

<p>DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202</p>	<p>DATE FILED: April 23, 2019 2:57 PM FILING ID: 943BBA094E700 CASE NUMBER: 2018CV33011</p>
<p>Plaintiff: Chris Myklebust, Securities Commissioner for the State of Colorado</p> <p>v.</p> <p>Defendants: Gary Dragul, GDA Real Estate Services, LLC, and GDA Real Estate Management, LLC</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Attorneys for Receiver: Patrick D. Vellone, #15284 Michael T. Gilbert, #15009 Rachel A. Sternlieb, #51404 ALLEN VELLONE WOLF HELFRICH & FACTOR P.C. 1600 Stout St., Suite 1100 Denver, Colorado 80202 Phone Number: (303) 534-4499 E-mail: pvellone@allen-vellone.com E-mail: mgilbert@allen-vellone.com E-mail: rsternlieb@allen-vellone.com</p>	<p>Case Number: 2018CV33011</p> <p>Division/Courtroom: 424</p>
<p style="text-align: center;">RECEIVER’S MOTION FOR ORDER AUTHORIZING SALE OF VILLAGE INN PAD</p>	

Harvey Sender, the duly-appointed receiver (“Receiver”) for Gary Dragul (“Dragul”), GDA Real Estate Services, LLC, GDA Real Estate Management, LLC, and related entities (collectively, “Dragul and the GDA Entities”), asks the Court to enter an order approving the sale of real property known as the Village Inn Pad located at

5290 East Arapahoe Road, Centennial, Colorado (the “Property”), to Chad Hurst and/or assigns (“Buyer”) for \$200,000 pursuant to the Contract and Addendum submitted as **Exhibit 1** with this motion (the “Contract”).

I. The Receivership Order authorizes the Receiver to sell the Property.

1. On August 15, 2018, Gerald Rome, Securities Commissioner for the State of Colorado (the “Commissioner”), filed his Complaint for Injunctive and Other Relief against Dragul and the GDA Entities.

2. On August 29, 2018, the Commissioner, Dragul and the GDA Entities filed a Stipulated Motion for Appointment of Receiver, consenting to the appointment of a receiver over Dragul and the GDA Entities pursuant to COLO. REV. STAT. § 11-51-602(1), C.R.C.P. 66.

3. On August 30, 2018, the Court entered a Stipulated Order Appointing Receiver (the “Receivership Order”), appointing Harvey Sender of Sender & Smiley, LLC as receiver for Dragul and the GDA Entities, their respective properties and assets, and interests and management rights in related affiliated and subsidiary businesses (the “Receivership Estate” or the “Estate”). Receivership Order at 2, ¶ 5.

4. The Receivership Order grants the Receiver the authority to sell or otherwise dispose of Estate property and obtain Court approval for any sale for greater than \$10,000 (Receivership Order at 12, ¶ 13(t)).

5. Pursuant to paragraph 10 of the Receivership Order, absent a timely objection, Court approval of any motion filed by the Receiver shall be given as a

matter of course within 10 days after the motion is filed and served. As reflected by the certificate of service below, this Motion is being served on all parties who have appeared in this case and on interested parties as authorized by this Court's February 1, 2019, Order Granting the Receiver's Motion to, among other things, Clarify Ongoing Notice Procedure. Upon acceptance, this Motion will also be posted on the Receiver's website, <http://dragulreceivership.com>.

II. Village Inn Pad: ownership, management, and debt.

6. The Village Inn Pad is a single 5,000 sq. ft. structure located at 5290 East Arapahoe Road, Centennial, Colorado. Prior to the Receiver's appointment, the Property was leased and operated as a restaurant.

7. The Property was purchased for \$500,000 on August 22, 2017, by AV Pad 17, LLC, a single purpose entity that owns the Property in fee simple. AV Pad 17, LLC is 100% owned by Dragul, and managed by GDA Real Estate Management, Inc., whose president and sole owner is also Dragul. The Property was purchased with cash. Two days later, on August 24, 2017, AV Pad 17, LLC executed a promissory note payable to Greeley Asset Funding, LLC for \$425,000 and granted Greeley a deed of trust on the Property to secure that note.

8. The Property is now encumbered by a Deed of Trust recorded on October 23, 2017 in favor of WBF/CT Associates, LLC securing a \$1,000,000 loan made to Dragul personally (the "WBF/CT Loan"). Buyer is one of the principals of WBF/CT. Under an October 4, 2017 Loan Agreement, WBF agreed to immediately

advance \$700,000, and to advance an additional \$300,000, which it did on March 28, 2018. The initial \$700,000 advance was made to AV Pad 17, LLC, and used in part to pay off the Greeley Note. The March 28, 2018, advance was also made to AV Pad 17, LLC. Upon information and belief, the WBF/CT Loan matured before the Receiver was appointed on August 30, 2018.¹ The Property has remained vacant since the Receiver was appointed and has not therefore generated any income for the Estate.

III. Sale of the Property is in the best interests of the Estate and its creditors.

9. There exists little Colorado authority with respect to factors the Court should consider regarding whether to approve a Receiver's proposed sale. In analogous bankruptcy contexts, approval of a sale of property pursuant to Section 363 of the Bankruptcy Code is warranted where there exists a "sound business reason." *Committee of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1071 (2d Cir. 1983). "In evaluating whether a sound business purpose justifies the use, sale or lease of property under Section 363(b), courts consider a variety of factors, which essentially represent a 'business judgment test.'" *Dai-Ichi Kangyo Bank, Ltd. v. Montgomery Ward Holding Corp. (In re Montgomery Ward Holding Corp.)*, 242 B.R. 147, 153 (D. Del. 1999).

¹ Under the terms of the loan agreement, the "maturity date" is "five months after Borrower receives the initial \$700,000, which occurred in October 2017.

10. Factors bearing on whether a sound business reason or purpose supports a proposed sale of estate property include (where applicable): (1) the proportionate value of the asset to the estate as a whole; (2) the amount of elapsed time since the filing; (3) the likelihood that a plan of reorganization will be proposed and confirmed in the near future; (4) the effect of the proposed disposition on the future plans of reorganization; (5) the proceeds to be obtained from the disposition vis-à-vis any appraisals of the property; (6) which of the alternatives of use, sale or lease the proposal envisions; and (7) most importantly perhaps, whether the asset is increasing or decreasing in value. *In re Medical Software Solutions*, 286 B.R. 431, 441 (Bankr. D. Utah 2002) (quoting *Lionel*, 722 F.2d at 1071) (emphasis omitted). Bankruptcy courts are granted considerable discretion in evaluating proposed sales. *Montgomery Ward*, 242 B.R. at 153; see *Moldo v. Clark (In re Clark)*, 266 B.R. 163, 168 (B.A.P. 9th Cir. 2001) (recognizing that “[r]ulings on motions to sell property of the estate other than in the ordinary course of business pursuant to section 363 are reviewed for abuse of discretion”).

11. In the Receiver’s judgment the proposed sale of the Property is in the best interest of the Estate and its creditors. The Receiver has hired the nationally-recognized firm of Marcus & Millichap to market the Property. Marcus & Millichap located two previous potential purchasers of the Property. On February 26, 2019, the Court entered an order approving the sale of the Property to Sidford Capital Partners, LLC for \$1.2 million. The Sidford closing was scheduled to occur on March 22nd. On

March 15th, Sidford terminated the contract. Shortly thereafter, another party submitted an LOI to purchase the Property, again for \$1.2 million. The Receiver did not accept that LOI due to its extended due diligence period and other terms which led the Receiver to believe the sale was not likely to close.

12. Pursuant to the Contract with Buyer, the Estate will receive \$200,000 net at closing (exclusive of all costs, fees, prorations, *etc.* associated with the transaction) and Buyer will release the Estate from any liability on the WBF/CT Loan, the balance of which is now approximately \$1.15 million. The Contract has no due diligence period or contingencies, and other than a broker's commission of \$48,000 the Estate will pay from the sale proceeds, Buyer has agreed to pay all other costs and/or assume all liabilities associated with the Property, including unpaid taxes and any other unknown liabilities. The Receiver believes the proposed sale will net the best possible result for the Estate.

13. Under the Contract, Dragul and any of his current or former employees are precluded from: (a) having any ownership interest in the Property, or in any entity that has an ownership interest in the Property, or in any entity that is a property manager for Buyer; (b) working with Buyer in any capacity or for any reason with respect to the Property; or (c) receiving any compensation or remuneration of any kind whatsoever from Buyer or any successor relating to or arising from the Property.

WHEREFORE, the Receiver asks the Court to grant this Motion and approve the proposed sale of the Property in accordance with the terms of the Contract.

Dated: April 23, 2019.

ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

By: */s/ Michael T. Gilbert*

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ATTORNEYS FOR THE RECEIVER

CERTIFICATE OF SERVICE

I certify that on April 23, 2019, I served a true and correct copy of the foregoing **RECEIVER'S MOTION FOR ORDER AUTHORIZING SALE OF VILLAGE INN PAD** via CCE to the following:

Robert W. Finke
Sueanna P. Johnson
Matthew J. Bouillon Mascareñas
Ralph L. Carr Judicial Building
1300 Broadway, 8th Floor
Denver, Colorado 80203

***Counsel for Chris Myklebust,
Securities Commissioner***

Duncan Barber
Shapiro Bieging Barber Otteson LLP
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Denver, CO 80237
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***Counsel for WBF CT
Associates, LLC and Chad Hurst***

Jeffery A. Springer, Esq.
Springer and Steinberg P.C.
1600 Broadway, Suite 1200
Denver, Colorado 80202

***Counsel for Defendants, Gary
Dragul, GDA Real Estate Services,
LLC and GDA Real Estate
Management, LLC***

CERTIFICATION OF E-SERVICE ON KNOWN CREDITORS

In accordance with this Court's February 1, 2019, Order clarifying notice procedures for this case, I also certify that a copy of the foregoing is being served by electronic mail on all currently known creditors of the Receivership Estate to the addresses set forth on the service list maintained in the Receiver's records.

