

**TOWN OF BUENA VISTA, COLORADO**  
**ORDINANCE NO. 09**  
**(SERIES OF 2022)**

**AN ORDINANCE OF THE TOWN OF BUENA VISTA, COLORADO, APPROVING THE SALE AND CONVEYANCE OF PROPERTY TO LINDERMAN INVESTMENTS, LLC, AND AUTHORIZING EXECUTION OF ALL CLOSING DOCUMENTS**

**WHEREAS**, the Town of Buena Vista owns and no longer has use for certain property in Town generally known as 123 Linderman Avenue, the location of the Town's former fire station (the "Property");

**WHEREAS**, the Board of Trustees desires to authorize conveyance of the Property according to the terms and conditions set out in the Contract to Buy and Sell Real Estate, dated December 15, 2021, to which the Town submitted a counterproposal that was accepted on December 22, 2021, both of which are attached hereto and incorporated herein;

**WHEREAS**, the Property is no longer used or held for any governmental purpose and, as such, the Trustees find and determine that the Town, in disposing of the Property, is acting in its proprietary capacity and not in its governmental capacity, pursuant to the holding in *New Stanley Associates, L.L.P. v. Town of Estes Park*, 200 P.3d 1118 (Colo. App. 2008); and

**WHEREAS**, Board of Trustees desires to authorize the sale and disposal of the Property, as it is authorized to do pursuant to C.R.S. § 31-15-713(1)(b).

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BUENA VISTA, COLORADO:**

**Section 1.** The Mayor or the Town Administrator are hereby authorized to execute all documents required to sell and convey the Property with no further approval or action of the Board of Trustees being required.

**Section 2.** All actions take by the Town Administrator prior to the date of this Resolution in furtherance of this conveyance, including without limitation, signature of conveyance and inspection documents, are hereby ratified and affirmed.

**INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED** this 8th day of March, 2022.

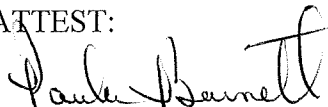
**THIS ORDINANCE SHALL BECOME EFFECTIVE THIRTY DAYS FROM PUBLICATION.**

TOWN OF BUENA VISTA, COLORADO

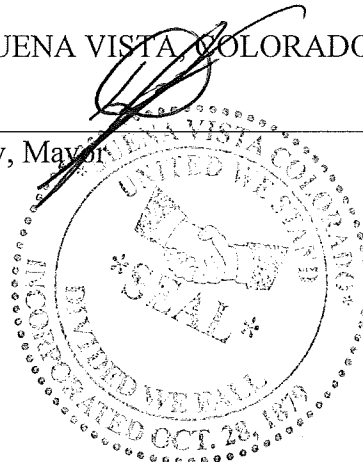
By: \_\_\_\_\_

Duff Lacy, Mayor

ATTEST:

  
\_\_\_\_\_

Paula Barnett, Town Clerk





First Colorado Land Office  
 Box 1105 Buena Vista, CO 81211  
 Julie L. Kersting Broker Julie@FirstColorado.com;  
 Cailin@FirstColorado.com  
 Ph: 719-395-7840

The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission.(CBS3-5-19) (Mandatory 7-19)

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

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

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

Date: 12/15/2021

**AGREEMENT**

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

2. **PARTIES AND PROPERTY.**

2.1. **Buyer.** Buyer, *Linderman Investments, LLC* (Buyer) will take title to the Property described below as

**Joint Tenants**  **Tenants In Common**  **Other** *A Colorado Limited Liability Company* .

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

2.3. **Seller.** *The Town of Buena Vista* (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 *Chaffee*, Colorado:

*PT SW4SE4 8-14-78 B 9 P 504 430601 specifically known as parcel #R327108400053 also known as 123 Linderman Avenue and 111 Linderman Avenue, to be further described and defined by the title commitment and any survey product.*

known as No. *123 Linderman Ave, Buena Vista, CO 81211*, 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 *any* remote controls). If checked, the following are owned by the Seller and included (leased items should be listed under **Due Diligence Documents**):  **None**  **Solar Panels**  **Water Softeners**  **Security Systems**  **Satellite Systems** (including satellite dishes). If any additional items are attached to the Property after the date of this Contract, such additional items are also included in the Purchase Price.

2.5.2. **Inclusions - Not Attached.** If on the Property, whether attached or not, on the date of this Contract, the following items are included unless excluded under **Exclusions**: storm windows, storm doors, window and porch shades, awnings, blinds, screens, window coverings and treatments, curtain rods,

Seller(s) Initials:

*BE*

71 drapery rods, fireplace inserts, fireplace screens, fireplace grates, heating stoves, storage sheds, carbon  
72 monoxide alarms, smoke/fire detectors and all keys.

73 **2.5.3. Personal Property - Conveyance.** Any personal property must be conveyed at Closing by  
74 Seller free and clear of all taxes (except personal property taxes for the year of Closing), liens and  
75 encumbrances, except None.

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

77 **2.5.4. Other Inclusions.** The following items, whether fixtures or personal property, are also  
78 included in the Purchase Price: None

79 **2.5.5. Parking and Storage Facilities.** The use or ownership of the following parking facilities:  
80 Garage; and the use or ownership of the following storage facilities:  
81 Storage shed.

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

84 **2.5.6. Trade Fixtures.** With respect to trade fixtures, Seller and Buyer agree as follows: None.  
85 The trade fixtures to be conveyed at Closing will be conveyed by Seller free and clear of all taxes  
86 (except personal property taxes for the year of Closing), liens and encumbrances, except None. Conveyance  
87 will be by bill of sale or other applicable legal instrument.

88 **2.6. Exclusions.** The following items are excluded (Exclusions): Generator, fire truck, all  
89 exercise equipment, fire department equipment, performing arts materials, and all person  
90 items and supplies currently on site.

91 **2.7. Water Rights/Well Rights.**

92  **2.7.1. Deeded Water Rights.** The following legally described water rights:  
93 n/a

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

95  **2.7.2. Other Rights Relating to Water.** The following rights relating to water not included in  
96 §§ 2.7.1, 2.7.3, and 2.7.4, will be transferred to Buyer at Closing: None

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

105  **2.7.4. Water Stock Certificates.** The water stock certificates to be transferred at Closing are  
106 as follows: None

107 **2.7.5. Conveyance.** If Buyer is to receive any rights to water pursuant to § 2.7.2 (Other  
108 Rights Relating to Water), § 2.7.3 (Well Rights), or § 2.7.4 (Water Stock Certificates), Seller agrees to convey  
109 such rights to Buyer by executing the applicable legal instrument at Closing.

110 **3. DATES, DEADLINES AND APPLICABILITY.**

111 **3.1 Dates and Deadlines.**

Item No.	Reference	Event	Date or Deadline	
1	§ 4.3	Alternative Earnest Money Deadline	<b>3 business days after MEC</b>	
			<b>Title</b>	
2	§ 8.1, § 8.4	Record Title Deadline	<b>1/11/2022</b>	Tuesday
3	§ 8.2, § 8.4	Record Title Objection Deadline	<b>1/20/2022</b>	Thursday
4	§ 8.3	Off-Record Title Deadline	<b>1/11/2022</b>	Tuesday

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5	§ 8.3	Off-Record Title Objection Deadline	<b>1/20/2022</b>	Thursday
6	§ 8.5	Title Resolution Deadline	<b>1/27/2022</b>	Thursday
7	§ 8.6	Right of First Refusal Deadline		
<b>Owners' Association</b>				
8	§ 7.2	Association Documents Deadline		
9	§ 7.4	Association Documents Termination Deadline		
<b>Seller's Disclosures</b>				
10	§ 10.1	Seller's Property Disclosure Deadline	<b>Included</b>	
11	§ 10.10	Lead-Based Paint Disclosure Deadline		
<b>Loan and Credit</b>				
12	§ 5.1	New Loan Application Deadline	<b>1/28/2022</b>	Friday
13	§ 5.2	New Loan Termination Deadline	<b>5/6/2022</b>	Friday
14	§ 5.3	Buyer's Credit Information Deadline		
15	§ 5.3	Disapproval of Buyer's Credit Information Deadline		
16	§ 5.4	Existing Loan Deadline		
17	§ 5.4	Existing Loan Termination Deadline		
18	§ 5.4	Loan Transfer Approval Deadline		
19	§ 4.7	Seller or Private Financing Deadline		
<b>Appraisal</b>				
20	§ 6.2	Appraisal Deadline	<b>4/18/2022</b>	Monday
21	§ 6.2	Appraisal Objection Deadline	<b>4/27/2022</b>	Wednesday
22	§ 6.2	Appraisal Resolution Deadline	<b>5/4/2022</b>	Wednesday
<b>Survey</b>				
23	§ 9.1	New ILC or New Survey Deadline	<b>4/6/2022</b>	Wednesday
24	§ 9.3	New ILC or New Survey Objection Deadline	<b>4/13/2022</b>	Wednesday
25	§ 9.3	New ILC or New Survey Resolution Deadline	<b>4/20/2022</b>	Wednesday
<b>Inspection and Due Diligence</b>				
26	§ 10.3	Inspection Objection Deadline	<b>1/27/2022</b>	Thursday
27	§ 10.3	Inspection Termination Deadline	<b>1/28/2022</b>	Friday
28	§ 10.3	Inspection Resolution Deadline	<b>2/2/2022</b>	Wednesday
29	§ 10.5	Property Insurance Termination Deadline	<b>2/23/2022</b>	Wednesday
30	§ 10.6	Due Diligence Documents Delivery Deadline	<b>1/5/2022</b>	Wednesday
31	§ 10.6	Due Diligence Documents Objection Deadline	<b>1/12/2022</b>	Wednesday
32	§ 10.6	Due Diligence Documents Resolution Deadline	<b>1/19/2022</b>	Wednesday
33	§ 10.6	Environmental Inspection Termination Deadline	<b>02/23/2022</b>	Wednesday
34	§ 10.6	ADA Evaluation Termination Deadline	<b>02/23/2022</b>	Wednesday
35	§ 10.7	Conditional Sale Deadline		
36	§ 10.10	Lead-Based Paint Termination Deadline		
37	§ 11.1, 11.2	Estoppel Statements Deadline		
38	§ 11.3	Estoppel Statements Termination Deadline		
<b>Closing and Possession</b>				
39	§ 12.3	Closing Date	<b>5/20/2022</b>	Friday
40	§ 17	Possession Date	<b>At successful closing and funding</b>	

