

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

WOODBRIIDGE GROUP OF COMPANIES, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 17-12560 (KJC)

(Jointly Administered)

Hearing Date:

October 24, 2018 at 10:00 a.m. (ET)

Objection Deadline:

October 16, 2018 at 4:00 p.m. (ET)

DEBTORS' MOTION FOR ENTRY OF AN ORDER (I) AUTHORIZING THE SALE OF 1165 HERITAGE DRIVE, CARBONDALE, COLORADO PROPERTY OWNED BY THE DEBTORS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS; (II) APPROVING THE RELATED PURCHASE AGREEMENT; AND (III) GRANTING RELATED RELIEF

Woodbridge Group of Companies, LLC and its affiliated debtors and debtors in possession (collectively, the "Debtors") in the above-captioned chapter 11 cases (the "Chapter 11 Cases") hereby move the court (this "Motion") for entry of an order (the "Sale Order"), substantially in the form attached hereto as Exhibit A, pursuant to sections 105(a) and 363 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"), Rule 6004 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and Rule 6004-1 of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules") (i) authorizing the sale (the "Sale") of certain real property owned by the Debtor Merrimack Valley Investments, LLC (the "Seller") located at 1165 Heritage Drive, Carbondale, Colorado 81623 (the "Land"), together with Seller's right,

¹ The last four digits of Woodbridge Group of Companies, LLC's federal tax identification number are 3603. The mailing address for Woodbridge Group of Companies, LLC is 14140 Ventura Boulevard #302, Sherman Oaks, California 91423. Due to the large number of debtors in these cases, which are being jointly administered for procedural purposes only, a complete list of the Debtors, the last four digits of their federal tax identification numbers, and their addresses are not provided herein. A complete list of this information may be obtained on the website of the Debtors' noticing and claims agent at www.gardencitygroup.com/cases/WGC, or by contacting the undersigned counsel for the Debtors.

title, and interest in and to the buildings located thereon and any other improvements and fixtures located thereon (collectively, the “Improvements” and together with the Land, the “Real Property”), and any and all of the Seller’s right, title, and interest in and to the tangible personal property and equipment remaining on the Real Property as of the date of the closing of the Sale (collectively, the “Personal Property” and, together with the Real Property, the “Property”) on an “as is, where is” basis, free and clear of any and all liens, claims, encumbrances, and other interests to Jesse James Development LLC (together with any assignee, the “Purchaser”) pursuant to the terms and conditions of that certain Contract to Buy and Sell Real Estate dated as of September 11, 2018 (as may be amended, supplemented, or otherwise modified from time to time, the “Purchase Agreement”) by and between the Seller and the Purchaser, a copy of which is attached as Exhibit 1 to the Sale Order; (ii) authorizing and approving the terms of the Purchase Agreement, and (iii) granting certain related relief. In support of the Motion, the Debtors respectfully represent as follows:

JURISDICTION AND VENUE

1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1334(b) and 157 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated as of February 29, 2012. This is a core proceeding pursuant to 28 U.S.C. § 157(b) and, pursuant to Local Rule 9013-1(f), the Debtors consent to the entry of a final order by the Court in connection with this Motion to the extent that it is later determined that the Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution. Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory and legal predicates for the relief

requested herein are 105(a) and 363 of the Bankruptcy Code, Bankruptcy Rule 6004, and Local Rules 2002-1, 4001-2, and 6004-1.

CASE BACKGROUND

2. On December 4, 2017, 279 of the Debtors commenced voluntary cases under chapter 11 of the Bankruptcy Code. Thereafter, on February 9, 2018, March 9, 2018, March 23, 2018, and March 27, 2018, additional affiliated Debtors (27 in total) commenced voluntary cases under chapter 11 of the Bankruptcy Code (collectively, the “Petition Dates”). Pursuant to sections 1107(a) and 1108 of the Bankruptcy Code, the Debtors are continuing to manage their financial affairs as debtors in possession.

3. The Chapter 11 Cases are being jointly administered pursuant to Bankruptcy Rule 1015(b) and Local Rule 1015-1. No trustee has been appointed in the Chapter 11 Cases. An official committee of unsecured creditors (the “Committee”) was appointed in the Chapter 11 Cases on December 14, 2017 [D.I. 79]. On January 23, 2018, the Court approved a settlement providing for the formation of an ad hoc noteholder group (the “Noteholder Group”) and an ad hoc unitholder group (the “Unitholder Group”) [D.I. 357].

THE SALE

4. The Property. As further detailed in the *Declaration of Bradley D. Sharp in Support of Debtors’ Motion to Sell 1165 Heritage Drive, Carbondale, Colorado Property* filed on the date hereof (the “Sharp Declaration”), the Property consists of an approximately 0.24 acre vacant lot. The Seller purchased the Real Property in August 2015 for \$120,000 with the intention of holding the lot for future sale as a vacant lot or for future possible development. Sharp Decl. ¶ 3. Ultimately, the Debtors determined that there would be no benefit to constructing a new home on the Real Property given the existing inventory in the community.

Id. Accordingly, the Debtors have determined that selling the Property now on an “as is” basis best maximizes the value of the Property. *Id.* ¶ 4. The Property has been listed on the multiple-listing service and marketed for sale as a vacant lot for more than 110 days, and was previously listed for over 700 days. *Id.* The Purchaser’s all cash offer under the Purchase Agreement is the highest and otherwise best offer (and the only offer) the Debtors have received for the Property. *Id.* Accordingly, the Debtors determined that selling the Property on an “as is” basis to the Purchaser is the best way to maximize the value of the Property. *Id.*

5. The Purchase Agreement. On September 14, 2018, the Purchaser made an all cash offer for the Property in the amount of \$86,000. *Id.* at ¶ 5. On September 16, 2018, the Debtors countered the Purchaser’s offer at \$100,000, and the Purchaser accepted on September 17, 2018. *Id.* The Debtors believe that this all cash purchase price provides significant value. *Id.* Under the Purchase Agreement, the Purchaser agreed to purchase the Property for \$100,000, with a \$4,000 initial cash deposit, and the balance of \$96,000 to be paid in cash at closing, with no financing contingencies. *Id.* The deposit is being held by Commonwealth Title Company of Garfield County, Inc. (the “Title Insurer”) as escrow agent.

6. Broker’s Fees. In connection with marketing the Property, the Debtors worked with Aspen Snowmass Sotheby’s International Realty (“Sotheby’s”), a non-affiliated third-party brokerage company, as the transaction broker for both parties.² A true and correct copy of the Exclusive Right-To-Sell Listing Contract (the “Broker Agreement”) is attached hereto as Exhibit B. The Broker Agreement provides Sotheby’s with the exclusive and irrevocable right to market the Property for a fee in the amount of 5% of the contractual sale price (the “Seller’s Broker Fee”), and authorizes the Seller’s broker to contribute up to 2.5% of the Seller’s Broker Fee (the

² The particular broker at Sotheby’s who is serving as Seller’s broker, Laura Gee, is a *former* employee of Woodbridge Realty of Colorado, LLC, which is controlled by Robert Shapiro.

“Purchaser’s Broker Fee” and together with the Seller’s Broker Fee, the “Broker Fees”) to a cooperating broker. The Purchase Agreement is signed by Laura Gee of Sotheby’s as the Seller’s broker and Carly Passchier of Integrated Mountain Properties as the Purchaser’s broker.

7. In the Debtors’ business judgment, closing the Sale with Purchaser (and paying the associated Broker Fees) pursuant to the offer set forth in the Purchase Agreement is the best way to maximize value for the Debtors’ estates and is more favorable than continuing to hold and market the Property for sale and thereby risking obtaining a lower purchase price for the Property on less favorable terms, while incurring additional carrying costs for the Property.

8. Other Closing Costs. In addition to the Broker Fees, the Seller must also satisfy certain required costs associated with the sale and transfer of title of the Property to comply with the Purchase Agreement (the “Other Closing Costs”). The Other Closing Costs include, but are not limited to, recording fees, title insurance policy costs, prorated property taxes, city and county transfer taxes, and other items noted on the title report for the Property. The Debtors also rely on outside vendors for escrow and title services in connection with property sales. In general, vendors are mutually agreed on by the applicable Debtors and a purchaser prior to the acceptance of an offer.

9. Absent authority to pay Other Closing Costs, the Seller will be unable to close the Sale and receive sale proceeds. If the Seller is unable to make these payments, the Purchaser may be entitled to rescind the Purchase Agreement or assert other remedies that could lead to additional and unnecessary claims. Accordingly, the Debtors seek the ability to pay Other Closing Costs in connection with the Sale.

10. Proceeds of the Sale. All proceeds of the Sale (net of the Broker Fees and Other Closing Costs) shall be paid to the Debtors into the general account of Debtor Woodbridge

Group of Companies, LLC, and such net proceeds shall be disbursed and otherwise treated by the Debtors in accordance with the *Final Order on Debtors' Motion for Entry of Interim and Final Orders (I) Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 507, and 552 Authorizing Debtors to (A) Obtain Postpetition Secured Financing, (B) Use Cash Collateral, (C) Grant Adequate Protection to Prepetition Secured Parties; (II) Modifying the Automatic Stay; (III) Scheduling a Final Hearing Pursuant to Bankruptcy Rules 4001(b) and 4001(c); and (IV) Granting Related Relief* [D.I. 724] (the "Final DIP Order").³

RELIEF REQUESTED

11. Pursuant to sections 105(a) and 363 of the Bankruptcy Code, the Debtors request entry of the Sale Order substantially in the form of Exhibit A hereto (i) authorizing the closing of the Sale pursuant to the Purchase Agreement, (ii) authorizing and approving the Purchase Agreement, and (iii) granting related relief.

12. The Debtors further request that filing of a copy of an order granting the relief sought herein in Garfield County, Colorado may be relied upon by the Title Insurer to issue title insurance policies on the Property.

13. The Debtors further request authority to pay the Broker Fees out of the sale proceeds by paying the Seller's Broker Fee in the amount of up to 2.5% of gross sale proceeds and paying the Purchaser's Broker Fee in the amount of up to 2.5% of gross sale proceeds.

BASIS FOR RELIEF REQUESTED

I. Section 363 of the Bankruptcy Code Authorizes the Proposed Sale

14. Section 363(c)(1) of the Bankruptcy Code provides that where, as here, the Debtors are authorized to operate their business under section 1108 of the Bankruptcy Code, the

³

A search of the land records as reflected in the title report dated September 19, 2018 (attached as Exhibit C

Debtors may enter into transactions, including the sale of property of the estate, in the ordinary course of business, without notice or a hearing. 11 U.S.C. § 363(c)(1). Because the Debtors believe that the Sale is within the ordinary course of their operations, the Sale should be approved pursuant to section 363(c)(1).

15. The Debtors do not believe that section 363(b)(1), which authorizes the sale of property of the estate other than in the ordinary course of business, applies to the Sale. Even if section 363(b)(1) did apply, however, authorization of the Sale would be appropriate because the Debtors have a sound business justification for the Sale. *See, e.g., Myers v. Martin (In re Martin)*, 91 F.3d 389, 395 (3d Cir. 1996) (noting that under normal circumstances, courts defer to a trustee’s judgment concerning use of property under section 363(b) when there is a legitimate business justification); *In re Lionel Corp.*, 722 F.2d 1063, 1069 (2d Cir. 1983) (“Section 363(b) of the Code seems on its face to confer upon the bankruptcy judge virtually unfettered discretion to authorize the use, sale or lease, other than in the ordinary course of business, of property of the estate.”).

16. In determining whether a sale satisfies the business judgment standard, courts in the Third Circuit require: (i) that there be sound business reasons for the sale; (ii) that accurate and reasonable notice of the sale be given; (iii) that the sale yield an adequate price, *i.e.*, one that is fair and reasonable; and (iv) that the parties to the sale have acted in good faith. *See, e.g., Titusville Country Club v. Pennbank (In re Titusville Country Club)*, 128 B.R. 396, 399 (Bankr. W.D. Pa. 1991).

17. The proposed Sale unquestionably satisfies the foregoing test. First, the Sale is supported by sound business reasons: after listing the Property on the multiple listing service for over 110 days (after a prior listing for over 700 days) and marketing the Property for sale as a

01:2369334 (per) reveals no cognizable interest of any lienholder (whether a Debtor lienholder or otherwise).

vacant lot, the Debtors have concluded that selling the Property on an “as is” basis pursuant to the Purchaser’s all cash offer is the best way to maximize value for the Debtors’ estates. Sharp Decl. ¶ 4. Second, the Debtors have provided reasonable and adequate notice of the sale to interested parties by serving notice of this Motion in accordance with Local Rule 9013-1(m), and submit that no other or further notice is necessary. Third, the Debtors believe that the Purchase Agreement and the all cash purchase price reflected therein represent a fair and reasonable offer for the Property relative to comparable properties in the market in which the Property is located. Sharp Decl. ¶ 4. The Debtors have widely marketed the Property, including through presentations and emails to the brokerage community and advertisements in various publications. *Id.* The Purchaser’s all cash offer under the Purchase Agreement is the highest and otherwise best offer (and the only offer) the Debtors have received for the Property. *Id.* Fourth, the Debtors submit that the Purchase Agreement was the product of good faith, arm’s-length negotiations between the Purchaser and the Seller. *Id.* ¶ 6.

18. The Purchaser is not related to or an affiliate of the Debtors or any of their insiders or former insiders. *Id.* No non-debtor affiliate or current or former officer, director, employee, managing member or affiliate of any of the Debtors (other than Seller) is a party to, or broker in connection with, the Sale, other than as set forth in footnote 2 with respect to Ms. Gee’s service as Seller’s broker. Accordingly, the Debtors believe that the Purchaser should be entitled to the protections of section 363(m) of the Bankruptcy Code.

II. The Debtors Should Be Permitted to Sell the Property Free and Clear

19. Pursuant to section 363(f) of the Bankruptcy Code, a debtor may sell property free and clear of liens, claims, encumbrances, and other interests if any one of the following conditions is satisfied:

- (1) applicable nonbankruptcy law permits the sale of such property free and clear of such interest;
- (2) the [lienholder or claimholder] consents;
- (3) such interest is a lien and the price at which such property is to be sold is greater than the aggregate value of all liens on such property;
- (4) such interest is in bona fide dispute; or
- (5) [the lienholder or claimholder] could be compelled, in a legal or equitable proceeding, to accept a money satisfaction of such interest.

11 U.S.C. § 363(f).

20. Because section 363(f) is stated in the disjunctive, satisfaction of any one of its five requirements will suffice to warrant approval of the proposed Sale of the Property.⁴ *See Folger Adam Sec., Inc. v. DeMatteis/MacGregor, JV*, 209 F.3d 252, 257 (3d Cir. 2000) (section 363(f) authorizes the sale of a debtor's assets free and clear of all liens, claims, and interests if "any one of [the] five prescribed conditions" is satisfied); *In re Kellstrom Indus., Inc.*, 282 B.R. 787, 793 (Bankr. D. Del. 2002) (property may be sold "free and clear" if at least one of the subsections of section 363(f) is met); *In re DVI, Inc.*, 306 B.R. 496, 504 (Bankr. D. Del. 2004) (upholding sale of debtors' property free and clear where there was a bona fide dispute).

21. The Debtors are unaware of any liens, claims, encumbrances, or interests existing against the Property. However, to the extent any of the foregoing exist, the Debtors respectfully

⁴ Moreover, if a holder of a lien, claim, encumbrance, or other interest receives the requisite notice of this Motion and does not object within the prescribed time period, such holder will be deemed to have consented to the proposed Sale, and the Property may then be sold free and clear of such holder's liens, claims, encumbrances, and other interests pursuant to the terms proposed herein. *See, e.g., Veltman v. Whetzel*, 93 F.3d 517, 521 (8th Cir. 1996) (failure to object to notice of sale or attend hearing deemed consent to sale for purposes of section 363 of the Bankruptcy Code); *In re Enron Corp.*, No. 01-16034 (AJG), 2004 WL 5361245, at *2 (Bankr. S.D.N.Y. Feb. 5, 2004) (same); *Hargrave v. Pemberton (In re Tabone, Inc.)*, 175 B.R. 855, 858 (Bankr. D.N.J. 1994) (same); *In re Christ Hosp.*, 502 B.R. 158, 174 (Bankr. D.N.J. 2013) ("Given adequate notice, failure to object to a § 363 sale has been found to constitute consent per § 363(f)(2) to a "free and clear" sale of the non-objector's interests in property being sold.") (citations omitted), *aff'd*, Civil Action No. 14-472 ES, 2014 WL 4613316 (D.N.J. Sept. 12, 2014).

submit that they will satisfy one of the subsections of 363(f) with respect to any such lien, claim, encumbrance, or interest.

REQUEST FOR WAIVER OF STAY

22. Any delay in permitting the Debtors to close the Sale could jeopardize the Sale with the Purchaser and therefore would be detrimental to the Debtors, their creditors, and their estates. Accordingly, and to successfully implement the foregoing, the Debtors seek a waiver of the notice requirements under Bankruptcy Rule 6004(a) and the 14-day stay of any order authorizing the use, sale, or lease of property under Bankruptcy Rule 6004(h).

NOTICE

23. The Debtors have provided notice of this Motion to: (i) the Office of the United States Trustee for the District of Delaware, (ii) counsel to the DIP Lender, (iii) counsel for the Committee, (iv) counsel for the Noteholder Group, (v) counsel for the Unitholder Group, (vi) all Noteholders known by the Debtors to have interests in any loan documents associated with the Property, (vii) all contractors and contract counterparties known by the Debtors to have been associated with the Property, (viii) the Title Insurer, (ix) Sotheby's, (x) Integrated Mountain Properties, and (xi) all parties that have requested notice in these Chapter 11 Cases pursuant to Local Rule 2002-1. In light of the nature of the relief requested herein, the Debtors submit that no other or further notice is necessary.

CONCLUSION

WHEREFORE, the Debtors respectfully request that the Court enter an order substantially in the form filed herewith, granting the relief requested herein and such other and further relief as may be just and proper under the circumstances.

Dated: October 2, 2018
Wilmington, Delaware

/s/ Betsy L. Feldman
YOUNG CONAWAY STARGATT & TAYLOR, LLP
Sean M. Beach (No. 4070)
Edmon L. Morton (No. 3856)
Ian J. Bambrick (No. 5455)
Betsy L. Feldman (No. 6410)
Rodney Square, 1000 North King Street
Wilmington, Delaware 19801
Tel: (302) 571-6600
Fax: (302) 571-1253

-and-

KLEE, TUCHIN, BOGDANOFF & STERN LLP
Kenneth N. Klee (*pro hac vice*)
Michael L. Tuchin (*pro hac vice*)
David A. Fidler (*pro hac vice*)
Jonathan M. Weiss (*pro hac vice*)
1999 Avenue of the Stars, 39th Floor
Los Angeles, California 90067

Counsel to the Debtors and Debtors in Possession

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

WOODBRIIDGE GROUP OF COMPANIES, LLC, *et al.*,¹

Debtors.