By: /s/ Victoria Ray _____

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

(COMMERCIAL) DATE FILED: April 23, 2019 2:57 PM

(Property with No Residences) FILING ID: 943BBA094E700

(Property with Residences-Residential Addendum Attached) CASE NUMBER: 2018CY33011

Date: 4/16/2019

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, *Chad Hurst, or assigns*, (Buyer) will take title to the Property described below as

Joint Tenants Tenants In Common Other *severalty*.

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

2.3. **Seller.** *Harvey Sender, in his capacity as RECEIVER of the Gary Dragul Receivership Estate* (Seller) 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 *Arapahoe*, Colorado:

N 125 Ft Of E 125 Ft Of Lot 2 The Willows 1st Flg
known as No. *5290 E Arapahoe, Centennial, CO 80122*,

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 - Attached.** If attached to the Property on the date of this Contract, the following items are included unless excluded under **Exclusions**: lighting, heating, plumbing, ventilating and air conditioning units, 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) and garage door openers (including remote controls). If checked, the following are owned by the Seller and included (leased items should be listed under **Due Diligence Documents**): None Solar Panels Water Softeners Security Systems Satellite Systems (including satellite dishes). 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. **Inclusions - Not Attached.** If on the Property, whether attached or not, on the date of this Contract, the following items are included unless excluded under **Exclusions**: storm windows, storm doors, window and porch shades, awnings, blinds, screens, window coverings and treatments, curtain rods, drapery rods, fireplace inserts, fireplace screens, fireplace grates, heating stoves, storage sheds, carbon monoxide alarms, smoke/fire detectors and all keys.

2.5.3. **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.

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71 **2.5.4. Other Inclusions.** The following items, whether fixtures or personal property, are also
72 included in the Purchase Price:
73

74 **2.5.5. Parking and Storage Facilities.** The use or ownership of the following parking facilities:
75 ; and the use or ownership of the following storage facilities:
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78 Note to Buyer: If exact rights to the parking and storage facilities is a concern to Buyer, Buyer should
79 investigate.
80

81 **2.5.6. Trade Fixtures.** With respect to trade fixtures, Seller and Buyer agree as follows: .
82 The trade fixtures to be conveyed at Closing will be conveyed by Seller free and clear of all taxes
83 (except personal property taxes for the year of Closing), liens and encumbrances, except . Conveyance will be
84 by bill of sale or other applicable legal instrument.
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86 **2.6. Exclusions.** The following items are excluded (Exclusions):
87

88 **2.7. Water Rights/Well Rights.**
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90 **2.7.1. Deeded Water Rights.** The following legally described water rights:
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92 Any deeded water rights will be conveyed by a good and sufficient deed at Closing.
93

94 **2.7.2. Other Rights Relating to Water.** The following rights relating to water not included in
95 §§ 2.7.1, 2.7.3, and 2.7.4, will be transferred to Buyer at Closing:
96

97 **2.7.3. Well Rights.** Seller agrees to supply required information to Buyer about the well.
98 Buyer understands that if the well to be transferred is a "Small Capacity Well" or a "Domestic Exempt Water
99 Well" used for ordinary household purposes, Buyer must, prior to or at Closing, complete a Change in
100 Ownership form for the well. If an existing well has not been registered with the Colorado Division of Water
101 Resources in the Department of Natural Resources (Division), Buyer must complete a registration of existing
102 well form for the well and pay the cost of registration. If no person will be providing a closing service in
103 connection with the transaction, Buyer must file the form with the Division within sixty days after Closing. The
104 Well Permit # is .
105

106 **2.7.4. Water Stock Certificates.** The water stock certificates to be transferred at Closing are
107 as follows:
108

109 **2.7.5. Conveyance.** If Buyer is to receive any rights to water pursuant to § 2.7.2 (Other
110 Rights Relating to Water), § 2.7.3 (Well Rights), or § 2.7.4 (Water Stock Certificates), Seller agrees to convey
111 such rights to Buyer by executing the applicable legal instrument at Closing.
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115 **3. DATES, DEADLINES AND APPLICABILITY.**
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117 **3.1 Dates and Deadlines.**
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Item No.	Reference	Event	Date or Deadline
1	§ 4.3	Alternative Earnest Money Deadline	<i>3 business days after MEC</i>
		Title	
2	§ 8.1, § 8.4	Record Title Deadline	<i>7 days after MEC</i>
3	§ 8.2, § 8.4	Record Title Objection Deadline	
4	§ 8.3	Off-Record Title Deadline	<i>7 days after MEC</i>
5	§ 8.3	Off-Record Title Objection Deadline	
6	§ 8.5	Title Resolution Deadline	
7	§ 8.6	Right of First Refusal Deadline	
		Owners' Association	
8	§ 7.2	Association Documents Deadline	
9	§ 7.4	Association Documents Termination Deadline	
		Seller's Disclosures	
10	§ 10.1	Seller's Property Disclosure Deadline	

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11	§ 10.10	Lead-Based Paint Disclosure Deadline		
Loan and Credit				
12	§ 5.1	New Loan Application Deadline		
13	§ 5.2	New Loan Termination Deadline		
14	§ 5.3	Buyer's Credit Information Deadline		
15	§ 5.3	Disapproval of Buyer's Credit Information Deadline		
16	§ 5.4	Existing Loan Deadline		
17	§ 5.4	Existing Loan Termination Deadline		
18	§ 5.4	Loan Transfer Approval Deadline		
19	§ 4.7	Seller or Private Financing Deadline		
Appraisal				
20	§ 6.2	Appraisal Deadline		
21	§ 6.2	Appraisal Objection Deadline		
22	§ 6.2	Appraisal Resolution Deadline		
Survey				
23	§ 9.1	New ILC or New Survey Deadline		
24	§ 9.3	New ILC or New Survey Objection Deadline		
25	§ 9.3	New ILC or New Survey Resolution Deadline		
Inspection and Due Diligence				
26	§ 10.3	Inspection Objection Deadline		
27	§ 10.3	Inspection Termination Deadline		
28	§ 10.3	Inspection Resolution Deadline		
29	§ 10.5	Property Insurance Termination Deadline		
30	§ 10.6	Due Diligence Documents Delivery Deadline		
31	§ 10.6	Due Diligence Documents Objection Deadline		
32	§ 10.6	Due Diligence Documents Resolution Deadline		
33	§ 10.6	Environmental Inspection Termination Deadline		
34	§ 10.6	ADA Evaluation Termination Deadline		
35	§ 10.7	Conditional Sale Deadline		
36	§ 10.10	Lead-Based Paint Termination Deadline		
37	§ 11.1, 11.2	Estoppel Statements Deadline		
38	§ 11.3	Estoppel Statements Termination Deadline		
Closing and Possession				
39	§ 12.3	Closing Date	<i>5 days after Court Approval</i>	
40	§ 17	Possession Date	<i>Delivery of Deed</i>	
41	§ 17	Possession Time	<i>Delivery of Deed</i>	
39	§ 28	Acceptance Deadline Date	<i>4/19/2019</i>	Friday
42	§ 28	Acceptance Deadline Time		
43				
44				

3.2. Applicability of Terms. Any box checked in this Contract means the corresponding provision applies. If any deadline blank in § 3.1 (Dates and Deadlines) is left blank or completed with the abbreviation "N/A", or the word "Deleted," such deadline is not applicable and the corresponding provision containing the deadline 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

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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		
2	§ 4.3	Earnest Money		<i>\$200,000.00</i>
3	§ 4.5	New Loan		
4	§ 4.6	Assumption Balance		
5	§ 4.7	Private Financing		
6	§ 4.7	Seller Financing		
7		<i>Net to Seller \$200,000</i>		<i>\$200,000.00</i>
8				
9	§ 4.4	Cash at Closing		
10		TOTAL	<i>\$0.00</i>	<i>\$0.00</i>

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, will be payable to and held by Land Title Guarantee Company (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 (Earnest Money Dispute), 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

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281 represents that Buyer, as of the date of this Contract, **Does** **Does Not** have funds that are immediately
282 verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.
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284 **4.5. New Loan.**

285 **4.5.1. Buyer to Pay Loan Costs.** Buyer, except as otherwise permitted in § 4.2 (Seller
286 Concession), if applicable, must timely pay Buyer's loan costs, loan discount points, prepaid items and loan
287 origination fees as required by lender.
288

289 **4.5.2. Buyer May Select Financing.** Buyer may pay in cash or select financing
290 appropriate and acceptable to Buyer, including a different loan than initially sought, except as restricted in §
291 4.5.3 (Loan Limitations) or § 30 (Additional Provisions).
292

293 **4.5.3. Loan Limitations.** Buyer may purchase the Property using any of the following
294 types of loans: **Conventional** **Other** .
295

296 **4.6. Assumption.** Buyer agrees to assume and pay an existing loan in the approximate
297 amount of the Assumption Balance set forth in § 4.1 (Price and Terms), presently payable at \$ per including
298 principal and interest presently at the rate of % per annum and also including escrow for the following as
299 indicated: **Real Estate Taxes** **Property Insurance Premium** **Mortgage Insurance Premium**
300 and .
301

302 Buyer agrees to pay a loan transfer fee not to exceed \$. At the time of assumption, the new interest
303 rate will not exceed % per annum and the new payment will not exceed \$ per principal and interest, plus
304 escrow, if any. If the actual principal balance of the existing loan at Closing is less than the Assumption
305 Balance, which causes the amount of cash required from Buyer at Closing to be increased by more than \$, or
306 if any other terms or provisions of the loan change, Buyer has the Right to Terminate under § 25.1 on or before
307 **Closing Date**.
308

309 Seller **Will** **Will Not** be released from liability on said loan. If applicable, compliance with the
310 requirements for release from liability will be evidenced by delivery on or before **Loan Transfer Approval**
311 **Deadline** at **Closing** of an appropriate letter of commitment from lender. Any cost payable for release of
312 liability will be paid by in an amount not to exceed \$.
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314 **4.7. Seller or Private Financing.**

