to perform the maintenance pursuant to this Section 3.B.1. Notwithstanding the foregoing, the Association shall not be liable for any omission or improper execution of any duty, power or function as described in this Section 3.B.1. In the event that the Townhome Owner of a Townhome Lot fails to comply with this Section 3.B.1., then Section 9.5 of the Declaration shall be applicable thereto and the Association shall have all rights as prescribed thereunder.

2. Trash Disposal. Section 17.1.(Y) of the Declaration shall be amended by the following:

Each Townhome Owner shall deliver residential trash and garbage to common pickup areas designated by the Association for pickup and trash removal on specified service days.

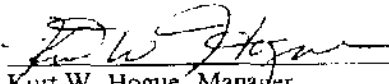
4. Effect. All other terms and conditions of the Declaration, unless expressly amended or modified herein, remain in full force and effect.

Executed by Declarant as of the day and year first above written:

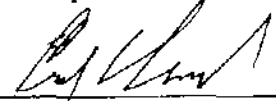
DECLARANT:

ESTATES AT BLUE RIVER, LLC,
a Colorado limited liability company

BY: CBI DEVELOPMENT CO., LLC,
a Colorado limited liability company, Co-Manager

By: 
Kurt W. Hogue, Manager

BY: BRAINARD DEVELOPMENT CORPORATION,
a Colorado corporation, Co-Manager

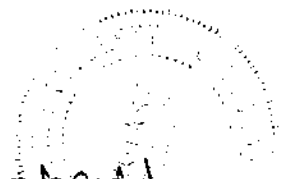
By: 
Carl Brainard, President

STATE OF COLORADO)
CITY AND) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 30 day of July, 1998, by Kurt W. Hogue as Manager for CBI Development Co., LLC, a Colorado limited liability company, Co-Manager of Estates at Blue River, LLC, a Colorado limited liability company.

WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES: 3/11/2002

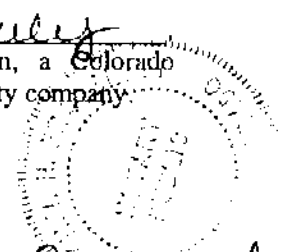

Rachel H. Bramblett
Notary Public

STATE OF COLORADO)
CITY AND) ss.
COUNTY OF ~~DENVER~~)

Jefferson
The foregoing instrument was acknowledged before me this 30 day of July, 1998, by Carl Brainard as President of Brainard Development Corporation, a Colorado corporation, Co-Manager of Estates at Blue River, LLC, a Colorado limited liability company.

WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES: 3/11/2002


Rachel H. Bramblett
Notary Public

JOINDER OF LENDER

Key Bank National Association ("Lender"), the beneficiary under certain a Deed of Trust recorded December 22, 1997 at Reception No. 554673 in the office of the Clerk and Recorder of Summit County, Colorado, for itself and its successors and assigns, approves the foregoing First Supplement to Declaration of Covenants, Conditions, Restrictions and Easements for Blue River Run (the "Declaration"), which affects the property encumbered by the Deed of Trust, and agrees that no foreclosure or other enforcement of any remedy pursuant to any Deed of Trust of which Lender is a beneficiary shall impair, invalidate, supersede or otherwise affect the covenants, conditions, restrictions and easements established by the Declaration or any supplement thereto.

Dated this 31st day of July, 1998.

KEY BANK NATIONAL ASSOCIATION

By: Elizabeth J. Lechman
Elizabeth J. Lechman, Assistant Vice President

STATE OF COLORADO)
CITY AND)ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this 31st day of July, 1998, by Elizabeth J. Lechman as Assistant Vice President for Key Bank National Association.

WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES: 2-3-2001

Sandra A. Mapp
Notary Public

EXHIBIT A
TO FIRST SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR BLUE RIVER RUN

LEGAL DESCRIPTION OF FIRST SUPPLEMENT EXPANSION PROPERTY

A TRACT OF LAND BEING ALL OF BLOCK 2, BLUE RIVER RUN, A SUBDIVISION PLAT RECORDED UNDER RECEPTION NO. 554668 IN THE OFFICE OF THE SUMMIT COUNTY CLERK AND RECORDER AND BEING A PART OF THE NORTHWEST $\frac{1}{4}$ OF SECTION 1, T. 5 S., R. 78 W., OF THE 6TH P.M., TOWN OF SILVERTHORNE, COUNTY OF SUMMIT, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 1; THENCE N 89°58'11" W, ALONG THE NORTH LINE OF SAID SECTION 1, A DISTANCE OF 699.65 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF COLORADO STATE HIGHWAY NO. 9; THENCE S 17°43'55" E, A DISTANCE OF 1147.02 FEET TO THE POINT OF BEGINNING; THENCE THE FOLLOWING SIXTEEN (16) COURSES:

1. N 75°41'57" E, A DISTANCE OF 205.91 FEET;
2. N 77°37'25" E, A DISTANCE OF 447.33 FEET;
3. S 02°34'11" E, A DISTANCE OF 234.67 FEET;
4. S 43°17'57" W, A DISTANCE OF 34.83 FEET;
5. N 02°34'11" W, A DISTANCE OF 55.28 FEET;
6. S 53°49'23" W, A DISTANCE OF 46.28 FEET;
7. S 19°32'25" W, A DISTANCE OF 84.05 FEET;
8. S 61°54'46" W, A DISTANCE OF 54.29 FEET;
9. S 43°19'40" W, A DISTANCE OF 69.19 FEET;
10. S 06°03'37" E, A DISTANCE OF 45.71 FEET;
11. S 13°33'22" W, A DISTANCE OF 30.49 FEET;
12. S 36°19'10" W, A DISTANCE OF 5.87 FEET;
13. N 63°12'29" W, A DISTANCE OF 100.20 FEET;
14. S 83°25'25" W, A DISTANCE OF 374.45 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF BLUE RIVER CIRCLE;
15. ALONG SAID CURVE TO THE RIGHT THE CENTER OF WHICH BEARS N 83°25'25" E, HAVING A RADIUS OF 957.50 FEET A CENTRAL ANGLE OF 11°13'09" AN ARC DISTANCE OF 187.49 FEET TO A POINT OF TANGENT;
16. N 04°38'34" E, ALONG SAID TANGENT, A DISTANCE OF 131.05 FEET TO THE POINT OF BEGINNING.

EXHIBIT B
TO FIRST SUPPLEMENT TO DECLARATION OF COVENANTS, CONDITIONS,
RESTRICTIONS AND EASEMENTS FOR BLUE RIVER RUN

SHARING RATIOS AND FORMULA

At the time of recording this First Supplemental Declaration, there are currently thirty (30) Single Family Detached Custom Home Lots and thirty-six (36) Townhome Lots within the Blue River Run project. The allocation of Assessments to which each Lot is subject is currently as follows:

- Single Family Detached Lots 1/66 of such Assessments per Lot excluding any assessments for exterior maintenance and landscape maintenance relating to the Townhome Lots and maintenance of the Private Roads.

- Townhome Lots 1/66 of such Assessments per Lot excluding any assessments for exterior maintenance and landscape maintenance relating to the Townhome Lots and maintenance of the Private Roads; and 1/36 of any assessments for exterior maintenance and landscape maintenance relating to the Townhome Lots and maintenance of the Private Roads.

The Sharing Ratio and Formula is subject to further adjustment as set forth in Article XV of the Declaration.