

**KINDRED  
RESIDENTIAL UNIT  
PURCHASE AND SALE AGREEMENT  
[PRE-PLAT AND COMPLETION OF CONSTRUCTION]**

This Residential Unit Purchase and Sale Agreement (this “**Agreement**”) is executed by ORRA Keystone Investments, LLC, a Colorado limited liability company (“**Seller**”), and \_\_\_\_\_, his/her/its successors and/or assigns as permitted herein (“**Purchaser**”). The “**Effective Date**” of this Agreement shall be the date on which the latter of Seller and Purchaser executes this Agreement.

1. **Purchase and Sale.** Subject to and in accordance with the terms and conditions of this Agreement, Seller hereby grants to Purchaser, and Purchaser hereby acquires from Seller, an option to purchase and pay for, the following described residential unit (the “**Unit**”), subject to the terms of this Agreement:

Residential Unit No. [\_\_\_\_], Kindred Residences Condominium], according to the Residence Declaration and Residential Map, both as amended and supplemented from time to time, and both to be recorded in Office of the Clerk and Recorder of the County of Summit, Colorado (the “**Records**”).

The Unit includes an undivided interest in the Common Elements of the Project and such other appurtenant easements and other rights as described in the Project Documents. Certain defined terms used in this Agreement have the meaning given within the Residence Declaration or Resort Declaration, as applicable.

The Residence Declaration and the Residential Map must be recorded prior to the Closing (defined below) of the purchase and sale of the Unit. Purchaser acknowledges and agrees that the Resort and the Project are not currently subdivided and created, that the final size and configuration of the Unit may vary depending on the actual location of the Project as constructed within the Resort, and that the final legal description of the Unit will be established by the recorded Residential Map and recorded Residence Declaration and reflected in the Final Commitment, as discussed in Paragraph 7 below.

The Unit is depicted and described on Exhibit A attached hereto which consists of the basic floor plan, site plan, and features list. The Plans and Specifications for the Unit are generally described in Paragraph 5(b) below. Statements of square footage relating to the Unit are approximate and do not include any calculation of Common Elements, parking space, ski locker, storage space or any appurtenant rights described herein.

Purchaser shall choose from either of the Valley Package or the Peak Package which describe the particular finish levels of the Unit as designated below (the “**Standard Package**”). Except as otherwise indicated on Exhibit A as to certain 1-Bedroom units, the Unit includes installed flooring, plumbing fixtures, refrigerator/freezer, range/oven or cooktop, microwave oven, dishwasher, washer/dryer and electric fireplace(s), together with such features and finishes set forth on Exhibit A attached hereto and incorporated herein by this reference.

The acquisition of the Unit includes one (1) unassigned use of a parking space in a location designated by the Residence Association (defined below) from time to time. The purchase of and Closing upon the Unit shall include, under the terms and conditions set forth in Paragraph 18 below, one (1) residential membership in the Kindred Ski Club (as further defined below) offering exclusive use of one (1) ski club locker for storage of soft goods, boots and helmets.

2. **Description of the Project.** The Kindred Residences (the “**Project**”) is the residential common interest community located within a mixed-use condominium development to be constructed, developed, operated, leased, sold and marketed by Seller in Keystone, Colorado, consisting of not more than 95 privately owned residential condominium units, a planned RockResort hotel consisting of hotel guestrooms, suites and other amenities such as a pool, spa and fitness center, a restaurant, including an outdoor deck and bar facility and a "grab and go" and market area, a private ski club, ski school, and retail with equipment and rentals (the “**Resort**”). The Resort lies within the master planned community known as River Run Village governed by the Keystone Neighbourhood Company (“**KNC**”) as further described in the KNC Declaration of Covenants, Conditions and Restrictions for Neighbourhoods at Keystone recorded December 1, 1995 under Reception No. 504399 in the Records (as amended and supplemented from time to time, the “**KNC Declaration**”). The Project will be created pursuant to the laws of the State of Colorado and will be defined as a condominium under the general provisions of the Colorado Common Interest Ownership Act, C.R.S. Section 38-33.3-101, et seq. (the “**Act**”). The Kindred Resort Declaration to be recorded in the Records (as amended and supplemented from time to time, the “**Resort Declaration**”) and the Resort Plat Map establishing the Resort to be recorded in the Records (as amended and supplemented, the “**Resort Plat**”) further govern the Resort. The Kindred Residence Declaration to be recorded in the Records (as amended and supplemented from time to time, the “**Residence Declaration**”), and the Residential Condominium Map (as amended and supplemented from time to time, the “**Residential Map**”) to be recorded in the Records, govern the Project. The Project will be governed by the “**Residence Association**” to be created pursuant to the Residence Declaration and to be organized upon the filing of its articles of organization. Purchaser acknowledges that the name “Kindred” is in process for exclusive use by Seller or its affiliates but may change in Seller’s sole discretion.

3. **Legal Documentation.**

(a) **Project Documents.** The Project is expressly subject to and governed by the “**Project Documents**” described in Paragraph 8 below. Purchaser shall have the right to review the Project Documents during the Review Period (as defined in Paragraph 7(b) below). Purchaser acknowledges that, upon purchase of the Unit, Purchaser will become a member in the Residence Association and shall be bound by the Project Documents. Purchaser agrees to abide by all of the recorded and unrecorded documents applicable to the Unit, including the Project Documents and the Permitted Exceptions (defined below). Purchaser acknowledges that the members of the respective community associations referenced in the KNC-related documents have the right to revise and/or amend the KNC-related documents from time to time pursuant to the terms of said KNC documents, and without Purchaser’s joinder, review or approval prior to Closing, and Purchaser consents to such revisions and amendments so long as the same are not materially adverse to Purchaser’s right or privilege to use and occupy the Unit or the post-Closing lien rights of Purchaser’s lender, if any. Purchaser, as a member of the Residence Association, shall be obligated to pay assessments following Closing (as defined in Paragraph 9 below). For example, failure of a residential unit

owner to pay such assessments may result in a lien being placed on the unit and may subject a residential unit owner to the exercise of other remedies by the Residence Association or other parties as described in the Project Documents. Purchaser acknowledges that Seller or Seller's affiliate or designee is, as of the Effective Date of this Agreement, the "Owner" and will therefore have majority voting control over the Resort Association by virtue of ownership of the "Hotel Component" and the "Commercial Component," as each is defined in the Project Documents and as further described therein.

(b) Seller's Right to Revise. Seller, to the extent Seller deems necessary in its sole judgment, may revise the draft Project Documents prior to Closing for the purposes of: (i) establishing different or additional easements, reservations or restrictions which in the sole judgment of Seller are necessary for or consistent with the development of the Project or the Resort; (ii) meeting the requirements of applicable laws, governmental regulations, governmental bodies or agencies or any lending institutions; or (iii) making any additions, deletions or modifications to the draft Project Documents which in the sole judgment of Seller are necessary for or consistent with the development of the Project or the Resort. Subject to Paragraph 5 of this Agreement, Seller's revisions will not significantly change the size or configuration of the Unit as depicted on the Plans and Specifications.

4. Purchase Price. The purchase price for the Unit shall be [\_\_\_\_\_] and No/100ths Dollars (\$[\_\_\_\_\_] .00) (the "Purchase Price"), subject to adjustment in accordance with this Agreement. The Purchase Price shall be payable as follows:

Purchase Price:	\$ _____
Initial Deposit:	\$ _____
First Additional Deposit:	\$ _____
Second Additional Deposit:	\$ _____
Cash Due at Closing:	\$ _____

(a) Earnest Money. The total amount of the Earnest Money (consisting of all or part of the Initial Deposit, the First Additional Deposit and the Second Additional Deposit, depending on the timing required herein) shall be payable, deposited and transferred subject to the following terms and conditions:

(b) Initial Deposit of Earnest Money. The Initial Deposit of the Earnest Money ("Initial Deposit") equal to ten percent (10%) of the Purchase Price listed in Paragraph 4 has been delivered to the Title Company at the time of execution of this Agreement and is refundable to the extent permitted in this Agreement. Purchaser's Reservation Deposit (to the extent Purchaser has been awarded a reservation in the course of Seller's Reservation process) shall be applied against the Initial Deposit. Purchaser may terminate this Agreement at any time prior to payment of the First Additional Deposit as provided in Paragraph 4(c) hereof. Upon any such termination, the Title Company shall refund the Initial Deposit to Purchaser.

(c) First Additional Deposit of Earnest Money. Purchaser shall pay the First Additional Deposit of Earnest Money (“**First Additional Deposit**”) equal to 10% of the Purchase Price to the Title Company, Seller or Seller’s Construction Lender (defined below), within 5 days after delivery of written notice by Seller to Purchaser that a building permit from Summit County, Colorado, has been issued for the Project. The Purchaser’s failure to pay the First Additional Deposit when due shall cause this Agreement to terminate and the Title Company shall return the Initial Deposit to the Purchaser. Upon such termination, the Seller and Purchaser shall have no further obligations to each other. Upon payment of the First Additional Deposit, the Initial Deposit (together with the First Additional Deposit held by the Title Company) shall be transferred by the Title Company to Seller or Seller’s Construction Lender as directed by Seller. Upon payment of the First Additional Deposit, Purchaser shall be deemed to have irrevocably exercised the option to purchase the Residence. Except as otherwise set forth herein, the Initial Deposit and the First Additional Deposit shall then be non-refundable.

(d) Second Additional Deposit of Earnest Money. Purchaser shall pay the Second Additional Deposit of Earnest Money (“**Second Additional Deposit**”) equal to 10% of the Purchase Price to the Title Company, Seller or Seller’s Construction Lender, as directed by Seller, within 5 days after delivery of notice by Seller to Purchaser that the core and shell inspection for the tower in which the Unit is located has been conducted and approved by Summit County. Purchaser’s failure to pay the Second Additional Deposit when due shall cause this Agreement to terminate and the Initial Deposit and First Additional Deposit shall be retained by Seller as liquidated damages, which the parties agree is fair and reasonable because actual damages are difficult to determine. Except as otherwise set forth herein, the Second Additional Deposit of Earnest Money shall be non-refundable.

(e) Use of Earnest Money; No Interest. Upon delivery of any of the Earnest Money, First Additional Deposit and/or Second Additional Deposit, to Seller or Seller’s Construction Lender, Seller shall have the right to use the full amount delivered for purposes related to the construction of the Resort and the Project, as needed based on construction draw requests submitted to Seller’s Construction Lender, and no interest will accrue thereon for the benefit of Purchaser.

(f) No Financing Contingency. Purchaser understands and agrees that this Agreement is not contingent upon Purchaser obtaining financing for Closing and that Purchaser will be obligated to pay all cash at Closing under this Agreement. Purchaser shall be solely responsible for making Purchaser's own financial arrangements to enable Purchaser to pay Seller the Purchase Price for the Unit and Purchaser acknowledges that the satisfaction of any condition imposed by a lender is solely at Purchaser's risk, including, without limitation, the risk of any downward fluctuation in the value of the Residence.

(g) Personal Property. The Residence is being sold unfurnished and will contain only the appliances and equipment described in the Plans and Specifications which shall be conveyed to Purchaser at Closing, without warranty, by bill of sale.

