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| DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202 | DATE FILED: June 19, 2019 8:31 AM FILING ID: 2BC4B09FEE90D CASE NUMBER: 2018CV33011 |
| Plaintiff: CHRIS MYKLEBUST, SECURITIES COMMISSIONER FOR THE STATE OF COLORADO v. Defendants: GARY DRAGUL, GDA REAL ESTATE SERVICES, LLC, AND GDA REAL ESTATE MANAGEMENT, LLC | <p style="text-align: center;">▲ COURT USE ONLY ▲</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 pvellone@allen-vellone.com mgilbert@allen-vellone.com rsternlieb@allen-vellone.com | Case No: 2018CV33011 Division/Courtroom: 424 |
| <p style="text-align: center;">RECEIVER'S MOTION FOR ORDER AUTHORIZING SALE OF ESTATE'S INTEREST IN 4450 TIMBER FALLS CT., UNIT 1702, VAIL, CO 81657</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 the Estate's 51% interest in real property located at 4450 Timber Falls Court, Unit 1702, Vail, Colorado 81657 (the "Property").

I. Background

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, and 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.

II. The Proposed Sale

4. Pursuant to a June 7, 2019, purchase and sale agreement, the Receiver agreed to sell and Robert Eisen ("Buyer") agreed to buy the Property for a purchase price of \$100,001.00 (the "Proposed Sale"). A copy of the fully-executed PSA and its addenda thereto are attached as **Exhibit 1** (the "Contract").

5. The Property is presently owned by Dragul and Robert Eisen, 51% and 49% respectively, as tenants in common.

6. When the Receiver began efforts to list and market the Property for sale, a dispute as to ownership of the Property was raised by Mr. Eisen. The Receiver has agreed to sell the Estate's remaining interest in the Property to Eisen in an effort to resolve the dispute as to ownership, in addition to Mr. Eisen's claim submitted in the Estate regarding the Property.

7. Under the Contract, closing on the Property is scheduled to occur 5 days after the Court approves the proposed sale.

III. The Proposed Sale is in the Best Interests of the Estate and its Creditors.

8. 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)).

9. The Property is a 2-bedroom, 2-bath, 1,038 square-foot condominium located in Phase VIII of the Timber Falls development in East Vail, Colorado.

10. Dragul originally purchased the Property in or about July 2004 for \$330,000.00. The purchase was financed by a \$264,000.00 loan made by Countrywide Mortgage, Inc., and secured by a first deed of trust on the Property that is presently held by Nationstar Mortgage, LLC d/b/a Mr. Cooper (the "Mortgage").

11. In or about January 2014, Dragul agreed to sell an undivided 98% interest in the Property to Eisen for \$553,900, which Eisen understood was the

Property's fair market value. This \$553,900 was supposed to be used by Dragul to pay the Mortgage. However, the closing documents conveyed only a 49% undivided interest in the Property to Eisen (with Dragul retaining a 51% interest), and Dragul kept the entire \$553,900 and did not pay off or down the Mortgage.

12. In or about February 2019, the Mortgage was declared in default and the lender commenced foreclosure proceedings. The foreclosure sale of the Property was originally scheduled for June 12, 2019. Mr. Eisen cured the Mortgage default and has continued to make payments on the Loan.

13. Eisen has filed a claim against the Estate for \$553,900 and to recover amounts he has paid to cure the default on the Mortgage and additional Mortgage payments he has made.

14. The principal balance of the Mortgage was approximately \$195,899.99 as of October 1, 2018. Under the proposed sale, Buyer will assume the Mortgage and continue making monthly payments, and will pay all costs, fees, and expenses in connection with any loan assumption as well as all closing costs. Eisen will also release his claim against the Estate relating to the Property. Neither party is represented by a broker in the transaction, and therefore, no fees or commissions must be paid. As such, the Estate will receive 100% of the proceeds, or a total of \$100,001.00.

15. The Receiver believes the proposed sale is fair, reasonable, and in the best interests of the Estate. The sale will eliminate the Estate's obligation to fund the

Mortgage, will prevent foreclosure of the Property, and will resolve Eisen's claim against the Estate relating to the Property.

16. Although Buyer was a long-time friend of and investor with Dragul, he has expressly agreed that neither Dragul nor any former employees of Dragul or the GDA Entities will 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. Buyer has further agreed the neither Dragul nor any of the Dragul Employees will work with Buyer in any capacity or for any reason with respect to the Property, and as such, will not receive any compensation or remuneration of any kind from Buyer or any successor relating to or arising from the Property. **Ex. 1**, at Addendum, ¶5.

17. Pursuant to paragraph 10 of the Receivership Order, 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 in interest, and upon all known creditors in accordance with the Court's February 1, 2019 Order regarding same.

WHEREFORE, the Receiver asks the Court to grant this Motion and enter an Order approving the proposed sale of the 4450 Timber Falls Court, Unit #1702, Vail, Colorado, 81657 in accordance with the terms of the Contract.

Dated: June 19, 2019

ALLEN VELLONE WOLF HELFRICH & FACTOR P.C.

Handwritten signature of Rachel A. Sternlieb in black ink.

By: /s/ Rachel A. Sternlieb

Patrick D. Vellone

Michael T. Gilbert

Rachel A. Sternlieb

1600 Stout Street, Suite 1100

Denver, Colorado 80202

(303) 534-4499

pvellone@allen-vellone.com

mgilbert@allen-vellone.com

rsternlieb@allen-vellone.com

ATTORNEYS FOR THE RECEIVER

CERTIFICATE OF SERVICE

I hereby certify that on June 19, 2018, I served a true and correct copy of the foregoing **MOTION FOR ORDER AUTHORIZING SALE OF REAL PROPERTY, 4450 TIMBER FALLS COURT, UNIT #1702, VAIL, COLORADO, 81657** via CCE to the following:

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

***Counsel for Gerald Rome, Securities
Commissioner***

Scott Gelman, Esq.
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8480 E. Orchard Rd., Ste. 5000
Greenwood Village, CO 80111
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Counsel for Robert Eisen

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1600 Broadway, Suite 1200
Denver, Colorado 80202

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

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Englewood, CO 80112
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***Counsel for Nationstar Mortgage,
LLC d/b/a Mr. Cooper***

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.

s/ *Terri M. Novoa* 
Allen Vellone Wolf Helfrich & Factor P.C.



Allen Vellone Wolf Helfrich & Factor, P.C.
1600 Stout Street, Suite 1100 Denver, CO 80202

Ph: (303) 534-4499

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission. (CBS2-6-18) (Mandatory 1-19)

DATE FILED: June 19, 2019 8:31 AM

FF-INC ID: 2864809555903
CASE NUMBER: 2018CV33011

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
(INCOME – RESIDENTIAL)
 1-4 Units Larger than 1-4 Units**

Date: 6/7/2019

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. *Robert Eisen* (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 Eagle, Colorado:

Condominium Unit 1702, Timber Falls Condominiums, Phase VIII, according to the Declaration recorded December 1, 1980 in book 313 at Page 971, and the Condominium Map recorded December 1, 1980, in Book 313 at age 973, in the records of the Eagle County, Colorado Clerk and Recorder, Together with Garage Unit 4, Timber Falls Condominium, Phase VII, according to the Condominium Map thereof, recorded December 7, 1979 in book 295 at Page 654, and as defined in the Condominium Declaration recorded December 7, 1979 in Book 295 at Page 653, County of Eagle, State of Colorado.

known as No. *4450 Timber Falls Court, UNIT 1702 Vail, CO 81657,*

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 n/a 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.

Initials _____

71 **2.5.2. Inclusions - Not Attached.** If on the Property, whether attached or not, on the date of
 72 this Contract, the following items are included unless excluded under **Exclusions:** storm windows, storm
 73 doors, window and porch shades, awnings, blinds, screens, window coverings and treatments, curtain rods,
 74 drapery rods, fireplace inserts, fireplace screens, fireplace grates, heating stoves, storage sheds, carbon
 75 monoxide alarms, smoke/fire detectors and all keys.

76
 77
 78 **2.5.3. Personal Property - Conveyance.** Any personal property must be conveyed at Closing by
 79 Seller free and clear of all taxes (except personal property taxes for the year of Closing), liens and
 80 encumbrances, except n/a.
 81 Conveyance of all personal property will be by bill of sale or other applicable legal instrument.

82
 83 **2.5.4. Other Inclusions.** The following items, whether fixtures or personal property, are also
 84 included in the Purchase Price: n/a

85
 86 **2.5.5. Parking and Storage Facilities.** The use or ownership of the following parking
 87 facilities: as per legal description; and the use or ownership of the following storage facilities:
 88 n/a.

89 Note to Buyer: If exact rights to the parking and storage facilities is a concern to Buyer, Buyer should
 90 investigate.

91
 92 **2.6. Exclusions.** The following items are excluded (Exclusions): n/a

93
 94
 95 **2.7. Water Rights/Well Rights.**

96 **2.7.1. Deeded Water Rights.** The following legally described water rights:

97 n/a

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

99
 100 **2.7.2. Other Rights Relating to Water.** The following rights relating to water not included in
 101 §§ 2.7.1, 2.7.3, 2.7.4, will be transferred to Buyer at Closing: n/a

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

111
 112 **2.7.4. Water Stock Certificates.** The water stock certificates to be transferred at Closing are
 113 as follows: n/a

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 115
 116 **2.7.5. Conveyance.** If Buyer is to receive any rights to water pursuant to § 2.7.2 (Other
 117 Rights Relating to Water), § 2.7.3 (Well Rights), or § 2.7.4 (Water Stock Certificates), Seller agrees to convey
 118 such rights to Buyer by executing the applicable legal instrument at Closing.

119
 120
 121 **3. DATES, DEADLINES AND APPLICABILITY.**

122 **3.1 Dates and Deadlines.**

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 124
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| Item No. | Reference | Event | Date or Deadline |
|----------|--------------|-------------------------------------|------------------------------------|
| 1 | § 4.3 | Alternative Earnest Money Deadline | 2 days after Court Approval |
| | | Title | |
| 2 | § 8.1, § 8.4 | Record Title Deadline | 10 days after MEC |
| 3 | § 8.2, § 8.4 | Record Title Objection Deadline | n/a |
| 4 | § 8.3 | Off-Record Title Deadline | 10 days after MEC |
| 5 | § 8.3 | Off-Record Title Objection Deadline | n/a |
| 6 | § 8.5 | Title Resolution Deadline | n/a |
| 7 | § 8.6 | Right of First Refusal Deadline | n/a |

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| | | Owners' Association | | |
|----|--------------|-------------------------------------------------------|----------------------------------------|--------|
| 8 | § 7.2 | Association Documents Deadline | 10 days after MEC | |
| 9 | § 7.4 | Association Documents Termination Deadline | n/a | |
| | | Seller's Disclosures | | |
| 10 | § 10.1 | Seller's Property Disclosure Deadline | n/a | |
| 11 | § 10.10 | Lead-Based Paint Disclosure Deadline | n/a | |
| | | Loan and Credit | | |
| 12 | § 5.1 | New Loan Application Deadline | n/a | |
| 13 | § 5.2 | New Loan Termination Deadline | n/a | |
| 14 | § 5.3 | Buyer's Credit Information Deadline | n/a | |
| 15 | § 5.3 | Disapproval of Buyer's Credit Information Deadline | n/a | |
| 16 | § 5.4 | Existing Loan Deadline | n/a | |
| 17 | § 5.4 | Existing Loan Termination Deadline | n/a | |
| 18 | § 5.4 | Loan Transfer Approval Deadline | n/a | |
| 19 | § 4.7 | Seller or Private Financing Deadline | n/a | |
| | | Appraisal | | |
| 20 | § 6.2 | Appraisal Deadline | n/a | |
| 21 | § 6.2 | Appraisal Objection Deadline | n/a | |
| 22 | § 6.2 | Appraisal Resolution Deadline | n/a | |
| | | Survey | | |
| 23 | § 9.1 | New ILC or New Survey Deadline | n/a | |
| 24 | § 9.3 | New ILC or New Survey Objection Deadline | n/a | |
| 25 | § 9.3 | New ILC or New Survey Resolution Deadline | n/a | |
| | | Inspection and Due Diligence | | |
| 26 | § 10.3 | Inspection Objection Deadline | n/a | |
| 27 | § 10.3 | Inspection Termination Deadline | n/a | |
| 28 | § 10.3 | Inspection Resolution Deadline | n/a | |
| 29 | § 10.5 | Property Insurance Termination Deadline | n/a | |
| 30 | § 10.6 | Due Diligence Documents Delivery Deadline | n/a | |
| 31 | § 10.6 | Due Diligence Documents Objection Deadline | n/a | |
| 32 | § 10.6 | Due Diligence Documents Resolution Deadline | n/a | |
| 33 | § 10.6 | Environmental Inspection Termination Deadline | n/a | |
| 34 | § 10.6 | ADA Evaluation Termination Deadline | n/a | |
| 35 | § 10.7 | Conditional Sale Deadline | n/a | |
| 36 | § 10.10 | Lead-Based Paint Termination Deadline | n/a | |
| 37 | § 11.1, 11.2 | Estoppel Statements Deadline | n/a | |
| 38 | § 11.3 | Estoppel Statements Termination Deadline | n/a | |
| | | Closing and Possession | | |
| 39 | § 12.3 | Closing Date | 5 days after Court Approval | |
| 40 | § 17 | Possession Date | Delivery of Deed | |
| 41 | § 17 | Possession Time | Delivery of Deed | |
| 42 | § 28 | Acceptance Deadline Date | 6/14/2019 | Friday |
| 43 | § 28 | Acceptance Deadline Time | 5:00 pm MST | |
| 44 | n/a | n/a | n/a | |
| 45 | n/a | n/a | n/a | |

Note: If **FHA** or **VA** loan boxes are checked in § 4.5.3 (Loan Limitations), the **Appraisal** deadlines **DO NOT** apply to **FHA** insured or **VA** guaranteed loans.