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Seller(s) Initials:

41	§ 17	Possession Time	<i>At successful closing and funding</i>	
39	§ 28	<b>Acceptance Deadline Date</b>	<i>12/28/2021</i>	Tuesday
42	§ 28	<b>Acceptance Deadline Time</b>	<i>6:00 pm mtn</i>	
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**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	<i>\$875,000.00</i>	
2	§ 4.3	Earnest Money		<i>\$20,000.00</i>
3	§ 4.5	New Loan		<i>\$630,000.00</i>
4	§ 4.6	Assumption Balance		
5	§ 4.7	Private Financing		
6	§ 4.7	Seller Financing		
7				
8				
9	§ 4.4	Cash at Closing		<i>\$225,000.00</i>
10		<b>TOTAL</b>	<i>\$875,000.00</i>	<i>\$875,000.00</i>

**4.2. Seller Concession.** At Closing, Seller will credit to Buyer \$ 0 (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 good funds, will be payable to and held by Central Colorado Title and Escrow (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**

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Seller(s) Initials:

281 **Deadline.**

282 **4.3.2. Return of Earnest Money.** If Buyer has a Right to Terminate and timely  
283 terminates, Buyer is entitled to the return of Earnest Money as provided in this Contract. If this Contract is  
284 terminated as set forth in § 25 and, except as provided in § 24 (Earnest Money Dispute), if the Earnest Money  
285 has not already been returned following receipt of a Notice to Terminate, Seller agrees to execute and return to  
286 Buyer or Broker working with Buyer, written mutual instructions (e.g., Earnest Money Release form), within  
287 three days of Seller's receipt of such form.

288 **4.4. Form of Funds; Time of Payment; Available Funds.**

289 **4.4.1. Good Funds.** All amounts payable by the parties at Closing, including any loan  
290 proceeds, Cash at Closing and closing costs, must be in funds that comply with all applicable Colorado laws,  
291 including electronic transfer funds, certified check, savings and loan teller's check and cashier's check (Good  
292 Funds).

293 **4.4.2. Time of Payment; Available Funds.** All funds, including the Purchase Price to be  
294 paid by Buyer, must be paid before or at Closing or as otherwise agreed in writing between the parties to allow  
295 disbursement by Closing Company at Closing **OR SUCH NONPAYING PARTY WILL BE IN DEFAULT.** Buyer  
296 represents that Buyer, as of the date of this Contract,  **Does**  **Does Not** have funds that are immediately  
297 verifiable and available in an amount not less than the amount stated as Cash at Closing in § 4.1.

300 **4.5. New Loan.**

301 **4.5.1. Buyer to Pay Loan Costs.** Buyer, except as otherwise permitted in § 4.2 (Seller  
302 Concession), if applicable, must timely pay Buyer's loan costs, loan discount points, prepaid items and loan  
303 origination fees as required by lender.

304 **4.5.2. Buyer May Select Financing.** Buyer may pay in cash or select financing  
305 appropriate and acceptable to Buyer, including a different loan than initially sought, except as restricted in §  
306 4.5.3 (Loan Limitations) or § 30 (Additional Provisions).

307 **4.5.3. Loan Limitations.** Buyer may purchase the Property using any of the following  
308 types of loans:  **Conventional**  **Other** .

309 **4.6. Assumption.** (Omitted as inapplicable)

310 **4.7. Seller or Private Financing.** (Omitted as inapplicable)

311 **TRANSACTION PROVISIONS**

312 **5. FINANCING CONDITIONS AND OBLIGATIONS.**

313 **5.1. New Loan Application.** If Buyer is to pay all or part of the Purchase Price by obtaining one or  
314 more new loans (New Loan), or if an existing loan is not to be released at Closing, Buyer, if required by such  
315 lender, must make an application verifiable by such lender, on or before **New Loan Application Deadline** and  
316 exercise reasonable efforts to obtain such loan or approval.

317 **5.2. New Loan Review.** If Buyer is to pay all or part of the Purchase Price with a New Loan, this  
318 Contract is conditional upon Buyer determining, in Buyer's sole subjective discretion, whether the New Loan is  
319 satisfactory to Buyer, including its availability, payments, interest rate, terms, conditions and cost. This  
320 condition is for the sole benefit of Buyer. Buyer has the Right to Terminate under § 25.1, on or before **New**  
321 **Loan Termination Deadline**, if the New Loan is not satisfactory to Buyer, in Buyer's sole subjective discretion.  
322 Buyer does not have a Right to Terminate based on the New Loan if the objection is based on the Appraised  
323 Value (defined below) or the Lender Requirements (defined below). **IF SELLER IS NOT IN DEFAULT AND**  
324 **DOES NOT TIMELY RECEIVE BUYER'S WRITTEN NOTICE TO TERMINATE, BUYER'S EARNEST MONEY**  
325 **WILL BE NONREFUNDABLE**, except as otherwise provided in this Contract (e.g., Appraisal, Title, Survey).

326 **5.3. Credit Information and Buyer's New Senior Loan.** (Omitted as inapplicable)

327 **5.4. Existing Loan Review.** (Omitted as inapplicable)

328 **6. APPRAISAL PROVISIONS.**

329 **6.1. Appraisal Definition.** An "Appraisal" is an opinion of value prepared by a licensed or certified  
330 appraiser, engaged on behalf of Buyer or Buyer's lender, to determine the Property's market value (Appraised  
331 Value). The Appraisal may also set forth certain lender requirements, replacements, removals or repairs



333 Seller(s) Initials:



necessary on or to the Property as a condition for the Property to be valued at the Appraised Value.

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

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

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

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

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

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

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

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

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

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

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

**7.3.1.** All Association declarations, articles of incorporation, bylaws, articles of organization, operating agreements, rules and regulations, party wall agreements and the Association's

responsible governance policies adopted under § 38-33.3-209.5, C.R.S.;

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

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

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

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

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

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

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

### 8.1. Evidence of Record Title.

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

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

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



491 **8.1.3. Owner's Extended Coverage (OEC).** The Title Commitment Will Will Not  
492 contain Owner's Extended Coverage (OEC). If the Title Commitment is to contain OEC, it will commit to delete  
493 or insure over the standard exceptions which relate to: (1) parties in possession, (2) unrecorded easements,  
494 (3) survey matters, (4) unrecorded mechanics' liens, (5) gap period (period between the effective date and time  
495 of commitment to the date and time the deed is recorded) and (6) unpaid taxes, assessments and unredeemed  
496 tax sales prior to the year of Closing. Any additional premium expense to obtain OEC will be paid by Buyer  
497  Seller  One-Half by Buyer and One-Half by Seller  Other .  
498

500 Regardless of whether the Contract requires OEC, the Title Insurance Commitment may not provide OEC or  
501 delete or insure over any or all of the standard exceptions for OEC. The Title Insurance Company may require  
502 a New Survey or New ILC, defined below, among other requirements for OEC. If the Title Insurance  
503 Commitment is not satisfactory to Buyer, Buyer has a right to object under § 8.5 (Right to Object to Title,  
504 Resolution).  
505

506 **8.1.4. Title Documents.** Title Documents consist of the following: (1) copies of any plats,  
507 declarations, covenants, conditions and restrictions burdening the Property and (2) copies of any other  
508 documents (or, if illegible, summaries of such documents) listed in the schedule of exceptions (Exceptions) in  
509 the Title Commitment furnished to Buyer (collectively, Title Documents).  
510

511 **8.1.5. Copies of Title Documents.** Buyer must receive, on or before **Record Title Deadline**,  
512 copies of all Title Documents. This requirement pertains only to documents as shown of record in the office of  
513 the clerk and recorder in the county where the Property is located. The cost of furnishing copies of the  
514 documents required in this Section will be at the expense of the party or parties obligated to pay for the  
515 owner's title insurance policy.  
516

517 **8.1.6. Existing Abstracts of Title.** Seller must deliver to Buyer copies of any abstracts of title  
518 covering all or any portion of the Property (Abstract of Title) in Seller's possession on or before **Record Title**  
519 **Deadline**.  
520