(h) Parking. The parking garage facility located under the Hotel Component and a portion of the Resort shall be allocated a certain number of parking spaces for designation by the Residence Association as Limited Common Element of the Project and each owner of a residential unit shall be entitled to use of one (1) unassigned parking space, as required by the Keystone

Planned Unit Development Agreement. Subject to regulation of such parking by the Resort Association and the Residence Association through its rule-making authority, all parking within the parking facility shall be unassigned and managed by a central valet system operated by the Hotel Component operator. Purchaser acknowledges and agrees that each Residence at the Project is both entitled and limited to use of one (1) vehicle in the parking facility by virtue of owning the Unit. Subject to Summit County and KNC rules and regulations and space availability, the Project Documents will provide that Purchaser may leave a vehicle in residence when Purchaser is not physically on the Resort premises so long as Purchaser leaves the keys to the vehicle with the valet.

(i) Cash at Closing. The Cash due at Closing is equal to the balance of the Purchase Price, plus Purchaser's share of closing costs, transfer taxes and other amounts as provided for herein, and shall be paid by Purchaser at closing in immediately available funds, which include electronic transfer of funds or certified check ("**Good Funds**").

5. **Finish of the Unit.**

(a) Finish. Purchaser acknowledges that Seller will finish the Unit to the Standard Package finish level (inclusive of standard selections of appliances, flooring and fixtures), and that Purchaser will be solely responsible for any further changes or alterations to the same following Closing. Seller will use commercially reasonable efforts to cause its contractors to finish the Unit in substantial conformance with the floor plan, site plan and features list attached hereto as Exhibit A and in substantial conformance with the Plans and Specifications defined below, subject to any deviations described herein. In the event Purchaser's Unit is ADA-designated, the finish levels will comply with the ADA designated unit finishes and Purchaser shall execute the ADA Addendum attached hereto and incorporated herein by this reference. In no event shall Seller be obligated to replace any finishes, fixtures, equipment or appliances in ADA designated units after Closing.

(b) Plans and Specifications. Plans and specifications (the "**Plans and Specifications**") prepared by Seller's architect, OZ Architecture (the "**Architect**") are available for review by Purchaser at the offices of Kindred Residences at 610 Main St., Unit 11, in Frisco, Colorado 80443, by appointment only. Notwithstanding the specifics of the Plans and Specifications, Purchaser acknowledges that Seller may have substituted fixtures, equipment and materials with fixtures, equipment and materials of equal or better quality (as determined by Seller in Seller's sole discretion). Seller also may have modified the Plans and Specifications and/or made substitutions (a) to meet requirements or requests of governmental authorities, (b) to correct errors, omissions and oversights, (c) to meet site requirements or address construction restrictions, (d) to overcome hindrances to the expeditious completion of construction due to strikes or materials or labor shortages, (e) to address shortages, unavailability or unsuitability of products or materials, (f) to make relocations of electrical, plumbing, heating and similar services and equipment, and/or (g) as described in sub-Paragraph 5(f) below and as otherwise determined as necessary or desirable by Seller in its sole discretion. Accordingly, Purchaser acknowledges that there may be minor deviations from the Plans and Specifications in room dimensions, locations of windows, doors, heating registers and controls, electrical outlets and switches, telephone outlets and other items of similar nature. Further, statements of approximate square footage of the Unit, as well as of the Common Elements located in the Project or other areas located in the Resort, may be made in a variety of manners and Purchaser hereby acknowledges the possibility of deviations and variances from the Plans and Specifications and/or other statements of square footage provided to Purchaser,

and Purchaser hereby waives and disclaims any claim or assertion against Seller as a result of any such deviation or variance.

(c) Tours by Purchaser. Purchaser's right to tour the Resort and/or Project includes, but is not limited to, the right to commission, at Purchaser's sole cost and expense upon notice of Substantial Completion, a professional inspection, radon testing, and appraisal(s). Any tour of the Unit by Purchaser and/or Purchaser's representative(s) will be at Purchaser and/or Purchaser's representative(s) own risk. Purchaser, for itself and for Purchaser's guests, invitees, family members, consultants, contractors, agents, affiliates, successors, assigns, heirs and personal representatives, and any other permitted users or permittees of Purchaser (collectively, the "**Purchaser Parties**"), waives and releases all actions and claims against Seller and its members, officers, managers, agents, successors, assigns, affiliates, contractors, subcontractors, employees, brokers, or sales representatives (collectively, the "**Seller Parties**") for personal injury or property damage during such a tour. Purchaser, for itself and the Purchaser Parties, will indemnify, defend and hold harmless the Seller Parties against any claims, demands, loss, damages, liability or other expense arising out of such tour or any other entry on the Project or Resort by Purchaser or any Purchaser Party.

(d) Control. Purchaser will not perform any work in the Unit until title is transferred to Purchaser at the Closing except and unless expressly permitted in writing by Seller. Purchaser, for itself and the Purchaser Parties, will indemnify, defend and hold harmless Seller and the Seller Parties against any claims, demands, loss, damages, liability, or other expense that they may incur by reason of Purchaser's breach of any provision of this subparagraph. The provisions of this subparagraph shall survive any termination of this Agreement and, if applicable, the Closing.

(e) Indemnity. Purchaser will indemnify and hold harmless the Seller Parties and Vail Summit Resorts, its affiliates, successors and assigns (collectively, "**VSR**"), from and against any demands, claims, causes of action, liens (including, without limitation, mechanics' and materialmen's liens), fines, penalties, damages, liabilities, judgments, and expenses (including, without limitation, attorneys' fees) incurred in connection with or arising from any injury or damage to any person who, or property which, is present on or about the construction site for the Project or the Resort and that is caused by any act or omission by the Purchaser Parties conducted on or about the construction site for the Project or the Resort.

(f) Deviations; Model Items. It is understood and agreed that Seller is not building the Project or the Unit to the precise specifications or designs of any model residence, marketing display, Seller's marketing materials or to the specifications of Purchaser. Any model residence, marketing display or Seller's marketing or other materials are displayed for illustrative purposes only and shall not constitute an agreement or commitment on the part of Seller to deliver the Unit in exact accordance with any such model residence, marketing display, Seller's marketing or other materials or to the specifications of Purchaser. Purchaser understands that the Unit may be the reverse or mirror image of the floor plan of any model that is shown on the Plans and Specifications, Seller's sales brochures or other materials. Furthermore, Purchaser understands and acknowledges that the Unit may contain conditions, or undergo changes, which during the ordinary course of construction, may result in minor deviation from the Plans and Specifications, and may also result in cosmetic or structural changes from the originally intended manner of construction. Such conditions may result from the type of materials used or available, the process and procedures used for

construction of the Project, and may include, without limitation, conditions such as: (i) variations in the texture or thickness of textured or smooth finishing, including cracks in such materials; (ii) settlement cracks in drywall, concrete, stucco, flatwork, block walls and tile; (iii) twisting and warping of materials, including without limitation, wood and plastics, which can result in cracks, bulges and other types of imperfections; (iv) deviations in color, grain and texture that may occur in wood products, concrete, tile, granite, stone and other finish materials; (v) shrinkage, swelling expansion or settlement of construction materials; and (vi) conditions resulting from normal wear, tear or deterioration.

6. **Seller Contingency.** This Agreement is subject to the following contingency in favor of Seller (the "**Contingency**"). If this Agreement is terminated pursuant to the provisions of this Paragraph, then Seller will return to Purchaser an amount equal to the Earnest Money paid by Purchaser, and this Agreement shall thereafter be deemed fully null and void. In no event will Seller be required to give consideration in the form of money, contractual terms or other concessions to any third party or otherwise have any obligation to satisfy the Contingency.

**Seller's Financing Contingency.** Seller's ability to proceed with construction of the Project and the Resort is dependent upon Seller: (a) obtaining construction financing for the Project and the Resort from a lender and in an amount and on terms, conditions and at rates acceptable to Seller, in its sole and absolute discretion (the "**Construction Loan**"). If, prior to August 1, 2022, Seller has not obtained the Construction Loan, then Seller may (i) extend this contingency period for an additional ninety (90) calendar days, (ii) terminate this Agreement, or (iii) waive this Contingency by delivering written notice of such Seller election to Purchaser at any time, but in no event later than August 15, 2022.

7. **Title.** For purposes herein, Land Title Guarantee Company of Summit County is the "**Title Company**".

(a) **Commitment.** Within fourteen (14) days after execution of this Agreement by Seller and Purchaser, Seller shall cause the Title Company to deliver to Purchaser a preliminary title insurance commitment (the "**Commitment**") together with all Schedule B-2 exception documents referenced therein committing to insure marketable title to the Unit in an amount equal to the Purchase Price. Title to the Unit shall be subject to the following (the "**Permitted Exceptions**"): (i) the standard printed exceptions and the specific exceptions appearing in the Commitment (and any amendments thereto occurring subsequent to the date of the Commitment); (ii) the Project Documents (including any matters referenced therein); and (iii) any easements, licenses or covenants granted by adjacent property owners or to the public, adjacent property owners, utility companies, Summit County and any other units or agents of government that do not materially interfere with the Purchaser's use of the Unit for its intended purpose, whether granted before or after the date of the Commitment (it being acknowledged by the Purchaser that neither Purchaser nor its lender(s) shall have any right to join in, consent to or object to any such easement, license or covenants). The Permitted Exceptions shall not include any deed of trust in favor of Seller's lender, if any, and Seller specifically acknowledges and agrees that the Unit must be released from any such deed of trust prior to Closing. In addition, Seller shall cause any mechanics' liens and lis pendens encumbering the Unit to be released or bonded over prior to Closing, and any such mechanic's lien or lis pendens shall not be a Permitted Exception.

(b) Title Review. Purchaser shall have ten (10) days after receipt of the Commitment (the “**Review Period**”) in which to review the Commitment and underlying documents referenced therein. If Purchaser determines that there are any matters disclosed thereon which render the Unit unmarketable, Purchaser may object to such matters by giving written notice to Seller and the Title Company, stating with specificity the exceptions to which Purchaser objects (the “**Objection Notice**”). If no such Objection Notice is timely given by Purchaser, Purchaser shall be deemed to have accepted title as shown on the Commitment, with all matters shown thereon deemed Permitted Exceptions. If an Objection Notice is timely issued by Purchaser, Seller, at its election, may attempt to remove or cure the objectionable exception(s) or to obtain an endorsement providing protection against such exception(s), at Seller’s expense, (and Seller shall be entitled to an adjournment of the Closing for a period of up to thirty (30) days for such purposes). The existence of liens or encumbrances of any kind shall not constitute a defect allowing termination by Purchaser if Seller elects to provide to Purchaser a title insurance endorsement insuring against such lien or encumbrance. If Seller does not provide a written response to Purchaser’s Objection Notice, Seller shall be deemed to have elected not to cure any of Purchaser’s objections. If Seller elects not to cure a particular objection, or if Seller elects to cure an objection and is thereafter unable to remove or cure such objection before the scheduled date of Closing (as the same may be extended under this paragraph), then Purchaser shall have the right to further extend the date of Closing for seven (7) calendar days, during which period Purchaser shall determine if Purchaser shall:

(i) Waive Purchaser’s uncured objections to title without adjustment in the Purchase Price and proceed to Closing (whereupon such matters to which Purchaser’s uncured objections relate shall be deemed Permitted Exceptions);

(ii) Grant one or more additional periods of time within which Seller shall continue to attempt to cure, remove, or obtain title insurance protection against the exceptions; or

(iii) Terminate this Agreement, in which event the Title Company shall return the Earnest Money to Purchaser, and the parties shall be released from all further obligations under this Agreement excepting only those obligations expressly contemplated to survive termination.