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 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 | \$100,001.00 | |
| 2 | § 4.3 | Earnest Money | | \$100,001.00 |
| 3 | § 4.5 | New Loan | | |
| 4 | § 4.6 | Assumption Balance | | |
| 5 | § 4.7 | Private Financing | | |
| 6 | § 4.7 | Seller Financing | | |
| 7 | <i>n/a</i> | (\$100,001 NET to Seller) | | |
| 8 | <i>n/a</i> | <i>n/a</i> | | |
| 9 | § 4.4 | Cash at Closing | | \$0.00 |
| 10 | | TOTAL | \$100,001.00 | \$100,001.00 |

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

4.3. Earnest Money. The Earnest Money set forth in this Section, in the form of a check or wire transfer, will be payable to and held by Fidelity National Title Insurance 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 represents that Buyer, as of the date of this Contract, **Does** **Does Not** have funds that are immediately verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

4.5. New Loan. (Omitted as inapplicable)

4.6. Assumption. Buyer agrees to assume and pay an existing loan in the approximate amount of the Assumption Balance set forth in § 4.1 (Price and Terms), presently payable at \$ n/a per n/a including principal and interest presently at the rate of n/a % per annum and also including escrow for the following as indicated: **Real Estate Taxes** **Property Insurance Premium** **Mortgage Insurance Premium** and Buyer to assume, payoff or take title subject to any mortgage, lien, encumbrance, etc. relating to the Property. Buyer to pay any/all costs, fees, expenses, etc., in connection with any loan assumption.

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

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

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

TRANSACTION PROVISIONS

5. FINANCING CONDITIONS AND OBLIGATIONS. (Omitted as inapplicable)

5.3. Credit Information and Buyer's New Senior Loan. (Omitted as inapplicable)

5.4. Existing Loan Review. (Omitted as inapplicable)

6. APPRAISAL PROVISIONS.

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

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

6.2.1. Conventional/Other. Buyer has the right to obtain an Appraisal. If the Appraised Value

351 is less than the Purchase Price, or if the Appraisal is not received by Buyer on or before **Appraisal Deadline**
352 Buyer may, on or before **Appraisal Objection Deadline**:

353 **6.2.1.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 25.1, that this
354 Contract is terminated; or

355 **6.2.1.2. Appraisal Objection.** Deliver to Seller a written objection accompanied by
356 either a copy of the Appraisal or written notice from lender that confirms the Appraised Value is less than the
357 Purchase Price (Lender Verification).

358 **6.2.1.3. Appraisal Resolution.** If an Appraisal Objection is received by Seller, on or
359 before **Appraisal Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement
360 thereof on or before **Appraisal Resolution Deadline**, this Contract will terminate on the **Appraisal Resolution**
361 **Deadline**, unless Seller receives Buyer's written withdrawal of the Appraisal Objection before such termination,
362 i.e., on or before expiration of **Appraisal Resolution Deadline**.

363 **6.2.2. FHA.** It is expressly agreed that, notwithstanding any other provisions of this Contract,
364 the purchaser (Buyer) shall not be obligated to complete the purchase of the Property described herein or to
365 incur any penalty by forfeiture of Earnest Money deposits or otherwise unless the purchaser (Buyer) has been
366 given, in accordance with HUD/FHA or VA requirements, a written statement issued by the Federal Housing
367 Commissioner, Department of Veterans Affairs, or a Direct Endorsement lender, setting forth the appraised
368 value of the Property of not less than \$. The purchaser (Buyer) shall have the privilege and option of
369 proceeding with the consummation of this Contract without regard to the amount of the appraised valuation.
370 The appraised valuation is arrived at to determine the maximum mortgage the Department of Housing and
371 Urban Development will insure. HUD does not warrant the value nor the condition of the Property. The
372 purchaser (Buyer) should satisfy himself/herself that the price and condition of the Property are acceptable.

373 **6.2.3. VA.** It is expressly agreed that, notwithstanding any other provisions of this Contract,
374 the purchaser (Buyer) shall not incur any penalty by forfeiture of Earnest Money or otherwise or be obligated to
375 complete the purchase of the Property described herein, if the Contract Purchase Price or cost exceeds the
376 reasonable value of the Property established by the Department of Veterans Affairs. The purchaser (Buyer)
377 shall, however, have the privilege and option of proceeding with the consummation of this Contract without
378 regard to the amount of the reasonable value established by the Department of Veterans Affairs.

379 **6.3. Lender Property Requirements.** If the lender imposes any written requirements, replacements,
380 removals or repairs, including any specified in the Appraisal (Lender Requirements) to be made to the Property
381 (e.g., roof repair, repainting), beyond those matters already agreed to by Seller in this Contract, this Contract
382 terminates on the earlier of three days following Seller's receipt of the Lender Requirements, or Closing, unless
383 prior to termination: (1) the parties enter into a written agreement to satisfy the Lender Requirements; (2) the
384 Lender Requirements have been completed; or (3) the satisfaction of the Lender Requirements is waived in
385 writing by Buyer.

386 **6.4. Cost of Appraisal.** Cost of the Appraisal to be obtained after the date of this Contract must be
387 timely paid by Buyer Seller. The cost of the Appraisal may include any and all fees paid to the appraiser,
388 appraisal management company, lender's agent or all three.

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

391 **7.1. Common Interest Community Disclosure. THE PROPERTY IS LOCATED WITHIN A**
392 **COMMON INTEREST COMMUNITY AND IS SUBJECT TO THE DECLARATION FOR THE COMMUNITY.**
393 **THE OWNER OF THE PROPERTY WILL BE REQUIRED TO BE A MEMBER OF THE OWNERS'**
394 **ASSOCIATION FOR THE COMMUNITY AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND**
395 **REGULATIONS OF THE ASSOCIATION. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS**
396 **WILL IMPOSE FINANCIAL OBLIGATIONS UPON THE OWNER OF THE PROPERTY, INCLUDING AN**
397 **OBLIGATION TO PAY ASSESSMENTS OF THE ASSOCIATION. IF THE OWNER DOES NOT PAY THESE**
398 **ASSESSMENTS, THE ASSOCIATION COULD PLACE A LIEN ON THE PROPERTY AND POSSIBLY SELL**
399 **IT TO PAY THE DEBT. THE DECLARATION, BYLAWS AND RULES AND REGULATIONS OF THE**
400 **COMMUNITY MAY PROHIBIT THE OWNER FROM MAKING CHANGES TO THE PROPERTY WITHOUT AN**
401 **ARCHITECTURAL REVIEW BY THE ASSOCIATION (OR A COMMITTEE OF THE ASSOCIATION) AND**
402 **THE APPROVAL OF THE ASSOCIATION. PURCHASERS OF PROPERTY WITHIN THE COMMON**

421 **INTEREST COMMUNITY SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE**
422 **ASSOCIATION. PURCHASERS SHOULD CAREFULLY READ THE DECLARATION FOR THE COMMUNITY**
423 **AND THE BYLAWS AND RULES AND REGULATIONS OF THE ASSOCIATION.**
424

425 **7.2. Association Documents to Buyer.** Seller is obligated to provide to Buyer the Association
426 Documents (defined below), at Seller's expense, on or before **Association Documents Deadline**. Seller
427 authorizes the Association to provide the Association Documents to Buyer, at Seller's expense. Seller's
428 obligation to provide the Association Documents is fulfilled upon Buyer's receipt of the Association Documents,
429 regardless of who provides such documents.
430

431 **7.3. Association Documents.** Association documents (Association Documents) consist of the
432 following:
433

434 **7.3.1.** All Association declarations, articles of incorporation, bylaws, articles of
435 organization, operating agreements, rules and regulations, party wall agreements and the Association's
436 responsible governance policies adopted under § 38-33.3-209.5, C.R.S.;

437 **7.3.2.** Minutes of: (1) the annual owners' or members' meeting and (2) any executive
438 boards' or managers' meetings; such minutes include those provided under the most current annual disclosure
439 required under § 38-33.3-209.4, C.R.S. (Annual Disclosure) and minutes of meetings, if any, subsequent to the
440 minutes disclosed in the Annual Disclosure. If none of the preceding minutes exist, then the most recent
441 minutes, if any (§§ 7.3.1 and 7.3.2, collectively, Governing Documents); and
442

443 **7.3.3.** List of all Association insurance policies as provided in the Association's last Annual
444 Disclosure, including, but not limited to, property, general liability, association director and officer professional
445 liability and fidelity policies. The list must include the company names, policy limits, policy deductibles,
446 additional named insureds and expiration dates of the policies listed (Association Insurance Documents);
447

448 **7.3.4.** A list by unit type of the Association's assessments, including both regular and
449 special assessments as disclosed in the Association's last Annual Disclosure;
450

451 **7.3.5.** The Association's most recent financial documents which consist of: (1) the
452 Association's operating budget for the current fiscal year, (2) the Association's most recent annual financial
453 statements, including any amounts held in reserve for the fiscal year immediately preceding the Association's
454 last Annual Disclosure, (3) the results of the Association's most recent available financial audit or review, (4) list
455 of the fees and charges (regardless of name of title of such fees or charges) that the Association's community
456 association manager or Association will charge in connection with the Closing including, but not limited to, any
457 fee incident to the issuance of the Association's statement of assessments (Status Letter), any rush or update
458 fee charged for the Status Letter, any record change fee or ownership record transfer fees (Record Change
459 Fee), fees to access documents, (5) list of all assessments required to be paid in advance, reserves or working
460 capital due at Closing and (6) reserve study, if any (§§ 7.3.4 and 7.3.5, collectively, Financial Documents);
461

462 **7.3.6.** Any written notice from the Association to Seller of a "construction defect action"
463 under § 38-33.3-303.5, C.R.S. within the past six months and the result of whether the Association approved or
464 disapproved such action (Construction Defect Documents). Nothing in this Section limits the Seller's obligation
465 to disclose adverse material facts as required under § 10.2 (Disclosure of Adverse Material Facts; Subsequent
466 Disclosure; Present Condition) including any problems or defects in the common elements or limited common
467 elements of the Association property.
468

469 **7.4. Conditional on Buyer's Review.** Buyer has the right to review the Association Documents.
470 Buyer has the Right to Terminate under § 25.1, on or before **Association Documents Termination Deadline**,
471 based on any unsatisfactory provision in any of the Association Documents, in Buyer's sole subjective
472 discretion. Should Buyer receive the Association Documents after **Association Documents Deadline**, Buyer,
473 at Buyer's option, has the Right to Terminate under § 25.1 by Buyer's Notice to Terminate received by Seller on
474 or before ten days after Buyer's receipt of the Association Documents. If Buyer does not receive the
475 Association Documents, or if Buyer's Notice to Terminate would otherwise be required to be received by Seller
476 after **Closing Date**, Buyer's Notice to Terminate must be received by Seller on or before Closing. If Seller does
477 not receive Buyer's Notice to Terminate within such time, Buyer accepts the provisions of the Association
478 Documents as satisfactory and Buyer waives any Right to Terminate under this provision, notwithstanding the
479 provisions of § 8.6 (Right of First Refusal or Contract Approval).
480

481 **8. TITLE INSURANCE, RECORD TITLE AND OFF-RECORD TITLE.**
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491 **8.1. Evidence of Record Title.**

492 **8.1.1. Seller Selects Title Insurance Company.** If this box is checked, Seller will select the
493 title insurance company to furnish the owner's title insurance policy at Seller's expense. On or before **Record**
494 **Title Deadline**, Seller must furnish to Buyer, a current commitment for an owner's title insurance policy (Title
495 Commitment), in an amount equal to the Purchase Price, or if this box is checked, an **Abstract of Title**
496 certified to a current date. Seller will cause the title insurance policy to be issued and delivered to Buyer as
497 soon as practicable at or after Closing.
498

500 **8.1.2. Buyer Selects Title Insurance Company.** If this box is checked, Buyer will select the
501 title insurance company to furnish the owner's title insurance policy at Buyer's expense. On or before **Record**
502 **Title Deadline**, Buyer must furnish to Seller, a current commitment for owner's title insurance policy (Title
503 Commitment), in an amount equal to the Purchase Price.
504

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

507 **8.1.3. Owner's Extended Coverage (OEC).** The Title Commitment **Will** **Will Not**
508 contain Owner's Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete
509 or insure over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements,
510 (3) survey matters, (4) unrecorded mechanics' liens, (5) gap period (period between the effective date and time
511 of commitment to the date and time the deed is recorded) and (6) unpaid taxes, assessments and unredeemed
512 tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be paid by **Buyer**
513 **Seller** **One-Half by Buyer and One-Half by Seller** **Other** n/a.