521 **8.2. Record Title.** Buyer has the right to review and object to the Abstract of Title or Title  
522 Commitment and any of the Title Documents as set forth in § 8.5 (Right to Object to Title, Resolution) on or  
523 before **Record Title Objection Deadline**. Buyer's objection may be based on any unsatisfactory form or  
524 content of Title Commitment or Abstract of Title, notwithstanding § 13, or any other unsatisfactory title  
525 condition, in Buyer's sole subjective discretion. If the Abstract of Title, Title Commitment or Title Documents are  
526 not received by Buyer on or before the **Record Title Deadline**, or if there is an endorsement to the Title  
527 Commitment that adds a new Exception to title, a copy of the new Exception to title and the modified Title  
528 Commitment will be delivered to Buyer. Buyer has until the earlier of Closing or ten days after receipt of such  
529 documents by Buyer to review and object to: (1) any required Title Document not timely received by Buyer, (2)  
530 any change to the Abstract of Title, Title Commitment or Title Documents, or (3) any endorsement to the Title  
531 Commitment. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection, pursuant to this § 8.2  
532 (Record Title), any title objection by Buyer is governed by the provisions set forth in § 8.5 (Right to Object to  
533 Title, Resolution). If Seller has fulfilled all Seller's obligations, if any, to deliver to Buyer all documents required  
534 by § 8.1 (Evidence of Record Title) and Seller does not receive Buyer's Notice to Terminate or Notice of Title  
535 Objection by the applicable deadline specified above, Buyer accepts the condition of title as disclosed by the  
536 Abstract of Title, Title Commitment and Title Documents as satisfactory.  
537

538 **8.3. Off-Record Title.** Seller must deliver to Buyer, on or before **Off-Record Title Deadline**, true  
539 copies of all existing surveys in Seller's possession pertaining to the Property and must disclose to Buyer all  
540 easements, liens (including, without limitation, governmental improvements approved, but not yet installed) or  
541 other title matters (including, without limitation, rights of first refusal and options) not shown by public records,  
542 of which Seller has actual knowledge (Off-Record Matters). This Section excludes any **New ILC** or **New**  
543 **Survey** governed under § 9 (New ILC, New Survey). Buyer has the right to inspect the Property to investigate  
544 if any third party has any right in the Property not shown by public records (e.g., unrecorded easement,  
545 boundary line discrepancy or water rights). Buyer's Notice to Terminate or Notice of Title Objection of any  
546 unsatisfactory condition (whether disclosed by Seller or revealed by such inspection, notwithstanding § 8.2  
547 (Record Title) and § 13 (Transfer of Title)), in Buyer's sole subjective discretion, must be received by Seller on  
548 or before **Off-Record Title Objection Deadline**. If an Off-Record Matter is received by Buyer after the  
549 **Off-Record Title Deadline**, Buyer has until the earlier of Closing or ten days after receipt by Buyer to review  
550 and object to such Off-Record Matter. If Seller receives Buyer's Notice to Terminate or Notice of Title Objection  
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561 pursuant to this § 8.3 (Off-Record Title), any title objection by Buyer is governed by the provisions set forth in §  
562 8.5 (Right to Object to Title, Resolution). If Seller does not receive Buyer's Notice to Terminate or Notice of Title  
563 Objection by the applicable deadline specified above, Buyer accepts title subject to such Off-Record Matters  
564 and rights, if any, of third parties not shown by public records of which Buyer has actual knowledge.  
565

566 **8.4. Special Taxing Districts. SPECIAL TAXING DISTRICTS MAY BE SUBJECT TO GENERAL**  
567 **OBLIGATION INDEBTEDNESS THAT IS PAID BY REVENUES PRODUCED FROM ANNUAL TAX LEVIES**  
568 **ON THE TAXABLE PROPERTY WITHIN SUCH DISTRICTS. PROPERTY OWNERS IN SUCH DISTRICTS**  
569 **MAY BE PLACED AT RISK FOR INCREASED MILL LEVIES AND TAX TO SUPPORT THE SERVICING OF**  
570 **SUCH DEBT WHERE CIRCUMSTANCES ARISE RESULTING IN THE INABILITY OF SUCH A DISTRICT TO**  
571 **DISCHARGE SUCH INDEBTEDNESS WITHOUT SUCH AN INCREASE IN MILL LEVIES. BUYERS**  
572 **SHOULD INVESTIGATE THE SPECIAL TAXING DISTRICTS IN WHICH THE PROPERTY IS LOCATED BY**  
573 **CONTACTING THE COUNTY TREASURER, BY REVIEWING THE CERTIFICATE OF TAXES DUE FOR THE**  
574 **PROPERTY AND BY OBTAINING FURTHER INFORMATION FROM THE BOARD OF COUNTY**  
575 **COMMISSIONERS, THE COUNTY CLERK AND RECORDER, OR THE COUNTY ASSESSOR.**  
576

577 A tax certificate from the respective county treasurer listing any special taxing districts that effect the  
578 Property (Tax Certificate) must be delivered to Buyer on or before **Record Title Deadline**. If the Property is  
579 located within a special taxing district and such inclusion is unsatisfactory to Buyer, in Buyer's sole subjective  
580 discretion, Buyer may object, on or before **Record Title Objection Deadline**. If the Tax Certificate shows that  
581 the Property is included in a special taxing district and is received by Buyer after the **Record Title Deadline**,  
582 Buyer has until the earlier of Closing or ten days after receipt by Buyer to review and object to the Property's  
583 inclusion in a special taxing district as unsatisfactory to Buyer.  
584

585 **8.5. Right to Object to Title, Resolution.** Buyer's right to object, in Buyer's sole subjective  
586 discretion, to any title matters includes those matters set forth in § 8.2 (Record Title), § 8.3 (Off-Record Title), §  
587 8.4 (Special Taxing District) and § 13 (Transfer of Title). If Buyer objects to any title matter, on or before the  
588 applicable deadline, Buyer has the following options:  
589

590 **8.5.1. Title Objection, Resolution.** If Seller receives Buyer's written notice objecting to any  
591 title matter (Notice of Title Objection) on or before the applicable deadline and if Buyer and Seller have not  
592 agreed to a written settlement thereof on or before **Title Resolution Deadline**, this Contract will terminate on  
593 the expiration of **Title Resolution Deadline**, unless Seller receives Buyer's written withdrawal of Buyer's  
594 Notice of Title Objection (i.e., Buyer's written notice to waive objection to such items and waives the Right to  
595 Terminate for that reason), on or before expiration of **Title Resolution Deadline**. If either the Record Title  
596 Deadline or the Off-Record Title Deadline, or both, are extended pursuant to § 8.2 (Record Title), § 8.3  
597 (Off-Record Title) or § 8.4 (Special Taxing Districts), the Title Resolution Deadline also will be automatically  
598 extended to the earlier of Closing or fifteen days after Buyer's receipt of the applicable documents; or  
599

600 **8.5.2. Title Objection, Right to Terminate.** Buyer may exercise the Right to Terminate under  
601 § 25.1, on or before the applicable deadline, based on any title matter unsatisfactory to Buyer, in Buyer's sole  
602 subjective discretion.  
603

604 **8.6. Right of First Refusal or Contract Approval.** If there is a right of first refusal on the Property  
605 or a right to approve this Contract, Seller must promptly submit this Contract according to the terms and  
606 conditions of such right. If the holder of the right of first refusal exercises such right or the holder of a right to  
607 approve disapproves this Contract, this Contract will terminate. If the right of first refusal is waived explicitly or  
608 expires, or the Contract is approved, this Contract will remain in full force and effect. Seller must promptly  
609 notify Buyer in writing of the foregoing. If expiration or waiver of the right of first refusal or approval of this  
610 Contract has not occurred on or before **Right of First Refusal Deadline**, this Contract will then terminate.  
611

612 **8.7. Title Advisory.** The Title Documents affect the title, ownership and use of the Property and  
613 should be reviewed carefully. Additionally, other matters not reflected in the Title Documents may affect the  
614 title, ownership and use of the Property, including, without limitation, boundary lines and encroachments,  
615 set-back requirements, area, zoning, building code violations, unrecorded easements and claims of  
616 easements, leases and other unrecorded agreements, water on or under the Property, and various laws and  
617 governmental regulations concerning land use, development and environmental matters.  
618

619 **8.7.1. OIL, GAS, WATER AND MINERAL DISCLOSURE. THE SURFACE ESTATE OF THE**  
620 **PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE AND**  
621 **TRANSFER OF THE SURFACE ESTATE MAY NOT NECESSARILY INCLUDE TRANSFER OF THE**  
622

631 MINERAL ESTATE OR WATER RIGHTS. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS,  
632 OTHER MINERALS, GEOTHERMAL ENERGY OR WATER ON OR UNDER THE SURFACE OF THE  
633 PROPERTY, WHICH INTERESTS MAY GIVE THEM RIGHTS TO ENTER AND USE THE SURFACE OF THE  
634 PROPERTY TO ACCESS THE MINERAL ESTATE, OIL, GAS OR WATER.  
635

636 8.7.2. SURFACE USE AGREEMENT. THE USE OF THE SURFACE ESTATE OF THE  
637 PROPERTY TO ACCESS THE OIL, GAS OR MINERALS MAY BE GOVERNED BY A SURFACE USE  
638 AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE  
639 COUNTY CLERK AND RECORDER.  
640