Chapter 11

Case No. 17-12560 (KJC)

(Jointly Administered)

Hearing Date:

October 24, 2018 at 10:00 a.m. (ET)

Objection Deadline:

October 16, 2018 at 4:00 p.m. (ET)

NOTICE OF MOTION

TO: (I) THE OFFICE OF THE UNITED STATES TRUSTEE FOR THE DISTRICT OF DELAWARE, (II) COUNSEL TO THE DIP LENDER, (III) COUNSEL FOR THE COMMITTEE, (IV) COUNSEL FOR THE NOTEHOLDER GROUP, (V) COUNSEL FOR THE UNITHOLDER GROUP, (VI) ALL NOTEHOLDERS KNOWN BY THE DEBTORS TO HAVE INTERESTS IN ANY LOAN DOCUMENTS ASSOCIATED WITH THE PROPERTY, (VII) ALL CONTRACTORS AND CONTRACT COUNTERPARTIES KNOWN BY THE DEBTORS TO HAVE BEEN ASSOCIATED WITH THE PROPERTY, (VIII) THE TITLE INSURER, (IX) SOTHEBY'S, (X) INTEGRATED MOUNTAIN PROPERTIES, AND (XI) ALL PARTIES THAT HAVE REQUESTED NOTICE IN THESE CHAPTER 11 CASES PURSUANT TO LOCAL RULE 2002-1

PLEASE TAKE NOTICE that Woodbridge Group of Companies, LLC and its affiliated debtors and debtors in possession in the above-captioned cases (collectively, the "Debtors") have filed the attached *Debtors' Motion for Entry of an Order (I) Authorizing the Sale of 1165 Heritage Drive, Carbondale, Colorado Property Owned by the Debtors Free and Clear of Liens, Claims, Encumbrances, and Other Interests; (II) Approving the Related Purchase Agreement; and (III) Granting Related Relief* (the "Motion").

PLEASE TAKE FURTHER NOTICE that responses or objections to the Motion must be filed on or before **October 16, 2018 at 4:00 p.m. (ET)** (the "Objection Deadline") with the United States Bankruptcy Court for the District of Delaware, 3rd Floor, 824 North Market Street, Wilmington, Delaware 19801. At the same time, you must serve a copy of any response or

¹ The last four digits of Woodbridge Group of Companies, LLC's federal tax identification number are 3603. The mailing address for Woodbridge Group of Companies, LLC is 14140 Ventura Boulevard #302, Sherman Oaks, California 91423. Due to the large number of debtors in these cases, which are being jointly administered for procedural purposes only, a complete list of the Debtors, the last four digits of their federal tax identification numbers, and their addresses are not provided herein. A complete list of this information may be obtained on the website of the Debtors' noticing and claims agent at www.gardencitygroup.com/cases/WGC, or by contacting the undersigned counsel for the Debtors.

objection upon the undersigned counsel to the Debtors so as to be received on or before the Objection Deadline.

PLEASE TAKE FURTHER NOTICE THAT A HEARING ON THE MOTION WILL BE HELD ON OCTOBER 24, 2018 AT 10:00 A.M. (ET) BEFORE THE HONORABLE KEVIN J. CAREY IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF DELAWARE, 824 NORTH MARKET STREET, 5TH FLOOR, COURTROOM NO. 5, WILMINGTON, DELAWARE 19801.

PLEASE TAKE FURTHER NOTICE THAT, IF NO OBJECTIONS TO THE MOTION ARE TIMELY FILED, SERVED, AND RECEIVED IN ACCORDANCE WITH THIS NOTICE, THEN THE COURT MAY GRANT THE RELIEF REQUESTED IN THE MOTION WITHOUT FURTHER NOTICE OR A HEARING.

Dated: October 2, 2018
Wilmington, Delaware

/s/ Betsy L. Feldman
YOUNG CONAWAY STARGATT & TAYLOR, LLP
Sean M. Beach (No. 4070)
Edmon L. Morton (No. 3856)
Ian J. Bambrick (No. 5455)
Betsy L. Feldman (No. 6410)
Rodney Square, 1000 North King Street
Wilmington, Delaware 19801
Tel: (302) 571-6600
Fax: (302) 571-1253

-and-

KLEE, TUCHIN, BOGDANOFF & STERN LLP
Kenneth N. Klee (*pro hac vice*)
Michael L. Tuchin (*pro hac vice*)
David A. Fidler (*pro hac vice*)
Jonathan M. Weiss (*pro hac vice*)
1999 Avenue of the Stars, 39th Floor
Los Angeles, California 90067

Counsel to the Debtors and Debtors in Possession

EXHIBIT A

PROPOSED ORDER

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

WOODBRIIDGE GROUP OF COMPANIES,
LLC, et al.,¹

Debtors.

Chapter 11

Case No. 17-12560 (KJC)

(Jointly Administered)

Ref. Docket Nos. _____

ORDER (I) AUTHORIZING THE SALE OF 1165 HERITAGE DRIVE, CARBONDALE, COLORADO PROPERTY OWNED BY THE DEBTORS FREE AND CLEAR OF LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS; (II) APPROVING RELATED PURCHASE AGREEMENT; AND (III) GRANTING RELATED RELIEF

Upon the motion (the “Motion”)² filed by the above-captioned debtors and debtors in possession (collectively, the “Debtors”) in these chapter 11 cases (the “Chapter 11 Cases”) for entry of an order (i) authorizing the sale (the “Sale”) of certain real property owned by the Debtor Merrimack Valley Investments, LLC (the “Seller”) located at 1165 Heritage Drive, Colorado 81623 (the “Land”), together with Seller’s right, title, and interest in and to the buildings located thereon and any other improvements and fixtures located thereon (collectively, the “Improvements” and together with the Land, the “Real Property”), and any and all of the Seller’s right, title, and interest in and to the tangible personal property and equipment remaining on the Real Property as of the date of the closing of the Sale (collectively, the “Personal Property” and, together with the Real Property, the “Property”) on an “as is, where is” basis, free

¹ The last four digits of Woodbridge Group of Companies, LLC’s federal tax identification number are 3603. The mailing address for Woodbridge Group of Companies, LLC is 14140 Ventura Blvd #302, Sherman Oaks, California 91423. Due to the large number of debtors in these cases, which are being jointly administered for procedural purposes only, a complete list of the Debtors, the last four digits of their federal tax identification numbers, and their addresses are not provided herein. A complete list of this information may be obtained on the website of the Debtors’ noticing and claims agent at www.gardencitygroup.com/cases/WGC, or by contacting the undersigned counsel for the Debtors.

² Capitalized terms used but not defined herein have the meaning assigned to such terms in the Motion.

and clear of any and all liens, claims, encumbrances, and other interests to Jesse James Development LLC (together with any assignee, the “Purchaser”) pursuant to the terms and conditions of that certain Contract to Buy and Sell Real Estate dated as of September 11, 2018 (as may be amended, supplemented, or otherwise modified from time to time, the “Purchase Agreement”) by and between the Seller and the Purchaser, a copy of which is attached as Exhibit 1 hereto; (ii) authorizing and approving the terms of the Purchase Agreement, and (iii) granting certain related relief; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and the Court having found that the legal and factual bases set forth in the Motion and the *Declaration of Bradley D. Sharp in Support of Debtors’ Motion to Sell 1165 Heritage Drive, Carbondale, Colorado Property* establish good and sufficient cause for granting the Motion; and it appearing that the relief requested in the Motion is appropriate in the context of these Chapter 11 Cases and in the best interests of the Debtors and their respective estates, their creditors, and all other parties-in-interest; and it appearing that notice of the Motion was adequate and proper under the circumstances of these Chapter 11 Cases, and that no other or further notice need be given; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The Purchase Agreement is authorized and approved in its entirety.
3. Pursuant to sections 105 and 363 of the Bankruptcy Code, the Debtors are authorized, in their discretion and in the exercise of their business judgment, to sell the Property pursuant to the Purchase Agreement free and clear of all liens, claims, interests, and encumbrances, to perform all obligations under the Purchase Agreement (including payment of

the Broker Fees and the Other Closing Costs out of the proceeds of the Sale), and to take any other reasonable actions that may be necessary in the Debtors' good faith business judgment to effectuate closing of the Sale, and that any actions taken by the Debtors necessary or desirable to consummate such transactions prior to the entry of this Order are hereby ratified.

4. The Debtors and any intermediary financial institution, title company, and closing attorney participating in the closings of the Sale are authorized to transfer title and deed property, and take any other actions as may be necessary to transfer ownership of the Property to the Purchaser.

5. All persons and entities holding liens, claims, interests or encumbrances with respect to the Property are hereby barred from asserting such liens, claims, interests or encumbrances against the Purchaser, its successors or assigns, or the Property.

6. All proceeds of the Sale (net of the Broker Fees and Other Closing Costs) shall be paid to the Debtors into the general account of Debtor Woodbridge Group of Companies, LLC, and such net proceeds shall be disbursed and otherwise treated by the Debtors in accordance with the *Final Order on Debtors' Motion for Entry of Interim and Final Orders (I) Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, 507, and 552 Authorizing Debtors to (A) Obtain Postpetition Secured Financing, (B) Use Cash Collateral, (C) Grant Adequate Protection to Prepetition Secured Parties; (II) Modifying the Automatic Stay; (III) Scheduling a Final Hearing Pursuant to Bankruptcy Rules 4001(b) and 4001(c); and (IV) Granting Related Relief* (the "Final DIP Order") [D.I. 724].

7. The Debtors are authorized and empowered to pay the Broker Fees out of the sale proceeds by paying the Seller's Broker Fee in an amount up to 2.5% of the gross Sale proceeds and paying the Purchaser's Broker Fee in an amount up to 2.5% of the gross Sale proceeds.

8. The Purchase Agreement is undertaken by the Debtors and Purchaser in good faith and that, pursuant to section 363(m) of the Bankruptcy Code, the reversal or modification on appeal of any sale consummated pursuant to the terms of this Order shall not affect the validity of such sale unless such sale was stayed pending appeal.

9. Filing of a copy of this Order in the county in which the Property is situated may be relied upon by all title insurers in order to issue title insurance policies on the Property.

10. Any title insurer, escrow agent, or other intermediary participating in a closing of the Sale of the Property is authorized to disburse all funds at the closing of the Sale pursuant to the applicable settlement statement or escrow instructions provided by the parties to such Sale.

11. The Debtors shall be authorized and empowered to take any necessary actions to implement and effectuate the terms of this Order.

12. The terms and conditions of this Order shall be immediately effective and enforceable upon its entry notwithstanding any applicability of Bankruptcy Rule 6004(h).

13. The terms and provisions of this Order and any actions taken pursuant hereto shall (i) survive entry of any order converting the Debtors' cases to chapter 7 or dismissing the Debtors' cases (or any of them), and (ii) continue in this or any superseding case under the Bankruptcy Code of any of the Debtors.

14. The provisions of this Order shall be binding upon the Debtors and their successors and assigns, including, without limitation, any trustee or other fiduciary hereafter appointed as legal representative of the Debtors or with respect to property of the estates of the Debtors, whether under chapter 11 of the Bankruptcy Code, any confirmed plan, or any subsequent chapter 7 case.

15. Notice of the Motion as provided therein shall be deemed good and sufficient notice of such motion and to have satisfied Bankruptcy Rule 6004(a).

16. This Court shall retain jurisdiction and power with respect to all matters arising from or related to the interpretation and implementation of this Order.

Dated: _____, 2018
Wilmington, Delaware

KEVIN J. CAREY
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Purchase Agreement



Integrated Mountain Properties
Carly Passchier
Ph: 970-618-9351

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission. (CBS4-6-15) (Mandatory 1-16)

THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

**CONTRACT TO BUY AND SELL REAL ESTATE
(LAND)**

Property with No Residences)
 Property with Residences-Residential Addendum Attached)

Date: 9/11/2018

AGREEMENT

1. AGREEMENT. Buyer agrees to buy and Seller agrees to sell, the Property described below on the terms and conditions set forth in this contract (Contract).

2. PARTIES AND PROPERTY.

2.1. Buyer. Buyer, **Jesse James Development LLC**, will take title to the Property described below as

Joint Tenants **Tenants In Common** **Other *fee simple*.**

2.2. No Assignability. This Contract **Is Not** assignable by Buyer unless otherwise specified in **Additional Provisions.**

2.3. Seller. Seller, **MERRIMACK VALLEY INVESTMENTS LLC**, is the current owner of the Property described below.

2.4. Property. The Property is the following legally described real estate in the County of **Garfield**, Colorado:

Section: 3 Township: 8 Range: 88 Subdivision: RIVER VALLEY RANCH PHASE 5A Block: HH Lot: 26

known as No. **1165 Heritage Drive, Carbondale, CO 81623**, together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto, and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded (Property).

2.5. Inclusions. The Purchase Price includes the following items (Inclusions):

2.5.1. Inclusions. The following items, whether fixtures or personal property, are included in the Purchase Price unless excluded under **Exclusions:**

If any additional items are attached to the Property after the date of this Contract, such additional items are also included in the Purchase Price.

2.5.2. Personal Property - Conveyance. Any personal property must be conveyed at Closing by Seller free and clear of all taxes (except personal property taxes for the year of Closing), liens and encumbrances, except .

Conveyance of all personal property will be by bill of sale or other applicable legal instrument.

2.6. Exclusions. The following items are excluded (Exclusions):

Initials _____

2.7.1. Deeded Water Rights. The following legally described water rights:

n/a

Any deeded water rights will be conveyed by a good and sufficient n/a deed at Closing.

2.7.2. Other Rights Relating to Water. The following rights relating to water not included in §§ 2.7.1, 2.7.3, 2.7.4 and 2.7.5, will be transferred to Buyer at Closing:

2.7.3. Well Rights. Seller agrees to supply required information to Buyer about the well.

Buyer understands that if the well to be transferred is a "Small Capacity Well" or a "Domestic Exempt Water Well," used for ordinary household purposes, Buyer must, prior to or at Closing, complete a Change in Ownership form for the well. If an existing well has not been registered with the Colorado Division of Water Resources in the Department of Natural Resources (Division), Buyer must complete a registration of existing well form for the well and pay the cost of registration. If no person will be providing a closing service in connection with the transaction, Buyer must file the form with the Division within sixty days after Closing. The Well Permit # is n/a.

2.7.4. Water Stock Certificates. The water stock certificates to be transferred at Closing are as follows:

2.7.5. Water and Sewer Taps. The parties agree that water and sewer taps listed below for the Property are being conveyed as part of the Purchase Price as follows:

If any water or sewer taps are included in the sale, Buyer is advised to obtain, from the provider, written confirmation of the amount remaining to be paid, if any, time and other restrictions for transfer and use of the taps.

2.7.6. Conveyance. If Buyer is to receive any rights to water pursuant to § 2.7.2 (Other Rights Relating to Water), § 2.7.3 (Well Rights), or § 2.7.4 (Water Stock Certificates), Seller agrees to convey such rights to Buyer by executing the applicable legal instrument at Closing.

2.8. Growing Crops. With respect to growing crops, Seller and Buyer agree as follows:

3. DATES AND DEADLINES.

Item No.	Reference	Event	Date or Deadline
1	§ 4.3	Alternative Earnest Money Deadline	<i>3 days after MEC</i>
Title			
2	§ 8.1	Record Title Deadline	<i>4 days after MEC</i>
3	§ 8.2	Record Title Objection Deadline	<i>8 days after MEC</i>
4	§ 8.3	Off-Record Title Deadline	<i>4 days after MEC</i>
5	§ 8.3	Off-Record Title Objection Deadline	<i>8 days after MEC</i>
6	§ 8.4	Title Resolution Deadline	<i>10 days after MEC</i>
7	§ 8.6	Right of First Refusal Deadline	<i>n/a</i>
Owners' Association			
8	§ 7.3	Association Documents Deadline	<i>4 days after MEC</i>
9	§ 7.4	Association Documents Objection Deadline	<i>8 days after MEC</i>
Seller's Property Disclosure			
10	§ 10.1	Seller's Property Disclosure Deadline	<i>n/a</i>
Loan and Credit			
11	§ 5.1	Loan Application Deadline	<i>n/a</i>
12	§ 5.2	Loan Objection Deadline	<i>n/a</i>
13	§ 5.3	Buyer's Credit Information Deadline	<i>n/a</i>
14	§ 5.3	Disapproval of Buyer's Credit Information Deadline	<i>n/a</i>
15	§ 5.4	Existing Loan Documents Deadline	<i>n/a</i>
16	§ 5.4	Existing Loan Documents Objection Deadline	<i>n/a</i>

Initials _____

17	§ 5.4	Loan Transfer Approval Deadline	n/a
18	§ 4.7	Seller or Private Financing Deadline	n/a
Appraisal			
19	§ 6.2	Appraisal Deadline	n/a
20	§ 6.2	Appraisal Objection Deadline	n/a
21	§ 6.2	Appraisal Resolution Deadline	n/a
Survey			
22	§ 9.1	New ILC or New Survey Deadline	n/a
23	§ 9.3	New ILC or New Survey Objection Deadline	n/a
24	§ 9.4	New ILC or New Survey Resolution Deadline	n/a
Inspection and Due Diligence			
25	§ 10.3	Inspection Objection Deadline	8 days after MEC
26	§ 10.3	Inspection Resolution Deadline	10 days after MEC
27	§ 10.5	Property Insurance Objection Deadline	8 days after MEC
28	§ 10.6	Due Diligence Documents Delivery Deadline	4 days after MEC
29	§ 10.6	Due Diligence Documents Objection Deadline	8 days after MEC
30	§ 10.6	Due Diligence Documents Resolution Deadline	10 days after MEC
31	§ 10.6	Environmental Inspection Objection Deadline	8 days after MEC
32	§ 10.6	ADA Evaluation Objection Deadline	8 days after MEC
33	§ 10.7	Conditional Sale Deadline	n/a
34	§ 11.1	Tenant Estoppel Statements Deadline	n/a
35	§ 11.2	Tenant Estoppel Statements Objection Deadline	n/a
Closing and Possession			
36	§ 12.3	Closing Date	14 days after MEC
37	§ 17	Possession Date	date of closing
38	§ 17	Possession Time	time of closing
39	§ 28	Acceptance Deadline Date	
40	§ 28	Acceptance Deadline Time	
41			
42			

3.1. Applicability of Terms. Any box checked in this Contract means the corresponding provision applies. Any box, blank or line in this Contract left blank or completed with the abbreviation "N/A", or the word "Deleted" means such provision, including any deadline, is not applicable and the corresponding provision of this Contract to which reference is made is deleted. If no box is checked in a provision that contains a selection of "None", such provision means that "None" applies.

The abbreviation "MEC" (mutual execution of this Contract) means the date upon which both parties have signed this Contract.

4. PURCHASE PRICE AND TERMS.

4.1. Price and Terms. The Purchase Price set forth below is payable in U.S. Dollars by Buyer as follows:

Item No.	Reference	Item	Amount	Amount
1	§ 4.1	Purchase Price	\$86,000.00	
2	§ 4.3	Earnest Money		\$4,000.00
3	§ 4.5	New Loan		

Initials _____

4	\$ 4.6	Assumption Balance		
5	\$ 4.7	Private Financing		
6	\$ 4.7	Seller Financing		
7				
8				
9	\$ 4.4	Cash at Closing		\$82,000.00
10		TOTAL	\$86,000.00	\$86,000.00

4.2. Seller Concession. At Closing, Seller will credit to Buyer \$ (Seller Concession). The Seller Concession may be used for any Buyer fee, cost, charge or expenditure to the extent the amount is allowed by the Buyer's lender and is included in the Closing Statement or Closing Disclosure, at Closing. Examples of allowable items to be paid for by the Seller Concession include, but are not limited to: Buyer's closing costs, loan discount points, loan origination fees, prepaid items and any other fee, cost, charge, expense or expenditure. Seller Concession is in addition to any sum Seller has agreed to pay or credit Buyer elsewhere in this Contract.