If Purchaser fails to give timely notice of its election, Purchaser will be deemed to have elected to accept any such uncured or unremoved matter to which Purchaser has objected as shown in the Commitment and to have waived any further objection thereto. Purchaser expressly relinquishes and waives any and all other remedies, claims, demands and causes of action at law or in equity against Seller for failure to deliver marketable title.

Promptly following the recording of the final Residential Map creating the Unit and the Residence Declaration, Seller shall procure a legal description of the Unit and deliver to Purchaser, at least five (5) days before Closing, the Commitment in a revised form, reflecting the final Project Documents, including the recordable version of the Project Documents, the final legal descriptions of the Unit and other reasonable adjustments to the Commitment applicable to the formation of the Project and creation of the Unit (the “**Final Commitment**”). The Final Commitment will commit to insure marketable title to the Unit in Purchaser, upon payment of the policy premium by Seller and the satisfaction of certain requirements by Seller, subject to the standard printed exceptions and the



exceptions accepted by Purchaser pursuant to this Paragraph above. After the Closing, Seller, at its expense, will cause the Title Company to issue to Purchaser a title insurance policy in conformance with the Final Commitment.

8. **Unit Owners' Association Matters.** Purchaser shall be subject to the provisions of and restrictions contained in the KNC governing documents, as well as dues and assessments arising thereunder, and in addition thereto Purchaser shall be subject to the following:

(a) **Association.** Purchaser acknowledges that as owner of the Unit, Purchaser shall be subject to the provisions of and restrictions contained in the Project Documents, shall automatically become a member of the owners' association established for the Project under the Project Declaration (the "**Residence Association**"), will be required to pay assessments to the Residence Association, and shall be governed by the Residence Association's articles of incorporation, bylaws, resolutions, policies, and rules and regulations from time to time in effect. The estimated homeowner's assessments for the Unit payable to the Residence Association, the Resort Association, and KNC will be included in the Project Document package provided to Purchasers. Purchaser acknowledges that these assessments are based upon an estimate only and that actual assessments may vary from this estimate.

(b) **Resort Association.** Purchaser also acknowledges that as owner of the Unit, Purchaser shall be subject to the provisions and restrictions contained in the Resort Declaration, shall automatically become a Residential Member of the owners' association established pursuant to the Resort Declaration (the "**Resort Association**") and shall be governed by the Resort Association's articles of incorporation, bylaws, resolutions, policies, and rules and regulations from time to time in effect. These documents require, among other things, membership by Purchaser in the Resort Association and payment of assessments to the Resort Association independent of those to be paid to the Residence Association as set forth above in (a).

(c) **Other Restrictions.** Purchaser also acknowledges that Purchaser shall be subject to all state, federal, and county laws, together with all other Permitted Exceptions and Project Documents recorded in the Records, which concern and restrict the use, occupancy and maintenance of the Unit and the Project.

(d) **Project Documents.** By signing this Agreement, Purchaser acknowledges the opportunity to review those documents listed in i-v below (collectively, the "**Project Documents**"), within fourteen (14) days after receipt of the draft Project Documents package. In addition, Seller will include in the Project Documents package a copy of the Soils Report (defined below) applicable to the land underlying the Project, which Purchaser acknowledges is not specific to the Unit. The draft Project Documents shall be delivered for timely review prior to expiration of the First Additional Earnest Money Deposit date. The draft Project Documents provided to Purchaser shall be substantially the same as the final Project Documents in their application to Purchaser and Purchaser will be notified in writing of any substantive changes to the draft Project Documents before Closing.

- (i) Drafts of the Residence Declaration and the Articles of Incorporation, Bylaws and Responsible Governance Policies of the Residence Association;
- (ii) A preliminary, pro forma budget of the Residence Association's estimated annual income and expenditures;
- (iii) The Resort Declaration and the Articles of Incorporation, Bylaws and Responsible Governance Policies of the Resort Association; and
- (iv) A preliminary pro forma budget of the Resort Association.

(e) Seller's Right to Make Changes to Project Documents. Seller reserves the right to amend or vote to amend, as applicable, the Project Documents at any time or from time to time prior to the Closing as Seller may deem necessary or desirable to make corrections or to meet the requirements of applicable laws, governmental regulations, lending institutions, marketing programs and to make other changes or so long as the amendments do not materially diminish the practical enjoyment and use by Purchaser of the Unit. Purchaser acknowledges that Seller has reserved the right, at any time after Closing, to amend the Project Documents for the purposes and under the conditions outlined in the Project Documents and permissible under Colorado law. Prior to Closing, if such amendment, modification, change or revision materially adversely affects the rights of the Purchaser, Purchaser may terminate this Agreement within ten (10) days after receiving a copy of such amended, modified, changed or revised documents or materials, whereupon the Earnest Money Deposit paid by Purchaser shall be refunded by Seller and the parties hereto shall have no rights or liabilities hereunder. In the event Purchaser fails to provide Seller with such notice of termination within said three (3) day period, Purchaser shall be conclusively deemed to have consented to the amended, modified, changed or revised documents or materials, and this Agreement shall remain in full force and effect.

## 9. Closing.

(a) Closing Date. The closing of the purchase and sale under this Agreement (the "**Closing**") shall take place within Summit County, Colorado, no later than twenty (20) calendar days after Seller provides Purchaser with written notice of the Summit County Building Department sign off on the building permit with recommendation for issuance of a temporary certificate of occupancy and a copy thereof, and such written notice shall include a particular date (the "Closing Date") at a place, time and method designated by the Title Company, which may include the exchange of documents held by the Title Company as closing agent and delivered prior to Closing. The issuance of a temporary certificate of occupancy for the Unit and tower in which the Unit is located (evidencing "Substantial Completion") shall be delivered by Seller to Purchaser at Closing. Purchaser agrees and acknowledges that time is of the essence and that if the Closing does not take place on the Closing date as specified above, Seller will incur significant expenses for items such as property taxes, assessments, debt service, and other operating expenses and carrying charges.

(b) Delays; Force Majeure. In the event of delays from causes beyond the reasonable control of Seller (such as, but not limited to, acts of God, strikes, work stoppages, unavailability of or delay in receiving labor or materials or undue and/or excess expense in receiving the same, defaults by contractors or subcontractors, inability to obtain necessary governmental permits or approvals, including, without limitation, building permits, weather conditions, terrorism,

pandemics, epidemics, strikes, inability to obtain materials, or fire or other casualty, or any legal proceedings, orders or judgments commenced or secured by a third party that could impair the development or use of the Project or the Resort for their respective intended purposes, and any other conditions or events legally recognized in the State of Colorado as frustrating or rendering impossible performance of contracts) (each, a "**Force Majeure Delay**"), then the time for Seller's performance under this Agreement will be extended for a period or periods of time equal to the length of each Force Majeure Delay.

(c) Closing Procedures. Unless Purchaser and Seller otherwise agree, Closing shall be effected through an escrow closing and neither Purchaser nor Seller need be present. Title Company shall act as the closing agent and shall collect and disburse documents and payments necessary to effect the Closing. At Closing, all of Purchaser's funds and documents shall be delivered to Title Company unless otherwise directed by Seller. At the Closing, the parties shall take the following actions:

(i) Seller shall deliver to Purchaser an executed and acknowledged special warranty deed to the Unit subject only to the Permitted Exceptions and statutory exceptions. Promptly following the date of Closing, the deed will be recorded by the Title Company in the Records;

(ii) Seller shall convey its title to any personal property and fixtures installed within the Unit, without warranty, by a bill of sale;

(iii) Seller shall deliver an executed assignment of Appliance warranties pursuant to Paragraph 19;

(iv) Purchaser shall pay the balance of the Purchase Price as required by, and subject to the credits specified in, Paragraph 4 above and the parties shall execute settlement statements prepared in accordance with the terms of this Agreement;

(v) If Purchaser is an entity or is comprised of more than one individual, Purchaser shall deliver a designation of owner representative pursuant to the Bylaws of the Residence Association;

(vi) Purchaser shall deliver any documents to be delivered required hereunder; and

(vii) Purchaser and Seller shall execute and deliver such other documents and take such other actions as may be requested by the Title Company or necessary to accomplish the Closing and carry out their obligations under this Agreement.

(d) Closing Costs. Purchaser agrees to pay the documentary fee on the special warranty deed, the assessments contemplated by subparagraph 9(f) below, and the cost of recording the special warranty deed, together with any and all other documents necessary for Purchaser to evidence existence and/or to accommodate Purchaser's interests. Purchaser agrees to pay the two percent (2.0%) real estate transfer assessment due the KNC on the conveyance of the Unit. Seller agrees to pay for the extended coverage owner's title insurance policy contemplated by Paragraph

7(a) (provided that Purchaser shall be responsible for the cost of any additional coverage, endorsements or policies requested by Purchaser, except if and to the extent any of the same are purchased by Seller to cure a title objection of Purchaser pursuant to Paragraph 7(b)). Purchaser shall be solely responsible for the costs associated with any financing and financing-related fees that Purchaser may acquire (including the cost of any lender's policy of title insurance) and all costs associated with any counsel, consultant or review undertaken by or on behalf of Purchaser relating to this Agreement. Purchaser and Seller shall each pay one-half (1/2) of the Title Company's closing fees.

(e) Working Capital. In order to provide the Resort Association and/or the Residence Association with working capital funds, Purchaser shall pay at Closing an amount equal to three (3) months' worth of annual Residence Association assessments payable by Purchaser as the owner of the Unit based on the budget for the Resort Association and for the Residence Association in effect at the time of Closing (without regard as to whether the Resort Association and/or the Residence Unit Association have commenced levies of all or any assessments). The payment shall not be considered a deposit or an advance payment of assessments and the Purchaser's obligation to make this payment at Closing shall be in addition to Purchaser's obligations to pay assessments as set forth in Paragraph 9(f) below. The payment shall be made and directed to the Residence Association and shall be nonrefundable.

(f) Adjustments. Real property taxes and assessments due and payable in the year of Closing, based upon the most current assessment and levy, and all assessments imposed on the Project or the Unit by any governmental, quasi-governmental or private entity shall be apportioned to the date of Closing. If real property taxes have not been previously assessed specifically to the Unit, Seller may reasonably estimate the amount of such taxes attributable to the Unit, which estimate shall be apportioned to the date of Closing and shall be considered a final settlement.