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

522 **8.1.4. Title Documents.** Title Documents consist of the following: (1) copies of any plats,
523 declarations, covenants, conditions and restrictions burdening the Property and (2) copies of any other
524 documents (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions) in
525 the Title Commitment furnished to Buyer (collectively, Title Documents).
526

527 **8.1.5. Copies of Title Documents.** Buyer must receive, on or before **Record Title Deadline**,
528 copies of all Title Documents. This requirement pertains only to documents as shown of record in the office of
529 the clerk and recorder in the county where the Property is located. The cost of furnishing copies of the
530 documents required in this Section will be at the expense of the party or parties obligated to pay for the
531 owner's title insurance policy.
532

533 **8.1.6. Existing Abstracts of Title.** Seller must deliver to Buyer copies of any abstracts of title
534 covering all or any portion of the Property (Abstract of Title) in Seller's possession on or before **Record Title**
535 **Deadline**.
536

537 **8.2. Record Title.** Buyer has the right to review and object to the Abstract of Title or Title
538 Commitment and any of the Title Documents as set forth in § 8.5 (Right to Object to Title, Resolution) on or
539 before **Record Title Objection Deadline**. Buyer's objection may be based on any unsatisfactory form or
540 content of Title Commitment or Abstract of Title, notwithstanding § 13, or any other unsatisfactory title
541 condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title Documents are
542 not received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title
543 Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title
544 Commitment will be delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such
545 documents by Buyer to review and object to: (1) any required Title Document not timely received by Buyer, (2)
546 any change to the Abstract of Title, Title Commitment or Title Documents, or (3) any endorsement to the Title
547 Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.2
548 (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.5 (Right to Object to
549 Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required
550 by § 8.1 (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title
551 Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the
552 Abstract of Title, Title Commitment and Title Documents as satisfactory.
553

554 **8.3. Off-Record Title.** Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true
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561 copies of all existing surveys in Seller's possession pertaining to the Property and must disclose to Buyer all
562 easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or
563 other title matters (including, without limitation, rights of first refusal and options) not shown by public records,
564 of which Seller has actual knowledge (Off-Record Matters). This Section excludes any **New ILC** or **New**
565 **Survey** governed under § 9 (New ILC, New Survey). Buyer has the right to inspect the Property to investigate
566 if any third party has any right in the Property not shown by public records (e.g., unrecorded easement,
567 boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection of any
568 unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2
569 (Record Title) and § 13 (Transfer of Title)), in Buyer's sole subjective discretion, must be received by Seller on
570 or before **Off-Record Title Objection Deadline**. If an Off-Record Matter is received by Buyer after the
571 **Off-Record Title Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review
572 and object to such Off-Record Matter. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection
573 pursuant to this § 8.3 (Off-Record Title), any title objection by Buyer is governed by the provisions set forth in §
574 8.5 (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title
575 Objection by the applicable deadline specified above, Buyer accepts title subject to such Off-Record Matters
576 and rights, if any, of third parties not shown by public records of which Buyer has actual knowledge.
577

578 **8.4. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL**
579 **OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES**
580 **ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS**
581 **MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF**
582 **SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO**
583 **DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS**
584 **SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY**
585 **CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE**
586 **PROPERTY AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY**
587 **COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.**
588

589 A tax certificate from the respective county treasurer listing any special taxing districts that effect the
590 Property (Tax Certificate) must be delivered to Buyer on or before **Record Title Deadline**. If the Property is
591 located within a special taxing district and such inclusion is unsatisfactory to Buyer, in Buyer's sole subjective
592 discretion, Buyer may object, on or before **Record Title Objection Deadline**. If the Tax Certificate shows that
593 the Property is included in a special taxing district and is received by Buyer after the **Record Title Deadline**,
594 Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to the Property's
595 inclusion in a special taxing district as unsatisfactory to Buyer.
596

597 **8.5. Right to Object to Title, Resolution.** Buyer's right to object, in Buyer's sole subjective
598 discretion, to any title matters includes those matters set forth in § 8.2 (Record Title), § 8.3 (Off-Record Title), §
599 8.4 (Special Taxing District) and § 13 (Transfer of Title). If Buyer objects to any title matter, on or before the
600 applicable deadline, Buyer has the following options:
601

602 **8.5.1. Title Objection, Resolution.** If Seller receives Buyer's written notice objecting to any
603 title matter (Notice of Title Objection) on or before the applicable deadline and if Buyer and Seller have not
604 agreed to a written settlement thereof on or before **Title Resolution Deadline**, this Contract will terminate on
605 the expiration of **Title Resolution Deadline**, unless Seller receives Buyer's written withdrawal of Buyer's
606 Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and waives the Right to
607 Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the Record Title
608 Deadline or the Off-Record Title Deadline, or both, are extended pursuant to § 8.2 (Record Title), § 8.3
609 (Off-Record Title) or § 8.4 (Special Taxing Districts), the Title Resolution Deadline also will be automatically
610 extended to the earlier of Closing or fifteen days after Buyer's receipt of the applicable documents; or
611

612 **8.5.2. Title Objection, Right to Terminate.** Buyer may exercise the Right to Terminate under
613 § 25.1, on or before the applicable deadline, based on any title matter unsatisfactory to Buyer, in Buyer's sole
614 subjective discretion.
615

616 **8.6. Right of First Refusal or Contract Approval.** If there is a right of first refusal on the Property
617 or a right to approve this Contract, Seller must promptly submit this Contract according to the terms and
618 conditions of such right. If the holder of the right of first refusal exercises such right or the holder of a right to
619 approve disapproves this Contract, this Contract will terminate. If the right of first refusal is waived explicitly or
620

631 expires, or the Contract is approved, this Contract will remain in full force and effect. Seller must promptly
632 notify Buyer in writing of the foregoing. If expiration or waiver of the right of first refusal or approval of this
633 Contract has not occurred on or before **Right of First Refusal Deadline**, this Contract will then terminate.
634

635 **8.7. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and
636 should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the
637 title, ownership and use of the Property, including, without limitation, boundary lines and encroachments,
638 set-back requirements, area, zoning, building code violations, unrecorded easements and claims of
639 easements, leases and other unrecorded agreements, water on or under the Property, and various laws and
640 governmental regulations concerning land use, development and environmental matters.
641

642 **8.7.1. OIL, GAS, WATER AND MINERAL DISCLOSURE. THE SURFACE ESTATE OF THE**
643 **PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE AND**
644 **TRANSFER OF THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE**
645 **MINERAL ESTATE OR WATER RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS,**
646 **OTHER MINERALS, GEOTHERMAL ENERGY OR WATER ON OR UNDER THE SURFACE OF THE**
647 **PROPERTY, WHICH INTERESTS MAY GIVE THEM RIGHTS TO ENTER AND USE THE SURFACE OF THE**
648 **PROPERTY TO ACCESS THE MINERAL ESTATE, OIL, GAS OR WATER.**
649

650 **8.7.2. SURFACE USE AGREEMENT. THE USE OF THE SURFACE ESTATE OF THE**
651 **PROPERTY TO ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE**
652 **AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE**
653 **COUNTY CLERK AND RECORDER.**
654

655 **8.7.3. OIL AND GAS ACTIVITY. OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR**
656 **ADJACENT TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING,**
657 **WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES,**
658 **PRODUCING WELLS, REWORKING OF CURRENT WELLS AND GAS GATHERING AND PROCESSING**
659 **FACILITIES.**
660

661 **8.7.4. ADDITIONAL INFORMATION. BUYER IS ENCOURAGED TO SEEK ADDITIONAL**
662 **INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY,**
663 **INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE**
664 **COLORADO OIL AND GAS CONSERVATION COMMISSION.**
665

666 **8.7.5. Title Insurance Exclusions.** Matters set forth in this Section and others may be
667 excepted, excluded from, or not covered by the owner's title insurance policy.
668

669 **8.8. Consult an Attorney.** Buyer is advised to timely consult legal counsel with respect to all such
670 matters as there are strict time limits provided in this Contract (e.g., **Record Title Objection Deadline** and
671 **Off-Record Title Objection Deadline**).
672

673 **9. NEW ILC, NEW SURVEY.**

674 **9.1. New ILC or New Survey.** If the box is checked, a: 1) **New Improvement Location Certificate**
675 **(New ILC);** or, 2) **New Survey** in the form of n/a; is required and the following will apply:
676

677 **9.1.1. Ordering of New ILC or New Survey.** **Seller** **Buyer** will order the New ILC or New
678 Survey. The New ILC or New Survey may also be a previous ILC or survey that is in the above-required form,
679 certified and updated as of a date after the date of this Contract.
680

681 **9.1.2. Payment for New ILC or New Survey.** The cost of the New ILC or New Survey will be
682 paid, on or before Closing, by: **Seller** **Buyer** or: n/a
683

684 **9.1.3. Delivery of New ILC or New Survey.** Buyer, Seller, the issuer of the Title Commitment (or
685 the provider of the opinion of title if an Abstract of Title) and n/a will receive a New ILC or New Survey on or
686 before **New ILC or New Survey Deadline**.
687

688 **9.1.4. Certification of New ILC or New Survey.** The New ILC or New Survey will be certified by
689 the surveyor to all those who are to receive the New ILC or New Survey.
690

691 **9.2. Buyer's Right to Waive or Change New ILC or New Survey Selection.** Buyer may select a
692 New ILC or New Survey different than initially specified in this Contract if there is no additional cost to Seller or
693 change to the **New ILC or New Survey Objection Deadline**. Buyer may, in Buyer's sole subjective discretion,
694 waive a New ILC or New Survey if done prior to Seller incurring any cost for the same.
695

696 **9.3. New ILC or New Survey Objection.** Buyer has the right to review and object to the **New ILC or**
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700

701 New Survey. If the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to Buyer, in
702 Buyer's sole subjective discretion, Buyer may, on or before **New ILC or New Survey Objection Deadline**,
703 notwithstanding § 8.3 or § 13:
704

705 **9.3.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 25.1, that this Contract is
706 terminated; or

707 **9.3.2. New ILC or New Survey Objection.** Deliver to Seller a written description of any matter that
708 was to be shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer requires
709 Seller to correct.
710

711 **9.3.3. New ILC or New Survey Resolution.** If a **New ILC or New Survey Objection** is received
712 by Seller, on or before **New ILC or New Survey Objection Deadline** and if Buyer and Seller have not agreed
713 in writing to a settlement thereof on or before **New ILC or New Survey Resolution Deadline**, this Contract will
714 terminate on expiration of the **New ILC or New Survey Resolution Deadline**, unless Seller receives Buyer's
715 written withdrawal of the New ILC or New Survey Objection before such termination, i.e., on or before
716 expiration of **New ILC or New Survey Resolution Deadline**.
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|-------------------------------------------------|
| DISCLOSURE, INSPECTION AND DUE DILIGENCE |
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723 **10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE, AND**
724 **SOURCE OF WATER.**
725

726 **10.1. Seller's Property Disclosure.** On or before **Seller's Property Disclosure Deadline**, Seller
727 agrees to deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's
728 Seller's Property Disclosure form completed by Seller to Seller's actual knowledge and current as of the date of
729 this Contract.
730

731 **10.2. Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition.** Seller
732 must disclose to Buyer any adverse material facts actually known by Seller as of the date of this Contract.
733 Seller agrees that disclosure of adverse material facts will be in writing. In the event Seller discovers an
734 adverse material fact after the date of this Contract, Seller must timely disclose such adverse fact to Buyer.
735 Buyer has the Right to Terminate based on the Seller's new disclosure on the earlier of Closing or five days
736 after Buyer's receipt of the new disclosure. Except as otherwise provided in this Contract, Buyer acknowledges
737 that Seller is conveying the Property to Buyer in an "**As Is**" condition, "**Where Is**" and "**With All Faults.**"
738