4.3. Earnest Money. The Earnest Money set forth in this section, in the form of a check or wire transfer, will be payable to and held by TBD (Earnest Money Holder), in its trust account, on behalf of both Seller and Buyer. The Earnest Money deposit must be tendered, by Buyer, with this Contract unless the parties mutually agree to an **Alternative Earnest Money Deadline** for its payment. The parties authorize delivery of the Earnest Money deposit to the company conducting the Closing (Closing Company), if any, at or before Closing. In the event Earnest Money Holder has agreed to have interest on Earnest Money deposits transferred to a fund established for the purpose of providing affordable housing to Colorado residents, Seller and Buyer acknowledge and agree that any interest accruing on the Earnest Money deposited with the Earnest Money Holder in this transaction will be transferred to such fund.

4.3.1. Alternative Earnest Money Deadline. The deadline for delivering the Earnest Money, if other than at the time of tender of this Contract, is as set forth as the **Alternative Earnest Money Deadline**.

4.3.2. Return of Earnest Money. If Buyer has a Right to Terminate and timely terminates, Buyer is entitled to the return of Earnest Money as provided in this Contract. If this Contract is terminated as set forth in § 25 and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate, Seller agrees to execute and return to Buyer or Broker working with Buyer, written mutual instructions (e.g., Earnest Money Release form), within three days of Seller's receipt of such form.

4.4. Form of Funds; Time of Payment; Available Funds.

4.4.1. Good Funds. All amounts payable by the parties at Closing, including any loan proceeds, Cash at Closing and closing costs, must be in funds that comply with all applicable Colorado laws, including electronic transfer funds, certified check, savings and loan teller's check and cashier's check (Good Funds).

4.4.2. Time of Payment; Available Funds. All funds, including the Purchase Price to be paid by Buyer, must be paid before or at Closing or as otherwise agreed in writing between the parties to allow disbursement by Closing Company at Closing **OR SUCH NONPAYING PARTY WILL BE IN DEFAULT**. Buyer represents that Buyer, as of the date of this Contract, **Does** **Does Not** have funds that are immediately verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

4.5. New Loan. (Omitted as inapplicable)

4.6. Assumption. (Omitted as inapplicable)

4.7. Seller or Private Financing. (Omitted as inapplicable)

TRANSACTION PROVISIONS

281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350

5. **5.3. Credit Information.** If an existing loan is not to be released at Closing, this Contract is conditional (for the sole benefit of Seller) upon Seller's approval of Buyer's financial ability and creditworthiness, which approval will be at Seller's sole subjective discretion. Accordingly: (1) Buyer must supply to Seller by **Buyer's Credit Information Deadline**, at Buyer's expense, information and documents (including a current credit report) concerning Buyer's financial, employment and credit condition; (2) Buyer consents that Seller may verify Buyer's financial ability and creditworthiness; and (3) any such information and documents received by Seller must be held by Seller in confidence, and not released to others except to protect Seller's interest in this transaction. If the Cash at Closing is less than as set forth in § 4.1 of this Contract, Seller has the Right to Terminate under § 25.1, on or before Closing. If Seller disapproves of Buyer's financial ability or creditworthiness, in Seller's sole subjective discretion, Seller has the Right to Terminate under § 25.1, on or before **Disapproval of Buyer's Credit Information Deadline**.

5.4. Existing Loan Review. If an existing loan is not to be released at Closing, Seller must deliver copies of the loan documents (including note, deed of trust, and any modifications) to Buyer by **Existing Loan Documents Deadline**. For the sole benefit of Buyer, this Contract is conditional upon Buyer's review and approval of the provisions of such loan documents. Buyer has the Right to Terminate under § 25.1, on or before **Existing Loan Documents Objection Deadline**, based on any unsatisfactory provision of such loan documents, in Buyer's sole subjective discretion. If the lender's approval of a transfer of the Property is required, this Contract is conditional upon Buyer's obtaining such approval without change in the terms of such loan, except as set forth in § 4.6. If lender's approval is not obtained by **Loan Transfer Approval Deadline**, this Contract will terminate on such deadline. Seller has the Right to Terminate under § 25.1, on or before Closing, in Seller's sole subjective discretion, if Seller is to be released from liability under such existing loan and Buyer does not obtain such compliance as set forth in § 4.6.

6. **APPRAISAL PROVISIONS.**

6.1. Appraisal Definition. An "Appraisal" is an opinion of value prepared by a licensed or certified appraiser, engaged on behalf of Buyer or Buyer's lender, to determine the Property's market value (Appraised Value). The Appraisal may also set forth certain lender requirements, replacements, removals or repairs necessary on or to the Property as a condition for the Property to be valued at the Appraised Value.

6.2. Appraisal Condition. The applicable appraisal provision set forth below applies to the respective loan type set forth in § 4.5.3, or if a cash transaction (i.e. no financing), § 6.2.1 applies.

6.2.1. Conventional/Other. Buyer has the right to obtain an Appraisal. If the Appraised Value is less than the Purchase Price, or if the Appraisal is not received by Buyer on or before **Appraisal Deadline** Buyer may, on or before **Appraisal Objection Deadline**, notwithstanding § 8.3 or § 13:

6.2.1.1. Notice to Terminate. Notify Seller in writing that this Contract is terminated; or

6.2.1.2. Appraisal Objection. Deliver to Seller a written objection accompanied by either a copy of the Appraisal or written notice from lender that confirms the Appraisal Value is less than the Purchase Price.

6.2.1.3. Appraisal Resolution. If an Appraisal Objection is received by Seller, on or before **Appraisal Objection Deadline**, and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Appraisal Resolution Deadline** (§ 3), this Contract will terminate on the **Appraisal Resolution Deadline**, unless Seller receives Buyer's written withdrawal of the Appraisal Objection before such termination, i.e., on or before expiration of **Appraisal Resolution Deadline**.

6.3. Lender Property Requirements. If the lender imposes any requirements, replacements, removals or repairs, including any specified in the Appraisal (Lender Requirements) to be made to the Property (e.g., roof repair, repainting), beyond those matters already agreed to by Seller in this Contract, Seller has the Right to Terminate under § 25.1, (notwithstanding § 10 of this Contract), on or before three days following Seller's receipt of the Lender Requirements, in Seller's sole subjective discretion. Seller's Right to Terminate in this § 6.3 does not apply if, on or before any termination by Seller pursuant to this § 6.3: (1) the parties enter into a written agreement regarding the Lender Requirements; or (2) the Lender Requirements have been completed; or (3) the satisfaction of the Lender Requirements is waived in writing by Buyer.

351 6.4. **Cost of Appraisal.** Cost of the Appraisal to be obtained after the date of this Contract must be
352 timely paid by Buyer Seller. The cost of the Appraisal may include any and all fees paid to the appraiser,
353 appraisal management company, lender's agent or all three.
354

355
356 7. **OWNERS' ASSOCIATION.** This Section is applicable if the Property is located within a
357 Common Interest Community and subject to such declaration.
358

359 7.1. **Common Interest Community Disclosure.** THE PROPERTY IS LOCATED WITHIN A
360 COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR THE COMMUNITY.
361 THE OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNERS'
362 ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND
363 REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS, AND RULES AND
364 REGULATIONS WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY,
365 INCLUDING AN OBLIGATION TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES
366 NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND
367 POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATION, BYLAWS, AND RULES AND REGULATIONS
368 OF THE COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE PROPERTY
369 WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE
370 ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF PROPERTY WITHIN
371 THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF
372 MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE DECLARATION
373 FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION.
374
375
376
377

378 7.2. **Owners' Association Documents.** Owners' Association Documents (Association
379 Documents) consist of the following:
380

381 7.2.1. All Owners' Association declarations, articles of incorporation, bylaws, articles of
382 organization, operating agreements, rules and regulations, party wall agreements;
383

384 7.2.2. Minutes of most recent annual owners' meeting;

385 7.2.3. Minutes of any directors' or managers' meetings during the six-month period
386 immediately preceding the date of this Contract. If none of the preceding minutes exist, then the most recent
387 minutes, if any (§§ 7.2.1, 7.2.2 and 7.2.3, collectively, Governing Documents); and
388

389 7.2.4. The most recent financial documents which consist of: (1) annual and most recent
390 balance sheet, (2) annual and most recent income and expenditures statement, (3) annual budget, (4) reserve
391 study, and (5) notice of unpaid assessments, if any (collectively, Financial Documents).
392

393 7.3. **Association Documents to Buyer.**

394 7.3.1. **Seller to Provide Association Documents.** Seller is obligated to provide to Buyer the
395 Association Documents, at Seller's expense, on or before **Association Documents Deadline**. Seller
396 authorizes the Association to provide the Association Documents to Buyer, at Seller's expense. Seller's
397 obligation to provide the Association Documents is fulfilled upon Buyer's receipt of the Association Documents,
398 regardless of who provides such documents.
399

400 7.4. **Conditional on Buyer's Review.** Buyer has the right to review the Association Documents.
401 Buyer has the Right to Terminate under § 25.1, on or before **Association Documents Objection Deadline**,
402 based on any unsatisfactory provision in any of the Association Documents, in Buyer's sole subjective
403 discretion. Should Buyer receive the Association Documents after **Association Documents Deadline**, Buyer,
404 at Buyer's option, has the Right to Terminate under § 25.1 by Buyer's Notice to Terminate received by Seller on
405 or before ten days after Buyer's receipt of the Association Documents. If Buyer does not receive the
406 Association Documents, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller
407 after **Closing Date**, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does
408 not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the Association
409 Documents as satisfactory, and Buyer waives any Right to Terminate under this provision, notwithstanding the
410 provisions of § 8.6 (Right of First Refusal or Contract Approval).
411
412
413
414
415

416 8. **TITLE INSURANCE, RECORD TITLE AND OFF-RECORD TITLE.**

417 8.1. **Evidence of Record Title.**

418 8.1.1. **Seller Selects Title Insurance Company.** If this box is checked, Seller will select the
419
420

Initials _____

421 title insurance company to furnish the owner's title insurance policy at Seller's expense. On or before **Record**
 422 **Title Deadline**, Seller must furnish to Buyer, a current commitment for an owner's title insurance policy (Title
 423 Commitment), in an amount equal to the Purchase Price, or if this box is checked, an **Abstract of Title**
 424 certified to a current date. Seller will cause the title insurance policy to be issued and delivered to Buyer as
 425 soon as practicable at or after Closing.
 426

427 **8.1.2. Buyer Selects Title Insurance Company.** If this box is checked, Buyer will select the
 428 title insurance company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record**
 429 **Title Deadline**, Buyer must furnish to Seller, a current commitment for owner's title insurance policy (Title
 430 Commitment), in an amount equal to the Purchase Price.
 431

432 If neither box in § 8.1.1 or § 8.1.2 is checked, § 8.1.1 applies.
 433

434 **8.1.3. Owner's Extended Coverage (OEC).** The Title Commitment **Will** **Will Not**
 435 contain Owner's Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete
 436 or insure over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements,
 437 (3) survey matters, (4) unrecorded mechanics' liens, (5) gap period (period between the effective date and time
 438 of commitment to the date and time the deed is recorded), and (6) unpaid taxes, assessments and
 439 unredeemed tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be paid
 440 by **Buyer** **Seller** **One-Half by Buyer and One-Half by Seller** **Other** .
 441

442 Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or
 443 delete or insure over any or all of the standard exceptions for OEC. The Title Insurance Company may require
 444 a New Survey or New ILC, defined below, among other requirements for OEC. If the Title Insurance
 445 Commitment is not satisfactory to Buyer, Buyer has a right to object under § 8.4 (Right to Object to Title,
 446 Resolution).
 447

448 **8.1.4. Title Documents.** Title Documents consist of the following: (1) copies of any plats,
 449 declarations, covenants, conditions and restrictions burdening the Property, and (2) copies of any other
 450 documents (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions) in
 451 the Title Commitment furnished to Buyer (collectively, Title Documents).
 452

453 **8.1.5. Copies of Title Documents.** Buyer must receive, on or before **Record Title Deadline**,
 454 copies of all Title Documents. This requirement pertains only to documents as shown of record in the office of
 455 the clerk and recorder in the county where the Property is located. The cost of furnishing copies of the
 456 documents required in this Section will be at the expense of the party or parties obligated to pay for the
 457 owner's title insurance policy.
 458

459 **8.1.6. Existing Abstracts of Title.** Seller must deliver to Buyer copies of any abstracts of title
 460 covering all or any portion of the Property (Abstract of Title) in Seller's possession on or before **Record Title**
 461 **Deadline**.
 462

463 **8.2. Record Title.** Buyer has the right to review and object to the Abstract of Title or Title
 464 Commitment and any of the Title Documents as set forth in § 8.4 (Right to Object to Title, Resolution) on or
 465 before **Record Title Objection Deadline**. Buyer's objection may be based on any unsatisfactory form or
 466 content of Title Commitment or Abstract of Title, notwithstanding § 13, or any other unsatisfactory title
 467 condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title Documents are
 468 not received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title
 469 Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title
 470 Commitment will be delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such
 471 documents by Buyer to review and object to: (1) any required Title Document not timely received by Buyer, (2)
 472 any change to the Abstract of Title, Title Commitment or Title Documents, or (3) any endorsement to the Title
 473 Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.2
 474 (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.4 (Right to Object to
 475 Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required
 476 by § 8.1 (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title
 477 Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the
 478 Abstract of Title, Title Commitment and Title Documents as satisfactory.
 479

480 **8.3. Off-Record Title.** Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true
 481 copies of all existing surveys in Seller's possession pertaining to the Property and must disclose to Buyer all
 482 easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or
 483
 484
 485
 486
 487
 488
 489
 490

491 other title matters (including, without limitation, rights of first refusal and options) not shown by public records,
 492 of which Seller has actual knowledge (Off-Record Matters). Buyer has the right to inspect the Property to
 493 investigate if any third party has any right in the Property not shown by public records (e.g., unrecorded
 494 easement, boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection
 495 of any unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding §
 496 8.2 and § 13), in Buyer's sole subjective discretion, must be received by Seller on or before **Off-Record Title**
 497 **Objection Deadline**. If an Off-Record Matter is received by Buyer after the **Off-Record Title Deadline**, Buyer
 498 has until the earlier of Closing or ten days after receipt by Buyer to review and object to such Off-Record
 499 Matter. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection pursuant to this § 8.3
 500 (Off-Record Title), any title objection by Buyer and this Contract are governed by the provisions set forth in §
 501 8.4 (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title
 502 Objection by the applicable deadline specified above, Buyer accepts title subject to such rights, if any, of third
 503 parties of which Buyer has actual knowledge.
 504

505 **8.4. Right to Object to Title, Resolution.** Buyer's right to object to any title matters includes, but is
 506 not limited to those matters set forth in §§ 8.2 (Record Title), 8.3 (Off-Record Title) and 13 (Transfer of Title), in
 507 Buyer's sole subjective discretion. If Buyer objects to any title matter, on or before the applicable deadline,
 508 Buyer has the following options:

509 **8.4.1. Title Objection, Resolution.** If Seller receives Buyer's written notice objecting to any
 510 title matter (Notice of Title Objection) on or before the applicable deadline, and if Buyer and Seller have not
 511 agreed to a written settlement thereof on or before **Title Resolution Deadline**, this Contract will terminate on
 512 the expiration of **Title Resolution Deadline**, unless Seller receives Buyer's written withdrawal of Buyer's
 513 Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and waives the Right to
 514 Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the Record Title
 515 Deadline or the Off-Record Title Deadline, or both, are extended to the earlier of Closing or ten days after
 516 receipt of the applicable documents by Buyer, pursuant to § 8.2 (Record Title) or § 8.3 (Off-Record Title), the
 517 Title Resolution Deadline also will be automatically extended to the earlier of Closing or fifteen days after
 518 Buyer's receipt of the applicable documents; or

519 **8.4.2. Title Objection, Right to Terminate.** Buyer may exercise the Right to Terminate under
 520 § 25.1, on or before the applicable deadline, based on any unsatisfactory title matter, in Buyer's sole subjective
 521 discretion.

522 **8.5. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL**
 523 **OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES**
 524 **ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS**
 525 **MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF**
 526 **SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO**
 527 **DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS**
 528 **SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY**
 529 **CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE**
 530 **PROPERTY, AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY**
 531 **COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.**

532 Buyer has the Right to Terminate under § 25.1, on or before **Off-Record Title Objection Deadline**, based
 533 on any unsatisfactory effect of the Property being located within a special taxing district, in Buyer's sole
 534 subjective discretion.

535 **8.6. Right of First Refusal or Contract Approval.** If there is a right of first refusal on the Property
 536 or a right to approve this Contract, Seller must promptly submit this Contract according to the terms and
 537 conditions of such right. If the holder of the right of first refusal exercises such right or the holder of a right to
 538 approve disapproves this Contract, this Contract will terminate. If the right of first refusal is waived explicitly or
 539 expires, or the Contract is approved, this Contract will remain in full force and effect. Seller must promptly
 540 notify Buyer in writing of the foregoing. If expiration or waiver of the right of first refusal or approval of this
 541 Contract has not occurred on or before **Right of First Refusal Deadline**, this Contract will then terminate.