641 8.7.3. OIL AND GAS ACTIVITY. OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR  
642 ADJACENT TO THE PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING,  
643 WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES,  
644 PRODUCING WELLS, REWORKING OF CURRENT WELLS, AND GAS GATHERING AND PROCESSING  
645 FACILITIES.  
646

647 8.7.4. ADDITIONAL INFORMATION. BUYER IS ENCOURAGED TO SEEK ADDITIONAL  
648 INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THE PROPERTY,  
649 INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE  
650 COLORADO OIL AND GAS CONSERVATION COMMISSION.  
651

652 8.7.5. Title Insurance Exclusions. Matters set forth in this Section and others, may be  
653 excepted, excluded from, or not covered by the owner's title insurance policy.  
654

655 8.8. Consult an Attorney. Buyer is advised to timely consult legal counsel with respect to all such  
656 matters as there are strict time limits provided in this Contract (e.g., Record Title Objection Deadline and  
657 Off-Record Title Objection Deadline).  
658  
659

## 660 9. NEW ILC, NEW SURVEY.

661 9.1. New ILC or New Survey. If the box is checked, a: 1)  New Improvement Location Certificate  
662 (New ILC); or, 2)  New Survey in the form of ILC or other survey product as required by the lender,  
663 is required and the following will apply:  
664

665 9.1.1. Ordering of New ILC or New Survey.  Seller  Buyer will order the New ILC or New  
666 Survey. The New ILC or New Survey may also be a previous ILC or survey that is in the above-required form,  
667 certified and updated as of a date after the date of this Contract.  
668

669 9.1.2. Payment for New ILC or New Survey. The cost of the New ILC or New Survey will be  
670 paid, on or before Closing, by:  Seller  Buyer or:  
671

672 9.1.3. Delivery of New ILC or New Survey. Buyer, Seller, the issuer of the Title Commitment (or  
673 the provider of the opinion of title if an Abstract of Title) and First Colorado Land Office - Julie Kersting  
674 will receive a New ILC or New Survey on or before **New ILC or New Survey Deadline**.  
675

676 9.1.4. Certification of New ILC or New Survey. The New ILC or New Survey will be certified by  
677 the surveyor to all those who are to receive the New ILC or New Survey.  
678

679 9.2. Buyer's Right to Waive or Change New ILC or New Survey Selection. Buyer may select a  
680 New ILC or New Survey different than initially specified in this Contract if there is no additional cost to Seller or  
681 change to the **New ILC or New Survey Objection Deadline**. Buyer may, in Buyer's sole subjective discretion,  
682 waive a New ILC or New Survey if done prior to Seller incurring any cost for the same.  
683

684 9.3. New ILC or New Survey Objection. Buyer has the right to review and object to the **New ILC or**  
685 **New Survey**. If the New ILC or New Survey is not timely received by Buyer or is unsatisfactory to Buyer, in  
686 Buyer's sole subjective discretion, Buyer may, on or before **New ILC or New Survey Objection Deadline**,  
687 notwithstanding § 8.3 or § 13:  
688

689 9.3.1. Notice to Terminate. Notify Seller in writing, pursuant to § 25.1, that this Contract is  
690 terminated; or  
691

692 9.3.2. New ILC or New Survey Objection. Deliver to Seller a written description of any matter that  
693 was to be shown or is shown in the New ILC or New Survey that is unsatisfactory and that Buyer requires  
694 Seller to correct.  
695

696 9.3.3. New ILC or New Survey Resolution. If a **New ILC or New Survey Objection** is received  
697 by Seller, on or before **New ILC or New Survey Objection Deadline** and if Buyer and Seller have not agreed  
698 in writing to a settlement thereof on or before **New ILC or New Survey Resolution Deadline**, this Contract will  
699  
700

701 terminate on expiration of the **New ILC or New Survey Resolution Deadline**, unless Seller receives Buyer's  
702 written withdrawal of the New ILC or New Survey Objection before such termination, i.e., on or before  
703 expiration of **New ILC or New Survey Resolution Deadline**.  
704

705  
706 **DISCLOSURE, INSPECTION AND DUE DILIGENCE**  
707

708  
709 **10. PROPERTY DISCLOSURE, INSPECTION, INDEMNITY, INSURABILITY, DUE DILIGENCE, AND**  
710 **SOURCE OF WATER.**

711 **10.1. Seller's Property Disclosure.** On or before **Seller's Property Disclosure Deadline**, Seller  
712 agrees to deliver to Buyer the most current version of the applicable Colorado Real Estate Commission's  
713 Seller's Property Disclosure form completed by Seller to Seller's actual knowledge and current as of the date of  
714 this Contract.  
715

716 **10.2. Disclosure of Adverse Material Facts; Subsequent Disclosure; Present Condition.** Seller  
717 must disclose to Buyer any adverse material facts actually known by Seller as of the date of this Contract.  
718 Seller agrees that disclosure of adverse material facts will be in writing. In the event Seller discovers an  
719 adverse material fact after the date of this Contract, Seller must timely disclose such adverse fact to Buyer.  
720 Buyer has the Right to Terminate based on the Seller's new disclosure on the earlier of Closing or five days  
721 after Buyer's receipt of the new disclosure. Except as otherwise provided in this Contract, Buyer acknowledges  
722 that Seller is conveying the Property to Buyer in an "**As Is**" condition, "**Where Is**" and "**With All Faults.**"  
723

724 **10.3. Inspection.** Unless otherwise provided in this Contract, Buyer, acting in good faith, has the right  
725 to have inspections (by one or more third parties, personally or both) of the Property and Inclusions  
726 (Inspection), at Buyer's expense. If (1) the physical condition of the Property, including, but not limited to, the  
727 roof, walls, structural integrity of the Property, the electrical, plumbing, HVAC and other mechanical systems of  
728 the Property, (2) the physical condition of the Inclusions, (3) service to the Property (including utilities and  
729 communication services), systems and components of the Property (e.g., heating and plumbing), (4) any  
730 proposed or existing transportation project, road, street or highway, or (5) any other activity, odor or noise  
731 (whether on or off the Property) and its effect or expected effect on the Property or its occupants is  
732 unsatisfactory, in Buyer's sole subjective discretion, Buyer may:  
733

734 **10.3.1. Inspection Objection.** On or before the **Inspection Objection Deadline**, deliver to  
735 Seller a written description of any unsatisfactory condition that Buyer requires Seller to correct; or  
736

737 **10.3.2. Terminate.** On or before the **Inspection Termination Deadline**, notify Seller in writing,  
738 pursuant to § 25.1, that this Contract is terminated due to any unsatisfactory condition. **Inspection**  
739 **Termination Deadline will be on the earlier of Inspection Resolution Deadline or the date specified in §**  
740 **3.1 for Inspection Termination Deadline.**  
741

742 **10.3.3. Inspection Resolution.** If an Inspection Objection is received by Seller, on or before  
743 **Inspection Objection Deadline** and if Buyer and Seller have not agreed in writing to a settlement thereof on  
744 or before **Inspection Resolution Deadline**, this Contract will terminate on **Inspection Resolution Deadline**  
745 unless Seller receives Buyer's written withdrawal of the Inspection Objection before such termination, i.e., on or  
746 before expiration of **Inspection Resolution Deadline**.  
747

748 **10.4. Damage, Liens and Indemnity.** Buyer, except as otherwise provided in this Contract or other  
749 written agreement between the parties, is responsible for payment for all inspections, tests, surveys,  
750 engineering reports, or other reports performed at Buyer's request (Work) and must pay for any damage that  
751 occurs to the Property and Inclusions as a result of such Work. Buyer must not permit claims or liens of any  
752 kind against the Property for Work performed on the Property. Buyer agrees to indemnify, protect and hold  
753 Seller harmless from and against any liability, damage, cost or expense incurred by Seller and caused by any  
754 such Work, claim, or lien. This indemnity includes Seller's right to recover all costs and expenses incurred by  
755 Seller to defend against any such liability, damage, cost or expense, or to enforce this Section, including  
756 Seller's reasonable attorney fees, legal fees and expenses. The provisions of this Section survive the  
757 termination of this Contract. This § 10.4 does not apply to items performed pursuant to an Inspection  
758 Resolution.  
759

760 **10.5. Insurability.** Buyer has the right to review and object to the availability, terms and conditions of  
761 and premium for property insurance (Property Insurance). Buyer has the Right to Terminate under § 25.1, on or  
762 before **Property Insurance Termination Deadline**, based on any unsatisfactory provision of the Property  
763  
764  
765  
766  
767  
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769  
770



771 Insurance, in Buyer's sole subjective discretion.

772 **10.6. Due Diligence.**

773 **10.6.1. Due Diligence Documents.** If the respective box is checked, Seller agrees to deliver  
774 copies of the following documents and information pertaining to the Property (Due Diligence Documents) to  
775 Buyer on or before **Due Diligence Documents Delivery Deadline**:

776  **10.6.1.1.** All contracts relating to the operation, maintenance and management of the  
777 Property;

778  **10.6.1.2.** Property tax bills for the last na years;

779  **10.6.1.3.** As-built construction plans to the Property and the tenant improvements,  
780 including architectural, electrical, mechanical, and structural systems, engineering reports, and permanent  
781 Certificates of Occupancy, to the extent now available;

782  **10.6.1.4.** A list of all Inclusions to be conveyed to Buyer;