739 **10.3. Inspection.** Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right
740 to have inspections (by one or more third parties, personally or both) of the Property and Inclusions
741 (Inspection), at Buyer's expense. If (1) the physical condition of the Property, including, but not limited to, the
742 roof, walls, structural integrity of the Property, the electrical, plumbing, HVAC and other mechanical systems of
743 the Property, (2) the physical condition of the Inclusions, (3) service to the Property (including utilities and
744 communication services), systems and components of the Property (e.g., heating and plumbing), (4) any
745 proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or noise
746 (whether on or off the Property) and its effect or expected effect on the Property or its occupants is
747 unsatisfactory, in Buyer's sole subjective discretion, Buyer may:
748

749 **10.3.1. Inspection Objection.** On or before the **Inspection Objection Deadline**, deliver to
750 Seller a written description of any unsatisfactory condition that Buyer requires Seller to correct; or

751 **10.3.2. Terminate.** On or before the **Inspection Termination Deadline**, notify Seller in writing,
752 pursuant to § 25.1, that this Contract is terminated due to any unsatisfactory condition. **Inspection**
753 **Termination Deadline will be on the earlier of Inspection Resolution Deadline or the date specified in §**
754 **3.1 for Inspection Termination Deadline.**
755

756 **10.3.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before
757 **Inspection Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on
758 or before **Inspection Resolution Deadline**, this Contract will terminate on **Inspection Resolution Deadline**
759 unless Seller receives Buyer's written withdrawal of the Inspection Objection before such termination, i.e., on or
760 before expiration of **Inspection Resolution Deadline**.
761

762 **10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract or other
763 written agreement between the parties, is responsible for payment for all inspections, tests, surveys,
764 engineering reports, or other reports performed at Buyer's request (Work) and must pay for any damage that
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771 occurs to the Property and Inclusions as a result of such Work. Buyer must not permit claims or liens of any
772 kind against the Property for Work performed on the Property. Buyer agrees to indemnify, protect and hold
773 Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any
774 such Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by
775 Seller to defend against any such liability, damage, cost or expense, or to enforce this Section, including
776 Seller's reasonable attorney fees, legal fees and expenses. The provisions of this Section survive the
777 termination of this Contract. This § 10.4 does not apply to items performed pursuant to an Inspection
778 Resolution.
779

780
781 **10.5. Insurability.** Buyer has the right to review and object to the availability, terms and conditions of
782 and premium for property insurance (Property Insurance). Buyer has the Right to Terminate under § 25.1, on or
783 before **Property Insurance Termination Deadline**, based on any unsatisfactory provision of the Property
784 Insurance, in Buyer's sole subjective discretion.
785

786 **10.6. Due Diligence.**

787 **10.6.1. Due Diligence Documents.** If the respective box is checked, Seller agrees to deliver
788 copies of the following documents and information pertaining to the Property (Due Diligence Documents) to
789 Buyer on or before **Due Diligence Documents Delivery Deadline**:
790

791 **10.6.1.1.** All contracts relating to the operation, maintenance and management of the
792 Property;
793

794 **10.6.1.2.** Property tax bills for the last years;
795

796 **10.6.1.3.** As-built construction plans to the Property and the tenant improvements,
797 including architectural, electrical, mechanical, and structural systems, engineering reports, and permanent
798 Certificates of Occupancy, to the extent now available;
799

800 **10.6.1.4.** A list of all Inclusions to be conveyed to Buyer;
801

802 **10.6.1.5.** Operating statements for the past years;
803

804 **10.6.1.6.** A rent roll accurate and correct to the date of this Contract;
805

806 **10.6.1.7.** All current leases, including any amendments or other occupancy
807 agreements, pertaining to the Property. Those leases or other occupancy agreements pertaining to the
808 Property that survive Closing are as follows (Leases): n/a
809

810 **10.6.1.8.** A schedule of any tenant improvement work Seller is obligated to complete
811 but has not yet been completed and capital improvement work either scheduled or in process on the date of
812 this Contract;
813

814 **10.6.1.9.** All insurance policies pertaining to the Property and copies of any claims
815 which have been made for the past years;
816

817 **10.6.1.10.** Soils reports, surveys and engineering reports or data pertaining to the
818 Property (if not delivered earlier under § 8.3);
819

820 **10.6.1.11.** Any and all existing documentation and reports regarding Phase I and II
821 environmental reports, letters, test results, advisories and similar documents respective to the existence or
822 nonexistence of asbestos, PCB transformers, or other toxic hazardous or contaminated substances, and/or
823 underground storage tanks and/or radon gas. If no reports are in Seller's possession or known to Seller, Seller
824 warrants that no such reports are in Seller's possession or known to Seller;
825

826 **10.6.1.12.** Any *Americans with Disabilities Act* reports, studies or surveys concerning
827 the compliance of the Property with said Act;
828

829 **10.6.1.13.** All permits, licenses and other building or use authorizations issued by any
830 governmental authority with jurisdiction over the Property and written notice of any violation of any such
831 permits, licenses or use authorizations, if any; and
832

833 **10.6.1.14.** Other documents and information:
834

835 n/a
836

837 **10.6.2. Due Diligence Documents Review and Objection.** Buyer has the right to review and
838 object to Due Diligence Documents. If the Due Diligence Documents are not supplied to Buyer or are
839 unsatisfactory, in Buyer's sole subjective discretion, Buyer may, on or before **Due Diligence Documents**
840 **Objection Deadline**:

10.6.2.1. Notice to Terminate. Notify Seller in writing, pursuant to § 25.1, that this

841 Contract is terminated; or

842 **10.6.2.2. Due Diligence Documents Objection.** Deliver to Seller a written description
843 of any unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.
844

845 **10.6.2.3. Due Diligence Documents Resolution.** If a Due Diligence Documents
846 Objection is received by Seller, on or before **Due Diligence Documents Objection Deadline** and if Buyer and
847 Seller have not agreed in writing to a settlement thereof on or before **Due Diligence Documents Resolution**
848 **Deadline**, this Contract will terminate on **Due Diligence Documents Resolution Deadline** unless Seller
849 receives Buyer's written withdrawal of the Due Diligence Documents Objection before such termination, i.e., on
850 or before expiration of **Due Diligence Documents Resolution Deadline**.
851

852 **10.6.3. Zoning.** Buyer has the Right to Terminate under § 25.1, on or before **Due Diligence**
853 **Documents Objection Deadline**, based on any unsatisfactory zoning and any use restrictions imposed by any
854 governmental agency with jurisdiction over the Property, in Buyer's sole subjective discretion.
855

856 **10.6.4. Due Diligence – Environmental, ADA.** Buyer has the right to obtain environmental
857 inspections of the Property including Phase I and Phase II Environmental Site Assessments, as applicable.
858 Seller Buyer will order or provide **Phase I Environmental Site Assessment**, **Phase II**
859 **Environmental Site Assessment** (compliant with most current version of the applicable ASTM E1527
860 standard practices for Environmental Site Assessments) and/or , at the expense of Seller Buyer
861 (Environmental Inspection). In addition, Buyer, at Buyer's expense, may also conduct an evaluation whether
862 the Property complies with the *Americans with Disabilities Act* (ADA Evaluation). All such inspections and
863 evaluations must be conducted at such times as are mutually agreeable to minimize the interruption of Seller's
864 and any Seller's tenants' business uses of the Property, if any.
865

866 If Buyer's Phase I Environmental Site Assessment recommends a Phase II Environmental Site
867 Assessment, the **Environmental Inspection Termination Deadline** will be extended by days (Extended
868 Environmental Inspection Termination Deadline) and if such Extended Environmental Inspection Termination
869 Deadline extends beyond the **Closing Date**, the **Closing Date** will be extended a like period of time. In such
870 event, Seller Buyer must pay the cost for such Phase II Environmental Site Assessment.
871

872 Notwithstanding Buyer's right to obtain additional environmental inspections of the Property in this §
873 10.6.4, Buyer has the Right to Terminate under § 25.1, on or before **Environmental Inspection Termination**
874 **Deadline**, or if applicable, the Extended Environmental Inspection Objection Deadline, based on any
875 unsatisfactory results of Environmental Inspection, in Buyer's sole subjective discretion.
876

877 Buyer has the Right to Terminate under § 25.1, on or before **ADA Evaluation Objection Deadline**,
878 based on any unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.
879

880 **10.7. Conditional Upon Sale of Property.** This Contract is conditional upon the sale and closing of
881 that certain property owned by Buyer and commonly known as . Buyer has the Right to Terminate under § 25.1
882 effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale Deadline** if such
883 property is not sold and closed by such deadline. This Section is for the sole benefit of Buyer. If Seller does not
884 receive Buyer's Notice to Terminate on or before **Conditional Sale Deadline**, Buyer waives any Right to
885 Terminate under this provision.
886

887 **10.8. Source of Potable Water (Residential Land and Residential Improvements Only).**
888 Buyer Does Does Not acknowledge receipt of a copy of Seller's Property Disclosure or Source of
889 Water Addendum disclosing the source of potable water for the Property. There is **No Well**. Buyer Does
890 Does Not acknowledge receipt of a copy of the current well permit.
891

892 **Note to Buyer: SOME WATER PROVIDERS RELY, TO VARYING DEGREES, ON NONRENEWABLE**
893 **GROUND WATER. YOU MAY WISH TO CONTACT YOUR PROVIDER (OR INVESTIGATE THE DESCRIBED**
894 **SOURCE) TO DETERMINE THE LONG-TERM SUFFICIENCY OF THE PROVIDER'S WATER SUPPLIES.**
895

896 **10.9. Existing Leases; Modification of Existing Leases; New Leases.** Seller states that none of
897 the Leases to be assigned to the Buyer at the time of Closing contain any rent concessions, rent reductions or
898 rent abatements except as disclosed in the Lease or other writing received by Buyer. Seller will not amend,
899 alter, modify, extend or cancel any of the Leases nor will Seller enter into any new leases affecting the Property
900 without the prior written consent of Buyer, which consent will not be unreasonably withheld or delayed.
901

902 **10.10 Lead-Based Paint**

903 **10.10.1. Lead-Based Paint Disclosure.** Unless exempt, if the Property includes one or
904 more residential dwellings constructed or a building permit was issued prior to January 1, 1978, for the benefit
905

911 of Buyer, Seller and all required real estate licensees must sign and deliver to Buyer a completed Lead-Based
912 Paint Disclosure (Sales) form on or before the **Lead-Based Paint Disclosure Deadline**. If Buyer does not
913 timely receive the Lead-Based Paint Disclosure, Buyer may waive the failure to timely receive the Lead-Based
914 Paint Disclosure, or Buyer may exercise Buyer's Right to Terminate under § 25.1 by Seller's receipt of Buyer's
915 Notice to Terminate on or before the expiration of the **Lead-Based Paint Termination Deadline**.
916

917 **10.10.2. Lead-Based Paint Assessment.** If Buyer elects to conduct or obtain a risk
918 assessment or inspection of the Property for the presence of Lead-Based Paint or Lead-Based Paint hazards,
919 Buyer has a Right to Terminate under § 25.1 by Seller's receipt of Buyer's Notice to Terminate on or before the
920 expiration of the **Lead-Based Paint Termination Deadline**. If Buyer's Notice to Terminate would otherwise be
921 required to be received by Seller after **Closing Date**, Buyer's Notice to Terminate must be received by Seller
922 on or before Closing. Buyer may elect to waive Buyer's right to conduct or obtain a risk assessment or
923 inspection of the Property for the presence of Lead-Based Paint or Lead-Based Paint hazards. If Seller does
924 not receive Buyer's Notice to Terminate within such time, Buyer accepts the condition of the Property relative to
925 any Lead-Based Paint as satisfactory and Buyer waives any Right to Terminate under this provision.
926

927 **10.11. Carbon Monoxide Alarms. Note:** If the improvements on the Property have a fuel-fired
928 heater or appliance, a fireplace, or an attached garage and include one or more rooms lawfully used for
929 sleeping purposes (Bedroom), the parties acknowledge that Colorado law requires that Seller assure the
930 Property has an operational carbon monoxide alarm installed within fifteen feet of the entrance to each
931 Bedroom or in a location as required by the applicable building code.
932