542 **8.7. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and
 543 should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the
 544 title, ownership and use of the Property, including, without limitation, boundary lines and encroachments,
 545

561 set-back requirements, area, zoning, building code violations, unrecorded easements and claims of
 562 easements, leases and other unrecorded agreements, water on or under the Property, and various laws and
 563 governmental regulations concerning land use, development and environmental matters.
 564

565 **8.7.1. OIL, GAS, WATER AND MINERAL DISCLOSURE. THE SURFACE ESTATE OF THE**
 566 **PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE, AND**
 567 **TRANSFER OF THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE**
 568 **MINERAL ESTATE OR WATER RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS,**
 569 **OTHER MINERALS, GEOTHERMAL ENERGY OR WATER ON OR UNDER THE SURFACE OF THE**
 570 **PROPERTY, WHICH INTERESTS MAY GIVE THEM RIGHTS TO ENTER AND USE THE SURFACE OF THE**
 571 **PROPERTY TO ACCESS THE MINERAL ESTATE, OIL, GAS OR WATER.**
 572

573 **8.7.2. SURFACE USE AGREEMENT. THE USE OF THE SURFACE ESTATE OF THE**
 574 **PROPERTY TO ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE**
 575 **AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE**
 576 **COUNTY CLERK AND RECORDER.**
 577

578 **8.7.3. OIL AND GAS ACTIVITY. OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR**
 579 **ADJACENT TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING,**
 580 **WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES,**
 581 **PRODUCING WELLS, REWORKING OF CURRENT WELLS, AND GAS GATHERING AND PROCESSING**
 582 **FACILITIES.**
 583

584 **8.7.4. ADDITIONAL INFORMATION. BUYER IS ENCOURAGED TO SEEK ADDITIONAL**
 585 **INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY,**
 586 **INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE**
 587 **COLORADO OIL AND GAS CONSERVATION COMMISSION.**
 588

589 **8.7.5. Title Insurance Exclusions.** Matters set forth in this Section, and others, may be
 590 excepted, excluded from, or not covered by the owner's title insurance policy.
 591

592 **8.8. Consult an Attorney.** Buyer is advised to timely consult legal counsel with respect to all such
 593 matters as there are strict time limits provided in this Contract (e.g., **Record Title Objection Deadline** and
 594 **Off-Record Title Objection Deadline**).
 595

596 **9. NEW ILC, NEW SURVEY.**

597 **9.1. New ILC or New Survey.** If the box is checked, a **New Improvement Location Certificate**
 598 **(New ILC)** **New Survey** in the form of is required and the following will apply:
 599

600 **9.1.1. Ordering of New ILC or New Survey.** **Seller** **Buyer** will order the New ILC or New
 601 Survey. The New ILC or New Survey may also be a previous ILC or survey that is in the above-required form,
 602 certified and updated as of a date after the date of this Contract.
 603

604 **9.1.2. Payment for New ILC or New Survey.** The cost of the New ILC or New Survey will be
 605 paid, on or before Closing, by: **Seller** **Buyer** or:
 606

607 **9.1.3. Delivery of New ILC or New Survey.** Buyer, Seller, the issuer of the Title Commitment (or
 608 the provider of the opinion of title if an Abstract of Title), and will receive a New ILC or New Survey on or
 609 before **New ILC or New Survey Deadline**.
 610

611 **9.1.4. Certification of New ILC or New Survey.** The New ILC or New Survey will be certified by
 612 the surveyor to all those who are to receive the New ILC or New Survey.
 613

614 **9.2. Buyer's Right to Waive or Change New ILC or New Survey Selection.** Buyer may select a
 615 New ILC or New Survey different than initially specified in this Contract if there is no additional cost to Seller or
 616 change to the **New ILC or New Survey Objection Deadline**. Buyer may, in Buyer's sole subjective discretion,
 617 waive a New ILC or New Survey if done prior to Seller incurring any cost for the same.
 618

619 **9.3. New ILC or New Survey Objection.** Buyer has the right to review and object to the **New ILC or**
 620 **New Survey**. If the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to Buyer, in
 621 Buyer's sole subjective discretion, Buyer may, on or before **New ILC or New Survey Objection Deadline**,
 622 notwithstanding § 8.3 or § 13:
 623

624 **9.3.1. Notice to Terminate.** Notify Seller in writing that this Contract is terminated; or
 625

626 **9.3.2. New ILC or New Survey Objection.** Deliver to Seller a written description of any matter that
 627 was to be shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer requires
 628
 629
 630

Initials _____

631 Seller to correct.

632 **9.3.3. New ILC or New Survey Resolution.** If a **New ILC or New Survey Objection** is received
633 by Seller, on or before **New ILC or New Survey Objection Deadline**, and if Buyer and Seller have not agreed
634 in writing to a settlement thereof on or before **New ILC or New Survey Resolution Deadline**, this Contract will
635 terminate on expiration of the **New ILC or New Survey Resolution Deadline**, unless Seller receives Buyer's
636 written withdrawal of the New ILC or New Survey Objection before such termination, i.e., on or before
637 expiration of **New ILC or New Survey Resolution Deadline**.
638
639
640

641 **DISCLOSURE, INSPECTION AND DUE DILIGENCE**

642
643
644 **10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE AND**
645 **SOURCE OF WATER.**

646 **10.1. Seller's Property Disclosure.** On or before **Seller's Property Disclosure Deadline**, Seller
647 agrees to deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's
648 Seller's Property Disclosure form completed by Seller to Seller's actual knowledge, current as of the date of
649 this Contract.
650

651 **10.2. Disclosure of Latent Defects; Present Condition.** Seller must disclose to Buyer any latent
652 defects actually known by Seller. Seller agrees that disclosure of latent defects will be in writing. Except as
653 otherwise provided in this Contract, Buyer acknowledges that Seller is conveying the Property to Buyer in an
654 "As Is" condition, "Where Is" and "With All Faults."
655

656 **10.3. Inspection.** Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right
657 to have inspections (by one or more third parties, personally or both) of the Property and Inclusions
658 (Inspection), at Buyer's expense. If (1) the physical condition of the Property, including, but not limited to, the
659 roof, walls, structural integrity of the Property, the electrical, plumbing, HVAC and other mechanical systems of
660 the Property, (2) the physical condition of the Inclusions, (3) service to the Property (including utilities and
661 communication services), systems and components of the Property (e.g., heating and plumbing), (4) any
662 proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or noise
663 (whether on or off the Property) and its effect or expected effect on the Property or its occupants is
664 unsatisfactory, in Buyer's sole subjective discretion, Buyer may, on or before **Inspection Objection Deadline**:
665

666 **10.3.1. Notice to Terminate.** Notify Seller in writing that this Contract is terminated; or

667 **10.3.2. Inspection Objection.** Deliver to Seller a written description of any unsatisfactory
668 physical condition that Buyer requires Seller to correct.
669

670 **10.3.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before
671 **Inspection Objection Deadline**, and if Buyer and Seller have not agreed in writing to a settlement thereof on
672 or before **Inspection Resolution Deadline**, this Contract will terminate on **Inspection Resolution Deadline**
673 unless Seller receives Buyer's written withdrawal of the Inspection Objection before such termination, i.e., on or
674 before expiration of **Inspection Resolution Deadline**.
675

676 **10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract or other
677 written agreement between the parties, is responsible for payment for all inspections, tests, surveys,
678 engineering reports, or other reports performed at Buyer's request (Work) and must pay for any damage that
679 occurs to the Property and Inclusions as a result of such Work. Buyer must not permit claims or liens of any
680 kind against the Property for Work performed on the Property. Buyer agrees to indemnify, protect and hold
681 Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any
682 such Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by
683 Seller to defend against any such liability, damage, cost or expense, or to enforce this section, including
684 Seller's reasonable attorney fees, legal fees and expenses. The provisions of this section survive the
685 termination of this Contract. This § 10.4 does not apply to items performed pursuant to an Inspection
686 Resolution.
687

688 **10.5. Insurability.** Buyer has the right to review and object to the availability, terms and conditions of
689 and premium for property insurance (Property Insurance). Buyer has the Right to Terminate under § 25.1, on or
690 before **Property Insurance Objection Deadline**, based on any unsatisfactory provision of the Property
691 Insurance, in Buyer's sole subjective discretion.
692

693 **10.6. Due Diligence.**
694
695
696
697
698
699
700

Initials _____

701 **10.6.1. Due Diligence Documents.** If the respective box is checked, Seller agrees to deliver
 702 copies of the following documents and information pertaining to the Property (Due Diligence Documents) to
 703 Buyer on or before **Due Diligence Documents Delivery Deadline:**
 704

705 **10.6.1.1.** All contracts relating to the operation, maintenance and management of the
 706 Property;

707 **10.6.1.2.** Property tax bills for the last years;

708 **10.6.1.3.** As-built construction plans to the Property and the tenant improvements,
 709 including architectural, electrical, mechanical, and structural systems, engineering reports, and permanent
 710 Certificates of Occupancy, to the extent now available;

711 **10.6.1.4.** A list of all Inclusions to be conveyed to Buyer;

712 **10.6.1.5.** Operating statements for the past years;

713 **10.6.1.6.** A rent roll accurate and correct to the date of this Contract;

714 **10.6.1.7.** All current leases, including any amendments or other occupancy
 715 agreements, pertaining to the Property. Those leases or other occupancy agreements pertaining to the
 716 Property that survive Closing are as follows (Leases):

717 **10.6.1.8.** A schedule of any tenant improvement work Seller is obligated to complete
 718 but has not yet been completed and capital improvement work either scheduled or in process on the date of
 719 this Contract;

720 **10.6.1.9.** All insurance policies pertaining to the Property and copies of any claims
 721 which have been made for the past **3** years;

722 **10.6.1.10.** Soils reports, surveys and engineering reports or data pertaining to the
 723 Property (if not delivered earlier under § 8.3);

724 **10.6.1.11.** Any and all existing documentation and reports regarding Phase I and II
 725 environmental reports, letters, test results, advisories, and similar documents respective to the existence or
 726 nonexistence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances, and/or
 727 underground storage tanks and/or radon gas. If no reports are in Seller's possession or known to Seller, Seller
 728 warrants that no such reports are in Seller's possession or known to Seller;

729 **10.6.1.12.** Any *Americans with Disabilities Act* reports, studies or surveys concerning
 730 the compliance of the Property with said Act;

731 **10.6.1.13.** All permits, licenses and other building or use authorizations issued by any
 732 governmental authority with jurisdiction over the Property and written notice of any violation of any such
 733 permits, licenses or use authorizations, if any; and

734 **10.6.1.14.** Other documents and information:
 735
 736
 737
 738
 739
 740
 741
 742
 743
 744
 745
 746
 747

748 **10.6.2. Due Diligence Documents Review and Objection.** Buyer has the right to review and
 749 object to Due Diligence Documents. If the Due Diligence Documents are not supplied to Buyer or are
 750 unsatisfactory in Buyer's sole subjective discretion, Buyer may, on or before **Due Diligence Documents**
 751 **Objection Deadline:**

752 **10.6.2.1. Notice to Terminate.** Notify Seller in writing that this Contract is terminated;
 753 or

754 **10.6.2.2. Due Diligence Documents Objection.** Deliver to Seller a written description
 755 of any unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.

756 **10.6.2.3. Due Diligence Documents Resolution.** If a Due Diligence Documents
 757 Objection is received by Seller, on or before **Due Diligence Documents Objection Deadline**, and if Buyer and
 758 Seller have not agreed in writing to a settlement thereof on or before **Due Diligence Documents Resolution**
 759 **Deadline**, this Contract will terminate on **Due Diligence Documents Resolution Deadline** unless Seller
 760 receives Buyer's written withdrawal of the Due Diligence Documents Objection before such termination, i.e., on
 761 or before expiration of **Due Diligence Documents Resolution Deadline**.

762 **10.6.3. Zoning.** Buyer has the Right to Terminate under § 25.1, on or before **Due Diligence**
 763 **Documents Objection Deadline**, based on any unsatisfactory zoning and any use restrictions imposed by any
 764 governmental agency with jurisdiction over the Property, in Buyer's sole subjective discretion.

765 **10.6.4. Due Diligence – Environmental, ADA.** Buyer has the right to obtain environmental
 766
 767
 768
 769
 770

771 inspections of the Property including Phase I and Phase II Environmental Site Assessments, as applicable.
 772 **Seller** **Buyer** will order or provide **Phase I Environmental Site Assessment, Phase II Environmental Site**
 773 **Assessment** (compliant with most current version of the applicable ASTM E1527 standard practices for
 774 Environmental Site Assessments) and/or , at the expense of **Seller** **Buyer** (Environmental Inspection).
 775 In addition, Buyer, at Buyer's expense, may also conduct an evaluation whether the Property complies with the
 776 *Americans with Disabilities Act* (ADA Evaluation). All such inspections and evaluations must be conducted at
 777 such times as are mutually agreeable to minimize the interruption of Seller's and any Seller's tenants' business
 778 uses of the Property, if any.

781 If Buyer's Phase I Environmental Site Assessment recommends a Phase II Environmental Site
 782 Assessment, the **Environmental Inspection Objection Deadline** will be extended by 2 days (Extended
 783 Environmental Inspection Objection Deadline) and if such Extended Environmental Inspection Objection
 784 Deadline extends beyond the **Closing Date**, the **Closing Date** will be extended a like period of time. In such
 785 event, **Seller** **Buyer** must pay the cost for such Phase II Environmental Site Assessment.
 786

788 Notwithstanding Buyer's right to obtain additional environmental inspections of the Property in this §
 789 10.6.5, Buyer has the Right to Terminate under § 25.1, on or before **Environmental Inspection Objection**
 790 **Deadline**, or if applicable, the Extended Environmental Inspection Objection Deadline, based on any
 791 unsatisfactory results of Environmental Inspection, in Buyer's sole subjective discretion.
 792

793 Buyer has the Right to Terminate under § 25.1, on or before **ADA Evaluation Objection Deadline**,
 794 based on any unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.
 795

796 **10.7. Conditional Upon Sale of Property.** This Contract is conditional upon the sale and closing of
 797 that certain property owned by Buyer and commonly known as . Buyer has the Right to Terminate under § 25.1
 798 effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale Deadline** if such
 799 property is not sold and closed by such deadline. This § 10.7 is for the sole benefit of Buyer. If Seller does not
 800 receive Buyer's Notice to Terminate on or before **Conditional Sale Deadline**, Buyer waives any Right to
 801 Terminate under this provision.
 802

803 **10.8. Source of Potable Water (Residential Land and Residential Improvements Only).**
 804 Buyer **Does** **Does Not** acknowledge receipt of a copy of Seller's Property Disclosure or Source of
 805 Water Addendum disclosing the source of potable water for the Property. There is **No Well**. Buyer **Does**
 806 **Does Not** acknowledge receipt of a copy of the current well permit.
 807

808 **Note to Buyer: SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE**
 809 **GROUND WATER. YOU MAY WISH TO CONTACT YOUR PROVIDER (OR INVESTIGATE THE DESCRIBED**
 810 **SOURCE) TO DETERMINE THE LONG-TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES.**
 811

812 **10.9. Existing Leases; Modification of Existing Leases; New Leases.** Seller states that none
 813 of the Leases to be assigned to the Buyer at the time of Closing contain any rent concessions, rent reductions
 814 or rent abatements except as disclosed in the Lease or other writing received by Buyer. Seller will not amend,
 815 alter, modify, extend or cancel any of the Leases nor will Seller enter into any new leases affecting the Property
 816 without the prior written consent of Buyer, which consent will not be unreasonably withheld or delayed.
 817

818 11. TENANT ESTOPPEL STATEMENTS.

819 **11.1. Tenant Estoppel Statements Conditions.** Buyer has the right to review and object to any
 820 Estoppel Statements. Seller must obtain and deliver to Buyer on or before **Tenant Estoppel Statements**
 821 **Deadline**, statements in a form and substance reasonably acceptable to Buyer, from each occupant or tenant
 822 at the Property (Estoppel Statement) attached to a copy of the Lease stating:
 823

824 **11.1.1.** The commencement date of the Lease and scheduled termination date of the Lease;
 825

826 **11.1.2.** That said Lease is in full force and effect and that there have been no subsequent
 827 modifications or amendments;
 828

829 **11.1.3.** The amount of any advance rentals paid, rent concessions given, and deposits paid to
 830 Seller;
 831

832 **11.1.4.** The amount of monthly (or other applicable period) rental paid to Seller;
 833

834 **11.1.5.** That there is no default under the terms of said Lease by landlord or occupant; and
 835

836 **11.1.6.** That the Lease to which the Estoppel is attached is a true, correct and complete copy
 837 of the Lease demising the premises it describes.
 838

839 **11.2. Tenant Estoppel Statements Objection.** Buyer has the Right to Terminate under § 25.1, on
 840

841 or before **Tenant Estoppel Statements Objection Deadline**, based on any unsatisfactory Estoppel
842 Statement, in Buyer's sole subjective discretion, or if Seller fails to deliver the Estoppel Statements on or
843 before **Tenant Estoppel Statements Deadline**. Buyer also has the unilateral right to waive any unsatisfactory
844 Estoppel Statement.
845
846

847 **CLOSING PROVISIONS**
848

849
850 **12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.**

851 **12.1. Closing Documents and Closing Information.** Seller and Buyer will cooperate with the Closing
852 Company to enable the Closing Company to prepare and deliver documents required for Closing to Buyer and
853 Seller and their designees. If Buyer is obtaining a new loan to purchase the Property, Buyer acknowledges
854 Buyer's lender is required to provide the Closing Company, in a timely manner, all required loan documents
855 and financial information concerning Buyer's new loan. Buyer and Seller will furnish any additional information
856 and documents required by Closing Company that will be necessary to complete this transaction. Buyer and
857 Seller will sign and complete all customary or reasonably required documents at or before Closing.
858

859 **12.2. Closing Instructions.** Colorado Real Estate Commission's Closing Instructions Are Are
860 **Not** executed with this Contract.
861

862 **12.3. Closing.** Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the
863 date specified as the **Closing Date** or by mutual agreement at an earlier date. The hour and place of Closing
864 will be as designated by title company.
865

866 **12.4. Disclosure of Settlement Costs.** Buyer and Seller acknowledge that costs, quality, and extent
867 of service vary between different settlement service providers (e.g., attorneys, lenders, inspectors and title
868 companies).
869

870
871 **13. TRANSFER OF TITLE.** Subject to tender of payment at Closing as required herein and compliance by
872 Buyer with the other terms and provisions hereof, Seller must execute and deliver a good and sufficient
873 speacial warranty deed to Buyer, at Closing, conveying the Property free and clear of all taxes except the
874 general taxes for the year of Closing. Except as provided herein, title will be conveyed free and clear of all
875 liens, including any governmental liens for special improvements installed as of the date of Buyer's signature
876 hereon, whether assessed or not. Title will be conveyed subject to:
877

878 **13.1.** Those specific Exceptions described by reference to recorded documents as reflected in the
879 Title Documents accepted by Buyer in accordance with **Record Title**,
880

881 **13.2.** Distribution utility easements (including cable TV),
882

883 **13.3.** Those specifically described rights of third parties not shown by the public records of which
884 Buyer has actual knowledge and which were accepted by Buyer in accordance with **Off-Record Title and New**
885 **ILC or New Survey**,
886

887 **13.4.** Inclusion of the Property within any special taxing district, and
888

889 **13.5.** Any special assessment if the improvements were not installed as of the date of Buyer's
890 signature hereon, whether assessed prior to or after Closing, and
891

892 **13.6.** Other .
893

894
895 **14. PAYMENT OF ENCUMBRANCES.** Any encumbrance required to be paid will be paid at or before
896 Closing from the proceeds of this transaction or from any other source.
897

898 **15. CLOSING COSTS, CLOSING FEE, ASSOCIATION FEES AND TAXES.**

899 **15.1. Closing Costs.** Buyer and Seller must pay, in Good Funds, their respective closing costs
900 and all other items required to be paid at Closing, except as otherwise provided herein.
901

902 **15.2. Closing Services Fee.** The fee for real estate closing services must be paid at Closing
903 by Buyer Seller One-Half by Buyer and One-Half by Seller
904 Other .
905

906 **15.3. Status Letter and Record Change Fees.** Any fees incident to the issuance of
907 Association's statement of assessments (Status Letter) must be paid by None Buyer Seller
908 One-Half by Buyer and One-Half by Seller. Any record change fee assessed by the Association including,
909
910

Initials _____

but not limited to, ownership record transfer fees regardless of name or title of such fee (Association's Record Change Fee) must be paid by None Buyer Seller One-Half by Buyer and One-Half by Seller.

15.4. Local Transfer Tax. The Local Transfer Tax of % of the Purchase Price must be paid at Closing by None Buyer Seller One-Half by Buyer and One-Half by Seller.

15.5. Private Transfer Fee. Private transfer fees and other fees due to a transfer of the Property, payable at Closing, such as community association fees, developer fees and foundation fees, must be paid at Closing by None Buyer Seller One-Half by Buyer and One-Half by Seller. The Private Transfer fee, whether one or more, is for the following association(s): in the total amount of na% of the Purchase Price or \$ TBD.

15.6. Water Transfer Fees. The Water Transfer Fees can change. The fees, as of the date of this Contract, do not exceed \$ for:

Water Stock/Certificates Water District
 Augmentation Membership Small Domestic Water Company and must be paid at Closing by None Buyer Seller One-Half by Buyer and One-Half by Seller

15.7. Sales and Use Tax. Any sales and use tax that may accrue because of this transaction must be paid when due by None Buyer Seller One-Half by Buyer and One-Half by Seller.

16. PRORATIONS. The following will be prorated to the **Closing Date**, except as otherwise provided:

16.1. Taxes. Personal property taxes, if any, special taxing district assessments, if any, and general real estate taxes for the year of Closing, based on Taxes for the Calendar Year Immediately Preceding Closing Most Recent Mill Levy and Most Recent Assessed Valuation, Other .

16.2. Rents. Rents based on Rents Actually Received Accrued. At Closing, Seller will transfer or credit to Buyer the security deposits for all Leases assigned, or any remainder after lawful deductions, and notify all tenants in writing of such transfer and of the transferee's name and address. Seller must assign to Buyer all Leases in effect at Closing and Buyer must assume Seller's obligations under such Leases.