315 **WARNING:** Unless the transaction is exempt, federal and state laws impose licensing, other requirements and
316 restrictions on sellers and private financiers. Contract provisions on financing and financing documents, unless
317 exempt, should be prepared by a licensed Colorado attorney or licensed mortgage loan originator. Brokers
318 should not prepare or advise the parties on the specifics of financing, including whether or not a party is
319 exempt from the law.
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321 **4.7.1. Seller Financing.** If Buyer is to pay all or any portion of the Purchase Price with Seller
322 financing, **Buyer** **Seller** will deliver the proposed Seller financing documents to the other party on or
323 before days before **Seller or Private Financing Deadline**.
324

325 **4.7.1.1. Seller May Terminate.** If Seller is to provide Seller financing, this Contract is
326 conditional upon Seller determining whether such financing is satisfactory to the Seller, including its payments,
327 interest rate, terms, conditions, cost and compliance with the law. Seller has the Right to Terminate under §
328 25.1, on or before **Seller or Private Financing Deadline**, if such Seller financing is not satisfactory to Seller, in
329 Seller's sole subjective discretion.
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331 **4.7.2. Buyer May Terminate.** If Buyer is to pay all or any portion of the Purchase Price with
332 Seller or private financing, this Contract is conditional upon Buyer determining whether such financing is
333 satisfactory to Buyer, including its availability, payments, interest rate, terms, conditions and cost. Buyer has
334 the Right to Terminate under § 25.1, on or before **Seller or Private Financing Deadline**, if such Seller or
335 private financing is not satisfactory to Buyer, in Buyer's sole subjective discretion.
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341 **TRANSACTION PROVISIONS**

342 **5. FINANCING CONDITIONS AND OBLIGATIONS.**

343 **5.1. New Loan Application.** If Buyer is to pay all or part of the Purchase Price by obtaining one or
344 more new loans (New Loan), or if an existing loan is not to be released at Closing, Buyer, if required by such
345 lender, must make an application verifiable by such lender, on or before **New Loan Application Deadline** and
346 exercise reasonable efforts to obtain such loan or approval.
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351 **5.2. New Loan Review.** If Buyer is to pay all or part of the Purchase Price with a New Loan, this
352 Contract is conditional upon Buyer determining, in Buyer's sole subjective discretion, whether the New Loan is
353 satisfactory to Buyer, including its availability, payments, interest rate, terms, conditions and cost. This
354 condition is for the sole benefit of Buyer. Buyer has the Right to Terminate under § 25.1, on or before **New**
355 **Loan Termination Deadline**, if the New Loan is not satisfactory to Buyer, in Buyer's sole subjective discretion.
356 Buyer does not have a Right to Terminate based on the New Loan if the objection is based on the Appraised
357 Value (defined below) or the Lender Requirements (defined below). **IF SELLER IS NOT IN DEFAULT AND**
358 **DOES NOT TIMELY RECEIVE BUYER'S WRITTEN NOTICE TO TERMINATE, BUYER'S EARNEST MONEY**
359 **WILL BE NONREFUNDABLE**, except as otherwise provided in this Contract (e.g., Appraisal, Title, Survey).

360 **5.3. Credit Information.** If an existing loan is not to be released at Closing, this Contract is conditional
361 (for the sole benefit of Seller) upon Seller's approval of Buyer's financial ability and creditworthiness, which
362 approval will be in Seller's sole subjective discretion. Accordingly: (1) Buyer must supply to Seller by **Buyer's**
363 **Credit Information Deadline**, at Buyer's expense, information and documents (including a current credit
364 report) concerning Buyer's financial, employment and credit condition; (2) Buyer consents that Seller may
365 verify Buyer's financial ability and creditworthiness; and (3) any such information and documents received by
366 Seller must be held by Seller in confidence and not released to others except to protect Seller's interest in this
367 transaction. If the Cash at Closing is less than as set forth in § 4.1 of this Contract, Seller has the Right to
368 Terminate under § 25.1, on or before Closing. If Seller disapproves of Buyer's financial ability or
369 creditworthiness, in Seller's sole subjective discretion, Seller has the Right to Terminate under § 25.1, on or
370 before **Disapproval of Buyer's Credit Information Deadline**.

371 **5.4. Existing Loan Review.** If an existing loan is not to be released at Closing, Seller must deliver
372 copies of the loan documents (including note, deed of trust and any modifications) to Buyer by **Existing Loan**
373 **Deadline**. For the sole benefit of Buyer, this Contract is conditional upon Buyer's review and approval of the
374 provisions of such loan documents. Buyer has the Right to Terminate under § 25.1, on or before **Existing**
375 **Loan Termination Deadline**, based on any unsatisfactory provision of such loan documents, in Buyer's sole
376 subjective discretion. If the lender's approval of a transfer of the Property is required, this Contract is
377 conditional upon Buyer obtaining such approval without change in the terms of such loan, except as set forth in
378 § 4.6. If lender's approval is not obtained by **Loan Transfer Approval Deadline**, this Contract will terminate on
379 such deadline. Seller has the Right to Terminate under § 25.1, on or before Closing, in Seller's sole subjective
380 discretion, if Seller is to be released from liability under such existing loan and Buyer does not obtain such
381 compliance as set forth in § 4.6.

382 6. APPRAISAL PROVISIONS.

383 **6.1. Appraisal Definition.** An "Appraisal" is an opinion of value prepared by a licensed or certified
384 appraiser, engaged on behalf of Buyer or Buyer's lender, to determine the Property's market value (Appraised
385 Value). The Appraisal may also set forth certain lender requirements, replacements, removals or repairs
386 necessary on or to the Property as a condition for the Property to be valued at the Appraised Value.

387 **6.2. Appraisal Condition.** The applicable appraisal provision set forth below applies to the
388 respective loan type set forth in § 4.5.3, or if a cash transaction (i.e. no financing), § 6.2.1 applies.

389 **6.2.1. Conventional/Other.** Buyer has the right to obtain an Appraisal. If the Appraised Value
390 is less than the Purchase Price, or if the Appraisal is not received by Buyer on or before **Appraisal Deadline**
391 Buyer may, on or before **Appraisal Objection Deadline**:

392 **6.2.1.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 25.1, that this
393 Contract is terminated; or

394 **6.2.1.2. Appraisal Objection.** Deliver to Seller a written objection accompanied by
395 either a copy of the Appraisal or written notice from lender that confirms the Appraised Value is less than the
396 Purchase Price (Lender Verification).

397 **6.2.1.3. Appraisal Resolution.** If an Appraisal Objection is received by Seller, on or
398 before **Appraisal Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement
399 thereof on or before **Appraisal Resolution Deadline**, this Contract will terminate on the **Appraisal**
400 **Resolution Deadline**, unless Seller receives Buyer's written withdrawal of the Appraisal Objection before such
401 termination, i.e., on or before expiration of **Appraisal Resolution Deadline**.

421 **6.3. Lender Property Requirements.** If the lender imposes any written requirements, replacements,
422 removals or repairs, including any specified in the Appraisal (Lender Requirements) to be made to the Property
423 (e.g., roof repair, repainting), beyond those matters already agreed to by Seller in this Contract, this Contract
424 terminates on the earlier of three days following Seller's receipt of the Lender Requirements, or Closing, unless
425 prior to termination: (1) the parties enter into a written agreement to satisfy the Lender Requirements; (2) the
426 Lender Requirements have been completed; or (3) the satisfaction of the Lender Requirements is waived in
427 writing by Buyer.
428

429
430 **6.4. Cost of Appraisal.** Cost of the Appraisal to be obtained after the date of this Contract must be
431 timely paid by Buyer Seller. The cost of the Appraisal may include stamp and all fees paid to the
432 appraiser, appraisal management company, lender's agent or all three.
433
434

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435 **7. OWNERS' ASSOCIATION.** This Section is applicable if the Property is located within a Common
436 Interest Community and subject to the declaration (Association).
437

438 **7.1. Common Interest Community Disclosure. THE PROPERTY IS LOCATED WITHIN A**
439 **COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR THE COMMUNITY.**
440 **THE OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNERS'**
441 **ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND**
442 **REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS AND RULES AND**
443 **REGULATIONS WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY,**
444 **INCLUDING AN OBLIGATION TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES**
445 **NOT PAY THESE ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND**
446 **POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS**
447 **OF THE COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE PROPERTY**
448 **WITHOUT AN ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE**
449 **ASSOCIATION) AND THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF PROPERTY WITHIN**
450 **THE COMMON INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF**
451 **MEMBERS OF THE ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE DECLARATION**
452 **FOR THE COMMUNITY AND THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION.**
453

454 **7.2. Association Documents to Buyer.** Seller is obligated to provide to Buyer the Association
455 Documents (defined below), at Seller's expense, on or before **Association Documents Deadline.** Seller
456 authorizes the Association to provide the Association Documents to Buyer, at Seller's expense. Seller's
457 obligation to provide the Association Documents is fulfilled upon Buyer's receipt of the Association Documents,
458 regardless of who provides such documents.
459

460 **7.3. Association Documents.** Association documents (Association Documents) consist of the
461 following:
462

463 **7.3.1.** All Association declarations, articles of incorporation, bylaws, articles of
464 organization, operating agreements, rules and regulations, party wall agreements and the Association's
465 responsible governance policies adopted under § 38-33.3-209.5, C.R.S.;

466 **7.3.2.** Minutes of: (1) the annual owners' or members' meeting and (2) any executive
467 boards' or managers' meetings; such minutes include those provided under the most current annual disclosure
468 required under § 38-33.3-209.4, C.R.S. (Annual Disclosure) and minutes of meetings, if any, subsequent to the
469 minutes disclosed in the Annual Disclosure. If none of the preceding minutes exist, then the most recent
470 minutes, if any (§§ 7.3.1 and 7.3.2, collectively, Governing Documents); and

471 **7.3.3.** List of all Association insurance policies as provided in the Association's last Annual
472 Disclosure, including, but not limited to, property, general liability, association director and officer professional
473 liability and fidelity policies. The list must include the company names, policy limits, policy deductibles,
474 additional named insureds and expiration dates of the policies listed (Association Insurance Documents);

475 **7.3.4.** A list by unit type of the Association's assessments, including both regular and
476 special assessments as disclosed in the Association's last Annual Disclosure;

477 **7.3.5.** The Association's most recent financial documents which consist of: (1) the
478 Association's operating budget for the current fiscal year, (2) the Association's most recent annual financial
479 statements, including any amounts held in reserve for the fiscal year immediately preceding the Association's
480 last Annual Disclosure, (3) the results of the Association's most recent available financial audit or review, (4)
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Initials *ESW*

list of the fees and charges (regardless of name of title of such fees or charges) that the Association's community association manager or Association will charge in connection with the Closing including, but not limited to, any fee incident to the issuance of the Association's statement of assessments (Status Letter), any rush or update fee charged for the Status Letter, any record change fee or ownership record transfer fees (Record Change Fee), fees to access documents, (5) list of all assessments required to be paid in advance, reserves or working capital due at Closing and (6) reserve study, if any (§§ 7.3.4 and 7.3.5, collectively, Financial Documents);

7.3.6. Any written notice from the Association to Seller of a "construction defect action" under § 38-33.3-303.5, C.R.S. within the past six months and the result of whether the Association approved or disapproved such action (Construction Defect Documents). Nothing in this Section limits the Seller's obligation to disclose adverse material facts as required under § 10.2 (Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition) including any problems or defects in the common elements or limited common elements of the Association property.