(g) Punch List. Prior to the Closing, Purchaser agrees to participate in a walk-through of the Unit ("**Walk-Through**") with Seller's representative in order to compile a list of items the parties mutually agree need correction, which are apparent at the time of inspection ("**Walk-Through List**"), which Walk-Through List shall be signed by both Purchaser and Seller. If Purchaser fails or refuses to complete the Walk-Through or to sign the Walk-Through List, or to have Purchaser's designee do so on Purchaser's behalf prior to Closing, Seller may either designate a qualified third party, who is not an agent or employee of Seller, to complete the inspection on Purchaser's behalf before the Closing, or, at Purchaser's election, Purchaser may waive, in writing, Purchaser's right to participate in the inspection. Items of uncompleted construction, which do not materially affect occupancy, shall not provide a basis for Purchaser to cancel this Agreement, withhold funds at the Closing, or delay the Closing. Seller will use commercially reasonable efforts to cause its contractors to complete the items on the Walk-Through List at Seller's expense within the later to occur of sixty (60) working days after preparation of the Walk-Through List or sixty (60) working days after the date of Closing, subject to Force Majeure. Purchaser understands and agrees that paving, exterior cement work, landscaping, final exterior finish and some components of the Project may not be completed when a temporary or conditional certificate of occupancy is issued and that Seller will complete such paving, exterior cement work, landscaping and final exterior finish work as soon as practicable thereafter. **Purchaser's refusal to close this transaction due to the**

**need for reasonable further work (to be noted on the Walk-Through List with respect to the Unit) shall constitute a default by Purchaser under this Agreement.**

(h) Joint & Several Obligation; Title Election. If Purchaser is comprised of two or more parties, they shall be jointly and severally obligated under this Agreement. If Purchaser is comprised of two or more individuals, they shall deliver written notice to the Title Company and to Seller, at least ten (10) days prior to Closing, of whether they will take title to the Unit as joint tenants or tenants in common.

10. Risk of Loss; Casualty. Purchaser acknowledges that the Residence Declaration sets forth the minimum insurance coverage responsibilities of the Residence Association governing the Unit and accepts the same.

(a) Allocation of Risk. Seller shall bear the risk of loss to the Unit until the Closing. After Closing, Purchaser shall bear all such risk of loss (subject to the insurance provisions of the Resort Declaration and the Residence Declaration).

(b) Casualty. If fire or other casualty occurring prior to Closing damages the Unit, Seller shall repair the damage and rebuild the Unit as soon as reasonably practicable, and the Closing shall be delayed as necessary to allow the completion of such repair and rebuilding work; provided, however, that if such casualty materially damages other portions of the Project or Resort in addition to the Unit, then Seller shall have no obligation to repair and/or rebuild, and instead Seller shall have the right to terminate this Agreement whereupon the Earnest Money shall be returned to Purchaser and this Agreement shall be of no further force and effect except for those provisions specifically contemplating survival after a termination. OZ Architecture or the then architect of record for the Project, shall be the sole party responsible for determining if a casualty is “materially” damaging for purposes of this Paragraph.

(c) Closing. At or prior to Closing, in accordance with the insurance requirements set forth in the Residence Declaration, Purchaser must obtain, and is responsible for the cost of, property, theft and liability insurance covering the interior of Purchaser’s Unit and any other insurance requirements in the Residence Declaration.

11. Possession. Prior to Closing, Seller shall cause the Unit to be construction cleaned, and Seller shall deliver possession of the Unit to Purchaser upon Closing. In order to avoid damage to the Project or disruption to other residents and guests of the Resort, all decorators, consultants, or contractors that the Purchaser may hire after Closing must comply with the Project Documents and such other guidelines and rules established by Seller, the Resort Association or the Residence Association, including as the same pertain to issuance of keys, hours for construction, trash removal, sink drains. The covenants of this Paragraph will survive the Closing.

12. Brokers. Each party represents to the other that no real estate broker, agent or finder other than the Listing Broker and the Cooperating Broker identified on the signature page(s) hereof (if any) has any claim for compensation or expenses as a result of this transaction, and each party shall indemnify the other against any claims for commissions or other compensation by any other broker, agent, or finder with whom the indemnifying party has dealt. Seller agrees to compensate the Listing Broker for services rendered in this transaction. Purchaser acknowledges that any

compensation owed to any Cooperating Broker shall be paid by the Listing Broker pursuant to the separate agreement of the Listing Broker and any Cooperating Broker, and Seller shall not be responsible for the same. The Cooperating Broker is not an agent of the Seller, and Purchaser acknowledges that Purchaser's relationship with the Cooperating Broker has been previously disclosed to Purchaser in a notice from Cooperating Broker to Purchaser.

13. **Notices.**

(a) **Form.** All notices or deliveries required under this Agreement shall be in writing and shall be hand delivered or given by DocuSign, regular mail, or overnight courier directed to the email or overnight address of Purchaser and Seller set forth under their signatures. All notices so given shall be considered effective, if provided by DocuSign upon printable confirmation of successful completion, if hand-delivered, when received; if delivered by facsimile transmittal, upon telephone confirmation of receipt if received on a business day between the hours of 8:00 a.m. and 5:00 p.m., or upon the next business day; if delivered by courier, one (1) business day after timely deposit with the courier service, charges prepaid; or if mailed, three (3) days after deposit, first class postage prepaid, with the United States Postal Service. Either party may change the address to which future notices shall be sent by notice given in accordance with this Paragraph. An agent of Seller or the Listing Broker may send notices at the direction of and in place of Seller. Any notice to Seller prior to Closing must also be sent to the Listing Broker and the Title Company at the addresses provided under their respective signature blocks.

(b) **Purchaser Designated for Notice.** If Purchaser is comprised of more than one person, Seller shall be required to give notice to only one of those parties. Purchaser shall designate the party to receive notice, and if no one party is designated, Seller shall be deemed to have given adequate notice with notice given in accordance with this Paragraph to any one of the parties comprising Purchaser.

14. **Assignment.** This Agreement is personal to Purchaser, and Purchaser may not assign this Agreement without the prior written consent of Seller, such consent not to be unreasonably withheld; provided, however, that any such assignment shall be subject to Purchaser's provision of the information pertaining to such proposed assignee required herein and approval by Seller of such proposed assignee. Any purported assignment of this Agreement, including any listing, offer, promotion, advertising or publicity of the Purchaser's rights under this Agreement, without Seller's written consent shall be voidable and shall place Purchaser in default under Paragraph 15 below, at the option of Seller. Seller's refusal to consent to an assignment of this Agreement shall not entitle Purchaser to terminate this Agreement or give Purchaser any rights or claims for damages against Seller. Seller may assign its interest under this Agreement without Purchaser's consent so long as the assignee assumes Seller's obligations hereunder. If any assignment by Seller (or its successors or assigns) shall be for the purpose of securing a lender to Seller (or its successors or assigns), Purchaser's rights under this Agreement shall, at the option of such lender, be subject and subordinate to the rights of such lender. In the event of a conflict between this Paragraph and any other Paragraph of this Agreement, this Paragraph shall prevail.

15. **Default and Termination.**

(a) Default by Purchaser. If Purchaser defaults in the performance of its obligations hereunder, including, but not limited to, execution of the Membership Agreement described below, Seller may:

(i) terminate this Agreement, in which event Seller shall be entitled to keep the Earnest Money and any other deposits obtained from Purchaser, including any interest thereon, as liquidated damages (and not as a penalty), the parties agreeing that Seller's actual damages may be difficult to ascertain, and that the amount of the Earnest Money reasonably approximates the damages Seller would sustain in the event of a default by Purchaser, other than damage arising from any claims for mechanics' liens resulting from work or materials ordered by Purchaser for the Unit (indemnification for which, if contemplated by this Agreement, shall be in addition to the retention of the Earnest Money and other deposits). In the event of such termination, Purchaser, upon demand, will execute and deliver such documents as Seller may reasonably request to evidence the termination or to remove any cloud on title to the Unit. If Seller elects to terminate this Agreement following a default by Purchaser, and if, at the time of Seller's exercise of that remedy, there remains outstanding and unpaid any invoice for work and/or materials for the Unit ordered by Purchaser, then Seller shall have the right, in addition to any other rights and remedies reserved or allowed for Seller under this Agreement or by law, to pay those invoices to ensure that no mechanic's or materialman's lien will be imposed against the Unit, and to charge Purchaser for all amounts so paid by Seller. Any amounts paid by Seller for such work or materials will bear interest at an annual rate of eighteen percent (18%) beginning the fifth (5<sup>th</sup>) day after Seller gives notice to Purchaser of the amount paid by Seller and due from Purchaser; or

(ii) assert a claim against Purchaser for specific performance or damages or both.

(b) Default by Seller. Subject to an event of Force Majeure, casualty or condemnation, if Seller defaults in the performance of its obligations under this Agreement, Purchaser shall be entitled either (i) to terminate this Agreement, in which event Seller shall return the Earnest Money to Purchaser, in which case the parties shall be released from all further obligations hereunder, or (ii) to specific performance of this Agreement if such remedy is available. Purchaser acknowledges and agrees that Purchaser shall have no right to, and Purchaser hereby waives and disclaims all right to seek, damages of any kind (including actual, incidental, consequential, punitive or otherwise) in connection with a Seller default.

(c) Attorneys' Fees. Should any action be brought to enforce or interpret this Agreement, each party shall bear its own costs.

(d) Mandatory Dispute Resolution. In the event any dispute arises between Seller and Purchaser prior to Closing, the parties acknowledge and agree to mediate the dispute with JAMS ADR in Denver, Colorado. If the dispute is not resolved to both parties' mutual satisfaction within thirty (30) days after written notice by one party to the other of the dispute, the parties may avail themselves of any and all remedies at law or in equity.

IMPORTANT NOTICE: In the event any dispute arises between Seller and Purchaser subsequent to Closing, Seller and Purchaser agree to be bound by the Alternative Dispute Resolution Procedures set forth in the Residence Declaration accepted by Purchaser prior to Purchaser's execution of this Agreement. (Seller is referred to as "**Declarant**" and Purchaser as an "**Owner**" in the Residence Declaration). The Residence Declaration shall govern all disputes between Seller and Purchaser in the manner set forth in the Residence Declaration, which Purchaser acknowledges and agrees contains, among other matters, the requirement of binding arbitration.

<b>Initials:</b> Purchaser _____ Seller _____
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16. **Recording of Agreement.** If at any time before Closing Purchaser causes this Agreement or any memorandum, affidavit or other instrument (other than a lis pendens in connection with an action for specific performance) which makes reference to this Agreement to be recorded in the Records, then Seller, at Seller's sole election, may deem Purchaser in default and exercise its remedies pursuant to Paragraph 15 hereof. In addition, Purchaser, upon demand, will execute and deliver such documents as Seller may reasonably request to remove any cloud of title on the Unit or the Project.

17. **Representations, Warranties, Acknowledgments and Disclaimers.**

(a) **No Representations Outside of Contract.** Purchaser understands that neither the Listing Broker nor any agent or representative of Seller has any authority to make any representations concerning the Unit, the Project or the Resort. Purchaser acknowledges that neither Seller nor any of the Seller Parties or any of their respective agents, representatives or employees have made any warranties or representations other than as expressly set forth in this Agreement.