16.3. Association Assessments. Current regular Association assessments and dues (Association Assessments) paid in advance will be credited to Seller at Closing. Cash reserves held out of the regular Association Assessments for deferred maintenance by the Association will not be credited to Seller except as may be otherwise provided by the Governing Documents. Buyer acknowledges that Buyer may be obligated to pay the Association, at Closing, an amount for reserves or working capital. Any special assessment assessed prior to **Closing Date** by the Association will be the obligation of Buyer Seller. Except however, any special assessment by the Association for improvements that have been installed as of the date of Buyer's signature hereon, whether assessed prior to or after Closing, will be the obligation of Seller. Seller represents that the Association Assessments are currently payable at approximately \$ 277 per month and that there are no unpaid regular or special assessments against the Property except the current regular assessments and n/a. Such assessments are subject to change as provided in the Governing Documents. Seller agrees to promptly request the Association to deliver to Buyer before **Closing Date** a current Status Letter.

16.4. Other Prorations. Water and sewer charges, propane, interest on continuing loan, and .

16.5. Final Settlement. Unless otherwise agreed in writing, these prorations are final.

17. POSSESSION. Possession of the Property will be delivered to Buyer on **Possession Date** at **Possession Time**, subject to the Leases as set forth in § 10.6.1.7.

If Seller, after Closing, fails to deliver possession as specified, Seller will be subject to eviction and will be additionally liable to Buyer for payment of \$ per day (or any part of a day notwithstanding § 18.1) from **Possession Date** and **Possession Time** until possession is delivered.

GENERAL PROVISIONS

18. DAY; COMPUTATION OF PERIOD OF DAYS, DEADLINE.

18.1. Day. As used in this Contract, the term "day" means the entire day ending at 11:59 p.m., United States Mountain Time (Standard or Daylight Savings as applicable).

18.2. Computation of Period of Days, Deadline. In computing a period of days, when the ending date is not specified, the first day is excluded and the last day is included (e.g., three days after MEC). If any deadline falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such deadline **Will** **Will Not** be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be checked, the deadline will not be extended.

19. CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION; AND WALK-THROUGH. Except as otherwise provided in this Contract, the Property, Inclusions or both will be delivered in the condition existing as of the date of this Contract, ordinary wear and tear excepted.

19.1. Causes of Loss, Insurance. In the event the Property or Inclusions are damaged by fire, other perils or causes of loss prior to Closing in an amount of not more than ten percent of the total Purchase Price (Property Damage), and if the repair of the damage will be paid by insurance (other than the deductible to be paid by Seller), then Seller, upon receipt of the insurance proceeds, will use Seller's reasonable efforts to repair the Property before **Closing Date**. Buyer has the Right to Terminate under § 25.1, on or before **Closing Date** if the Property is not repaired before **Closing Date** or if the damage exceeds such sum. Should Buyer elect to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all insurance proceeds that were received by Seller (but not the Association, if any) resulting from damage to the Property and Inclusions, plus the amount of any deductible provided for in the insurance policy. This credit may not exceed the Purchase Price. In the event Seller has not received the insurance proceeds prior to Closing, the parties may agree to extend the **Closing Date** to have the Property repaired prior to Closing or, at the option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller's insurance company and Buyer's lender; or (2) the parties may enter into a written agreement prepared by the parties or their attorney requiring the Seller to escrow at Closing from Seller's sale proceeds the amount Seller has received and will receive due to such damage, not exceeding the total Purchase Price, plus the amount of any deductible that applies to the insurance claim.

19.2. Damage, Inclusions and Services. Should any Inclusion or service (including utilities and communication services), system, component or fixture of the Property (collectively Service) (e.g., heating or plumbing), fail or be damaged between the date of this Contract and Closing or possession, whichever is earlier, then Seller is liable for the repair or replacement of such Inclusion or Service with a unit of similar size, age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such Inclusion or Service is not the responsibility of the Association, if any, less any insurance proceeds received by Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or replaced on or before Closing or possession, whichever is earlier, Buyer has the Right to Terminate under § 25.1, on or before **Closing Date**, or, at the option of Buyer, Buyer is entitled to a credit at Closing for the repair or replacement of such Inclusion or Service. Such credit must not exceed the Purchase Price. If Buyer receives such a credit, Seller's right for any claim against the Association, if any, will survive Closing. Seller and Buyer are aware of the existence of pre-owned home warranty programs that may be purchased and may cover the repair or replacement of such Inclusions.

19.3. Condemnation. In the event Seller receives actual notice prior to Closing that a pending condemnation action may result in a taking of all or part of the Property or Inclusions, Seller must promptly notify Buyer, in writing, of such condemnation action. Buyer has the Right to Terminate under § 25.1, on or before **Closing Date**, based on such condemnation action, in Buyer's sole subjective discretion. Should Buyer elect to consummate this Contract despite such diminution of value to the Property and Inclusions, Buyer is entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value of the Property or Inclusions but such credit will not include relocation benefits or expenses, or exceed the Purchase Price.

19.4. Walk-Through and Verification of Condition. Buyer, upon reasonable notice, has the right to walk through the Property prior to Closing to verify that the physical condition of the Property and Inclusions complies with this Contract.

19.5. Risk of Loss - Growing Crops. The risk of loss for damage to growing crops by fire or other

Initials _____

casualty will be borne by the party entitled to the growing crops as provided in § 2.8 and such party is entitled to such insurance proceeds or benefits for the growing crops.

20. RECOMMENDATION OF LEGAL AND TAX COUNSEL. By signing this Contract, Buyer and Seller acknowledge that the respective broker has advised that this Contract has important legal consequences and has recommended the examination of title and consultation with legal and tax or other counsel before signing this Contract.

21. TIME OF ESSENCE, DEFAULT AND REMEDIES. Time is of the essence for all dates and deadlines in this Contract. This means that all dates and deadlines are strict and absolute. If any payment due, including Earnest Money, is not paid, honored or tendered when due, or if any obligation is not performed timely as provided in this Contract or waived, the non-defaulting party has the following remedies:

21.1. If Buyer is in Default:

21.1.1. Specific Performance. Seller may elect to cancel this Contract and all Earnest Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money is not a penalty, and the Parties agree the amount is fair and reasonable. Seller may recover such additional damages as may be proper. Alternatively, Seller may elect to treat this Contract as being in full force and effect and Seller has the right to specific performance or damages, or both.

21.1.2. Liquidated Damages, Applicable. This § 21.1.2 applies unless the box in § 21.1.1. is checked. Seller may cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to Seller, and retained by Seller. It is agreed that the Earnest Money specified in § 4.1 is LIQUIDATED DAMAGES, and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in §§ 10.4, 22, 23 and 24), said payment of Earnest Money is SELLER'S ONLY REMEDY for Buyer's failure to perform the obligations of this Contract. Seller expressly waives the remedies of specific performance and additional damages.

21.2. If Seller is in Default: Buyer may elect to treat this Contract as canceled, in which case all Earnest Money received hereunder will be returned and Buyer may recover such damages as may be proper. Alternatively, Buyer may elect to treat this Contract as being in full force and effect and Buyer has the right to specific performance or damages, or both.

22. LEGAL FEES, COST AND EXPENSES. Anything to the contrary herein notwithstanding, in the event of any arbitration or litigation relating to this Contract, prior to or after **Closing Date**, the arbitrator or court must award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and expenses.

23. MEDIATION. If a dispute arises relating to this Contract, (whether prior to or after Closing) and is not resolved, the parties must first proceed, in good faith, to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. Before any mediated settlement is binding, the parties to the dispute must agree to the settlement, in writing. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire dispute is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the other at that party's last known address (physical or electronic as provided in § 27). Nothing in this Section prohibits either party from filing a lawsuit and recording a *lis pendens* affecting the Property, before or after the date of written notice requesting mediation. This section will not alter any date in this Contract, unless otherwise agreed.

24. EARNEST MONEY DISPUTE. Except as otherwise provided herein, Earnest Money Holder must release the Earnest Money following receipt of written mutual instructions, signed by both Buyer and Seller. In the event of any controversy regarding the Earnest Money, Earnest Money Holder is not required to release the Earnest Money. Earnest Money Holder, in its sole subjective discretion, has several options: (1) wait for any proceeding between Buyer and Seller; (2) interplead all parties and deposit Earnest Money into a court of competent jurisdiction, (Earnest Money Holder is entitled to recover court costs and reasonable attorney and

legal fees incurred with such action); or (3) provide notice to Buyer and Seller that unless Earnest Money Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the case number of the lawsuit (Lawsuit) within one hundred twenty days of Earnest Money Holder's notice to the parties, Earnest Money Holder is authorized to return the Earnest Money to Buyer. In the event Earnest Money Holder does receive a copy of the Lawsuit, and has not interpleaded the monies at the time of any Order, Earnest Money Holder must disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the obligation of **Mediation**. This Section will survive cancellation or termination of this Contract.

25. TERMINATION.

25.1. Right to Terminate. If a party has a right to terminate, as provided in this Contract (Right to Terminate), the termination is effective upon the other party's receipt of a written notice to terminate (Notice to Terminate), provided such written notice was received on or before the applicable deadline specified in this Contract. If the Notice to Terminate is not received on or before the specified deadline, the party with the Right to Terminate accepts the specified matter, document or condition as satisfactory and waives the Right to Terminate under such provision.

25.2. Effect of Termination. In the event this Contract is terminated, all Earnest Money received hereunder will be returned and the parties are relieved of all obligations hereunder, subject to §§ 10.4, 22, 23 and 24.

26. ENTIRE AGREEMENT, MODIFICATION, SURVIVAL; SUCCESSORS. This Contract, its exhibits and specified addenda, constitute the entire agreement between the parties relating to the subject hereof, and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Contract. No subsequent modification of any of the terms of this Contract is valid, binding upon the parties, or enforceable unless made in writing and signed by the parties. Any right or obligation in this Contract that, by its terms, exists or is intended to be performed after termination or Closing survives the same. Any successor to a Party receives the predecessor's benefits and obligations of this Contract.

27. NOTICE, DELIVERY, AND CHOICE OF LAW.

27.1. Physical Delivery and Notice. Any document, or notice to Buyer or Seller must be in writing, except as provided in § 27.2, and is effective when physically received by such party, any individual named in this Contract to receive documents or notices for such party, the Broker, or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing must be received by the party, not Broker or Brokerage Firm).

27.2. Electronic Notice. As an alternative to physical delivery, any notice, may be delivered in electronic form to Buyer or Seller, any individual named in this Contract to receive documents or notices for such party, the Broker or Brokerage Firm of Broker working with such party (except any notice or delivery after Closing must be received by the party; not Broker or Brokerage Firm) at the electronic address of the recipient by facsimile, email or any.

27.3. Electronic Delivery. Electronic Delivery of documents and notice may be delivered by: (1) email at the email address of the recipient, (2) a link or access to a website or server provided the recipient receives the information necessary to access the documents, or (3) facsimile at the Fax No. of the recipient.

27.4. Choice of Law. This Contract and all disputes arising hereunder are governed by and construed in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in Colorado for real property located in Colorado.

28. NOTICE OF ACCEPTANCE, COUNTERPARTS. This proposal will expire unless accepted in writing, by Buyer and Seller, as evidenced by their signatures below, and the offering party receives notice of such acceptance pursuant to § 27 on or before **Acceptance Deadline Date** and **Acceptance Deadline Time**. If accepted, this document will become a contract between Seller and Buyer. A copy of this Contract may be executed by each party, separately, and when each party has executed a copy thereof, such copies taken together are deemed to be a full and complete contract between the parties.

29. GOOD FAITH. Buyer and Seller acknowledge that each party has an obligation to act in good faith

1191
1192
1193
1194
1195
1196
1197
1198
1199
1200
1201
1202
1203
1204
1205
1206

including, but not limited to, exercising the rights and obligations set forth in the provisions of **Financing Conditions and Obligations, Title Insurance, Record Title and Off-Record Title, New ILC, New Survey and Property Disclosure, Inspection, Indemnity, Insurability, Due Diligence, Buyer Disclosure and Source of Water.**

ADDITIONAL PROVISIONS AND ATTACHMENTS

30. ADDITIONAL PROVISIONS. (The following additional provisions have not been approved by the Colorado Real Estate Commission.)

31. ATTACHMENTS.

31.1. The following attachments are a part of this Contract:

Addendum A

31.2. The following disclosure forms are attached but are not a part of this Contract:

SIGNATURES

Jesse Allen, CEO

Date: 9/14/2018

Buyer: **Jesse James Development LLC**
By: Jesse Allen, CEO

James Passchier, President

Date: 9/12/2018

Buyer: **Jesse James Development LLC**
By: James Passchier, President

[NOTE: If this offer is being countered or rejected, do not sign this document. Refer to § 32]

_____ Date: _____

Seller: **MERRIMACK VALLEY INVESTMENTS LLC**
By: Frederick Chin, CEO

32. COUNTER; REJECTION. This offer is Countered Rejected.

Initials only of party (Buyer or Seller) who countered or rejected offer

MERRIMACK VALLEY INVESTMENTS LLC
By: Frederick Chin , CEO

END OF CONTRACT TO BUY AND SELL REAL ESTATE

33. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

Initials _____

Broker Does Does Not acknowledge receipt of Earnest Money deposit and, while not a party to the Contract, agrees to cooperate upon request with any mediation concluded under § 23. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Broker is working with Buyer as a Buyer's Agent Seller's Agent Transaction-Broker in this transaction. This is a Change of Status.

Brokerage Firm's compensation or commission is to be paid by Listing Brokerage Firm
 Buyer Other .

Brokerage Firm's Name: **Integrated Mountain Properties**



Date: 9/11/2018

Broker's Name: **Carly Passchier**

Address: **1001 Grand Avenue Glenwood Springs, CO 81601**

Ph: **970-618-9351** Fax: Email: **carly.passchier@integratedmtn.com**

34. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

(To be completed by Broker working with Seller)

Broker Does Does Not acknowledge receipt of Earnest Money deposit and, while not a party to the Contract, agrees to cooperate upon request with any mediation concluded under § 23. Broker agrees that if Brokerage Firm is the Earnest Money Holder and, except as provided in § 24, if the Earnest Money has not already been returned following receipt of a Notice to Terminate or other written notice of termination, Earnest Money Holder will release the Earnest Money as directed by the written mutual instructions. Such release of Earnest Money will be made within five days of Earnest Money Holder's receipt of the executed written mutual instructions, provided the Earnest Money check has cleared.

Broker is working with Seller as a Seller's Agent Buyer's Agent Transaction-Broker in this transaction. This is a Change of Status.

Brokerage Firm's compensation or commission is to be paid by Seller Buyer Other .

Brokerage Firm's Name: **Aspen Snowmass Sotheby's**

Date: _____

Broker's Name: **Laura Gee**

Address: **201 Midland Avenue Basalt, CO 81621**

Ph: **970-948-8568** Fax: Email: **Laura.Gee@SothebysRealty.com**

CBS4-6-15. CONTRACT TO BUY AND SELL REAL ESTATE (LAND)

CTM eContracts - ©2016 CTM Software Corp.

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission. (CP40-6-15) (Mandatory 1-16)

THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

COUNTERPROPOSAL

Date: 9/15/2018

1. This Counterproposal supersedes and replaces any previous counterproposal. This Counterproposal amends the proposed contract dated 9/11/2018 (Contract), between **MERRIMACK VALLEY INVESTMENTS LLC** (Seller), and **Jesse James Development LLC** (Buyer), relating to the sale and purchase of the following legally described real estate in the County of **Garfield**, Colorado:
Subdivision: RIVER VALLEY RANCH PHASE 5A Block: HH Lot: 26, Section: 3 Township: 8 Range: 88 known as No. **1165 Heritage Drive, Carbondale, CO 81623** (Property).

NOTE: If the table is omitted, or if any item is left blank or is marked in the "No Change" column, it means no change to the corresponding provision of the Contract. If any item is marked in the "Deleted" column, it means that the corresponding provision of the Contract to which reference is made is deleted.

2. **§ 3. DATES AND DEADLINES.** [Note: This table may be omitted if inapplicable.]

Item No.	Reference	Event	Date or Deadline	No Change	Deleted
1	§ 4.3	Alternative Earnest Money Deadline	<i>no change</i>		
		Title			
2	§ 8.1	Record Title Deadline	<i>no change</i>		
3	§ 8.2	Record Title Objection Deadline	<i>no change</i>		
4	§ 8.3	Off-Record Title Deadline	<i>no change</i>		
5	§ 8.3	Off-Record Title Objection Deadline	<i>no change</i>		
6	§ 8.4	Title Resolution Deadline	<i>no change</i>		
7	§ 8.6	Right of First Refusal Deadline	<i>no change</i>		
		Owners' Association			
8	§ 7.3	Association Documents Deadline	<i>no change</i>		
9	§ 7.4	Association Documents Objection Deadline	<i>no change</i>		
		Seller's Property Disclosure			
10	§ 10.1	Seller's Property Disclosure Deadline	<i>no change</i>		
		Loan and Credit			
11	§ 5.1	Loan Application Deadline	<i>no change</i>		
12	§ 5.2	Loan Objection Deadline	<i>no change</i>		
13	§ 5.3	Buyer's Credit Information Deadline	<i>no change</i>		
14	§ 5.3	Disapproval of Buyer's Credit Information Deadline	<i>no change</i>		
15	§ 5.4	Existing Loan Documents Deadline	<i>no change</i>		
16	§ 5.4	Existing Loan Documents Objection Deadline	<i>no change</i>		
17	§ 5.4	Loan Transfer Approval Deadline	<i>no change</i>		
18	§ 4.7	Seller or Private Financing Deadline	<i>no change</i>		
		Appraisal			
19	§ 6.2	Appraisal Deadline	<i>no change</i>		
20	§ 6.2	Appraisal Objection Deadline	<i>no change</i>		
21	§ 6.2	Appraisal Resolution Deadline	<i>no change</i>		
		Survey			
22	§ 9.1	New ILC or New Survey Deadline	<i>no change</i>		
23	§ 9.3	New ILC or New Survey Objection Deadline	<i>no change</i>		

24	§ 9.4	New ILC or New Survey Resolution Deadline	<i>no change</i>			
Inspection and Due Diligence						
25	§ 10.3	Inspection Objection Deadline	<i>no change</i>			
26	§ 10.3	Inspection Resolution Deadline	<i>no change</i>			
27	§ 10.5	Property Insurance Objection Deadline	<i>no change</i>			
28	§ 10.6	Due Diligence Documents Delivery Deadline	<i>no change</i>			
29	§ 10.6	Due Diligence Documents Objection Deadline	<i>no change</i>			
30	§ 10.6	Due Diligence Documents Resolution Deadline	<i>no change</i>			
31	§ 10.6	Environmental Inspection Objection Deadline CBS2, 3, 4	<i>no change</i>			
32	§ 10.6	ADA Evaluation Objection Deadline CBS2, 3, 4	<i>no change</i>			
33	§ 10.7	Conditional Sale Deadline	<i>no change</i>			
34	§ 11.1	Tenant Estoppel Statements Deadline CBS2, 3, 4	<i>no change</i>			
35	§ 11.2	Tenant Estoppel Statements Objection Deadline CBS2,3,4	<i>no change</i>			
Closing and Possession						
36	§ 12.3	Closing Date	<i>per Addendum A 30.4</i>			
37	§ 17	Possession Date	<i>no change</i>			
38	§ 17	Possession Time	<i>no change</i>			
39	<i>n/a</i>	<i>n/a</i>	<i>no change</i>			
40	<i>n/a</i>	<i>n/a</i>	<i>no change</i>			

19

20 **3. § 4. PURCHASE PRICE AND TERMS.** [Note: This table may be deleted if inapplicable.]