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

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

8.1. Evidence of Record Title.

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

8.1.2. Buyer Selects Title Insurance Company. If this box is checked, Buyer will select the title insurance company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record Title Deadline**, Buyer must furnish to Seller, a current commitment for owner's title insurance policy (Title Commitment), in an amount equal to the Purchase Price.
If neither box in § 8.1.1 or § 8.1.2 is checked, § 8.1.1 applies.

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

Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or delete or insure over any or all of the standard exceptions for OEC. The Title Insurance Company may require a New Survey or New ILC, defined below, among other requirements for OEC. If the Title Insurance Commitment is not satisfactory to Buyer, Buyer has a right to object under § 8.5 (Right to Object to Title, Resolution).

8.1.4. Title Documents. Title Documents consist of the following: (1) copies of any plats, declarations, covenants, conditions and restrictions burdening the Property and (2) copies of any other documents (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions) in

561 the Title Commitment furnished to Buyer (collectively, Title Documents).

562 **8.1.5. Copies of Title Documents.** Buyer must receive, on or before **Record Title Deadline**,
563 copies of all Title Documents. This requirement pertains only to documents as shown of record in the office of
564 the clerk and recorder in the county where the Property is located. The cost of furnishing copies of the
565 documents required in this Section will be at the expense of the party or parties obligated to pay for the
566 owner's title insurance policy.
567

568 **8.1.6. Existing Abstracts of Title.** Seller must deliver to Buyer copies of any abstracts of
569 title covering all or any portion of the Property (Abstract of Title) in Seller's possession on or before **Record**
570 **Title Deadline.**
571

572 **8.2. Record Title.** Buyer has the right to review and object to the Abstract of Title or Title
573 Commitment and any of the Title Documents as set forth in § 8.5 (Right to Object to Title, Resolution) on or
574 before **Record Title Objection Deadline.** Buyer's objection may be based on any unsatisfactory form or
575 content of Title Commitment or Abstract of Title, notwithstanding § 13, or any other unsatisfactory title
576 condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title Documents are
577 not received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title
578 Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title
579 Commitment will be delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such
580 documents by Buyer to review and object to: (1) any required Title Document not timely received by Buyer, (2)
581 any change to the Abstract of Title, Title Commitment or Title Documents, or (3) any endorsement to the Title
582 Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.2
583 (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.5 (Right to Object to
584 Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required
585 by § 8.1 (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title
586 Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the
587 Abstract of Title, Title Commitment and Title Documents as satisfactory.
588

589 **8.3. Off-Record Title.** Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true
590 copies of all existing surveys in Seller's possession pertaining to the Property and must disclose to Buyer all
591 easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or
592 other title matters (including, without limitation, rights of first refusal and options) not shown by public records,
593 of which Seller has actual knowledge (Off-Record Matters). This Section excludes any **New ILC** or **New**
594 **Survey** governed under § 9 (New ILC, New Survey). Buyer has the right to inspect the Property to investigate
595 if any third party has any right in the Property not shown by public records (e.g., unrecorded easement,
596 boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection of any
597 unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2
598 (Record Title) and § 13 (Transfer of Title)), in Buyer's sole subjective discretion, must be received by Seller on
599 or before **Off-Record Title Objection Deadline.** If an Off-Record Matter is received by Buyer after the
600 **Off-Record Title Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review
601 and object to such Off-Record Matter. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection
602 pursuant to this § 8.3 (Off-Record Title), any title objection by Buyer is governed by the provisions set forth in §
603 8.5 (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of
604 Title Objection by the applicable deadline specified above, Buyer accepts title subject to such Off-Record
605 Matters and rights, if any, of third parties not shown by public records of which Buyer has actual knowledge.
606

607 **8.4. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL**
608 **OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES**
609 **ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS**
610 **MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF**
611 **SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT**
612 **TO DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS**
613 **SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY**
614 **CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR**
615 **THE PROPERTY AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY**
616 **COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.**
617

618 A tax certificate from the respective county treasurer listing any special taxing districts that effect the
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630

631 Property (Tax Certificate) must be delivered to Buyer on or before **Record Title Deadline**. If the Property is
632 located within a special taxing district and such inclusion is unsatisfactory to Buyer, in Buyer's sole subjective
633 discretion, Buyer may object, on or before **Record Title Objection Deadline**. If the Tax Certificate shows that
634 the Property is included in a special taxing district and is received by Buyer after the **Record Title Deadline**,
635 Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to the Property's
636 inclusion in a special taxing district as unsatisfactory to Buyer.
637

639 **8.5. Right to Object to Title, Resolution.** Buyer's right to object, in Buyer's sole subjective
640 discretion, to any title matters includes those matters set forth in § 8.2 (Record Title), § 8.3 (Off-Record Title), §
641 8.4 (Special Taxing District) and § 13 (Transfer of Title). If Buyer objects to any title matter, on or before the
642 applicable deadline, Buyer has the following options:
643

644 **8.5.1. Title Objection, Resolution.** If Seller receives Buyer's written notice objecting to any
645 title matter (Notice of Title Objection) on or before the applicable deadline and if Buyer and Seller have not
646 agreed to a written settlement thereof on or before **Title Resolution Deadline**, this Contract will terminate on
647 the expiration of **Title Resolution Deadline**, unless Seller receives Buyer's written withdrawal of Buyer's
648 Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and waives the Right to
649 Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the Record Title
650 Deadline or the Off-Record Title Deadline, or both, are extended pursuant to § 8.2 (Record Title), § 8.3
651 (Off-Record Title) or § 8.4 (Special Taxing Districts), the Title Resolution Deadline also will be automatically
652 extended to the earlier of Closing or fifteen days after Buyer's receipt of the applicable documents; or
653

654 **8.5.2. Title Objection, Right to Terminate.** Buyer may exercise the Right to Terminate under
655 § 25.1, on or before the applicable deadline, based on any title matter unsatisfactory to Buyer, in Buyer's sole
656 subjective discretion.
657

660 **8.6. Right of First Refusal or Contract Approval.** If there is a right of first refusal on the Property
661 or a right to approve this Contract, Seller must promptly submit this Contract according to the terms and
662 conditions of such right. If the holder of the right of first refusal exercises such right or the holder of a right to
663 approve disapproves this Contract, this Contract will terminate. If the right of first refusal is waived explicitly or
664 expires, or the Contract is approved, this Contract will remain in full force and effect. Seller must promptly
665 notify Buyer in writing of the foregoing. If expiration or waiver of the right of first refusal or approval of this
666 Contract has not occurred on or before **Right of First Refusal Deadline**, this Contract will then terminate.
667

669 **8.7. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and
670 should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the
671 title, ownership and use of the Property, including, without limitation, boundary lines and encroachments,
672 set-back requirements, area, zoning, building code violations, unrecorded easements and claims of
673 easements, leases and other unrecorded agreements, water on or under the Property, and various laws and
674 governmental regulations concerning land use, development and environmental matters.
675

677 **8.7.1. OIL, GAS, WATER AND MINERAL DISCLOSURE. THE SURFACE ESTATE OF THE**
678 **PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE AND**
679 **TRANSFER OF THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE**
680 **MINERAL ESTATE OR WATER RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS,**
681 **OTHER MINERALS, GEOTHERMAL ENERGY OR WATER ON OR UNDER THE SURFACE OF THE**
682 **PROPERTY, WHICH INTERESTS MAY GIVE THEM RIGHTS TO ENTER AND USE THE SURFACE OF THE**
683 **PROPERTY TO ACCESS THE MINERAL ESTATE, OIL, GAS OR WATER.**
684

686 **8.7.2. SURFACE USE AGREEMENT. THE USE OF THE SURFACE ESTATE OF THE**
687 **PROPERTY TO ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE**
688 **AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE**
689 **COUNTY CLERK AND RECORDER.**
690

691 **8.7.3. OIL AND GAS ACTIVITY. OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR**
692 **ADJACENT TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING,**
693 **WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES,**
694 **PRODUCING WELLS, REWORKING OF CURRENT WELLS, AND GAS GATHERING AND PROCESSING**
695 **FACILITIES.**
696

697 **8.7.4. ADDITIONAL INFORMATION. BUYER IS ENCOURAGED TO SEEK ADDITIONAL**
698 **INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY,**
699
700

701 INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE
702 COLORADO OIL AND GAS CONSERVATION COMMISSION.
703

704 8.7.5. **Title Insurance Exclusions.** Matters set forth in this Section and others, may be
705 excepted, excluded from, or not covered by the owner's title insurance policy.
706

707 8.8. **Consult an Attorney.** Buyer is advised to timely consult legal counsel with respect to all such
708 matters as there are strict time limits provided in this Contract (e.g., **Record Title Objection Deadline** and
709 **Off-Record Title Objection Deadline**).
710

711 **9. NEW ILC, NEW SURVEY.**
712

713 9.1. **New ILC or New Survey.** If the box is checked, a: 1) **New Improvement Location Certificate**
714 **(New ILC)**; or, 2) **New Survey** in the form of ; is required and the following will apply:
715