933 **10.12. Methamphetamine Disclosure.** If Seller knows that methamphetamine was ever
934 manufactured, processed, cooked, disposed of, used or stored at the Property, Seller is required to disclose
935 such fact. No disclosure is required if the Property was remediated in accordance with state standards and
936 other requirements are fulfilled pursuant to § 25-18.5-102, C.R.S., Buyer further acknowledges that Buyer has
937 the right to engage a certified hygienist or industrial hygienist to test whether the Property has ever been used
938 as a methamphetamine laboratory. Buyer has the Right to Terminate under § 25.1, upon Seller's receipt of
939 Buyer's written Notice to Terminate, notwithstanding any other provision of this Contract, based on Buyer's test
940 results that indicate the Property has been contaminated with methamphetamine, but has not been remediated
941 to meet the standards established by rules of the State Board of Health promulgated pursuant to §
942 25-18.5-102, C.R.S. Buyer must promptly give written notice to Seller of the results of the test.
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950 **11. ESTOPPEL STATEMENTS.**

951 **11.1. Estoppel Statements Conditions.** Buyer has the right to review and object to any Estoppel
952 Statements. Seller must request from all tenants of the Property and if received by Seller, deliver to Buyer on
953 or before **Estoppel Statements Deadline**, statements in a form and substance reasonably acceptable to
954 Buyer, from each occupant or tenant at the Property (Estoppel Statement) attached to a copy of the Lease
955 stating:
956

957 **11.1.1.** The commencement date of the Lease and scheduled termination date of the Lease;

958 **11.1.2.** That said Lease is in full force and effect and that there have been no subsequent
959 modifications or amendments;

960 **11.1.3.** The amount of any advance rentals paid, rent concessions given, and deposits paid to
961 Seller;

962 **11.1.4.** The amount of monthly (or other applicable period) rental paid to Seller;

963 **11.1.5.** That there is no default under the terms of said Lease by landlord or occupant; and

964 **11.1.6.** That the Lease to which the Estoppel Statement is attached is a true, correct and
965 complete copy of the Lease demising the premises it describes.
966

967 **11.2. Seller Estoppel Statements.** In the event Seller does not receive from all tenants of the
968 Property a completed signed Estoppel Statement, Seller agrees to complete and execute an Estoppel
969 Statement setting forth the information and documents required §11.1 above and deliver the same to Buyer on
970 or before **Estoppel Statements Deadline**.
971

972 **11.3. Estoppel Statements Termination.** Buyer has the Right to Terminate under § 25.1, on or
973 before **Estoppel Statements Termination Deadline**, based on any unsatisfactory Estoppel Statement, in
974 Buyer's sole subjective discretion, or if Seller fails to deliver the Estoppel Statements on or before **Estoppel**
975 **Statements Deadline**. Buyer also has the unilateral right to waive any unsatisfactory Estoppel Statement.
976
977
978
979
980

CLOSING PROVISIONS

12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.

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

12.2. Closing Instructions. Colorado Real Estate Commission's Closing Instructions Are Are 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 *tbd 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
- 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.

1051 **14. PAYMENT OF LIENS AND ENCUMBRANCES.** Unless agreed to by Buyer in writing, any amounts
1052 owed on any liens or encumbrances securing a monetary sum, including, but not limited to, any governmental
1053 liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not
1054 and previous years' taxes, will be paid at or before Closing by Seller from the proceeds of this transaction or
1055 from any other source.
1056
1057

1058 **15. CLOSING COSTS, CLOSING FEE, ASSOCIATION FEES AND TAXES.**

1059 **15.1. Closing Costs.** Buyer and Seller must pay, in Good Funds, their respective closing costs
1060 and all other items required to be paid at Closing, except as otherwise provided herein.
1061

1062 **15.2. Closing Services Fee.** The fee for real estate closing services must be paid at Closing by
1063 Buyer Seller One-Half by Buyer and One-Half by Seller
1064 Other
1065

1066 **15.3. Status Letter and Record Change Fees.** At least fourteen days prior to **Closing Date**,
1067 Seller agrees to promptly request the Association to deliver to Buyer a current Status Letter. Any fees incident
1068 to the issuance of Association's Status Letter must be paid by None Buyer Seller One-Half by
1069 Buyer and One-Half by Seller. Any Record Change Fee must be paid by None Buyer Seller
1070 One-Half by Buyer and One-Half by Seller .
1071

1072 **15.4. Local Transfer Tax.** The Local Transfer Tax of % of the Purchase Price must
1073 be paid at Closing by None Buyer Seller One-Half by Buyer and One-Half by Seller.
1074

1075 **15.5. Private Transfer Fee.** Private transfer fees and other fees due to a transfer of the Property,
1076 payable at Closing, such as community association fees, developer fees and foundation fees, must be paid at
1077 Closing by None Buyer Seller One-Half by Buyer and One-Half by Seller. The Private Transfer
1078 fee, whether one or more, is for the following association(s): in the total amount of % of the Purchase Price or
1079 \$.
1080

1081 **15.6. Water Transfer Fees.** The Water Transfer Fees can change. The fees, as of the date of
1082 this Contract, do not exceed \$ for:
1083

1084 Water Stock/Certificates Water District
1085 Augmentation Membership Small Domestic Water Company n/a and must be paid at Closing by
1086 None Buyer Seller One-Half by Buyer and One-Half by Seller
1087

1088 **15.7. Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction
1089 must be paid when due by None Buyer Seller One-Half by Buyer and One-Half by Seller.
1090

1091 **15.8. FIRPTA and Colorado Withholding.**

1092 **15.8.1. FIRPTA.** The Internal Revenue Service (IRS) may require a substantial portion of
1093 the Seller's proceeds be withheld after Closing when Seller is a foreign person. If required withholding does not
1094 occur, the Buyer could be held liable for the amount of the Seller's tax, interest and penalties. If the box in this
1095 Section is checked, Seller represents that Seller IS a foreign person for purposes of U.S. income taxation. If
1096 the box in this Section is not checked, Seller represents that Seller is not a foreign person for purposes of U.S.
1097 income taxation. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably
1098 requested documents to verify Seller's foreign person status. If withholding is required, Seller authorizes
1099 Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax
1100 advisor to determine if withholding applies or if an exemption exists.
1101

1102 **15.8.2. Colorado Withholding.** The Colorado Department of Revenue may require a
1103 portion of the Seller's proceeds be withheld after Closing when Seller will not be a Colorado resident after
1104 Closing, if not otherwise exempt. Seller agrees to cooperate with Buyer and Closing Company to provide any
1105 reasonably requested documents to verify Seller's status. If withholding is required, Seller authorizes Closing
1106 Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to
1107 determine if withholding applies or if an exemption exists.
1108

1109 **16. PRORATIONS AND ASSOCIATION ASSESSMENTS.** The following will be prorated to the **Closing**
1110 **Date**, except as otherwise provided:
1111

1112 **16.1. Taxes.** Personal property taxes, if any, special taxing district assessments, if any and
1113 general real estate taxes for the year of Closing, based on Taxes for the Calendar Year Immediately
1114 **Preceding Closing** Most Recent Mill Levy and Most Recent Assessed Valuation, adjusted by any
1115
1116
1117
1118
1119
1120

1121 applicable qualifying seniors property tax exemption, qualifying disabled veteran exemption or **Other Buyer**
1122 **to assume, payoff or take title subject to any taxes, assessments, liens, fees, costs, expenses,**
1123 **etc., of whatsoever nature, associated with the Property.**

1124 **16.2. Rents.** Rents based on **Rents Actually Received** **Accrued.** At Closing, Seller will
1125 transfer or credit to Buyer the security deposits for all Leases assigned, or any remainder after lawful
1126 deductions and notify all tenants in writing of such transfer and of the transferee's name and address. Seller
1127 must assign to Buyer all Leases in effect at Closing and Buyer must assume Seller's obligations under such
1128 Leases.

1129 **16.3. Association Assessments.** Current regular Association assessments and dues
1130 (Association Assessments) paid in advance will be credited to Seller at Closing. Cash reserves held out of the
1131 regular Association Assessments for deferred maintenance by the Association will not be credited to Seller
1132 except as may be otherwise provided by the Governing Documents. Buyer acknowledges that Buyer may be
1133 obligated to pay the Association, at Closing, an amount for reserves or working capital. Any special
1134 assessment assessed prior to **Closing Date** by the Association will be the obligation of **Buyer** **Seller.**
1135 Except however, any special assessment by the Association for improvements that have been installed as of
1136 the date of Buyer's signature hereon, whether assessed prior to or after Closing, will be the obligation of Seller.
1137 Seller represents there are no unpaid regular or special assessments against the Property except the current
1138 regular assessments and **Buyer to assume, payoff or take title subject to any taxes, assessments,**
1139 **liens, fees, costs, expenses, etc., of whatsoever nature, associated with the Property.**

1140 Association Assessments are subject to change as provided in the Governing Documents.

1141 **16.4. Other Prorations.** Water and sewer charges, propane, interest on continuing loan and
1142 **Buyer to assume, payoff or take title subject to any taxes, assessments, liens, fees, costs,**
1143 **expenses, etc., of whatsoever nature, associated with the Property.**

1144 **16.5. Final Settlement.** Unless otherwise agreed in writing, these prorations are final.

1145 **17. POSSESSION.** Possession of the Property will be delivered to Buyer on **Possession Date** at
1146 **Possession Time**, subject to the Leases as set forth in § 10.6.1.7.

1147 If Seller, after Closing, fails to deliver possession as specified, Seller will be subject to eviction and
1148 will be additionally liable to Buyer for payment of \$ n/a per day (or any part of a day notwithstanding § 18.1)
1149 from **Possession Date** and **Possession Time** until possession is delivered.

GENERAL PROVISIONS

1150 **18. DAY; COMPUTATION OF PERIOD OF DAYS, DEADLINE.**

1151 **18.1. Day.** As used in this Contract, the term "day" means the entire day ending at 11:59 p.m., United
1152 States Mountain Time (Standard or Daylight Savings, as applicable).

1153 **18.2. Computation of Period of Days, Deadline.** In computing a period of days (e.g., three days after
1154 MEC), when the ending date is not specified, the first day is excluded and the last day is included. If any
1155 deadline falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such deadline **Will**
1156 **Will Not** be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be
1157 checked, the deadline will not be extended.

1158 **19. CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION;**
1159 **AND WALK-THROUGH.** Except as otherwise provided in this Contract, the Property, Inclusions or both will be
1160 delivered in the condition existing as of the date of this Contract, ordinary wear and tear excepted.

1161 **19.1. Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other
1162 perils or causes of loss prior to Closing (Property Damage) in an amount of not more than ten percent of the
1163 total Purchase Price and if the repair of the damage will be paid by insurance (other than the deductible to be
1164 paid by Seller), then Seller, upon receipt of the insurance proceeds, will use Seller's reasonable efforts to
1165 repair the Property before **Closing Date**. Buyer has the Right to Terminate under § 25.1, on or before **Closing**
1166 **Date**, if the Property is not repaired before **Closing Date**, or if the damage exceeds such sum. Should Buyer
1167 elect to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all

insurance proceeds that were received by Seller (but not the Association, if any) resulting from damage to the Property and Inclusions, plus the amount of any deductible provided for in the insurance policy. This credit may not exceed the Purchase Price. In the event Seller has not received the insurance proceeds prior to Closing, the parties may agree to extend the **Closing Date** to have the Property repaired prior to Closing or, at the option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller's insurance company and Buyer's lender; or (2) the parties may enter into a written agreement prepared by the parties or their attorney requiring the Seller to escrow at Closing from Seller's sale proceeds the amount Seller has received and will receive due to such damage, not exceeding the total Purchase Price, plus the amount of any deductible that applies to the insurance claim.

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

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

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

19.5. Home Warranty. Seller and Buyer are aware of the existence of pre-owned home warranty programs that may be purchased and may cover the repair or replacement of such Inclusions.

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

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

21.1. If Buyer is in Default:

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

21.1.2. Liquidated Damages, Applicable. This § 21.1.2 applies unless the box in § 21.1.1. is checked. Seller may cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest Money specified in § 4.1 is LIQUIDATED DAMAGES and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in §§ 10.4,

1261 22, 23 and 24), said payment of Earnest Money is SELLER'S ONLY REMEDY for Buyer's failure to perform
1262 the obligations of this Contract. Seller expressly waives the remedies of specific performance and additional
1263 damages.
1264

1265 **21.2. If Seller is in Default:** Buyer may elect to treat this Contract as canceled, in which case all
1266 Earnest Money received hereunder will be returned to Buyer and Buyer may recover such damages as may be
1267 proper. Alternatively, Buyer may elect to treat this Contract as being in full force and effect and Buyer has the
1268 right to specific performance or damages, or both.
1269

1270
1271 **22. LEGAL FEES, COST AND EXPENSES.** Anything to the contrary herein notwithstanding, in the event
1272 of any arbitration or litigation relating to this Contract, prior to or after **Closing Date**, the arbitrator or court must
1273 award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and
1274 expenses.
1275
1276

1277
1278 **23. MEDIATION.** If a dispute arises relating to this Contract (whether prior to or after Closing) and is not
1279 resolved, the parties must first proceed, in good faith, to mediation. Mediation is a process in which the parties
1280 meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot
1281 impose binding decisions. Before any mediated settlement is binding, the parties to the dispute must agree to
1282 the settlement, in writing. The parties will jointly appoint an acceptable mediator and will share equally in the
1283 cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire dispute
1284 is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the
1285 other at that party's last known address (physical or electronic as provided in § 27). Nothing in this Section
1286 prohibits either party from filing a lawsuit and recording a *lis pendens* affecting the Property, before or after the
1287 date of written notice requesting mediation. This Section will not alter any date in this Contract, unless
1288 otherwise agreed.
1289
1290

1291
1292 **24. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder must
1293 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 **CTM e-Contract delivery**.