21

22 The Purchase Price set forth below is payable in U.S. Dollars by Buyer as follows:

23

24

Item No.	Reference	Item	Amount	Amount
1	§ 4.1	Purchase Price	<i>\$100,000.00</i>	
2	§ 4.3	Earnest Money		<i>\$4,000.00</i>
3	§ 4.5	New Loan		
4	§ 4.6	Assumption Balance		
5	§ 4.7	Private Financing		
6	§ 4.7	Seller Financing		
7	<i>n/a</i>	<i>n/a</i>		
8	<i>n/a</i>	<i>n/a</i>		
9	§ 4.4	Cash at Closing		<i>\$96,000.00</i>
10		TOTAL	<i>\$100,000.00</i>	<i>\$100,000.00</i>

25

26 **4. ATTACHMENTS.** The following are a part of this Counterproposal:27 *no change*28 **Note:** The following disclosure forms **are attached** but are **not** a part of this Counterproposal:29 *no change*

30

31 **5. OTHER CHANGES.**

32

1. Paragraph 4.3 Earnest Money: Earnest Money Holder shall be Commonwealth Title in Glenwood Springs.

2. Paragraphs 9.1.1 and 9.1.2: The boxes for `Seller` in each paragraph shall be unchecked as these provisions are not applicable as they have been deleted per Paragraph 3. Item No. 22, 23 and 24.

3. Paragraph 10.6.1.1, 10.6.1.9 and 10.6.1.10 Due Diligence Documents: The boxes in each of the aforesaid paragraphs shall be unchecked.

4. OPEN SPACE TRUST FUND FEE. As defined in Section 10.14 of the Amended and Restated Master Declaration of Protective Covenants for River Valley Ranch. At the time of closing, Purchaser shall pay to the River Valley Ranch Master Association a fee in the amount of one-

quarter of one percent (.0025) of the purchase price for the purposes of acquisition, leasing, or planning for the acquisition or leasing of public open space, conservation easements, development rights, or other similar measures to protect land in perpetuity from development.

5. HOA FEES. In addition to the foregoing budgeted monthly dues Purchaser hereunder shall pay at the closing hereof: (1) a Reserve Fund Deposit in the amount of \$100.00 for each lot to the Master Association in accordance with paragraph 10.8 of the Master Declaration, and (2) an initial \$150.00 Master Association Account Set Up Fee. The Seller shall pay at closing a Master Association Statement Prep Fee of \$150.00.

33

6. ACCEPTANCE DEADLINE. This Counterproposal expires unless accepted in writing by Seller and Buyer as evidenced by their signatures below and the offering party to this document receives notice of such acceptance on or before September 21, 2018 5:00pm MT.
Date Time

34

35

36

If accepted, the Contract, as amended by this Counterproposal, will become a contract between Seller and Buyer. All other terms and conditions of the Contract remain the same.

37

Frederick Chin, CEO

38

Date: 9/16/2018

Seller: **MERRIMACK VALLEY INVESTMENTS LLC**
By: Frederick Chin, CEO

Address:

39

40

Seller: _____ Date: _____

41

Address:

42

Jesse Allen, CEO

43

Date: 9/17/2018

Buyer: **Jesse James Development LLC**
By: Jesse Allen, CEO

Address:

44

James Passchier, President

45

Date: 9/17/2018

Buyer: **Jesse James Development LLC**
By: James Passchier, President

Address:

Note: When this Counterproposal form is used, the Contract is **not** to be signed by the party initiating this Counterproposal. Brokers must complete and sign the Broker's Acknowledgments and Compensation Disclosure portion of the Contract.

46

CP40-6-15. COUNTERPROPOSAL

ADDENDUM A
To Contract to Buy and Sell Real Estate

This Addendum A to that certain Contract to Buy and Sell Real Estate dated September 12, 2018, between Jesse James Development LLC, Buyer, and MERRIMACK VALLEY INVESTMENTS LLC, Seller, for the property known as Section: 3 Township: 8 Range: 88 Subdivision: RIVER VALLEY RANCH PHASE 5A Block: HH Lot: 26, and commonly known as 1165 Heritage Drive, Carbondale CO 81623 (“Contract”) is hereby made a part of the Contract, as referenced in Section 31.1 of the Contract. In the event of a conflict between this Addendum and the Contract, this Addendum shall prevail. The Sections indicated below clarify or amend, as appropriate, the corresponding Section in the Contract.

The following provisions are hereby added as Additional Provisions to Section 30 of the Contract:

§30.1. Proof of Funds. Buyer shall provide verified proof of funds on or before the Alternative Earnest Money Deadline in an amount not less than the amount stated as Cash at Closing in Paragraph 4.1.

§30.2. Pending Litigation. Seller is a limited liability company wholly owned by Woodbridge Group of Companies, LLC (“Woodbridge”). Seller and Woodbridge have each filed petitions under chapter 11 of the Bankruptcy Code and there is pending litigation against and/or involving Seller and Woodbridge, which could affect the Property or Seller’s ability to convey title to the Property or obtain a release of any deeds of trust encumbering the Property prior to Closing, including Case No. 17-12560-KJC in the United States Bankruptcy Court for the District of Delaware, as well as Case No. 17-24624-CIV, in the United States District Court, Southern District of Florida.

§30.3. Approval of Bankruptcy Court. Seller is a Debtor in jointly-administered bankruptcy Case No. 17-12560-KJC in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). This Agreement, including Seller’s obligation to transfer title free and clear of all liens in Paragraph 13, is expressly contingent upon the Bankruptcy Court’s entry of a final, non-appealable order approving this Agreement (“Sale Order”) on or prior to Closing, and any transaction(s) contained herein, including payment or escrow of the brokerage commission as well as the conveyance of the Property free and clear of all monetary liens and encumbrances. Seller will use reasonable efforts to file a motion for approval of this Agreement with the Bankruptcy Court promptly after Buyer has confirmed in writing that all Buyer objection and resolution deadlines or any other contingency periods have lapsed or have been waived consistent with Paragraph 30.9 below. If the Sale Order has not been approved by the Bankruptcy Court on or before 180 days after MEC (the “Sale Order Deadline”), then Buyer may elect to terminate the Contract upon written notice to Seller at any time after the Sale Order Deadline, with all Earnest Money refunded to Buyer. Unless and until Buyer exercises the right to terminate as set forth in this Paragraph, the Sale Order Deadline will be deemed extended, until the earlier of (i) Buyer’s written notice of termination to Seller or (ii) receipt by Buyer of the Sale Order. Notwithstanding foregoing, if the Bankruptcy Court issues an order denying the sale of the Property, or if the Sale Order is appealed after approval by any party in the Bankruptcy Court, then this Contract will automatically terminate upon Seller’s written notice to Buyer of the same and all Earnest Money will be returned to Buyer.

§30.4. Parties’ Approval of Sale Order. Upon issuance of the Sale Order by the Bankruptcy Court, Seller will deliver the Sale Order to Buyer. Buyer and Seller will have 3 business days from delivery of the Sale Order to Buyer to review and approve the Sale Order (“Sale Order Approval Deadline”). Either party, in its reasonable discretion, may elect to terminate the Contract by written notice to the other party by the Sale Order Approval Deadline if the Sale Order amends or alters any material term or condition of the Contract (e.g., purchase price, or any Schedule B-1 requirement of the Title

Commitment issued by the Title Company) and such amended term or condition imposes an undue burden on either party as a requirement of closing. If neither party provides the other party with a notice to terminate by the Sale Order Approval Deadline, the Sale Order will be deemed approved by both parties. Closing shall occur within five (5) days after the Sale Order becomes final and non-appealable.

§30.5. Buyer's Remedies. Paragraph 21.2 shall be deleted and replaced with the following: 21.2. If Seller is in Default: Buyer may elect to treat this Contract as canceled, in which case all Earnest Money received hereunder will be returned. Said payment of Earnest Money is Buyer's Only Remedy for Seller's failure to perform the obligations of this Contract. Buyer expressly waives all additional remedies, including the remedies of specific performance and additional damages.

§30.6. Property and Inclusions Sold "As Is." Buyer is hereby notified that the property is being sold "As Is" and "With All Faults" based upon Buyer's own investigation(s). Seller shall neither undertake any repairs to the property nor make any financial concessions in consideration of any objections Buyer may have to the physical condition of the property. This provision does not limit Buyer's rights under Paragraph 10 of the Contract.

§30.7. Property Disclosures; Reliance. Notwithstanding anything to the contrary in the Contract, Buyer acknowledges and agrees that Seller will not provide and is under no obligation or duty to provide any information or disclosures regarding the Property. If any information is provided by Seller ("Information"), then it is provided by Seller to Buyer "as-is", without recourse, and with no representations or warranties of any kind, including without limitation as to the accuracy or completeness of such documents or information. Buyer cannot rely on the Information unless Buyer obtains, at Buyer's expense, reliance letters from any third-party preparers of such information. Not in limitation of the foregoing, Buyer acknowledges and agrees that Seller shall have no liability, and is hereby released from all liability, to Buyer and any third party, with respect to the Information, including without limitation any liability for misrepresentations, misstatements, mistakes, errors, or other inaccuracies contained in any Information. This Paragraph shall survive Closing and any termination of this Contract, any other provision hereof to the contrary notwithstanding.

§30.8. Buyer's Diligence. Buyer warrants and represents to Seller that Buyer is relying solely on Buyer's own investigation of the Property and Inclusions and not on any information provided or to be provided by Seller; Buyer will review and investigate the property and any improvements on it and Inclusions as Buyer deems necessary and appropriate and will consult such records, outside resources, consultants and engineers as Buyer deems appropriate; and Buyer's decision to purchase the Property and Inclusions will be based solely on that review, investigation, and consultation. If Buyer acquires the Property and Inclusions, Buyer will be doing so in its then present condition.

§30.9. Buyer's Confirmation of Completed Diligence. Within 3 days after the expiration of the final objection and/or resolution deadline, or earlier in Buyer's discretion, Buyer shall confirm in writing that all contingencies have expired by providing the following notice to Seller in writing: "Buyer has conducted its due diligence of all aspects of the Property and Inclusions and is satisfied with the condition of the same in all respects, and hereby expressly waives any right Buyer currently has, or in the future may have, to object under any objection deadline or other contingency under the Contract, including pursuant to Paragraphs 5.2, 5.4, 6.2, 7.4, 8.2, 8.3, 8.4, 9.3, 10.3, 10.5, or 10.6, or any other Right to Terminate contained within the Contract, except for Buyer's Right to Terminate pursuant to Additional Provisions, Paragraphs 30.3 and 30.4 related to the Bankruptcy Court's approval of Sale Order. Buyer's Earnest Money is nonrefundable in all other respects. All other terms of the Contract are hereby ratified." Seller has no obligation to file a motion for the Sale Order until Buyer has delivered this confirmation to Seller.

§30.10. Attorney Review. This Contract is contingent upon the satisfactory review of the Contract by the Buyer’s and Seller’s respective attorneys within five (5) business days of MEC. In the event any of the legal provisions of the Contract are deemed unsatisfactory by either attorney, such attorney shall provide the other party with written notice of the unsatisfactory provision within a five (5) business days of MEC. If neither party provides such written notice within such period, this contingency shall be deemed satisfied. If written notice of an unsatisfactory provision is provided within such period, and the Buyer and Seller have not executed an amendment to the Contract in mutual resolution of the unsatisfactory provision within seven (7) business days of complete execution of this Contract, then this Contract shall be deemed terminated. Upon termination, all earnest monies shall be returned to Buyer and both parties shall be relieved of all further obligations hereunder.

BUYER:

Jesse Allen Date 09/14/2018
James Passchier Date 09/12/2018

SELLER:

Date _____

Date _____

This addendum has not been approved by Colorado Real Estate Commission. It was prepared by Seller’s legal counsel, Balcomb & Green, P.C. for the sole use of Woodbridge Group of Companies, LLC.

EXHIBIT B
BROKER AGREEMENT

Aspen Snowmass | Sotheby's INTERNATIONAL REALTY
Aspen Snowmass Sotheby's
Laura Gee Laura.Gee@SothebysRealty.com;
raleigh.vos@sothebysrealty.com
Ph: 970-948-8568

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission. (LC50-6-16) (Mandatory 1-17)

THIS IS A BINDING CONTRACT. THIS FORM HAS IMPORTANT LEGAL CONSEQUENCES AND THE PARTIES SHOULD CONSULT LEGAL AND TAX OR OTHER COUNSEL BEFORE SIGNING.

Compensation charged by brokerage firms is not set by law. Such charges are established by each real estate brokerage firm.

DIFFERENT BROKERAGE RELATIONSHIPS ARE AVAILABLE WHICH INCLUDE BUYER AGENCY, SELLER AGENCY OR TRANSACTION-BROKERAGE.

EXCLUSIVE RIGHT-TO-SELL LISTING CONTRACT

SELLER AGENCY **TRANSACTION-BROKERAGE**

Date: **4/13/2018**

1. AGREEMENT. Seller and Brokerage Firm enter into this exclusive, irrevocable contract (Seller Listing Contract) and agree to its provisions. Broker, on behalf of Brokerage Firm, agrees to provide brokerage services to Seller. Seller agrees to pay Brokerage Firm as set forth in this Seller Listing Contract.

2. BROKER AND BROKERAGE FIRM.

2.1. Multiple-Person Firm. If this box is checked, the individual designated by Brokerage Firm to serve as the broker of Seller and to perform the services for Seller required by this Seller Listing Contract is called Broker. If more than one individual is so designated, then references in this Seller Listing Contract to Broker include all persons so designated, including substitute or additional brokers. The brokerage relationship exists only with Broker and does not extend to the employing broker, Brokerage Firm or to any other brokers employed or engaged by Brokerage Firm who are not so designated.

2.2. One-Person Firm. If this box is checked, Broker is a real estate brokerage firm with only one licensed natural person. References in this Seller Listing Contract to Broker or Brokerage Firm mean both the licensed natural person and brokerage firm who serve as the broker of Seller and perform the services for Seller required by this Seller Listing Contract.

3. DEFINED TERMS.

3.1. Seller: *Woodbridge Group of Companies, LLC*

3.2. Brokerage Firm: *Aspen Snowmass Sotheby's*

3.3. Broker: *Laura Gee*

3.4. Property. The Property is the following legally described real estate in the County of , Colorado:

See attached Exhibit A ,

known as No. , *CO* ,

together with the interests, easements, rights, benefits, improvements and attached fixtures appurtenant thereto, and all interest of Seller in vacated streets and alleys adjacent thereto, except as herein excluded.

3.5. Sale; Lease.

71 3.5.1. A Sale is the voluntary transfer or exchange of any interest in the Property or the voluntary
72 creation of the obligation to convey any interest in the Property, including a contract or lease. It also includes
73 an agreement to transfer any ownership interest in an entity which owns the Property.
74

75 3.5.2. If this box is checked, Seller authorizes Broker to negotiate leasing the Property. Lease of the
76 Property or Lease means any agreement between the Seller and a tenant to create a tenancy or leasehold
77 interest in the Property.
78

79 3.6. Listing Period. The Listing Period of this Seller Listing Contract begins on 4/13/2018, and
80 continues through the earlier of (1) completion of the Sale of the Property or (2) 4/13/2019, and any written
81 extensions (Listing Period). Broker must continue to assist in the completion of any Sale or Lease for which
82 compensation is payable to Brokerage Firm under § 7 of this Seller Listing Contract.
83

84 3.7. Applicability of Terms. A check or similar mark in a box means that such provision is applicable.
85 The abbreviation "N/A" or the word "Deleted" means not applicable. The abbreviation "MEC" (mutual execution
86 of this contract) means the date upon which both parties have signed this Seller Listing Contract.
87

88 3.8. Day; Computation of Period of Days, Deadline.

89 3.8.1. Day. As used in this Seller Listing Contract, the term "day" means the entire day ending at
90 11:59 p.m., United States Mountain Time (Standard or Daylight Savings as applicable).
91

92 3.8.2. Computation of Period of Days, Deadline. In computing a period of days, when the ending
93 date is not specified, the first day is excluded and the last day is included, e.g., three days after MEC. If any
94 deadline falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such deadline Will
95 Will Not be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be
96 checked, the deadline will not be extended.
97
98

99
100 4. BROKERAGE RELATIONSHIP.

101 4.1. If the Seller Agency box at the top of page 1 is checked, Broker represents Seller as Seller's limited
102 agent (Seller's Agent). If the Transaction-Brokerage box at the top of page 1 is checked, Broker acts as a
103 Transaction-Broker.
104

105 4.2. In-Company Transaction – Different Brokers. When Seller and buyer in a transaction are working
106 with different brokers, those brokers continue to conduct themselves consistent with the brokerage
107 relationships they have established. Seller acknowledges that Brokerage Firm is allowed to offer and pay
108 compensation to brokers within Brokerage Firm working with a buyer.
109

110 4.3. In-Company Transaction – One Broker. If Seller and buyer are both working with the same
111 broker, Broker must function as:
112

113 4.3.1. Seller's Agent. If the Seller Agency box at the top of page 1 is checked, the parties agree
114 the following applies:
115

116 4.3.1.1. Seller Agency Only. Unless the box in § 4.3.1.2 (Seller Agency Unless Brokerage
117 Relationship with Both) is checked, Broker represents Seller as Seller's Agent and must treat the buyer as a
118 customer. A customer is a party to a transaction with whom Broker has no brokerage relationship. Broker must
119 disclose to such customer Broker's relationship with Seller.
120

121 4.3.1.2. Seller Agency Unless Brokerage Relationship with Both. If this box is checked,
122 Broker represents Seller as Seller's Agent and must treat the buyer as a customer, unless Broker currently has
123 or enters into an agency or Transaction-Brokerage relationship with the buyer, in which case Broker must act
124 as a Transaction-Broker.
125

126 4.3.2. Transaction-Broker. If the Transaction-Brokerage box at the top of page 1 is checked, or in
127 the event neither box is checked, Broker must work with Seller as a Transaction-Broker. A Transaction-Broker
128 must perform the duties described in § 5 and facilitate sales transactions without being an advocate or agent
129 for either party. If Seller and buyer are working with the same broker, Broker must continue to function as a
130 Transaction-Broker.
131
132

133 5. BROKERAGE DUTIES. Brokerage Firm, acting through Broker, as either a Transaction-Broker or a
134 Seller's Agent, must perform the following Uniform Duties when working with Seller:
135

136 5.1. Broker must exercise reasonable skill and care for Seller, including, but not limited to the following:
137

138 5.1.1. Performing the terms of any written or oral agreement with Seller;

139 5.1.2. Presenting all offers to and from Seller in a timely manner regardless of whether the
140

Property is subject to a contract for Sale;

5.1.3. Disclosing to Seller adverse material facts actually known by Broker;

5.1.4. Advising Seller regarding the transaction and advising Seller to obtain expert advice as to material matters about which Broker knows but the specifics of which are beyond the expertise of Broker;

5.1.5. Accounting in a timely manner for all money and property received; and

5.1.6. Keeping Seller fully informed regarding the transaction.

5.2. Broker must not disclose the following information without the informed consent of Seller:

5.2.1. That Seller is willing to accept less than the asking price for the Property;

5.2.2. What the motivating factors are for Seller to sell the Property;

5.2.3. That Seller will agree to financing terms other than those offered;

5.2.4. Any material information about Seller unless disclosure is required by law or failure to disclose such information would constitute fraud or dishonest dealing; or

5.2.5. Any facts or suspicions regarding circumstances that could psychologically impact or stigmatize the Property.

5.3. Seller consents to Broker's disclosure of Seller's confidential information to the supervising broker or designee for the purpose of proper supervision, provided such supervising broker or designee does not further disclose such information without consent of Seller, or use such information to the detriment of Seller.