716 9.1.1. **Ordering of New ILC or New Survey.** **Seller** **Buyer** will order the New ILC or New
717 Survey. The New ILC or New Survey may also be a previous ILC or survey that is in the above-required form,
718 certified and updated as of a date after the date of this Contract.
719

720 9.1.2. **Payment for New ILC or New Survey.** The cost of the New ILC or New Survey will be
721 paid, on or before Closing, by: **Seller** **Buyer** or:
722

723 9.1.3. **Delivery of New ILC or New Survey.** Buyer, Seller, the issuer of the Title Commitment (or
724 the provider of the opinion of title if an Abstract of Title) and will receive a New ILC or New Survey on or before
725 **New ILC or New Survey Deadline**.
726

727 9.1.4. **Certification of New ILC or New Survey.** The New ILC or New Survey will be certified by
728 the surveyor to all those who are to receive the New ILC or New Survey.
729

730 9.2. **Buyer's Right to Waive or Change New ILC or New Survey Selection.** Buyer may select a
731 New ILC or New Survey different than initially specified in this Contract if there is no additional cost to Seller or
732 change to the **New ILC or New Survey Objection Deadline**. Buyer may, in Buyer's sole subjective discretion,
733 waive a New ILC or New Survey if done prior to Seller incurring any cost for the same.
734

735 9.3. **New ILC or New Survey Objection.** Buyer has the right to review and object to the **New ILC** or
736 **New Survey**. If the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to Buyer, in
737 Buyer's sole subjective discretion, Buyer may, on or before **New ILC or New Survey Objection Deadline**,
738 notwithstanding § 8.3 or § 13:
739

740 9.3.1. **Notice to Terminate.** Notify Seller in writing, pursuant to § 25.1, that this Contract is
741 terminated; or
742

743 9.3.2. **New ILC or New Survey Objection.** Deliver to Seller a written description of any matter
744 that was to be shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer requires
745 Seller to correct.
746

747 9.3.3. **New ILC or New Survey Resolution.** If a **New ILC or New Survey Objection** is received
748 by Seller, on or before **New ILC or New Survey Objection Deadline** and if Buyer and Seller have not agreed
749 in writing to a settlement thereof on or before **New ILC or New Survey Resolution Deadline**, this Contract will
750 terminate on expiration of the **New ILC or New Survey Resolution Deadline**, unless Seller receives Buyer's
751 written withdrawal of the New ILC or New Survey Objection before such termination, i.e., on or before
752 expiration of **New ILC or New Survey Resolution Deadline**.
753

754 **DISCLOSURE, INSPECTION AND DUE DILIGENCE**
755

756 **10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE, AND**
757 **SOURCE OF WATER.**
758

759 10.1. **Seller's Property Disclosure.** On or before **Seller's Property Disclosure Deadline**, Seller
760 agrees to deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's
761 Seller's Property Disclosure form completed by Seller to Seller's actual knowledge and current as of the date
762 of this Contract.
763

764 10.2. **Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition.** Seller
765 must disclose to Buyer any adverse material facts actually known by Seller as of the date of this Contract.
766 Seller agrees that disclosure of adverse material facts will be in writing. In the event Seller discovers an
767 adverse material fact after the date of this Contract, Seller must timely disclose such adverse fact to Buyer.
768
769
770

771 Buyer has the Right to Terminate based on the Seller's new disclosure on the earlier of Closing or five days
772 after Buyer's receipt of the new disclosure. Except as otherwise provided in this Contract, Buyer acknowledges
773 that Seller is conveying the Property to Buyer in an "As Is" condition, "Where Is" and "With All Faults."
774

775 **10.3. Inspection.** Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right
776 to have inspections (by one or more third parties, personally or both) of the Property and Inclusions
777 (Inspection), at Buyer's expense. If (1) the physical condition of the Property, including, but not limited to, the
778 roof, walls, structural integrity of the Property, the electrical, plumbing, HVAC and other mechanical systems of
779 the Property, (2) the physical condition of the Inclusions, (3) service to the Property (including utilities and
780 communication services), systems and components of the Property (e.g., heating and plumbing), (4) any
781 proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or noise
782 (whether on or off the Property) and its effect or expected effect on the Property or its occupants is
783 unsatisfactory, in Buyer's sole subjective discretion, Buyer may:
784

785 **10.3.1. Inspection Objection.** On or before the **Inspection Objection Deadline**, deliver to
786 Seller a written description of any unsatisfactory condition that Buyer requires Seller to correct; or
787

788 **10.3.2. Terminate.** On or before the **Inspection Termination Deadline**, notify Seller in writing,
789 pursuant to § 25.1, that this Contract is terminated due to any unsatisfactory condition. **Inspection**
790 **Termination Deadline will be on the earlier of Inspection Resolution Deadline or the date specified in §**
791 **3.1 for Inspection Termination Deadline.**
792

793 **10.3.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before
794 **Inspection Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on
795 or before **Inspection Resolution Deadline**, this Contract will terminate on **Inspection Resolution Deadline**
796 unless Seller receives Buyer's written withdrawal of the Inspection Objection before such termination, i.e., on
797 or before expiration of **Inspection Resolution Deadline**.
798

799 **10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract or other
800 written agreement between the parties, is responsible for payment for all inspections, tests, surveys,
801 engineering reports, or other reports performed at Buyer's request (Work) and must pay for any damage that
802 occurs to the Property and Inclusions as a result of such Work. Buyer must not permit claims or liens of any
803 kind against the Property for Work performed on the Property. Buyer agrees to indemnify, protect and hold
804 Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any
805 such Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by
806 Seller to defend against any such liability, damage, cost or expense, or to enforce this Section, including
807 Seller's reasonable attorney fees, legal fees and expenses. The provisions of this Section survive the
808 termination of this Contract. This § 10.4 does not apply to items performed pursuant to an Inspection
809 Resolution.
810

811 **10.5. Insurability.** Buyer has the right to review and object to the availability, terms and conditions of
812 and premium for property insurance (Property Insurance). Buyer has the Right to Terminate under § 25.1, on
813 or before **Property Insurance Termination Deadline**, based on any unsatisfactory provision of the Property
814 Insurance, in Buyer's sole subjective discretion.
815

816 **10.6. Due Diligence.**

817 **10.6.1. Due Diligence Documents.** If the respective box is checked, Seller agrees to deliver
818 copies of the following documents and information pertaining to the Property (Due Diligence Documents) to
819 Buyer on or before **Due Diligence Documents Delivery Deadline**:
820

821 **10.6.1.1.** All contracts relating to the operation, maintenance and management of the
822 Property;

823 **10.6.1.2.** Property tax bills for the last na years;

824 **10.6.1.3.** As-built construction plans to the Property and the tenant improvements,
825 including architectural, electrical, mechanical, and structural systems, engineering reports, and permanent
826 Certificates of Occupancy, to the extent now available;

827 **10.6.1.4.** A list of all Inclusions to be conveyed to Buyer;

828 **10.6.1.5.** Operating statements for the past years;

829 **10.6.1.6.** A rent roll accurate and correct to the date of this Contract;

830 **10.6.1.7.** All current leases, including any amendments or other occupancy
831 agreements, pertaining to the Property. Those leases or other occupancy agreements pertaining to the
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Property that survive Closing are as follows (Leases):

- 10.6.1.8.** A schedule of any tenant improvement work Seller is obligated to complete but has not yet been completed and capital improvement work either scheduled or in process on the date of this Contract;
- 10.6.1.9.** All insurance policies pertaining to the Property and copies of any claims which have been made for the past years;
- 10.6.1.10.** Soils reports, surveys and engineering reports or data pertaining to the Property (if not delivered earlier under § 8.3);
- 10.6.1.11.** Any and all existing documentation and reports regarding Phase I and II environmental reports, letters, test results, advisories and similar documents respective to the existence or nonexistence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances, and/or underground storage tanks and/or radon gas. If no reports are in Seller's possession or known to Seller, Seller warrants that no such reports are in Seller's possession or known to Seller;
- 10.6.1.12.** Any *Americans with Disabilities Act* reports, studies or surveys concerning the compliance of the Property with said Act;
- 10.6.1.13.** All permits, licenses and other building or use authorizations issued by any governmental authority with jurisdiction over the Property and written notice of any violation of any such permits, licenses or use authorizations, if any; and
- 10.6.1.14.** Other documents and information:

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

- 10.6.2.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 25.1, that this Contract is terminated; or
- 10.6.2.2. Due Diligence Documents Objection.** Deliver to Seller a written description of any unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.
- 10.6.2.3. Due Diligence Documents Resolution.** If a Due Diligence Documents Objection is received by Seller, on or before **Due Diligence Documents Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on or before **Due Diligence Documents Resolution Deadline**, this Contract will terminate on **Due Diligence Documents Resolution Deadline** unless Seller receives Buyer's written withdrawal of the Due Diligence Documents Objection before such termination, i.e., on or before expiration of **Due Diligence Documents Resolution Deadline**.