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 revised as follows:

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

2.5.3. Personal Property. Seller to convey all of its interests in any personal property to Buyer at closing. Such conveyance shall be evidenced by a Bill of Sale.

4.1 Purchase Price. Purchase Price shall be \$100,001 NET to Seller.

4.6 Assumption. The following sentence, "Seller will be released from liability on said loan" and replaced with "Buyer shall use his best efforts to have Seller released from liability on said loan."

6.3. Lender Property Requirements. This Section shall be deleted in the entirety.

8.1.2. Buyer Selects Title Insurance Company. Buyer shall select Fidelity National Title Insurance Company as the title company, and Jim Cimino (j cimino@fnf.com), as the title agent.

14. Payment of Liens and Encumbrances. This Section shall be deleted in the entirety.

15.4 Local Transfer Tax. Language shall be added to this provision as follows: The Town of Vail imposes a 1.0% Real Estate Transfer Tax ("RETT"). On or before closing Seller shall submit an application for Exemption From Real Estate Transfer Tax to the Town Manager for the City of Vail. See "Exemption From Real Estate Transfer Tax", attached hereto as EXHIBIT B. In the event that such application is denied, Buyer shall pay 100% of the Real Estate Transfer Tax.

21.2. If Seller is in Default. This Section is revised to read as follows: "Buyer may elect to treat this Contract as canceled, in which case all 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. This Section shall be 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. Neither Buyer nor Seller is represented by a broker in this transaction, and no broker commission will be paid in any event. 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. OTHER DOCUMENTS.

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

n/a

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

n/a

SIGNATURES

Robert Eisen

Date: 6/14/2019

Buyer: Robert Eisen

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

Harvey Sender, Receiver

Date: 6/14/2019

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

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 n/a.

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

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** *n/a*.

Brokerage Firm's Name: *n/a*

Brokerage Firm's License #:

Broker _____ Date: _____

Broker's License #:

Address: *n/a n/a, n/a n/a*

Ph: *n/a* Fax: *n/a* Email Address:

CBS2-6-18. CONTRACT TO BUY AND SELL REAL ESTATE (INCOME – RESIDENTIAL)

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**ADDENDUM TO CONTRACT TO BUY AND SELL REAL ESTATE
(INCOME – RESIDENTIAL) DATED June 14, 2019 BETWEEN
HARVEY SENDER, IN HIS CAPACITY AS RECEIVER OF THE GARY
DRAGUL RECEIVERSHIP ESTATE (“SELLER”)**

AND ROBERT EISEN (“BUYER”),

**AND CONCERNING THAT CERTAIN RESIDENTIAL PROPERTY
KNOWN AS**

4450 TIMBER FALLS COURT, UNIT # 1702, VAIL, CO 81657

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 GDA Real Estate Services, LLC (“GDA RES”), GDA Real Estate Management, LLC (“GDA REM”), certain assets of Gary Dragul individually. 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 (Income – Residential) dated even date herewith (the “Printed Form”; the Printed Form and this Addendum, collectively, are 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 the 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 ninety (90) 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, judgements and/or decrees.

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 the Seller One Hundred Thousand and One Dollars NET (\$100,001), in good funds, said amount being distributed to Seller, exclusive of all costs, fees, expenses, charges, etc., of whatsoever nature, concerning and/or relating to the Property (the "Purchase Price"). In addition, Buyer shall assume, payoff or take subject to any/all existing loans and/or encumbrances relating to the Property.

7. Due Diligence / Inspection. N/A.

8. Due Diligence Documents. Seller shall deliver to Buyer 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.

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) suitability for any and all activities and uses which Buyer may conduct thereon;
- iv) compliance with any laws, rules, ordinances or regulations;
- v) habitability merchantability or fitness for a particular purpose;
- vi) good and workmanlike construction;
- vii) design;
- viii) the nature or quality of the construction, structural design and/or engineering thereof;
- ix) the quality thereof and the composition of the materials included therein; or
- x) 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.

11. RECEIVER (SELLER) DISCLAIMER. NOTWITHSTANDING ANY LANGUAGE IN THIS CONTRACT TO THE CONTRARY, 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, SELLER 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. Neither Buyer nor Seller have engaged a broker for this transaction, and no commission is owed, or to be paid, as concerns this transaction. 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 to follow]

Signature page:

**Addendum to Contract to Buy and Sell Real Estate (Income-Residential)
re: 4450 TIMBER FALLS COURT, UNIT # 1702, VAIL, CO 81657**

BUYER:

SELLER:

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

Robert Eisen 06/11/2019

Harvey Sender 06/14/2019

Robert Eisen, Individually

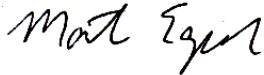
Harvey Sender, as Receiver

EXHIBIT A
RECEIVERSHIP ORDER

| | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| DISTRICT COURT, DENVER COUNTY, COLORADO | |
| Court Address: 1437 Bannock Street, Rm 256, Denver, CO, 80202 | |
| Plaintiff(s) GERALD ROME SECURITIES COM FOR THE ST OF v. Defendant(s) GARY DRAGUL et al. | DATE FILED: August 30, 2018 8:27 AM CASE NUMBER: 2018CV33011 |
| △ COURT USE ONLY △ | |
| Case Number: 2018CV33011 Division: 424 Courtroom: | |
| Order: (Proposed) Stipulated Order Appointing Receiver also filed on behalf of Defendants Gary Dragul and GDA Real Estate Service, and GDA Real Estate Management LLC) | |

The motion/proposed order attached hereto: SO ORDERED.

Issue Date: 8/30/2018



MARTIN FOSTER EGELHOFF
District Court Judge

| | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------|
| <p>DISTRICT COURT, DENVER COUNTY, COLORADO</p> <p>1437 Bannock Street Denver, CO 80202</p> <hr/> <p>GERALD ROME, Securities Commissioner for the State of Colorado,</p> <p>Plaintiff,</p> <p>v.</p> <p>GARY DRAGUL, GDA REAL ESTATE SERVICES, LLC, and GDA REAL ESTATE MANAGEMENT, LLC</p> <p>Defendants.</p> | <p style="text-align: center;">▲ COURT USE ONLY ▲</p> |
| <p>BY THE COURT</p> | <p>Case No.: 2018 CV 33011</p> <p>Courtroom: 424</p> |
| <p>STIPULATED ORDER APPOINTING RECEIVER</p> | |

THIS MATTER having come before this Court on the Stipulated Motion to Appoint Receiver (the “Motion”) filed by the Plaintiff Gerald Rome, Securities Commissioner for the State of Colorado and Defendants Gary Dragul (“Dragul”), GDA Real Estate Services, LLC (“GDARES”), and GDA Real Estate Management, Inc. (“GDAREM”), and the Court, being otherwise fully advised in the premises,

HEREBY FINDS:

1. The Court has jurisdiction and venue is proper pursuant to C.R.C.P. 98(a).
2. Dragul is an individual and a resident of Colorado, and the manager of

GDARES and GDAREM, among other businesses.

3. GDARES is a Colorado limited liability company with its principal place of business at 5690 DTC Blvd., Suite 515, Greenwood Village, Colorado 80111.

4. GDAREM is a Colorado corporation with its principal place of business at 5690 DTC Blvd., Suite 515, Greenwood Village, Colorado 80111.

5. The Parties have stipulated to the appointment of a Receiver without bond or other security for Dragul, GDARES, and GDAREM, as well as for their respective properties and assets, and interests and management rights in related affiliated and subsidiary businesses as set forth herein.

6. The appointment of a receiver is reasonable and necessary for the protection of the assets and the rights of the parties in this case. Based on the standards set forth in C.R.C.P. 66 and case law thereunder, the Parties have stipulated that the Commissioner is entitled to entry of this Order.

7. Nothing in this stipulated Order shall be deemed an admission by Dragul to any allegations or as a waiver of any defenses thereto or limit Dragul's 4th, 5th, or 6th Amendment rights or other Constitutional and statutory protections and privileges afforded to any criminal defendant, or prevent him from invoking such rights in his personal capacity. Nothing in this Order operates as a waiver or an abrogation of the attorney-client privilege held by Dragul in his personal capacity.

8. Harvey Sender of Sender & Smiley LLC, has been determined to be suitable to serve as Receiver for Dragul (as such term is defined below in this

Order), GDARES and GDAREM, as set forth in this Order. Mr. Sender's business address is 600 17th Street, Suite 2800, Denver, Colorado 80202.

IT IS THEREFORE ORDERED THAT:

9. Harvey Sender ("the Receiver") is hereby appointed as Receiver for Dragul (limited to the definition of the "Receivership Property" or "Receivership Estate" as defined herein), GDARES, GDAREM, and all of their assets, including, but not limited to, all real and personal property, including tangible and intangible assets, their interests in any subsidiaries or related companies, management and control rights, claims, and causes of action, wherever located, including without limitation the "LLC Entities" identified in the Commissioner's Motion and Complaint for Injunctive and Other Relief, or assets (including those of Dragul) of any kind or of any nature whatsoever related in any manner, or directly or indirectly derived, from investor funds from the solicitation or sale of securities as described in the Complaint, or derived indirectly or indirectly from investor funds (the "Receivership Property," and altogether this "Receivership Estate"). Except that the personal residence of Dragul, located at 10 Cherry Vale Drive, Englewood, Colorado 80113, shall not be considered "Receivership Property" or part of the "Receivership Estate," unless the Receiver determines that an improvement to or increase in equity in such residence is directly related to the proceeds from the sale of the securities or matters referenced in the Complaint, in which case the improvements or equity shall be considered "Receivership Property" or part of the "Receivership Estate." Consistent with

Colorado's dissolution statutes and applicable law, and as set forth in greater detail below, the Receiver may, in the exercise of his reasonable judgment, investigate any claims and causes of action which may be pursued for the benefit of Dragul, GDARES, GDAREM, their creditors, members, and equity holders, and make recommendations to interested parties and this Court regarding the prosecution of any such claims and causes of action; establish a process for the assertion of claims against the Receivership Estate; make recommendations to this Court for the allowance and payment of such claims; and investigate and make recommendations to this Court for the ongoing operation, sale or distribution of any remaining Receivership Property, or the proceeds thereof, pursuant to the terms hereof.

10. Dragul, GDARES, and GDAREM, and all persons in active participation them, including without limitation, their officers and directors, partners, managers, employees, agents, representatives, attorneys, accountants, banks, contractors, subcontractors, and all who claim under them (collectively, the "Representatives"), are hereby ordered to deliver immediately to the Receiver or his agents all of the Receivership Property and to fully cooperate with the Receiver including, but not limited to, providing the Receiver all reasonably requested documents, records, bank accounts, trust accounts, deposit accounts, savings accounts, money market accounts, and all other demand deposit accounts, inventory, supplies, contracts, accounts receivable, computer databases, sales and marketing materials; together with stock certificates or other indicia of

ownership of any subsidiaries or related companies, and any and all reasonably requested documents, records, bank accounts, trust accounts, deposit accounts, savings accounts, money market accounts, and all other demand deposit accounts, inventory, supplies, contracts, accounts receivable, computer databases, sales and marketing materials, related to the operation of any subsidiaries or related companies. Dragul, GDARES, and GDAREM and their Representatives, when necessary or when requested (subject to Dragul's Constitutional protections, including the Fifth Amendment), shall explain the operation, maintenance and management of the Receivership Property, including any subsidiaries or related entities or companies, to the Receiver or his agents, without compensation therefor. Any claims for nonpayment for services shall not be used as a defense to turning over Receivership Property. All privileges in connection with professional representation of GDARES and GDAREM shall accrue to the sole benefit of the Receiver and the Receivership Estate and may only be waived by the Receiver, except that Dragul maintains all such privileges in his personal capacity. The Receiver may request supplemental authority from this Court upon proper motion, if necessary, to obtain the cooperation of any Representatives or any other foregoing persons acting on behalf of or for Dragul, GDARES and GDAREM, to comply fully and completely with this Order.