5.4. Brokerage Firm may have agreements with other sellers to market and sell their property. Broker may show alternative properties not owned by Seller to other prospective buyers and list competing properties for sale.

5.5. Broker is not obligated to seek additional offers to purchase the Property while the Property is subject to a contract for Sale.

5.6. Broker has no duty to conduct an independent inspection of the Property for the benefit of a buyer and has no duty to independently verify the accuracy or completeness of statements made by Seller or independent inspectors. Broker has no duty to conduct an independent investigation of a buyer's financial condition or to verify the accuracy or completeness of any statement made by a buyer.

5.7. Seller understands that Seller is not liable for Broker's acts or omissions that have not been approved, directed, or ratified by Seller.

5.8. When asked, Broker **Will** **Will Not** disclose to prospective buyers and cooperating brokers the existence of offers on the Property and whether the offers were obtained by Broker, a broker within Brokerage Firm or by another broker.

6. **ADDITIONAL DUTIES OF SELLER'S AGENT.** If the Seller Agency box at the top of page 1 is checked, Broker is Seller's Agent, with the following additional duties:

6.1. Promoting the interests of Seller with the utmost good faith, loyalty and fidelity;

6.2. Seeking a price and terms that are set forth in this Seller Listing Contract; and

6.3. Counseling Seller as to any material benefits or risks of a transaction that are actually known by Broker.

7. **COMPENSATION TO BROKERAGE FIRM; COMPENSATION TO COOPERATIVE BROKER.** Seller agrees that any Brokerage Firm compensation that is conditioned upon the Sale of the Property will be earned by Brokerage Firm as set forth herein without any discount or allowance for any efforts made by Seller or by any other person in connection with the Sale of the Property.

7.1. **Amount.** In consideration of the services to be performed by Broker, Seller agrees to pay Brokerage Firm as follows:

7.1.1. **Sale Commission.** (1) 5% of the gross purchase price or (2) n/a, in U.S. dollars.

7.1.2. **Lease Commission.** If the box in § 3.5.2 is checked, Brokerage Firm will be paid a fee equal to (1) n/a% of the gross rent under the lease, or (2) n/a, in U.S. dollars, payable as follows: n/a.

7.1.3. **Other Compensation.** See Exhibit A for properties (5 properties) that are an exception to the 5% Sale Commission.

7.2. **Cooperative Broker Compensation.** Brokerage Firm offers compensation to outside brokerage firms, whose brokers are acting as:

Buyer Agents: 2.5% of the gross sales price or n/a, in U.S. dollars.

211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280

7.3. **When Earned.** Such commission is earned upon the occurrence of any of the following:

7.3.1. Any Sale of the Property within the Listing Period by Seller, by Broker or by any other person;

7.3.2. Broker finding a buyer who is ready, willing and able to complete the Sale or Lease as specified in this Seller Listing Contract; or

7.3.3. Any Sale (or Lease if § 3.5.2 is checked) of the Property within 90 calendar days after the Listing Period expires (Holdover Period) (1) to anyone with whom Broker negotiated and (2) whose name was submitted, in writing, to Seller by Broker during the Listing Period (Submitted Prospect). Provided, however, Seller **Will** **Will Not** owe the commission to Brokerage Firm under this § 7.3.3 if a commission is earned by another licensed real estate brokerage firm acting pursuant to an exclusive agreement entered into during the Holdover Period and a Sale or Lease to a Submitted Prospect is consummated. If no box is checked in this § 7.3.3, then Seller does not owe the commission to Brokerage Firm.

7.4. **When Applicable and Payable.** The commission obligation applies to a Sale made during the Listing Period or any extension of such original or extended term. The commission described in § 7.1.1 is payable at the time of the closing of the Sale, or, if there is no closing (due to the refusal or neglect of Seller) then on the contracted date of closing, as contemplated by § 7.3.1 or § 7.3.3, or upon fulfillment of § 7.3.2 where the offer made by such buyer is not accepted by Seller.

8. **LIMITATION ON THIRD-PARTY COMPENSATION.** Neither Broker nor Brokerage Firm, except as set forth in § 7, will accept compensation from any other person or entity in connection with the Property without the written consent of Seller. Additionally, neither Broker nor Brokerage Firm is permitted to assess or receive mark-ups or other compensation for services performed by any third party or affiliated business entity unless Seller signs a separate written consent for such services.

9. **OTHER BROKERS' ASSISTANCE, MULTIPLE LISTING SERVICES AND MARKETING.** Seller has been advised by Broker of the advantages and disadvantages of various marketing methods, including advertising and the use of multiple listing services (MLS) and various methods of making the Property accessible by other brokerage firms (e.g., using lock boxes, by-appointment-only showings, etc.), and whether some methods may limit the ability of another broker to show the Property. After having been so advised, Seller has chosen the following:

9.1. **MLS/Information Exchange.**

9.1.1. The Property **Will** **Will Not** be submitted to one or more MLS and **Will** **Will Not** be submitted to one or more property information exchanges. If submitted, Seller authorizes Broker to provide timely notice of any status change to such MLS and information exchanges. Upon transfer of deed from Seller to buyer, Seller authorizes Broker to provide sales information to such MLS and information exchanges.

9.1.2. Seller authorizes the use of electronic and all other marketing methods except: n/a.

9.1.3. Seller further authorizes use of the data by MLS and property information exchanges, if any.

9.1.4. The Property Address **Will** **Will Not** be displayed on the Internet.

9.1.5. The Property Listing **Will** **Will Not** be displayed on the Internet.

9.2. **Property Access.** Access to the Property may be by:

Manual Lock Box Electronic Lock Box

n/a.

Other instructions: .

9.3. **Brokerage Marketing.** The following specific marketing tasks will be performed by Broker:
[Refer to Woodbridge CO Assets - Marketing Plan Final \(Attached\)](#)

10. **SELLER'S OBLIGATIONS TO BROKER; DISCLOSURES AND CONSENT.**

10.1. **Negotiations and Communication.** Seller agrees to conduct all negotiations for the Sale of the Property only through Broker, and to refer to Broker all communications received in any form from real estate brokers, prospective buyers, tenants or any other source during the Listing Period of this Seller Listing Contract.

281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350

10.2. Advertising. Seller agrees that any advertising of the Property by Seller (e.g., Internet, print and signage) must first be approved by Broker.

10.3. No Existing Listing Agreement. Seller represents that Seller **Is** **Is Not** currently a party to any listing agreement with any other broker to sell the Property.

10.4. Ownership of Materials and Consent. Seller represents that all materials (including all photographs, renderings, images or other creative items) supplied to Broker by or on behalf of Seller are owned by Seller, except as Seller has disclosed in writing to Broker. Seller is authorized to and grants to Broker, Brokerage Firm and any MLS (that Broker submits the Property to) a nonexclusive irrevocable, royalty-free license to use such material for marketing of the Property, reporting as required and the publishing, display and reproduction of such material, compilation and data. This license survives the termination of this Seller Listing Contract.

10.5. Colorado Foreclosure Protection Act. The Colorado Foreclosure Protection Act (Act) generally applies if (1) the Property is residential (2) Seller resides in the Property as Seller's principal residence (3) Buyer's purpose in purchase of the Property is not to use the Property as Buyer's personal residence and (4) the Property is in foreclosure or Buyer has notice that any loan secured by the Property is at least thirty days delinquent or in default. If all requirements 1, 2, 3 and 4 are met and the Act otherwise applies, then a contract, between Buyer and Seller for the sale of the Property, that complies with the provisions of the Act is required. If the transaction is a Short Sale transaction and a Short Sale Addendum is part of the Contract between Seller and Buyer, the Act does not apply. It is recommended that Seller consult with an attorney.

11. PRICE AND TERMS. The following Price and Terms are acceptable to Seller:

11.1 Price. U.S. \$ see Exhibit A

11.2. Terms. **Cash** **Conventional** **FHA** **VA** Other: n/a

11.3. Loan Discount Points. n/a

11.4. Buyer's Closing Costs (FHA/VA). Seller must pay closing costs and fees, not to exceed \$ n/a, that Buyer is not allowed by law to pay, for tax service and n/a.

11.5. Earnest Money. Minimum amount of earnest money deposit U.S. \$ 3-5% of purchase price in the form of check or wire transfer

11.6. Seller Proceeds. Seller will receive net proceeds of closing as indicated:

Cashier's Check at Seller's expense; **Funds Electronically Transferred (Wire Transfer)** to an account specified by Seller, at Seller's expense; or **Closing Company's Trust Account Check**

11.7. Advisory: Tax Withholding. The Internal Revenue Service and the Colorado Department of Revenue may require closing company to withhold a substantial portion of the proceeds of this Sale when Seller either (1) is a foreign person or (2) will not be a Colorado resident after closing. Seller should inquire of Seller's tax advisor to determine if withholding applies or if an exemption exists.

12. DEPOSITS. Brokerage Firm is authorized to accept earnest money deposits received by Broker pursuant to a proposed Sale contract. Brokerage Firm is authorized to deliver the earnest money deposit to the closing agent, if any, at or before the closing of the Sale contract.

13. INCLUSIONS AND EXCLUSIONS.

13.1. Inclusions. The Purchase Price includes the following items (Inclusions):

13.1.1. Fixtures. The following items are included if attached to the Property on the date of this Seller Listing Contract, unless excluded under Exclusions (§ 13.2): lighting, heating, plumbing, ventilating, and air conditioning fixtures, TV antennas, inside telephone, network and coaxial (cable) wiring and connecting blocks/jacks, plants, mirrors, floor coverings, intercom systems, built-in kitchen appliances, sprinkler systems and controls, built-in vacuum systems (including accessories), garage door openers including any/all remote controls.

Other Fixtures:

If any fixtures are attached to the Property after the date of this Seller Listing Contract, such additional fixtures are also included in the Purchase Price.

13.1.2. Personal Property. The following items are included if on the Property, whether attached

351 or not, on the date of this Seller Listing Contract, unless excluded under Exclusions (§ 13.2): storm windows,
 352 storm doors, window and porch shades, awnings, blinds, screens, window coverings, curtain rods, drapery
 353 rods, fireplace inserts, fireplace screens, fireplace grates, heating stoves, storage sheds, and all keys. If
 354 checked, the following are included: **Water Softeners** **Smoke/Fire Detectors** **Carbon Monoxide**
 355 **Alarms** **Security Systems** **Satellite Systems** (including satellite dishes); and
 356 n/a
 357
 358

359 The Personal Property to be conveyed at closing must be conveyed by Seller free and clear of all taxes
 360 (except personal property taxes for the year of closing), liens and encumbrances, except n/a.
 361 Conveyance will be by bill of sale or other applicable legal instrument.
 362

363 **13.1.3. Trade Fixtures.** The following trade fixtures are included: n/a

364 The Trade Fixtures to be conveyed at closing must be conveyed by Seller, free and clear of all taxes
 365 (except personal property taxes for the year of closing), liens and encumbrances, except n/a. Conveyance will
 366 be by bill of sale or other applicable legal instrument.
 367

368 **13.1.4. Parking and Storage Facilities.** **Use Only** **Ownership** of the following parking facilities:
 369 n/a;
 370 and **Use Only** **Ownership** of the following storage facilities:
 371 n/a.
 372

373 **13.1.5. Water Rights.** The following legally described water rights: n/a.
 374 Any water rights must be conveyed by n/a deed or other applicable legal
 375 instrument. The Well Permit # is n/a.
 376

377 **13.1.6. Growing Crops.** The following growing crops: n/a.

378 **13.2. Exclusions.** The following are excluded (Exclusions):
 379 n/a
 380

381 **14. TITLE AND ENCUMBRANCES.** Seller represents to Broker that title to the Property is solely in Seller's
 382 name. Seller must deliver to Broker true copies of all relevant title materials, leases, improvement location
 383 certificates and surveys in Seller's possession and must disclose to Broker all easements, liens and other
 384 encumbrances, if any, on the Property, of which Seller has knowledge. Seller authorizes the holder of any
 385 obligation secured by an encumbrance on the Property to disclose to Broker the amount owing on said
 386 encumbrance and the terms thereof. In case of Sale, Seller agrees to convey, by a Special Warranty deed,
 387 only that title Seller has in the Property. Property must be conveyed free and clear of all taxes, except the
 388 general taxes for the year of closing.
 389

390 All monetary encumbrances (such as mortgages, deeds of trust, liens, financing statements) must be
 391 paid by Seller and released except as Seller and buyer may otherwise agree. Existing monetary encumbrances
 392 are as follows: n/a.
 393

394 The Property is subject to the following leases and tenancies: none. .

395 If the Property has been or will be subject to any governmental liens for special improvements installed
 396 at the time of signing a Sale contract, Seller is responsible for payment of same, unless otherwise agreed.
 397

398 **15. EVIDENCE OF TITLE.** Seller agrees to furnish buyer, at Seller's expense, unless the parties agree in
 399 writing to a different arrangement, a current commitment and an owner's title insurance policy in an amount
 400 equal to the Purchase Price as specified in the Sale contract, or if this box is checked, **An Abstract of Title**
 401 certified to a current date.
 402

403 **16. ASSOCIATION ASSESSMENTS.** Seller represents that the amount of the regular owners' association
 404 assessment is currently payable at approximately \$ per and that there are no unpaid regular or special
 405 assessments against the Property except the current regular assessments and except . Seller agrees to
 406 promptly request the owners' association to deliver to buyer before date of closing a current statement of
 407 assessments against the Property.
 408

409 **17. POSSESSION.** Possession of the Property will be delivered to buyer as follows: Delivery of deed.,
 410 subject to leases and tenancies as described in § 14.
 411
 412
 413
 414
 415
 416
 417
 418
 419
 420

421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490

18. MATERIAL DEFECTS, DISCLOSURES AND INSPECTION.

18.1. Broker's Obligations. Colorado law requires a broker to disclose to any prospective buyer all adverse material facts actually known by such broker including but not limited to adverse material facts pertaining to the title to the Property and the physical condition of the Property, any material defects in the Property, and any environmental hazards affecting the Property which are required by law to be disclosed. These types of disclosures may include such matters as structural defects, soil conditions, violations of health, zoning or building laws, and nonconforming uses and zoning variances. Seller agrees that any buyer may have the Property and Inclusions inspected and authorizes Broker to disclose any facts actually known by Broker about the Property.

18.2. Seller's Obligations.

18.2.1. Seller's Property Disclosure Form. Disclosure of known material latent (not obvious) defects is required by law. Seller Agrees Does Not Agree to provide a Seller's Property Disclosure form completed to Seller's current, actual knowledge.

18.2.2. Lead-Based Paint. Unless exempt, if the improvements on the Property include one or more residential dwellings for which a building permit was issued prior to January 1, 1978, a completed Lead-Based Paint Disclosure (Sales) form must be signed by Seller and the real estate licensees, and given to any potential buyer in a timely manner.

18.2.3. Carbon Monoxide Alarms. Note: If the improvements on the Property have a fuel-fired heater or appliance, a fireplace, or an attached garage and one or more rooms lawfully used for sleeping purposes (Bedroom), Seller understands that Colorado law requires that Seller assure the Property has an operational carbon monoxide alarm installed within fifteen feet of the entrance to each Bedroom or in a location as required by the applicable building code, prior to offering the Property for sale or lease.

18.2.4. Condition of Property. The Property will be conveyed in the condition existing as of the date of the sales contract or lease, ordinary wear and tear excepted, unless Seller, at Seller's sole option, agrees in writing to any repairs or other work to be performed by Seller.

19. RIGHT OF PARTIES TO CANCEL.

19.1. Right of Seller to Cancel. In the event Broker defaults under this Seller Listing Contract, Seller has the right to cancel this Seller Listing Contract, including all rights of Brokerage Firm to any compensation if the Seller Agency box is checked. Examples of a Broker default include, but are not limited to (1) abandonment of Seller, (2) failure to fulfill all material obligations of Broker and (3) failure to fulfill all material Uniform Duties (§ 5) or, if the Seller Agency box at the top of page 1 is checked, the failure to fulfill all material Additional Duties Of Seller's Agent (§ 6). Any rights of Seller that accrued prior to cancellation will survive such cancellation.

19.2. Right of Broker to Cancel. Brokerage Firm may cancel this Seller Listing Contract upon written notice to Seller that title is not satisfactory to Brokerage Firm. Although Broker has no obligation to investigate or inspect the Property, and no duty to verify statements made, Brokerage Firm has the right to cancel this Seller Listing Contract if any of the following are unsatisfactory (1) the physical condition of the Property or Inclusions, (2) any proposed or existing transportation project, road, street or highway, (3) any other activity, odor or noise (whether on or off the Property) and its effect or expected effect on the Property or its occupants, or (4) any facts or suspicions regarding circumstances that could psychologically impact or stigmatize the Property. Additionally, Brokerage Firm has the right to cancel this Seller Listing Contract if Seller or occupant of the Property fails to reasonably cooperate with Broker or Seller defaults under this Seller Listing Contract. Any rights of Brokerage Firm that accrued prior to cancellation will survive such cancellation.

20. FORFEITURE OF PAYMENTS. In the event of a forfeiture of payments made by a buyer, the sums received will be: (1) 100% will be paid to Seller; (2) divided between Brokerage Firm and Seller, one-half to Brokerage Firm but not to exceed the Brokerage Firm compensation agreed upon herein, and the balance to Seller; (3) Other: . If no box is checked in this Section, choice (1), 100 % paid to Seller, applies. Any forfeiture of payment under this section will not reduce any Brokerage Firm compensation owed, earned and payable under § 7.

491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560

21. COST OF SERVICES AND REIMBURSEMENT. Unless otherwise agreed upon in writing, Brokerage Firm must bear all expenses incurred by Brokerage Firm, if any, to market the Property and to compensate cooperating brokerage firms, if any. Neither Broker nor Brokerage Firm will obtain or order any other products or services unless Seller agrees in writing to pay for them promptly when due (examples: surveys, radon tests, soil tests, title reports, engineering studies, property inspections). Unless otherwise agreed, neither Broker nor Brokerage Firm is obligated to advance funds for Seller. Seller must reimburse Brokerage Firm for payments made by Brokerage Firm for such products or services authorized by Seller.

22. DISCLOSURE OF SETTLEMENT COSTS. Seller acknowledges that costs, quality, and extent of service vary between different settlement service providers (e.g., attorneys, lenders, inspectors and title companies).

23. MAINTENANCE OF THE PROPERTY. Neither Broker nor Brokerage Firm is responsible for maintenance of the Property nor are they liable for damage of any kind occurring to the Property, unless such damage is caused by their negligence or intentional misconduct.

24. NONDISCRIMINATION. The parties agree not to discriminate unlawfully against any prospective buyer because of the race, creed, color, sex, sexual orientation, marital status, familial status, physical or mental disability, handicap, religion, national origin or ancestry of such person.

25. RECOMMENDATION OF LEGAL AND TAX COUNSEL. By signing this document, Seller acknowledges that Broker has advised that this document has important legal consequences and has recommended consultation with legal and tax or other counsel before signing this Seller Listing Contract.

26. MEDIATION. If a dispute arises relating to this Seller Listing Contract, prior to or after closing, and is not resolved, the parties must first proceed in good faith to submit the matter to mediation. Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot impose binding decisions. The parties to the dispute must agree, in writing, before any settlement is binding. The parties will jointly appoint an acceptable mediator and will share equally in the cost of such mediation. The mediation, unless otherwise agreed, will terminate in the event the entire dispute is not resolved within 30 calendar days of the date written notice requesting mediation is delivered by one party to the other at the other party's last known address.