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

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

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

Notwithstanding Buyer's right to obtain additional environmental inspections of the Property in this §

911 10.6.4, Buyer has the Right to Terminate under § 25.1, on or before **Environmental Inspection Termination**
912 **Deadline**, or if applicable, the Extended Environmental Inspection Objection Deadline, based on any
913 unsatisfactory results of Environmental Inspection, in Buyer's sole subjective discretion.
914

915 Buyer has the Right to Terminate under § 25.1, on or before **ADA Evaluation Termination Deadline**,
916 based on any unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.
917

918 **10.7. Conditional Upon Sale of Property.** This Contract is conditional upon the sale and closing
919 of that certain property owned by Buyer and commonly known as . Buyer has the Right to Terminate under §
920 25.1 effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale Deadline** if
921 such property is not sold and closed by such deadline. This Section is for the sole benefit of Buyer. If Seller
922 does not receive Buyer's Notice to Terminate on or before **Conditional Sale Deadline**, Buyer waives any
923 Right to Terminate under this provision.
924

925 **10.8. Source of Potable Water (Residential Land and Residential Improvements Only).**
926 **[Intentionally Deleted]**
927

928 **10.9. Existing Leases; Modification of Existing Leases; New Leases.** Seller states that none of
929 the Leases to be assigned to the Buyer at the time of Closing contain any rent concessions, rent reductions or
930 rent abatements except as disclosed in the Lease or other writing received by Buyer. Seller will not amend,
931 alter, modify, extend or cancel any of the Leases nor will Seller enter into any new leases affecting the Property
932 without the prior written consent of Buyer, which consent will not be unreasonably withheld or delayed.
933

934 **11.1. Estoppel Statements Conditions.** Buyer has the right to review and object to any Estoppel
935 Statements. Seller must request from all tenants of the Property and if received by Seller, deliver to Buyer on
936 or before **Estoppel Statements Deadline**, statements in a form and substance reasonably acceptable to
937 Buyer, from each occupant or tenant at the Property (Estoppel Statement) attached to a copy of the Lease
938 stating:
939

940 **11.1.1.** The commencement date of the Lease and scheduled termination date of the Lease;
941

942 **11.1.2.** That said Lease is in full force and effect and that there have been no subsequent
943 modifications or amendments;
944

945 **11.1.3.** The amount of any advance rentals paid, rent concessions given, and deposits paid
946 to Seller;
947

948 **11.1.4.** The amount of monthly (or other applicable period) rental paid to Seller;
949

950 **11.1.5.** That there is no default under the terms of said Lease by landlord or occupant; and
951

952 **11.1.6.** That the Lease to which the Estoppel Statement is attached is a true, correct and
953 complete copy of the Lease demising the premises it describes.
954

955 **11.2. Seller Estoppel Statements.** In the event Seller does not receive from all tenants of the
956 Property a completed signed Estoppel Statement, Seller agrees to complete and execute an Estoppel
957 Statement setting forth the information and documents required §11.1 above and deliver the same to Buyer on
958 or before **Estoppel Statements Deadline**.
959

960 **11.3. Estoppel Statements Termination.** Buyer has the Right to Terminate under § 25.1, on or
961 before **Estoppel Statements Termination Deadline**, based on any unsatisfactory Estoppel Statement, in
962 Buyer's sole subjective discretion, or if Seller fails to deliver the Estoppel Statements on or before **Estoppel**
963 **Statements Deadline**. Buyer also has the unilateral right to waive any unsatisfactory Estoppel Statement.
964

965 **CLOSING PROVISIONS**
966

967 **12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.**
968

969 **12.1. Closing Documents and Closing Information.** Seller and Buyer will cooperate with the Closing
970 Company to enable the Closing Company to prepare and deliver documents required for Closing to Buyer and
971 Seller and their designees. If Buyer is obtaining a loan to purchase the Property, Buyer acknowledges Buyer's
972 lender is required to provide the Closing Company, in a timely manner, all required loan documents and
973 financial information concerning Buyer's loan. Buyer and Seller will furnish any additional information and
974 documents required by Closing Company that will be necessary to complete this transaction. Buyer and Seller
975 will sign and complete all customary or reasonably-required documents at or before Closing.
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977 **12.2. Closing Instructions.** Colorado Real Estate Commission's Closing Instructions Are Are
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Not executed with this Contract.

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

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

13. TRANSFER OF TITLE. Subject to Buyer's compliance with the terms and provisions of this Contract, including the tender of any payment due at Closing, Seller, provided another deed is not selected, must execute and deliver a good and sufficient special warranty deed to Buyer, at Closing. However, if the box is checked, the parties agree to use the corresponding deed instead:

- general warranty deed bargain and sale deed quit claim deed personal representative's deed
- special warranty deed deed.

13.1. Special Warranty Deed and General Warranty Deed Exceptions. If title will be conveyed using a special warranty deed or a general warranty deed, title will be conveyed subject to:

- 13.1.1.** General taxes for the year of Closing,
- 13.1.2.** Distribution utility easements (including cable TV),
- 13.1.3.** Those specifically described rights of third parties not shown by the public records of which Buyer has actual knowledge and which were accepted by Buyer in accordance with with § 8.3 (Off-Record Title) and § 9 (New ILC or New Survey),
- 13.1.4.** Inclusion of the Property within any special taxing district,
- 13.1.5.** Any special assessment if the improvements were not installed as of the date of Buyer's signature hereon, whether assessed prior to or after Closing and
- 13.1.6.** Other .

13.2. Special Warranty Deed. In addition to the requirements of § 13.1, if title will be conveyed by a special warranty deed, Seller will warrant title against all persons claiming by, through or under Seller subject to those specific recorded exceptions, if any, created during Seller's ownership of the Property and described by reference to recorded documents shown as Exceptions in the Title Documents that are accepted by Buyer in accordance with § 8.2 (Record Title) and described in the deed by reference to the specific recording information for each recorded document.

13.3. General Warranty Deed. In addition to the requirements of § 13.1, if title will be conveyed by a general warranty deed, Seller will warrant the title subject to those specific recorded exceptions described by reference to recorded documents shown as Exceptions in the Title Documents that are accepted by Buyer in accordance with § 8.2 (Record Title) and described in the deed by reference to the specific recording information for each recorded document.

14. PAYMENT OF LIENS AND ENCUMBRANCES. Unless agreed to by Buyer in writing, any amounts owed on any liens or encumbrances securing a monetary sum, including, but not limited to, any governmental liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not and previous years' taxes, will be paid at or before Closing by Seller from the proceeds of this transaction or from any other source.

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

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

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

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15.3. Status Letter and Record Change Fees. At least fourteen days prior to **Closing Date**, Seller agrees to promptly request the Association to deliver to Buyer a current Status Letter. Any fees incident to the issuance of Association's Status Letter must be paid by None Buyer Seller One-Half by Buyer and One-Half by Seller. Any 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 % of the Purchase Price or \$.

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.

15.8. FIRPTA and Colorado Withholding.
15.8.1. FIRPTA. The Internal Revenue Service (IRS) may require a substantial portion of the Seller's proceeds be withheld after Closing when Seller is a foreign person. If required withholding does not occur, the Buyer could be held liable for the amount of the Seller's tax, interest and penalties. If the box in this Section is checked, Seller represents that Seller IS a foreign person for purposes of U.S. income taxation. If the box in this Section is not checked, Seller represents that Seller is not a foreign person for purposes of U.S. income taxation. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably requested documents to verify Seller's foreign person status. If withholding is required, Seller authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to determine if withholding applies or if an exemption exists.

15.8.2. Colorado Withholding. The Colorado Department of Revenue may require a portion of the Seller's proceeds be withheld after Closing when Seller will not be a Colorado resident after Closing, if not otherwise exempt. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably requested documents to verify Seller's status. If withholding is required, Seller authorizes Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to determine if withholding applies or if an exemption exists.

16. PRORATIONS AND ASSOCIATION ASSESSMENT. 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, adjusted by any applicable qualifying seniors property tax exemption, qualifying disabled veteran exemption or 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.

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1121 Except however, any special assessment by the Association for improvements that have been installed as of
1122 the date of Buyer's signature hereon, whether assessed prior to or after Closing, will be the obligation of Seller.
1123 Seller represents there are no unpaid regular or special assessments against the Property except the current
1124 regular assessments and . Association Assessments are subject to change as provided in the Governing
1125 Documents.
1126

1127 **16.4. Other Prorations.** Water and sewer charges, propane, interest on continuing loan and .
1128

1129 **16.5. Final Settlement.** Unless otherwise agreed in writing, these prorations are final.
1130

1131 **17. POSSESSION.** Possession of the Property will be delivered to Buyer on **Possession Date** at
1132 **Possession Time**, subject to the Leases as set forth in § 10.6.1.7.
1133

1134 If Seller, after Closing, fails to deliver possession as specified, Seller will be subject to eviction and
1135 will be additionally liable to Buyer for payment of \$ n/a per day (or any part of a day notwithstanding § 18.1)
1136 from **Possession Date** and **Possession Time** until possession is delivered.
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1140 **GENERAL PROVISIONS**
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1142 **18. DAY; COMPUTATION OF PERIOD OF DAYS, DEADLINE.**
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1144 **18.1. Day.** As used in this Contract, the term "day" means the entire day ending at 11:59 p.m., United
1145 States Mountain Time (Standard or Daylight Savings, as applicable).
1146

1147 **18.2. Computation of Period of Days, Deadline.** In computing a period of days (e.g., three days after
1148 MEC), when the ending date is not specified, the first day is excluded and the last day is included. If any
1149 deadline falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such deadline **Will**
1150 **Will Not** be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be
1151 checked, the deadline will not be extended.
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1155 **19. CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION;
1156 AND WALK-THROUGH.** Except as otherwise provided in this Contract, the Property, Inclusions or both will be
1157 delivered in the condition existing as of the date of this Contract, ordinary wear and tear excepted.
1158

1159 **19.1. Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other
1160 perils or causes of loss prior to Closing (Property Damage) in an amount of not more than ten percent of the
1161 total Purchase Price and if the repair of the damage will be paid by insurance (other than the deductible to be
1162 paid by Seller), then Seller, upon receipt of the insurance proceeds, will use Seller's reasonable efforts to
1163 repair the Property before **Closing Date**. Buyer has the Right to Terminate under § 25.1, on or before **Closing**
1164 **Date**, if the Property is not repaired before **Closing Date**, or if the damage exceeds such sum. Should Buyer
1165 elect to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all
1166 insurance proceeds that were received by Seller (but not the Association, if any) resulting from damage to the
1167 Property and Inclusions, plus the amount of any deductible provided for in the insurance policy. This credit may
1168 not exceed the Purchase Price. In the event Seller has not received the insurance proceeds prior to Closing,
1169 the parties may agree to extend the **Closing Date** to have the Property repaired prior to Closing or, at the
1170 option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller's
1171 insurance company and Buyer's lender; or (2) the parties may enter into a written agreement prepared by the
1172 parties or their attorney requiring the Seller to escrow at Closing from Seller's sale proceeds the amount Seller
1173 has received and will receive due to such damage, not exceeding the total Purchase Price, plus the amount of
1174 any deductible that applies to the insurance claim.
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1180 **19.2. Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and
1181 communication services), system, component or fixture of the Property (collectively Service) (e.g., heating or
1182 plumbing), fail or be damaged between the date of this Contract and Closing or possession, whichever is
1183 earlier, then Seller is liable for the repair or replacement of such Inclusion or Service with a unit of similar size,
1184 age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such
1185 Inclusion or Service is not the responsibility of the Association, if any, less any insurance proceeds received by
1186 Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or
1187 replaced on or before Closing or possession, whichever is earlier, Buyer has the Right to Terminate under §
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1191 25.1, on or before **Closing Date**, or, at the option of Buyer, Buyer is entitled to a credit at Closing for the repair
1192 or replacement of such Inclusion or Service. Such credit must not exceed the Purchase Price. If Buyer
1193 receives such a credit, Seller's right for any claim against the Association, if any, will survive Closing.
1194