(b) **No Investment Representations.** Without limiting the generality of the provisions of Paragraph 17(a), Purchaser acknowledges that neither Seller nor any of the Seller Parties, including but not limited to the Listing Broker, have made any warranties or representations concerning (i) the Unit as an investment opportunity for appreciation of value or as a means of obtaining income from the rental thereof, or (ii) rental or other income from any Unit or as to any other economic benefit, including possible federal or state tax advantages from the ownership of a Unit. Purchaser is purchasing the Unit and the rights and privileges evidenced thereby for Purchaser's own personal use and account and not for any other purpose and does not anticipate or expect that Purchaser will make a profit from ownership of the Unit. SELLER HEREBY EXPRESSLY DISCLAIMS AND REPUDIATES ANY REPRESENTATION FROM ANY SOURCE AS TO ANY POSSIBLE ECONOMIC BENEFIT ARISING FROM OWNERSHIP OF A UNIT IN THE PROJECT OR RESORT.

(c) **Acknowledgment.** Purchaser acknowledges that Purchaser has reviewed and understands all documents referenced in this Agreement. Further, Purchaser acknowledges that



Seller has advised Purchaser to obtain legal counsel and Purchaser has had an opportunity to consult legal counsel to review all aspects of the transaction contemplated by this Agreement, and to represent Purchaser in connection with the review and negotiation of this Agreement, the examination of title and the Closing.

(d) Incomplete Development. Purchaser acknowledges that the Resort is located in an area that is subject to on-going construction activities relating to the development, construction and renovations on or about the area known as One River Run in general (collectively, the “**Construction Activities**”). The Construction Activities are expected to generate an unpredictable amount of visible, audible and odorous impacts and disturbances. The Construction Activities may include, without limitation: (x) construction traffic, including without limitation, construction vehicles, equipment and vehicles traveling on the roads within Keystone Neighbourhood; and (y) construction activities including, without limitation, grading, excavation, clearing, site work and construction of improvements relating to nearby properties or the Mountain Recreational Areas.

(e) Commercial Activities. A variety of commercial activities are and will be conducted in and adjacent to the Resort (as further described below, the “**Commercial Activities**”). The Commercial Activities are expected to generate an unpredictable amount of visible, audible and odorous impacts and disturbances. The Commercial Activities may include, without limitation: operation of full service hotel(s) and/or timeshare, vacation club or similar facilities, any of which may include health spa(s) with associated swimming pool(s) and other indoor or outdoor recreational facilities; meetings, conferences, banquets and other group events; sales and rentals of clothing, skis, ski-related equipment, other over the snow equipment, bicycles and other recreational equipment; sales of tickets for chairlifts, gondolas, other transportation systems and other activities and events conducted on the Mountain Recreational Areas; indoor and outdoor restaurant and bar operations (including the sale of food and alcoholic and non-alcoholic beverages for on-site and off-site consumption and preparation of hot and cold food (through the use of barbecue grills, fire pits and other smoke and/or odor producing means)) and beverages at indoor and outdoor facilities on and immediately adjacent to the Unit; sales of servicing relating to skiing, other over-the snow-activities, and other recreational activities (including tuning, waxing, repairing, and mounting bindings on, renting, storing and transporting skis, tours and excursions; public use of the Resort for access to the Mountain Recreational Areas, vehicle passenger drop-off and pick-up, locker room, changing room, rest room and lounge purposes in designated areas, and short-term clothing and equipment storage; parking activities (including activities relating to valet parking or parking related to adjacent properties); the installation, operation and maintenance of illuminated and non-illuminated signage; concerts and other outdoor and indoor entertainment, performance and special events, including the playing of live or recorded music through speakers or amplifiers; and any other uses or activities permitted by law. The Commercial Activities may occur during daytime and nighttime. Purchaser acknowledges that Commercial Activities, and the impacts and disturbances generated by them, may occur in and around the Resort. Purchaser may not assert or claim any violation of this Agreement or the Project Documents based on the existence or occurrence of Commercial Activities, or impacts and disturbances generated by them. Purchaser, for itself and the Purchaser Parties, forever waives and releases any actions or claims such parties may have against the Residence Association, the Resort Association, Seller and the Seller Parties which in any way arise out of the impacts and disturbances generated from Commercial Activities. The provisions of this subparagraph shall survive the Closing.

(f) Ski Area. The Commercial Activities will also include activities relating to the recreational areas known as Keystone Mountain (the “**Ski Area**”). The Ski Area represents a unique and desirable amenity that includes many year-round activities. As such, the Ski Area may generate an unpredictable amount of visible, audible and odorous impacts and disturbances from activities relating to the construction, operation, use and maintenance thereof. As such (a) the Residence is located adjacent to or in the vicinity of areas used for skiing, all-season recreational purposes and other Mountain Activities (the “**Mountain Recreational Areas**”); (b) the Mountain Recreational Areas are expected to generate an unpredictable amount of visible, audible and odorous impacts and disturbances from activities relating to the construction, operation, use and maintenance of the Mountain Recreational Areas (the “**Mountain Activities**”); (c) the Mountain Activities may include, without limitation: (i) movement and operation of passenger vehicles (including buses, vans and other vehicles transporting passengers over adjacent streets and over, around and through the Mountain Recreational Areas), commercial vehicles, and construction vehicles and equipment; (ii) activities relating to the construction, operation and maintenance of roads, trails, ski trails, skiways and other facilities relating to the Mountain Recreational Areas (including tree cutting and clearing, grading and earth moving and other construction activities, construction, operating and maintenance of access roads, snow making equipment, chairlifts, gondola, busses or other transportation systems, operation of vehicles and equipment relating to trash removal, snow removal, snow grooming and over-the-snow or over-the-terrain transportation purposes, and operation of safety and supervision vehicles); (iii) activities relating to the use of the Mountain Recreational Areas (including skiing, snow-boarding, ski-patrol activities, and other over-the-snow activities, hiking, horseback riding, alpine slide, zipline, bicycling and other recreational activities); (iv) ski racing and organized events and competitions relating to the activities described in clause (iii) above; (v) concerts, festivals, art and other shows and displays, fireworks displays, outdoor markets and other performances and special events; (vi) restaurants, clubs, restrooms and other public use facilities; (vii) public access to adjacent U.S. Forest Service lands; (viii) public parking facilities and the traffic related thereto; (ix) exterior lighting as necessary for the above activities, both temporary and permanent; and (x) other activities permitted by law; and (d) the Mountain Activities may occur during daytime and nighttime and may be temporarily or permanently interrupted, discontinued or modified, in whole or in part, from time to time.

(g) Corporations, Partnerships, Companies and Trusts; Authority; Non-Contravention; Consents. PLEASE NOTE THAT THE MANNER OF TAKING TITLE MAY HAVE SIGNIFICANT LEGAL AND TAX CONSEQUENCES TO PURCHASER, WHICH PURCHASER SHOULD DISCUSS WITH LEGAL AND TAX PROFESSIONALS. Purchaser represents that: (i) Purchaser is duly formed and has full power, authority and capacity, and has been duly authorized by all necessary action on the part of the directors, trustees, members, owners, and/or managers of Purchaser, to enter into this Agreement and to execute and deliver the documents to be executed and delivered by Purchaser pursuant to the terms of this Agreement (such documents, together with this Agreement, collectively the “**Purchase Documents**”) and to perform Purchaser’s obligations under the Purchase Documents; (ii) the Purchase Documents constitute valid and legally binding obligations of Purchaser, enforceable against Purchaser in accordance with, and subject to, their terms, except as the same may be limited by bankruptcy, insolvency, reorganization, moratorium or other laws affecting the rights of creditors generally and subject to the rules of law governing remedies; (iii) the execution and delivery of the Purchase Documents by Purchaser do not, and the consummation of the transactions contemplated by the Purchase Documents and compliance by Purchaser with the provisions of the Purchase Documents will not, conflict with, result in any

violation or default (with or without notice or lapse of time or both) of, or give rise to a right of termination, cancellation or acceleration of, any material obligation or loss of a material benefit under (x) the organizational documents of Purchaser, or (y) any laws, rules, or regulations applicable to Purchaser (other than any such conflicts, violations, defaults, rights or losses that individually or in the aggregate would not prevent the consummation of the transactions contemplated by the Purchase Documents); and (iv) every consent, approval, order or authorization of, or registration, declaration or filing with, any governmental entity that is required by or with respect to Purchaser in connection with the execution, delivery and performance of the obligations under any Purchase Document, or the consummation by Purchaser of the transactions contemplated by the Purchase Documents, has been obtained or made or will be obtained or made as of the Closing date.

(h) Recorded Agreements; Adjacent Amenities. Purchaser acknowledges that Purchaser shall be subject to all other instruments and documents recorded (and to be recorded as set forth herein) in the Records which concern and restrict the use, occupancy and maintenance of the Project or the Unit, including but not limited to the Memorandum of Repurchase Option referenced in the Commitment. Further, a variety of activities provided by The KNC or other parties (the “**Amenities Activities**”) are to be conducted nearby and adjacent to the Resort for an indefinite period of time (the “**Amenities Activity Areas**”); the Amenities Activities are expected to generate an unpredictable amount of visible, audible and odorous impacts and disturbances; and the Amenities Activities may include, without limitation, swimming pools, saunas, steam rooms, hot tubs, cold tubs, recreation facilities, fitness facilities, locker and changing rooms, bowling lanes, and other indoor and outdoor activities and services for the use, benefit and enjoyment of the members and guests of the KNC.

(i) Right of First Refusal. Purchaser specifically acknowledges that Seller has reserved a right of first refusal with respect to Purchaser’s re-sale of the Unit following Closing, as described in the Residence Declaration. This right of first refusal is intended to protect the value of the Project and shall run with the land and shall be binding on all successors and assigns of all Owners, and shall terminate upon the earlier to occur of (a) the third (3rd) anniversary of the recording of the Residence Declaration, (b) the date on which the last residential unit owned by Seller or Seller’s assignee has been sold, or (c) the recordation in the Records of an instrument executed by a duly authorized representative of Seller surrendering such right of first refusal. This right of first refusal shall grant Seller the opportunity to purchase the resale of a residential unit for the greater of (i) its original sales price paid by a purchaser; or (ii) the fair market value of the unit as proposed by an arms-length purchaser.

(j) Notice Regarding Soils Conditions. No later than delivery of the Project Documents package, Seller will deliver a soils analysis and site recommendation report, or a summary thereof (the “**Soils Report**”), on the Resort site from a licensed geotechnical engineering firm. The Soils Report was prepared by CTL Thompson and is dated June 4, 2008, as updated. If the Soils Report reveals a significant potential for expansive soils at the site, Seller also shall have delivered to Purchaser the publication required by C.R.S. § 6-6.5-101(1). Purchaser hereby acknowledges that Purchaser understands that soils within the State of Colorado may consist of both expansive soils and low-density soils which may result in shifting or other movement of the foundation or otherwise result in damage to the structural or other parts of the Unit if the Unit and property upon which it sits are not properly maintained.