27. ATTORNEY FEES. In the event of any arbitration or litigation relating to this Seller Listing Contract, the arbitrator or court must award to the prevailing party all reasonable costs and expenses, including attorney and legal fees.

28. ADDITIONAL PROVISIONS. (The following additional provisions have not been approved by the Colorado Real Estate Commission.)

Listing prices are listed on Exhibit A. In the event list price is TBD Seller and Listing Agent shall agree to a List Price in writing prior to listing property in the MLS.

29. ATTACHMENTS. The following are a part of this Seller Listing Contract:
n/a

30. NO OTHER PARTY OR INTENDED BENEFICIARIES. Nothing in this Seller Listing Contract is deemed to inure to the benefit of any person other than Seller, Broker and Brokerage Firm.

31. NOTICE, DELIVERY AND CHOICE OF LAW.

31.1. Physical Delivery. All notices must be in writing, except as provided in § 31.2. Any document, including a signed document or notice, delivered to the other party to this Seller Listing Contract, is effective upon physical receipt. Delivery to Seller is effective when physically received by Seller, any signator on behalf of Seller, any named individual of Seller or representative of Seller.

31.2. Electronic Delivery. As an alternative to physical delivery, any document, including a signed

561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612

document or written notice, may be delivered in electronic form only by the following indicated methods:
 Facsimile **E-mail** **Internet**. If no box is checked, this § 31.2 is not applicable and § 31.1 governs notice and delivery. Documents with original signatures will be provided upon request of any party.

31.3. Choice of Law. This Seller Listing Contract and all disputes arising hereunder are governed by and construed in accordance with the laws of the State of Colorado that would be applicable to Colorado residents who sign a contract in this state for property located in Colorado.

32. MODIFICATION OF THIS LISTING CONTRACT. No subsequent modification of any of the terms of this Seller Listing Contract is valid, binding upon the parties, or enforceable unless made in writing and signed by the parties.

33. COUNTERPARTS. This Seller Listing Contract may be executed by each of the parties, separately, and when so executed by all the parties, such copies taken together are deemed to be a full and complete contract between the parties.

34. ENTIRE AGREEMENT. This agreement constitutes the entire contract between the parties, and any prior agreements, whether oral or written, have been merged and integrated into this Seller Listing Contract.

35. COPY OF CONTRACT. Seller acknowledges receipt of a copy of this Seller Listing Contract signed by Broker, including all attachments.

Brokerage Firm authorizes Broker to execute this Seller Listing Contract on behalf of Brokerage Firm.

Frederick Chin, CEO

Date: 4/26/2018

Seller: **Woodbridge Group of Companies, LLC**
By: Frederick Chin, CEO

Address:
Phone: Fax:
Electronic Address:

Laura J. Gee

Date: 4/13/2018

Broker: **Laura Gee**
Brokerage Firm's Name: **Aspen Snowmass Sotheby's**
Address: **201 Midland Avenue Basalt, CO 81621**
Ph: **970-948-8568** Fax: Electronic Address: **Laura.Gee@SothebysRealty.com;**
raleigh.vos@sothebysrealty.com

EXHIBIT C

TITLE REPORT

Commonwealth Title Company of Garfield County, Inc.

**127 E. 5th Street
Rifle, CO 81650
Phone (970) 625-3300 / Fax (970) 625-3305**

**1322 Grand Avenue
Glenwood Springs, CO 81601
Phone (970) 945-4444 / Fax (970) 945-4449**

Date: September 19, 2018

File No. 1809041 ANTIC

Property Address. 1165 Heritage Drive, Carbondale

[Tax Information](#)

Listing Agent

Aspen Snowmass Sotheby's International Realty
415 East Hyman Avenue
Aspen, CO 81611
Attn: Laura Gee
Email: laura.gee@sothebysrealty.com;
raleigh.vos@sothebysrealty.com; laura.gee@sir.com

Selling Agent

Integrated Mountain Properties:
1001 Grand Avenue
GLENWOOD SPRINGS, CO 81601
Attn: Carly Passchier
Email: carly.passchier@integratedmtn.com

Buyer

Jesse James Development LLC
Email:

Seller

Merrimack Valley Investments, LLC
Development Specialists Inc.
14140 Ventura Blvd., Suite 302
Sherman Oaks, CA 91423
Attn: Matt Sorenson
Email: msorenson@dsi.biz

Attorney

Balcomb & Green
PO Drawer 790
Glenwood Springs, CO 81601
Attn: Chad Lee - Britt Choate
Email: clee@balcombgreen.com; brittc@balcombgreen.com

Closing Contacts

Glenwood Springs office - 970-945-4444

Linda Gabossi - linda@cwtrifle.com
Connie Rose Robertson - connie@cwtrifle.com

Rifle office - 970-625-3300

Denna Conwell - denna@cwtrifle.com
Patti Reich - patti@cwtrifle.com

**COMMITMENT FOR TITLE INSURANCE
SCHEDULE A**

File No. 1809041 ANTIC

1. Effective Date: **September 13, 2018 at 7:59 AM**

2. Policy or Policies to be issued:

(a) ALTA OWNER POLICY (ALTA 6-17-06)

\$100,000.00

Proposed Insured:

Jesse James Development LLC

(b) ALTA LOAN POLICY (ALTA 6-17-06)

Proposed Insured:

3. The Estate or interest in the land described or referred to in the Commitment and covered herein is Fee Simple and is at the effective date hereof vested in:

Merrimack Valley Investments, LLC

4. The land referred to in this Commitment is situated in the County of Garfield, State of Colorado and described as follows:

**Lot 26
Block HH
River Valley Ranch, Phase 5A
Town of Carbondale
According to the plat thereof recorded September 15, 1999 as Reception No. 552190**

TITLE CHARGES

Owner's Policy Standard Coverage	\$350.00	Developers
Owner's Extended Coverage		50.00
Tax Certificate		15.00

COUNTERSIGNED: _____ *Patrick P. Burwell* _____
Authorized Officer or Agent

Valid Only if Schedule B and Cover Are Attached

File No. 1809041 ANTIC

SCHEDULE B - SECTION 1

The Following are the requirements to be complied with prior to the issuance of said policy or policies. Any other instrument recorded subsequent to the date hereof may appear as an exception under Schedule B of the policy to be issued. Unless otherwise noted, all documents must be recorded to the office of the Clerk and Recorder of the County in which said property is located.

1. Special Warranty Deed from Merrimack Valley Investments, LLC, or the appropriate Bankruptcy Court approved officer vesting fee simple title in vesting fee simple title in Jesse James Development LLC.

Subject to approval of the proposed transaction by the United States Bankruptcy Court in Case No.17-12816KJC.

2. Recordation of an Order Authorizing the Bankruptcy Trustee or the appropriate Bankruptcy Court approved officer to Sell the Parcel to be insured hereunder issued by the United States Bankruptcy Court in Case No.17-12816KJC.
3. Approval by the Bankruptcy Court for the sale of this property and entry of a non-appealable order.
4. Collect Reserve Fund Contribution of \$100.00, Initial Master Association Account setup fee \$150.00 and a Master Association Statement prep fee \$150.00.
5. Recordation of a Statement of Authority for Merrimack Valley Investments, LLC , evidencing the existence of the entity and authority of the person authorized to execute instruments conveying, encumbering or otherwise affecting title to real property on behalf of the entity, and containing the other information required by CRS 38-30-172, evidencing the existence of said entity prior to its acquisition of title to the land herein.
6. Recordation of a Statement of Authority for Jesse James Development LLC, evidencing the existence of the entity and authority of the person authorized to execute instruments conveying, encumbering or otherwise affecting title to real property on behalf of the entity, and containing the other information required by CRS 38-30-172, evidencing the existence of said entity prior to its acquisition of title to the land herein.
7. Execution of a Final Affidavit and Agreement indemnifying the Company against unfiled mechanic's and materialmen's liens.

DISCLOSURES

Colorado Division of Insurance Regulation 8-1-2, Section 5, Paragraph F provides: "Whenever a title entity provides the closing and settlement service that is in conjunction with the issuance of an owner's policy of title insurance, it shall update the title commitment from the date of issuance to be as reasonably close to the time of closing as permitted by the real estate records. Such update shall include all impairments of record at the time of closing or as close thereto as permitted by the real estate records. The title insurance company shall be responsible to the proposed insured(s) subject to the terms and conditions of the title commitment, other than the effective date of the title commitment, for all undisclosed matters that appear of record prior to the time of closing." Provided Commonwealth Title Insurance Company of Garfield County, Inc. conducts the closing of the insured transaction and is responsible for recording the legal documents from the transaction, exception number 5 will not appear on the Owner's Title Policy and the Lenders Policy when issued. This Notice is required by Colorado Division of Insurance Regulation 8-1-2, Section 5, Paragraph G.

Pursuant to Colorado Division of Insurance Regulation 8-1-2, notice is hereby given that affirmative mechanic's lien protection for the prospective insured owner may be available upon compliance with the following conditions:

A. The land described in Schedule A of this Commitment must be a single family residence, which includes a condominium or townhouse unit. B. No labor or materials may have been furnished by mechanics or materialmen for purposes of construction on the land described in Schedule A of this Commitment within the past 6 months. C. The Company must receive appropriate affidavits indemnifying the Company against all unfiled mechanic's and materialmen's liens. D. Any deviation from conditions A through C above is subject to such additional requirements or information as the Company may deem necessary; or, at its option, the Company may refuse to delete the exception. No coverage will be given under any circumstances for labor or material for which the insured has contracted for or agreed to pay. Colorado Division of Insurance Regulation 8-1-2, Section 5, Paragraph M.

Pursuant to Colorado Division of Insurance Regulation 8-1-3, notice is hereby given of the availability of a Closing Protection Letter which may, upon request, be provided to certain parties to the transaction.

Pursuant to C.R.S. §10-11-122, notice is hereby given that:

A) The subject real property may be located in a special taxing district; B) A Certificate of Taxes Due listing each taxing jurisdiction may be obtained from the County Treasurer's authorized agent; C) The information regarding special districts and the boundaries of such districts may be obtained from the Board of County Commissioners, the County Clerk and Recorder, or the County Assessor; and D) The company will not issue its policy of policies of title insurance contemplated by the commitment until it has been provided a Certificate of Taxes due from the County Treasurer or the County Treasurer's authorized agent; or until the Proposed Insured has notified or instructed the company in writing to the contrary

C.R.S. §30-10-406 requires that all documents received for recording or filing in the clerk and recorder's office shall contain a top margin of at least one inch and a left, right, and bottom margin of at least one half of an inch. The clerk and recorder may refuse to record or file any document that does not conform.

Pursuant to C.R.S. §10-11-123, notice is hereby given:

This notice applies to owner's policy commitments containing a mineral severance instrument exception, or exceptions, in Schedule B, Section 2.

A) That there is recorded evidence that a mineral estate has been severed, leased, or otherwise conveyed from the surface estate and that there is a substantial likelihood that a third party holds some or all interest in oil, gas, other minerals, or geothermal energy in the property; and B) That such mineral estate may include the right to enter and use the property without the surface owner's permission.

If the transaction includes a sale of the property and the price exceeds \$100,000.00, the seller must comply with the disclosure/withholding provisions of C.R.S. §39-22-604.5 (Nonresident withholding).

Pursuant to C.R.S. §38-35-125(2), no person or entity that provides closing and settlement services for a real estate transaction shall disburse funds as a part of such services until those funds have been received and are available for immediate withdrawal as a matter of right. Colorado Division of Insurance Regulation 8-1-2, Section 5, Paragraph J. **"Good Funds Law"**

C.R.S. §39-14-102 requires that a real property transfer declaration accompany any conveyance document presented for recordation in the State of Colorado. Said declaration shall be completed and signed by either the grantor or grantee and Section 38-35-109 (2) of the Colorado Revised Statutes, 1973, requires that a notation of the purchasers legal address, (not necessarily the same as the property address) be included on the face of the deed to be recorded.

File No. 1809041 ANTIC

SCHEDULE B - SECTION 2

Schedule B of the Policy or Policies to be issued will contain exceptions to the following matters unless the same are disposed of to the satisfaction of the company:

1. Rights or claims of parties in possession not shown by the Public records.
Note: This exception will be deleted on the final policy upon compliance with the requirements herein.
2. Easements, or claims of easements, not shown by the public records.
Note: This exception will be deleted on the final policy upon compliance with the requirements herein.
3. Discrepancies, conflicts in boundary lines, shortage in area, encroachments, and any facts, which a correct survey and inspection of the premises would disclose, and which are not shown by the public records.
Note: This exception will be deleted on the final policy upon compliance with the requirements herein.
4. Any lien, or right to a lien, for services, labor or material heretofore or hereafter furnished, imposed by law and not shown by the public records.
Note: Exception No. 4 will be deleted upon receipt of Final Affidavits and Agreements indemnifying the Company against unfilled mechanic's and materialmen's liens.
5. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the public records or attaching subsequent to the effective date hereof but prior to the date the proposed insured acquires of record for value the estate or interest or mortgage thereon covered by this commitment.
Note: Exception 5 will be deleted on the final policy if Commonwealth Title Company of Garfield County, Inc. closes the proposed transaction and records the applicable instruments of conveyance.
6. Any and all unpaid taxes, assessments and unredeemed tax sales.
Note: Exception 6 will read: "General taxes and assessments for the year 2017 and thereafter, not yet due and payable." on the final policy if Commonwealth Title Company of Garfield County, Inc. closes the proposed transaction.
7. Any lien or charge on account of the inclusion of subject property in an improvement district.
8. Any and all water rights, claims, or title to water, whether or not the matters excepted are shown by the public record.
9. Right of the proprietor of a vein or lode to extract and remove his ore therefrom, should the same be found to penetrate or intersect the premises hereby granted and a right of way for ditches or canals as constructed by the authority of the United States, as reserved in United States Patent recorded October 15, 1910 in [Book 73 at Page 34](#).
10. Terms and conditions of Town of Carbondale Ordinance No. 21 recorded December 8, 1982 in [Book 614 at Page 356](#).
11. Terms and conditions of Town of Carbondale Ordinance No. 21 recorded December 8, 1982 in [Book 614 at Page 357](#).
12. Agreement relating to the annexation of the Gray Ranch recorded January 16, 1995 in [Book 928 at Page 865](#). Amendment recorded January 16, 1995 in [Book 928 at Page 897](#).
13. Terms and conditions of Town of Carbondale Ordinance No. 20 Series of 1994 recorded January 16, 1995 in [Book 928 at Page 911](#).
14. Terms and conditions of Subdivision Improvements Agreement recorded September 27, 1996 in [Book 993 at Page 851](#). Amended in instrument recorded September 15, 1999 in [Book 1150 at Page 710](#). Amended in instrument recorded November 26, 2001 in [Book 1305 at page 776](#).
15. Amended and restated master declaration of protective covenants for River Valley Ranch recorded March 25, 1998 in [Book 1059 at Page 623](#). Amended in instrument recorded May 28, 1998 in [Book 1069 at Page 823](#). Amended in instrument recorded January 18, 1999 in [Book 1109 at Page 450](#). Amended in instrument recorded May 13, 1999 in [Book 1129 at Page 702](#). Amended in instrument recorded September 23, 1999 in [Book 1151 at Page 789](#). Amended in instrument recorded July 26, 2001 in [Book 1272 in Book 345](#). Amended in instrument recorded February 28, 2000 in [Book 1174 at Page 737](#). Amended in instrument recorded August 1, 2001 in [Book 1274 at Page 135](#). Amended in instrument recorded October 5, 2001 in [Book 1292 at Page 573](#). Amended in instrument recorded July 16, 2002 in [Book 1369 at Page 770](#).

(Continued)

File No. 1809041 ANTIC

SCHEDULE B - SECTION 2
(Continued)

16. Terms and conditions of Declaration of Golf Course Play and Operational Easement recorded September 27, 1996 in [Book 994 at Page 13.](#)
17. Terms and conditions of Town of Carbondale Ordinance No. 20 Series of 1999 recorded February 23, 2000 in [Book 1174 at Page 704.](#)
18. Easements, rights of way, restrictions and all other matters disclosed on the plat of River Valley Ranch, Phase 5A recorded September 15, 1999 as [Reception No. 552190.](#)
19. Terms and conditions of amendment to Golf Course Easement Area recorded June 17, 2016 as [Reception No. 878521](#) and Memorandum of Agreement recorded June 30, 2016 as [Reception No. 879110.](#)
20. Any loss, claim or damage due to the location of fences. (NOTE: This exception will appear on the Owner's Policy only)

NOTE: EXCEPTION(S) 1,2,3 and 4 WILL NOT APPEAR IN THE OWNER'S POLICY TO BE ISSUED HEREUNDER.

The Owner's Policy of Title Insurance committed for in this Commitment, if any, shall contain, in addition to the Items set forth in Schedule B - Section 2, the following items:

- (1) The Deed of Trust, if any, required under Schedule B - Section 1.
- (2) Unpatented mining claims; reservations or exceptions in patents or in Acts authorizing the issuance thereof.
- (3) any and all unpaid taxes, assessments and unredeemed tax sales.

NOTE: The policy (s) of insurance may contain a clause permitting arbitration of claims at the request of either the Insured or the Company. Upon request, the Company will provide a copy of this clause and the accompanying arbitration rules prior to the closing of the transaction.

COMMONWEALTH TITLE COMPANY PRIVACY POLICY

We Are Committed to Safeguarding Customer Information

In order to better serve your needs now and in the future, we may ask you to provide us with certain information. We understand that you may be concerned about what we will do with such information - particularly any personal or financial information. We agree that you have a right to know how we will utilize the personal information you provide to us. Therefore, we have adopted this Privacy Policy to govern the use and handling of your personal information.

Applicability

This Privacy Policy governs our use of the information which you provide to us. It does not govern the manner in which we may use information we have obtained from any other source, such as information obtained from a public record or from another person or entity.

Types of Information

Depending upon which of our services you are utilizing, the types of nonpublic personal information that we may collect include:

- Information we receive from you on applications, forms and in other communications to us, whether in writing, in person, by telephone or any other means.
- Information about your transactions with us, our affiliated companies, or others; and
- Information we receive from a consumer reporting agency.

Use of Information

We request information from you for our own legitimate business purposes and not for the benefit of any nonaffiliated party. Therefore, we will not release your information to nonaffiliated parties except: (1) as necessary for us to provide the product or service you have requested of us; or (2) as permitted by law. We may, however, store such information indefinitely, including the period after which any customer relationship has ceased. Such information may be used for any internal purpose, such as quality control efforts or customer analysis. We may also provide all of the types of nonpublic personal information listed above to one or more of our affiliated companies. Such affiliated companies include financial service providers, such as title insurers, property and casualty insurers, and trust and investment advisory companies, or companies involved in real estate services, such as appraisal companies, home warranty companies, and escrow companies. Furthermore, we may also provide all the information we collect, as described above to companies that perform marketing services on our behalf, on behalf of our affiliated companies, or to other financial institutions with whom we or our affiliated companies have joint marketing agreements.

Former Customers

Even if you are no longer our customer, our Privacy Policy will continue to apply to you.

Confidentiality and Security

We will use our best efforts to ensure that no unauthorized parties have access to any of your information. We restrict access to nonpublic personal information about you to those individuals and entities who need to know that information to provide products or services to you. We will use our best efforts to train and oversee our employees and agents to ensure that your information will be handled responsibly and in accordance with this Privacy Policy. We currently maintain physical, electronic and procedural safeguards that comply with federal regulations to guard your nonpublic personal information.