783  **10.6.1.5.** Operating statements for the past years;

784  **10.6.1.6.** A rent roll accurate and correct to the date of this Contract;

785  **10.6.1.7.** All current leases, including any amendments or other occupancy  
786 agreements, pertaining to the Property. Those leases or other occupancy agreements pertaining to the  
787 Property that survive Closing are as follows (Leases):

788  **10.6.1.8.** A schedule of any tenant improvement work Seller is obligated to complete  
789 but has not yet been completed and capital improvement work either scheduled or in process on the date of  
790 this Contract;

791  **10.6.1.9.** All insurance policies pertaining to the Property and copies of any claims  
792 which have been made for the past years;

793  **10.6.1.10.** Soils reports, surveys and engineering reports or data pertaining to the  
794 Property (if not delivered earlier under § 8.3);

795  **10.6.1.11.** Any and all existing documentation and reports regarding Phase I and II  
796 environmental reports, letters, test results, advisories and similar documents respective to the existence or  
797 nonexistence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances, and/or  
798 underground storage tanks and/or radon gas. If no reports are in Seller's possession or known to Seller, Seller  
799 warrants that no such reports are in Seller's possession or known to Seller;

800  **10.6.1.12.** Any *Americans with Disabilities Act* reports, studies or surveys concerning  
801 the compliance of the Property with said Act;

802  **10.6.1.13.** All permits, licenses and other building or use authorizations issued by any  
803 governmental authority with jurisdiction over the Property and written notice of any violation of any such  
804 permits, licenses or use authorizations, if any; and

805  **10.6.1.14.** Other documents and information:

806 **Inspection reports, survey or site plans, permits and building department documents, reports**  
807 **on the building foundation, any asbestos related reports or historical data, if any exist in the**  
808 **seller's possession.**

809 **10.6.2. Due Diligence Documents Review and Objection.** Buyer has the right to review and  
810 object to Due Diligence Documents. If the Due Diligence Documents are not supplied to Buyer or are  
811 unsatisfactory, in Buyer's sole subjective discretion, Buyer may, on or before **Due Diligence Documents**  
812 **Objection Deadline**:

813 **10.6.2.1. Notice to Terminate.** Notify Seller in writing, pursuant to § 25.1, that this  
814 Contract is terminated; or

815 **10.6.2.2. Due Diligence Documents Objection.** Deliver to Seller a written description  
816 of any unsatisfactory Due Diligence Documents that Buyer requires Seller to correct.

817 **10.6.2.3. Due Diligence Documents Resolution.** If a Due Diligence Documents  
818 Objection is received by Seller, on or before **Due Diligence Documents Objection Deadline** and if Buyer and  
819 Seller have not agreed in writing to a settlement thereof on or before **Due Diligence Documents Resolution**  
820 **Deadline**, this Contract will terminate on **Due Diligence Documents Resolution Deadline** unless Seller  
821 receives Buyer's written withdrawal of the Due Diligence Documents Objection before such termination, i.e., on  
822 or before expiration of **Due Diligence Documents Resolution Deadline**.



841 **10.6.3. Zoning.** Buyer has the Right to Terminate under § 25.1, on or before **Due Diligence**  
842 **Documents Objection Deadline**, based on any unsatisfactory zoning and any use restrictions imposed by any  
843 governmental agency with jurisdiction over the Property, in Buyer's sole subjective discretion.  
844

845 **10.6.4. Due Diligence – Environmental, ADA.** Buyer has the right to obtain environmental  
846 inspections of the Property including Phase I and Phase II Environmental Site Assessments, as applicable.   
847 **Seller**  **Buyer** will order or provide  **Phase I Environmental Site Assessment**,  **Phase II**  
848 **Environmental Site Assessment** (compliant with most current version of the applicable ASTM E1527  
849 standard practices for Environmental Site Assessments) and/or  , at the expense of  **Seller**  **Buyer**  
850 (Environmental Inspection). In addition, Buyer, at Buyer's expense, may also conduct an evaluation whether  
851 the Property complies with the *Americans with Disabilities Act* (ADA Evaluation). All such inspections and  
852 evaluations must be conducted at such times as are mutually agreeable to minimize the interruption of Seller's  
853 and any Seller's tenants' business uses of the Property, if any.  
854

855 If Buyer's Phase I Environmental Site Assessment recommends a Phase II Environmental Site  
856 Assessment, the **Environmental Inspection Termination Deadline** will be extended by 7 days (Extended  
857 Environmental Inspection Objection Deadline) and if such Extended Environmental Inspection Objection  
858 Deadline extends beyond the **Closing Date**, the **Closing Date** will be extended a like period of time. In such  
859 event,  **Seller**  **Buyer** must pay the cost for such Phase II Environmental Site Assessment.  
860

861 Notwithstanding Buyer's right to obtain additional environmental inspections of the Property in this §  
862 10.6.4, Buyer has the Right to Terminate under § 25.1, on or before **Environmental Inspection Termination**  
863 **Deadline**, or if applicable, the Extended Environmental Inspection Objection Deadline, based on any  
864 unsatisfactory results of Environmental Inspection, in Buyer's sole subjective discretion.  
865

866 Buyer has the Right to Terminate under § 25.1, on or before **ADA Evaluation Termination Deadline**,  
867 based on any unsatisfactory ADA Evaluation, in Buyer's sole subjective discretion.  
868

869 **10.7. Conditional Upon Sale of Property.** This Contract is conditional upon the sale and closing of  
870 that certain property owned by Buyer and commonly known as None. Buyer has the Right to Terminate under  
871 § 25.1 effective upon Seller's receipt of Buyer's Notice to Terminate on or before **Conditional Sale Deadline** if  
872 such property is not sold and closed by such deadline. This Section is for the sole benefit of Buyer. If Seller  
873 does not receive Buyer's Notice to Terminate on or before **Conditional Sale Deadline**, Buyer waives any Right  
874 to Terminate under this provision.  
875

876 **10.8. Source of Potable Water (Residential Land and Residential Improvements Only).**  
877 **[Intentionally Deleted]**  
878

879 **10.9. Existing Leases; Modification of Existing Leases; New Leases.** Seller states that none of  
880 the Leases to be assigned to the Buyer at the time of Closing contain any rent concessions, rent reductions or  
881 rent abatements except as disclosed in the Lease or other writing received by Buyer. Seller will not amend,  
882 alter, modify, extend or cancel any of the Leases nor will Seller enter into any new leases affecting the Property  
883 without the prior written consent of Buyer, which consent will not be unreasonably withheld or delayed.  
884

885 **11.1. Estoppel Statements Conditions.** Buyer has the right to review and object to any Estoppel  
886 Statements. Seller must request from all tenants of the Property and if received by Seller, deliver to Buyer on  
887 or before **Estoppel Statements Deadline**, statements in a form and substance reasonably acceptable to  
888 Buyer, from each occupant or tenant at the Property (Estoppel Statement) attached to a copy of the Lease  
889 stating:  
890

891 **11.1.1.** The commencement date of the Lease and scheduled termination date of the Lease;

892 **11.1.2.** That said Lease is in full force and effect and that there have been no subsequent  
893 modifications or amendments;

894 **11.1.3.** The amount of any advance rentals paid, rent concessions given, and deposits paid to  
895 Seller;

896 **11.1.4.** The amount of monthly (or other applicable period) rental paid to Seller;

897 **11.1.5.** That there is no default under the terms of said Lease by landlord or occupant; and

898 **11.1.6.** That the Lease to which the Estoppel Statement is attached is a true, correct and  
899 complete copy of the Lease demising the premises it describes.  
900

901 **11.2. Seller Estoppel Statements.** In the event Seller does not receive from all tenants of the  
902 Property a completed signed Estoppel Statement, Seller agrees to complete and execute an Estoppel  
903  
904  
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910

911 Statement setting forth the information and documents required §11.1 above and deliver the same to Buyer on  
912 or before **Estoppel Statements Deadline**.

913 **11.3. Estoppel Statements Termination.** Buyer has the Right to Terminate under § 25.1, on or  
914 before **Estoppel Statements Termination Deadline**, based on any unsatisfactory Estoppel Statement, in  
915 Buyer's sole subjective discretion, or if Seller fails to deliver the Estoppel Statements on or before **Estoppel**  
916 **Statements Deadline**. Buyer also has the unilateral right to waive any unsatisfactory Estoppel Statement.  
917  
918

919  
920 **CLOSING PROVISIONS**  
921

922  
923 **12. CLOSING DOCUMENTS, INSTRUCTIONS AND CLOSING.**

924 **12.1. Closing Documents and Closing Information.** Seller and Buyer will cooperate with the Closing  
925 Company to enable the Closing Company to prepare and deliver documents required for Closing to Buyer and  
926 Seller and their designees. If Buyer is obtaining a loan to purchase the Property, Buyer acknowledges Buyer's  
927 lender is required to provide the Closing Company, in a timely manner, all required loan documents and  
928 financial information concerning Buyer's loan. Buyer and Seller will furnish any additional information and  
929 documents required by Closing Company that will be necessary to complete this transaction. Buyer and Seller  
930 will sign and complete all customary or reasonably-required documents at or before Closing.