(k) Environmental Conditions/Radon. Ecological and environmental conditions, including but not limited to radon gas, may affect residences in Colorado. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Colorado. Additional information regarding radon and radon testing may be obtained from the county public health unit. Seller issues no warranty of any nature whatsoever with respect to the ecological and/or environmental conditions affecting the Unit, including but not limited to the existence of radon gas.

(l) Special Taxing Districts Disclosure. In accordance with Colorado law, Seller hereby makes the following disclosure:

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

(m) Common Interest Community Disclosure. In accordance with Colorado law, Seller hereby makes the following disclosure:

**THE PROJECT IS PART OF ONE OR MORE COMMON INTEREST COMMUNITIES AND IS SUBJECT TO THE DECLARATION(S) FOR SAID COMMUNITIES. EACH OWNER OF A RESIDENTIAL UNIT IS REQUIRED TO BE A MEMBER OF THE RESIDENCE ASSOCIATION AND THE RESORT ASSOCIATION, WHICH ASSOCIATIONS ARE FURTHER MEMBERS OF THE KNC AND SUBJECT TO THE GOVERNING DOCUMENTS FOR KNC, AND WILL BE SUBJECT TO THE BYLAWS AND RULES AND REGULATIONS OF THE RESIDENCE AND RESORT ASSOCIATIONS. THE RESIDENCE AND RESORT DECLARATIONS, RESIDENCE AND RESORT BYLAWS AND RESIDENCE AND RESORT RULES AND REGULATIONS IMPOSE FINANCIAL OBLIGATIONS UPON OWNERS OF THE RESIDENTIAL UNITS, INCLUDING AN OBLIGATION TO PAY ASSESSMENTS OF THE RESIDENCE AND RESORT ASSOCIATIONS. IF AN OWNER DOES NOT PAY THESE ASSESSMENTS, THE RESIDENCE ASSOCIATION AND RESORT ASSOCIATION COULD PLACE A LIEN ON THE RESIDENCE OWNED BY SUCH OWNER AND POSSIBLY SELL IT TO PAY THE DEBT. THE DECLARATIONS, BYLAWS, AND RULES AND REGULATIONS OF THE RESORT COMMUNITY PROHIBIT THE OWNER FROM MAKING**

**CERTAIN CHANGES TO A RESIDENCE WITHOUT THE APPROVAL OF THE RESORT AND/OR RESIDENCE ASSOCIATION. A PURCHASER OF A RESIDENCE SHOULD INVESTIGATE THE FINANCIAL OBLIGATIONS OF MEMBERS OF THE RESIDENCE ASSOCIATION, AND SHOULD CAREFULLY READ THE RESIDENCE AND RESORT DECLARATIONS, THE RESIDENCE AND RESORT BYLAWS AND THE RESIDENCE AND RESORT RULES AND REGULATIONS.**

(n) Building Codes. Spaces such as attics, chase ways, areas above, below or behind finished interior surfaces of the Unit or plenums constructed within the Project or within an individual Unit are restricted from any alternative use by applicable building codes, fire codes, and other ordinances, and the Project Documents. These areas are not available for any Owner's access, improvement, or use.

(o) Additional Disclaimers. Purchaser acknowledges that Purchaser has not relied upon, nor was its execution of this Agreement induced by, any representations by Seller or any Seller Party regarding any direct or indirect interest of, or past, present or future involvement of, any other person or entity in the Resort, the Project, the Residence Association, the Resort Association or the KNC including without limitation Seller or any affiliate of Seller. Further to the foregoing, Purchaser acknowledges and understands that Seller is the party with whom Purchaser is contracting for the purchase of the Unit, and Purchaser waives and disclaims any assertion or claim arising in connection with any marketing or other materials provided in connection with the Project referencing any particular person or entity, or any previous developer.

(p) Other Properties. By executing this Agreement, Purchaser acknowledges that Purchaser has not relied upon any statements or representations regarding the Resort, the Project, the Unit or the nature or development of any other properties in the vicinity of the Resort, including, without limitation, any representations made by Seller or any other Seller Party or any other real estate agency, except for those statements and representations expressly set forth in this Agreement. Purchaser acknowledges and agrees that neither Seller nor any of the Seller Parties have made any representations regarding the existence, preservation or permanence of any view from the Unit or the Resort or Project, nor have they given Purchaser any assurances whatsoever that Seller either can or will take action to restrict or control the development of any of the real property adjacent to or in the vicinity of the Unit or Resort. Purchaser acknowledges that there are no express or implied easements for views or for the passage of light and air to Purchaser's Unit. The provisions of this subparagraph shall survive Closing.

(q) Access. Purchaser acknowledges that the Seller and/or the Residence Association or Resort Association may grant certain easements to the public and/or adjacent property owners across certain portions of the Resort including all sidewalk and plaza areas, for access and other purposes. Upon the grant of any such access easement, the same shall thereafter automatically constitute a Permitted Exception, whether granted before or after Closing. Roads within the Resort are or may be subject to restricted or gated access limitations, and are or may be subject to the Resort Rules and Regulations.

(r) Mountain Conditions. Ownership of real property in mountain areas involves certain inherent inconveniences. These include, but are not limited to, (a) dripping water onto decks

and porches from snow melt, (b) snow and ice build-up on roofs, decks and porches during winter months, and the need to remove snow and ice to prevent leaking or damage to these structures, (c) the need to maintain the internal temperature of the Unit at a minimum temperature of 60 degrees Fahrenheit in order to prevent broken pipes, (d) limitations to, or disruptions or delays in, public or private access to the Resort and (e) other inconveniences arising from the sometimes severe winter conditions in the Rocky Mountains.

(s) No Area or Amenity Representations. Purchaser hereby acknowledges that neither Seller nor any of the Seller Parties have made any representation upon which the Purchaser has relied regarding schools, churches, restaurants, availability of ski, golf or other recreational or community amenities, public facilities or future development of the area in which the Resort is located.

(t) Insulation of Premises. Seller and Purchaser hereby acknowledge pursuant to 16 CFR § 460.16 of the Federal Trade Commission Regulations regarding labeling and advertising of home insulation, that the types, thicknesses and R-Values of insulation installed in the Unit is set forth below:

<u>Location</u>	<u>Type of Insulation</u>	<u>Thickness</u>	<u>R-Value</u>
Exterior Walls	Glass Fiber Batt	6"	R-19
	Mineral Fiberboard	2.5"	R-7.5 Continuous Insulation
Roof	Composite poly-iso	6"	R-35
	Glass Fiber Batt	6"	R-19
Foundation	XPS	2"	R-10

The "R-value" indicates the resistance of insulation to heat flow. The higher the R-value, the greater the insulating power. Seller has not made its own independent determination of the R-Value data provided to Seller by the insulation manufacturer.

(u) RESPA. As required by the Real Estate Settlement Procedures Act of 1974 ("RESPA"), Purchaser acknowledges that Seller has not directly or indirectly required Purchaser, as a condition of sale, to purchase either an owner's or mortgagee's title insurance policy from the Title Company. Seller hereby advises Purchaser that it will purchase, at Seller's sole cost and expense, an owner's policy of title insurance from the Title Company, as further provided in Paragraph 7 above. Seller advises Purchaser that if Purchaser does not wish Seller to purchase such title insurance policy from the Title Company, Purchaser may elect to change such insurance to a company of its choice and shall pay, at the Closing, that portion, if any, of the title insurance premium charged by the title insurance company selected by Purchaser in excess of the premium that would have been charged by the Title Company.

(v) OFAC Representations. Purchaser and (if applicable) each person or entity owning, directly or indirectly, an interest in Purchaser: (i) is not currently identified on the OFAC

list (as defined below), and (ii) is not a person with whom a citizen of the United States is prohibited to engage in transactions by any trade embargo, economic sanction, or other prohibition of United States law, regulation, or Executive Order of the President of the United States. “**OFAC List**” means the list of specially designated nationals and blocked persons subject to financial sanctions that is maintained by the U.S. Treasury Department, Office of Foreign Assets Control and any other similar list maintained by the U.S. Treasury Department, Office of Foreign Assets Control pursuant to any applicable law, including, without limitation, trade embargo, economic sanctions, or other prohibitions imposed by Executive Order of the President of the United States. The OFAC List is accessible through the internet website.

(w) Statutory Disclosure. Pursuant to C.R.S. § 38-35.7-103(3)(a), Seller hereby advises Purchaser that the Unit has not previously been used as a methamphetamine laboratory.

(x) Potable Water Source. Purchaser specifically acknowledges that the source of potable water for the Property is a water provider, and that some water providers may rely, to varying degrees, on nonrenewable groundwater. Purchaser may wish to contact the provider to determine the long-term sufficiency of the provider’s water supplies. The water provider may be contacted as follows:

Name of provider: Snake River Water District  
Address: PO Box 2295, Dillon, Colorado 80405  
Telephone: (970) 478-0328  
Internet Address: [www.snakeriverwater.com](http://www.snakeriverwater.com)

(y) Natural Materials. Purchaser acknowledges and understands that wood framing for the Resort building(s) and log and wood siding and wood floors may be incorporated in or included as part of the Project, the Resort, and/or the Unit, and that said wood products are natural materials subject to the laws of nature, and therefore, some warping, twisting, cracking and splitting may occur. Purchaser acknowledges that noise transference is greater for wood floors than for carpeted floors.

(z) Carbon Monoxide Alarms. IN ACCORDANCE WITH COLO. REV. STAT. § 38-45-102, SELLER ASSURES PURCHASER THAT AN OPERATIONAL CARBON MONOXIDE ALARM IS INSTALLED WITHIN FIFTEEN FEET OF THE ENTRANCE TO EACH ROOM LAWFULLY USED FOR SLEEPING PURPOSES OR IN A LOCATION AS SPECIFIED IN ANY BUILDING CODE ADOPTED BY THE STATE OR ANY LOCAL GOVERNMENT ENTITY.

(aa) Surface Estate Disclosure. **THE SURFACE ESTATE OF THE PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE, AND TRANSFER OF THE SURFACE ESTATE MAY NOT INCLUDE TRANSFER OF THE MINERAL ESTATE. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OR OTHER MINERALS UNDER THE SURFACE, AND THEY MAY ENTER AND USE THE SURFACE ESTATE TO ACCESS THE MINERAL ESTATE.**

**THE USE OF THE SURFACE ESTATE TO ACCESS THE MINERALS MAY BE GOVERNED BY A SURFACE USE AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY CLERK AND RECORDER.**

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

**THE PURCHASER IS ENCOURAGED TO SEEK ADDITIONAL INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THIS PROPERTY, INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE COLORADO OIL AND GAS CONSERVATION COMMISSION.**

(bb) RockResorts. Purchaser acknowledges that the Project is not owned, developed or sold by RockResorts or its affiliates. Seller uses the “RockResorts” name and trademarks under a license from RockResorts Hotels Limited. The sole involvement of RockResorts Hotels Limited and its affiliates in the sale and marketing of the Units in the Project is as licensor of the RockResorts name and trademarks and Purchaser acknowledges that RockResorts Hotels Limited and its affiliates shall have no responsibility or liability in connection with any express or implied representations or warranties that Seller or its agents may make or be alleged to have made with respect to the Units in the Project or otherwise with respect to the sale or marketing of the Project. Seller makes no representation or warranty as to the continued involvement of RockResorts as the Hotel operator.