1195 **19.3. Condemnation.** In the event Seller receives actual notice prior to Closing that a pending
1196 condemnation action may result in a taking of all or part of the Property or Inclusions, Seller must promptly
1197 notify Buyer, in writing, of such condemnation action. Buyer has the Right to Terminate under § 25.1, on or
1198 before **Closing Date**, based on such condemnation action, in Buyer's sole subjective discretion. Should Buyer
1199 elect to consummate this Contract despite such diminution of value to the Property and Inclusions, Buyer is
1200 entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value of
1201 the Property or Inclusions but such credit will not include relocation benefits or expenses, or exceed the
1202 Purchase Price.
1203

1204 **19.4. Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, has the right to
1205 walk through the Property prior to Closing to verify that the physical condition of the Property and Inclusions
1206 complies with this Contract.
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1210 **20. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this Contract, Buyer and Seller
1211 acknowledge that the respective broker has advised that this Contract has important legal consequences and
1212 has recommended the examination of title and consultation with legal and tax or other counsel before signing
1213 this Contract.
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1216 **21. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence for all dates and deadlines
1217 in this Contract. This means that all dates and deadlines are strict and absolute. If any payment due, including
1218 Earnest Money, is not paid, honored or tendered when due, or if any obligation is not performed timely as
1219 provided in this Contract or waived, the non-defaulting party has the following remedies:
1220

1221 **21.1. If Buyer is in Default:**

1222 **21.1.1. Specific Performance.** Seller may elect to cancel this Contract and all Earnest
1223 Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest
1224 Money is not a penalty and the Parties agree the amount is fair and reasonable. Seller may recover such
1225 additional damages as may be proper. Alternatively, Seller may elect to treat this Contract as being in full force
1226 and effect and Seller has the right to specific performance or damages, or both.
1227

1228 **21.1.2. Liquidated Damages, Applicable. This § 21.1.2 applies unless the box in § 21.1.1.**
1229 **is checked.** Seller may cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to
1230 Seller and retained by Seller. It is agreed that the Earnest Money specified in § 4.1 is LIQUIDATED DAMAGES
1231 and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in §§ 10.4,
1232 22, 23 and 24), said payment of Earnest Money is SELLER'S ONLY REMEDY for Buyer's failure to perform
1233 the obligations of this Contract. Seller expressly waives the remedies of specific performance and additional
1234 damages.
1235

1236 **21.2. If Seller is in Default:** Buyer may elect to treat this Contract as canceled, in which case all
1237 Earnest Money received hereunder will be returned to Buyer and Buyer may recover such damages as may be
1238 proper. Alternatively, Buyer may elect to treat this Contract as being in full force and effect and Buyer has the
1239 right to specific performance or damages, or both.
1240

1241 **22. LEGAL FEES, COST AND EXPENSES.** Anything to the contrary herein notwithstanding, in the event
1242 of any arbitration or litigation relating to this Contract, prior to or after **Closing Date**, the arbitrator or court must
1243 award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and
1244 expenses.
1245

1246 **23. MEDIATION.** If a dispute arises relating to this Contract (whether prior to or after Closing) and is not
1247 resolved, the parties must first proceed, in good faith, to mediation. Mediation is a process in which the parties
1248 meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot
1249 impose binding decisions. Before any mediated settlement is binding, the parties to the dispute must agree to
1250 the settlement, in writing. The parties will jointly appoint an acceptable mediator and will share equally in the
1251 cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire dispute
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Initials *ECB*

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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 § 23 (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 to Buyer 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, 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, 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 .
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 facsimile number (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 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 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.)

The following provisions are amended and/or replaced as written below:

2.2. No Assignability. This Contract may be assigned by the Buyer.

4.6. Assumption. Buyer shall pay all fees, costs, expenses, delinquencies, penalties, consideration or other remuneration associated with any existing loan assumption. Seller shall be released from liability from any existing loan secured by the Property.

8.1.2. Buyer Selects Title Insurance Company. Buyer shall select Land Title Guaranty Company as title the company, and Colin Snody as the title agent.

13. Transfer of Title. Title shall be conveyed by Special Warranty Deed.

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.

21.2. If Seller is in Default: Buyer may elect to treat this Contract as canceled, in which case Earnest Money received hereunder will be returned to Buyer and Buyer may recover such damages as may be proper. Buyer shall not have the right for specific performance.

23. Mediation. Section 23 requiring Mediation is deleted in the entirety.

24. Earnest Money Dispute. Notwithstanding Section 24, the Receivership Court shall have exclusive jurisdiction to hear and determine all disputes, claims, or other actions arising from or relating to the Contract, including any dispute regarding earnest money.

32/33. Brokers. Seller/Receiver has engaged Marcus & Millichap as its broker, which relationship is more fully described in Addendum, Section 16, attached hereto and

incorporated herein by reference. Allen Vellone Wolf Helfrich & Factor, PC ("Allen Vellone") is the law firm representing the Seller/Receiver. Matthew J. Roth, Esq. is an attorney with Allen Vellone who prepared this Contract. Attorney Roth is a licensed real estate broker in the State of Colorado but is not acting as a broker in this transaction.

31. ATTACHMENTS.

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

ADDENDUM

EXHIBIT A – Receivership Order

31.2. The following documents have been provided but are attached but are not a part of this Contract:

SIGNATURES

Buyer: Chad Hurst, or assigns, Date: 4/11/20

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

Seller: Harvey Sender, in his capacity as RECEIVER of the Gary Dragul Receivership Estate By

END OF CONTRACT TO BUY AND SELL REAL ESTATE

32. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

(To be completed by Broker working with Buyer)

Broker Does Does Not acknowledge receipt of Earnest Money deposit. 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.

Although Broker is not a party to the Contract, Broker agrees to cooperate, upon request, with any mediation requested under § 23.

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

Customer. Broker has no brokerage relationship with Buyer. See § 33 for Broker's brokerage relationship with Seller.

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

Initials CH

Brokerage Firm's Name:
Brokerage Firm's License #:
Broker's Name _____ Date: _____
Broker's License #:
Address: ,
Ph: Fax: Email Address:

33. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.

(To be completed by Broker working with Seller)

Broker **Does** **Does Not** acknowledge receipt of Earnest Money deposit. 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.

Although Broker is not a party to the Contract, Broker agrees to cooperate, upon request, with any mediation requested under § 23.

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

Customer. Broker has no brokerage relationship with Seller. See § 32 for Broker's brokerage relationship with Buyer.

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

Brokerage Firm's Name: *Allen Vellone Wolf Helfrich & Factor, P.C.*

Brokerage Firm's License #:

_____ Date: _____

Broker's Name: .

Broker's License #:

Address: *1600 Stout Street, Suite 1100 Denver, CO 80202*

Ph: *(303) 534-4499* Fax: Email Address: *mroth@allen-vellone.com*

CBS3-6-18. CONTRACT TO BUY AND SELL REAL ESTATE (COMMERCIAL)

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**ADDENDUM TO CONTRACT TO BUY AND SELL REAL ESTATE
(COMMERCIAL) DATED APRIL 23, 2019 (“CONTRACT”) BETWEEN
HARVEY SENDER, IN HIS CAPACITY AS RECEIVER, OF THE GARY
DRAGUL RECEIVERSHIP ESTATE (“SELLER”)**

AND CHAD HURST (“BUYER”),

**AND CONCERNING PROPERTY LOCATED AT 5290 EAST
ARAPAHOE ROAD, CENTENNIAL, CO 80122 (“VILLAGE INN
PROPERTY”)**

1. Authority of Seller. Gary Dragul owned and managed various companies (collectively “Dragul”) for which he solicited investors to acquire residential and commercial real estate. Gary Dragul was indicted for securities fraud by the Attorney General for the State of Colorado. Harvey Sender, the Seller, was appointed Receiver by a Court Order dated August 30, 2018 entered in Rome v. Dragul, et al., Case Number 2018 CV 33011, District Court, Denver, Colorado (the “Receivership Court” and the “Receivership Order”) to take control of all Dragul assets (referred to as “Receivership Property” or “Receivership Estate”). See Receivership Order attached as **EXHIBIT A**. The Receivership Property includes all the assets of: (i) GDA Real Estate Services, LLC (“GDA RES”); (ii) GDA Real Estate Management, LLC (“GDA REM”); and (iii) AV Pad 17, LLC; all being Colorado limited liability companies. The Receivership Order authorizes the Receiver to sell assets of the Receivership Estate subject to Court approval.

2. Conflicts. This Addendum (“Addendum”) is attached to and forms an integral part of that certain Contract to Buy and Sale Real Estate (Commercial) dated of even date herewith (the “Printed Form;” the Printed Form and this Addendum, collectively, hereinafter, the “Contract”). In the event of any conflict between the terms and provisions of the Printed Form and those of this Addendum, the terms and provisions of this Addendum shall govern and control.

3. Court Approval. Within five (5) business days of the Mutual Execution of Contract (“MEC”) between Buyer and Seller, Seller shall file a motion with the Receivership Court seeking approval of this Contract. The Receiver will use his reasonable efforts to obtain approval of and will support this Contract over the objection of any creditors or other interested parties; provided, however, the Receiver, consistent with his fiduciary duties in the Receivership Case, shall, until the Receivership Court enters an order approving this Contract, be free to entertain and to accept any competing offer that he deems in his sole and absolute discretion to be a higher or better offer. The Receiver’s foregoing right to entertain and/or accept competing offers shall immediately and automatically terminate upon the Receivership Court’s entry of an order approving this Contract. Closing of the sale of the Property shall occur five (5) days following the issuance of an order by the Receivership Court approving this Contract (“Court Approval Date”). This Contract shall automatically expire in the event that the Receivership Court has not entered an order approving this Contract within sixty (60) days after Seller has submitted its motion, the Earnest Money Deposit shall be immediately returned to Buyer,

and the Parties hereto shall be released from all obligations hereunder, except for those obligations that specifically survive this Contract.