931 **12.2. Closing Instructions.** Colorado Real Estate Commission's Closing Instructions Are Are  
932 **Not** executed with this Contract.  
933

934 **12.3. Closing.** Delivery of deed from Seller to Buyer will be at closing (Closing). Closing will be on the  
935 date specified as the **Closing Date** or by mutual agreement at an earlier date. The hour and place of Closing  
936 will be as designated by Closing Company.  
937

938 **12.4. Disclosure of Settlement Costs.** Buyer and Seller acknowledge that costs, quality and extent of  
939 service vary between different settlement service providers (e.g., attorneys, lenders, inspectors and title  
940 companies).  
941

942  
943  
944 **13. TRANSFER OF TITLE.** Subject to Buyer's compliance with the terms and provisions of this Contract,  
945 including the tender of any payment due at Closing, Seller must execute and deliver the following good and  
946 sufficient deed to Buyer, at Closing:  
947

948  special warranty deed  general warranty deed  bargain and sale deed  quit claim deed  personal  
949 representative's deed  deed. Seller, provided another deed is not selected, must execute and deliver a good  
950 and sufficient special warranty deed to Buyer, at Closing.  
951

952 Unless otherwise specified in §30 (Additional Provisions), if title will be conveyed using a special  
953 warranty deed or a general warranty deed, title will be conveyed "subject to statutory exceptions" as defined in  
954 §38-30-113(5)(a), C.R.S.  
955

956 **14. PAYMENT OF LIENS AND ENCUMBRANCES.** Unless agreed to by Buyer in writing, any amounts  
957 owed on any liens or encumbrances securing a monetary sum, including, but not limited to, any governmental  
958 liens for special improvements installed as of the date of Buyer's signature hereon, whether assessed or not  
959 and previous years' taxes, will be paid at or before Closing by Seller from the proceeds of this transaction or  
960 from any other source.  
961

962  
963 **15. CLOSING COSTS, CLOSING FEE, ASSOCIATION FEES AND TAXES.**

964 **15.1. Closing Costs.** Buyer and Seller must pay, in Good Funds, their respective closing costs  
965 and all other items required to be paid at Closing, except as otherwise provided herein.  
966

967 **15.2. Closing Services Fee.** The fee for real estate closing services must be paid at Closing by  
968  Buyer  Seller  One-Half by Buyer and One-Half by Seller  
969  Other  
970

971 **15.3. Status Letter and Record Change Fees.** At least fourteen days prior to **Closing Date**,  
972 Seller agrees to promptly request the Association to deliver to Buyer a current Status Letter. Any fees incident  
973 to the issuance of Association's Status Letter must be paid by None Buyer Seller One-Half by  
974 **Buyer and One-Half by Seller**. Any Record Change Fee must be paid by None Buyer Seller  
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980

**One-Half by Buyer and One-Half by Seller .**

981  
982 **15.4. Local Transfer Tax.**  **The Local Transfer Tax** of % of the Purchase Price must  
983 be paid at Closing by  **None**  **Buyer**  **Seller**  **One-Half by Buyer and One-Half by Seller.**  
984

985 **15.5. Private Transfer Fee.** Private transfer fees and other fees due to a transfer of the Property,  
986 payable at Closing, such as community association fees, developer fees and foundation fees, must be paid at  
987 Closing by  **None**  **Buyer**  **Seller**  **One-Half by Buyer and One-Half by Seller.** The Private Transfer  
988 fee, whether one or more, is for the following association(s): in the total amount of % of the Purchase Price or  
989 \$.  
990

991 **15.6. Water Transfer Fees.** The Water Transfer Fees can change. The fees, as of the date of  
992 this Contract, do not exceed \$ for:

993  Water Stock/Certificates  Water District  
994  Augmentation Membership  Small Domestic Water Company  and must be paid at Closing by   
995 **None**  **Buyer**  **Seller**  **One-Half by Buyer and One-Half by Seller**  
996

997 **15.7. Sales and Use Tax.** Any sales and use tax that may accrue because of this transaction  
998 must be paid when due by  **None**  **Buyer**  **Seller**  **One-Half by Buyer and One-Half by Seller.**  
999

1000 **15.8. FIRPTA and Colorado Withholding.**

1001 **15.8.1. FIRPTA.** The Internal Revenue Service (IRS) may require a substantial portion of  
1002 the Seller's proceeds be withheld after Closing when Seller is a foreign person. If required withholding does not  
1003 occur, the Buyer could be held liable for the amount of the Seller's tax, interest and penalties. If the box in this  
1004 Section is checked, Seller represents that Seller  **IS** a foreign person for purposes of U.S. income taxation. If  
1005 the box in this Section is not checked, Seller represents that Seller is not a foreign person for purposes of U.S.  
1006 income taxation. Seller agrees to cooperate with Buyer and Closing Company to provide any reasonably  
1007 requested documents to verify Seller's foreign person status. If withholding is required, Seller authorizes  
1008 Closing Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax  
1009 advisor to determine if withholding applies or if an exemption exists.  
1010

1011 **15.8.2. Colorado Withholding.** The Colorado Department of Revenue may require a  
1012 portion of the Seller's proceeds be withheld after Closing when Seller will not be a Colorado resident after  
1013 Closing, if not otherwise exempt. Seller agrees to cooperate with Buyer and Closing Company to provide any  
1014 reasonably requested documents to verify Seller's status. If withholding is required, Seller authorizes Closing  
1015 Company to withhold such amount from Seller's proceeds. Seller should inquire with Seller's tax advisor to  
1016 determine if withholding applies or if an exemption exists.  
1017

1018 **16. PRORATIONS AND ASSOCIATION ASSESSMENT.** The following will be prorated to the **Closing**  
1019 **Date**, except as otherwise provided:  
1020

1021 **16.1. Taxes.** Personal property taxes, if any, special taxing district assessments, if any and  
1022 general real estate taxes for the year of Closing, based on  **Taxes for the Calendar Year Immediately**  
1023 **Preceding Closing**  **Most Recent Mill Levy and Most Recent Assessed Valuation**, adjusted by any  
1024 applicable qualifying seniors property tax exemption, qualifying disabled veteran exemption or  **Other** .  
1025

1026 **16.2. Rents.** Rents based on  **Rents Actually Received**  **Accrued**. At Closing, Seller will  
1027 transfer or credit to Buyer the security deposits for all Leases assigned, or any remainder after lawful  
1028 deductions and notify all tenants in writing of such transfer and of the transferee's name and address. Seller  
1029 must assign to Buyer all Leases in effect at Closing and Buyer must assume Seller's obligations under such  
1030 Leases.  
1031

1032 **16.3. Association Assessments.** Current regular Association assessments and dues  
1033 (Association Assessments) paid in advance will be credited to Seller at Closing. Cash reserves held out of the  
1034 regular Association Assessments for deferred maintenance by the Association will not be credited to Seller  
1035 except as may be otherwise provided by the Governing Documents. Buyer acknowledges that Buyer may be  
1036 obligated to pay the Association, at Closing, an amount for reserves or working capital. Any special  
1037 assessment assessed prior to **Closing Date** by the Association will be the obligation of  **Buyer**  **Seller**.  
1038 Except however, any special assessment by the Association for improvements that have been installed as of  
1039 the date of Buyer's signature hereon, whether assessed prior to or after Closing, will be the obligation of Seller.  
1040 Seller represents there are no unpaid regular or special assessments against the Property except the current  
1041 regular assessments and *n/a*. Association Assessments are subject to change as provided in the Governing  
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1051 Documents.  
1052 **16.4. Other Prorations.** Water and sewer charges, propane, interest on continuing loan and **Any**  
1053 **of record**.  
1054  
1055 **16.5. Final Settlement.** Unless otherwise agreed in writing, these prorations are final.  
1056  
1057  
1058 **17. POSSESSION.** Possession of the Property will be delivered to Buyer on **Possession Date** at  
1059 **Possession Time**, subject to the Leases as set forth in § 10.6.1.7.  
1060

1061 If Seller, after Closing, fails to deliver possession as specified, Seller will be subject to eviction and  
1062 will be additionally liable to Buyer for payment of \$ **300** per day (or any part of a day notwithstanding § 18.1)  
1063 from **Possession Date** and **Possession Time** until possession is delivered.  
1064  
1065

1066 **GENERAL PROVISIONS**

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1068  
1069 **18. DAY; COMPUTATION OF PERIOD OF DAYS, DEADLINE.**

1070 **18.1. Day.** As used in this Contract, the term “day” means the entire day ending at 11:59 p.m., United  
1071 States Mountain Time (Standard or Daylight Savings, as applicable).  
1072

1073 **18.2. Computation of Period of Days, Deadline.** In computing a period of days (e.g., three days after  
1074 MEC), when the ending date is not specified, the first day is excluded and the last day is included. If any  
1075 deadline falls on a Saturday, Sunday or federal or Colorado state holiday (Holiday), such deadline  **Will**   
1076 **Will Not** be extended to the next day that is not a Saturday, Sunday or Holiday. Should neither box be  
1077 checked, the deadline will not be extended.  
1078  
1079

1080  
1081 **19. CAUSES OF LOSS, INSURANCE; DAMAGE TO INCLUSIONS AND SERVICES; CONDEMNATION;**  
1082 **AND WALK-THROUGH.** Except as otherwise provided in this Contract, the Property, Inclusions or both will be  
1083 delivered in the condition existing as of the date of this Contract, ordinary wear and tear excepted.  
1084