(cc) Gondola; Ski Area Operations. Purchaser acknowledges and accepts that the Project is located adjacent to a high-speed public gondola within Keystone Resort (the “**Gondola**”). The Gondola, coupled with related commercial uses which may or may not include lift ticket sales and other mountain support services, will generate impacts and inconveniences commensurate with the public nature of such uses. The Gondola is currently operated by VSR or its affiliate. Purchaser acknowledges that the Gondola is expected to operate generally between December 20 and April 1 of each ski season, but that it may operate less often or at other times and dates as determined by VSR in its sole discretion. Purchaser acknowledges that Seller is not the operator of the Keystone ski area, and accordingly, Seller cannot make any representations relating thereto. Purchaser fully understands that the operator of the Keystone ski area may decide, in its sole discretion, whether any or all of the chairlifts within the Keystone ski area should be operated. Without limiting the generality of the foregoing, Purchaser specifically acknowledges that Seller has made no representations regarding opening and closing dates of the Keystone ski area.

(dd) Declarant Inaction. Purchaser acknowledges that Seller, as Declarant under the Declaration, shall not be responsible for responding to or taking any affirmative action on behalf of the Residence Association or Resort Association or an individual member of the Resort Association or Residence Association to mitigate, alleviate, remedy or cure any off-site conditions that may



directly impact the Residence Association or Resort Association or any portion thereof, and such inaction by Seller, as Declarant under the Project Documents, shall not constitute a breach of fiduciary duty by the directors and officers of the Residence Association or Resort Association that are appointed by Seller, as Declarant under the Declaration, pursuant to the Bylaws of the Resort Association and of the Residence Association.

(ee) Acknowledgment; Release and Indemnity; Survival of Covenants. Purchaser hereby acknowledges and accepts the foregoing disclaimers and agrees to waive any and all rights Purchaser may have by virtue of the representations and warranties disclaimed. Purchaser, for itself and for the Purchaser Parties, hereby agrees to indemnify, defend and hold Seller and the Seller Parties harmless from and against any and all loss, threat of loss, suits, claims, actions, liabilities, damages, obligations, demands, costs and expenses (including attorneys' fees) arising out of or in connection with any matter warranty or representation disclaimed in this Paragraph 17 or any breach by Purchaser of any covenant, representation or warranty contained in this Paragraph 17. The provisions of this Paragraph 17 shall survive Closing.

(ff) Confidentiality. At all times prior to the Closing of this Agreement and following any termination of this Agreement prior to Closing for whatever reason, Purchaser, on behalf of itself and the Purchaser Parties, agrees to treat, and will cause the Purchaser Parties to treat, all provisions and terms hereof, and all disclosures and materials made or delivered hereunder, as strictly confidential. Purchaser shall not disseminate or disclose any non-public information contained herein without the prior written authorization of Seller; provided, however, Purchaser may share such information as needed with its prospective lenders, attorneys, accountants and other agents relevant to the purchase and sale conveyance contemplated herein. Purchaser expressly acknowledges that the terms and conditions of sale are highly sensitive in relation to Seller's ability to market and sell other residences within the Project, and that Purchaser's violation of the foregoing confidentiality covenants would be likely to result in significant harm to Seller. Accordingly, Purchaser acknowledges that economic damages may not adequately protect Seller from said harm and that Seller shall be entitled, among other remedies, to seek equitable relief in the form of an injunction specifically enforcing the foregoing provisions.

#### 18. Ski Club Membership.

(a) Seller and/or its affiliate shall endeavor to operate a private ski club within the Resort to be known as the Kindred Ski Club (the "Club"). Club amenities are intended to include (subject to change) a private ski locker room and lounge, ski valet, ski storage, and access to fitness, wellness, pool and hot tub areas within the Resort. Membership in the Club will provide a member with exclusive use of one (1) ski locker for storage of soft goods, boots and helmets. This Agreement includes the purchase and activation of a residential membership in the Club for the Purchaser (the "Club Membership") on terms and conditions set forth in the Club Documents (defined below) and in the Club residential membership agreement (the "Membership Agreement"). Seller will cause the Club initiation fee for Purchaser's Club Membership to be waived; provided that the (i) full amount of the Purchase Price is payable by Purchaser to Seller, and (ii) Membership Agreement is executed by Purchaser at Closing. Subsequent purchasers of the Unit will be subject to the then-applicable initiation fee. On and subsequent to Closing, Purchaser will be responsible for all Club dues, costs and expenses associated with the Club and the specific class of Club residential memberships in addition to Purchaser's obligation to pay assessments to the Residence Association

and Resort Association. Club dues for Club residential memberships are currently anticipated to be less than Club dues for Club non-residential memberships offered to non-Unit owners. More information on Club dues, fees and expenses will be provided as part of the Club Documents.

(b) Copies of the Club membership plan, Club rules and regulations, schedules of Club dues, fees and expenses, other documents or policies governing the use, operation and membership of the Club, and other documents related to the Club Membership (as amended from time to time, the "Club Documents") will be provided to Purchaser on or before the due date for the Second Additional Deposit. On or before the Closing, Purchaser shall activate the membership in the Club by executing and delivering Purchaser's counterpart signature to the Membership Agreement. In the event Purchaser timely delivers a signed Membership Agreement, without limitation to the terms and acknowledgements set forth in the Membership Agreement and Club Documents, Purchaser acknowledges and agrees that such membership will be subject to the Club Documents in effect from time to time in effect, including, without limitation, limitations on use of the membership by guests and renters, and restrictions on the transferability of such membership.

(c) In the event that Purchaser fails or refuses to deliver a signed Membership Agreement at Closing, Purchaser acknowledges and agrees that Purchaser shall be in default of this Agreement and Seller shall be entitled to all rights and remedies provided herein, including Seller's retention of the Earnest Money as liquidated damages. Purchaser acknowledges that the purchase of a Residence does not convey any vested right, license or easement, prescriptive or otherwise, to use the Club facilities or Club amenities, nor any ownership interest in the Club, its facilities, or amenities. Rights to use the Club member-only facilities, and any other rights offered through the Club, are available only through membership in the Club and are subject to the terms and conditions of the Club Documents.

(d) By signing this Agreement, Purchaser further acknowledges and agrees that the Club operator, and not Seller, is the operator of the Club and shall rely solely on the Club operator for Club-related information, documentation, and Club-related responsibilities. Purchaser acknowledges that there may be parties who utilize the Club and are not owners of any property within the Resort. The Club may (or may not) be made available for promotional use and for use by guests and invitees in the sole discretion of the Club owner and Club operator.

## 19. **Warranties.**

(a) **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED IN SUBPARAGRAPH (b) BELOW, AND TO THE GREATEST EXTENT PERMITTED BY APPLICABLE LAW, SELLER HEREBY DISCLAIMS ALL WARRANTIES RELATING TO THE UNIT. SELLER MAKES NO WARRANTY OR REPRESENTATION OF ANY NATURE, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE OF WORKMANLIKE CONSTRUCTION, HABITABILITY, DESIGN, CONDITION, OR QUALITY AS TO THE LAND UNDERLYING THE RESORT, THE PROJECT, THE RESORT, THE COMMON ELEMENTS, THE LIMITED COMMON ELEMENTS, THE UNIT, OR THE OTHER IMPROVEMENTS CONSTITUTING THE RESORT OR THE PROJECT, AND SELLER HEREBY EXPRESSLY DISCLAIMS ANY SUCH REPRESENTATIONS OR WARRANTIES. SELLER SPECIFICALLY DISCLAIMS, AND PURCHASER FOR ITSELF AND FOR THE PURCHASER PARTIES, SPECIFICALLY RELEASES SELLER FROM, ANY LIABILITY FOR INCIDENTAL OR

CONSEQUENTIAL DAMAGES TO ANY PERSON OR THE UNIT OR ANY OTHER REAL OR PERSONAL PROPERTY RESULTING FROM A DEFECT. WITH REGARD TO THE APPLIANCES AND ANY OTHER ITEMS OF TANGIBLE PERSONAL PROPERTY, SELLER DISCLAIMS ALL WARRANTIES INCLUDING, BUT NOT LIMITED TO, THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

(b) Seller Limited Warranty. Seller hereby warrants that all materials incorporated in and made a part of the Unit were new as of the date of installation and that the same shall remain free from defects in workmanship or material for a period of one (1) year from the date of Substantial Completion. Seller shall cause to be remedied, by repair or replacement, without cost or expense to Purchaser, any defects in said materials or workmanship in the materials incorporated in and made a part of the Unit, which appear within one (1) year from the date of Substantial Completion, subject to Purchaser's timely provision of notice in the manner set forth below, and subject to the limitation specified herein. Purchaser's sole remedy (in lieu of all remedies implied by law or otherwise) in connection with defects in the Unit shall be to enforce the limited warranties set forth in this subsection (the "**Limited Warranty**"), with said enforcement subject to the limitations and requirements contained herein.

(i) Notice Procedure. In the event that Purchaser identifies a defect for which the Limited Warranty applies, Purchaser shall, no more than ten (10) days after discovery of said defect, provide Seller with written notice thereof, identifying the same with particularity. Upon Seller's good faith determination that the Limited Warranty applies, Seller shall thereafter cause said defect to be remedied or repaired.

(ii) Limitations. Purchaser acknowledges that wood flooring is derived from natural materials and that a certain amount of shrinkage, swelling, warping, buckling or other similar effects may be expected. Accordingly, Seller's obligations under the Limited Warranty are subject to certain conditions and limitations such that Seller shall not have, and expressly disclaims, any warranty obligation with respect to claimed defects in wood flooring in the nature of (1) minor scratches, wood texture and/or staining, nail protrusions, and minor variances in appearance; (2) cracks, gaps or minor separations arising from swelling, shrinkage, warping or buckling in accordance with industry tolerances; (3) damage from improper care or cleaning methods; (4) damage from footwear; and (5) damage from moving or placement of personal property. Seller shall not be responsible for any defects where the cause is determined to result from Purchaser's actions, negligence or insufficient maintenance.

(iii) Not Applicable to Common Elements. This Limited Warranty does not extend to any Common Elements of the Project or the Resort, including, without limitation, building systems servicing the Unit. Seller will provide a separate one-year limited warranty to the Residence Association covering the Common Elements in the Project, in a form substantially similar to this limited warranty, commencing upon the date that a temporary or conditional certificate of occupancy or any other document permitting occupancy of the building comprising the Project is issued, whether subject to conditions or otherwise.

(iv) Non-Transferrable. Seller's warranty to Purchaser hereunder is non-transferable and in no event shall any subsequent purchaser of the Unit be entitled to any claim for repair replacement or otherwise of any part of the Unit, including without limitation, the structural components of the Unit, except as may be required by law. Additionally, by executing this Agreement, Purchaser agrees to include the foregoing confirmation of non-transferability of Seller's warranty in any subsequent purchase and sale agreement for the Unit.