11. Any creditors of Dragul, GDARES or GDAREM that are in the possession of, or have taken any action to seize any books, records, or assets of the Receivership Estate (hereinafter called "Creditors") and all persons in active

participation with such Creditors, including without limitation, such Creditors' officers, managers, members, employees, agents, representatives, attorneys, accountants, banks, contractors, subcontractors, and all who claim under them (hereafter called "Creditors' Representatives") are hereby ordered to deliver immediately to the Receiver all of the Receivership Property in such Creditors' or Creditors' Representatives' possession, and to fully cooperate with the Receiver in connection with such turnover. Any claims against Dragul, GDARES or GDAREM shall not be used as a defense to turning over as set forth in this paragraph. The Receiver may request supplemental authority from this Court upon proper motion, if necessary, to obtain the cooperation of Creditors or Creditors' Representatives or any other foregoing persons acting on behalf of or for the Creditors to comply fully and completely with this Order.

12. If the Receiver determines, after reasonable inquiry that a person or entity is in violation of the turnover provisions set forth in Paragraphs 9 and 10 of this Order, the Receiver is instructed to give written notice thereof to the person or entity violating such provisions, with a copy of this Order attached, demanding turnover of such Receivership Property. If the person or entity in possession fails or refuses to turn over the Receivership Property after receiving notice, the Receiver shall file a Request for an Order to Show Cause with this Court.

13. The Receiver shall have all the powers and authority usually held by equity receivers and reasonably necessary to accomplish the purposes stated

herein, including, but not limited to, the following powers which the Receiver may execute without further order of this Court, except as expressly provided herein:

(a) To take from Dragul's, GDARES' and GDAREM's Representatives, and all persons acting in participation with Dragul, GDARES and GDAREM, and from Creditors and Creditors' Representatives, immediate possession and control of all of the assets of Dragul, GDARES and GDAREM, including the Receivership Property, to the exclusion of Dragul, GDARES and GDAREM, and their Representatives or all persons acting in participation with Dragul, GDARES and GDAREM, and Creditors and Creditors' Representatives;

(b) To exercise such control over all subsidiaries and related companies owned or managed by Dragul, GDARES and GDAREM, consistent with the governance documents or operating agreements applicable to the subsidiaries and related companies, including to exercise all rights of Dragul, GDARES and GDAREM to elect new officers, directors, or management of the subsidiaries and related companies, in their respective capacities and not as an assignee;

(c) To take charge of the subject Receivership Property, regardless of where such property is located, including, but not limited to, bank accounts, cash, checks, drafts, notes, security deposits, bonds, books, records, contracts, claims, leases, files, furniture, certificates, licenses, fixtures and equipment, property located in any real property either owned or leased by Dragul, GDARES and GDAREM and any personal property located in storage facilities;

(d) As appropriate, to take possession of offices of Dragul, GDARES

and GDAREM and to change any and all locks on such offices and to limit access to such offices to the Receiver and his agents, subject to any privileges maintained by Dragul in his personal capacity;

(e) To collect in a timely fashion all accounts receivable and other obligations due to Dragul, GDARES and GDAREM, including, as necessary to negotiate and deposit checks made payable to them into accounts maintained by the Receiver and as necessary to review mail directed to Dragul, GDARES and GDAREM and their Representatives in order to collect incoming accounts receivable and other obligations due and owing to Dragul, GDARES and GDAREM;

(f) To contract for and obtain such services as utilities, supplies, equipment and goods as is reasonably necessary to manage, preserve, and protect the Receivership Property as the Receiver may reasonably deem necessary; however, no contract shall extend beyond the termination of the Receivership without the permission of the Court;

(g) To obtain, review and analyze Dragul, GDARES and GDAREM books and records relating to the Receivership Property, including without limitation accounting records, banking records, tax records, and any other books or documents necessary to perform the duties of the Receiver;

(h) To pay, at the Receiver's discretion, any obligations incurred by Dragul, GDARES and GDAREM prior to the appointment of the Receiver that are deemed by the Receiver to be necessary or advisable for the preservation or protection of the Receivership Property;

(i) To borrow from third parties on such reasonable terms as may be acceptable to the Receiver, such funds that may be required for the fulfillment of the Receiver's obligations hereunder, and to meet the needs of the Receivership Estate in excess of the income from the Receivership Estate. The Receiver may issue Receiver's Certificates secured by all assets of the Receivership Estate, including, but not limited to, all claims on insurance policies, surety bonds, and similar assets of the Receivership Estate, in exchange for funds advanced during the term of this receivership, and such Receiver Certificates shall be a first and prior lien and preference claim upon the Receivership Property or a portion of it at the Receiver's election;

(j) To open and maintain accounts at a financial institution insured by the federal government in the name of the Receiver and to deposit all sums received by the Receiver into such account and to make such withdrawals as are necessary to pay the reasonable costs and expenses incurred by the Receiver;

(k) To exercise all rights of an owner incidental to the ownership of the Receivership Property;

(l) To hire and pay general counsel, accounting, and other professionals as may be reasonably necessary to the proper discharge of the Receiver's duties, and to hire, pay and discharge the personnel necessary to fulfill the obligations of the Receiver hereunder, including the retention of companies affiliated with the Receiver, or other third parties to assist the Receiver in the performance of its duties hereunder, all within the Receiver's discretion;

(m) In the Receiver's discretion as appropriate, to hire and pay employees with the necessary skills and experience to operate GDARES and GDAREM efficiently and with least amount of cost or expense, and to preserve the assets of GDARES and GDAREM and the Receivership Estate.

(n) After consultation with the Commissioner and agreement on the amount and funding of a budget related thereto, to institute such legal actions as the Receiver deems reasonably necessary, including actions necessary to enforce this Order to protect the Receivership Property, and to prosecute causes of action of Dragul, GDARES and GDAREM against third parties in this or any other jurisdictions, including foreign countries;

(o) After consultation with the Commissioner and agreement on the amount and funding of a budget related to anticipated out of pocket expenses related thereto, to retain special counsel, and other professionals as needed, on a contingency fee basis containing commercially reasonable terms, as determined by the Receiver in the exercise of his reasonable business judgment, to recover possession of the Receivership Property from any persons who may now or in the future be wrongfully possessing Receivership Property or any part thereof, including claims premised on fraudulent transfer or similar theories, in this or any other jurisdictions, including foreign countries;

(p) To notify any and all insurers under insurance policies and issuers of surety bonds affecting the Receivership Property of the pendency of these proceedings, and that any proceeds paid under any such insurance policy or surety

bond shall be paid to the Receiver to be administered for the benefit of all creditors of Dragul, GDARES and GDAREM;

(q) To pay, at the Receiver's discretion, any obligations incurred by Dragul, GDARES and GDAREM prior to the appointment of the Receiver that are deemed by the Receiver to be necessary or advisable for the preservation or protection of the Receivership Property;

(r) To notify and make demands on any insurers under insurance policies and issuers of any such policies or surety bonds affecting Receivership Property for the turnover and payment of proceeds to the Receiver for the benefit of Creditors, and as necessary, and after consultation with Plaintiffs and agreement on the amount and funding of a budget related thereto, commence litigation against such insurers and/or sureties in order to recover the proceeds of such insurance policies and surety bonds for the benefit of Dragul, GDARES and GDAREM and their creditors; and further provided that, in connection with any such claims or causes of action, the Receiver shall not be deemed to be asserting claims of Dragul, GDARES and GDAREM pursuant to any "insured vs. insured" exclusions that may be set forth in such insurance policies or surety bonds, but rather shall, in accordance with subparagraph (p) below, be deemed to be prosecuting claims of creditors of Dragul, GDARES and GDAREM in connection therewith;

(s) To prosecute claims and causes of actions held by Creditors of Dragul, GDARES and GDAREM, and any subsidiary entities for the benefit of

Creditors, in order to assure the equal treatment of all similarly situated Creditors:

(t) In the Receiver's discretion as appropriate, to consider the potential sale of assets of Dragul, GARDES, and GARDEM to a third-party or to sell or otherwise dispose of any personal property of the Receivership Estate, provided that Court approval shall not be required of any sale or disposition of any property being sold for a sales price of less than \$10,000;

(u) To establish a procedure for the assertion of claims against Dragul, GDARES and GDAREM or the Receivership Property, for the resolution of any disputes regarding such claims, and for the distribution of the proceeds of the Receivership Property;

(v) To issue subpoenas, institute, prosecute, defend, compromise, or adjust such actions or proceedings in state or federal courts now pending and hereafter instituted, as may in his discretion be advisable or proper for the protection, preservation and maintenance of the Receivership Assets or proceeds therefrom;

(w) To do such other and further lawful acts as the Receiver reasonably deems necessary for the effective recovery of the Receivership Property, and to perform such other functions and duties as may from time to time be required and authorized by this Court, by the laws of the State of Colorado, or the laws of the United States; and

(x) To do any and all acts necessary, convenient or incidental to the foregoing provisions of this Order and this equity receivership.

14. The Receiver is further directed to review the books and records of Dragul, GDARES and GDAREM, to account for receipts and disbursements of their funds, and to provide a report and accounting of their operations, for a period of time determined by the Receiver to be reasonable under the circumstances, to this Court and to the Commissioner, and any parties that have filed an entry of appearance herein. An initial report shall be filed with the Court within ninety (90) days of entry of this Order. In such report, the Receiver shall identify any claims and causes of action of Dragul, GDARES and GDAREM, identified as of the date of such report, including under insurance policies, on surety bonds, against any of their representatives or third parties, or arising under the Uniform Fraudulent Transfer Act, or any similar statute; and the Receiver's recommendations related thereto. The Receiver shall be authorized to act on his recommendations upon agreement with the Commissioner regarding budgets related to the prosecution thereof, and funding of such litigation, as set forth in this Order.

15. To the extent they have not already done so, Dragul, GDARES and GDAREM and their representatives, Creditors, and Creditors' Representatives, and their agents, are ordered to deliver over immediately to the Receiver, or his agents, all Receivership Property, including, but not limited to, unpaid bills, bank accounts, cash, checks, drafts, notes, security deposits, books, records, contracts, claims, leases, deeds, files, furniture, certificates, licenses, fixtures, escrow, sales contracts, equipment, and stock certificates or other evidence of ownership related to the Subsidiaries, relating to the Receivership Property and shall continue to

deliver immediately to the Receiver any such property received at any time in the future.

16. Any parties holding claims against Dragul, GDARES and GDAREM or the Receivership Estate shall not be entitled to participate as creditors in the distribution of recoveries from the Receiver's administration of the Receivership Estate and collection and liquidation of the assets thereof, unless such parties: (I) agree not to file or prosecute independent claims such parties may have (a) on insurance policies and surety bonds issued in connection with Dragul, GDARES and GDAREM operations, or (b) against Dragul, GDARES and GDAREM or any of their Representatives, and (II) promptly dismiss any lawsuits currently pending in connection therewith.

17. If necessary, the Receiver may request of this Court letters rogatory or commissions or supplemental orders as necessary to require out-of-state directors, officers, employees, agents, representatives, managers, attorneys, accountants, banks, contractors, or any other person acting in t participation with Dragul, GDARES and GDAREM and their Representatives, through the appropriate court of appropriate jurisdiction, to comply with any of the Orders of this Court.

18. The Receiver shall be compensated for his services at the rate of \$400 per hour, together with reimbursement for all reasonable costs and expenses incurred in connection with his duties, which compensation and reimbursement shall be paid from the assets of the Receivership Estate, proceeds of the disposition of Receivership Property, or the proceeds of loans secured by the Receiver.

19. Except as may be expressly authorized by the Court, Dragul, GDARES and GDAREM and all persons in active participation them, including without limitation, their officers and directors, partners, managers, employees, agents, representatives, attorneys, accountants, banks, contractors, subcontractors, and all who claim under them, are enjoined from:

- (a) Collecting any revenues from the Receivership Property, or withdrawing funds from any bank or other depository account relating to the Receivership Property;
- (b) Binding, or purporting to bind, Dragul, GDARES and GDAREM or the Receivership Estate, to any contract or other obligation;
- (c) Holding themselves out as, or acting or attempting to take any and all actions of any kind or nature as Representatives of Dragul, GDARES and GDAREM, or subsidiary entities they own or control, or in any other purported capacity, except with the permission of the Receiver or by further order of this Court; and
- (d) Otherwise interfering with the operation of the Receivership Property, or the Receiver's discharge of his duties hereunder.

20. Upon receipt of a copy of this Order, or upon actual knowledge of the entry of this Order, any other person or business entity shall also be bound by this Order.