1085 **19.1. Causes of Loss, Insurance.** In the event the Property or Inclusions are damaged by fire, other  
1086 perils or causes of loss prior to Closing (Property Damage) in an amount of not more than ten percent of the  
1087 total Purchase Price and if the repair of the damage will be paid by insurance (other than the deductible to be  
1088 paid by Seller), then Seller, upon receipt of the insurance proceeds, will use Seller’s reasonable efforts to  
1089 repair the Property before **Closing Date**. Buyer has the Right to Terminate under § 25.1, on or before **Closing**  
1090 **Date**, if the Property is not repaired before **Closing Date**, or if the damage exceeds such sum. Should Buyer  
1091 elect to carry out this Contract despite such Property Damage, Buyer is entitled to a credit at Closing for all  
1092 insurance proceeds that were received by Seller (but not the Association, if any) resulting from damage to the  
1093 Property and Inclusions, plus the amount of any deductible provided for in the insurance policy. This credit may  
1094 not exceed the Purchase Price. In the event Seller has not received the insurance proceeds prior to Closing,  
1095 the parties may agree to extend the **Closing Date** to have the Property repaired prior to Closing or, at the  
1096 option of Buyer, (1) Seller must assign to Buyer the right to the proceeds at Closing, if acceptable to Seller’s  
1097 insurance company and Buyer’s lender; or (2) the parties may enter into a written agreement prepared by the  
1098 parties or their attorney requiring the Seller to escrow at Closing from Seller’s sale proceeds the amount Seller  
1099 has received and will receive due to such damage, not exceeding the total Purchase Price, plus the amount of  
1100 any deductible that applies to the insurance claim.  
1101

1102 **19.2. Damage, Inclusions and Services.** Should any Inclusion or service (including utilities and  
1103 communication services), system, component or fixture of the Property (collectively Service) (e.g., heating or  
1104 plumbing), fail or be damaged between the date of this Contract and Closing or possession, whichever is  
1105 earlier, then Seller is liable for the repair or replacement of such Inclusion or Service with a unit of similar size,  
1106 age and quality, or an equivalent credit, but only to the extent that the maintenance or replacement of such  
1107 Inclusion or Service is not the responsibility of the Association, if any, less any insurance proceeds received by  
1108 Buyer covering such repair or replacement. If the failed or damaged Inclusion or Service is not repaired or  
1109 replaced on or before Closing or possession, whichever is earlier, Buyer has the Right to Terminate under §  
1110 25.1, on or before **Closing Date**, or, at the option of Buyer, Buyer is entitled to a credit at Closing for the repair  
1111 or replacement of such Inclusion or Service. Such credit must not exceed the Purchase Price. If Buyer receives  
1112 such a credit, Seller’s right for any claim against the Association, if any, will survive Closing.  
1113  
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1121 **19.3. Condemnation.** In the event Seller receives actual notice prior to Closing that a pending  
1122 condemnation action may result in a taking of all or part of the Property or Inclusions, Seller must promptly  
1123 notify Buyer, in writing, of such condemnation action. Buyer has the Right to Terminate under § 25.1, on or  
1124 before **Closing Date**, based on such condemnation action, in Buyer's sole subjective discretion. Should Buyer  
1125 elect to consummate this Contract despite such diminution of value to the Property and Inclusions, Buyer is  
1126 entitled to a credit at Closing for all condemnation proceeds awarded to Seller for the diminution in the value of  
1127 the Property or Inclusions but such credit will not include relocation benefits or expenses, or exceed the  
1128 Purchase Price.  
1129

1130  
1131 **19.4. Walk-Through and Verification of Condition.** Buyer, upon reasonable notice, has the right to  
1132 walk through the Property prior to Closing to verify that the physical condition of the Property and Inclusions  
1133 complies with this Contract.  
1134

1135  
1136 **20. RECOMMENDATION OF LEGAL AND TAX COUNSEL.** By signing this Contract, Buyer and Seller  
1137 acknowledge that the respective broker has advised that this Contract has important legal consequences and  
1138 has recommended the examination of title and consultation with legal and tax or other counsel before signing  
1139 this Contract.  
1140

1141  
1142 **21. TIME OF ESSENCE, DEFAULT AND REMEDIES.** Time is of the essence for all dates and deadlines  
1143 in this Contract. This means that all dates and deadlines are strict and absolute. If any payment due, including  
1144 Earnest Money, is not paid, honored or tendered when due, or if any obligation is not performed timely as  
1145 provided in this Contract or waived, the non-defaulting party has the following remedies:  
1146

1147 **21.1. If Buyer is in Default:**

1148  **21.1.1. Specific Performance.** Seller may elect to cancel this Contract and all Earnest  
1149 Money (whether or not paid by Buyer) will be paid to Seller and retained by Seller. It is agreed that the Earnest  
1150 Money is not a penalty and the Parties agree the amount is fair and reasonable. Seller may recover such  
1151 additional damages as may be proper. Alternatively, Seller may elect to treat this Contract as being in full force  
1152 and effect and Seller has the right to specific performance or damages, or both.  
1153

1154 **21.1.2. Liquidated Damages, Applicable. This § 21.1.2 applies unless the box in § 21.1.1.**  
1155 **is checked.** Seller may cancel this Contract. All Earnest Money (whether or not paid by Buyer) will be paid to  
1156 Seller and retained by Seller. It is agreed that the Earnest Money specified in § 4.1 is LIQUIDATED DAMAGES  
1157 and not a penalty, which amount the parties agree is fair and reasonable and (except as provided in §§ 10.4,  
1158 22, 23 and 24), said payment of Earnest Money is SELLER'S ONLY REMEDY for Buyer's failure to perform  
1159 the obligations of this Contract. Seller expressly waives the remedies of specific performance and additional  
1160 damages.  
1161

1162 **21.2. If Seller is in Default:** Buyer may elect to treat this Contract as canceled, in which case all  
1163 Earnest Money received hereunder will be returned to Buyer and Buyer may recover such damages as may be  
1164 proper. Alternatively, Buyer may elect to treat this Contract as being in full force and effect and Buyer has the  
1165 right to specific performance or damages, or both.  
1166

1167  
1168 **22. LEGAL FEES, COST AND EXPENSES.** Anything to the contrary herein notwithstanding, in the event  
1169 of any arbitration or litigation relating to this Contract, prior to or after **Closing Date**, the arbitrator or court must  
1170 award to the prevailing party all reasonable costs and expenses, including attorney fees, legal fees and  
1171 expenses.  
1172

1173  
1174 **23. MEDIATION.** If a dispute arises relating to this Contract (whether prior to or after Closing) and is not  
1175 resolved, the parties must first proceed, in good faith, to mediation. Mediation is a process in which the parties  
1176 meet with an impartial person who helps to resolve the dispute informally and confidentially. Mediators cannot  
1177 impose binding decisions. Before any mediated settlement is binding, the parties to the dispute must agree to  
1178 the settlement, in writing. The parties will jointly appoint an acceptable mediator and will share equally in the  
1179 cost of such mediation. The obligation to mediate, unless otherwise agreed, will terminate if the entire dispute  
1180 is not resolved within thirty days of the date written notice requesting mediation is delivered by one party to the  
1181 other at that party's last known address (physical or electronic as provided in § 27). Nothing in this Section  
1182 prohibits either party from filing a lawsuit and recording a *lis pendens* affecting the Property, before or after the  
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1190



1191 date of written notice requesting mediation. This Section will not alter any date in this Contract, unless  
1192 otherwise agreed.  
1193  
1194

1195 **24. EARNEST MONEY DISPUTE.** Except as otherwise provided herein, Earnest Money Holder must  
1196 release the Earnest Money following receipt of written mutual instructions, signed by both Buyer and Seller. In  
1197 the event of any controversy regarding the Earnest Money, Earnest Money Holder is not required to release the  
1198 Earnest Money. Earnest Money Holder, in its sole subjective discretion, has several options: (1) wait for any  
1200 proceeding between Buyer and Seller; (2) interplead all parties and deposit Earnest Money into a court of  
1201 competent jurisdiction (Earnest Money Holder is entitled to recover court costs and reasonable attorney and  
1202 legal fees incurred with such action); or (3) provide notice to Buyer and Seller that unless Earnest Money  
1203 Holder receives a copy of the Summons and Complaint or Claim (between Buyer and Seller) containing the  
1204 case number of the lawsuit (Lawsuit) within one hundred twenty days of Earnest Money Holder's notice to the  
1205 parties, Earnest Money Holder is authorized to return the Earnest Money to Buyer. In the event Earnest Money  
1206 Holder does receive a copy of the Lawsuit and has not interpleaded the monies at the time of any Order, Earnest  
1207 Money Holder must disburse the Earnest Money pursuant to the Order of the Court. The parties reaffirm the  
1208 obligation of § 23 (Mediation). This Section will survive cancellation or termination of this Contract.  
1209  
1210  
1211

1212  
1213 **25. TERMINATION.**

1214 **25.1. Right to Terminate.** If a party has a right to terminate, as provided in this Contract (Right to  
1215 Terminate), the termination is effective upon the other party's receipt of a written notice to terminate (Notice to  
1216 Terminate), provided such written notice was received on or before the applicable deadline specified in this  
1217 Contract. If the Notice to Terminate is not received on or before the specified deadline, the party with the Right  
1218 to Terminate accepts the specified matter, document or condition as satisfactory and waives the Right to  
1219 Terminate under such provision.  
1220