(c) Appliance Warranty. Without limiting the generality of the disclaimer set forth in subparagraph (a) above, no warranty is given by Seller with respect to any items of tangible personal property in the Unit (whether or not such property is attached to or installed in the Unit) including, without limitation, any range, oven, range hood and fan, trash compactor, microwave, garbage disposal, dishwasher, refrigerator, washer, dryer, hot water heater, steam showers, hot tubs, fireplace inserts, components of the telecommunications, heating, ventilation or any other systems and any fire alarm or other life-safety or security system installed in or servicing the Unit (collectively, the "**Appliances**"). Seller will assign to the Purchaser at Closing any unexpired warranties Seller has received from the manufacturers of such Appliances to the extent such warranties are assignable. Purchaser shall pursue any warranty matters directly with the manufacturer. Seller shall not be responsible for the performance of any such manufacturer under the manufacturer's warranties and Seller shall not be required to intervene or otherwise act in connection with warranty requests or complaints. With respect to the Appliances, whether or not warranted by manufacturers, all implied warranties are expressly disclaimed and do not apply, including, without limitation, the implied warranties of merchantability and fitness for a particular purpose, if created and recognized under Colorado law.

(d) Magnuson-Moss Warranty Act Compliance. The warranty disclaimers and disclosures set forth above have been prepared to comply with the disclosure requirements of the Magnuson-Moss Warranty - Federal Trade Improvement Act (15 U.S.C. § 2301, as amended). Some states do not allow limitations on how long an implied warranty lasts or the exclusion or limitation of incidental or consequential damages so the above limitation may not apply to Purchaser. Purchaser may also have other rights which vary from state to state.

(e) Acknowledgment; Survival of Covenants. Purchaser hereby acknowledges and accepts the foregoing disclaimers and agrees to waive any and all rights Purchaser may have by virtue of the representations and warranties disclaimed. Purchaser assumes the risk of damage occurring in the Unit after Closing regardless of the cause. The provisions of this Paragraph shall survive Closing. Any appliance, item of equipment, or other item in the Unit (whether or not attached to or installed in the Unit) which is a "consumer product" as defined in the Magnuson Moss Warranty Act, 15 U.S.C. § 2301, is hereby excluded from the coverage under this limited warranty. The following are examples of consumer products: fire and security alarm systems, refrigerator, trash compactor, range, dishwasher, garbage disposal, gas fireplace unit, air conditioner, furnace, hot water heater, water source heat pump, clothes washer and dryer, hot tub, audio/visual equipment and thermostats. The Unit may not contain some of these items, and it may contain other items that may also be consumer products. With regard to any consumer products in the Unit, Seller disclaims all warranties. Seller is not responsible for performance under any such manufacturers' warranties in any way. However, Seller hereby assigns and transfers to Purchaser all manufacturers' warranties applicable to all such consumer products, subject to final Closing and conveyance of the Unit. WITH REGARD TO ANY SUCH CONSUMER PRODUCTS, WHETHER OR NOT WARRANTED BY

MANUFACTURERS, SELLER DISCLAIMS ALL WARRANTIES INCLUDING, BUT NOT LIMITED TO, THOSE OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

PURCHASER AGREES TO COMPLY WITH ALL MAINTENANCE MANUALS AND OTHER DOCUMENTS AND RECOMMENDATIONS PROVIDED TO PURCHASER WITH RESPECT TO THE INSPECTION, OPERATION AND ROUTINE MAINTENANCE OF ALL SYSTEMS, EQUIPMENT, AND SIMILAR ITEMS (INCLUDING, BUT NOT LIMITED TO, MECHANICAL, ELECTRICAL, PLUMBING, STRUCTURAL AND EXTERIOR SYSTEMS AND IMPROVEMENTS) MADE PART OF OR SERVING THE UNIT. PURCHASER UNDERSTANDS AND AGREES THAT IF PURCHASER FAILS TO FOLLOW THE INSPECTION, MAINTENANCE AND REPAIR REQUIREMENTS AND STANDARDS CONTAINED IN SUCH MANUAL OR MATERIALS DELIVERED TO PURCHASER AND SUCH FAILURE CAUSES, WHETHER IN WHOLE OR IN PART, DAMAGE TO THE UNIT OR OTHER PROPERTY, THE RESULTING DAMAGE SHALL NOT BE COVERED BY THIS LIMITED WARRANTY AND SHALL FURTHER BE DEEMED NOT TO BE THE RESULT OF A DESIGN OR CONSTRUCTION DEFECT.

EXCEPT AS STATED IN THE FIRST PARAGRAPH OF THIS LIMITED WARRANTY ABOVE, SELLER MAKES NO WARRANTY OR REPRESENTATION OF ANY NATURE, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE OF WORKMANLIKE CONSTRUCTION, HABITABILITY, DESIGN, CONDITION, OR QUALITY AS TO THE UNDERLYING LAND, RESORT, THE UNIT, OR THE OTHER IMPROVEMENTS CONSTITUTING THE PROJECT, AND, TO THE EXTENT PERMITTED BY LAW, SELLER SPECIFICALLY EXCLUDES SUCH MATTERS IN CONSIDERATION OF THE EXPRESS WARRANTIES GIVEN UNDER THIS AGREEMENT.

AS MORE FULLY SET FORTH BELOW, SELLER MAKES NO REPRESENTATION OR WARRANTY CONCERNING ANY GEOLOGICAL OR ENVIRONMENTAL MATTERS AND SPECIFICALLY EXCLUDES GEOLOGICAL AND ENVIRONMENTAL MATTERS FROM ANY WARRANTIES GIVEN UNDER THIS AGREEMENT.

Except as otherwise provided in this Limited Warranty, Purchaser assumes the risk of damage occurring in the Unit after Closing. Notwithstanding any provisions in this Paragraph 19 to the contrary, this Paragraph shall be construed in accordance with Colorado law and limited to the extent necessitated thereby.

The provisions of this Paragraph shall survive Closing.

20. **Miscellaneous.**

(a) Waiver of Jury Trial. **PURCHASER AND SELLER ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL RIGHT BUT MAY BE WAIVED IN CERTAIN CIRCUMSTANCES. TO THE EXTENT NOT PROHIBITED BY LAW, PURCHASER AND SELLER KNOWINGLY AND VOLUNTARILY WAIVE ANY**

**RIGHT TO TRIAL BY JURY IN THE EVENT OF LITIGATION ARISING OUT OF OR RELATED TO THIS AGREEMENT.**

(b) Time of the Essence. Time is of the essence with regard to the performance of the obligations of Seller and Purchaser under this Agreement. If the date for any such performance falls on a Saturday, Sunday, or banking holiday, the date of performance shall be extended to the next regular business weekday.

(c) Binding Effect. This Agreement shall be binding upon and inure to the benefit of Purchaser and Seller and their respective heirs, personal representatives, successors and permitted assigns.

(d) Reporting of Transaction; Option for Tax Purposes. The Title Company designated by Seller or Seller shall prepare promptly after the Closing, a form 1099-B with the Internal Revenue Service, if applicable under Section 6045(e)(2) of the Internal Revenue Code, as amended. The Title Company will also prepare the real property transfer declaration required under Section 39-14-102 of the Colorado Revised Statutes, as amended from time to time. The parties acknowledge that, for federal income tax purposes only, this Agreement shall be deemed an option.

(e) FIRPTA Affidavit. At Closing, Seller shall deliver to Purchaser a certificate that Seller is not a non-resident alien as defined in the Internal Revenue Code and Treasury Regulations promulgated thereunder as necessary to comply with Section 1445 of the Treasury Regulations.

(f) State of Colorado Withholding Requirements. Seller agrees to execute necessary documents and to comply with requirements of the State of Colorado relating to the withholding of proceeds of the Purchase Price.

(g) Entire Agreement. This Agreement, together with any exhibits, addenda or documents referred to in or supplied pursuant to the terms of this Agreement, contains the entire agreement between the parties and may not be modified in any manner except by an instrument in writing signed by all parties.

(h) Paragraph Headings. The Paragraph headings are inserted only for convenient reference and do not define, limit or prescribe the scope of this Agreement.

(i) Governing Law. This Agreement shall be construed under the provisions of Colorado law. For purposes of litigating any dispute arising hereunder, the parties hereby submit and consent to the jurisdiction of the State of Colorado and shall be conducted in the courts of Summit County, Colorado or the federal court of the United States for the District of Colorado.

(j) Number and Gender. The term "Purchaser" in this Agreement, or any pronoun used in place of that term, shall include the masculine, feminine, singular, plural, individuals, partnerships or corporations where applicable.

(k) Severability. If any terms, covenants, or provisions of this Agreement shall be illegal or unenforceable for any reason, the same shall not invalidate any other term, covenants, or

provisions, and all of the remaining terms, covenants, and provisions shall remain in full force and effect.

(l) Interstate Land Sales; Securities. This Agreement is exempt from the Interstate Land Sales Full Disclosure Act, 15 USC §1701 et seq. Seller's use of the exemption, instead of the Act's regulatory application and review process, serves the legitimate business purpose of allowing Seller to offer the Unit at a more competitive price, because the exemption allows Seller savings and flexibility in the timing, terms and conditions of Seller's arrangements for the marketing and management of Seller's inventory of properties in the Project. Purchaser acknowledges that certain states require registration of real estate as a security and this Agreement may not be valid in some states. To that end, in the event Purchaser resides in a state with such restriction, Purchaser acknowledges that Purchaser shall execute a Ratification Addendum to this Agreement which confirms and restates that Purchaser has executed this Agreement within Colorado no later than expiration of the Review Period.

(m) Survival. Where applicable, each provision shall survive the Closing of this Agreement and shall be binding upon and inure to the benefit of the parties, their heirs, successors and assigns, including all of Purchaser's indemnification obligations and those provisions of this Agreement expressly stated to survive Closing, subject to any express limitations set forth herein. However, upon payment of the Purchase Price by Purchaser, any representations or covenants made by Seller herein, other than the warranty and enforcement provisions, shall be deemed merged with the conveyance deed.

(n) Counterparts; Electronic Signatures. This Agreement may be executed in counterparts, which taken together, shall constitute the agreement of Seller and Purchaser. This Agreement and its signatures may be transmitted by electronic means and all parties agree it shall be a legal, binding agreement.

**[Remainder of Page Intentionally Left Blank]**

EXECUTED on the dates shown below.

**SELLER:**

ORRA Keystone Investments, LLC, a Colorado  
limited liability company

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

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

Name: Scott B. Russell

Title: Authorized Agent

Address: PO Box 7902

Aspen CO, 81612

Telephone: 970-984-3435

Email: Scott@rge-group.com

**PURCHASER:**

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

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

Name: \_\_\_\_\_

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

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

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_



**LISTING BROKER:**

LIV SOTHEBY'S INTERNATIONAL REALTY

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

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

Name: Hank Wiethake/Doyle Richmond

Title: Associate Broker

**COOPERATING BROKER:**

\_\_\_\_\_

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

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

Email: \_\_\_\_\_

**EXHIBIT A**  
**FLOOR PLAN, SITE PLAN AND FEATURES LIST**

[See Attached]