21. Should the Receiver determine that tax returns were not filed for periods prior to the entry of this Order for which tax returns were required of

Dragul, GDARES and GDAREM, as funds are available in the Receivership Estate, the Receiver shall use reasonable efforts to have prepared and filed tax returns for any missing periods prior to the entry of this Order. To the extent it is determined that any outstanding tax obligations are due to the Internal Revenue Service, the Colorado Department of Revenue, or any other taxing authorities for any period of time prior to the entry of this Order, such taxes shall be paid, as funds are available in the Receivership Estate. The Receiver shall not be considered a responsible person, or otherwise have any personal liability, for any unpaid tax obligations of Dragul, GDARES and GDAREM (including for any trust fund taxes, such as payroll or sales tax) withheld but not paid to the proper taxing authority for any period prior to the entry of this Order. The Receiver shall file tax returns for periods commencing on the date of the entry of this Order through completion of the dissolution of Dragul, GDARES and GDAREM and discharge of the Receiver, as required by applicable federal, state, or local law.

22. The Receiver is directed and empowered to apply revenues, incomes and sales proceeds collected by the Receiver:

(a) First, to payment of costs and expenses of the Receivership Estate, and including the costs and expenses of preserving and liquidating the Receivership Property, taxes incurred from the appointment of the Receiver through the conclusion of the Receivership Proceeding and discharge of the Receiver, and to compensation due the Receiver and any employees, consultants, or professionals retained by the Receiver or employed by the Receiver to operate

GDARES or GDAREM;

(b) Second, to the payment of any outstanding Receiver's

Certificates;

(c) Third, to creditors holding obligations secured by the Receivership Property, in the order of their priority of record;

(d) Fourth, to the payment of any unsecured tax obligations determined to be due for periods prior to the entry of this Order, pursuant to the tax filing obligations imposed on the Receiver;

(e) Fifth, to the payment of unsecured creditors determined to hold legitimate claims against Dragul, GDARES and GDAREM pursuant to the claims administration procedure adopted by the Receiver, in their legal order of priority; and

(f) Sixth, to the preferred and common partners, members, or other equity interest holders of Dragul, GDARES and GDAREM, as their rights are defined in their governing documents, with the exception of any rights or interests held or owned by or for the benefit of Dragul, GDARES or GDAREM, or any insiders or related parties, with all such rights or interests to be determined by the Court.

23. The debts or liabilities incurred by the Receiver in the course of his operation and management of the Receivership Property, whether in the Receiver's name or in the name of the Receivership Property, shall be the debts and

obligations of the Receivership Estate only, and not of the Receiver in a personal capacity.

24. The Receiver shall enjoy and have the judicial immunity usually applicable to receivers in law and equity. All who are acting, or have acted, on behalf of the Receiver at the request of the Receiver are protected and privileged with the same judicial immunity as the Receiver has under this Order.

25. Nothing herein contained shall be construed as interfering with or invalidating any lawful lien or claim by any person or entity.

26. It is further Ordered that all actions in equity or at law against the Receiver, Dragul, GDARES and GDAREM, or the Receivership Estate are hereby enjoined (and any actions already pending are hereby stayed), pending further action by this Court. The Receiver is instructed to file a request for an Order to Show Cause if any business, entity, or person commences or continues the prosecution of any action in any other court seeking relief in equity or at law against the Receiver, Dragul, GDARES and GDAREM or the Receivership Estate without first seeking relief from this stay of proceedings.

27. The Receiver shall continue in possession of the Receivership Property until the completion of the disposition of this litigation which may anticipate the wind-up of the affairs of Dragul, GDARES and GDAREM.

28. Dragul, GDARES and GDAREM, and their Representatives, or anyone else in possession of records related to the Receivership Property, shall respond in a timely fashion to requests and inquiries from the Receiver concerning

such records, record keeping protocols, filing systems, information sources, algorithms and processes used to store, compile, organize, or manipulate data, and similar matters. With respect to any information or records stored in computer-readable form or located on computers Dragul, GDARES and GDAREM, and their Representatives, the person in possession of such information or records shall provide the Receiver full access to all media on which such records are located and all computers and the necessary application, system, and other software necessary to review, understand, print, and otherwise deal with such computerized records and all passwords and security codes necessary to access such computerized records, regardless of whether such records are separate or commingled with other information, except that information subject to the attorney-client privilege held by Dragul in his personal capacity shall remain privileged. Any such claimed privileged information, or information that may reasonably be considered to be privileged information, obtained by Receiver or commingled with other information shall be disgorged by the Receiver and notice given to Dragul regarding the privileged information and its disposition by the Receiver. In the event that the Receiver questions or disputes that any such information is privileged, the dispute shall be submitted to the Court, together with the disputed information for in camera review.

29. The Receiver may at any time, on proper and sufficient notice to all parties who have appeared in this action, apply to this Court for further

instructions whenever such instructions shall be deemed to be necessary to enable the Receiver to perform the duties of his office properly.

30. Notwithstanding anything to the contrary contained in this Order, the Receiver shall not take any action with regard to ownership, operation, control, storage, generation, or disposal of (a) any substance deemed a "hazardous substance", "pollutant," "contaminant", or similar substance under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601-9675, the Conservation and Recovery Act of 1976, the Solid Waste Amendments of 1984, the Superfund Amendments and Reauthorization Act of 1986, and any other amendments; or (b) any other chemical, toxin, pollutant or substance defined as hazardous or dangerous to human health under any other federal, state or local law, regulation, rule or ordinance, including, without limitation thereto, petroleum, crude oil, or any fraction thereof (all collectively referred to herein as "Hazardous Substances"), without first applying for an obtaining an Order of this Court specifically setting forth the action or actions proposed to be taken and to be taken by the Receiver. Without first applying for and obtaining such an Order of this Court, the Receiver shall have no ownership, control, authority or power (neither shall receiver have any obligation to exercise ownership, control, authorize or power) over the operation, storage, generation or disposal of any Hazardous Substance. All decisions relating to the ownership, operation, control, storage, generation and disposal of any Hazardous Substances shall be resolved by this Court.

31. The Receiver shall take appropriate action as necessary with respect to the January 20, 2015 "CDPHE Stipulation and Order," as defined and with background provided in the Motion Appointing Receiver.

32. Pursuant to C.R.C.P. 66(d)(3), the Receiver shall provide written notice of this action and entry of this Order to any persons in possession of Receivership Property or otherwise affected by this Order, including all known Creditors of Dragul, GDARES and GDAREM, subsidiaries and any their respective Representatives.

33. After the initial report required pursuant to this Order, the Receiver shall make periodic reports of the condition of the Receivership Estate on intervals to be agreed to by the Receiver and the Commissioner as is reasonably necessary to provide timely reporting of the operations of the Receivership Estate to all interested parties, without imposing undue burden and expense on the Receivership Estate. The Receiver shall not be required to, but as reasonably necessary, may follow generally accepted accounting principles or use auditors or accountants in the preparation of his reports to the Court.

34. Court approval of any motion filed by the Receiver shall be given as a matter of course, unless any party objects to the request for Court approval within ten (10) days after service by the Receiver or written notice of such request. Service of motions by facsimile and electronic transmission is acceptable.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this action for all purposes. The Receiver is hereby authorized, empowered and

directed to apply to this Court, with notice to the Commissioner for issuance of such other Orders as may be necessary and appropriate in order to carry out the mandate of this Court.

IT IS FURTHER ORDERED that this Order shall be effective immediately and will remain in effect until terminated or modified by further Order of this Court.

DATED this _____ day of August, 2018.

BY THE COURT:

MARTIN F. EGELHOFF
Denver District Court Judge

Attachment to Order - 2018CV32011

EXHIBIT B

EXEMPTION FROM REAL ESTATE TRANSFER TAX

The undersigned, as Grantor of a deed or instrument of conveyance from Harvey Sender, in his capacity as the Receiver of the Gary Dragul Receivership Estate to Robert Eisen, Grantee, dated _____, 2019, hereby applies for exemption from the payment of the Real Estate Transfer Tax, imposed by Ordinance No. 26, Series of 1979, of the Town of Vail, as amended by Ordinance No. 5, Series of 1980. The basis of such exemption is as follows:

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 GDA Real Estate Services, LLC ("GDA RES"), GDA Real Estate Management, LLC ("GDA REM") and certain assets of Gary Dragul individually including property located at 4450 Timber Falls Court, #1702, Vail, Colorado 81657 (the "Property"). The Receivership Order authorizes the Receiver to sell assets of the Receivership Estate subject to Court approval.

Per the deeds recorded in the public records, the Property was owned as tenants in common by Dragul (51%) and Grantee (49%). Grantee notified the Receiver of certain claims against Dragul concerning the Property, including but not limited to, fraud and misrepresentation. Specifically, Grantee alleges that he paid 100% of the consideration for purchase of 100% ownership interest in the Property and that Dragul was to manage the Property for a 2.0% ownership interest. Further, the note and deed of trust that Dragul had previously obtained, both of which are solely in the name of Dragul, were to be paid off in full with a portion of the funds that Grantee paid to Dragul when Grantee purchased what he believed was a 100% interest in the Property. Unbeknownst to Grantee, the conveyance deed to the Property granted 51% interest to Dragul and 49% interest to Grantee, and the note and deed of trust were not paid off. To avoid litigation, the Receiver and Grantee have agreed to a sale of the Property to Grantee for a discounted purchase price, in return for a waiver and release of all claims Grantee may have concerning the Property.

On _____, 2019, the Receivership Court issued an order approving the sale of the Property to Grantee. See Receivership Order attached as **EXHIBIT B**. This sale qualifies as an exemption pursuant to Ordinance 2-6-5(F) as a "transfer...ordered by a court of competent jurisdiction in an equity receivership proceeding."

I hereby certify under penalty of perjury that the foregoing statements are true and correct.

GRANTOR / SELLER:

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

Harvey Sender, as Receiver

I hereby certify that the above described transfer of real property is exempt from the payment of real estate transfer tax under Ordinance No. 26, Series of 1979, as amended by Ordinance No. 5, Series of 1980, Section .

By _____
Town Manager

| | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------|
| DISTRICT COURT, DENVER COUNTY, STATE OF COLORADO Denver District Court 1437 Bannock St. Denver, CO 80202 | DATE FILED: June 19, 2019 8:31 AM FILING ID: 2BC4B09FEE90D CASE NUMBER: 2018CV33011 |
| Plaintiff: CHRIS MYKLEBUST, SECURITIES COMMISSIONER FOR THE STATE OF COLORADO v. Defendants: GARY DRAGUL, GDA REAL ESTATE SERVICES, LLC, AND GDA REAL ESTATE MANAGEMENT, LLC | <p style="text-align: center;">▲ COURT USE ONLY ▲</p> Case Number: 2018CV33011 Division/Courtroom: 424 |
| [PROPOSED] ORDER GRANTING RECEIVER'S MOTION FOR ORDER AUTHORIZING SALE OF REAL PROPERTY, 4450 TIMBER FALLS CT., UNIT 1702, VAIL, CO 81657 | |

THIS MATTER is before the Court on the Motion for Order Authorizing Sale of Real Property 4450 Timber Falls Court, Unit 1702, Vail, Colorado 81657 (the "Motion") filed by Harvey Sender, the duly appointed Receiver in this case (the "Receiver"). The Court has reviewed the Motion and the file and is otherwise advised.

THE COURT HEREBY FINDS THAT: 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, GDA Real Estate Services, LLC, GDA Real Estate Management, LLC, and related 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. The property located at 4450 Timber Falls Court, Unit 1702, Vail, Colorado 81657 (the "Property"), is currently titled in the name of Gary Dragul as to an undivided 51% ("Seller") and Robert Eisen as to an undivided 49%

(“Buyer”). The Property is property of the Receivership Estate which the Receiver is authorized to sell under the Receivership Order.

The Seller is subject to the jurisdiction of this Court and is now controlled exclusively by the Receiver pursuant this Court’s Receivership Order. Under the Receivership Order, the Receiver has been granted the *exclusive* authority to conduct Seller’s business and to liquidate his assets, which includes the sole and exclusive authority to act on his behalf. Because the Estate’s interest in the Property is an asset of the Receivership Estate, the Receiver has the exclusive authority to act and control that interest. Accordingly, the

COURT HEREBY ORDERS that the Motion is GRANTED. The Receiver is hereby authorized to sell the Estate’s entire interest in the Property to Buyer on the terms and conditions set forth in the Motion and Exhibit 1 attached thereto, and to take any and all further actions necessary to consummate the sale. With respect to Estate’s interest in the Property, this Order supersedes any restriction, limitation, or injunction imposed by this Court’s August 15, 2018, Temporary Restraining Order, Order Freezing Assets, Order of Non-Destruction of Records.

Dated: _____, 2019.

BY THE COURT:

Hon. District Court Judge