**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**.

**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.)

*A. Buyer and Seller acknowledge and agree that this contract is specifically contingent upon the receipt of written approval on or before February 23, 2022, from the Town of Buena Vista and Chaffee County for the change of use, proposed business plan and intended use of subject property. Should the Buyer not receive the necessary written approvals, in Buyer`s sole objective opinion, on or before February 23, 2022, Buyer may terminate this purchase contract and all earnest money to be returned to the Buyer.*

*B. Sections 7 and 11 are hereby deleted.*

**31. ATTACHMENTS.**

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

*None*

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

*Seller`s property disclosure*

**SIGNATURES**

*Brian England, Managing Member*

Date: 12/17/2021

Buyer: *Linderman Investments, LLC*

*By: Brian England, Managing Member*

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

Date: \_\_\_\_\_

Seller: *The Town of Buena Vista*

*By: Phillip Puckett, Town Administrator*

**END OF CONTRACT TO BUY AND SELL REAL ESTATE**

Seller(s) Initials:

*BE*

---

**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** .

Brokerage Firm's Name: **First Colorado Land Office**

Brokerage Firm's License #: **EC 40047449**



Date: **12/15/2021**

Broker's Name: **Julie L. Kersting**

Broker's License #: **ER.000942795**

Address: **Box 1105 Buena Vista, CO 81211**

Ph: **719-395-7840** Fax: Email Address: **Julie@FirstColorado.com; Cailin@FirstColorado.com**

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**33. BROKER'S ACKNOWLEDGMENTS AND COMPENSATION DISCLOSURE.**

(To be completed by Broker working with Seller)

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

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

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

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

with Buyer.

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

Brokerage Firm's Name: **First Colorado Land Office**

Brokerage Firm's License #: **EC 40047449**

Broker's Name:  Date: 12/15/2021

Broker's License #: **ER.000942795**

Address: **Box 1105 Buena Vista, CO 81211**

Ph: **719-395-0200** Fax: Email Address: **Julie@FirstColorado.com; Cailin@FirstColorado.com**

CBS3-5-19. CONTRACT TO BUY AND SELL REAL ESTATE (COMMERCIAL)

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Seller(s) Initials:

**BE**



The printed portions of this form, except differentiated additions, have been approved by the Colorado Real Estate Commission. (CP40-6-18) (Mandatory 1-19)

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

**COUNTERPROPOSAL**

Date: 12/21/2021

1. This Counterproposal supersedes and replaces any previous counterproposal. This Counterproposal amends the proposed contract dated 12/15/2021 (Contract), between **The Town of Buena Vista** (Seller), and **Linderman Investments, LLC** (Buyer), relating to the sale and purchase of the following legally described real estate in the County of **Chaffee**, Colorado:  
**PT SW4SE4 8-14-78 B 9 P 504 430601 specifically known as parcel # R327108400053**  
 known as No. **123 Linderman Ave, Buena Vista, CO 81211** (Property).

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

2. **§ 3.1 Dates and Deadlines.** [Note: This table may be omitted if inapplicable.]

Item No.	Reference	Event	Date or Deadline		No Change	Deleted
1	§ 4.3	Alternative Earnest Money Deadline			<input checked="" type="checkbox"/>	
<b>Title</b>						
2	§ 8.1, § 8.4	Record Title Deadline			<input checked="" type="checkbox"/>	
3	§ 8.2, § 8.4	Record Title Objection Deadline			<input checked="" type="checkbox"/>	
4	§ 8.3	Off-Record Title Deadline			<input checked="" type="checkbox"/>	
5	§ 8.3	Off-Record Title Objection Deadline			<input checked="" type="checkbox"/>	
6	§ 8.5	Title Resolution Deadline			<input checked="" type="checkbox"/>	
7	§ 8.6	Right of First Refusal Deadline			<input checked="" type="checkbox"/>	
<b>Owners' Association</b>						
8	§ 7.2	Association Documents Deadline			<input checked="" type="checkbox"/>	
9	§ 7.4	Association Documents Termination Deadline			<input checked="" type="checkbox"/>	
<b>Seller's Disclosures</b>						
10	§ 10.1	Seller's Property Disclosure Deadline			<input checked="" type="checkbox"/>	
11	§ 10.10	Lead-Based Paint Disclosure Deadline CBS 1, 2, F1			<input checked="" type="checkbox"/>	
<b>Loan and Credit</b>						
12	§ 5.1	Loan Application Deadline			<input checked="" type="checkbox"/>	
13	§ 5.2	Loan Termination Deadline	<b>4/8/2022</b>	Friday		
14	§ 5.3	Buyer's Credit Information Deadline			<input checked="" type="checkbox"/>	
15	§ 5.3	Disapproval of Buyer's Credit Information Deadline			<input checked="" type="checkbox"/>	
16	§ 5.4	Existing Loan Documents Deadline			<input checked="" type="checkbox"/>	
17	§ 5.4	Existing Loan Documents Termination Deadline			<input checked="" type="checkbox"/>	
18	§ 5.4	Loan Transfer Approval Deadline			<input checked="" type="checkbox"/>	
19	§ 4.7	Seller or Private Financing Deadline			<input checked="" type="checkbox"/>	
<b>Appraisal</b>						
20	§ 6.2	Appraisal Deadline	<b>4/1/2022</b>	Friday		
21	§ 6.2	Appraisal Objection Deadline	<b>4/4/2022</b>	Monday		

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22	§ 6.2	Appraisal Resolution Deadline	<b>4/6/2022</b>	Wednesday		
<b>Survey</b>						
23	§ 9.1	New ILC or New Survey Deadline	<b>3/28/2022</b>	Monday		
24	§ 9.3	New ILC or New Survey Objection Deadline	<b>3/30/2022</b>	Wednesday		
25	§ 9.3	New ILC or New Survey Resolution Deadline	<b>4/1/2022</b>	Friday		
<b>Inspection and Due Diligence</b>						
26	§ 10.3	Inspection Objection Deadline			<input checked="" type="checkbox"/>	
27	§ 10.3	Inspection Termination Deadline			<input checked="" type="checkbox"/>	
28	§ 10.3	Inspection Resolution Deadline			<input checked="" type="checkbox"/>	
29	§ 10.5	Property Insurance Termination Deadline			<input checked="" type="checkbox"/>	
30	§ 10.6	Due Diligence Documents Delivery Deadline			<input checked="" type="checkbox"/>	
31	§ 10.6	Due Diligence Documents Objection Deadline			<input checked="" type="checkbox"/>	
32	§ 10.6	Due Diligence Documents Resolution Deadline			<input checked="" type="checkbox"/>	
33	§ 10.6	Environmental Inspection Objection Deadline CBS2, 3, 4			<input checked="" type="checkbox"/>	
34	§ 10.6	ADA Evaluation Objection Deadline CBS2, 3, 4			<input checked="" type="checkbox"/>	
35	§ 10.7	Conditional Sale Deadline			<input checked="" type="checkbox"/>	
36	§ 10.10	Lead-Based Paint Termination Deadline CBS 1, 2, F1			<input checked="" type="checkbox"/>	
37	§ 11.1, 11.2	Estoppel Statements Deadline CBS2, 3, 4			<input checked="" type="checkbox"/>	
38	§ 11.3	Estoppel Statements Termination Deadline CBS2,3,4			<input checked="" type="checkbox"/>	
<b>Closing and Possession</b>						
39	§ 12.3	Closing Date	<b>4/15/2022</b>	Friday		
40	§ 17	Possession Date	<b>At successful closing and funding</b>			
41	§ 17	Possession Time	<b>At successful closing and funding</b>			
42					<input checked="" type="checkbox"/>	
43					<input checked="" type="checkbox"/>	

19

20 **3. § 4. PURCHASE PRICE AND TERMS. [Omitted as inapplicable]**

21

22 **4. ATTACHMENTS.** The following are a part of this Counterproposal:

23 **None**

24 **Note:** The following documents have been provided but are **not** a part of this Counterproposal:

25 **None**

26

27 **5. OTHER CHANGES.**

**Section 30. Additional Provisions.**

**A. Deleted.**

28 **B. No Change.**

**C. Buyer and Seller acknowledge that should Buyer require additional time to satisfy any lender requirements or appraisal conditions, a two week extension shall be mutually agreed to in writing.**

29

30 **6. ACCEPTANCE DEADLINE.** This Counterproposal expires unless accepted in writing by Seller and Buyer as evidenced by their signatures below and the offering party to this document receives notice

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*BE*

of such acceptance on or before 12/27/2021 @ 5:00 pm mtn.  
Date Time

31  
32  
33

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

*Phillip Puckett, Town Administrator*

Date: 12/22/2021

Seller: **The Town of Buena Vista**

**By: Phillip Puckett, Town Administrator**

Address:

35  
36  
37  
38

Seller: \_\_\_\_\_ Date: \_\_\_\_\_

Address:

*Brian England, Managing Member*

Date: 12/22/2021

Buyer: **Linderman Investments, LLC**

**By: Brian England, Managing Member**

Address:

40  
41  
42

Buyer: \_\_\_\_\_ Date: \_\_\_\_\_

Address:

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

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**CP40-6-18. COUNTERPROPOSAL**

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