4. Exclusive Jurisdiction. The Parties agree that the Receivership Court shall have exclusive jurisdiction to hear and determine all disputes, claims, or other actions arising from or relating to the Contract. Each Party consents to the Court entering final orders, judgments and/or decrees.

DATE FILED: April 23, 2019 2:57 PM
the Receivership Court of
CASE NUMBER: 2018CV33011

5. Prohibition of Dragul as Owner or Manager. Buyer agrees that, to its knowledge, neither Gary Dragul (“Dragul”) nor any former employees of Dragul, GDA Real Estate Services, LLC, or GDA Real Estate Management, Inc. (collectively, “Dragul and Dragul Employees”), shall have any ownership interest in the Property, or in any entity that has an ownership interest in the Property, or in any entity that is a property manager for Buyer, nor will Dragul or any of the Dragul Employees work with Buyer in any capacity or for any reason with respect to the Property. Dragul and the Dragul Employees shall not receive any compensation or remuneration of any kind whatsoever from Buyer or any successor relating to or arising from the Property. The Colorado Securities Commissioner shall have the right to obtain written assurances from Buyer or any successor entity to ensure Gary Dragul’s continued compliance with the Receivership Court’s August 30, 2018, Order of Preliminary Injunction entered in the Receivership Action and Buyer’s agreement concerning Dragul and the Dragul Employees future non-involvement with respect to the Property.

6. Purchase Price. At Closing, Buyer shall pay Seller Two Hundred Thousand Dollars NET (\$200,000)(the “Purchase Price”), in good funds. Buyer shall assume, payoff, and/or take title to the Property subject to any and all mortgages, liens, encumbrances and/or claims relating to, or affecting the Property. Buyer shall pay any and all expenses, fees, charges or costs related to this transaction unless specifically excluded by Seller. Seller shall be responsible for paying Seller’s attorneys for the preparation, negotiation and performance of this Contract. At Closing, Buyer shall release the Receivership Estate from any and all liability under the “VI Loan” as defined in the Claim for WBF/CT Associates, LLC submitted to the Receivership Estate on or about March 17, 2019, and WBF/CT shall withdraw its claim against the Receivership Estate based on the VI Loan.

7. Due Diligence / Inspection. N/A.

8. Due Diligence Documents. Seller shall be required to deliver to Buyer only those Off-Record Title Documents, Association Documents, Due Diligence Documents or other documents, pursuant to the Printed Form Contract, in Seller’s actual possession. Buyer acknowledges and agrees that all documents in connection with the transaction contemplated by this Contract are provided to Buyer by Seller as a convenience only and that any reliance on or use of such documents by Buyer shall be at the sole risk and expense of Buyer. Without limiting the generality of the foregoing, Buyer acknowledges and agrees that any environmental or other report included in the Due Diligence Documents, or otherwise, shall be for general information purposes only, and there shall be no liability to Seller for any inaccuracy in or omission from any report. In the event this

Contract is canceled or fails to close for any reason other than Seller's default, Buyer shall promptly return to Seller any Due Diligence Documents or other documents, information, reports, surveys or other property data delivered to Buyer by or on behalf of Seller and Buyer shall deliver to Seller all copies of any studies, reports or test results obtained by Buyer in connection with its inspection of the Property.

9. Superseding Contract. Upon execution of this Contract by the Buyer and Seller, this Contract shall supersede all previous contracts and agreements by and between the parties hereto relating to the Property.

10. AS-IS. Except as expressly set forth herein or in any Closing document, Seller makes no representations or warranties of any kind to Buyer. Seller and Buyer acknowledge and agree:

a) That all Property, real and personal, is to be conveyed by Seller "AS IS, WHERE IS" and in its present condition; and

b) That Seller has not made, does not hereby make and shall not make, and specifically disclaims, any representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past or present, of, as to, concerning or with respect to the Property (except as set forth in this Contract and the warranty of title set forth in the deed with respect to the real property) including but not limited to the following and without limiting the generality of the foregoing:

i) the nature, quality or condition;

ii) the income to be derived therefrom;

iii) reports, reconciliations, allocations and accountings relating to the Property.

iv) suitability for any and all activities and uses which Buyer may conduct thereon;

v) compliance with any laws, rules, ordinances or regulations;

vi) habitability merchantability or fitness for a particular purpose;

vii) good and workmanlike construction;

viii) design;

ix) the nature or quality of the construction, structural design and/or engineering thereof;

x) the quality thereof and the composition of the materials included therein; or

- xi) any other matter with respect thereto.

Except as set forth in this Contract and any Closing document, it is the intention of the Seller expressly to negate and exclude all warranties, including without limitation, the implied warranties of merchantability and fitness for any particular purpose from and after the Closing Date. Buyer shall assume all risks relating in any manner to any defects, if any, in the Property (or any part thereof) of any type or nature whatsoever and shall be solely and completely responsible for the repair and/or removal of all such defects and the payment of all costs and expenses related thereto. It is expressly agreed that Buyer is being provided the opportunity to investigate and inspect the Property.

11. RECEIVER (SELLER) DISCLAIMER. NOTWITHSTANDING ANY LANGUAGE IN THIS CONTRACT TO THE CONTRARY, THE SELLER MAKES NO REPRESENTATION OR WARRANTY TO THE BUYER CONCERNING THE PROPERTY, EXPRESS OR IMPLIED, AND ANY SUCH OTHER OR ADDITIONAL REPRESENTATIONS OR WARRANTIES ARE HEREBY SPECIFICALLY AND EXPRESSLY DISCLAIMED. WITHOUT LIMITING THE GENERALITY OF THE PREVIOUS SENTENCE, THE RECEIVER EXPRESSLY DISCLAIMS ANY REPRESENTATION OR WARRANTY RELATED OR WITH RESPECT TO THE VALUE OF THE PROPERTY.

12. DEFAULT BY BUYER. IF THE SALE IS NOT CONSUMMATED DUE TO ANY DEFAULT BY BUYER HEREUNDER, THEN SELLER'S SOLE REMEDY SHALL BE THE RIGHT TO RETAIN THE DEPOSIT AS LIQUIDATED DAMAGES. THE PARTIES HAVE AGREED THAT SELLER'S ACTUAL DAMAGES, IN THE EVENT OF A FAILURE TO CONSUMMATE THIS SALE DUE TO BUYER'S DEFAULT, WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. AFTER NEGOTIATION, THE PARTIES HAVE AGREED THAT, CONSIDERING ALL THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS CONTRACT, THE AMOUNT OF THE DEPOSIT IS A REASONABLE ESTIMATE OF THE DAMAGES THAT SELLER WOULD INCUR IN SUCH EVENT. THE FOREGOING IN NO WAY LIMITS SELLER FROM SEEKING INDEMNIFICATION FROM BUYER UNDER THE TERMS OF THE CONTRACT.

13. DEFAULT BY SELLER. IN THE EVENT THAT SELLER DEFAULTS OR FAILS TO CONSUMMATE THIS CONTRACT FOR ANY REASON, BUYER'S SOLE REMEDY SHALL BE THE RIGHT TO THE RETURN OF THE DEPOSIT, WHICH RETURN SHALL OPERATE TO TERMINATE THIS CONTRACT.

14. Captions. The captions in this Contract are inserted for convenience of reference only and in no way define, describe or limit the scope or intent of this Contract or any of the provisions hereof.

15. Validity. If any provision of this Contract shall be held to be invalid or unenforceable, the same shall not affect in any respect whatsoever the validity or enforceability of the remainder of this Contract.

16. Interpretation. Whenever the context so requires, the singular number shall include the plural and the plural the singular, and the use of any gender shall include all genders.

17. Broker. Seller has engaged Marcus & Millichap (“M&M”) as the Brokerage Firm of Seller. Cory Gross and Jake Shirek are the individual brokers designated by M&M to perform services for Seller. M&M shall be compensated by Seller for its services pursuant to a separate agreement. Buyer is not represented by a broker. Buyer agrees to indemnify, defend and hold Seller harmless from and against any and all claims, loss, liability, costs and expenses (including reasonable attorneys’ fees) resulting from any claims that may be made against Seller by any party claiming a commission, fee or other compensation by reason of the transaction contemplated hereby if the same shall arise by, through or on account of Buyer. Seller agrees to indemnify, defend and hold Buyer harmless from and against any and all claims, loss, liability, costs and expenses (including reasonable attorneys’ fees) resulting from any claims that may be made against Buyer by any party claiming a commission, fee or other compensation by reason of the transaction contemplated hereby if the same shall arise by, through or on account of Seller. The terms and provisions of this Paragraph shall survive the Closing Date or the earlier termination of this Contract.

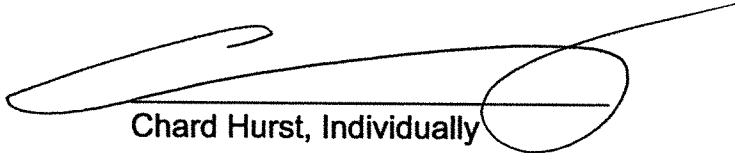
Signature page:

**Addendum to Contract to Buy and Sell Real Estate (Commercial)
re: 5290 East Arapahoe Road, Centennial, CO 80122 ("Village Inn")**

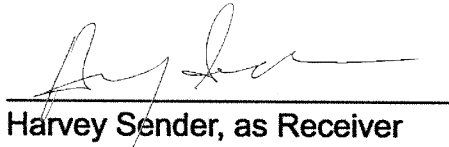
BUYER:

SELLER:

HARVEY SENDER, in his capacity as
Receiver of the Gary Dragul Receivership
Estate



Chard Hurst, Individually



Harvey Sender, as Receiver